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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

Judgment Reserved on: 20 March 2024
Judgment Pronounced on: 22 April 2024

\+ W.P.(C) 12983/2022 & CM APPLs.39379/2022, 2182/2023 & 4973/2023
PT PRASADI LAL KAKAJI TEACHER TRAINING COLLEGE ..... Petitioner

Versus

NATIONAL COUNCIL FOR TEACHER EDUCATION & ANR. .....Respondents

\+ W.P.(C) 6790/2019 &CM APPL. 28433/2019
MASTERMIND EDUCATIONAL SOCIETY .....Petitioner

Versus

NORTHERN REGIONAL COMMITTEE, NATIONAL COUNCIL FOR TEACHER EDUCATION .....Respondent

\+ W.P.(C) 5820/2023
SHRI BHANWAR SANSKRIT SHIKSHAK PRASHIKSHAN MAHAVIDYALAYA & ANR. .....Petitioner

Versus

NATIONAL COUNCIL FOR TEACHER EDUCATION & ANR. .....Respondents

\+ W.P.(C) 13093/2022 & CM APPL. 39682/2022

SHREE GD KISSAN BSTC COLLEGE .....Petitioner

Versus

NATIONAL COUNCIL FOR TEACHER EDUCATION & ANR. .....Respondents

\+ W.P.(C) 13126/2022
CHANCHAL BSTC COLLEGE .....Petitioner

Versus

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NATIONAL COUNCIL FOR TEACHER EDUCATION & ANR. .....Respondents

\+ W.P.(C) 13137/2022

RAO UMRAO SINGH TEACHER TRAINING COLLEGE .....Petitioner

Versus

NATIONAL COUNCIL FOR TEACHER EDUCATION & ANR. .....Respondents

\+ W.P.(C) 13138/2022

BIYANI INSTITUTE OF EDUCATION .....Petitioner

Versus

NATIONAL COUNCIL FOR TEACHER EDUCATION & ANR. .....Respondents

\+ W.P.(C) 13149/2022

KNOWLEDGE COLLEGE .....Petitioner

Versus

NATIONAL COUNCIL FOR TEACHER EDUCATION & ANR. .....Respondents

\+ W.P.(C) 13158/2022

LDB GIRLS COLLEGE .....Petitioner

Versus

NATIONAL COUNCIL FOR TEACHER EDUCATION & ANR. .....Respondents

\+ W.P.(C) 13160/2022

KNOWLEDGE COLLEGE .....Petitioner

Versus

NATIONAL COUNCIL FOR TEACHER EDUCATION & ANR. .....Respondents

\+ W.P.(C) 13173/2022

B.R. COLLEGE OF EDUCATION .....Petitioner

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Versus

NATIONAL COUNCIL FOR TEACHER EDUCATION & ANR. .....Respondents

\+ W.P.(C) 13207/2022

LDB GIRLS COLLEGE .....Petitioner

Versus

NATIONAL COUNCIL FOR TEACHER EDUCATION & ANR. .....Respondents

\+ W.P.(C) 13251/2022

BHARTI EDUCATION INSTITUTE .....Petitioner

Versus

NATIONAL COUNCIL FOR TEACHER EDUCATION & ANR. .....Respondents

\+ W.P.(C) 13253/2022

SD SHIKSHAK PRASHIKSHAN COLLEGE .....Petitioner

Versus

NATIONAL COUNCIL FOR TEACHER EDUCATION & ANR. .....Respondents

\+ W.P.(C) 13267/2022

KARM VIDHYA MANDIR BASIC T.T. COLLEGE .....Petitioner

Versus

NATIONAL COUNCIL FOR TEACHER EDUCATION & ANR. .....Respondents

\+ W.P.(C) 13276/2022

BABA SHYAM TEACHER TRAINING COLLEGE .....Petitioner

Versus

NATIONAL COUNCIL FOR TEACHER EDUCATION & ANR. .....Respondents

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\+ W.P.(C) 13289/2022
BABA RAMDEV SHIKSHAK PRASHIKSHAN MAHAVIDYALAYA .....Petitioner

Versus

NATIONAL COUNCIL FOR TEACHER EDUCATION & ANR. .....Respondents

\+ W.P.(C) 13453/2022
RAGHUKUL COLLEGE OF EDUCATION .....Petitioner

Versus

NATIONAL COUNCIL FOR TEACHER EDUCATION & ANR. .....Respondents

\+ W.P.(C) 13481/2022
SHIVOM COLLEGE OF EDUCATION .....Petitioner

Versus

NATIONAL COUNCIL FOR TEACHER EDUCATION & ANR. .....Respondents

\+ W.P.(C) 13489/2022
SHIVOM COLLEGE OF EDUCATION .....Petitioner

Versus

NATIONAL COUNCIL FOR TEACHER EDUCATION & ANR. .....Respondents

\+ W.P.(C) 13784/2022
SETH KESRIMAL TT COLLEGE .....Petitioner

Versus

NATIONAL COUNCIL FOR TEACHER EDUCATION & ANR. .....Respondents

\+ W.P.(C) 13870/2022
MSY B.ED .....Petitioner

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NATIONAL COUNCIL FOR TEACHER EDUCATION & ANR. .....Respondents

\+ W.P.(C) 14552/2022
SUNDHA MATA INSTITUTE FOR HIGHER STUDIES .....Petitioner

Versus

NATIONAL COUNCIL FOR TEACHER EDUCATION & ANR. .....Respondents

\+ W.P.(C) 14624/2022
SHRI RAGHUNATH BISHNOI MEMORIAL COLLEGE .....Petitioner

Versus

NATIONAL COUNCIL FOR TEACHER EDUCATION & ANR. .....Respondents

\+ W.P.(C) 14668/2022
SANSKAR BHARTI COLLEGE OF EDUCATION .....Petitioner

Versus

NATIONAL COUNCIL FOR TEACHER EDUCATION & ANR. .....Respondents

\+ W.P.(C) 15534/2022
BIRBAL MEMORIAL T T COLLEGE .....Petitioner

Versus

NATIONAL COUNCIL FOR TEACHER EDUCATION & ANR. .....Respondents

\+ W.P.(C) 15733/2022 & CM APPL. 48958/2022
SHRI PRAMOD JI MAHILA MAHAVIDYALAYA .....Petitioner

Versus

NATIONAL COUNCIL FOR TEACHER EDUCATION AND ANR .....Respondents

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\+ W.P.(C) 15734/2022
PT. DEENDAYAL DANGROLIA SHIKSHA PRASAR SAMITI .....Petitioner

Versus

NATIONAL COUNCIL FOR TEACHER EDUCATION AND ANR .....Respondents

\+ W.P.(C) 15736/2022 & CM APPL. 48959/2022

SHREEPAL SINGH SMARAK MAHILA MAHAVIDYALAYA .....Petitioner

Versus

NATIONAL COUNCIL FOR TEACHER EDUCATION AND ANR .....Respondents

\+ W.P.(C) 15753/2022 & CM APPL. 49027/2022

PAPASANI MALAKONDA REDDY COLLEGE OF EDUCATION .....Petitioner

Versus

NATIONAL COUNCIL FOR TEACHER EDUCATION AND ANR .....Respondents

\+ W.P.(C) 15780/2022
SWAMI DAYANAND COLLEGE OF EDUCATION .....Petitioner

Versus

NATIONAL COUNCIL FOR TEACHER EDUCATION & ANR. .....Respondents

\+ W.P.(C) 15984/2022 & CM APPL. 49787/2022

SRIDUTT SINGH INSTITUTE FOR TEACHER TRAINING .....Petitioner

Versus

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NATIONAL COUNCIL FOR TEACHER EDUCATION AND ANRs .....Respondents

\+ W.P.(C) 16689/2022

PARMANAND COLLEGE OF EDUCATION .....Petitioner

Versus

NATIONAL COUNCIL FOR TEACHER EDUCATION & ANR. .....Respondents

\+ W.P.(C) 17333/2022 & CM APPL. 55117/2022

SADGURU EDUCATION INSTITUTE .....Petitioner

Versus

NATIONAL COUNCIL FOR TEACHER EDUCATION AND ANR .....Respondents

\+ W.P.(C) 305/2023

C.D. GIRLS DEGREE COLLEGE .....Petitioner

Versus

NATIONAL COUNCIL FOR TEACHER EDUCATION THROUGH ITS REGISTRAR CUM MEMBER SECRETARY & ANR. .....Respondents

\+ W.P.(C) 518/2023

MURLI SINGH YADAV MEMORIAL PRASHIKSHAN SANSTHAN .....Petitioner

Versus

NATIONAL COUNCIL FOR TEACHER EDUCATION & ANR. .....Respondents

\+ W.P.(C) 528/2023

SHIV TAJ EDUCATION INSTITUTE .....Petitioner

Versus

NATIONAL COUNCIL FOR TEACHER EDUCATION & ANR. .....Respondents

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\+ W.P.(C) 546/2023
SHRI SHYAM EDUCATIONAL INSTITUTE .....Petitioner

Versus

NATIONAL COUNCIL FOR TEACHER EDUCATION & ANR. .....Respondents

\+ W.P.(C) 559/2023
OM COLLEGE OF EDUCATION .....Petitioner

Versus

NATIONAL COUNCIL FOR TEACHER EDUCATION & ANR. .....Respondents

\+ W.P.(C) 561/2023
MODERN BSTC COLLEGE .....Petitioner

Versus

NATIONAL COUNCIL FOR TEACHER EDUCATION & ANR. .....Respondents

\+ W.P.(C) 562/2023
GALAXY COLLEGE OF EDUCATION .....Petitioner

Versus

NATIONAL COUNCIL FOR TEACHER EDUCATION & ANR. .....Respondents

\+ W.P.(C) 563/2023
S.D. SHIKSHAK PRASHIKSHAN COLLEGE .....Petitioner

Versus

NATIONAL COUNCIL FOR TEACHER EDUCATION & ANR. .....Respondents

\+ W.P.(C) 564/2023
CENTRAL MODERN TT COLLEGE .....Petitioner

Versus

NATIONAL COUNCIL FOR TEACHER EDUCATION & ANR. .....Respondents

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\+ W.P.(C) 565/2023
CHOUDHARY TEACHERS TRAINING COLLEGE
.....Petitioner

Versus

NATIONAL COUNCIL FOR TEACHER EDUCATION & ANR. .....Respondents

\+ W.P.(C) 566/2023
RAJPUTANA D.EL.ED COLLEGE .....Petitioner

Versus

NATIONAL COUNCIL FOR TEACHER EDUCATION & ANR. .....Respondents

\+ W.P.(C) 568/2023
SWAMI DAYANAND SHIKSHAN AVM VIKAS SANSTHAN .....Petitioner

Versus

NATIONAL COUNCIL FOR TEACHER EDUCATION & ANR. .....Respondents

\+ W.P.(C) 571/2023
GALAXY COLLEGE OF EDUCATION .....Petitioner

Versus

NATIONAL COUNCIL FOR TEACHER EDUCATION & ANR. .....Respondents

\+ W.P.(C) 826/2023 & CM APPL. 3173/2023

COLLEGE OF ADVANCE STUDIES (D.EL.ED) .....Petitioner

Versus

NATIONAL COUNCIL FOR TEACHER EDUCATION AND ANR .....Respondents

\+ W.P.(C) 837/2023
SHRI NATH STC COLLEGE .....Petitioner

Versus

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NATIONAL COUNCIL FOR TEACHER EDUCATION & ANR. .....Respondents

\+ W.P.(C) 1347/2023
GRAMOTTHAN SHIKSHAN SANSTHAN .....Petitioner

Versus

NATIONAL COUNCIL FOR TEACHER EDUCATION & ANR. .....Respondents

\+ W.P.(C) 1357/2023
AMBEDKAR SHIKSHAK PRASHIKSHAN VIDYALAYA

.....Petitioner

Versus

NATIONAL COUNCIL FOR TEACHER EDUCATION & ANR. .....Respondents

\+ W.P.(C) 1562/2023
INSTITUTE OF PROFESSIONAL EXCELLENCE AND MANAGEMENT .....Petitioner

Versus

NATIONAL COUNCIL FOR TEACHER EDUCATION & ANR. .....Respondents

\+ W.P.(C) 2293/2023 & CM APPL. 8743/2023

INTERNATIONAL INSTITUTE OF HIGHER EDUCATION

.....Petitioner

Versus

NATIONAL COUNCIL FOR TEACHER EDUCATION AND ANR .....Respondents

\+ W.P.(C) 2309/2023 & CM APPL. 8762/2023

INTERNATIONAL INSTITUTE OF HIGHER EDUCATION

.....Petitioner

Versus

NATIONAL COUNCIL FOR TEACHER EDUCATION AND ANR .....Respondents

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\+ W.P.(C) 2682/2023
AARYAN D.EL.ED COLLEGE .....Petitioner

Versus

NATIONAL COUNCIL FOR TEACHER EDUCATION & ANR. .....Respondents

\+ W.P.(C) 2775/2023
BPS STC SCHOOL .....Petitioner

Versus

NATIONAL COUNCIL FOR TEACHER EDUCATION & ANR. .....Respondents

\+ W.P.(C) 2779/2023
BHARTIYA STC SCHOOL .....Petitioner

Versus

NATIONAL COUNCIL FOR TEACHER EDUCATION & ANR. .....Respondents

\+ W.P.(C) 2973/2023
SHRI SHYAM INSTITUTE OF BSTC .....Petitioner

Versus

NATIONAL COUNCIL FOR TEACHER EDUCATION & ANR. .....Respondents

\+ W.P.(C) 2980/2023
SHRI KRISHNA BSTC COLLEGE …..Petitioner

Versus

NATIONAL COUNCIL FOR TEACHER EDUCATION & ANR. …..Respondents

\+ W.P.(C) 3069/2023
SHRI SHYAM SHIKSHAK PRASHIKSHAN MAHAVIDALAY …..Petitioner

Versus

NATIONAL COUNCIL FOR TEACHER EDUCATION & ANR. …..Respondents

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\+ W.P.(C) 3585/2023
MAHARAJA SURAJMAL TEACHERS TRAINING
…..Petitioner

Versus

NATIONAL COUNCIL FOR TEACHER EDUCATION & ANR. …..Respondents

\+ W.P.(C) 4229/2023
SHRI HARI SHIKSHAK PRASHIKSHAN SCHOOL
…..Petitioner

Versus

NATIONAL COUNCIL FOR TEACHER EDUCATION & ANR. …..Respondents

\+ W.P.(C) 4306/2023
AISHWARYA TEACHERS TRAINING COLLEGE
…..Petitioner

Versus

NATIONAL COUNCIL FOR TEACHER EDUCATION & ANR. …..Respondents

\+ W.P.(C) 4385/2023
VIVEKANAND VIDYA ASHRAM TEACHER TRAINING SCHOOL …..Petitioner

Versus

NATIONAL COUNCIL FOR TEACHER EDUCATION & ANR. …..Respondents

\+ W.P.(C) 4459/2023

SISTER NIVEDITA PRIMARY TEACHER TRAINING INSTITUTE & ANR. …..Petitioners

Versus

NATIONAL COUNCIL FOR TEACHER EDUCATION & ANR. …..Respondents

\+ W.P.(C) 4488/2023
TARA MAA PRIMARY TEACHERS TRAINING INSTITUTE & ANR. …..Petitioners

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Versus

NATIONAL COUNCIL FOR TEACHER EDUCATION & ANR. …..Respondents

\+ W.P.(C) 4513/2023

BHARAT COLLEGE DATIA & ANR. …..Petitioners

Versus

NATIONAL COUNCIL FOR TEACHER EDUCATION & ANR. …..Respondents

\+ W.P.(C) 4531/2023 & CM APPL. 17327/2023

INDU DEVI RANJEET KUMAR PRAKASH PROFESSIONAL COLLEGE & ANR. …..Petitioners

Versus

NATIONAL COUNCIL FOR TEACHER EDUCATION & ANR.
…..Respondents.

\+ W.P.(C) 4630/2023 & CM APPL. 17704/2023

KUSUMRAJ INSTITUTE OF TEACHER TRAINING COLLEGE & ANR. …..Petitioners

Versus

NATIONAL COUNCIL FOR TEACHER EDUCATION & ANR. …..Respondents

\+ W.P.(C) 4692/2023 & CM APPL. 18082/202 3

RANGJI YADAV MAHAVIDYALAYA …..Petitioner

Versus

NATIONAL COUNCIL FOR TEACHER EDUCATION AND ANR. …..Respondents

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\+ W.P.(C) 4697/2023
SHREE KAILA DEVI UMA MAHAVIDYALAYA

…..Petitioner

Versus

NATIONAL COUNCIL FOR TEACHER EDUCATION AND ANR …..Respondents

\+ W.P.(C) 4699/2023 & CM APPL. 18097/2023

RENUBALA COLLEGE OF EDUCATION …..Petitioner

Versus

NATIONAL COUNCIL FOR TEACHER EDUCATION AND ANR …..Respondents

\+ W.P.(C) 4700/2023 & CM APPL. 18099/2023

SHRI ZUALA PRASAD SHARMA SHIKSHAN SANSTHAN

…..Petitioner

Versus

NATIONAL COUNCIL FOR TEACHER EDUCATION AND ANR …..Respondents

\+ W.P.(C) 4728/2023
NAGFANI INSTITUTE OF STC …..Petitioner

Versus

NATIONAL COUNCIL FOR TEACHER EDUCATION & ANR. …..Respondents

\+ W.P.(C) 4780/2023
SWAMI VIBEKANANDA COLLEGE OF EDUCATION & ANR. …..Petitioner

Versus

NATIONAL COUNCIL FOR TEACHER EDUCATION & ANR. ....Respondents

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\+ W.P.(C) 4806/2023

UTTAR DINAJPUR PTTI & ANR. …..Petitioners

Versus

NATIONAL COUNCIL FOR TEACHER EDUCATION & ANR. …..Respondents

\+ W.P.(C) 5039/2023

INDIAN TEACHER TRAINING COLLEGE …..Petitioner

Versus

NATIONAL COUNCIL FOR TEACHER EDUCATION & ANR. …..Respondents

\+ W.P.(C) 5090/2023

PT RAM KOMAL DWIVEDI DEGREE COLLEGE & ANR.

…..Petitioners

Versus

NATIONAL COUNCIL FOR TEACHER EDUCATION & ANR. …..Respondents

\+ W.P.(C) 5358/2023

NEW ERA COLLEGE OF EDUCATION & ANR.

…..Petitioners

Versus

NATIONAL COUNCIL FOR TEACHER EDUCATION & ANR. …..Respondents

\+ W.P.(C) 5362/2023

DR CP TIWARI SMRITI COLLEGE & ANR. …..Petitioner

Versus

NATIONAL COUNCIL FOR TEACHER EDUCATION & ANR. …..Respondents

\+ W.P.(C) 5436/2023 & CM APPL. 21276/2023

MR TEACHERS TRAINING INSTITUTE …..Petitioner

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Versus
NATIONAL COUNCIL FOR TEACHER EDUCATION & ANR. …..Respondents

\+ W.P.(C) 5442/2023
SMT SR HERMA MED COLLEGE & ANR. …..Petitioners

Versus
NATIONAL COUNCIL FOR TEACHER EDUCATION & ANR. …..Respondents

\+ W.P.(C) 5479/2023
RRCM COLLEGE OF EDUCATION & ANR …..Petitioners

Versus
NATIONAL COUNCIL FOR TEACHER EDUCATION & ANR. …..Respondents

\+ W.P.(C) 5481/2023
RAM BACHAN YADAV MAHAVIDYALAYA & ANR.

…..Petitioners

Versus
NATIONAL COUNCIL FOR TEACHER EDUCATION & ANR. …..Respondents

\+ W.P.(C) 5488/2023
PARAKH COLLEGE OF EDUCATION & ANR. ...Petitioners

Versus
NATIONAL COUNCIL FOR TEACHER EDUCATION & ANR. ….. Respondents

\+ W.P.(C) 5515/2023
VAISHNAVI SHIKSHA MAHAVIDYALAYA & ANR.

…..Petitioners

Versus
NATIONAL COUNCIL FOR TEACHER EDUCATION & ANR. …..Respondents

\+ W.P.(C) 5522/2023
BANARASI DEVI COLLEGE OF EDUCATION & ANR.

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…..Petitioners

Versus

NATIONAL COUNCIL FOR TEACHER EDUCATION & ANR. …..Respondents

\+ W.P.(C) 5569/2023

SHRI BHANWAR SHIKSHAK PRASHIKSHAN MAHAVIDYALAYA & ANR. …..Petitioners

Versus

NATIONAL COUNCIL FOR TEACHER EDUCATION & ANR. …..Respondents

\+ W.P.(C) 5610/2023

SD COLLEGE OF EDUCATION & ANR. …..Petitioners

Versus

NATIONAL COUNCIL FOR TEACHER EDUCATION & ANR. …..Respondents

\+ W.P.(C) 5666/2023

VEERAYATAN BED COLLEGE & ANR. …..Petitioners

Versus

NATIONAL COUNCIL FOR TEACHER EDUCATION & ANR. …..Respondents

\+ W.P.(C) 5683/2023 & CM APPL. 22233/2023

SHRI KRISHNA SHIKSHAK PRASHIKSHAN SANSTHAN

…..Petitioner

Versus

NATIONAL COUNCIL FOR TEACHER EDUCATION & ANR. …..Respondents

\+ W.P.(C) 5763/2023

B R TEACHER TRAINING COLLEGE …..Petitioner

Versus

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NATIONAL COUNCIL FOR TEACHER EDUCATION AND ANR. & ANR. …..Respondents

\+ W.P.(C) 5827/2023
B R TEACHER TRAINING COLLEGE …..Petitioner

Versus

NATIONAL COUNCIL FOR TEACHER EDUCATION AND ANR. …..Respondents

\+ W.P.(C) 5832/2023
ACHARYA DRONA INSTITUTE FOR TEACHERS TRAINING & ANR. …..Petitioner

Versus

NATIONAL COUNCIL FOR TEACHER EDUCATION & ANR. …..Respondents

\+ W.P.(C) 5988/2023
RAM DEI RAM CHANDRA MEMORIAL SHIKSHAN SANSTHAN & ANR. …..Petitioner

Versus

NATIONAL COUNCIL FOR TEACHER EDUCATION & ANR. …..Respondents

\+ W.P.(C) 6080/2023
SHRI RAM INSTITUTE OF EDUCATION SCIENCE TECHNOLOGY & ANR. …..Petitioners

Versus

NATIONAL COUNCIL FOR TEACHER EDUCATION & ANR. …..Respondents

\+ W.P.(C) 7566/2023
HARDEV SINGH SANSKRIT COLLEGE & ANR

…..Petitioners

Versus

NATIONAL COUNCIL FOR TEACHER EDUCATION & ANR. …..Respondents

\+ W.P.(C) 7584/2023
JAGDISH COLLEGE OF EDUCATION & ANR.

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Versus

NATIONAL COUNCIL FOR TEACHER EDUCATION & ANR. …..Respondents

\+ W.P.(C) 7671/2023

SURAJ MAHAVIDYALAYA & ANR. …..Petitioner

Versus

NATIONAL COUNCIL FOR TEACHER EDUCATION & ANR. …..Respondents

\+ W.P.(C) 7706/2023

BR COLLEGE OF EDUCATION & ANR. …..Petitioners

Versus

NATIONAL COUNCIL FOR TEACHER EDUCATION & ANR. …..Respondents

\+ W.P.(C) 7708/2023

G.L. TIWARI STC COLLEGE & ANR. …..Petitioners

Versus

NATIONAL COUNCIL FOR TEACHER EDUCATION & ANR. …..Respondents

\+ W.P.(C) 7758/2023

RNT COLLEGE OF TEACHER EDUCATION

& ANR. …..Petitioners

Versus

NATIONAL COUNCIL FOR TEACHER EDUCATION & ANR. …..Respondents

\+ W.P.(C) 7763/2023

LODI SINGH DWARIKA SINGH KAUSHIK MAHAVIDYALAYA & ANR. …..Petitioners

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NATIONAL COUNCIL FOR TEACHER EDUCATION & ANR. …..Respondents

\+ W.P.(C) 7877/2023
LALGOLA TEACHERS TRAINING ACADEMY & ANR. …..Petitioners

Versus

NATIONAL COUNCIL FOR TEACHER EDUCATION & ANR. …..Respondents

\+ W.P.(C) 8015/2023 & CM APPL. 30844/2023
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\+ W.P.(C) 8067/2023
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\+ W.P.(C) 8351/2023
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\+ W.P.(C) 8833/2023
SIDDHARTH COLLEGE & ANR. …..Petitioners

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\+ W.P.(C) 8840/2023
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\+ W.P.(C) 8876/2023
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\+ W.P.(C) 8995/2023
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SSM TEACHER TRAINING COLLEGE & ANR.

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\+ W.P.(C) 10824/2023
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\+ W.P.(C) 11317/2023
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\+ W.P.(C) 12258/2023 & CM APPL. 48197/2023
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\+ W.P.(C) 14249/2023
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\+ W.P.(C) 15031/2023
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\+ W.P.(C) 530/2024
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\+ W.P.(C) 600/2024
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\+ W.P.(C) 1241/2024
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\+ W.P.(C) 1279/2024
KBS TT COLLEGE & ANR. …...Petitioners

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\+ W.P.(C) 1300/2024
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\+ W.P.(C) 1302/2024
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\+ W.P.(C) 2582/2024

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TSK T.T. COLLEGE D.EL.ED ……Petitioner

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+ W.P.(C) 2872/2024
ASTHA COLLEGE OF EDUCATION & ANR. …..Petitioners

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+ W.P.(C) 2897/2024
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+ W.P.(C) 2900/2024
BALWANT SINGH TT COLLEGE & ANR. …..Petitioners

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\+ W.P.(C) 3325/2024
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\+ W.P.(C) 3377/2024
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SORABH COLLEGE OF TEACHER TRAINING & ANR.
…..Petitioners

Versus

NATIONAL COUNCIL FOR TEACHER EDUCATION AND ANR. …..Respondents

\+ W.P.(C) 3444/2024
KARAULI COLLEGE & ANR. …..Petitioners

Versus

NATIONAL COUNCIL FOR TEACHER EDUCATION & ANR. …..Respondents

\+ W.P.(C) 3449/2024
DIVA COLLEGE OF EDUCATION & ANR. …..Petitioners

Versus

NATIONAL COUNCIL FOR TEACHER EDUCATION & ANR. …..Respondents

\+ W.P.(C) 3458/2024
RAJASTHAN COLLEGE OF TEACHER TRAINING & ANR.
…..Petitioners

Versus

NATIONAL COUNCIL FOR TEACHER EDUCATION & ANR. …..Respondents

\+ W.P.(C) 3459/2024 & CM APPL. 14141/2024

UDAI SINGH YADAV PRASHIKSHAN SANSTHAN
…..Petitioner

Versus

NATIONAL COUNCIL FOR TEACHER EDUCATION & ANR. …..Respondents

\+ W.P.(C) 3460/2024 & CM APPL. 14142/2024

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SAVITRI DEVI PRASHIKSHAN SANSTHAN .....Petitioner

Versus

NATIONAL COUNCIL FOR TEACHER EDUCATION & ANR. .....Respondents

\+ W.P.(C) 3466/2024
SHREE S R SHIKSHAK PRASHIKSHAN MAHAVIDYALAYA & ANR. .....Petitioners

Versus

NATIONAL COUNCIL FOR TEACHER EDUCATION & ANR. .....Respondents

\+ W.P.(C) 3514/2024
BHAGWAN MAHAVEER TEACHER TRAINING COLLEGE & ANR. .....Petitioners

Versus

NATIONAL COUNCIL FOR TEACHER EDUCATION & ANR. .....Respondents

\+ W.P.(C) 3783/2024 & CM APPL. 15567/2024

LOKMANYA TILAK STC COLLEGE .....Petitioner

Versus

NATIONAL COUNCIL FOR TEACHER EDUCATION & ANR. .....Respondents

\+ W.P.(C) 3956/2024 & CM APPL. 16242/2024

SHEKHWATI SHIKSHAN SANSTHAN .....Petitioner

Versus

NATIONAL COUNCIL FOR TEACHER EDUCATION & ANR. .....Respondents

\+ W.P.(C) 4085/2024
MD COLLEGE OF EDUCATION & ANR. .....Petitioners

Versus

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NATIONAL COUNCIL FOR TEACHER EDUCATION & ANR. .....Respondents

\+ W.P.(C) 4104/2024
BALAJI BSTC COLLEGE & ANR. ..... Petitioner
Versus

NATIONAL COUNCIL FOR TEACHER EDUCATION & ANR. .....Respondents

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HON'BLE MR. JUSTICE C.HARI SHANKAR

J U D G M E N T

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Statutory backdrop of the dispute

1. The profession of teaching is classically and scripturally regarded as amongst the noblest of professions. One of the immortal *dohas*[1] of poet-saint Kabir reads:

गुरू गोविन्द दोऊ खड़े, काके लागूं पांय।
बलिहारी गुरू अपने गोविन्द दियो बताय।।[2]

2. On the broad shoulders of the teacher rests the responsibility of nurturing and bringing into existence an entire new generation, which represents the nation builders of tomorrow. From infancy to adulthood, it is often the teacher, more than anyone else, including parents, who moulds and crafts the character of the individual, and shapes and gives form and substance to his perceptions and predilections, which are to form the basis of his outlook for the whole of tomorrow.

