

**IN THE HIGH COURT OF JUDICATURE AT HYDERABAD
FOR THE STATE OF TELANGANA AND THE STATE OF
ANDHRA PRADESH**

WRIT PETITION NO.17609 OF 2011

Between:

Jyothi Education Society, represented by its
Secretary B.Anjaiah, and another.

.. Petitioners

and

National Council for Teacher Education,
Rep. by its Regional Director, I Floor,
CSD Building, HMT Post, Bangalore.

.. Respondent

DATE OF JUDGMENT PRONOUNCEMENT : 05th AUGUST,
2015

SUBMITTED FOR APPROVAL:

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THE HON'BLE SRI JUSTICE SANJAY KUMAR

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| 1. | Whether Reporters of Local newspapers
may be allowed to see the judgment? | Yes/No |
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| 2. | Whether the copies of judgment may be marked to Law Reporters/Journals | Yes/No |
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| 3. | Whether Their Lordship wish to see the fair copy of the judgment? | Yes/No |

THE HON'BLE SRI JUSTICE SANJAY KUMAR

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WRIT PETITION NO.17609 OF 2011

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ORDER

The grievance of the petitioners herein was as to the rejection of their application for recognition of the second petitioner college for imparting D.Ed. Course. The said rejection was embodied in the order dated 23.02.2009 of the Regional Director, National Council for Teacher Education, Southern Regional Committee, Bangalore.

The first petitioner society established the second petitioner college in Nalgonda District and submitted application dated 31.12.2004 to the National Council for Teacher Education (NCTE) for necessary permission to also start a D.Ed. college. As no action was taken thereupon, the petitioner-society stated that it re-submitted its application on 27.05.2008 which was returned by the NCTE on the ground that the petitioner-society had not submitted the application as per the new regulations. The petitioner-society stated that it again made an application on 24.12.2008 in the applicable format as per the new regulations notified in the year 2007. As per these regulations, the applicant was relieved of the obligation of obtaining a 'No Objection Certificate' from the State Government, which was necessary under the earlier regulations. The new regulations provided for a deemed approval by the State in the event it failed to communicate its remarks, in response to the applications forwarded to it by the NCTE, within a time frame. The regulations notified in 2007 are stated to have been superseded by

subsequent regulations notified in August, 2009. However, ignoring this factual position, by the impugned order dated 23.02.2009, the NCTE rejected the petitioner-society's application for recognition of D.Ed. Course. Aggrieved thereby, the first petitioner society and the second petitioner college are before this Court.

Though the matter has been pending on the file of this Court for over four years, no counter-affidavit has been filed by the NCTE.

Sri K.Ramakanth Reddy, learned Standing Counsel for the NCTE, would however submit that there is a delay on the part of the petitioners in approaching this Court as the writ petition was filed only in the year 2011, though the application was rejected by the NCTE in February, 2009. He would further state that the petitioners herein cannot take advantage of the relief granted by the Supreme Court in the year 2012 to those whose applications were still pending consideration.

No doubt, the affidavit filed in support of the writ petition is silent as to the delay on the part of the petitioners in challenging the rejection under the order dated 23.02.2009. This writ petition was filed only in June, 2011. However, the issue would be whether the said delay is fatal to the case of the petitioners. It is an admitted fact that the application was made by the petitioner-society as long back as in the year 2004. The NCTE, having permitted the petitioner-society to resubmit its application in the year 2008, took a further five months thereafter to reject the same. Given the amount of time consumed by the NCTE in processing the petitioner-society's application, it is not open to it to seek to non-suit the petitioners on the ground that they did not challenge the rejection of their application immediately. This Court is therefore of the view that the delay in the filing of this writ petition would not have such impact as to render it liable to dismissal on that ground.

In so far as the merits of the case are concerned, the letter dated 29.07.2008 addressed by the NCTE to the petitioners makes for an interesting reading. In the concluding portion of the first paragraph of the said letter, the Regional Director of the NCTE stated that the application

should strictly be submitted as per the relevant regulations applicable on the date of application. However, having stated so, he began the next paragraph with a sentence which reads to the effect that as the petitioner-society had not submitted the application as per the new regulations, it could not be processed and was therefore returned. This inherent contradiction in the stand of the NCTE is incomprehensible and Sri K.Ramakanth Reddy, learned counsel, is also unable to shed any light on the same.

Perusal of the impugned order dated 23.02.2009 reflects that the application of the petitioner-society was rejected on the ground that it had failed to fulfill the conditions required under the regulations prevailing at the time the application was submitted as it did not produce a 'No Objection Certificate' from the State. This order again runs contra to the stand of the NCTE in the earlier part of the letter dated 29.07.2008 addressed by it to the petitioner-society.

This being the factual situation, the order passed by the Supreme Court on 10.09.2013 in **RASHTRASANT T.M.S. & S.B.V.M.C.A. VID V/s. GANGADAR NILKANT SHENDE**^[1] puts the matter beyond the pale of controversy. The issue before the Supreme Court was as to the grant of recognition by the NCTE for establishment of new teacher training colleges/institutions and permission to existing colleges/institutions to run teacher training courses. In the context thereof, the Supreme Court observed that those who are desirous of establishing teacher education colleges/institutions shall be free to make application in accordance with the new regulations. Significantly, the Supreme Court directed that all pending applications should also be decided in accordance with the new regulations.

It is not in dispute that the earlier regulations did not explicitly stipulate that they would be either applicable or inapplicable to pending applications. Normally, the law as applicable on the date of submission of the application would govern the processing of such application, but in

a case of this nature where the application was not processed for a long time and in the meanwhile there is a change in the regulations, the question would arise whether the normal rule should be applied. The NCTE itself did not think so as is clear from its letter dated 29.07.2008, whereby it wanted the petitioner-society to pay the requisite amounts as per the new regulations. Having adopted this stance, the NCTE surprisingly backtracked and rejected the petitioner-society's application thereafter by taking shelter under the old regulations. As the Supreme Court has now stated that all pending applications are to be decided in the light of the new regulations, this controversy is set at rest.

Sri K. Ramakantha Reddy, learned counsel, would however contend that the direction of the Supreme Court would be applicable only to pending applications and would not apply to the case of the petitioner-society as its application has already been rejected. This contention, though appealing on the face of it, is liable to be rejected. Once the NCTE denied recognition to the petitioner-society by adopting a wholly unreasonable stand and rejected its application, such rejection cannot withstand the scrutiny of law. This Court has no hesitation in holding that the rejection of the petitioner-society's application by the NCTE by taking recourse to the old regulations contrary to its own stand under the letter dated 29.07.2008 would render the impugned order dated 23.02.2009 liable to be set aside. In consequence, the application of the petitioner-society would revive and there is no reason as to why the benefit granted by the Supreme Court vis-à-vis pending applications should be denied to the petitioner-society, whose application now stands revived.

The writ petition is therefore allowed. The impugned order dated 23.03.2009 is set aside. The NCTE shall reconsider the application of the petitioner-society in accordance with the new regulations. In the event the petitioner-society falls short on any aspect as per the new regulations, the NCTE shall give it a reasonable opportunity to make good such shortcomings. The NCTE shall thereafter process its application in accordance with law and take appropriate action in the matter. Pending

miscellaneous petitions shall stand closed in the light of this final order.
No order as to costs.

SANJAY KUMAR, J

05th AUGUST, 2015
PGS

[\[1\]](#) Petitions for Special Leave to Appeal (Civil) Nos.4247-4248/2009