

GAHC010100202023



THE GAUHATI HIGH COURT
(HIGH COURT OF ASSAM, NAGALAND, MIZORAM AND ARUNACHAL PRADESH)

Case No. : WP(C)/2587/2023

COLLEGE OF TEACHER EDUCATION TINSUKIA
DAHOTIA CHUK,
P.O, P.S AND DIST- TINSUKIA, ASSAM, REP. BY ITS SECRETARY

VERSUS

NATIONAL COUNCIL FOR TEACHER EDUCATION AND 6 ORS
G-7, SECTOR 10, DWARKA, NEW DELHI-75.
REP. BY ITS MEMBER SECRETARY

2:THE MEMBER SECRETARY
NATIONAL COUNCIL FOR TEACHERS EDUCATION
G-7
SECTOR 10
DWARKA
NEW DELHI-75.

3:THE EASTERN REGIONAL COMMITTEE
THE NATIONAL COUNCIL FOR TEACHERS EDUCATION
15 NEELKANTHA NAGAR
NAYAPALI
BHUBANESWAR
ODISHA
PIN-751012

4:THE REGIONAL DIRECTOR
THE EASTERN REGIONAL COMMITTEE
THE NATIONAL COUNCIL FOR TEACHERS EDUCATION
15
NEELKANTHA NAGAR
NAYAPALI
BHUBANESWAR
ODISHA
PIN-751012

5:THE APPELLATE AUTHORITY
NATIONAL COUNCIL FOR TEACHERS EDUCATION
G-7
SECTOR 10
DWARKA
NEW DELHI-75.

6:THE STATE OF ASSAM
REP. BY THE SECRETARY TO THE GOVERNMENT OF ASSAM
DEPARTMENT OF SCHOOL EDUCATION
ELEMENTARY DEPARTMENT
DISPUR
GUWAHATI-781006

7:THE DIBRUGARH UNIVERSITY
P.O
P.S AND DIST- DIBRUGARH
ASSAM
REP. BY THE REGISTRAR
DIBRUGARH UNIVERSIT

Advocate for the Petitioner : MR. P J SAIKIA, SR. ADV

Advocate for the Respondent : SC, N C T E

**BEFORE
HON'BLE MR. JUSTICE LANUSUNGKUM JAMIR**

24.07.2023

O R D E R

Heard Mr. P.J. Saikia, learned Senior counsel, assisted by Mr. A.K. Gupta, learned counsel for the petitioner. Also heard Mr. I. Alom, learned Standing Counsel, NCTE and Mr. R. Mazumdar, learned counsel, who represents the Dibrugarh University.

2. The petitioner, i.e., College of Teacher Education, Tinsukia is an institution which imparts B. Ed programme under the Dibrugarh University recognized by the National Council For Teacher Education (NCTE, in short). The petitioner-institution submitted its application for grant of recognition before the Eastern

Regional Committee (ERC) as required under the NCTE Act, 1993 and was granted recognition by order dated 25.11.1998. Thereafter, after the NCTE Regulation, 2014 was enacted, the petitioner institution again applied before the ERC for recognition. By order dated 22.05.2015, the petitioner- institution was permitted to have one basic unit of 50 students subject to fulfillment of the conditions stated in the said order for conducting B. Ed programme for two years.

3. In the 267th meeting, the ERC considered the revised recognition granted to different institutions including the petitioner-institution and finding some infirmities on the part of the petitioner-institution, issued a show-cause notice dated 21.02.2019 to comply with the below-mentioned points within 21 days from the date of issue of the said notice:-

“a. Approved faculty list (current) by the concerned affiliating body along with requisite documents.

b. Approved building plan by the concerned competent Govt. Engineer/Authority.

c. Approved building completion certificate by the concerned Govt. Engineer/Authority.

d. FDRs towards Endowment fund and Reserve fund after conversion into joint operation mode as prescribed in the NCTE Regulations, 2014.

e. Confirmation on website updates of the institutions with all details along with affidavit.”

Accordingly, a reply to the show-cause notice dated 21.02.2019 was filed on 07.03.2019 by giving its point-wise reply along with all necessary documents. Another show-cause notice dated 14.05.2019 was issued to the petitioner-institution stating that the institution has not submitted requisite documents in

compliance of the show-cause notice dated 21.02.2019. On receipt of the show-cause notice dated 14.05.2019, the petitioner No.2 by a letter dated 11.06.2019 submitted its reply along with all other documents.