3. The responsibility that rests on a teacher is, therefore, onerous. The teacher is a sculptor, save that he sculpts live human beings, not inanimate clay. The ability to read, peer into the soul of, and psychoanalyse the individual, from childhood to adolescence to maturity, has, therefore, to inhere in every teacher. A teacher, who does not understand or comprehend the minutiae of the elements of

[1] couplets
[2] "My Guru (teacher) and God are both before me, to whom should I pay obeisance? Worship at the feet of the Guru", God replied."

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the student's character may, even if unwittingly, cause incalculable harm to the student under her, or his, guidance and tutelage.

4. It is of essence, therefore, that the educator is also educated.

5. The art of how to educate is a science in itself. Teaching the teacher how to teach is, therefore, itself a matter of great import, which cannot brook any compromise in standards. It is, therefore, to monitor the standards of institutions which educate the educators that the National Council for Teacher Education (NCTE) was set up in 1973 by a Government resolution, as a national expert body to advise Central and State Governments on all matters pertaining to teacher education.

6. Till 1993, the status and role of the NCTE was purely advisory. This resulted in unplanned growth of Teacher Education Institutions (TEIs) in a random and unchecked fashion. The then prevalent National Policy on Education (NPE), therefore, framed a Programme of Action in 1986, which envisaged conferment of the NCTE with requisite resources and capability to accredit TEIs and provide guidance regarding the curricula and methods of education to be followed. The Programme of Action also envisaged conferring, on the NCTE, statutory status.

7. The National Council for Teacher Education Bill was, therefore, tabled in Parliament in 1993. Consequent to grant of Presidential assent, the Bill acquired statutory status as the National Council for

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Teacher Education Act, 1993 ("the NCTE Act").

8. Section 1(3) of the NCTE Act envisages its coming into force on a date to be notified by the Central Government in that regard. Notification No. S.O. 620(E) dated 1 July 1995, brought the NCTE Act into force from that date. Thus, the NCTE Act came into effect from 1 July 1995.

Salient features of the NCTE Act

9. Section 12[3] of the NCTE Act casts, on the NCTE, the duty to

[3] **12. Functions of the Council**. – It shall be the duty of the Council to take all such steps as it may think fit for ensuring planned and coordinated development of teacher education and for the determination and maintenance of standards for teacher education and for the purposes of performing its functions under this Act, the Council may –

(a) undertake surveys and studies relating to various aspects of teacher education and publish the result thereof;
(b) make recommendations to the Central and State Governments, Universities, University Grants Commission and recognised institutions in the matter of preparation of suitable plans and programmes in the field of teacher education;
(c) coordinate and monitor teacher education and its development in the country;
(d) lay down guidelines in respect of minimum qualifications for a person to be employed as a teacher in recognised institutions;
(e) lay down norms for any specified category of courses or training in teacher education, including the minimum eligibility criteria for admission thereof, and the method of selection of candidates, duration of the course, course contents and mode of curriculum;
(f) lay down guidelines for compliance by recognised institutions, for starting new courses or training and for providing physical and instructional facilities, staffing pattern and staff qualifications;
(g) lay down standards in respect of examinations leading to teacher education qualifications, criteria for admission to such examinations and schemes of courses or training;
(h) lay down guidelines regarding tuition fee and other fee chargeable by recognised institutions;
(i) promote and conduct innovation and research in various areas of teacher education and disseminate the results thereof;
(j) examine and review periodically the implementation of the norms, guidelines and standards laid down by the Council and to suitably advise the recognised institutions;
(k) evolve suitable performance appraisal systems, norms and mechanisms for enforcing accountability on recognised institutions;
(l) formulate schemes for various levels of teacher education and identify recognised institutions and set up new institutions for teacher development programmes;
(m) take all necessary steps to prevent commercialisation of teacher education; and
(n) perform such other functions as may be entrusted to it by the Central Government.

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take all such steps as it may think fit, for ensuring planned and coordinated development of teacher education and for determination and maintenance of standards of teacher education. For this purpose, Section 12 confers various powers on the NCTE which includes, in clause (c), the power to coordinate and monitor teacher education and its development in the country; in clause (j), to examine and review, periodically, implementation of the norms, guidelines and standards laid down by the NCTE and suitably advise recognised institutions and, in clause (n), to perform such other functions as may be entrusted to it by the Central Government.

10. In exercise of the powers conferred by Section 20(1)[4], the NCTE has, by notification, established an Eastern Regional Committee (ERC), Western Regional Committee (WRC), Northern Regional Committee (NRC) and Southern Regional Committee (SRC). The functions of these Regional Committees are contained in Section 14, 15 and 16[5] of the NCTE Act, with the further stipulation in

---

[4] **20. Regional Committees**. –

(1) The Council shall, by notification in the Official Gazette, establish the following Regional Committees, namely:—

(i) the Eastern Regional Committee;

(ii) the Western Regional Committee;

(iii) the Northern Regional Committee; and

(iv) the Southern Regional Committee.

[5] **14. Recognition of institutions offering course or training in teacher education**. –

(1) Every institution offering or intending to offer a course or training in teacher education on or after the appointed day, may, for grant of recognition under this Act, make an application to the Regional Committee concerned in such form and in such manner as may be determined by regulations:

Provided that an institution offering a course or training in teacher education immediately before the appointed day, shall be entitled to continue such course or training for a period of six months, if it has made an application for recognition within the said period and until the disposal of the application by the Regional Committee.

Provided further that such institutions, as may be specified by the Central Government by notification in the Official Gazette, which—

(i) are funded by the Central Government or the State Government or the Union territory Administration;

(ii) have offered a course or training in teacher education on or after the appointed day till the academic year 2017-2018; and

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(iii) fulfil the conditions specified under clause (a) of sub-section (3),

shall be deemed to have been recognised by the Regional Committee.

(2) The fee to be paid along with the application under sub-section (1) shall be such as may be prescribed.

(3) On receipt of an application by the Regional Committee from any institution under sub-section (1), and after obtaining from the institution concerned such other particulars as it may consider necessary, it shall,—

(a) if it is satisfied that such institution has adequate financial resources, accommodation, library, qualified staff, laboratory and that it fulfils such other conditions required for proper functioning of the institution for a course or training in teacher education, as may be determined by regulations, pass an order granting recognition to such institution, subject to such conditions as may be determined by regulations; or

(b) if it is of the opinion that such institution does not fulfil the requirements laid down in sub-clause (a), pass an order refusing recognition to such institution for reasons to be recorded in writing:

Provided that before passing an order under sub-clause (b), the Regional Committee shall provide a reasonable opportunity to the concerned institution for making a written representation.

(4) Every order granting or refusing recognition to an institution for a course or training in teacher education under sub-section (3) shall be published in the Official Gazette and communicated in writing for appropriate action to such institution and to the concerned examining body, the local authority or the State Government and the Central Government.

(5) Every institution, in respect of which recognition has been refused shall discontinue the course or training in teacher education from the end of the academic session next following the date of receipt of the order refusing recognition passed under clause (b) of sub-section (3).

(6) Every examining body shall, on receipt of the order under sub-section (4),—

(a) grant affiliation to the institution, where recognition has been granted; or

(b) cancel the affiliation of the institution, where recognition has been refused.

15. Permission for a new course or training by recognised institution. –

(1) Where any recognised institution intends to start any new course or training in teacher education, it may make an application to seek permission therefor to the Regional Committee concerned in such form and in such manner as may be determined by regulations.

Provided that the course or training in teacher education offered on or after the appointed day till the academic year 2017-2018 by such institutions, as may be specified by the Central Government by notification in the Official Gazette, which—

(i) are funded by the Central Government or the State Government or the Union territory Administration; and

(ii) fulfil the conditions specified under clause (a) of sub-section (3),

shall be deemed to have been granted permission by the Regional Committee.]

(2) The fees to be paid along with the application under sub-section (1) shall be such as may be prescribed.

(3) On receipt of an application from an institution under sub-section (1), and after obtaining from the recognised institution such other particulars as may be considered necessary, the Regional Committee shall,—

(a) if it is satisfied that such recognised institution has adequate financial resources, accommodation, library, qualified staff, laboratory, and that it fulfils such other conditions required for proper conduct of the new course or training in teacher education, as may be determined by regulations, pass an order granting permission, subject to such conditions as may be determined by regulation; or

(b) if it is of the opinion that such institution does not fulfil the requirements laid down in sub-clause (a), pass an order refusing permission to such institution, for reasons to be recorded in writing:

Provided that before passing an order refusing permission under sub-clause (b), the Regional Committee shall provide a reasonable opportunity to the institution concerned for making a written representation.

(4) Every order granting or refusing permission to a recognised institution for a new course or training in teacher education under sub-section (3), shall be published in the Official Gazette and communicated in writing for appropriate action to such recognised institution and to the concerned examining body, the local authority, the State Government and the Central Government.

16. Affiliating body to grant affiliation after recognition or permission by the Council.— Notwithstanding anything contained in any other law for the time being in force, no examining body shall, on or after the appointed day,—

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Section 20(6)[6] that the Regional Committees are also required to perform such other functions as may be assigned to them by the NCTE or determined by regulations.

11. Section 13[7] of the NCTE Act empowers the NCTE to cause inspection of any TEIs, in such manner as may be prescribed, for the purpose of ascertaining whether the TEI is functioning in accordance with the provisions of the NCTE Act. "Prescribed" is defined in Section 2(h) as meaning "prescribed by rules made under Section 31 of the NCTE Act", in the exercise of which the Central Government has promulgated the National Council for Teacher Education (Procedure for Recognition of Certain Categories of Institutions) Rules, 2006 (hereinafter referred to as "the NCTE Rules").

12. Section 13(3) requires the NCTE, consequent on inspection of any TEI, to communicate, to it, the results of the inspection and the views of the NCTE in that regard and to recommend, to the concerned

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(a) grant affiliation, whether provisional or otherwise, to any institution; or
(b) hold examination, whether provisional or otherwise, for a course or training conducted by a recognised institution,

unless the institution concerned has obtained recognition from the Regional Committee concerned, under Section 14 or permission for a course or training under Section 15.

[6] (6) The Regional Committee shall, in addition to its functions under Sections 14, 15 and 17, perform such other functions, as may be assigned to it by the Council or as may be determined by regulations.

[7] **13. Inspection**. –
(1) For the purposes of ascertaining whether the recognised institutions are functioning in accordance with the provisions of this Act, the Council may cause inspection of any such institution, to be made by such persons as it may direct, and in such manner as may be prescribed.
(2) The Council shall communicate to the institution the date on which inspection under sub-section (1) is to be made and the institution shall be entitled to be associated with the inspection in such manner as may be prescribed.
(3) The Council shall communicate to the said institution, its views in regard to the results of any such inspection and may, after ascertaining the opinion of that institution, recommend to that institution the action to be taken as a result of such inspection.
(4) All communications to the institution under this section shall be made to the executive authority thereof, and the executive authority of the institution shall report to the Council the action, if any, which is proposed to be taken for the purposes of implementing any such recommendation as is referred to in sub-section (3).

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TEI, any action that is required to be taken by it.

13. Chapter IV of the NCTE Act deals with recognition of TEIs. Section 15 deals with grant of permission for a new course or training by a recognised TEI, and Section 16 requires the affiliating body, to which the TEI is to be affiliated, to grant affiliation consequent on recognition or grant of permission by the NCTE to the TEI. Of these, the provision which is pivotal to the dispute at hand, and on which the petitioners place especial reliance, is Section 14(3).

14. Section 14, as noted, deals with recognition of TEIs. Every TEI, or institution intending to offer a course or training in teacher education may, under Section 14(1), apply to the concerned Regional Committee for grant of recognition under the NCTE Act. Section 14(3) sets out the manner in which such applications are to be dealt with, by the concerned Regional Committee. In case any further particulars are required from the concerned institution, the Regional Committee is required to call upon the institution to provide such particulars. Once such particulars, if any, are obtained, the Regional Committee has to assess whether the TEI has adequate financial resources, accommodation, library, qualified staff and laboratory and whether it fulfils other conditions required for proper functioning of the institution for providing a course or training in teacher education. The requisite conditions in this regard are to be as determined by the National Council for Teacher Education (Recognition Norms and Procedure) Regulations, 2014 (hereinafter referred to as "the 2014 Regulations").

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15. If the Regional Committee is satisfied that the TEI has the requisite resources and satisfies other stipulated conditions in order to enable it to properly function as a TEI, Section 14(3)(a) requires the Regional Committee to mandatorily grant recognition to the institution. If the Regional Committee is, on the other hand, of the opinion that the TEI does not fulfil the necessary requirements, the Regional Committee has, under Section 14(3)(b), equally mandatorily, to pass a reasoned order refusing recognition to the institution, prior to which the Regional Committee is required to provide a reasonable opportunity to the concerned institution to make a written representation.

16. Every TEI is required to be affiliated to a university, agency or authority for conducting examinations in teacher education qualifications. Such university, agency or authority is defined, in Section 2(d)[8] as the "examining body". Section 14(6) mandatorily requires every examining body to, on receipt of an order of the Regional Committee either granting or refusing recognition to the TEI as sought in Section 14(1), either grant affiliation to the TEI, if it has been granted recognition, or cancel the affiliation of the TEI, where recognition has been refused.

17. Section 15 deals with a situation in which a recognised TEI intends to start a new course of training in teacher education. Before starting any such new course, the TEI is required to obtain permission

[8] (d) "examining body" means a University, agency or authority to which an institution is affiliated for conducting examinations in teacher education qualifications;

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therefore, from the concerned Regional Committee, for which it is required to apply under Section 15(1). As in the case of Section 14(3), Section 15(3) requires the Regional Committee, on receipt of such an application from a TEI which proposes to start a new course in teacher education, to first call upon the TEI to provide any additional particulars if necessary. Thereafter, the Regional Committee proceeds as it does in the case of an application from an institution seeking recognition under Section 14(3). If the Regional Committee is satisfied that the TEI has the requisite financial resources, accommodation, library, staff and laboratory and fulfils other stipulated conditions for properly conducting of the proposed new course in teacher education, the Regional Committee shall mandatorily pass an order granting permission to the TEI to start the course. If it is not satisfied that the TEI fulfils the said requirements, the Regional Committee has to pass an order refusing permission to the TEI to commence a new course, for reasons to be recorded in writing, prior to which the TEI has to be granted an opportunity to submit a written representation.

18. Section 16 reiterates what is contained in Sections 14 and 15, insofar as the duty of the affiliating body is concerned. It proscribes the affiliating/examining body from granting affiliation, provisional or otherwise, to any TEI and from holding any examination for a course or training conducted by TEI, unless the TEI has obtained recognition under Section 14 or permission to commence a new course under Section 15.

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19. Section 17[9] deals with the power of the Regional Committee to punish for contravention of the provisions of the NCTE Act, or any rules, regulations or orders made thereunder. Any such contravention, on the part of a TEI, or breach, by a TEI, of any condition subject to which recognition under Section 14 or permission under Section 15, was granted to it by the Regional Committee, empowers the Regional Committee, under Section 17(1), to withdraw the recognition of such TEI. The order of withdrawal has to be reasoned and in writing and has to be preceded by a reasonable opportunity, to the concerned TEI, to represent against the proposed order. Once recognition of a TEI is withdrawn under Section 17(1), Section 17(3) obligates the TEI to discontinue the course or training in teacher education in respect of which the withdrawal order has been passed. Section 17(3) further obligates the examining/affiliating body to forthwith cancel the affiliation of the concerned TEI.

20. Section 18 provides for appeals, to the NCTE, against the

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[9] **17. Contravention of provisions of the Act and consequences thereof**. –

(1) Where the Regional Committee is, on its own motion or on any representation received from any person, satisfied that a recognised institution has contravened any of the provisions of this Act, or the rules, regulations, orders made or issued thereunder, or any condition subject to which recognition under sub-section (3) of Section 14 or permission under sub-section (3) of Section 15 was granted, it may withdraw recognition of such recognised institution, for reasons to be recorded in writing:

Provided that no such order against the recognised institution shall be passed unless a reasonable opportunity of making representation against the proposed order has been given to such recognised institution:

Provided further that the order withdrawing or refusing recognition passed by the Regional Committee shall come into force only with effect from the end of the academic session next following the date of communication of such order.

(2) A copy of every order passed by the Regional Committee under sub-section (1),—

(a) shall be communicated to the recognised institution concerned and a copy thereof shall also be forwarded simultaneously to the University or the examining body to which such institution was affiliated for cancelling affiliation; and

(b) shall be published in the Official Gazette for general information.

(3) Once the recognition of a recognised institution is withdrawn under sub-section (1), such institution shall discontinue the course or training in teacher education, and the concerned University or the examining body shall cancel affiliation of the institution in accordance with the order passed under sub-section (1), with effect from the end of the academic session next following the date of communication of the said order.

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decision of the Regional Committee, under Sections 14, 15 or 17 within the period stipulated in that regard.

National Council for Teachers Education Rules 1997 ("the NCTE Rules 1997")

21. These Rules are not of particular significance, save and except to note that the procedure for inspection of a TEI is provided under Rule 8 thereof.

The National Council for Teacher Education (Recognition, Norms and Procedure) Regulations, 2014 (the NCTE Regulations)

22. The NCTE Regulations were promulgated, in exercise of the powers conferred by Section 32(2) of the NCTE Act, and came into effect on 1 December 2014. Regulation 3[10] deals with the applicability of the NCTE Regulations. By generally declaring that the NCTE Regulations would be "applicable to all matters relating to teacher education programmes for preparing norms and standards and procedure for recognition of institutions, commencement of new programmes and addition to sanctioned intake in the existing

[10] **3. Applicability.** – These regulations shall be applicable to all matters relating to teacher education programmes for preparing norms and standards and procedures for recognition of institutions, commencement of new programmes and addition to sanctioned intake in the existing programmes including the following, namely:—

(a) recognition for commencement of new teacher education programmes which shall be offered in composite institutions;

(b) permission for introduction of new programmes in existing teacher education institutions duly recognized by the Council;

(c) permission for additional intake in the existing teacher education programmes duly recognised by the Council;

(d) permission for shifting or relocating of premises of existing teacher education institutions;

(e) permission for closure or discontinuation of recognised teacher education programmes, or institutions as the case may be:

Provided that for teacher education programmes offered through open and distance learning, the respective norms and standards for each such learning programme shall be applicable.

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programmes", Regulation 3 specifically includes, in the applicability of the NCTE Regulations, recognition for commencement of new teacher education programmes [*vide* clause (a)] and permission for introduction of new programmes in existing TEIs [*vide* clause (b)].

23. Clause (a) further stipulates that recognition for commencement of new teacher education programmes would be offered in composite institutions. "Composite institution" is defined in Regulation 2(b) as meaning "a duly recognised higher education institution offering undergraduate or postgraduate programmes of study in the field of liberal arts or humanities or social sciences or sciences or commerce or mathematics, as the case may be, at the time of applying for recognition of teacher education programmes, or an institution offering multiple teacher education programmes".

24. Regulation 4[11] deals with the categories of institutions which are eligible for consideration of their applications under the 2014 Regulations. Under the said Regulation, all institutions established by or under the authority of the Central or State Government or Union Territory Administration, institutions financed centrally or by state government or Union Territory Administration, all universities, or all self-financed educational institutions established and operated by not

[11] **4.** **Eligibility**. – The following categories of institutions are eligible for consideration of their applications under these regulations, namely:—

(a) institutions established by or under the authority of the Central or State Government or Union territory administration;

(b) institutions financed by the Central or State Government or Union territory administration;

(c) all universities, including institutions deemed to be universities, so recognised or declared as such, under the University Grants Commission Act, 1956 (3 of 1956);

(d) self financed educational institutions established and operated by 'not for profit' societies and trusts registered under the appropriate laws or a company incorporated under the Companies Act, 2013 (18 of 2013).

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for profit societies and trusts, or companies incorporated under the Companies Act, 2013, are eligible for consideration of their applications.

25. Regulation 5(1)[12] permits every eligible institution, desirous of running a teacher education programme, to apply to the concerned Regional Committee for recognition in the manner prescribed. Regulation 5(6)[13] mandatorily requires all applications received online from 1st March to 31st May of the year to be processed for the next academic session and for a final decision, either to grant, or to refuse recognition, to be communicated to the concerned TEI on or before the 3rd day of March of the succeeding year.

26. Regulation 7[14] deals with the manner in which applications under Regulation 5 are to be processed.

---

[12] **5. Manner of making application and time limit**. –

(1) An institution eligible under Regulation 4, desirous of running a teacher education programme may apply to the concerned Regional Committee for recognition in the prescribed application form along with processing fee and requisite documents:

Provided that an institution may make simultaneous applications for shifting of premises or additional intake, or additional teacher education programmes as the case may be:

Provided further that an existing institution may make an application for closure or discontinuation of one or several teacher education programmes recognised by the Council.

[13] (6) All applications received online from 1st March to 31st May of the year shall be processed for the next academic session and final decision, either recognition granted or refused, shall be communicated to the applicant on or before the 3rd day of March of the succeeding year.

[14] **7. Processing of applications**. –

(1) In case an application is not complete, or requisite documents are not attached with the application, the application shall be treated: incomplete and rejected, and application fees paid shall be forfeited.

(2) The application shall be summarily rejected under one or more of the following circumstance—

(a) failure to furnish the application fee, as prescribed under Rule 9 of the National Council for Teacher Education Rules, 1997 on or before the date of submission of online application;

(b) failure to submit print out of the applications made online alongwith the land documents as required under sub-regulation (4) of Regulation 5 within fifteen days of the submission of the online application.

(3) Furnishing any false information or concealment of facts in the application, which may have bearing on the decision making process or the decision pertaining to grant of recognition, shall result in refusal of recognition of the institution besides other legal action against its management.

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The order of refusal of recognition shall be passed after giving reasonable opportunity through a show cause notice to the institution.

(4) A written communication alongwith a copy of the application form submitted by the institution shall be sent by the office of Regional Committee to the State Government or the Union territory administration and the affiliating body concerned within thirty days from the receipt of application, in chronological order of the receipt of the original application in the Regional Committee.

(5) On receipt of the communication, the State Government or the Union territory administration concerned shall furnish its recommendations or comments to the Regional Committee concerned within forty five days from the date of issue of the letter to the State Government or Union territory, as the case may be. In case, the State Government or Union Territory Administration is not in favour of recognition, it shall provide detailed reasons or grounds thereof with necessary statistics, which shall be taken into consideration by the Regional Committee concerned while disposing of the application.

(6) If the recommendation of the State Government is not received within the aforesaid period, the Regional Committee concerned shall send a reminder to the State Government providing further time of another thirty days to furnish their comments on the proposal. In case no reply is received, a second reminder shall be given for furnishing recommendation within fifteen days from the issue of such second reminder. In case no reply is received from the State Government within aforesaid period the Regional Committee shall process and decide the case on merits and placing the application before the Regional Committee shall not be deferred on account of non-receipt of comments or recommendation of the State Government.

(7) After consideration of the recommendation of the State Government or on its own merits, the Regional Committee concerned shall decide that institution shall be inspected by a team of experts called visiting team with a view to assess the level of preparedness of the institution to commence the course. In case of open and distance learning programmes, sampled study centres shall be inspected. Inspection shall not be subject to the consent of the institution, rather the decision of the Regional Committee to cause the inspection shall be communicated to the institution with the direction that the inspection shall be caused on any day after ten days from the date of communication by the Regional Office. The Regional Committee shall ensure that inspection is conducted ordinarily within thirty days from the date of its communication to the institution. The institution shall be required to provide details about the infrastructure and other preparedness on the specified proforma available on the website of the Council to the visiting team at the time of inspection along with building completion certificate issued by the competent civil authority, if not submitted earlier:

Provided that the Regional Committee shall organise such inspections strictly in chronological order of the receipt of application for the cases to be approved by it:

Provided further that the members of the visiting team for inspection shall be decided by the Regional Committee out of the panel of experts approved by the Council and in accordance with the visiting team policy of the Council.

(8) At the time of the visit of the team of experts to an institution, the institution concerned shall arrange for the inspection to be videographed in a manner that all important infrastructural and instructional facilities are videographed along with interaction with the management and the faculty, if available at the time of such visit. The visiting teams, as far as possible, shall finalise and courier their reports alongwith the video recordings on the same day:

Provided that the videography should clearly establish the outer view of the building, its surroundings, access road and important infrastructure including classrooms, labs, resource rooms, multipurpose hall, library and others. The visiting team shall ensure that the videography is done in a continuous manner, the final unedited copy of the videography is handed over to them immediately after its recording and its conversion to a CD should be done in the presence of visiting team members:

Provided further that at the time of inspection for new courses or enhancement of intake of the existing course, the visiting team shall verify the facilities for existing recognized teacher education courses and ascertain the fulfillment and maintenance of regulations and norms and standards for the existing courses as well.

(9) The application and the report alongwith the video recordings or CDs of the visiting team shall be placed before the Regional Committee concerned for consideration and appropriate decision.

(10) The Regional Committee shall decide grant of recognition or permission to an institution only after satisfying itself that the institution fulfills all the conditions prescribed by the National Council under the Act, rules or regulations, including, the norms and standards laid down for the relevant teacher education programmes.

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(11) In the matter of grant of recognition, the Regional Committees shall strictly act within the ambit of the Act, the regulations made thereunder including the norms and standards for various teacher education programmes, and shall not make any relaxation thereto.

(12) The Regional Director, who is the convener of the Regional Committee, while putting up the proposals to the Regional Committee, shall ensure that the correct provisions in the Act, rules or regulations including norms and standards for various teacher education programmes are brought to the notice of the Regional Committee so as to enable the Committee to take appropriate decisions.

(13) The institution concerned shall be informed, through a letter of intent, regarding the decision for grant of recognition or permission subject to appointment of qualified faculty members before the commencement of the academic session. The letter of intent issued under this clause shall not be notified in the Gazette but would be sent to the institution and the affiliating body with the request that the process of appointment of qualified staff as per policy of State Government or University Grants Commission or University may be initiated and the institution be provided all assistance to ensure that the staff or faculty is appointed as per the norms of the Council within two months. The institution shall submit the list of the faculty, as approved by the affiliating body, to the Regional Committee.

(14)(i) All the applicant institutions shall launch their own website with hyperlink to the Council and corresponding Regional Office websites soon after the receipt of the letter of intent from the Regional Committee, covering, inter alia, the details of the institution, its location, name of the programme applied for with intake; availability of physical infrastructure, such as land, building, office, classrooms, and other facilities or amenities; instructional facilities, such as laboratory and library and the particulars of their proposed teaching faculty and non-teaching staff with photographs, for information of all concerned. The information with regard to the following shall also be made available on the website, namely:—

(a) sanctioned programmes along with annual intake in the institution;

(b) name of faculty and staff in full as mentioned in school certificate along with their qualifications, scale of pay and photograph;

(c) name of faculty members who left or joined during the last quarter;

(d) names of students admitted during the current session along with qualification, percentage of marks in the qualifying examination and in the entrance test, if any, date of admission and such other information;

(e) fee charged from students;

(f) available infrastructural facilities;

(g) facilities added during the last quarter;

(h) number of books in the library, referred journals subscribed to, and additions, if any, in the last quarter.

(ii) The institution shall be free to post additional relevant information, if it so desires.

(iii) Any false or incomplete information on its website shall render the institution liable for withdrawal of recognition.

(15) The institution concerned, after appointing the requisite faculty or staff as per the provisions of norms and standards of respective programmes, and after fulfilling the conditions under Regulation 8, shall formally inform about such appointments to the Regional Committee concerned.

(16) The letter granting approval for the selection or appointment of faculty shall also be provided by the institution to the Regional Committee with the document establishing that the Fixed Deposit Receipts of Endowment Fund and Reserve Fund have been converted into a joint account and after receipt of the said details, the Regional Committee concerned shall issue a formal order of recognition which shall be notified as provided under the Act.

