

**THE HON'BLE SRI JUSTICE RAMESH RANGANATHAN**

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**Writ Petition No.13438 of 2013**

**ORDER:**

This writ petition is preferred against the order passed by the 1<sup>st</sup> respondent dated 13.04.2013 rejecting the appeal preferred by the petitioner.

The petitioner-society was hitherto running a college wherein B.Ed. was offered as a course of study. Proposing to withdraw the recognition granted to the petitioner earlier, the second respondent issued show cause notice dated 07.02.2012 highlighting various deficiencies. The petitioner submitted their reply thereto on 22.02.2012, contending that they had complied with the deficiencies referred to in the show cause notice. Thereafter, a final show cause notice dated 03.09.2012 was issued enumerating certain deficiencies which, according to the petitioner, varied from the deficiencies pointed out in the earlier show cause notice dated 07.02.2012. The petitioner submitted their reply on 23.09.2012, to the final show cause notice dated 03.09.2012, claiming to have complied with each of the deficiencies. The 2<sup>nd</sup> respondent passed an order on 20.11.2012 withdrawing the recognition granted to the petitioner. Aggrieved thereby, the petitioner preferred an appeal to the 1<sup>st</sup> respondent. On the said appeal being rejected, by proceedings dated 13.04.2013, the petitioner has invoked the jurisdiction of this Court.

Sri S.Sriram, learned counsel for the petitioner, would draw attention of this court to the order passed by the 1<sup>st</sup> respondent-appellate authority dated 13.04.2013, in support of his submission that the said order is bereft of reasons and suffers from non-application of mind; and the 1<sup>st</sup> respondent has merely referred to the conclusions of the 2<sup>nd</sup> respondent in their order dated 20.11.2012, albeit after making subtle changes to the language used therein, and has passed a cryptic order that

***“after perusal of the documents, memorandum of appeal, affidavit and after considering oral arguments advanced during the hearing, the Council decided to reject the appeal”***

Learned Counsel would submit that the 1<sup>st</sup> respondent has neither considered nor dealt with any of the objections put forth in the appeal filed by the petitioner, with respect to the deficiencies pointed

out by the 2<sup>nd</sup> respondent in the order under appeal.

It does appear from the grounds of appeal, filed by them before the 1<sup>st</sup> respondent, that the petitioner has filed its objections to each of the nine deficiencies which weighed with the 2<sup>nd</sup> respondent-original authority in withdrawing the recognition granted to them earlier. Along with the appeal, the petitioner also appears to have filed several documents which are reflected in the material papers index to the appeal. From the impugned order, passed by the 1<sup>st</sup> respondent-appellate authority, it is evident that six of the nine deficiencies, which formed the basis of the order of the 2<sup>nd</sup> respondent for withdrawal of the recognition granted to the petitioner-college earlier, has merely been noted and, after recording the conclusion extracted hereinabove, the appeal was rejected. None of the objections raised by the petitioner in the appeal filed by them before the 1<sup>st</sup> respondent, to the deficiencies pointed out by the 2<sup>nd</sup> respondent in the order withdrawing the recognition granted to the petitioner earlier, have even been adverted to, much less considered and dealt with.

Sri S.Sriram, Learned counsel for the petitioner, would place reliance on ***Rani Lakshmi Bai Kshetriya Gramin Bank vs. Jagdish Sharan Varshney*** and ***S.N.Mukherjee vs. Union of India*** in support of his submission that, unlike the order of the original authority, an order of affirmance need not contain elaborate reasons; brief reasons must, nonetheless, be assigned even in an order of affirmance; and, to take a contrary view, would mean that the appellate authority can dismiss the appeal by a one-line order stating that they agree with the view of the lower authority. Learned counsel would also place reliance on a judgment of the Madras High Court, in ***C.S.K. Educational Trust v. National Council for Teachers Education***, (Judgment in W.P.No.31205 of 2013 dated 14.08.2014), wherein a similar order, passed by the appellate authority under the very same Act, was faulted for absence of reasons for rejection of the appeal, and in confirming the order of the original authority.

On the other hand Sri K.Ramakanth Reddy, learned Standing Counsel for the respondents, would submit that the reasons given in the order of the appellate authority, being an order affirming the order of the original authority, are adequate. On being asked to point out the reasons assigned by the appellate authority, to the objections put forth by the petitioner in the grounds of appeal, learned standing counsel would submit that the deficiencies pointed out in the order are the reasons for rejection.

Section 18(1) of the National Council for Teacher Education Act, 1993 (for short “the Act”) enables any person, aggrieved by an order

made under Section 14 or Section 15 or 17 of the Act, to prefer an appeal to the Council within such period as may be prescribed. Under the proviso to Section 18(4) of the Act, the Council is required to give a reasonable opportunity to the appellant to present its case before disallowing the appeal.

The petitioner preferred an appeal against the order, passed by the 2<sup>nd</sup> respondent under Section 17(1) of the Act, withdrawing the recognition granted to them earlier. As noted hereinabove, the six deficiencies referred to in the impugned order of the 1<sup>st</sup> respondent-appellate authority are the very same six, of the nine, deficiencies referred to by the 2<sup>nd</sup> respondent in the order passed under Section 17(1) of the Act. In the grounds of appeal, the petitioner has dealt with each of those deficiencies and has put forth their objections thereto. Mere reiteration of those deficiencies, without considering and dealing with any of the objections urged by the petitioner in the grounds of appeal, would not satisfy the requirement of a proper consideration of the appeal, by the 1<sup>st</sup> respondent, in terms of Section 18(1) of the Act.

The statutory remedy of an appeal would be rendered meaningless and illusory, if the contentions urged in the appeal are not even noted and considered on its merits. While this Court would not sit in appeal against orders passed by statutory authorities, it is only if reasons are assigned in the order would it be possible for this Court, within the limited parameters of judicial review, to examine whether the appellate order accords with law or not. While the question, whether or not the deficiencies have been complied with and whether or not the 2<sup>nd</sup> respondent was justified in withdrawing the recognition granted to the petitioner earlier, in view of the deficiencies pointed out in the order passed under Section 17(1) of the Act, are matters for the first respondent to consider, such a consideration must be reflected, by assigning reasons, in the order passed in appeal. A cryptic order of rejection of the appeal, merely recording that the grounds urged in the appeal and the oral arguments were considered, would not suffice.

While Sri K.Ramakanth Reddy, learned standing counsel for the respondents, would refer to the counter affidavit filed by the respondents, it is wholly unnecessary for this Court to examine the matter on its merits, as the impugned order is liable to be set aside as it is bereft of reasons.

The writ petition is allowed, and the order under challenge in this Writ Petition, is set aside. The 1<sup>st</sup> respondent shall consider the appeal afresh and, in terms of the proviso to Section 18(4) of the Act, afford the petitioner an opportunity of a personal hearing. A reasoned order,

after considering the petitioner’s objections in the grounds of appeal filed by them, shall be passed thereafter, in accordance with law, at the earliest and, in any event, not later than four (4) weeks from the date of receipt of a copy of this order.

Miscellaneous Petitions pending, if any, shall also stand disposed of. There shall be no order as to costs.

**RAMESH RANGANATHAN, J**

02<sup>nd</sup> April 2015.

Note: Issue C.C. in one (1) week.

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**THE HON’BLE SRI JUSTICE RAMESH RANGANATHAN**

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**Date: 02.04.2015**

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