4. Under the aforesaid circumstances, the respondents issued the order dated 26.08.2019 whereby recognition of the petitioner-institution was withdrawn on the ground that the approved faculty list is not as per the NCTE Regulations, 2014 as three teachers are part-time.

5. The petitioner-institution, thereafter, filed an appeal before the appellate authority of the NCTE and the appellate authority by order dated 11.03.2020 disposed of the appeal by holding that the appellate institution has been able to rectify the deficiencies relating to approval and appointment of faculty on full time basis, which was stated as the reason for withdrawal of recognition in the order, dated 26.08.2019. However, the withdrawal of recognition was retained by holding that the appellate institution does not possess the required built-up area.

6. Therefore, the petitioner-institution preferred a writ petition before this Court, which was registered as WP(C) No.873/2021. The said writ petition was disposed of by order, dated 17.02.2021. The operative portion of the order reads as under:-

“5. In the resultant situation, if the authorities under the NCTE are of the view that recognition of the petitioner institute is unsustainable because of any such other reason, the NCTE would be at liberty to issue appropriate notices to the petitioner institute and after getting their reply may pass any reasoned order as may be permissible under the law.

6. Till such an exercise is undertaken, the impugned order of withdrawing the recognition of the petitioner institute dated 26.08.2019 shall be kept in abeyance.”

7. Thereafter, the ERC issued another show-cause notice dated 10.03.2021 stating that the institution has not submitted the latest faculty list duly approved by the concerned affiliating Body and any supporting documents, but *inter alia* submitted two representations dated 17.08.2020 and 26.11.2020 wherein it is mentioned that three part-time teachers have been appointed as full-time teachers, which is not acceptable.

8. On receipt of the show-cause notice dated 10.03.2021, the petitioner-institution submitted its reply on 10.05.2021 stating *inter alia* that the issue with regard to the faculty was already solved as by letter dated 11.03.2020, it was informed to the petitioner-institution that they have been able to rectify the deficiency with regard to faculty.

9. On receipt of the reply, dated 10.05.2021, a final show-cause notice dated 11.06.2021 was issued stating that the petitioner-institution has submitted representation dated 10.05.2021 without any supporting documents and the petitioner-institution is still deficient in compliance of the show-cause notice, dated 10.03.2021. Accordingly, a reply was made on 10.07.2021 submitting all supporting documents of the faculties with a prayer for consideration of the same.

In the meantime, the Dibrugarh University in terms of the order dated 07.02.2021 passed by this Court in WP(C) No.873/2021 granted provisional permission to admit students into two year B. Ed Programme for 2021-2022 subject to consequences of the decision of the NCTE.

10. The ERC in its 301st (Emergent) Meeting considered the case of the petitioner-institution and found some discrepancies, which are as under:-

“(i) Date of joining in respect of Principal (Mrs. Kaberi Shantana Das) shown in old approved faculty list as on 01.11.1999, which does not match with date of joining shown in the present list i.e. 10.01.1999.

(ii) Date of appointment and date of joining of lecturer at sl no.2 (Mrs. Leena Trivedi) shown in old list as 29.01.2000 and 02.11.2000 whereas in present list shown as 29.08.2000 and 29.08.2000 both dates mismatch as per the lists submitted.

(iii) Date of appointment and of joining of lecturer at sl no.9 (Ms. Indirima Dihingia) shown in old list as 24.12.2018 and 02.01.2019 whereas in present list shown as 14.08.2019 and 16.08.2019, both dates mismatch as per the lists submitted.

(iv) Date of appointment and date of joining of lecturer at sl no.10 (Mrs. Malaya Boruah) shown in old list as 2.5.2017 and 2.5.2017 whereas in present list shown as 14.08.2019 and 16.08.2019, both dates mismatch as per the lists submitted.

(v) Lecturer at sl no.6 (Ms. Pallabi Baruah) appointed on 01.08.2018 i.e. after NCTE Gazette Notification 09.06.2017 does not possess either NET/Ph. D hence she is not qualified as per NCTE Norms and Regulations as amended from time to time.