(17) In cases, where the Regional Committee, after consideration of the report of the visiting team and other facts on record, is of the opinion that the institution does not fulfill the requirements for starting or conducting the course or for enhancement of intake, after giving an opportunity of being heard to the institution pass an order refusing to allow any further opportunity for removal of deficiencies or inspection for reasons to be recorded in writing:provided that against the order passed by the Regional Committee, an appeal to the Council may be preferred as provided under Section 18 of the Act.

(18) The reports of inspection of the institutions along with the names of the visiting team experts shall be made available on the official website of the Regional Committee concerned after the same have been considered by the Regional Committee.

(19) The Regional Committee shall process the application for closure in the manner prescribed for the processing of applications for new programmes or additional programmes or additional intake.

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27. For the purposes of the present controversy, it is not necessary to enter into the specifics of the procedure to be followed in that regard, which envisages, *inter alia*, forwarding of the application to the State Government and the affiliating institution and visiting of the institution by a team of experts. Learned Counsel for the petitioners, however, stress the fact that each step of the exercise is statutorily time bound, which is an aspect which I would address later.

28. Regulation 7(10) clarifies that the Regional Committee would decide the grant of recognition or permission to a TEI only after satisfying itself that the TEI fulfils all conditions prescribed under the NCTE Act, regulations, rules, norms and standards.

29. Regulation 7(13) is of some importance. It envisages the TEI concerned being informed, through a Letter of Intent (LoI), regarding the decision for grant of recognition or permission subject to appointment of qualified faculty members before the commencement of the academic session. The LoI is required to be sent to the concerned TEI and the affiliating body with a request that the process of appointment of qualified staff be initiated and the TEI be provided all assistance to ensure that the staff and faculty is appointed as per the prescribed norms within two months. The TEI is required to submit the list of faculty, as approved by the affiliating body, to the Regional Committee. Consequent on appointment of the requisite faculty and staff, and after fulfilment of conditions for grant of recognition stipulated in Regulation 8, the TEI is required, under Regulation

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7(15), to formally inform the Regional Committee about the appointments.

30. Regulation 7(16) also requires the TEI to provide, to the Regional Committee, the letter granting approval for the selection or appointment of faculty. Once this is done, Regulation 7(16) envisages the Regional Committee issuing a formal order of recognition, to be notified as provided under the NCTE Act.

31. Regulation 7(17) deals with a situation in which the Regional Committee, after consideration of the records and the facts available, is of the opinion that the TEI does not fulfil the requirements for starting or conducting of the course. In such a case, the Regional Committee is required to give an opportunity of hearing to the TEI and thereafter, pass an order refusing to allow any further opportunity for removal of deficiencies or inspection, for reasons to be recorded in writing. Said order is appealable under Section 18 of the NCTE Act.

32. Regulation 8 contains conditions for grant of recognition. Regulation 8(1)[15] requires new TEIs to be located in composite institutions. Existing standalone institutions are also required, by the said sub-regulation, to gradually move towards becoming composite institutions.

[15] **8. Conditions for grant of recognition.**—
(1) New Teacher Education Institutions shall be located in composite institutions and the existing teacher education institutions shall continue to function as stand-alone institutions; and gradually move towards becoming composite institutions.

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33. Sub-regulations (2) to (7)[16] stipulate the various conditions to be satisfied by the institution seeking grant of recognition. Sub-regulation (8)[17] provides that, at the time of inspection of an existing TEI which desires to start a new programme, the visiting team would also verify the facilities for existing teacher education programmes for which recognition has already been accorded by the NCTE. Sub-

[16] (2) An institution shall fulfill all the conditions pertaining to norms and standards for conducting the programme or training in teacher education. These norms, inter alia, provide conditions relating to financial resources, accommodation, library, laboratory, other physical infrastructure, qualified staff including teaching and non-teaching personnel.
(3) An institution which has been recognised by the Council shall obtain accreditation from an accrediting agency approved by Council within five years of such recognition.
(4) (i) No institution shall be granted recognition under these regulations unless the institution or society sponsoring the institution is in possession of required land on the date of application. The land free from all encumbrances could be either on ownership basis or on lease from Government or Government institutions for a period of not less than thirty years. In cases where under relevant State or Union territory laws the maximum permissible lease period is less than thirty years, the State Government or Union territory administration law shall prevail and in any case no building shall be taken on lease for running any teacher training programme.
(ii) The society sponsoring the institution shall have to ensure that proposed teacher education institution has a well demarcated land area as specified by the norms.
(iii) The society sponsoring the institution shall be required to transfer and vest the title of the land and building in the name of the institution within a period of six months from the date of issue of formal recognition order under sub-regulation (16) of Regulation 7. However, in case, the society fails to do so due to local laws or rules or bye-laws, it shall intimate in writing with documentary evidence of its inability to do so. The Regional Office shall keep this information on record and place it before the Regional Committee for its approval.
(5) The institution or society shall furnish an affidavit on Rs. 100 stamp paper duly attested, by Oath Commissioner or Notary Public stating the precise location of the land (Khasra number, village, district, state, etc.), the total area in possession and the permission of the competent authority to use the land for educational purposes and mode of possession, i.e., ownership or lease. In case of Government institutions, the said affidavit shall be furnished by the Principal or the Head of the Institution or any other higher authority. The affidavit shall be accompanied with the certified copy of land ownership or lease documents issued by the registering authority or civil authority, permission of the competent authority to use the land for educational purposes (and approved building plan) as per provision contained in sub-regulation (4) of the Regulation 5.
(6) The copy of the affidavit shall be displayed by the institution on its official website. In case, the contents of the affidavit are found to be incorrect or false, the society or trust or the institution concerned shall be liable for civil and criminal action under the relevant provisions of the Indian Penal Code and other relevant laws, and shall also be liable for withdrawal of recognition by the Regional Committee concerned.
(7) At the time of inspection, the building of the institution shall be complete in the form of a permanent structure on the land possessed by the institution, equipped with all necessary amenities and fulfilling all such requirements as prescribed in the norms and standards. The applicant institution shall produce the original completion certificate issued by the competent Authority, approved building plan in proof of the completion of building and built up area and other documents to the visiting team for verification. No temporary structure or asbestos roofing shall be allowed in the institution, even if it is in addition to the prescribed built up area.

[17] (8) At the time of inspection for new programme or enhancement of intake, visiting team shall also verify the facilities for existing teacher education programmes already accorded recognition by the Council and ascertain the fulfillment and maintenance of regulations and norms and standards for the existing programmes as well.

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regulation (10)[18] provides that the examining/affiliating body would grant affiliation only after issuance of formal recognition order under Regulation 7(16) and further provides that the institution would make admissions only after affiliation is granted by the examining or affiliating body.

34. Regulation 9[19] specifies, in a tabular format, the Appendix to the 2014 Regulations which contains the norms and standards applicable to each TEI such as Bachelor of Education (B.Ed), Master

[18] (10) The university or examining body shall grant affiliation only after issue of the formal recognition order under sub-regulation (16) of Regulation 7 and admissions by the institution shall be made only after affiliation by the university or affiliating body.

[19] **9. Norms and standards**.— Every institution offering the following programmes shown in the Table shall have to comply with the norms and standards for various teacher education programmes as specified in Appendix 1 to Appendix 15:

Sl. No.	Norms and Standards	Appendix No.
1.	Diploma in early childhood education programme leading to Diploma in Preschool Education (DPSE)	Appendix-1
2.	Elementary teacher education programme leading to Diploma in Elementary Education (D.El.Ed.).	Appendix-2
3.	Bachelor of elementary teacher education programme leading to Bachelor of Elementary Education (B.El.Ed.) degree.	Appendix-3
4.	Bachelor of education programme leading to Bachelor of Education (B.Ed.) degree.	Appendix-4
5.	Master of education programme leading to Master of Education (M.Ed.) degree.	Appendix-5
6.	Diploma in physical education programme leading to Diploma in Physical Education (D.P.Ed.).	Appendix-6
7.	Bachelor of physical education programme leading to Bachelor of Physical Education (B.P.Ed.) degree	Appendix-7
8.	Master of physical education programme leading to Master of Physical Education (M.P.Ed.) degree	Appendix-8
9.	Diploma in elementary education programme through Open and Distance Learning System leading to Diploma in Elementary Education (D.El.Ed.)	Appendix-9
10.	Bachelor of education programme through Open and Distance Learning System leading to Bachelor of Education (B.Ed.) degree.	Appendix-10
11.	Diploma in arts education (Visual Arts) programme leading to Diploma in Arts Education (Visual Arts)	Appendix-11
12.	Diploma in arts education (Performing Arts) programme leading to Diploma in Arts Eduction (Performing Arts)	Appendix-12
13.	4-year Integrated programme leading to B.A.B.Ed./B.Sc.B.Ed. degree.	Appendix-13
14.	Bachelor of education programme (Part Time) leading to Bachelor of Education (B.Ed) degree.	Appendix-14
15.	B.Ed. M.Ed (3 years integrated) programme leading to B.Ed. M.Ed (Integrated) degree.	Appendix-15

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of Education (M.Ed.) and Bachelor of Elementary Education (B.El.Ed.), Diploma in Elementary Education (D.El.Ed.) and the like.

35. Regulation 13[20] of the 2014 Regulations repeals the 2009 Regulations. However, sub-regulation (2) of Regulation 13 saves "anything done or any action taken or purported to have been done or taken" under the 2009 Regulations, insofar as it is not inconsistent with the provisions of the 2014 Regulations. Any such action is deemed to have been done or taken under the 2014 Regulations.

The National Council for Teacher Education (Recognition, Norms and Procedure) Regulations, 2009 (the 2009 Regulations)

36. These Regulations precede the 2014 Regulations. For the purposes of the present controversy, they are largely similar to the 2014 Regulations. One of the substantial differences between the 2009 and 2014 Regulations is that the 2009 Regulations did not require new TEIs to be set up only in composite institutions.

37. Otherwise, Regulation 5(1) of the 2009 Regulations, too, permitted any eligible institution, desirous of running a teacher education programme, to apply to the concerned Regional Committee for recognition in the prescribed form; Regulation 7(1) required the Regional Committee to point out deficiencies in the application, if

[20] **13. Repeal and savings.**—
(1) The National Council for Teacher Education (Recognition Norms and Procedure) Regulations, 2009 is hereby repealed.
(2) Notwithstanding such repeal, anything done or any action taken or purported to have been done or taken under the regulations hereby repealed shall, in so far as it is not inconsistent with the provisions of these regulations, be deemed to have been done or taken under the corresponding provisions of these regulations.

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any, within 45 days of receipt of the application thereof, and required the applicant to remove the deficiencies within 60 days therefrom; Regulation 7(2) required the Regional Committee to send a written communication along with a copy of application form to the State Government or Union Territory administration within 30 days of receipt of the application; Regulation 7(3) required the State Government or the Union Territory administration to furnish its recommendations or comments on the application within 45 days therefrom; Regulation 7(4) envisaged the Regional Committee, after consideration of the recommendation of the State Government or on its own merits, deciding to inspect the institution by deciding a team of experts to assess the level of preparedness of the TEI to commence the course and required the inspection ordinarily to be conducted within 30 days from the date of communication to the institution regarding the insipient visit; Regulation 7(7) specified that the Regional Committee would take a decision on grant of recognition or permission to the TEI only after satisfying itself that the TEI fulfils all prescribed conditions in that regard; Regulation 7(9) required the TEI to be informed, through an LoI, regarding the decision for grant of recognition or permission subject to appointment of qualified faculty members before the commencement of academic session and required the TEI to submit the list of faculty, as approved by the affiliating body, of the Regional Committee; Regulation 7(11) required the Regional Committee, thereafter, to issue a formal order of recognition, to be notified under the NCTE Act; Regulation 7(12) stipulated that, if the Regional Committee was of the opinion that the TEI did not fulfil the requirement of starting or conducting the course, the TEI would

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not be allowed further opportunity for removal of deficiencies or inspection and envisaged finality of the decision of the Regional Committee in that regard; Regulation 8 stipulated the conditions for grant of recognition (which did not include the requirement of the TEI having to be a composite institution); and Regulation 9 set out, in tabular fashion, the various Appendices to the 2009 Regulations which contained the norms and standards to be satisfied for each course.

The 2021 Amendment Regulations

38. The 2014 Regulations were amended by the National Council for Teacher Education (Recognition, Norms and Procedure) Amendment Regulations, 2021 (hereinafter referred to as "the 2021 Amendment Regulations"). All programmes which TEIs could offer, as tabulated in Regulation 9 of the 2014 Regulations were retained, except that the "4 year Integrated programme leading to BA. B.Ed./B.Sc. B.Ed degree" was deleted and, in its place, the "Integrated Teacher Education Programme (ITEP)" was introduced.

Facts

39. The petitioners in these writ petitions are all new TEIs, who had applied for commencement of their respective institutions with permission to start a B.Ed course.

40. Shorn of superfluities, the common grievance of petitioners is that, in its 55th General Body Meeting (GBM) held on 14 July 2022,

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the NCTE took a decision to return all pending applications seeking recognition for teachers training course, to the concerned applicants. This decision was avowedly taken in order to implement the new National Education Policy 2020 (NEP 2020). Agenda Items [2] and [5] deal with the D.El.Ed and B.Ed. courses, with which the petitioners in the present writ petitions are concerned, and the decision taken on the said agenda items as recorded in the minutes of the 55th GBM, held on 14 July 2022, read thus:

> "Agenda No [2]: Status of applications for Diploma level courses pending in RCs at various stages:
>
> The Council, after consideration of Agenda placed before the Council and detailed discussion and deliberation, as below, observed the following :-
>
> - The NEP, 2020 recommends introduction of 4 Year integrated B.Ed. as a dual-major holistic bachelor's degree in Education which will be offered in multidisciplinary Institutions/Universities. By 2030 this will be the minimal qualification for a person to become a teacher.
> - The Diploma Level Teacher Education Courses are not in line with the recommendations of NEP 2020 as per Para 15.4 & 15.5 of NEP 2020.
>
> "15.4. As teacher education requires multidisciplinary inputs, and education in high- quality content as well as pedagogy, all teacher education programmes must be conducted within composite multidisciplinary institutions. To this end, all multidisciplinary universities and colleges will aim to establish, education departments which, besides carrying out cutting-edge research in various aspects of education, will also run B.Ed. programmes, in collaboration with other departments such as psychology, philosophy, sociology, neuroscience, Indian languages, arts. music, history, literature, physical education, science and mathematics. Moreover, all stand-alone TEIs will be required to convert to multidisciplinary institutions by 2030, since they will have to offer the 4-year integrated teacher preparation programme.

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15.5. The 4-year integrated B.Ed. offered by such multidisciplinary HEIs will, by 2030, become the minimal degree qualification for school teachers. The 4-year Integrated B.Ed. will be a dual-major holistic Bachelor's degree, in Education as well as a specialized subject such as a language, history, music, mathematics, computer science, chemistry, economics, art, physical education, etc. Beyond the teaching of cutting-edge pedagogy, the teacher education will include grounding in sociology, history, science, psychology, early childhood care and education, foundational literacy and numeracy, knowledge of India and its values/ethos/art/traditions, and more. The HEI offering the 4-year integrated B.Ed. may also run a 2-year B.Ed., for students who have already received a Bachelor's degree in a specialized subject. A 1- year B.Ed. may also be offered for candidates who have received a 4-year undergraduate degree in a specialized subject. Scholarships for meritorious students will be established for the purpose of attracting outstanding candidates to the 4-year, 2-year, and 1-year B.Ed. programmes."

- As per provision of Section 12 of NCTE Act, 1993 it shall be the duty of the Council to take all such steps as it may think fit for ensuring planned and co-ordinated development of Teacher Education.
- There are approximately 286 applications for various Diploma level courses pending at different stages in various Regional Committees in NCTE.

In light of the above, the Council decided the following:-

1. At present, there are several institutions which have been recognised by the Regional Committees of NCTE wherein Diploma level courses/ programmes are running. An Expert Committee be constituted to devise the modalities for conversion of these recognised institutions into multidisciplinary institutions in line with NEP 2020.

II. The applications pending before the RCs for the said Diploma level course(s) shall not be processed further. Hence, all such pending applications before RCs at any stage of processing be returned along with the processing fee to the concerned institution(s).

III. In the cases where the applications for 2 Year Diploma level Course (s) are being processed/ re-opened as per the directions of the Hon'ble Court (s), the concerned Regional Committee shall file

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a review/appeal before the Hon'ble Court(s) alongwith stay application against the order passed by the Hon'ble Court(s) for processing of application(s) in view of the decision of the Council us taken in II above.

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Agenda No [5]: Decision on application, irrespective of any course, which are not in line with NEP 2020:

The Council, after consideration of Agenda placed before the Council and detailed discussion and deliberation, as below, observed the following :-

- The NEP 2020 lays down that teacher education institutions will be gradually moved into multidisciplinary colleges and universities by 2030. By 2030, the minimal qualification for a person to become a teacher will be the 4 Year integrated B.Ed. degree.
- The 2 Year B.Ed. program will also be offered only for those who have already obtained Bachelor's Degrees in other specialized subjects and the 1 Year B.Ed. program for those who have completed the equivalent of 4 Year multidisciplinary Bachelor's Degrees or who have obtained a Master's degree in a specialty and wish to become a subject teacher in that specialty.
- As per provision of Section 12 of NCTE Act, 1993 it shall be the duty of the Council to take all such steps as it may think fit for ensuring planned and co-ordinated development of Teacher Education.
- There are approximately 430 applications for various Teacher Education Programmes, other than Diploma level courses, pending at different stages in the RCs.
- NEP 2020 has brought about a paradigm shift in the Teacher Education Sector. Accordingly, NCTE is also revamping its various curricula of ITEP, 2 Year B.Ed., 1 Year B.Ed. and introducing new courses of 4 Year Physical Education and 4 Year Art Education in line with NEP 2020. These courses are also to be aligned to the various criteria laid down by UGC and in alignment with NHEQF, NCFSE and NCFTE. However, the existing courses which are currently running are not in alignment with these various aspects e.g. Credit System, 4 Stages of School Education (5+3+3+4), Entry exit policy, no hard separation etc. These changes in curricula would also necessitate changes in the norms, standards and regulations. For the reasons aforementioned, it is not feasible to process any pending applications.

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In light of the above, the Council members unanimously decided the following:-

I. At present, there are several institutions which have been recognised by the Regional Committees of NCTE wherein courses/ programme, other than diploma level courses, are running. An Expert Committee be constituted to devise the modalities for conversion of these recognised institutions into multidisciplinary institutions in line with NEP 2020.

II. The applications pending before the Regional Committees of NCTE shall not be processed further. Hence, all such pending applications before RCs at any stage of processing be returned along with the processing fee to the concerned institution(s).

III. In the cases where the applications are being processed/ reopened as per the directions of the Hon'ble Court (s), the concerned Regional Committee shall file a review/appeal before the Hon'ble Court(s) alongwith stay application against the order passed by the Hon'ble Court(s) for processing of application(s) in view of the decision of the Council as taken in II above.

41. In view of the decision of the 55th GBM of the NCTE to return all pending applications, none of the applications submitted by the petitioners have been processed any further.

42. The petitioners are seriously aggrieved by this decision, as it has placed all their applications, some of which are pending since as far back as 2007, in a state of limbo.

43. In fact, inasmuch as the decision to return the applications is on the ground that the NEP 2020 does not allow grant of recognition to the petitioners' institutions, the return amounts practically to a rejection of the applications.

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44. The petitioners fall into three categories. There are certain cases in which, as no action was being taken on their applications, the petitioner had moved this Court, which had issued time bound directions to the NCTE to consider the petitioners' applications. Then there are cases in which the petitioners' applications stand processed till the stage at which LoI has been issued to the petitioners. The third category of cases are those in which there is neither any order of any Court, nor has any LoI been issued to the TEI concerned.

45. Cases in which there are Court orders also fall into three categories, as would be pointed out later in this judgment.

46. Learned Counsel for the petitioners have provided tabular statements reflecting the category in which the petitioners in each writ petition falls; i.e., whether the petitioner's application is still unprocessed, or LoI stands issued, or there are orders passed by this Court in the petitioner's favour requiring the application of the petitioner to be processed, or undertakings by the NCTE to that effect. For the reasons which follow, I am not inclined to grant relief, in these petitions, to any of the petitioners; ergo, I do not deem it necessary to burden this judgment with a tabular depiction of the various petitioners, or the stages at which their applications stand, or stood when they were returned.

Rival contentions

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47. I have heard learned counsel for both sides at considerable length. The petitioners were represented by Mr. Sanjay Sharawat and Mr. Amitesh Kumar, learned Counsel. The respondents were represented by Mr. Balbir Singh, learned Senior Counsel.

Submissions of Mr. Sharawat

48. Mr. Sharawat submits that there was no justification for the Regional Committees/NCTE processing the applications of the petitioners, which had been submitted much prior in point of time, only after the NEP 2020 was rolled out. According to Mr. Sharawat, the scheme of the NCTE Act and Regulations envisages the accrual of a vested right to recognition, once the LoI was issued to a TEI, subject only to the TEI appointing the requisite number of faculty and teachers. Once the faculty list was approved by the affiliating university, the discretion with the NCTE/Regional Committee was only to grant or to reject the application. It had no jurisdiction or authority to return the application. The provisions of the NCTE Act and the Regulations envisage a time bound processing of the application, resulting either in its approval or its rejection. This time bound scheme, which is part of the NCTE Act and Regulations, also stands violated by the impugned decision to return the applications, in certain cases more than a decade and a half after the application was submitted.

49. Huge amounts of money have, points out Mr. Sharawat, been expended by the petitioners in obtaining land and setting up the

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requisite building and infrastructure before applying for grant of recognition. This entire expenditure would be laid to waste if the impugned decision to return the applications was to be upheld.

50. Mr. Sharawat further submits that the decision to return the petitioners' applications also violated the fundamental right of the petitioners, vested in them by Article 19(1)(g)[21] of the Constitution of India. This right could be curtailed only in terms of Article 19(6)[22], and not by executive action. Article 19(6) permits curtailment of the freedom to practice any profession or carry on any occupation, trade or business only by making of a law imposing reasonable restrictions on the exercise of the right. The word "law" necessarily implies a legislative instrument. The NCTE could not, therefore, by an executive decision taken in the 55th GBM, have restricted the fundamental rights of the petitioners to establish educational institutions imparting education to teachers. Reliance is placed on paras 15 and 17 of ***Rai Sahib Ram Jawaya Kapur v. State of Punjab***[23], paras 46 to 50 of ***P.H. Paul Manoj Pandian v. P. Veldurai***[24] and ***Rajendra Nagar Adarsh Grah Nirman Sahkari***

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[21] **19. Protection of certain rights regarding freedom of speech, etc**. –
(1) All citizens shall have the right—
*****
(g) to practise any profession, or to carry on any occupation, trade or business.

[22] (6) Nothing in sub-clause (g) of the said clause shall affect the operation of any existing law in so far as it imposes, or prevent the State from making any law imposing, in the interests of the general public, reasonable restrictions on the exercise of the right conferred by the said sub-clause, and, in particular, nothing in the said sub-clause shall affect the operation of any existing law in so far as it relates to, or prevent the State from making any law relating to,—
(i) the professional or technical qualifications necessary for practising any profession or carrying on any occupation, trade or business, or
(ii) the carrying on by the State, or by a corporation owned or controlled by the State, of any trade, business, industry or service, whether to the exclusion, complete or partial, of citizens or otherwise.

[23] **AIR 1955 SC 549**

[24] **(2011) 5 SCC 214**

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Samiti Ltd v. State of Rajasthan[25]. As the impugned decision to return the petitioners' applications emanates from exercise of administrative power conferred by Section 12 of the NCTE Act, it was executive in character.

51. The impugned decision, taken in the 55th GBM of the NCTE, to return the petitioners' applications, is also alleged to have violated Sections 14 and 15 of the NCTE Act. Section 14(1) requires the TEI offering or intending to offer a course in teacher training education to apply to the Regional Committee in such form and in such manner as may be determined by Regulations. Section 14(3)(a) envisages the Regional Committee examining the infrastructural wherewithal of the applicants/TEIs to assess whether they would be in a position to properly undertake the teachers training course for which the applications had been made, "as may be determined by regulations". If the Regional Committee was of the opinion that these requirements were not fulfilled by the concerned TEI, it could pass an order refusing recognition, under Section 14(3)(b). In all such cases, therefore, the decision has to be as per the NCTE Regulations.

52. Regulation 3 of the 2014 Regulations made the Regulations applicable to all matters relating to teacher education programmes, and commencement of new programmes, including grant of recognition for commencement of new teacher education programmes. Regulation 5 specifically envisaged time bound actions being taken. Regulation 5(5) required the duly completed applications

[25] **(2013) 11 SCC 1**

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to be submitted to the Regional Committee between 1 March and 31 May of the year preceding the academic session for which recognition was sought. All applications received online during this period were required, by Regulation 5(6), to be processed for the next academic session and required a final decision, either to grant or refuse recognition, to be communicated to the applicant on or before 3rd day of March of the succeeding year. These dates are cast in iron, and are non-negotiable as per the judgment of the Supreme Court in ***Maa Vaishno Devi Mahila Mahavidyalaya v. State of U.P.***[26]. The impugned decision was taken after all these timelines were breached. Having breached these timelines and delayed the processing of the petitioners' applications, the respondents could not be permitted to take advantage of their own delay and now subject the applications to the rigour of the NEP 2020 and require the petitioners to abandon their applications and set up Multi Disciplinary Institutions (MDIs).

53. In a similar vein, Regulation 7 required the Regional Committee to send a written communication, along with a copy of the application form submitted by the TEI, to the State Government or the Union Territory Administration and the concerned affiliating body within 30 days of receipt of the application; Regulation 7(5) required the State Government or Union Territory Administration concerned to furnish its recommendation or comments to the Regional Committee within 45 days thereof; in case no such recommendation was received from the State Government within that period, Regulation 7(6) required the Regional Committee to send a reminder to the State

[26] **(2013) 2 SCC 617**

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Government providing it 30 days further time to furnish its comments on the proposal; the same sub-regulation envisaged a second reminder being granted by the Regional Committee to the State Government in the event of no reply still being received, providing 15 days further time to the State Government to furnish its recommendation and envisaged, further, the Regional Committee processing and deciding the case on merits in the event of no reply being received from the State Government even within such extended period, specifically stipulating that placement of the application before the Regional Committee would not be deferred on account of non-receipt of the comments or recommendations of the State Government.

54. Regulation 7(13) required the concerned TEI to be informed, through a LoI, regarding the decision for grant of recognition or permission, subject to appointment of qualified faculty members before the commencement of the academic session. Once the letter granting approval for selection or appointment of faculty was provided by the TEI to the Regional Committee, offering certain financial details, Regulation 7(16) required the Regional Committee to issue a formal order of recognition, to be notified under the NCTE Act. If the Regional Committee was of the opinion that the institution did not fulfil the requirements for starting or conducing of course, as applied for, Regulation 7(17) required the Regional Committee to pass an order refusing further opportunity to remove deficiencies, for reasons to be recorded in writing, after giving an opportunity of personal hearing to the concerned TEI.

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55. The impugned decision, taken in the 55th GBM of the NCTE, effectively sought to stultify the scheme so exhaustively set out in the Regulations and incorporated by reference into Sections 14 and 15 of the NCTE Act by way of an administrative decision, which was completely unacceptable.

56. The NCTE and the Regional Committee were creatures of statute. The validity of their actions had, therefore, to be judged on the touchstone of the provisions of the NCTE Act and not on the "nebulous" and "protean" concepts of public interest or policy *de hors* the statutory provisions.

57. Mr. Sharawat further submits that the impugned decision also amounts to usurpation, by the NCTE, of the power conferred on the Regional Committees. The power to grant or withdraw recognition under Sections 14 or 17 of the NCTE Act, vested in the Regional Committees. Any such order passed by the Regional Committee was appealable to the NCTE under Section 18. Sections 12 and 13 enumerated the functions of the NCTE. Section 12 to 18, therefore, constitute a comprehensive code specifically delineating the functions, power and authority of the NCTE and the Regional Committees. They do not permit the NCTE to interfere with the exercise of power by the Regional Committees under Section 14. The Regional Committees were obligated, by Section 14 of the NCTE Act, read with the 2014 Regulations, to consider and decide all applications under Section 14 by examining whether the conditions stipulated in the statutory provisions were satisfied and by adhering strictly to the prescribed

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statutory procedure. The NCTE could not interfere with, or interdict midway, the exercise of this power by the Regional Committees, much less by an executive decision.

58. The preamble to the NCTE Act could not be treated as a source of power, to justify the impugned acts. The preamble was only an internal legislative aid to which reference could be made in the event of any ambiguity in interpreting a provision of the NCTE Act. The powers of the NCTE, and the Regional Committees, had necessarily to emanate from the substantive provisions of the Statute.

59. The NCTE does not permit prohibition of establishment of educational institutions, which is what the impugned decision effectively does. Reliance is placed, in this context on paras 25 to 27 of ***Global Energy Ltd. v. Central Electricity Regulatory Commission***[27] and paras 19 to 29 of ***V. Sudeer v. Bar Council of India***[28]**.** Statutory authorities have no inherent powers *de hors* the provisions of the statute under which they are created, as held in ***Hira Devi v. District Board, Shahjahanpur***[29] and ***Chief Settlement Commissioner v. Om Prakash***[30]**.**

60. For the proposition that the right to establish and administer educational institutions is a fundamental right guaranteed under Article 19(1)(g), Mr. Sharawat relies on paras 18, 23 to 24, 27 to 28,

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[27] **(2009) 15 SCC 570**
[28] **(1999) 3 SCC 176**
[29] **(1952) SCR 1122**
[30] **(1968) 3 SCR 655**

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46, 54, 55, 57, 66, 69, 161 and 239 of ***T.M.A. PAI Foundation v. State of Karnataka***[31], paras 120 to 121, 219 and 220 of ***Islamic Academy of Education v. State of Karnataka***[32] and paras 92 to 94 of ***P.A. Inamdar v. State of Maharashtra***[33]. Additionally, para 40 and 41 of ***Modern School v. UOI***[34] are cited by Mr. Sharawat for the proposition that the right to establish and administer educational institutions can be restricted only by legislative, and not by executive, decisions.

61. Mr. Sharawat submits that the impugned decision retrospectively affects the vested rights of the petitioners. There is no power with the NCTE to take any executive decision with retrospective effect.

62. Mr. Sharawat also invokes the principles of promissory estoppel and legitimate expectation. Before submitting their applications, the petitioners had spent considerable amounts in creating the requisite infrastructure. Several years have passed since then. The NCTE Act and NCTE Regulations (as applicable at the time of submissions of applications by the petitioners) held out an unequivocal promise that, subject to the petitioners satisfying the stipulated conditions and requirements, they would be granted recognition. The respondents could not now be permitted to resile from that promise, as, based on the hopes and expectations held out by the statute, the petitioners have invested huge amounts of money.

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[31] **(2002) 8 SCC 481**
[32] **(2003) 6 SCC 697**
[33] **(2005) 6 SCC 537**
[34] **(2004) 5 SCC 583**

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63. The impugned decision, submits Mr. Sharawat, has resulted in micro-classification. The NEP 2020 was approved by the Union Government on 29 July 2020. Even after that date, Regional Committees have granted recognition to a large number of institutions. Even if it were to be assumed that institutions who were granted recognition prior to 29 July 2020 and those whose applications were pending on 29 July 2020 formed two separate classes, the NCTE could not, by the executive decision taken in the 55th GBM, sub-classify the later category of institutions once again into two sub-classes, one sub-class being those whose applications had been granted prior to 14 July 2022 and the second being those applications were still pending on 14 July 2022.

64. For all these reasons, therefore, Mr. Sharawat prays that the impugned decision to return the petitioners' applications be set aside, and the concerned Regional Committees be directed to process the applications in accordance with law.

Submissions of Mr. Amitesh Kumar

65. Mr. Amitesh Kumar initially referred to Section 14(3)(a) of the NCTE Act. He submits, thereafter, that the impugned decision to return the petitioners' applications, as taken in the 55th GBM was unreasoned and unsustainable in law even on that ground. He further submits that the 2021 Amendment Regulations retained all the courses which were earlier in existence with the same norms and standards,

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except that the courses were required to be conducted by MDIs. Except for the requirement of the institutions having to be MDIs, Mr. Amitesh Kumar submits that his clients satisfy all the norms and standards envisaged by the 2021 Regulations and that they would have no objections if their applications are processed in accordance with the 2021 Regulations, applying the requirements and conditions contained therein, barring the requirement of their having to be MDIs. Pointing out that the petitioners in the present case include applicants who had applied prior to the 2014 Regulations as well as those who had applied after the 2014 regulations, Mr. Amitesh Kumar submits that, in each case, the concerned applicant/petitioner fulfilled the applicable criteria for recognition/starting of a new course as applicable at the time of submission of the application.

66. Further drawing attention to the decisions taken in Agenda item 2 in the 55th GBM of the NCTE, Mr. Amitesh Kumar questions as to why the petitioners should not be treated at par with recognized TEIs providing diploma level courses. In the case of such recognized TEIs, the NCTE has decided to constitute an Expert Committee to devise the modalities for conversion of such institutions into MDIs in line with the NEP 2020. There was no reason why a similar treatment could not have been extended to the petitioners. They could also, therefore, have been permitted to set up their institutions and commence the courses as applied for and, thereafter, been permitted to convert into MDIs.

67. Finally, Mr. Amitesh Kumar relies on the fact that, in the case of several of the petitioners, this Court has passed specific directions

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to the Regional Committee to consider the petitioner's applications for recognition. He has cited, in this context, by way of example, order dated 9 March 2022, passed by the Division Bench of this Court in the case of ***Kusumraj Institute of Teacher Training College v. NCTE***[35], filed by the petitioner in W.P. (C) 4630/2023 in the present batch. The Division Bench had, *vide* its order dated 9 March 2022, disposed of W.P. (C) 3023/2022 with the directions contained in para 6 of the order thus :-

> "(i) The order dated 02.05.2016, passed by respondent no.2/ERC, whereby the petitioner no.1's/college's application for recognition was rejected primarily on the ground that the petitioner no.1/college did not have a NOC issued to them by the affiliating body, shall stand quashed.
>
> (ii) Respondent no. 2/ERC will consider afresh the application for recognition available with it, in the light of the fact that the petitioners claim that they obtained a NOC from the Registrar, Patliputra University on 17.01.2022.
>
> (iii) A fresh order will be passed by respondent no.2/ERC *qua* the petitioner no.1's/college's application for recognition, within twelve [12] weeks from the date of receipt of a certified copy of the NOC.
>
> (iv) Parties will act based on the digitally signed copy of this order."

68. This order, and similar orders passed in the case of other petitioners have attained finality. The NCTE, cannot therefore, refuse to obey these directions on the basis of an executive decision taken in the 55th GBM.

[35] **W.P.(C) 4630/2023**

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69. Thus, for these reasons, apart from the grounds urged by Mr. Sharawat, Mr. Amitesh Kumar submits that the present writ petitions deserve to be allowed and the decision to not process and instead to return the applications of the petitioner, taken in Agenda Items 2 and 5 in the 55th GBM of the NCTE, quashed and set aside.

Submissions of Mr. Balbir Singh

70. Appearing for the NCTE, Mr. Balbir Singh, learned Senior Counsel submits that the decision to permit imparting of teacher education only by MDIs was a decision taken eminently in public interest, necessitated by the fact that many of the institutions who were rendering single courses were found to be sub-standard and often operating out of premises which were grossly inadequate and lacking the requisite infrastructure. He referred to them as, in many cases, "one room shacks". He has referred, in this context, to data filed with the counter-affidavit which indicates that, in the years 2018-2019, 2019-2020 and 2020-2021, 1385253, 1478809 and 1581016 teachers who had passed out of TEIs, were not being absorbed. A woefully small percentage of such teachers were, thus, managing to pass in the Common Teacher Entrance Test (CTET), for which purpose a second tabular statement, covering the period from June 2011 to December 2021 was cited.

71. "Teacher education", points out Mr. Balbir Singh, is defined in Section 2(l) of the NCTE Act as meaning "programmes of education, research or training of persons for equipping them to teach at pre-

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primary, primary, secondary and senior secondary stages in schools, and includes non-formal education, part-time education, adult education and correspondence education." Thus, the TEIs were intended to be institutions which equipped the students who passed out of such institutions to teach. The single course institutions were, in several cases, churning out students who were completely ill-equipped to impart education to others. By allowing such institutions to mushroom, the very purpose of streamlining the process of teacher education was being defeated.

72. It was for this reason, that in the first instance, the 2014 Regulations required all TEIs to be compositive institutions and later on, the 2021 Regulations now intend to set in place a system in which teacher education would be imparted only by MDIs.

73. Drawing attention to Section 3(4) of the NCTE Act, Mr. Balbir Singh submits that the members of the NCTE are high placed individuals in the Government and include amongst them, a Secretary in the Department of Education, the Chairman of the UGC, the Director of the NCERT, the Director of the National Institute of Educational Planning and Administration, the Advisor (Education), of the Planning Commission, the Chairman of CBSE, the Financial Advisor to the Government of India in the Department of Education and the Member Secretary, of the AICTE apart from experts in education. The decision to do away with single course institutions and allow establishment of MDIs alone has, therefore, been taken by this

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High Powered High-Powered Committee and does not brook judicial interference.

74. Mr. Balbir Singh further places reliance on Section 29(1)[36] of the NCTE Act, which binds the NCTE by directions on questions of policy, as may be given by the Central Government in writing to it from time to time. The directions contained in 2020 NEP were, therefore, binding on the NCTE.

75. Mr Balbir Singh further relies on Regulation 8(1) of the 2014 Regulations which requires all new TEIs to be located in composite institutions. A "composite institution", he points out, is defined in Regulation 2(b) as "a duly recognised higher education institution offering undergraduate or postgraduate programmes of study in the field of liberal arts or humanities or social sciences or sciences or commerce or mathematics, as the case may be, at the time of applying for recognition of teacher education programmes, or an institution offering multiple teacher education programmes."

76. Adverting, next, to the provisions of the NEP itself, Mr. Balbir Singh has drawn attention to Clauses 15.2 and 15.3 of the NEP, which read thus:

> "15.2. According to the Justice J. S. Verma Commission (2012) constituted by the Supreme Court, a majority of stand-alone TEIs - over 10,000 in number are not even attempting serious teacher education but are essentially selling degrees for a price. Regulatory

[36] **29. Directions by the Central Government. –**
(1) The Council shall, in the discharge of its functions and duties under this Act be bound by such directions on questions of policy as the Central Government may give in writing to it from time to time.

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efforts so far have neither been able to curb the malpractices in the system, nor enforce basic standards for quality, and in fact have had the negative effect of curbing the growth of excellence and innovation in the sector. The sector and its regulatory system are, therefore, in urgent need of revitalization through radical action, in order to raise standards and restore integrity, credibility, efficacy, and high quality to the teacher education system.

15.3. In order to improve and reach the levels of integrity and credibility required to restore the prestige of the teaching profession, the Regulatory System shall be empowered to take stringent action against substandard and dysfunctional teacher education institutions (TEIs) that do not meet basic educational criteria, after giving one year for remedy of the breaches. By 2030, only educationally sound, multidisciplinary, and integrated teacher education programmes shall be in force."

77. Consequent to the directives contained in the above passages from the NEP, the 2014 Regulations were amended by the NCTE (Recognition, Norms and Procedure) Amendment Regulations, 2021 (hereinafter referred to as the "2021 Amendment Regulations"). He draws my attention to the definition of multidisciplinary institution as contained in Section 3(ca) of the 2014 Regulations as introduced by the 2021 Amendment Regulations, which reads thus :

"(ca) "multidisciplinary institution" means a duly recognised higher education institution involving several different subjects of study/ combining or involving more than one discipline. Multidisciplinary universities and colleges will aim to establish education departments, which besides carrying out cutting edge research in various aspects of education, will also run Integrated Teacher Education Programme, in collaboration with other departments or field of liberal arts or humanities or social sciences or commerce or mathematics, as the case may be, at the time of applying for recognition of Integerated Teacher Education Programme."

78. Mr. Balbir Singh submits that the NEP has completely revamped the educational system in this country. The system has been

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altered from a 5+3+4+2 system to 5+3+3+2 system. This has also correspondingly required change in the nature and qualification of the teachers who impart education. He points out that, in fact, Section 30 of the NCTE Act empowers the Central Government, if it is of the opinion that the NCTE is unable to perform, even to supersede the NCTE by Notification in the official Gazette.

79. Mr. Balbir Singh further refers to the preamble of the NCTE Act, which envisages the NCTE for also ensuring regulation and proper maintenance of the norms and standards in the teacher education system, which includes qualification of school teachers. He once again refers to the definition of "teacher education" in Section 2(l) which requires the teachers educated in TEIs to be equipped to teach at pre-primary, primary, secondary or senior secondary stages in schools.

80. The petitioners are, according to Mr. Balbir Singh, requiring the NCTE to do the impossible. Inasmuch as the petitioners are new institutions, the NCTE cannot process their applications in contravention of the provisions of the 2014 Regulations, as amended. Referring to Section 12 of the NCTE Act along with Section 7(4) thereof, Mr. Balbir Singh submits that the NCTE cannot be directed to process the petitioners' applications contrary to the existing Regulations.

81. Mr. Balbir Singh also disputes the interpretation placed by Mr. Sharawat on the provisions of the NCTE Act and the Regulations. He

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submits that, though the NCTE Act and the Rules and Regulations envisage a particular manner in which the applications which are submitted to be processed, the NCTE cannot be treated like a post office. It cannot process applications which seek establishment of TEIs which are not entitled to provide teacher education as per the policy which is in existence or to process such applications by deviating from the presently existing policy in force. Once again referring to Section 7(4), Mr. Balbir Singh submits that, if a decision in the form of a resolution is taken in exercise of the power conferred by Section 7(4), that decision would bind the NCTE, and it need not wait thereafter either for Section 14 or Section 15 of the NCTE to be worked out.

82. To emphasize the element of public interest involved in restricting providing of teachers education to MDIs, Mr. Balbir Singh has taken me through paras 5.23, 15.2, 15.4, 15.7 and 15.8 of the NEP 2020, which read thus:

> "5.23. By 2030, the minimum degree qualification for teaching will be a 4-year integrated B.Ed. degree that teaches a range of knowledge content and pedagogy and includes strong practicum training in the form of student-teaching at local schools. The 2-year B.Ed. programmes will also be offered, by the same multidisciplinary institutions offering the 4-year integrated B.Ed., and will be intended only for those who have already obtained Bachelor's Degrees in other specialized subjects. These B.Ed. programmes may also be suitably adapted as 1-year B.Ed. programmes, and will be offered only to those who have completed the equivalent of 4-year multidisciplinary Bachelor's Degrees or who have obtained a Master's degree in a specialty and wish to become a subject teacher in that specialty. All such B.Ed. degrees would be offered only by accredited multidisciplinary higher education institutions offering 4-year integrated B.Ed. programmes. Multidisciplinary higher education institutions offering the 4-year in-class integrated B.Ed. programme and

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having accreditation for ODL may also offer high-quality B.Ed. programmes in blended or ODL mode to students in remote or difficult-to-access locations and also to in-service teachers who are aiming to enhance their qualification, with suitable robust arrangements for mentoring and for the practicum training and student-teaching components of the programme.

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15.2. According to the Justice J. S. Verma Commission (2012) constituted by the Supreme Court, a majority of stand-alone TEIs - over 10,000 in number are not even attempting serious teacher education but are essentially selling degrees for a price. Regulatory efforts so far have neither been able to curb the malpractices in the system, nor enforce basic standards for quality, and in fact have had the negative effect of curbing the growth of excellence and innovation in the sector. The sector and its regulatory system are, therefore, in urgent need of revitalization through radical action, in order to raise standards and restore integrity, credibility, efficacy, and high quality to the teacher education system.

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15.4. As teacher education requires multidisciplinary inputs, and education in high-quality content as well as pedagogy, all teacher education programmes must be conducted within composite multidisciplinary institutions. To this end, all multidisciplinary universities and colleges - will aim to establish, education departments which, besides carrying out cutting-edge research in various aspects of education, will also run B.Ed. programmes, in collaboration with other departments such as psychology, philosophy, sociology, neuroscience, Indian languages, arts, music, history, literature, physical education, science and mathematics. Moreover, all stand-alone TEIs will be required to convert to multidisciplinary institutions by 2030, since they will have to offer the 4-year integrated teacher preparation programme.

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15.7. In order to maintain uniform standards for teacher education, the admission to pre-service teacher preparation programmes shall be through suitable subject and aptitude tests conducted by the National Testing Agency, and shall be standardized keeping in view the linguistic and cultural diversity of the country.

15.8. The faculty profile in Departments of Education will necessarily aim to be diverse and but teaching/field/research experience will be highly valued. Faculty with training in areas of social sciences that are directly relevant to school education e.g.,

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> psychology, child development, linguistics, sociology, philosophy, economics, and political science as well as from science education, mathematics education, _ social science education, and language education programmes will be attracted and retained in teacher education institutions, to strengthen multidisciplinary education of teachers and provide rigour in conceptual development."

83. Regulation 5 of the 2014 Regulations, submits Mr. Balbir Singh, does not obligate the NCTE to consider every application which is filed. The timelines envisaged in the said Regulation would apply only to competent applications, meaning applications which seek establishment of an institution or providing of courses which the extant Regulations permit. In view of the specific stipulation in Regulation 8(1) that new TEIs would have to be located in composite institutions, he submits that the applications of the petitioners were incompetent and were not therefore required to be processed in terms of Regulation 5. Consequent to the 2021 Amendment, Regulation 8(1) stood substituted by requiring every new institution to be an MDI. The applications, even by composite institutions, therefore, which were pending on the date when the 2021 amendment came into effect, were not thereafter required to be considered.

84. To support his submissions, Mr. Balbir Singh relies on paras 6 and 8 of U.O.I. ***v. Shah Goverdhan L. Kabra Teachers College***[37], paras 1, 2, 12 to 16, 22, 28, 36 and 37 of ***Howrah Municipal Corpn v. Ganges Rope Co. Ltd.***[38], paras 1 and 4 of ***K. Ramanathan v. State of Tamil Nadu***[39], para 14 of ***State of Uttarakhand v. Nalanda College of***

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[37] **(2002) 8 SCC 228**
[38] **2004 (1) SCC 663**
[39] **1985 (2) SCC 116**

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Education[40]**,** paras 12, 17 and 19 of ***V.T. Khanzode v. Reserve Bank of India***[41]**,** paras 20 and 23 of ***Bidi, Bidi Leaves and Tobacco Merchants v. State of Bombay***[42], para 41 of ***State of T.N. v. Adhiyaman Educational & Research Institute***[43] and ***Rajasthan State Industrial Development Corporation v. HNB Asia Ltd***[44].

85. Referring to the judgment in ***Rai Sahib Ram Jawaya Kapur***, on which Mr. Sharawat placed reliance, Mr. Balbir Singh submits that the decision clearly holds that executive decisions may legitimately be taken to achieve the objects of a statute.

86. In these circumstances, submits Mr. Balbir Singh, no occasion arises for this Court to interfere with the decision of the NCTE taken in its 55th GBM, not to process the pending applications of institutions which were neither composite nor MDIs.

Submissions of Mr. Sanjay Sharawat in rejoinder

87. Responding to the submission of Mr. Balbir Singh, Mr. Sharawat, in rejoinder, submits that, once the NCTE Act was enacted, the powers and functions of the NCTE were circumscribed by its provisions. Section 7 of the NCTE Act, he submits is not a source of power. It merely sets out the procedure to be followed during the meetings of the NCTE. Taking me through the scheme of the NCTE Act, Mr. Sharawat submits that Chapter II contains the provisions

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[40] **2022 SCC Online SC 1443**
[41] **1982 (2) SCC 7**
[42] **1962 Supp (1) SCR 381**
[43] **1995 (4) SCC 104**
[44] **Writ No. 86/2017**

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relating to establishment of the NCTE and Chapter III deals with the functions of the NCTE, containing Sections 12, 12A and 13. These Chapters, he submits, are of no relevance to the dispute at hand. The case of the petitioners has to be decided on the anvil of Chapter IV, which deals with grant of recognition.

88. Mr. Sharawat submits that the NCTE Act envisages clear segregation of powers. The extent of administrative or executive power of the NCTE is circumscribed by Sections 12 and 29. Section 14 has nothing to do with the NCTE. It requires the Regional Committee to dispose of any application filed for recognition of an institution proposing to offer teacher education in the manner specified by the NCTE Regulations. It does not brook interference by the NCTE in exercise of the administrative powers conferred on the NCTE by Sections 12 or 29 of the NCTE Act. He submits that Section 14 is a minutely detailed provision and constitute a self-contained code. The power vested by Section 14 is vested exclusively in the Regional Committees. Referring to Section 20(6) of the NCTE Act, Mr. Sharawat submits that the Regional Committee is an independent albeit subordinate body of the NCTE. The NCTE Act does not contain any provision by which the NCTE can, by executive fiat, truncate a procedure for grant of recognition which has commenced consequent to submission of application under Section 14.

89. In so far as Section 29(1) of the NCTE Act is concerned, Mr. Sharawat submits that the provision binds the NCTE by directions on questions of policy given to it by the Central Government in writing

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from time to time, "in the discharge of its functions and duties under this Act". While the NCTE Act permits the Central Government even to supersede the NCTE in the event of disobedience by the NCTE of the directive given by the Central Government under Section 29(1), that does not mean that the Central Government can direct the NCTE to commit an illegality, *de hors* the provisions of the NCTE Act. No administrative instructions, submits Mr. Sharawat, can be enforced contrary to the provisions of the NCTE Regulations or take away the benefit that the Regulation makes available nor can the Central Government, in exercise of power conferred on it by Section 29(1), empower or direct the NCTE to do so.

90. Mr. Sharawat draws attention to clauses (e) to (h) of Section 32(2) of the NCTE Act to submit that the NCTE Regulations, to the extent they deal with circumstances envisaged by these four clauses, relate to Sections 14 and 15 of the NCTE Act. They, therefore, have to be enforced as they stand.

91. Mr. Sharawat has referred to paras 5.22, 5.23 and 5.29 of the NEP 2020, which read thus:

> "5.22 Recognizing that the teachers will require training in high-quality content as well as pedagogy, teacher education will gradually be moved by 2030 into multidisciplinary colleges and universities. As colleges and universities all move towards becoming multidisciplinary, they will also aim to house outstanding education departments that offer B.Ed., M.Ed., and Ph.D. degrees in education.
>
> 5.23. By 2030, the minimum degree qualification for teaching will be a 4-year integrated B.Ed. degree that teaches a range of knowledge content and pedagogy and includes strong practicum training in the form of student-teaching at local schools. The 2-

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year B.Ed. programmes will also be offered, by the same multidisciplinary institutions offering the 4-year integrated B.Ed., and will be intended only for those who have already obtained Bachelor's Degrees in other specialized subjects. These B.Ed. programmes may also be suitably adapted as 1-year B.Ed. programmes, and will be offered only to those who have completed the equivalent of 4-year multidisciplinary Bachelor's Degrees or who have obtained a Master's degree in a specialty and wish to become a subject teacher in that specialty. All such B.Ed. degrees would be offered only by accredited multidisciplinary higher education institutions offering 4-year integrated B.Ed. programmes. Multidisciplinary higher education institutions offering the 4-year in-class integrated B.Ed. programme and having accreditation for ODL may also offer high-quality B.Ed. programmes in blended or ODL mode to students in remote or difficult-to-access locations and also to in-service teachers who are aiming to enhance their qualification, with suitable robust arrangements for mentoring and for the practicum training and student-teaching components of the programme.

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5.29. Finally, in order to fully restore the integrity of the teacher education system, stringent action will be taken against substandard stand-alone Teacher Education Institutions (TEIs) running in the country, including shutting them down, if required."

92. He points out that, while para 5.29 of the NEP 2020 envisages stringent action being taken against sub-standard stand-alone TEIs running in the country, no such action has been taken against a single TEI till date.

93. Comparing Regulation 9 of the 2014 Regulations, as it stood prior to its amendment by the 2021 Amendment Regulations, with the amended Regulation 9, Mr. Sharawat points out that 14 courses have been retained, and the only change that has taken place is that the "4 year integrated programme leading to BA. B.Ed/B.Sc. B.Ed degree" has been replaced by the "Integrated Teacher Education Programme

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(ITEP)". Inasmuch as there is no other change in the courses/programmes which may be provided by TEIs, as envisaged in the pre- and post-amendment 2021 Regulations, Mr. Sharawat submits that there is no reason why the stand-alone institutions cannot provide these courses.

94. The judgments cited by Mr. Balbir Singh, points out Mr. Sharawat, deal with cases of privileges and not vested rights. Where a mere privilege is involved, no right vests in the applicant. The petitioners in the present case have submitted the applications as envisaged by Section 14 of the NCTE Act and are awaiting their outcome. They are, therefore, not claiming any privileges. The judgments cited by Mr. Balbir Singh are, therefore, according to Mr. Sharawat completely inadequate as a ground to defend the impugned action.

95. The submissions of Mr. Balbir Singh, according to Mr. Sharawat, merely seek to explain why the impugned decision was taken in the 55th GBM of the NCTE. They do not in any way answer the petitioners' challenge to the validity of the decision.

Submissions of Mr. Amitesh Kumar in rejoinder

96. Supplementing the submissions of Mr. Sharawat, Mr. Amitesh Kumar points out, first, by referring to Agenda items 2 and 5 in the 55th GBM of the NCTE, that the decision to return all pending applications seeking recognition, filed under Section 14 of the NCTE

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Act, is completely unreasoned. He draws attention in this context to paras 8, 9, 12 and 14 of the counter-affidavit filed by the respondents in WP (C) 12983/2022, which read thus:

> "8. That vide NEP, 2020, major structural and revolutionary changes were sought to be brought about, *inter alia*, in the teacher education so that high-quality content and pedagogy is transferred by them to the students. The NEP, 2020 categorically states that by the year 2030, the minimal degree qualification for teaching will be a 4-year integrated B.Ed. degree that teaches a range of knowledge content and pedagogy and includes strong practicum training in the form of student-teaching at local schools.
>
> 9. Keeping in mind the development and benefit of students at large provided by the guidelines prescribed in the NEP, 2020, the Respondent 1 *vide* 55th General Body Meeting ("GB Meeting") held on 14.07.2022 has decided to return all the pending applications for the grant of recognition to the respective Institutions along with the processing fees charged at the time of filling the application form.
>
> *****
>
> 12. It is submitted that the decision to return the applications under the receding regime is in line with the object of transitioning smoothly into the new regime and in furtherance of this object of the NEP 2020.
>
> *****
>
> 14. It is submitted that on the basis of 55th GB decision Agenda 5, the Respondents have preferred LPA'S NO. 579/2022, 582/2022 and 586/2022, wherein, the directions passed in the writ petition to process the applications have been challenged. The LPA's have been preferred in light of 55th GB decision Agenda 5. These were listed before DB-I on 14.10.2022 and the Hon'ble Division Bench was pleased to stay the impugned orders passed in the writ petition, in light of 55th GB Decision Agenda 5."

He submits that the reason cited in paras 8 and 9 of the counter-affidavit as provoking the impugned decision to return all pending applications as taken in the 55th GBM i.e. the development and

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benefit of students at large, does not find any place in the decision itself.

97. Mr. Balbir Singh further points out that the LPAs, to which para 14 of the counter- affidavit refers, have all been dismissed by the Division Bench, recording the statement of the respondents that pending applications would be processed. Thus, submits Mr. Amitesh Kumar, the cases in which judicial orders exist fall into two categories. In some cases, there are judicial orders passed by the Single Benches of this Court directing the pending applications to be processed. In others, the undertaking of the respondent to the effect that the applications would be processed stands recorded by the Division Bench, as is recorded, *inter alia* in order dated 9 March 2022 (*supra*) passed by the Division Bench in ***Kusumraj Institute of Teacher Training College***.

98. Mr. Amitesh Kumar submits that the direction of the Division Bench was clear and categorical. The concerned Regional Committees were required to pass fresh orders on the petitioners' applications for recognition within twelve weeks of the date of receipt of a certified copy of the No Objection Certificate from the Affiliating University. The decision in the 55th GBM to return the applications was taken after the expiry of this period without challenging the order of the Division Bench. He submits that this is completely impermissible.

99. Mr. Amitesh Kumar has referred me to an order passed by another Division Bench of this Court on 18 July 2022 in ***NCTE v.***

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Gorakh Singh College[45]. The order of the learned Single Judge of this Court against which LPA 426/2022 was preferred, directed the ERC (in that case) to reconsider the application of the TEI in that case, in the following terms:

> "The matter is remanded to the ERC for fresh consideration in accordance with law. The ERC will dispose of the petitioner's application within three months from today, following the procedure laid down in the Standard Operating Procedure published by the NCTE. In the event, any further documents or clarification are required, the ERC may call for the same and give the petitioner an opportunity to supply the documents"

The Division Bench dismissed the LPA. Thus, the directions of the learned Single Judge, which were under challenge before the Division Bench in the LPA, received the imprimatur and approval of the Division Bench. The order dated 18 July 2022 was challenged in review by way of Review Petition 35/2023, which was withdrawn on 19 July 2023.