(vi) Lecturer at sl no.7 (Ms. Nisha Agarwal) appointed on 01.03.2019 possesses SLET in 2018 but no NET/Ph. D as required under NCTE Gazette Notification 09.06.2017. She is pursuing M. Ed, hence not qualified as per NCTE Norms and Regulations as amended time to time.”

Accordingly, due to the aforesaid discrepancies, the earlier order of withdrawal dated 26.08.2019 for B. Ed courses remain unchanged by further observing that the petitioner-institution is not permitted to admit any student for

B. Ed course without clearance from the ERC, NCTE.

11. On receipt of the order, dated 31.01.2022, the petitioner-institution submitted an appeal before the appellate authority of the NCTE by clarifying the discrepancies in the said appeal. The appellate authority, thereafter, by order dated 13.09.2022, observed that the faculty list submitted by the petitioner-institution is not as per the NCTE norms and there is still shortage of one qualified teacher and further that the Principal appointed by the petitioner-institution is not qualified as per the NCTE norms. The appellate authority, therefore, came to the conclusion that the ERC was justified in withdrawing recognition of the appellate institution on the ground of the aforesaid deficiencies as the appellate institution has failed to rectify the same.

Being aggrieved, the petitioner-institution has filed the present writ petition.

12. It is the submission of learned Senior counsel for the petitioner-institution that basing on the appellate order dated 30.09.2022, the petitioner-institution has appointed a new Principal having Ph. D degree as per the NCTE guidelines. Further, the deficiency of shortage of one qualified teacher in the petitioner-institution has also been cured inasmuch as three new teachers, one in Core Paper and two in Pedagogic Content Knowledge have been appointed and, therefore, as on date, there are no deficiencies in respect of the petitioner-institution. It is also submitted that withdrawal of recognition has been done on the grounds where no show-cause has been issued. It is also submitted that the show-cause notices were issued for other reasons for withdrawing recognition but ultimately the authorities had accepted the replies given against such reasons but had retained the order of withdrawal on another reason for which no show-cause notice was issued.

13. Mr. Alom, learned Standing Counsel, NCTE, on the other hand, submits that as there have been violations of the Regulations of the NCTE, the recognition for imparting B. Ed course has been withdrawn by the NCTE authorities. The petitioner-institution has failed to rectify or correct the deficiencies despite issuance of show-cause notices. The petitioner-institution was directed to fulfill the requirements under the Regulations of 2014 but failed to do so. Further, by submitting the letter dated 24.03.2023 by the petitioner-institution, they have acknowledged that they have fulfilled the requirements of the appellate order dated 13.09.2022 and thereby the petitioner-institution has admitted that there were lapses on their part. Under the circumstances, as the withdrawal of recognition for imparting B. Ed courses to the petitioner-institution has been done due to violations of the NCTE Regulations, there is no merit in the writ petition and the same may be dismissed.

14. After hearing learned counsel for the parties and on consideration of the materials available on record, it appears that the order, dated 31.01.2022, was passed upon fresh violations, which were never put to the petitioner-institution in the show-cause notice. A perusal of the records would indicate that the final show-cause notice dated 11.06.2021 was issued on a different ground and the order of withdrawal of recognition dated 31.01.2022 was passed on other grounds, which were not specifically a part of the show-cause notice, which was given to the petitioner-institution.

15. This Court has also considered the fact that the order of the appellate authority dated 13.09.2022 was also passed on two issues, which did not form part of the show-cause notice. In any case, it is the contention of the petitioner-institution that the deficiencies reflected in the order, dated 13.09.2022 has also been cured inasmuch as a qualified Principal having Ph. D degree has been

appointed after due advertisement and three teachers, one in the Core Subject and two for Pedagogic Content Knowledge were also appointed.

16. In that view of the matter, as already discussed here-in-above, the impugned order dated 13.09.2022 passed by the appellate authority and the orders dated 26.08.2019 and 31.01.2022 issued by the ERC are set aside and quashed, however, giving liberty to the respondents to issue specific show-cause notice on any deficiency that may be noticed by the respondents after having due inspection of the petitioner-institution, if so advised. Till such steps are taken, the petitioner-institution shall be permitted to impart B. Ed course.

17. With the above observations and directions, the writ petition is disposed of.

JUDGE

Comparing Assistant