100. Mr. Amitesh Kumar has also referred me to yet another order dated 7 March 2023 passed by the Division Bench of this Court in a batch of LPAs headed by LPA 579/2022, ***NCTE v. TSK TT College.*** The order disposed of the LPA in the following terms :

> "Regard being had to the similitude in the controversy involved in the present cases, the appeals are being disposed of by this Court by a common order.
>
> Facts of the case reveal that the Respondents herein had approached this Court assailing the Order passed by the Appellant herein refusing to grant recognition to the various teaching courses being run by the Respondents herein. The learned Single Judge, while disposing of the said cases, has directed the NCTE to consider the applications filed by the Respondents herein and

[45] **LPA 426/2022**

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> decide the same within four to six weeks' time. These orders of the learned Single Judge have been challenged by the NCTE in these appeals.
>
> *At the outset, learned Counsel for the NCTE was fair enough in stating before this Court that NCTE shall be deciding the application in question positively within six weeks from today.* In light of the aforesaid, the appeals are disposed of along with the pending applications."
>
> (Emphasis supplied)

Even these applications, forming subject matter of these orders, he submits were returned. Mr. Amitesh Kumar submits that this is completely impermissible in law.

101. Mr. Amitesh Kumar cites, in support of his submissions, para 5 of ***Kharak Singh v. State of U.P.***[46], paras 28 and 29 of ***U.O.I. v. Naveen Jindal***[47], para 48 of ***Pharmacy Council of India v. Rajeev College of Pharmacy***[48]**,** paras 7 and 8 of ***Harakchand Ratanchand Banthia v. U.O.I.***[49] and para 8 of ***Prem Chand Jain v. R.K. Chhabra***[50].

102. Mr. Amitesh Kumar further relies on Regulation 7(6) of the 2014 Regulations which, according to him, casts a statutory mandate on the Regional Committee, to in the event of no recommendation being received from the State Government within a period of 45 days envisaged by Regulation 7(5) or within a further period of 30 days envisaged in Regulation 7(b), process and decide the case on merits, with the further qualification that in such an event, the matter would

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[46] **AIR 1963 SC 1295**
[47] **(2004) 2 SCC 510**
[48] **(2023) 3 SCC 502**
[49] **(1969) 2 SCC 166**
[50] **(1984) 2 SCC 302**

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not be deferred any further on account of non-receipt of comments or recommendations from the State Government. Referring to paras 52 and 79 of ***Maa Vaishno Devi Mahila Mahavidyalaya***, Mr. Amitesh Kumar submits that the Supreme Court has itself noted that the NCTE Act assigns to each stakeholder i.e. the NCTE, the State Government and the affiliating body/University, a defined role and also specifies the stage at which such role is required to be performed. He further places reliance on order dated 6 September 2021 passed by the Supreme Court in ***Sir Chhotu Ram Jat College of Education v. NCTE***[51], which reiterates that in ***Maa Vaishno Devi Mahila Mahavidyalaya***, the role of the State has been explained in particular. Thus, even if the State were to opine that the application of the institution was required to be refused, the NCTE nonetheless had to process the application following the procedure exhaustively charted out in that regard in ***Maa Vaishno Devi Mahila Mahavidyalaya***.

103. For the proposition that, by an executive act, the NCTE could not undo the effect of the judicial orders passed by this Court, Mr. Amitesh Kumar relies on paras 74 to 76 and 79 in ***In re. Cauvery Water Disputes Tribunal***[52] and para 12 of ***SR Bhagwat & Ors. vs. State of Mysore***[53].

104. Mr. Amitesh Kumar has also referred to paragraphs 15.4 and 15.5 of the NEP 2020, which read thus :

> "15.4. As teacher education requires multidisciplinary inputs, and education in high-quality content as well as pedagogy, all teacher

[51] Order dated 6 September 2021 in WP (C) 871/2021
[52] **1993 Supp (1) SCC 96(2)**
[53] **(1995) 6 SCC 16**

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education programmes must be conducted within composite multidisciplinary institutions, To this end, all multidisciplinary universities and colleges - will aim to establish, education departments which, besides carrying out cutting-edge research in various aspects of education, will also run B.Ed. programmes, in collaboration with other departments such as psychology, philosophy, sociology, neuroscience, Indian languages, arts, music, history, literature, physical education, science and mathematics. Moreover, all stand-alone TEIs will be required to convert to multidisciplinary institutions by 2030, since they will have to offer the 4-year integrated teacher preparation programme.

15.5. The 4-year integrated B.Ed. offered by such multidisciplinary HEIs will, by 2030, become the minimal degree qualification for school teachers. The 4-year integrated B.Ed. will be a dual-major holistic Bachelor's degree, in Education as well as a specialized subject such as a language, history, music, mathematics, computer science, chemistry, economics, art, physical education, etc. Beyond the teaching of cutting-edge pedagogy, the teacher education will include grounding in sociology, history, science, psychology, early childhood care and education, foundational literacy and numeracy, knowledge of India and its values / ethos / art /traditions, and more. The HEI offering the 4-year integrated B.Ed. may also run a 2-year B.Ed., for students who have already received a Bachelor's degree in a specialized subject. A 1-year B.Ed. may also be offered for candidates who have received a 4-year undergraduate degree in a specialized subject. Scholarships for meritorious students will be established for the purpose of attracting outstanding candidates to the 4-year, 2-year, and I-year B.Ed. programmes."

105. He echoes Mr. Sharawat's submission that the 2021 Amendment Regulations, which were brought into effect post the NEP 2020, retained all the courses being provided by TEIs prior to the said Regulations with the only discontinued programme being the 4 year B.A. B.Ed./ B.Sc. B.Ed. Programme. No substantial change in the programmes which could be provided by TEIs was, therefore, introduced by the 2021 Amendment Regulations. As such, submits Mr. Amitesh Kumar, the submissions of Mr. Balbir Singh do not make

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out any substantial case on the basis of which the impugned decision taken in the 55th GBM of the NCTE can be defended.

Mr. Sharawat's further submissions in rejoinder

106. Adding one more argument to the submissions already made by him in rejoinder, Mr. Sharawat has sought to juxtapose Regulation 5(6) with Regulation 7 of the 2014 Regulations. He points out that Regulation 5(6) of the 2014 Regulations specifically requires all applications received online from 1 March to 31 May of the year to be processed for the next academic session. Regulation 7(1) and 7 (2) set out the only circumstances in which an application can be rejected. The decision not to process the petitioners' applications and, instead, to return them to the petitioners is, he submits in the teeth of Regulation 5(6) read with Regulation 7(1) and 7(2). According to Mr. Sharawat, all the writ petitions can be allowed on this sole basis.

Submissions of Mr. Balbir Singh in surrejoinder

107. Dealing with the submissions of Mr. Amitesh Kumar that the decision not to process the petitioners' applications and instead to return them was violative of orders passed by this Court, Mr. Balbir Singh relies on paras 2 and 7 of ***Bhushan Power and Steel Ltd. v. S.L. Seal***[54], para 11 of ***Shah Goverdhan L. Kabra Teachers College*** and para 17 of ***State of Rajasthan v. Sharwan Kumar Kumawat***[55].

[54] **(2017) 2 SCC 125**
[55] **(2023) SCC Online SC 898**

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108. He further submits that there is no violation of any fundamental rights of the petitioners as they are yet to set up their institutions.

Analysis

Element of public interest behind the impugned decisions and the need for restraint

109. The petitioners are aggrieved by the decisions contained in Agenda Items Nos. 2 and 5 of the minutes of the 55th GBM of the NCTE, held on 14 July 2022. Specifically, the petitioners complain against Decision II taken in each case, which envisages all pending applications from TEIs, yet to be set up, proposing to start B.Ed., or D.EI.Ed. courses, been returned to the concerned applicants without further processing.

110. Admittedly, the impugned decision has been taken in the wake of the NEP 2020. According to the minutes of the 55th GBM, the NEP 2020 envisages an integrated 4-year holistic bachelor's degree in Education as being the minimum qualification for a person to become a teacher, by 2030. It is further specifically noted that the existing Diploma level Teacher education Courses are not in line with the NEP 2020, as per paras 15.4 and 15.5 thereof. It is recognised, in para 15.4, that teacher education, in order to be in sync with the NEP 2020, requires multidisciplinary inputs and education in high-quality content as well as pedagogy. All teacher education programs have, therefore, to be in MDIs. All stand-alone TEIs are, therefore, required to

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convert to MDIs by 2030, as they have to provide the integrated teacher education program.

111. The 4-year integrated B.Ed. program equips the teacher not only with a Bachelor's degree in education, but an additional degree in a specialised subject such as language, history, music, mathematics, computer science, chemistry, economics, art, physical education, etc. It also inculcates, in the teacher, a flair for cutting-edge pedagogy. The program is further researched as including grounding in sociology, history, science, psychology, early childhood care and education, foundational literacy and numeracy, knowledge of India and its values, ethos, art and traditions, and more. Clearly, therefore, the 4-year integrated B.Ed. program is aimed at a holistic development of the educator, so as to equip her, or him, with the ability to educate the generation of tomorrow. The universe of knowledge is expanding exponentially, and the necessity of ensuring that teachers, who have to familiarise the generation of tomorrow with the vastly expanding frontiers of knowledge, are themselves well-informed in that regard, can hardly be gainsaid. There is, therefore, an overarching and pre-eminent element of public interest involved in ensuring a gradual and seamless shift from the existing system of teacher education to the integrated and holistic system of teacher education envisaged in the NEP 2020.

112. This decision, which is wholesome and reflects the felt need of the times, cannot brook judicial interference. Besides, in matters of educational policy, Courts should hold their hands, and, save in the

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rarest of rare cases, not interfere with the decision of the executive in that regard. In ***AICTE v. Surinder Kumar Dhawan***[56], the Supreme Court concisely enunciated the legal position thus:

> "17. The role of statutory expert bodies on education and role of courts are well defined by a simple rule. If it is a question of educational policy or an issue involving academic matter, the courts keep their hands off. If any provision of law or principle of law has to be interpreted, applied or enforced, with reference to or connected with education, courts will step in. In ***J.P. Kulshrestha (Dr.) v. Allahabad University***[57] this Court observed:
>
> > '11. Judges must not rush in where even educationists fear to tread...
> >
> > 17. While there is no absolute bar, it is a rule of prudence that courts should hesitate to dislodge decisions of academic bodies.'
>
> 18. In ***Maharashtra State Board of Secondary and Higher Secondary Education v. Paritosh Bhupesh Kumar Sheth***[58], this Court reiterated:
>
> > '29. ...the Court should be extremely reluctant to substitute its own views as to what is wise, prudent and proper in relation to academic matters in preference to those formulated by professional men possessing technical expertise and rich experience of actual day-to-day working of educational institutions and the departments controlling them.'
>
> *****
>
> 32. This is a classic case where an educational course has been created and continued merely by the fiat of the court, without any prior statutory or academic evaluation or assessment or acceptance. Granting approval for a new course or programme requires examination of various academic/technical facets which can only be done by an expert body like AICTE. This function cannot obviously be taken over or discharged by courts. In this case, for example, by a mandamus of the court, a bridge course was permitted for four-year advance diploma-holders who had passed the entry-level examination of 10+2 with PCM subjects. Thereafter, by another mandamus in another case, what was a one-time measure was extended for several years and was also

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[56] **(2009) 11 SCC 726**
[57] **(1980) 3 SCC 419**
[58] **(1984) 4 SCC 27**

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> extended to Post Diploma diploma-holders. Again by another mandamus, it was extended to those who had passed only 10+1 examination instead of the required minimum of 10+2 examination. Each direction was obviously intended to give relief to students who wanted to better their career prospects, purely as an ad hoc measure. But together they lead to an unintended dilution of educational standards, adversely affecting the standards and quality of engineering degree courses. Courts should guard against such forays in the field of education."

The above extract, from ***Surinder Kumar Dhawan***, was cited and relied upon, by the Supreme Court, in ***Parshavanath Charitable Trust v. A.I.C.T.E.***[59] In ***Bijoe Emmanuel v. State of Kerala***[60], the Supreme Court cited, with approval, the classic truism, expressed by Frankfurter J, speaking for the United States Supreme Court in ***Minersville School District v. Gobitis***[61], that "the courtroom is not the arena for debating issues of educational policy".

113. The concerns expressed in the NEP 2020, and the resultant decision to switch to an integrated system of teacher education, to replace the erstwhile B.Ed. or D.El.Ed. programs, is eminently in public interest. It needs to be fostered.

<u>The concept of public interest is neither nebulous, nor protean</u>

114. Mr. Sharawat has, in his written submissions, referred to the "nebulous" and "protean" concept of public interest. The concept of public interest is, in reality, neither nebulous not protean. Indeed, it constitutes the very bedrock of our jurisprudential system. Public

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[59] **(2013) 3 SCC 385**
[60] **(1986) 3 SCC 615**
[61] **(1939) 84 Law Ed 1375**

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interest is, in our jurisprudence, pre-eminent. It is entitled to precedence over individual rights, even if those rights are fundamental. An individual cannot, therefore, seek enforcement of her, or his, fundamental rights, if such enforcement would be counter-productive to public interest. The rights of the society prevail over the rights of the individual. It is only thus that the society can, looking to the future, keep stride with the changing times. Albeit in the context of the right to privacy and the right to information, relatable to Articles 19(1)(a) and 21 of the Constitution of India, the Supreme Court, in ***Thalappalam Service Coop. Bank Ltd v. State of Kerala***[62], declared:

> "61. The right to information and right to privacy are, therefore, not absolute rights, both the rights, one of which falls under Article 19(1)(*a*) and the other under Article 21 of the Constitution of India, can obviously be regulated, restricted and curtailed in the larger public interest. Absolute or uncontrolled individual rights do not and cannot exist in any modern State."

A Constitution Bench of the Supreme Court cited the above exposition of the law, in ***Thalappalam Service Coop. Bank***, with approval, in ***Central Public Information Officer v. Subhash Chandra Agarwal***[63].

115. An act undertaken in public interest is, therefore, ordinarily not open to interference, judicially. Prayers, in Hindu households, often conclude with the exhortation: लोका: समस्ता: सुखिनो भवन्तु, meaning, "let the whole world, and everyone in it, be happy". Universal happiness, and the greatest good of the greatest number are, therefore,

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[62] **(2013) 16 SCC 82**
[63] **(2020) 5 SCC 481**

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the primordial aim to which the world, and all in it, aspire. On a global scale, Gurudev Rabindranath Tagore gave voice to much the same sentiment, while envisioning, in his classic poem Gitanjali, a world which "has not been broken up into fragments by narrow domestic walls".

116. The preamble to our own Constitution envisages the attainment, of all of us, to the constitutional goals of justice, liberty, equality and fraternity, even while assuring the dignity of the individual and the unity of the nation. Courts, in administering justice, have also, therefore, to ensure that their decisions do not accord pre-eminence to individual interests at the cost of societal well-being.

In fostering public interest, respondent cannot violate the statute

117. The petitioners do not seek to dispute the respondent's stand that the decisions taken by them are motivated by public interest. The contention of the petitioners is, however, that the respondents cannot, howsoever laudable their motives and intentions may be, act in contravention of the established statutory provisions contained in the NCTE Act and the NCTE Regulations as amended from time to time.

118. The submission is obviously unexceptionable. Ours is a system governed by the rule of law. Statute and precedent are the two most important sources of law, and custom prevails only where there is neither statutory law nor precedential guidance to be found. Even between statute and precedent, the statute, and its dictates, are entitled to precedence. It is for this reason that the courts are, classically, only

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interpreters of existing legislation, and not legislators themselves. It is also for this reason that, since ***Taylor v. Taylor***[64], through ***Nazir Ahmed v. The King Emperor***[65] and ***State of Uttar Pradesh v. Singhara Singh***[66], apart from a host of other similar decisions, the indisputable legal position is that, where the statute requires a particular act to be done in a particular manner, that act has to be done only in that manner, or not done at all, all other manners of doing the act being necessarily forbidden.

119. There can, therefore, be no cavil with the proposition, urged by the petitioners, that the respondents cannot, by executive fiat, act in violation of the statute.

120. Have they, though?

121. This, indeed, is the main issue in controversy in the present case. In deciding not to continue to process the petitioners' applications, and to return them to the petitioners, have the respondents acted in violation of the statute?

The judgment in ***Howrah Municipal Corporation***

122. In law, the dispute in this matter stands substantially covered by the judgment of the Supreme Court in ***Howrah Municipal Corporation.***

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[64] **(1875) 1 Ch D 426**
[65] **AIR 1936 PC 253**
[66] **AIR 1964 SC 358**

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123. In that case, the respondent Ganges Rope Co. Ltd. (GRCL) constructed a multi-storeyed complex with four floors. On 27 May 1994, GRCL applied to the Howrah Municipal Corporation ("HMC", hereinafter) seeking sanction for constructing additional three floors. Permission was sought on the basis of an order earlier passed by the High Court of Calcutta. On the HMC not taking any decision on GRCL's application, GRCL filed a fresh writ petition before the High Court. The High Court, through a learned Single Judge, held that the HMC was bound to accept the construction plans submitted by GRCL and, granting liberty to GRCL to resubmit the construction plan, directed the HMC to pass appropriate orders within four weeks of such fresh submission.

124. Before the said period of four weeks was over, the Building Bye-laws were amended. Among the changes introduced in the amended Building Bye-laws, was restriction on the height of buildings, which was made dependent on the width of the street on which the buildings were situated. As the height of GRCL's multi-storeyed complex would, if three additional floors were permitted to be conducted, exceed the maximum permissible height as per the amended Building Bye-laws, the HMC, *vide* letter dated 16 September 1994, wrote to GRCL stating that sanction for constructing three additional floors, as sought by it, could not be granted and that the proposal for further construction, as mooted by GRCL, was therefore, "treated as cancelled".

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125. Aggrieved thereby, GRCL reapproached the High Court. A learned Single Judge, even while finding the delay in processing of GRCL's application by the HMC not to be justified, held, nonetheless, that in view of the amendment in the Building Bye-laws in the interregnum, sanction for constructing three additional floors was rightly refused by the HMC. This order was reversed by the Division Bench of the High Court, resulting in the HMC approaching the Supreme Court.

126. Before the Supreme Court, GRCL pointed out that it had submitted its application for sanction for an additional three floors before the amendment of the Building Bye-laws. As such, it was sought to be contended that the amended Building Bye-laws could not be made applicable to it. It was further contended that this fact, along with the orders which had been passed by the High Court, created a vested right in GRCL to have its application considered on the basis of the pre-amended Building Bye-laws. It was further contended that, had the HMC taken a decision on GRCL's application within the time granted by the High Court, GRCL would certainly have obtained sanction as it sought, as the Building Bye-laws had not yet been amended.

127. The Supreme Court, therefore, identified the question arising before it, in para 16 of the report, as whether a vested right accrued in favour of GRCL to seek sanction for constructing three more floors, despite the intervening amendment in the Building Bye-laws.

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128. The Supreme Court observed, at the outset, that the paramount considerations governing any regulatory provision dealing with construction activities were public interest and public convenience. No one could, therefore, claim the existence of a vested right divorced from public interest or public convenience.

129. Thereafter, the Supreme court, went on to observe and hold, in paras 19 to 21 and 25 to 38 of the report, as under :

> "19. What is to be noted from Section 175 (quoted above) is that a period of sixty days is not a firm outer limit as the words "sixty days" are prefixed by the word "ordinarily". *It is also to be noted that the provisions of the Act under consideration, compared with other Corporation Acts of other States, do not provide for "deemed sanction" or "deemed rejection" after expiry of the prescribed period fixed for deciding the application for sanction.*
>
> 20. In the case of ***Chet Ram Vashist* v. *Municipal Corpn. of Delhi***[67] the provisions contained in Section 313 of the Delhi Municipal Corporation Act, 1957 came up for consideration where *not only a period of sixty days was prescribed for according or disallowing sanction for construction but the proviso under sub-section (5) of that section further provided that in no case, passing of orders on the application for sanction shall be delayed beyond sixty days after necessary information demanded by the Corporation has been received.* Even on such specification of fixed period, this Court held:
>
>> "6. *Sub-sections (3) and (5) of Section 313 prescribe a period within which the Standing Committee is expected to deal with the application made under sub-section (1). But neither sub-section declares that if the Standing Committee does not deal with the application within the prescribed period of sixty days it will be deemed that sanction has been accorded. The statute merely requires the Standing Committee to consider the application within sixty days. It stops short of indicating what will be the result if the Standing Committee fails to do so. If it intended that the failure of the Standing Committee to deal with the matter within the prescribed period should imply a deemed*

[67] **(1980) 4 SCC 647**

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sanction it would have said so. They are two distinct things, the failure of the Standing Committee to deal with the application within sixty days and that the failure should give rise to a right in the applicant to claim that sanction has been accorded. The second does not necessarily follow from the first. A right created by legal fiction is ordinarily the product of express legislation. It seems to us that when sub-section (3) declares that the Standing Committee shall within sixty days of receipt of the application deal with it, and when the proviso to sub-section (5) declares that the Standing Committee shall not in any case delay the passing of orders for more than sixty days the statute merely prescribes a standard of time within which it expects the Standing Committee to dispose of the matter. It is a standard which the statute considers to be reasonable. But non-compliance does not result in a deemed sanction to the layout plan."

21. The provisions of the Act, therefore, contemplate an *express sanction* to be granted by the Corporation before any person can be allowed to construct or erect a building. Thus, *in ordinary course, merely by submission of application for sanction for construction, no vested right is created in favour of any party by statutory operation of the provisions*. The question then is *whether such a vested right can be deemed to have been created by the fixation of time-limit by the Court in its order for considering the application for sanction*. In the order dated 23-12-1993 sanction was granted for construction up to fourth-floor level and for further construction it was observed thus:

> "This order will not prevent the petitioners from applying for further sanction if the same is at all permissible at a later date."

*****

25. It is not possible for the Court to read more into the order dated 23-12-1993 whereby the Court merely observed that the applicant will not be "prevented" from applying for further sanction. This one observation cannot be read to absolve the applicant from the obligations prescribed in Rules 3 and 4 of the Building Rules.

26. On a subsequent approach by the respondent Company to the High Court, by order dated 24-6-1994, learned Single Judge merely "*expected*" the Corporation to pass appropriate orders on the pending application for sanction of additional floors to the

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Company within a period of four weeks. The relevant part of the order states:

> "It is expected that Howrah Municipal Corporation shall pass appropriate orders within four weeks from the date of submission of the plan and receipt of copy of the order."

27. *According to the Company, on the expiry of period of four weeks fixed by order dated 24-6-1994, there was no justification for the Corporation to keep the application for sanction pending and to allow it to be rendered infructuous as a result of the amendment to the Building Rules which came into force by the gazette notification on 15-7-1994.* On behalf of the Corporation it is denied that despite the order of the Court granting four weeks, the application for sanction was deliberately not considered by the Corporation. It is submitted that there was no time-bound mandate by the Court to the Corporation.

28. *In our considered opinion, by the order of the Court dated 23-12-1993 observing that the petitioner is "not prevented from applying" for further sanction of additional floors above fourth floor and the "expectation", expressed in the subsequent order of the Court dated 24-6-1994, from the Corporation to decide the pending application for sanction within four weeks, no vested right in favour of the respondent Company can be said to have been created to obtain sanction on the unamended Rules, as they existed on the date of their second application.*

29. *It has been urged very forcefully that the sanction has to be granted on the basis of the Building Rules prevailing at the time of submission of the application for sanction.* In the case of ***Usman Gani J. Khatri v. Cantonment Board***[68]**,** the High Court negatived a similar contention and this Court affirmed the same by observing thus: (SCC p. 469, para 24)

> "In any case, the High Court is right in taking the view that the building plans can only be sanctioned according *to the building regulations prevailing at the time of sanctioning of such building plans*. At present the statutory bye-laws published on 30-4-1988 are in force and the fresh building plans to be submitted by the petitioners, if any, shall now be governed by these bye-laws and not by any other bye-laws or schemes which are no longer in force now. If we consider a reverse case where building regulations are amended more favourably to the builders before

[68] **(1992) 3 SCC 455**

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sanctioning of building plans already submitted, the builders would certainly claim and get the *advantage of the regulations amended to their benefit*."

30. *This Court, thus, has taken a view that the Building Rules or Regulations prevailing at the time of sanction would govern the subject of sanction and not the Rules and Regulations existing on the date of application for sanction.* This Court has envisaged a reverse situation that if subsequent to the making of the application for sanction, the Building Rules, on the date of sanction, have been amended more favourably in favour of the person or party seeking sanction, would it then be possible for the Corporation to say that because the more favourable Rules containing conditions came into force subsequent to the submission of application for sanction, it would not be available to the person or party applying.

31. The decision in ***Gani J. Khatri*** was followed by this Court in the case of ***State of W.B. v. Terra Firma Investment and Trading (P) Ltd.***[69] That case arose as a result of amendment introduced in the Act in the year 1990 restricting building heights within the limits of Calcutta Municipal Corporation to 13.5 metres. Applications for sanction pending for construction with height above 13.5 metres were rejected because of the above restriction. In that case also the applicants claimed a vested right to get their plans passed and sanctioned as they were submitted prior to the amendment made to the Calcutta Municipal Corporation Act in 1990. This Court on examining the object in restricting height of buildings in the city of Calcutta due to limited resources for civic amenities upheld the Amendment Act and negatived the claim of vested right set up by the applicants on the basis of unamended provisions and building regulations. Relying on the decision of ***Usman Gani J. Khatri,*** this Court observed:

"*How can the respondent claim an absolute or vested right to get his plan passed by writ of a court, merely on the ground that such plan had been submitted by him prior to 18-12-1989? By mere submission of a plan for construction of a building which has not been passed by the competent authority, no right accrues*. The learned Single Judge of the High Court should have examined this aspect of the matter as to what right the respondent had acquired by submission of the plan for construction of the high-rise building before its application was rejected by a statutory provision."

This Court further observed:

[69] **(1995) 1 SCC 125**

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> "15. It is well settled that no malice can be imputed to the legislature. Any legislative provision can be held to be invalid only on grounds like legislative incompetence or being violative of any of the constitutional provisions."

32. Relying on ***Usman Gani*** *case* this Court reiterated that "builders do not acquire any legal right in respect of the plans until sanctioned in their favour".

33. Learned counsel appearing for the respondent Company tried to distinguish the decisions in the cases of ***Usman Gani*** and ***Terra Firma*** stating that *in the present case the vested right arose because of a time-bound order of the Court. It is argued that the time-bound orders of the Court were not only disregarded but, as has been found by the High Court, deliberately flouted for extraneous reasons. It is submitted that the claim of sanction for additional three floors available to the Company on the date of submission of application for sanction with plans could not have been frustrated by the Corporation by deliberate delay in processing the application and raising pleas and objections to the plan.*

34. We do not find that there was any deliberate delay on the part of the Corporation. We have found that the stand of the Corporation, on the basis of the Building Rules, cannot be held to be erroneous that for seeking three additional floors, the Company was required to file a fresh application for sanction with necessary particulars, documents, plans and enclosures. *The Company complied with the necessary requirements but thereafter, the Building Rules were amended and restrictions have been imposed on the height of buildings on G.T. Road.* It cannot, therefore, be held that the action of the Corporation is malicious. The Building Rules were amended by the State and the Corporation can have no bona fide or mala fide hand in it. After the amended Building Rules were notified, the Corporation on relevant ground of limited resources for civic amenities in a congested city like Howrah, with the approval of the Mayor-in-Council, could legally impose legitimate restrictions on the height of buildings, in specified wards, roads and localities. It is to be noted from the relevant resolution of the Corporation that restrictions with regard to the height of buildings are not only imposed on G.T. Road but there are several specified wards and areas in which such restrictions are applied. This Court cannot accept that such a legislative change and consequent resolution came to be passed and got approved only to frustrate the pending application of the Company.

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35. We have examined the provisions of Section 175 of the Act fixing "ordinarily" period of "sixty days" for granting or refusing sanction. We have also examined Rule 13 of the Building Rules which also prescribes a period of "sixty days" from the date of application for grant or refusal of sanction for construction. *Neither the provisions of the Act nor the Rules, however, provide for "deemed sanction" or "deemed refusal" on the expiry of sixty days' period. Therefore, without express sanction, no construction is permissible contrary to the provisions in Chapter XII of the Act and Rule 3 of the Building Rules which prohibit "construction or erection of new building or addition or alteration to any existing building" without obtaining sanction for construction.*

36. The abovestated legal position is not disputed on behalf of the respondent Company. What is being contended is that the order of the High Court fixing a period for the Corporation to decide its pending application for sanction creates a *vested right* in favour of the applicant Company to seek sanction for its additional proposed construction on the basis of the Building Rules, as they stood prior to the amendment introduced to the Building Rules and the consequent resolution of the Corporation restricting the height of buildings on G.T. Road. It is undeniable that after the amendment of the Building Rules and the resolution passed by the Corporation thereunder, restrictions imposed on heights of buildings on specified wards, roads and localities would apply to all pending applications for sanction. *The question is whether any exception can be made to the case of the applicant seeking sanction who had approached the Court and obtained consideration of its applications for sanction within a specified period.* We have extracted above the various orders passed by the High Court in writ petitions successively filed by the Company in an effort to obtain early sanction for its additional construction of three floors on the buildings in its multi-storeyed complex already completed up to the fourth floor. *In none of the orders of the High Court, there is a mandate issued to the Corporation to grant a sanction.* What was directed by the High Court in the first order was merely a "liberty" or option to the Company to seek sanction for additional three floors. In the subsequent order, an "expectation" was expressed for decision of the pending applications within a period of four weeks. *There was, thus, in favour of the Company an order of the High Court directing the Corporation to decide its pending applications for sanction within the allotted period but non-compliance therewith by the Corporation cannot result in creation of any vested right in favour of the Company to obtain sanction on the basis of the Building Rules as they stood on the date of making application for sanction and regardless of the amendment introduced to the Building Rules. Neither the*

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provisions of the Act nor general law creates any vested right, as claimed by the applicant Company for grant of sanction or for consideration of its application for grant of sanction on the then existing Building Rules as were applicable on the date of application. Conceding or accepting such a so-called vested right of seeking sanction on the basis of the unamended Building Rules, as in force on the date of application for sanction, would militate against the very scheme of the Act contained in Chapter XII and the Building Rules which intend to regulate the building activities in a local area for general public interest and convenience. It may be that the Corporation did not adhere to the time-limit fixed by the Court for deciding the pending applications of the Company but we have no manner of doubt that the Building Rules with prohibition or restrictions on construction activities as applicable on the date of grant or refusal of sanction would govern the subject-matter and not the Building Rules as they existed on the date of application for sanction. No discrimination can be made between a party which had approached the Court for consideration of its application for sanction and obtained orders for decision of its application within a specified time and other applicants whose applications are pending without any intervention or order of the Court.

37. The argument advanced on the basis of so-called creation of *vested right* for obtaining sanction on the basis of the Building Rules (unamended) as they were on the date of submission of the application and the order of the High Court fixing a period for decision of the same, is misconceived. *The word "vest" is normally used where an immediate fixed right in present or future enjoyment in respect of a property is created. With the long usage the said word "vest" has also acquired a meaning as "an absolute or indefeasible right"* [see K.J. Aiyer's Judicial Dictionary (A Complete Law Lexicon), 13th Edn.]. *The context in which the respondent Company claims a vested right for sanction and which has been accepted by the Division Bench of the High Court, is not a right in relation to "ownership or possession of any property" for which the expression "vest" is generally used. What we can understand from the claim of a "vested right" set up by the respondent Company is that on the basis of the Building Rules, as applicable to their case on the date of making an application for sanction and the fixed period allotted by the Court for its consideration, it had a "legitimate" or "settled expectation" to obtain the sanction. In our considered opinion, such "settled expectation", if any, did not create any vested right to obtain sanction. True it is, that the respondent Company which can have no control over the manner of processing of application for sanction by the Corporation cannot be blamed for delay but during*

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pendency of its application for sanction, if the State Government, in exercise of its rule-making power, amended the Building Rules and imposed restrictions on the heights of buildings on G.T. Road and other wards, such "settled expectation" has been rendered impossible of fulfilment due to change in law. The claim based on the alleged "vested right" or "settled expectation" cannot be set up against statutory provisions which were brought into force by the State Government by amending the Building Rules and not by the Corporation against whom such "vested right" or "settled expectation" is being sought to be enforced. The "vested right" or "settled expectation" has been nullified not only by the Corporation but also by the State by amending the Building Rules. Besides this, such a "settled expectation" or the so-called "vested right" cannot be countenanced against public interest and convenience which are sought to be served by amendment of the Building Rules and the resolution of the Corporation issued thereupon.

38. In the matter of sanction of buildings for construction and restricting their height, the paramount consideration is public interest and convenience and not the interest of a particular person or a party. The sanction now directed to be granted by the High Court for construction of additional floors in favour of the respondent is clearly in violation of the amended Building Rules and the resolution of the Corporation which restrict heights of buildings on G.T. Road. This Court in its discretionary jurisdiction under Article 136 of the Constitution cannot support the impugned order of the High Court of making an exception in favour of the respondent Company by issuing directions for grant of sanction for construction of building with height in violation of the amended Building Rules and the resolution of the Corporation passed consequent thereupon."

130. Thus, the Supreme Court held that though the provisions of the Act stipulated time limits, within which the HMC was required to take a decision on the prayer for grant of sanction for construction of additional floors, it did not go on to state that the expiry of the said time limit, without any decision being taken by the HMC, would result in deemed sanction as sought. Reliance was placed in this context on the earlier decision of the Supreme Court in ***Chet Ram Vashisht,*** which identified such provisions as merely fixing

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reasonable time. It was also observed in the said decision that the earlier orders passed by the Court merely required a decision to be taken on GRCL's application within a specified period, and did not mandate grant of sanction as sought by GRCL. It was also clarified, unequivocally, that no right vested in GRCL to have its application decided on the basis of the Building Bye-Laws in existence on the date of submission of its application or, indeed, to have its application decided at all. A right vested only *once sanction was granted*, and not at any prior point of time. If, therefore, the Building Bye-Laws stood amended before sanction was granted, and, as a consequence of such amendment it became impossible to grant sanction as sought, it could not be said that any vested right had been divested.

131. Thus, holding that the submission of the application by GRCL clearly did not create any vested right in GRCL's favour, the Supreme Court addressed the question of whether the orders passed by the Supreme Court in that case could be said to result in any such vested right.

132. This question was answered by the Supreme Court in the negative, relying on ***Usman Gani J. Khatri vs. Cantonment Board***[70]**,** which held that the building plans can be sanctioned only as per the Building Bye-laws which were prevailing at the time of grant of sanction and not as per the sanction which existed at the time of submission of application for grant of sanction. Thus, no vested right accrued in favour of GRCL till actual sanction was granted.

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[70] **(1992) 3 SCC 455**

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133. The Supreme Court also observed that there was no deliberate delay on the part of the HMC in failing to grant sanction as sought by GRCL. As there was no deemed sanction on the expiry of the statutorily envisaged time periods, the Supreme Court held that the High Court could not have directed construction to be permitted by the HMC contrary to the existing Building Bye-laws. GRCL would necessarily have to file a fresh application as per the extant Building Bye-laws.

134. Observing that the new restrictions incorporated by the amendments to the Building Bye-laws applied across the Board, the Supreme Court, in para 36, addressed the issue of whether an exception from the applicability of the amended Building Bye-laws could be created in favour of GRCL because it had obtained certain orders fr006Fm the Court. This question too was answered in the negative observing that no vested right was created by the statute and the orders passed by the High Court did not mandate grant of sanction. Holding that any finding that a vested right to obtain sanction for three additional floors had accrued in favour of GRCL would militate against the very scheme of the Act, which was aimed at regulating building activities keeping in mind the public interest and public convenience, the Supreme Court held that the mere failure of the HMC to adhere to the stipulated time limits could not be said to result in any vested right in GRCL's favour, to be sanctioned permission to construct three additional floors. The Supreme court observed that no distinction could be created between the respondents before it, who

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had court orders in their favour, and others who may not have approached the court.

135. Para 37 of the report is of particular significance as it addresses, jurisprudentially the concept of a "vested right". As held by the Supreme Court in the said passage, a right vests when an immediate fixed right is found to exist *in praesenti* or in future in respect of the property. The right has to be absolute and indefeasible. The expression "vest" is ordinarily used in the context of ownership or possession of the property. A legitimate or settled expectation is entirely distinct and different from a vested right. Though GRCL may have had, at the time of submission of its application for sanction to construct three additional floors, a settled expectation that permission would be granted, and though it was equally true that, owing to the delay in processing the application and the amendments to the Building Bye-laws which intervened, it became impossible to grant such sanction, that could not result in any vested right accruing in favour of GRCL. Besides, held the Supreme Court, such "settled expectation" or "vested right" could not be pleaded against public interest and convenience, which were the motivating factors behind the amendment to the Building Bye-laws.

136. The direction of the Division Bench of the High Court would result in the HMC having to grant sanction contrary to the existing Building Bye-laws. The Supreme Court held, therefore, that the directions could not be sustained. The judgment of the Division Bench of the High Court was therefore reversed.

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137. The situation which obtained in ***Howrah Municipal Corporation*** is easily analogized to the situation before this Court in the present case. The arguments advanced by GRCL before the Supreme Court are, legally, largely the same as the arguments advanced by the petitioners before me, and they all stand answered against the petitioners. In view of the law laid down in ***Howrah Municipal Corporation***, the submissions of Mr. Sharawat and Mr. Amitesh Kumar that, with the submission of the applications by the petitioners, or even by the passing of orders by this Court, a right vested in the petitioners to have their applications processed, and that the applications could not have been returned to the petitioners; that the respondents could not have applied, to the petitioners' applications, the later decision not to allow standalone institutions in view of the NEP 2020; that the 2014 Regulations required all applications submitted to inexorably proceed either to acceptance or rejection in a step-wise and time-bound fashion; that the respondents could not have returned the applications of the petitioners in view of the orders passed by Division Benches of this Court and the undertaking given by the respondents therein; that the petitioners' applications would have to be processed in accordance with the provisions of the NCTE Act and the Regulations as they existed on the dates when the applications were submitted, and that the petitioners were entitled to a mandamus directing the respondents to process their applications in accordance with Regulation 7 of the 2014 Regulations, are all liable to be rejected, in view of the position of law exposited in ***Howrah Municipal Corporation***.

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138. In view of the decision in ***Howrah Municipal Corporation,*** the submissions of learned counsel for the petitioners, would be liable to be answered seriatim thus:

(i) The submission of the applications by the petitioners did not *ipso facto* vest any right in them. A right would vest only after the application was allowed. No right, therefore, vested either by submission of the applications or even by issuance of LoI to the petitioners.

(ii) In view of the decision taken in the 55th GBM, which was based on the NEP 2020, there was no legal compulsion on the respondents to continue to process the petitioners' applications. They were within their right in returning the applications to the petitioners.

(iii) The applications would have to be processed on the basis of the law which existed on the date when they were granted and not on the date when the applications were submitted by the petitioners.

(iv) Regulation 7, with respect to the time-periods stipulated therein, was merely a Regulation which envisaged a time-bound processing of the applications. It did not cast a legal obligation on the respondents to process the applications if, in view of the

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intervening change in law, the applications were not entitled to be processed.

(v) The orders passed by this Court and the undertaking given by the NCTE, too, did not obligate the NCTE to process the petitioners' applications either to acceptance or rejection. It is not as though the NCTE did not consider the petitioners' application after the undertakings given to this Court or after the directive issued by this Court. The applications were taken up but in view of the decision in the 55th GBM, it was found impossible to continue to process the applications as there was a policy decision not to allow stand-alone institutions to be established. The NCTE could not be faulted in returning the applications in view of this subsequent decision.

(vi) The court cannot issue a mandamus to the NCTE to process the petitioners' applications as that would amount to directing the NCTE to act in violation of the extant legal position following the NEP 2020, the impugned decision in the 55th GBM and, most importantly, the 2021 Regulations, which require all new TEIs to be MDIs. In view of the requirement, in the 2014 Regulations as amended by the 2021 Amendment Regulations, for all TEIs to be MDIs, there could be no question of proceeding with the petitioners' applications. Further, following the principle enunciated in ***Howrah Municipal Corporation***, that the applications would be governed by the law in existence at the time when they are granted and not the

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law in existence at the time when they were filed or submitted, the 2021 Regulations would apply to the petitioners.

(vii) Even under the 2014 Regulations, stand-alone institutions were not permitted. The 2014 Regulations, too, required TEIs to be composite institutions. The petitioners, admittedly, are not composite institutions.

139. While other individual aspects are dealt with hereinafter, the submissions of Mr. Sharawat and Mr. Amitesh Kumar stand substantially answered by the decision in ***Howrah Municipal Corporation.***

140. Mr. Sharawat sought to distinguish the judgment in ***Howrah Municipal Corporation*** by contending that what was sought in that case was a privilege, whereas the petitioners are not seeking a privilege but claiming a right. According to him, the law applicable to privileges is different from the law applicable to rights.

141. Mr. Sharawat has not cited a single decision which draws a distinction between the law applicable to privileges and the law applicable to rights. The submission is, in fact, not legally correct, as the claim of GRCL, in ***Howrah Municipal Corporation***, was also for a right, not a privilege. A privilege is a specie of rights. It is a right which is available to one, or to some, as opposed to a right which is available to all. The Supreme Court of Bangladesh has notably held,

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in ***Wagacharya Tea Estate Limited v. Mohd. Abu Taher***[71], that "every privilege is a right but not every right is a privilege." In ***Amarinder Singh v. Punjab Vidhan Sabha***[72], the Supreme Court approved the definition of a "privilege", as occurring in The Macquarie Dictionary, as "a right of immunity enjoyed by a person or persons beyond the common advantage of others". The legal distinction between a privilege and a right is thin, and is perhaps best explained in the following words, from ***Raja Ram Pal v. Hon'ble Speaker, Lok Sabha***[73]:

> "466. "Privilege" is a special right, advantage or benefit conferred on a particular person. It is a peculiar advantage or favour granted to one person as against another to do certain acts. Inherent in the term is the idea of something, apart and distinct from a common right which is enjoyed by all persons and connotes some sort of special grant by the sovereign."

A privilege can also be sought from a Court only, therefore, if there is a right to seek that privilege. One may say, so to speak, that a privilege is not entitled to any more privileged status than a right. The characterization of the claim of GRCL, in ***Howrah Municipal Corporation*** as a privilege, and that of the petitioners in the present case as a right, is not correct. GRCL was not claiming any exclusive right which was available to it, to the exclusion of others. The right to seek sanction for constructing additional floors was not a special dispensation, available only to GRCL. It was a right which anyone could seek. That the claim could not be granted because of the intervening change in law regulating height of buildings, too, was not a handicap which GRCL alone faced, but would also apply, equally, to

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[71] **NDX/BDAD/0219/2014**
[72] **(2010) 6 SCC 113**
[73] **(2007) 3 SCC 184**

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all who sought sanction to construct additional floors as would infract the amended Building Bye-Laws. Thus, the claim of GRCL, in ***Howrah Municipal Corporation***, was just as much for enjoyment of a right as is the claim of the petitioners in the present writ petitions.

142. Thus, the applicability of the judgment in ***Howrah Municipal Corporation*** cannot be wished away on the tenuous ground that the case dealt with a privilege and not a right. The principles in ***Howrah Municipal Corporation*** apply *mutatis mutandis* to the present case.

Effect of orders passed by this Court in the case of some of the petitioners

143. Mr. Amitesh Kumar placed considerable reliance on orders passed by this Court in the case of some of the petitioners who, on finding that their applications were not being processed, petitioned this Court. He has specifically drawn attention to three categories of orders passed by this Court, as represented by order dated 9 March 2022 passed by the Division Bench in ***Kusumraj Institute of Teachers Training Institute***, order dated 18 July 2022 passed by the learned Single Judge in ***Gorakh Singh College*** and order dated 7 March 2023 passed by the Division Bench of this Court in ***TSK TT College***.[74] The order dated 9 March 2022 in ***Kusumraj Institute of Teachers Training Institute*** directed the ERC to pass a fresh order on the petitioners' applications within twelve weeks. The order dated 18 July 2022 in ***Gorakh Singh College*** remanded the matter to the ERC for fresh consideration in accordance with law with a direction to the

[74] Refer paras 67, 99 and 100 *supra* respectively

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ERC to dispose of the petitioners' application within three months. The order dated 7 March 2023 in ***TSK TT College*** records the undertaking of the NCTE that it would decide the petitioners' applications within six weeks.

144. There is, notably, as in ***Howrah Municipality***, neither in the said orders, any undertaking by the respondent that the petitioners' applications would be accepted or rejected, nor any direction by this court to the respondents to do so. The undertaking, and the direction, is for processing of the applications, and passing of orders thereon. The petitioners have approached this Court as soon as the impugned decision in the 55th GBM of the NCTE was taken to return the applications, without waiting for formal orders of return. They cannot, therefore, complain that no formal decision was taken on their applications. Even otherwise, the orders passed by this Court have to be reasonably understood and interpreted. The orders were passed before the NEP 2020, the amendment of the 2014 Regulations by the 2021 Amendment Regulations, or the impugned decisions in the 55th GBM were taken. The applications seek approval to establish stand alone institutions providing single courses. Once, in view of the subsequent change in law, such institutions could not be allowed to function, it is obvious that the petitioners' applications could neither be accepted, nor rejected on merits, but could not be processed further. If, therefore, the respondents decided to return the applications, it cannot be said that, by doing so, they were violating the orders passed by this Court, or the undertakings given to it.

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145. No doubt, time-periods mentioned in the orders were breached and no decision was taken within the said time periods. That, however, cannot create a vested right in favour of the petitioners, as already noted, in view of the decision in ***Howrah Municipal Corporation***. As in the case of ***Howrah Municipal Corporation,*** none of these orders categorically direct the NCTE to carry the applications to fruition by either accepting or rejecting them. The Regional Committees were directed to process the applications. In the course of such processing, if the legal position changed, in such a manner as to disentitle the petitioners' applications to be further processed, the respondent cannot be faulted in returning the applications. As in the case of ***Howrah Municipal Corporation***, there is no categorical directive by this Court to allow the applications.

146. Even otherwise, the directions by the High Court, passed before NEP 2020 and before the impugned decision taken in the 55th GBM of the NCTE, cannot be cited as a ground to contend that the NCTE, or the Regional Committees, were obligated to allow the petitioners' applications ignoring the change in legal position in the interregnum. It cannot be said that the High Court, in directing the respondents to process the petitioners' applications, also directed them to process the applications in contravention of the position in law which exists at the time when they were processed.

Judgment in ***Bhushan Power and Steel Ltd***

147. Mr. Balbir Singh also relied in this context on judgment of the Supreme Court in ***Bhushan Power and Steel Ltd.*** Though that

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decision was rendered in a contempt petition, and the Supreme Court has taken specific notice of that fact in para 15 of the report, the judgment contains various observations and findings which would be declaratory of the legal position within the meaning of Article 141 of the Constitution of India for the purposes of the present dispute.

148. In that case, Bhushan Power and Steel Ltd. (hereinafter, "BPSL"), through its predecessor, desired to set up a plant in Sambalpur, Odisha. For the said purpose, 1250 acres of land was acquired. BPSL also applied for grant of lease for mining iron ore for use in the said plant. The State of Odisha agreed to recommend the proposal to the Government of India for grant of a coal block to BPSL. An MOU was also executed between the State Government and the BPSL through its predecessor, whereunder the State Government committed to recommend to the Central Government the grant of iron ore mines for use in the proposed plant. Areas were also earmarked for recommendation which would provide iron ore to cater to 50 years' requirement of the proposed plant.

149. The plant was set up but certain difficulties were encountered in the grant of iron ore lease. A Show Cause notice dated 18 January 2006 was issued by the State Government, leading to a decision that mining lease over the Thakurani area – which was one of the areas over which mining lease was envisaged as being granted to BPSL – could not be allowed and the application of BPSL through its predecessor was regarded as premature.

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150. Thereafter, the State Government recommended to the Central Government to grant mining lease in favour of another party M/s. Neepaz Metalic (P) Ltd. BPSL, through its predecessor, challenged this decision before the High Court under Article 226 of the Constitution of India. The High Court dismissed the writ petition. A civil appeal was preferred thereagainst to the Supreme Court. By judgment dated 14 March 2012[75], the Supreme Court set aside the judgment of the High Court and the decision of the State Government rejecting BPSL's claim for grant of mining lease. Noting the fact that the Thakurani block had large reserves of iron ore in which BPSL could be accommodated, the Supreme Court directed the State of Odisha to act in terms of the MoU dated 15 May 2002 and its earlier commitments to recommend the case of BPSL to the Central Government for grant of adequate iron ore reserves to meet the requirements of the plant which BPSL was setting up.

151. The aforesaid directions of the Supreme Court were implemented only in respect of part of the Thakurani block, which was given to BPSL. BPSL therefore, filed a contempt petition before the Supreme Court. The State Government contested the contempt petition primarily on the ground that in view of a subsequent judgment of the Supreme Court in ***Sandur Manganese and Iron Ores Ltd v. State of Karnataka***[76], it would not be possible to carry out the directions contained in the judgment dated 14 March 2012 passed in BPSL's case.

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[75] **Bhushan Power and Steel Ltd. v. State of Odisha, (2012) 4 SCC 246**
[76] **(2010) 13 SCC 1**

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152. The Supreme Court did not agree, and held the officials of the State Government to be in contempt of the order dated 14 March 2012 passed in BPSL's earlier petition. The State Government was given one more opportunity to send the requisite recommendation to the Central Government. It was noted, by the Supreme Court, that the judgment dated 14 March 2012, passed in the earlier Civil Appeal filed by BPSL had become final *inter partes*. That decision could not be sought to be nullified on the basis of a subsequent judgment in ***Sandur Manganese*** in which the BPSL was not even a party. Thus, it was held that the State Government was duty bound to recommend the petitioner's case to the Central Government, but the Central Government was at liberty to take any appropriate decision on the recommendation of the State Government. The Central Government was therefore directed to take a decision on the State Government's recommendation on its own merits and in accordance with law.

153. As directed by the Supreme Court, the State Government sent the requisite recommendation to the Central Government, for grant of mining lease in the area in question to BPSL, on 22 April 2014.

154. The Central Government, however, held that the petitioners' request was invalidated on account of amendments to the Mines and Minerals (Development and Regulations) Act, 1957 (hereinafter, "MMDRA") as carried out by the Mines and Mineral (Development and Regulations) Amendment Act, 2015 (hereinafter, "the 2015 MMDR Amendment Act"). This view was conveyed by the Central Government to the State Government and, in turn, by the State

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Government to BPSL. BPSL, however, contended that the amended sections contained a saving provision into which category its case fell and, that, therefore no approval of the Central Government was required before grant of mining lease by the State Government.

155. Predicated on this assertion, BPSL filed another contempt petition before the Supreme Court which came to be decided by the judgment under discussion.

156. BPSL relied before the Supreme Court, on Section 10-A(2)(c) of the MMDRA as introduced by the 2015 Amendment Act, which read:

> "**10-A. Rights of existing concession-holders and applicants. –**
>
> *****
>
> (2) Without prejudice to sub-section (1), the following shall remain eligible on and from the date of commencement of the Mines and Minerals (Development and Regulation) Amendment Act, 2015 –
>
> *****
>
> (c) where the Central Government has communicated previous approval as required under sub-section (1) of Section 5 for grant of a mining lease, or *if a letter of intent (by whatever name called) has been issued by the State Government to grant a mining lease, before the commencement of the Mines and Minerals (Development and Regulation) Amendment Act, 2015, the mining lease shall be granted subject* to fulfilment of the conditions of the previous approval or of the letter of intent within a period of two years from the date of commencement of the said Act:"

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157. BPSL contended that, as the LOI had been issued to BPSL by the State Government to grant a mining lease, its case stood protected by Section 10-A(2)(c).

158. The Supreme Court held that there was no question of any contempt, as the State Government had in fact forwarded, to the Central Government, the recommendation to grant mining lease to the petitioner, as directed in the order dated 22 April 2014 passed by the Supreme Court in the earlier contempt petition. Nonetheless, the Supreme Court went on to examine whether the application of the BPSL was rendered ineligible, in view of Section 10-A of the MMDRA or whether it stood saved by Section 10-A(2)(c).

159. In answering this issue, the Supreme Court relied on the statement of objects and reasons behind the 2015 Amendment Act. It was observed that the amendments which were introduced were aimed at improving transparency in allocation and ensuring an increased share with the Government of the value of mineral resources. These, in the ultimate eventuate, would promote the growth of the mining sector. The provision of Section 10-A, it was held, had to be understood keeping in view of this objective of the 2015 Amendment Act.

160. Thus interpreted, the Supreme Court held that the BPSL was unjustifiably seeking to treat the letter dated 24 May 2014, from the State Government to the Central Government, as an LOI. For this purpose, BPSL was relying on the expression "letter of intent (by

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whatever name called)" as contained in Section 10-A(2)(c) of the MMDRA, as amended by the 2015 MMDR Amendment Act. The Supreme Court did not accept this submission. Inasmuch as the amended provision required the previous approval of the Central Government before an LOI could be issued, and no such previous approval had been obtained, it was held that the recommendatory letter dated 24 May 2014 from the State Government to the Central Government could not be regarded as an LOI.

161. In that view of the matter, despite the orders passed by the Court, the Supreme Court found the decision to return the applications of BPSL as incapable of being granted in view of the subsequent amendment in the MMDRA, not to be deserving of any interference.

162. To an extent, this decision also supports the stand of the respondents. The implementation of the directive and orders passed by this Court on which Mr. Amitesh Kumar seeks to place reliance can only be in accordance with the extant law. The NCTE cannot be directed to implement the orders unmindful of the change in law in the interregnum.

Whether the impugned decision was purely executive in nature

163. One of the main contentions of learned Counsel for the petitioners is that the impugned decision not to process the petitioners' applications and, instead, to return the applications to the petitioners, was a purely executive decision taken in a GBM of the NCTE. It has

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been emphatically contended that the right of the petitioners to have their applications processed, which flows from the provisions of the NCTE Act and the 2014 Regulations, could not have been divested by an executive decision.

164. To appreciate this contention, it has to first be assessed whether the decision not to process the petitioners' application and to return the applications to the petitioners is in fact an executive decision. Mr. Balbir Singh contended that the decision flowed from the powers conferred on the NCTE by the provisions of the NCTE Act and, therefore, could not be regarded as purely executive in nature. Even if it was an executive decision, his contention is that it had statutory flavour, as it was taken in exercise of the powers and authority vested in NCTE by the NCTE Act.

165. The provisions of the Act have, therefore, to be examined to assess the merits of these rival contentions.

Statements of Objects and Reasons of the NCTE Bill

166. Though there is some debate regarding the extent to which the statements of objects and reasons appended to a Bill may be regarded as useful in understanding the provisions of the Act into which the Bill transmutes, the Supreme Court has, in several decisions, relied upon on the statements of objects and reasons to appreciate the scope and

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intent of the statutory instrument. In ***Utkal Contractors & Joinery Pvt Ltd v. State of Orissa***[77], the Supreme Court held:

> "9. In considering the rival submissions of the learned Counsel and in defining and construing the area and the content of the Act and its provisions, it is necessary to make certain general observations regarding the interpretation of statutes. A statute is best understood if we know the reason for it. The reason for a statute is the safest guide to its interpretation. The words of a statute take their colour from the reason for it. How do we discover the reason for a statute? There are external and internal aids. The external aids are Statement of Objects and Reasons when the Bill is presented to Parliament, the reports of committees which preceded the Bill and the reports of Parliamentary Committees. Occasional excursions into the debates of Parliament are permitted. Internal aids are the preamble, the scheme and the provisions of the Act. Having discovered the reason for the statute and so having set the sail to the wind, the interpreter may proceed ahead."

167. More particularly, the statements of objects and reasons is regarded as a valuable tool when applying the Heydon's Rule of interpretation of statutes, which requires a statute to be interpreted keeping in mind the mischief that it seeks to remedy. The Mischief Rule was thus settled by Lord Coke in ***Heydon's*** Case[78]:

> "It was resolved by them that for the sure and true interpretation of all statutes in general be they penal or beneficial, restrictive or enlarging of the common law... the obligation of all the judges is always to make such construction as shall suppress the mischief, and advance the remedy, and to suppress subtle inventions and evasions for continuance of the mischief, and *pro private commodo,* and to add force and life to the cure and remedy, according to the true intent of the makers of the Act, *pro bono public*. This rule is popularly known as the 'mischief rule'. In a broader sense, this may be understood as the purposive construction of statutes."

Thus, the Heydon's Rule, even as originally envisaged, was a manifestation of the principle of purposive construction of statutes. In

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[77] **(1987) 3 SCC 279**
[78] **1584 Co. Rep 7 a**

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Shailesh Dhairyawan v. Mohan Balkrishna Lalla[79] and ***Richa Mishra v. State of Chhattisgarh***[80]**,** the Supreme Court held that, with the passage of time, the golden rule of interpretation of statutes is no longer the rule of plain meaning, but the principle of purposive interpretation.

168. The purpose of enactment of statutes, which has to be ascertained before applying the Heydon's Rule of interpretation, is primarily discernible, as held in ***Utkal Contractors***, from the statement of objects and reasons of the Bill preceding the Act.

169. The statement of objects and reasons of the NCTE Bill read thus:

> "1. The National Council for Teacher Education (NCTE) was set up in 1973 by a Government Resolution as a National expert body to advise Central and State Governments on all matters pertaining to teacher education. NCTE's status and role have so far been purely advisory and, mainly due to this reason, it has had very little impact on the standards of teacher training institutions in the country and on their unplanned growth.
>
> 2. To maintain the standards of teacher education, the National Policy on Education (NPE) stated that the NCTE would be provided with necessary resources and capability to accredited institutions of teacher education and provide guidance regarding curricula and methods. The Programme of Action prepared for implementation of the NPE in 1986, realising the inherent difficulties in the constitution of the NCTE to be able to guide the system of teacher education, envisaged conferring it with statutory status.
>
> 3. The present Bill seeks to provide statutory powers to the NCTE with the objective of determination, maintenance and co-ordination of standards in teacher education laying down norms and guidelines for various courses, promotion of innovation in this

[79] **2016 (3) SCC 619**
[80] **2016 (4) SCC 179**

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field and establishment of a suitable system of continuing education of teachers.

4. The Bill seeks to empower the Council to make qualitative improvement in the system of teacher education by phasing out sub-standard institutions and courses for teacher education. The NCTE would also be empowered to grant recognition to institutions for teacher education and permission to recognised institutions for new course or training in teacher education. The Bill also provides for delegation of various powers to Regional Committees and other Committee for effective implementation of the function of the Council.

5. The Notes on Clauses appended to the Bill explain the various provisions of the Bill.

6. The Bill seeks to achieve the above objects."

170. Thus, the primary motivation behind the enactment of the NCTE Act was conferment, on the NCTE, of statutory status. The statement of objects and reasons notes the fact that, prior thereto, the NCTE's role was purely advisory, by reason of which it could not seriously impact the standards of teacher training institutions in the country or their unplanned growth. The primary motivation behind conferring statutory status on the NCTE was maintenance of the standards of teacher education. Para 3 of the statement of objects and reasons delineates the objective of providing statutory powers to the NCTE as "determination, maintenance and coordination of standards in teacher education, laying down norms and guidelines for various courses, promotion of innovation in this field and establishment of a suitable system of continuing education of teachers". For this purpose, most significantly, the Bill sought to empower the NCTE to make "qualitative improvement in the system of teacher education *by*

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phasing out sub-standard institutions and courses for teacher education".

171. Thus, the NCTE was intended to be clothed, by the NCTE Act, with the responsibility of maintaining and coordinating standards in teacher education, for which purpose the NCTE was empowered to phase out sub-standard institutions and courses for teacher education.

172. The statement of objects and reasons also clarifies that the Regional Committees were essentially delegates, on whom the powers of the NCTE had been delegated, and that the delegation was intended to ensure effective implementation of the function of the NCTE.

Preamble of the NCTE Act

173. The Preamble to an Act is also a useful guide in ascertaining the object and purpose for which the Act was enacted, though the Preamble cannot be used as a basis to accord, to an unambiguous provision in an Act, a meaning other than that which plainly flows from the provision.[81] In ***Gujarat Ambuja Exports Ltd***, the position in law was thus stated:

> "30. From a perusal of the abovementioned case law, it becomes clear that the Preamble cannot control the enacting part. The Preamble read with the provisions of a statute, however, makes the legislative scheme clear and can be used to determine the true meaning of the enacting provision and whether given the other provisions of the Act, the enacting provision can be given effect to without defeating the scheme of the entire Act."

[81] **Gujarat Ambuja Exports Ltd v. State of Uttarakhand, (2016) 3 SCC 601; Kavalappara Kottarathil Kochunni v. State of Madras, AIR 1960 SC 1080, U.O.I. v. Elphinstone Spinning & Weaving Mills Ltd, (2001) 4 SCC 139**

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174. The Preamble to the NCTE Act, like the statement of objects and reasons, identifies the NCTE Act as an Act as having been enacted "with a view to achieving planned and coordinated development for the teacher education system through the country, the regulation and proper maintenance of norms and standards in the teacher education system including qualifications of school teachers and matters connected therewith".

175. The scope and ambit of the NCTE Act, and the consequent conferment of powers on the NCTE are, therefore, wide and compendious. The ultimate aim of the NCTE Act is coordination and maintenance of standards in teacher education throughout the country. For this purpose, the NCTE has clearly been enacted as an apex body, which has the power to qualitatively improve the system of teacher education. In this endeavour, the statement of objects and reasons to the NCTE Bill and the Preamble to the NCTE Act even envisage phasing out, by the NCTE, of sub-standard institutions.

Provisions of the NCTE Act

176. It has, now, to be seen whether the afore-noted objectives of the NCTE Act, which emerge from a reading of the statement of objects and reasons behind the NCTE Bill and the Preamble to the NCTE Act, find actual statutory manifestation in the provisions of the NCTE Act itself. It goes without saying that, if there are no provisions in the NCTE Act which confer the afore-noted powers on the NCTE, such

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powers cannot be deemed to have been conferred merely by the statement of objects and reasons behind the NCTE Bill or the Preamble to the NCTE Act. The provisions of the NCTE Act, therefore, acquire pre-eminence.

Section 3(4)

177. Mr. Balbir Singh emphasised the constitution of the NCTE Act, as envisaged by Section 3(4) of the NCTE Act. Among the members of the NCTE are the Secretary in the Department of Education, the Chairman, UGC or a member nominated by him, the Director, NCERT, the Director, NIEPA, the Adviser (Education) in the Planning Commission, the Chairman, CBSE, the Financial Adviser to the Government of India in the Department of Education, the member secretary, AICTE, three Members of Parliament, nine experts possessing experience and knowledge in the field of education or teaching to be appointed by the Central Government, four Deans of faculties of Education and Professors of Education in Universities, as well as a Chairperson, Vice-Chairperson and a Member Secretary to be appointed by the Central Government.

178. There can, therefore, be no gainsaying the fact that the NCTE is a high-powered Council consisting of eminent and highly placed persons occupying, in many cases, Governmental positions of stature and eminence. While the mere constitution of the NCTE by itself may not be determinative of the extent of its power and authority under the NCTE Act, it would be unrealistic not to take note of the constitution

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of the NCTE, which is obviously purposely peopled by high-ranking government officials and educators. The NCTE numbers as many as 43 members.

Section 12

179. Chapter III of the NCTE Act deals with the functions of the NCTE. Section 12 opens with the declaration that it shall be the duty of the NCTE to *take all such steps as it may think fit* for ensuring planned and coordinated development of teacher education and for determination of standards of teacher education". The words "*all such steps as it may think fit*" are wide and comprehensive. They confer practically absolute discretion on the NCTE to determine the steps which are required to be taken by it for ensuring planned and coordinated development of teacher education and determination of maintenance and standards of teacher education. This is important, because, unless there is any other provision of the Act which curtails the scope and ambit of the power envisaged by Section 12, the NCTE is, under that provision, clearly conferred wide powers to take appropriate steps. This, again, is a reiteration of the statement of objects and reasons of the NCTE Bill as well as an indicator of the mischief that the provisions of the NCTE Act intend to tackle.

180. Section 12 proceeds to enumerate certain acts which the NCTE may undertake towards the performance of its functions. These included "coordination and monitoring of teacher education and its development in the country [in Clause (c)] and performing such other

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functions as may be entrusted to it by the Central Government" [in Clause (n)]. It is important to note that the power to coordinate and monitor teacher education and the development of teacher education throughout the country is an independent power conferred on the NCTE by Clause (c) in Section 12, independent of the power to perform such other functions as may be entrusted to it by the Central Government. In other words, the NCTE is empowered by clause (c) in Section 12 to take any step as it may think fit to coordinate and monitor teacher education and the development of teacher education in the country.

181. "Teacher education" is defined in Section 2(l) of the NCTE Act as meaning "programmes of education, research or training of persons for equipping them to teach at pre-primary, primary, secondary and senior secondary stages in schools....". This definition is also of no little significance. With the coming into force of NEP 2020, it cannot be disputed that there has been a paradigm shift in the school education system in the country. The NCTE is empowered, therefore, to ensure that there is coordination and monitoring of programs of education, research or training of persons, so as to equip them to be effective school teachers in the backdrop of the present NEP 2020. If, therefore, the NCTE takes any such steps as to ensure that teacher education matches strides with the NEP 2020, it is empowered to do so by virtue of the power conferred on it by clause (c) in Section 12 of the NCTE Act.

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182. Dealing with principles of coordination and determination of standards of education, as envisaged in the NCTE Act, the Supreme Court, in ***Shah Goverdhan L Kabra*** observed thus:

> "8. Bearing in mind the aforesaid principles of rule of construction, if the provisions of the impugned statute, namely, the National Council for Teacher Education Act, 1993 are examined and more particularly Section 17(4) thereof which we have already extracted, the conclusion is irresistible that the statute is one squarely dealing with coordination and determination of standards in institutions for higher education within the meaning of Entry 66 of List I of the Seventh Schedule. Both Entries 65 and 66 of List I empower the Central Legislature to secure the standards of research and the standards of higher education, the object behind them being that the same standards are not lowered at the hands of the particular State or States to the detriment of the national progress and the power of the State Legislature must be so exercised as not to directly encroach upon power of the Union under Entry 66. The power to coordinate does not mean merely the power to evaluate but it means to harmonise or secure relationship for concerted action. A legislation made for the purpose of coordination of Standards of higher education is essentially a legislation by the Central Legislature in exercise of its competence under Entry 66 of List I of the Seventh Schedule and sub section (4) of Section 17 merely provides the consequences if an institution offers a course or training in teacher education in contravention of the Act though the ultimate consequences under sub-section (4) of Section 17 may be that an unqualified teacher will not be entitled to get an employment under the State or Central Government or in a university or in a college."

Thus, "coordination", within the meaning of the NCTE Act and in the context of coordination of teacher education, is not merely evaluation but includes the putting in place means to harmonise or secure relationship for concerted action.

183. Clause (c) in Section 12 of the NCTE Act, read with the meaning of "coordination", as understood in para 8 of ***Shah Goverdhan L Kabra,*** therefore, empowers the NCTE to harmonise or

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secure relationship for concerted action, by using appropriate means in that regard.

The judgment in ***V.T. Khanzode***

184. In this context, it is also relevant to refer to the judgment of the Supreme Court in ***V.T. Khanzode v. RBI***[82]. The appellant before the Supreme Court in ***V.T. Khanzode*** challenged the circular dated 27 April 1978 issued by the Reserve Bank of India (RBI), which envisaged common seniority and inter-group mobility among different groups of officers in the RBI retrospectively w.e.f. 22 May 1974. Prior to the said circular, for 27 years, seniority in the RBI had been maintained group-wise. There was no concept of inter-group mobility or a common seniority amongst different groups of officers.

185. In para 12 of the report, the Supreme Court identified two issues as arising for consideration; the first being whether the RBI Regulations were statutory in nature and the second being whether the RBI possessed the power to provide for service conditions of its staff by administrative circulars.

186. In para 16 of the report, the Supreme Court observed that "it was not open to any question either on the basis of the reason or authority that the power to provide for service conditions of the staff is at least incidental to the obligation to carry out the purposes for which the bank was constituted". Thereafter, the Supreme Court proceeded

[82] **(1982) 2 SCC 7**

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to deal with the issues arising for consideration thus, in paras 18 to 21 of the report:

> "18. In support of this submission, reliance is placed by the learned counsel on the statement of law contained in para 1326 and 1333 (pp. 775 and 779) of Halsbury's Laws of England, 4th Edn. In para 1326 it is stated that:
>
> > "Corporations may be either statutory or non-statutory, and a fundamental distinction exists between the powers and liabilities of the two classes. Statutory corporations have such rights and can do such acts only as are authorised directly or indirectly by the statutes creating them; non-statutory corporations, speaking generally, can do everything that an ordinary individual can do unless restricted directly or indirectly by statute."
>
> > Para 1333 says that:
>
> > "The powers of a corporation created by statute are limited and circumscribed by the statutes which regulate it, and extend no further than is expressly stated therein, or is necessarily and properly required for carrying into effect the purposes of its incorporation, or may be fairly regarded as incidental to, or consequential upon, those things which the legislature has authorised. What the statute does not expressly or impliedly authorise is to be taken to be prohibited."
>
> There is no doubt that a statutory corporation can do only such acts as are authorised by the statute creating it and that, the powers of such a corporation cannot extend beyond what the statute provides expressly or by necessary implication. If an act is neither expressly nor impliedly authorised by the statute which creates the corporation, it must be taken to be prohibited. This cannot, however, produce the result for which Shri Nariman contends. His contention is not that the Central Board has no power to frame staff regulations but that it must do so under Section 58(1) only. On that argument, it is material to note that *Section 58(1) is in the nature of an enabling provision under which the Central Board "may" make regulations in order to provide for all matters for which it is necessary or convenient to make provision for the purpose of giving effect to the provisions of the Act. This provision does not justify the argument that staff regulations must be framed under it or not at all. The substance of the matter is that the Central Board has the power to frame regulations relating to the conditions of service of the Bank's staff. If it has that power, it may exercise it*

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either in accordance with Section 58(1) or by acting appropriately in the exercise of its general power of administration and superintendence.

19. The statement of law in Halsbury puts emphasis on the limitation on powers of statutory corporations in the light of the provisions of statutes under which they are constituted. From that point of view, *the provisions of Section 7(2) of the Act are important. By that section, the general superintendence and direction of the affairs and business of the Bank are entrusted to the Central Board of Directors, which is empowered to exercise all powers and do all acts and things which may be exercised or done by the Bank. Matters relating to the service conditions of the staff are, pre-eminently, matters which relate to the affairs of the Bank. It would therefore be wrong to deny to the Central Board the power to issue administrative directions or circulars regulating the conditions of service of the Bank's staff. To read into the provisions of Section 58(1) a prohibition against the issuance of such administrative directions or circulars is patently to ignore the scope of wholesome powers conferred upon the Central Board of Directors by Section 7(2) of the Act*. Indeed, this section brings the impugned circular and seniority list within the rule mentioned in *Halsbury*: they have the authority of the statute.

20**.** In this behalf, reliance is also placed by Shri Nariman on a decision of a Constitution Bench of this Court in ***Sukhdev Singh v. Bhagatram***[83] . Ray, C.J., who spoke for three members of the Bench, observes in his judgment that the powers of statutory bodies are derived, controlled and restricted by the statutes which create them and that any action of such bodies in excess of their power or in violation of the restrictions placed on their powers is *ultra vires*. The concurring judgment of Mathew, J. also contains observations to the same effect (see pp. 628, 630 and 659 of the Report). This enunciation of law is to the same effect as in Halsbury and our answer is the same. *While issuing the administrative circular governing the staff's conditions of service, the Central Board of Directors has neither violated any statutory injunction nor indeed has it exercised a power which is not conferred upon it by the statute. The circular is strictly within the confines of Section 7(2).*

21. *So long as staff regulations are not framed under Section 58(1), it is open to the Central Board to issue administrative circulars regulating the service conditions of the staff, in the exercise of power conferred by Section 7(2) of the Act*. In ***T.***

[83] **(1975) 1 SCC 421**

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Cajee v. U. Jormanik Siem[84] a District Council was constituted under the Sixth Schedule to the Constitution, for the United Khasi and Jaintia Hills District in the Tribal Areas of Assam. The rules in the Sixth Schedule empowered the District Council to make laws with respect to various matters regarding the administration of the district, including the appointment or succession of Chiefs and Headmen. No law was however made regulating such appointments. *Even so, it was held by this Court that the District Council had the power to appoint or remove administrative personnel under the general power of administration vested in it by the Sixth Schedule. Delivering the leading judgment of the Bench, Wanchoo, J., said that where executive power impinges upon the rights of citizens, it will have to be backed by an appropriate law; but where executive power is concerned only with the personnel of the administration, it is not necessary that there must be laws, rules or regulations governing the appointment of those who could carry on the administration under the control of the District Council. The District Council had therefore the power to appoint officers by virtue of the fact that the administration was vested in it*. In ***B.N. Nagarajan v. State of Mysore***[85] Rule 3 of the Mysore State Civil Services (General Recruitment) Rules, 1957 provided that recruitment to the State Civil Services shall be made by a competitive examination or by promotion and that the method of recruitment and qualifications shall be as set forth in the Rules specially made in that behalf. It was urged before this Court that no recruitment could be made to any service until the rules were made. That argument was rejected on the ground that it is not obligatory under the proviso to Article 309 to make rules of recruitment before a service can be constituted and that *it was not necessary that there must be a law in existence before the executive is enabled to function*. It is true that reliance was placed in that case on the provisions of Article 162, by which the executive power of a State extends to the matters with respect to which the legislature of the State has power to make laws. *But the decision is useful for illustrating that the power to frame rules or regulations does not necessarily imply that no action can be taken administratively in regard to a subject-matter on which a rule or regulation can be framed, until it is so framed. The only precaution to observe in the cases of statutory corporations is that they must act within the framework of their charter. Its express provisions and necessary implications must at all events be observed scrupulously*."

(Emphasis supplied)

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[84] **AIR 1961 SC 276**
[85] **AIR 1966 SC 1942**

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187. In the afore-extracted passages from ***V.T. Khanzode***, the Supreme Court has held that Section 58(1) of the RBI Act is an enabling provision, under which the Central Board of the RBI is empowered to make regulations to provide for all matters necessary or convenient to give effects to the provision of the RBI Act. Thus, the RBI was empowered to frame regulations governing the conditions of service of its staff, either in accordance with Section 58(1) *or in exercise of its general power of administration and superintendence.* In para 19, the Supreme Court went on to note that Section 7 (2) of the RBI Act entrusted, on the Central Board of Directors of RBI, the general superintendence and direction of affairs of the RBI. Matters relating to the staff service conditions of the RBI were held pre-eminently to be matters relating to the affairs of the RBI. Thereafter, and most significantly, the Supreme Court went on to hold that "to read into the provisions of Section 58(1) a prohibition against the issuance of .... administrative directions or circulars is patently to ignore the scope of wholesome powers conferred upon the Central Board of Directors of RBI by Section 7(2) of the Act". Thus, the Supreme Court held that the impugned circular dated 27 April 1978 issued by the RBI was strictly within the confines of Section 7(2) of the RBI Act. So long as no Regulation had been framed to cover the field, the Supreme Court held that the Central Board of Directors of RBI had the power to issue administrative circulars to govern staff service conditions.

188. One may analogise the position that existed in ***V.T. Khanzode*** with the present case. As in the case of ***V.T. Khanzode***, the power to

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take an administrative or an executive decision, so long as it is exercised by the NCTE for the purposes of coordination and monitoring of teacher education and its development in the country has necessary to be regarded as *intra vires* the power conferred on the NCTE by Section 12 of the Act and, *inter alia*, by Clause (c) thereof.

189. "Monitoring" is defined, in P. Ramanatha Iyer's Advanced Law Lexicon as to "check and adjust to test; to watch, to observe; to keep track of; *regulate* etc." Thus, the word "monitor" is also a word of compendious import. Between them, the words "coordinate and monitor, as employed in Clause (c) of Section 12 of the NCTE Act confer wide powers on the NCTE to take all necessary steps as are necessary to ensure that the teacher education system in the country keeps track with the latest developments and functions cohesively and in an integrated fashion.

190. Clause (n) of Section 12 is a residuary clause, empowering the NCTE to perform all other functions as may be entrusted to it by the Central Government.

Section 20 – Re. argument that Regional Committees are independent bodies and that the NCTE could not interfere with, or curtail, exercise of the functions by the Regional Committees under Section 14 or Regulation 7

191. Section 20 of the NCTE Act envisages establishment of the Regional Committees by notification by the NCTE. Thus, the Regional Committees are creatures of notifications issued by the NCTE, and not of notifications issued by the Central Government.

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They are, therefore, essentially creatures of the NCTE. This aspect assumes importance in view of para 4 of the statements of objects and reasons behind the NCTE Bill which talks of "*delegation of various powers* to Regional Committee". This position is additionally underscored by the fact that Section 20 figures in Chapter V of the NCTE Act, which is titled "Bodies of the Council". Thus, the Regional Committees are essentially bodies of the NCTE, and exercise their functions as delegates of the functions which otherwise inhere in the NCTE.

192. Mr. Sharawat's attempt to pigeonhole Sections 14 to 16 of the NCTE Act into an independent compartment dealing with the powers of the Regional Committees with which, according to him, the NCTE cannot interfere, fails to convince. The Regional Committees, to repeat, are creatures of the NCTE. They are "bodies" of the NCTE. The powers that are vested in the Regional Committees are essentially the powers of the NCTE which stand delegated to them "*for effective implementation of the functions of the Council*". Thus, the functions performed by the Regional Committees, when viewed in the context of para 4 of the statements of objects and reasons of the NCTE Bill, are functions of the NCTE which stand delegated to the Regional Committees. They are not, therefore, as Mr. Sharawat would seek to submit, independent functions, with which the NCTE has no scope to interfere.

<u>Section 21</u>

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193. The overarching authority of the NCTE over the Regional Committees is further emphasized by Section 21 of the NCTE Act which empowers the NCTE, to, by notification, terminate a Regional Committee, if the NCTE is of the opinion that a Regional Committee is unable to perform, or has persistently defaulted in the performance of, duties imposed on it by the NCTE, or has exceeded or abused its powers, or has, wilfully or without sufficient cause, failed to comply with any direction issued by the NCTE for carrying out the provisions of the Act. This is another significant provision. The NCTE is, therefore, empowered to issue directions to the Regional Committees to carry out the provisions of the NCTE Act. Any failure by the Regional Committees to comply with the said directions issued by the NCTE, empowers the NCTE to terminate the Regional Committee. That apart, the NCTE has obviously been clothed with overall superintendence over the exercise of their functions by the Regional Committees. Any default in performance, by the Regional Committees, of their duties can result in their termination, forthwith, by the NCTE.

194. Thus, even in exercise of the powers conferred on it by Section 14 of the NCTE Act, the Regional Committee acts under the overall superintendence of the NCTE. If there is a default in exercise, by the Regional Committee, of its functions under Section 14, the NCTE can forthwith terminate the Regional Committee. Similarly, the NCTE is also empowered to issue directions to Regional Committee within the general power conferred on NCTE under Section 12 of the NCTE Act, *which may also involve and include the manner of exercise of*

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functions by the Regional Committee under Section 14. Any such direction, if issued, has to be obeyed and implemented by the Regional Committee. If the Regional Committee fails to do so, it can invite punitive action from the NCTE under Section 21(1).

195. The submission of Mr. Sharawat that the Regional Committee and the NCTE, under the NCTE Act, effectively in independent silos, with the NCTE being powerless to interfere with the exercise of functions by the Regional Committee under Section 14 does not, therefore, appear to be sound. Even in the exercise of its functions under Section 14 of the NCTE Act, the Regional Committee acts under the overall superintendence of the NCTE. Indeed, the very exercise of functions by the Regional Committee under Section 14 is as a delegate of the NCTE, the delegation being aimed at effective implementation of the functions of the NCTE.

Section 32

196. Clauses (e) and (f) of Section 32(2) of the NCTE Act are also of relevance in this context. Section 32 deals with the power to make Regulations. Significantly, the power to make Regulations is conferred, not on the Central Government, but on the NCTE. The NCTE is empowered, by Section 32(1), to make Regulations by way of notification in the official gazette, generally to carry out the provisions of the Act. Thus, the power to make Regulations, even for the purposes of carrying out the provisions of Section 14 of the NCTE Act, vests with the NCTE.

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197. In particular, Clauses (e) and (f) of Section 32(2) empower the NCTE to, by regulation, provide for the form and manner in which an application for recognition is submitted to the Regional Committee under Section 14(1), as well as the conditions required for proper functioning of the institution and the conditions for granting recognition under Section 14(3)(a). Thus, the exercise of power by the Regional Committee under Section 14 is also conditioned and governed by regulations framed by the NCTE under Sections 32(1) and 32(2). These provisions, therefore, additionally indicate that the Regional Committee, exercising jurisdiction under Section 14, does not act wholly independently, but acts in accordance with the Regulations framed by the NCTE for the said purpose.

Section 29 – may not apply

198. Another provision of some importance in the present case, and on which Mr. Balbir Singh has placed great reliance, is Section 29 of the NCTE Act. Section 29 binds the NCTE, in the discharge of its functions and duties under the NCTE Act, by such directions on questions of policy, as the Central Government may give in writing to it from time to time.

199. Even *de hors* Section 29, the decision not to proceed with the applications submitted by the petitioners, which can be brought within the scope of Clause (c) in Section 12 of the NCTE Act, is competent and within the ambit of the jurisdiction vested in the NCTE by the

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NCTE Act. Mr. Balbir Singh, however, additionally seeks to contend that the provisions of the NEP 2020, inasmuch as they stand reduced to writing, partake of the character of "directions on questions of policy", given by the Central Government to the NCTE within the meaning of Section 29(1) of the NCTE Act.

200. In this context, Mr. Balbir Singh has placed reliance on paras 15.2 to 15.4 of the NEP 2020[86].

201. It may not be possible to accept, at its face, Mr. Balbir Singh's submission that paras 15.2 to 15.4 of the NEP 2020 amount to written directions by the Central Government to the NCTE within the meaning of Section 29(1) of the NCTE Act. There are no directions in the said paragraphs from the NEP 2020. They merely note that stand-alone TEIs were not attempting serious teacher education but were selling degrees for a price, and that the regulatory efforts which had thus far been implemented had not been effective in curbing malpractices in the system or maintaining quality standards in teacher education. The NEP 2020 also recognises the need for revitalisation of the teacher education sector and its regulatory system through radical action, so as to raise standards and restore integrity, credibility, efficiency and quality in the teacher education system. For this purpose, the NEP mandates that all teacher education programs must be conducted in composite MDIs. All stand-alone TEIs are also required, as per para 15.4 of the NEP 2020, to convert to MDIs by 2030.

[86] Refer para 76 *supra*

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202. Howsoever widely these paragraphs from the NEP 2020 may be read, they cannot be seen as directives to the NCTE not to process pending applications by stand-alone TEIs, or to return such applications. I am not, therefore, inclined to accept Mr. Balbir Singh's submission that, in deciding, in the 55th GBM, not to continue to process the applications of the petitioners, and to return the said applications, the NCTE was exercising jurisdiction vested in it by Section 29 of the NCTE Act.

Significance of the NEP 2020

203. That said, however, the provisions of the NEP 2020, on which Mr. Balbir Singh placed reliance, are not without relevance. They embody the decision, in the NEP 2020, to phase out stand-alone TEIs and require stand-alone TEIs to convert to MDIs by 2030. They also recognise the fact that stand-alone TEIs were often found to be indulging in malpractices and were, as per the Justice J.S. Verma report, not attempting serious teacher education but were merely selling degrees for a price.

204. In Agenda Items 2 and 5 of the 55th GBM of the NCTE, with which the petitioners are aggrieved, it is made clear that the decisions are in the context of the NEP 2020 and for furthering its aims and objectives.

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205. The impugned agenda items note that the NEP 2020 recommends introduction of a four year integrated B.Ed. course as the only dual major holistic bachelor's degree in education, which would be offered in MDIs, and that, by 2030, this would be the minimal qualification for a person to become a teacher. Diploma level teacher education courses, it is noted, were not in line with paras 15.4 and 15.5 of the NEP 2020. In exercise of the powers conferred on the NCTE by Section 12 of the NCTE Act, to take all such steps as it may think fit for ensuring planned and coordinated development of teacher education, a decision was taken not to process applications filed for establishing stand-alone TEIs providing single courses. It was for this reason that the NCTE, in the 55th GBM, took a decision to return such applications to the concerned applicants.

206. In Agenda Item 5, it was further noted that the NEP 2020 had brought about a paradigm shift in the teacher education sector, in line with which the NCTE was also revamping its various curricula to bring them in line with the NEP 2020. Existing teacher education courses, being provided by TEIs, were noted as not being in alignment with these changed aspects. All these changes, particularly the changes in curricula, were observed as necessitating changes in the norms, standards and regulations. For all these reasons, too, therefore, it was found not feasible to process pending applications.

207. These considerations cannot, by any stretch of imagination, be regarded as invalid or even insufficient to justify the decision not to process pending applications. Even otherwise, the decision is

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fundamentally one of policy in the field of education, with which interference by courts is required to be reduced to the bare minimum, and only in the most exceptional of cases.

208. The decision not to process pending applications has been taken keeping in mind the fact that the courses being provided by stand-alone TEIs are not in sync with the NEP 2020, and do not conform to the standards that the NEP 2020 envisage as being necessary for overall integrated and advanced teacher education in the country.

209. In view thereof, the decision not to process pending applications squarely falls within the scope and ambit of the power vested in the NCTE by Clause (c) in Section 12 of the NCTE Act. The invocation of the said clause in the impugned Agenda Items 2 and 5 in the 55th GBM of the NCTE is, therefore, in the opinion of this Court, wholly justified.

210. Thus, even if it is not possible to accept Mr. Balbir Singh's contention that the impugned decision can be justified under Section 29 of the NCTE Act having been taken to implement policy directions issued by the Central Government, it is nonetheless justified as having been legitimately taken in exercise of the jurisdiction and power vested in the NCTE by Clause (c) in Section 12 of the NCTE Act.

211. The decision in ***Nalanda College of Education***, though brief, is of relevance in this context. Under challenge, in that case, was an order issued by the State Government of Uttarakhand on 16 July 2013,

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deciding not to grant recognition to new B. Ed. Colleges. The respondent Nalanda College of Education ("NCE", hereinafter) applied for increase in intake of seats. The opinion of the State Government of Uttarakhand was sought. The State Government commented that the number of pass outs were far in excess of the requirement of teachers and, therefore, recommended that the registration of NCE be cancelled. Obviously aggrieved thereby, NCE challenged the decision. The dispute travelled to the Supreme Court which held that the policy decision of the State government could not be regarded as so arbitrary as to warrant judicial interference under Article 226 of the Constitution of India.

212. This decision, too, therefore, recognizes the primary right of the executive authorities in the matter of taking decisions regarding grant of recognition to educational institutions, keeping in mind the ground situation, including considerations of availability and necessity.

Whether the impugned decisions violate the NCTE Act and the NCTE Regulations

213. The submission, of learned counsel for the petitioners, that the impugned decision to return the petitioners applications without processing is violative of the statutory provisions, is essentially predicated on Section 14 of the NCTE Act and Regulations 5(6) and 7 of the 2014 Regulations. According to learned counsel for the petitioners, once an application for setting up a new institution is submitted under Section 14 of the NCTE Act, it has to proceed,

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inexorably and step-by-step, within the time periods stipulated in that regard, either to acceptance or rejection. The provisions of the NCTE Act and the applicable Regulations do not permit the application to be returned without being processed. Especially in a case in which the LOI already stands issued, Mr. Sharawat would emphasise that the institution concerned is entitled to be granted recognition as sought, subject to the institution recruiting the requisite number of faculty possessing the requisite qualifications and intimating the NCTE in that regard.

214. The entire argument is, therefore, predicated on the principles of vested right and retrospectivity. An institution which submits an application under Section 14 is, by the very factum of submission of the application, vested with the right to see the application proceeding to fruition, which may either be by way of acceptance or rejection. Not proceeding with the application is, therefore, not an option available with the NCTE. By basing the decision not to proceed with the applications submitted by the petitioner's on the basis of the proposals contained in the 55th GBM of the NCTE, it is sought to be submitted that, by an executive action, the NCTE retrospectively divested the petitioners of the right which vests in them by Section 14 read with the NCTE Regulations.

215. These submissions already stand answered by the discussion hereinabove. To reiterate, however, the submission of the applications by the petitioners and even the orders passed by this Court in that regard did not result in any vested right in the petitioners to have their

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applications processed. In so far as Regulations 5(6) and 7 of the 2014 Regulations are concerned, they merely stipulate the manner in which the applications are to be processed by the Regional Committees. A right vests in the institution, if any, only once the applications are processed and recognition granted. Prior thereto, even issuance of a LoI cannot result in vesting of any right in the petitioners. If, during the state of processing of the applications of the petitioners, the legal position changes, and the petitioners become disentitled to establish their institutions, as they are stand alone in nature, the Court cannot direct the Regional Committees to continue to process the petitioners' applications despite the change in law.

216. The NCTE, as already noted, exercises overarching authority over the Regional Committees. The decision not to continue to process the petitioners' applications and, therefore, to return the applications to the petitioners, is legitimately relatable to clause (c) in Section 12 of the NCTE Act. In view thereof, the petitioners cannot insist that, despite such legitimate exercise of its power by the NCTE, as manifested by the impugned decisions taken in the 55th GBM, their applications, seeking establishment of fresh stand alone institutions should nonetheless continue to be processed by the Regional Committee.

217. In fact, passing of any such direction would be clearly illegal. The Court cannot ask a public authority to act in violation of the law. The law which applies is the law which is in existence at the time when the petitioners' applications are processed and allowed/rejected,

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and not the law which was in existence at the time when the applications were submitted, as held by the Supreme Court in ***Howrah Municipal Corporation.*** The law that governs the petitioners is, therefore, the impugned decision, taken in the 55th GBM of the NCTE. As already noted, this decision is not purely executive in character and is taken by the NCTE in exercise of the authority conferred on it by clause (c) of Section 12 of the NCTE Act. By operation of Section 21(1), this decision binds the Regional Committees. The Regional Committees cannot, therefore, continue to process the petitioner's applications in the teeth of the decision taken by the NCTE in the 55th GBM, nor can the Court mandate the Regional Committees to do so.

218. I am in agreement, therefore, with Mr. Balbir Singh that Regulation 5(6) and Regulation 7 of the 2014 Regulations cannot apply where, because of the change in law in the interregnum, the applications of the petitioners have become disentitled from being further processed. If the applications are entitled to processing, no doubt such processing would have to take place within the statutory time-bound framework envisaged in Regulation 7. If, however, as in the present case, the petitioners' applications are not entitled to be processed, the time-periods stipulated in Regulation 7 and for that matter, Regulation 5(6), would have no application.

Re: Allegation of violation of Article 19(1)(g)

219. Learned counsel for the petitioners also sought to contend that, by returning the petitioners' applications, the petitioners' fundamental

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right under Article 19(1)(g) of the Constitution of India stood violated. Mr. Sharawat has further sought to contend that the impugned decisions taken by the NCTE in the 55th GBM do not constitute "law" within the meaning of Article 19(6) of the Constitution of India.

220. Article 19(6) in fact does not even come in for application as there is no violation of any fundamental right vested in the petitioners by Article 19(1)(g). There is no absolute proscription on the petitioners setting up an institution for imparting teacher education. Where, however, the NEP 2020 specifically envisages discontinuance of TEIs and the 2014 Regulations and the 2021 Regulations also required TEIs under the former to be composite institutions and under the latter to be MDIs, the petitioners cannot espouse any fundamental right to establish stand alone institutions. The petitioners have every right to set up MDIs. They cannot, however, seek to contend that, even after the impugned decision in the 55th GBM of the NCTE, they continue to retain a fundamental right for setting up stand-alone TEIs.

221. Even otherwise, as noted in ***Howrah Municipal Corporation,*** no fundamental right is absolute. All fundamental rights are subject to regulation in accordance with law. Article 19(1)(g) of the Constitution of India is also, therefore, subject to Article 19(6) which permits the imposition of reasonable restrictions on the exercise of the said right. The restriction on recognition of stand alone institutions, consequent on the concerns expressed in the NEP 2020, and the resultant decision decision to restrict providing of teacher education to TEIs which, in the first instance, were required to be composite and, after the 2021

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Amendment, to be MDIs, cannot be regarded as an unreasonable restriction, especially in view of the evil that it seeks to curb. The NEP 2020 has specifically made reference to the findings of the Justice J.S. Verma Committee that stand alone TEIs were, instead of providing meaningful teacher education, selling degrees for a price. This, obviously is a pernicious practice which could not be allowed to continue. It was in this background that a conscious and wholesome policy decision was taken to phase out stand alone TEIs. Recognition of new stand alone TEIs would, therefore, completely defeat the purpose of the NEP 2020 and also be in the teeth of the 2014 Regulations, both in their pre-amended as well as in their amended *avatar*.

"Law" within the meaning of Article 19(6)

222. Mr. Sherawat sought to contend that the impugned decision, taken in the 55th GBM of the NCTE, was purely executive in character and that such an executive decision cannot constitute "law" within the meaning of Article 19(6), as could derogate from the fundamental right conferred by Article 19(1)(g). "Law", within the meaning of Article 19(6) would, according to Mr. Sherawat, have to be by way of a legislative enactment, and nothing less.

223. The submission is legally unsound. Article 13(2)[87] forbids the making of any law, by the State, which would take away or abridge fundamental rights. "Law" is defined, in Article 13(3)(a), as "any

[87] (2) The State shall not make any law which takes away or abridges the rights conferred by this Part and any law made in contravention of this clause shall, to the extent of the contravention, be void.

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Ordinance, order, bye-law, rule, regulation, notification, custom or usage having in the territory of India the force of law". Article 19(6) empowers the State from making any law imposing, in the interests of the general public, reasonable restrictions on the exercise of the right conferred by Article 19(1)(g). "The State", for the purposes of Part III of the Constitution, is defined, by Article 12, as including "the Government and Parliament of India and the Government and the Legislature of each of the States *and all local or other authorities within the territory of India or under the control of the Government of India*". The NCTE is also, therefore, "State", for the purposes of Article 19(6). An executive decision taken by the NCTE would also, therefore, constitute "law" for the purposes of Article 19(6). In various contexts, the expression "law" was held to include bye-laws made by the Municipal Board in ***Rashid Ahmed v. Municipal Board***[88], a notification, in ***State of Bombay v. F.N. Balsara***[89], a resolution of the Government fixing dearness allowance, in ***State of Madhya Pradesh v. G.C. Mandawar***[90], any notification or order, in ***Ram Krishna Dalmia v. Justice Tendolkar***[91], a scheme for running motor carriages, in ***H.C. Narayanappa v. State of Mysore***[92], and a Governmental 'order', in ***Narender Kumar v. U.O.I.***[93] In ***Indian and Eastern Newspaper Society v. C.I.T.***[94], the Supreme Court declared:

> "8. When we speak of "law", we ordinarily speak of norms or guiding principles having legal effect and legal consequences. To possess legal significance for that purpose, it must be enacted or

[88] **AIR 1950 SC 163**
[89] **AIR 1951 SC 318**
[90] **AIR 1954 SC 493**
[91] **AIR 1958 SC 538**
[92] **AIR 1960 SC 1073**
[93] **AIR 1960 SC 430**
[94] **(1979) 4 SCC 248**

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> declared by competent authority. The legal sanction vivifying it imparts to it its force and validity and binding nature."

In view of the amplitude of this understanding of the definition of "law" as a jurisprudential concept, there is no reason why the impugned decisions of the NCTE, taken in exercise of the power lawfully conferred on the NCTE by clause (c) in Section 12 of the NCTE Act, would not constitute "law" for the purpose of Article 19(6). Executive decisions are not, *ipso facto*, excluded from the ambit of the expression "law", as Mr. Sherawat would seek to contend.

224. That said, I deem it appropriate to reiterate that, within the framework of the NCTE Act, a decision taken by the NCTE in exercise of the power conferred by clause (c) in Section 12 cannot be likened to an ordinary executive decision taken in exercise of the general administrative power vested in an authority. It is difficult, therefore, to accept the proposition that the NCTE cannot exercise its power under clause (c) of Section 12 to restrict the right of the petitioners to seek recognition of stand alone TEIs. Such a view would seriously derogate from the wide powers that the NCTE Act confers on the NCTE, and may also reduce, to a great extent, the very efficacy of the NCTE Act itself as an instrument of socio-educational progress, as envisaged in its Preamble and the Statement of Objects and Reasons of the NCTE Bill.

225. Inasmuch as the decision to restrict providing of teacher education to MDIs is clearly a reasonable restriction on the right to

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establish TEIs, the restrictions imposed by the 2014 and 2021 Regulations, as also the impugned decision in Agenda Items 2 and 5 of the 55th GBM of the NCTE, are clearly saved by Article 19(6) of the Constitution of India – even if it were to be assumed, *arguendo*, that the impugned decisions inhibit the fundamental right of the petitioners under Article 19(1)(g). In my considered opinion, however, they do not.

Respondents cannot be directed to act in violation of law

226. Mr. Balbir Singh correctly submits that grant of the reliefs sought in these petitions would require the respondents to be directed, by the court, to act in violation of the law. The petitioners are, indisputably, not entitled to recognition under the 2014 Regulations, whether before or after their amendment by the 2021 Amendment Regulations. They may have been eligible for recognition at the time when their applications were submitted, but the law has changed since then. The NEP 2020 has been announced and implemented and, in furtherance of its objectives and recommendations, the 2014 Regulations now stand amended by the 2021 Amendment Regulations which require all fresh TEIs to be MDIs. The petitioners are, undisputedly, not MDIs. Their recognition cannot, therefore, be directed. Any such direction would amount to a mandamus to the NCTE to act in violation of the 2014 Regulations as amended by the 2021 Amendment Regulations. Such a mandamus cannot be issued. It would also amount to directing the NCTE to act against the impugned decisions taken in Agenda Item 2 and 5 of the 55th GBM of the NCTE. I have already found the decisions to be legally valid and

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sustainable, and issued within the scope of the power conferred on the NCTE by clause (c) in Section 12 of the NCTE Act. The NCTE cannot, therefore, be directed, by court, to act against the said decisions. A court cannot direct a public authority to violate the law.

Doctrine of implied powers

Bidi Leaves and Tobacco Manufacturers' Association

227. Mr. Balbir Singh has placed reliance on this decision as recognizing the doctrine of implied powers.

228. The Bidi, Bidi Leaves and Tobacco Manufacturers' Association (hereinafter "the BLTA") challenged, before the High Court of Bombay, clauses 3 to 7 of a notification dated 11 June 1958, issued under Section 5 of the Minimum Wages Act, 1948 ("the MWA", hereinafter). The petitioners were bidi manufacturers. Minimum rates of wages payable to workers employed in their factories already stood fixed, by the State of Maharashtra, under the MWA. The contract between the bidi manufacturers and the workers entitled the workers to payment only for good bidis, and not for bad bidis, also known as *chhats*, which were rejected by the employers. Disputes arose because of what the workers claimed was arbitrary rejection of bidis by the manufacturers, thereby depriving them of their rightful wages. The Notification dated 11 June 1958 was intended to remedy this situation. Of the seven clauses in the Notification, Clauses 1 and 2 fixed minimum rates of wages, and the competence of the State to do so was

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not called into question. Clauses 3 to 6, however, envisaged how to deal with the problem of *chhat* bidis and assess which were entitled for rejection. The Supreme Court delineated the issue before it thus, in para 16 of the report:

> "16. But, it is necessary to remember that no claim can be made for such broad jurisdictional power by the respondent when it purports to issue a notification under the provisions of the Act. *These powers and authority would necessarily be conditioned by the relevant provisions under which it purports to act, and the validity of the impugned notification must therefore be judged not by general considerations of social justice or even considerations for introducing industrial peace; they must be judged solely and exclusively by the test prescribed by the provisions of the statute itself.* It appears that in 1956 before Vidarbha became a part of the State of Bombay the State Government of Madhya Pradesh had made a comprehensive reference for the arbitrator by the State Industrial Court between the bidi manufacturers of Bhandara District and their employees. In this dispute all the material issues arising from the prevailing practice which authorised employers to reject chhat bidis had been expressly referred for adjudication. Subsequently, when the impugned notification was issued the respondent apparently took the view that what could have been achieved by reference to the arbitration of State Industrial Court may well be accomplished by issuing a notification under Section 5 of the Act. *It may be that there is substance in the grievance made by the employees that the practice of rejecting chhat bidis often leads to injustice and deprives them of the wages legitimately earned by them by rolling the said bidis and there can be no doubt that if a comprehensive reference is made for the decision of this industrial dispute between the bidi manufacturers and their employees an award may well be passed which will resolve this dispute; but the question which falls for our decision is whether the relevant provisions of the Act authorised the State Government to make rules for the decision of the dispute in that behalf and for the payment of minimum rates of wages on the basis of such decision? In our opinion, the answer to this question has to be in the negative*."

The Supreme Court went on, therefore, to frame the following question, in para 17:

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> "What is the extent of the authority conferred on the respondent in fixing or revising minimum rates of wages under the relevant provisions of the Act?"

229. The Supreme Court observed that the definition of "wages" in Section 2(h) permitted only change in the rate of minimum wage by the appropriate Government, and did not permit it to alter any of the other terms of the contract. The Government was empowered, by the MWA, to determine the minimum wages which would be payable to the workers if the other terms and conditions in the contract were fulfilled. Inasmuch as Clauses 3 to 7 of the notification under challenge purported to deal with the terms of the contract between the bidi manufacturers and workers other than remuneration, the Supreme Court held that, howsoever laudable their intent and purpose might have been, they were beyond the competence of the Government. Paras 18 and 19 of the report, which so hold, read thus:

> "18. It would, however, be noticed that in defining "wages" clause 2(h) postulates that they would be payable if the other terms of the contract of employment are fulfilled. That is to say, in authorising the fixation of minimum rates of wages the other terms of the contract of employment have always to be fulfilled. The fulfilment of the others terms of the contract is a condition precedent for the payment of wages as defined under Section 2(h) and it continues to be such a condition precedent even for the payment of the minimum rates of wages fixed and prescribed by the appropriate Government. *The significance of the definition contained in Section 2(h) lies in the fact that the rate of wages may be increased but no change can be made in the other terms of the contract. In other words, the Act operated on the wages and does not operate on the other terms of the contract between the employer and the employee. That is the basic approach which must be adopted in determining the scope and effect of the powers conferred on the appropriate Government by the relevant provisions of the statute authorising it to prescribe minimum rates of wages or to revise them. What the appropriate Government is authorised to do is to prescribe, fix or revise wages and wages are defined to be remuneration payable to the employees if the terms of*

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the contract of employment, express or implied, were fulfilled. This definition runs, as it inevitably must, through the material provisions of the Act and its importance cannot therefore be ignored.

19. Bearing this fact in mind let us examine the impugned clauses of the notification. Clauses 1 and 2 clearly fall within the purview of the power conferred on the respondent because they do no more than prescribe the minimum rates of wages as therein specified; but *clauses 3 to 7 clearly and unambiguously purport to deal with the terms of the contract between the parties other than that relating to the remuneration. These clauses are obviously intended to deal with the dispute between the employers and their employees as to how bidis should be discarded and in what proportion and what should be the procedure to be followed in regard to the payment for such discarded bidis.* In appreciating the true effect of these clauses it is necessary to recall that the parties are agreed about the practice at present prevailing which must be taken to represent the terms of the contract either express or implied. According to the said practice the employer decides which bidis should be discarded, he retains the discarded bidis and pays only for such bidis as are accepted by him. *It is plain that the impugned clauses of the notification purport to modify these terms in material particulars and that would be plainly outside the jurisdiction of the authority of the respondent.* It may well form the subject-matter of reference for industrial adjudication but it cannot form the subject-matter of a notification prescribing minimum rates of wages under Sections 3, 4 or 5. *It is conceded by the respondent that there is no express provision in the Act which authorised the setting up of the machinery as prescribed by clause 3 and 4 or for laying down the manner in which the employer should make payment for the discarded bidis.*"

(Emphasis supplied)

230. The Government, however, sought to justify clauses 3 to 7 of the notification by pleading the doctrine of implied power. The Supreme Court outlined the boundaries of the doctrine thus, in para 20 of the report:

"20. *"One of the first principles of law with regard to the effect of an enabling act", observes Craies, "is that if a Legislature enables something to be done, it gives power at the same time by necessary implication to do everything which is indispensable for the purpose of carrying out the purposes in view [Craies on*

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Statute Law, p. 239] ". The principle on which this doctrine is based is contained in the legal maxim "Quando lex aliquid concedit concedere videtur et illud sine quo res ipsa ease non potest". This maxim has been thus translated by Broom thus:"whoever grants a thing is deemed also to grant that without which the grant itself would be of no effect". Dealing with this doctrine Pollock, C.B., observed in ***Michael Fenton and James Fraser v. John Stephen Hampton***[95] "it becomes therefore all important to consider the true import of this maxim, and the extent to which it has been applied. After the fullest research which I have been able to bestow, I take the matter to stand thus : *Whenever anything is authorised, and especially if, as matter of duty, required to be done by law, and it is found impossible to do that thing unless something else not authorised in express terms be also done, then that something will be supplied by necessary intendment". This doctrine can be invoked in cases "where an Act confers a jurisdiction it also confers by implication the power of doing all such acts, or employing such means, as are essentially necessary to its execution". In other words, the doctrine of implied powers can be legitimately invoked when it is found that a duty has been imposed or a power conferred on an authority by a statute and it is further found that the duty cannot be discharged or the power cannot be exercised at all unless some auxiliary or incidental power is assumed to exist. In such a case, in the absence of an implied power the statute itself would become impossible of compliance. The impossibility in question must be of a general nature so that the performance of duty or the exercise of power is rendered impossible in all cases. It really means that the statutory provision would become a dead-letter and cannot be enforced unless a subsidiary power is implied. This position in regard to the scope and effect of the doctrine of implied powers is not seriously in dispute before us.* The parties are at issue, however, on the question as to whether the doctrine of implied powers can help to validate the impugned clauses in the notification."

(Emphasis supplied)

231. Significantly, the Supreme Court went on to reject, in para 21 of the report, the stand of the Government, not on the ground that the doctrine of implied power was invalid, but that it could not be invoked to empower the doing of an act which was expressly excluded or forbidden by the statute. Specifically, the Supreme Court observed

[95] **(1857-1859) 117 R.R. 32 at p. 41 : II Moo. PC. 347**

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that, as the MWA did not permit the Government to alter the terms of the contract between the employers and the workmen, that power could not be conceded to the Government by invoking the doctrine of implied power. Para 21, which so holds, read:

> "21. The respondent strenuously contends that clauses 1 and 2 of the notification which have prescribed the minimum rates of wages per 1000 bidis would become ineffective unless clauses 3 to 7 supplement them. The argument is that by improper or dishonest exercise of the power conferred on the employer by the contract of employment to discard chhat bidis the employees would be cheated of their legitimate due wages under clauses 1 and 2 and so, in order to make the provisions of clause 1 and 2 effective some subsidiary provisions had to be made for settling the dispute between the employer and his workmen in regard to chhat bidis. As we have already observed, the grievance made by the employees on the score of improper rejection of bidis may in many cases be well founded; but *the seriousness of the said grievance and the urgent necessity to meet it would hardly be a proper basis for invoking the doctrine of implied power where the provisions of the statute are quite clearly against the assumption of such implied power.* The definition of the term "wages" postulates the binding character of the other terms of the contract and brings within the purview of the Act only one term and that relates to wages and no other. That being so, it is difficult to hold that by implication the very basic concept of the term "wages" can be ignored and the other terms of the contract can be dealt with by the notification issued under the relevant provisions of the Act. *When the said other terms of the contract are outside the scope of the Act altogether, how could they be affected by the notification under the Act under the doctrine of implied powers?*"
>
> (Emphasis supplied)

232. The Supreme Court went on to give two more reasons for rejecting the Government's stand before it, but they are not of particular relevance for the dispute at hand. What is of relevance is, however, the position, which flows from this decision, that, while the conferment of power on an authority to do an act does carry with it the power to do all such other acts as are necessary to effectuate the

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power conferred, that cannot extend to acts which are forbidden by the statute.

233. In the context of quasi-judicial powers, the doctrine of implied powers stands recognized by the Supreme Court in ***I.T.O. v. M.K. Mohd Kunhi***[96]. The Supreme Court was concerned, in that case, with the issue of whether the Income Tax Appellate Tribunal had the power to grant stay of the order against which the assessee had appealed to it. The statute did not confer any such power. The Supreme Court answered the issue in the affirmative, invoking the doctrine of implied powers. Paras 6 and 7 of the report read thus:

> "6. There can be no manner of doubt that by the provisions of the Act or the Income Tax Appellate Tribunal Rules, 1963 powers have not been expressly conferred upon the Appellate Tribunal to stay proceedings relating to the recovery of penalty or tax due from an assessee. At the same time it is significant that under Section 220(6) the power of stay by treating the assessee as not being in default during the pendency of an appeal has been given to the Income Tax Officer only when an appeal has been presented under Section 246 which will be to the Appellate Assistant Commissioner and not to the Appellate Tribunal. There is no provision in Section 220 under which the Income Tax Officer or any of his superior departmental officers can be moved for granting stay in the recovery of penalty or tax. It may be that under Section 225 notwithstanding that a certificate has been issued to the Tax Recovery Officer for the recovery of any tax (the position will be the same with regard to penalty) the Income Tax Officer may grant time for the payment of the tax. In this manner he can probably keep on granting extensions until the disposal of the appeal by the Tribunal. It may also be that as a matter of practice prevailing in the department the Commissioner or the Inspecting Assistant Commissioner in exercise of administrative powers can give the necessary relief of staying recovery to the assessee but that can hardly be put at par with a statutory power as is contained in Section 220(6) which is confined only to the stage of pendency of an appeal before the Appellate Assistant Commissioner. The argument advanced on behalf of the appellant before us that in the

[96] **AIR 1969 SC 430**

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absence of any express provisions in Sections 254 and 255 of the Act relating to stay of recovery during the pendency of an appeal it must be held that no such power can be exercised by the Tribunal, suffers from a fundamental infirmity inasmuch as it assumes and proceeds on the premise that the statute confers such a power on the Income Tax Officer who can give the necessary relief to an assessee. The right of appeal is a substantive right and the questions of fact and law are at large and are open to review by the Appellate Tribunal. Indeed the Tribunal has been given very wide powers under Section 254(1) for it may pass such orders as it thinks fit after giving full hearing to both the parties to the appeal. If the Income Tax Officer and the Appellate Assistant Commissioner have made assessments or imposed penalties raising very large demands and if the Appellate Tribunal is entirely helpless in the matter of stay of recovery the entire purpose of the appeal can be defeated if ultimately the orders of the departmental authorities are set aside. It is difficult to conceive that the legislature should have left the entire matter to the administrative authorities to make such orders as they choose to pass in exercise of unfettered discretion. The assessee, as has been pointed out before, has no right to even move an application when an appeal is pending before the Appellate Tribunal under Section 220(6) and it is only at the earlier stage of appeal before the Appellate Assistant Commissioner that the statute provides for such a matter being dealt with by the Income Tax Officer. *It is a firmly established rule that an express grant of statutory power carries with it by necessary implication the authority to use all reasonable means to make such grant effective* (Sutherland Statutory Construction, 3rd Edn., Articles 5401 and 5402). The powers which have been conferred by Section 254 on the Appellate Tribunal with widest possible amplitude must carry with them by necessary implication all powers and duties incidental and necessary to make the exercise of those powers fully effective. In Domat's Civil Law Cushing's Edn., Vol. 1 at p. 88, it has been stated:

> "It is the duty of the Judges to apply the laws, not only to what appears to be regulated by their express dispositions, but to all the cases where a just application of them may be made, and which appear to be comprehended either within the consequences that may be gathered from it."

7. Maxwell on Interpretation of Statutes, 11th Edn., contains a statement at p. 350 that "where an Act confers a jurisdiction, it impliedly also grants the power of doing all such acts, or employing such means, as are essentially necessary to its execution. *Cui jurisdictio data est, ea quoqe concessa esse videntur, sine quibus jurisdictio explicari non potuit*". An instance

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> is given based on ***Ex parte Martin***[97] that "where an inferior court is empowered to grant an injunction, the power of punishing disobedience to it by commitment is impliedly conveyed by the enactment, for the power would be useless if it could not be enforced".

234. Following ***Mohd Kunhi***, B.N. Kirpal J (as he then was), sitting singly in this Court, held, in ***I.T.C. Ltd v. U.O.I.***[98], that, though the statute did not empower the Customs, Excise and Gold (Control) Appellate Tribunal to grant stay, the power had to be read into the power to decide the appeal, as necessary for its effective exercise.

235. The return of the petitioners' applications can clearly be justified even by application of the doctrine of implied powers. Clause (c) of Section 12 of the NCTE Act empowers the NCTE to decide not to process pending applications for recognition, by stand alone institutions, any further. The power to implement this decision would obviously carry, with it, the power to return such applications. Even in the absence of any specific power to return pending applications, therefore, the decision can be justified on the basis of the doctrine of implied powers.

Conclusion

236. I am unable, therefore, to agree with the petitioners' submissions that the impugned decision, taken in the 55th GBM of the NCTE, not to process the petitioners' applications and, instead, to return them to the petitioners, is illegal or infirm in any way. The

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[97] **(1879) 4 QBD 212, 491**
[98] **1983 (12) ELT 1 (Del)**

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decision, in my view, has legitimately been taken by the NCTE, in exercise of the power conferred by clause (c) in Section 12 of the NCTE Act.

237. The writ petitions, therefore, fail and are accordingly dismissed. There shall be no orders as to costs.

C. HARI SHANKAR, J.

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