

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

CWP No.596 of 2015
Date of Decision: 07.04.2015

Baba Pritam Dass Shiksha Samiti

. . . .Petitioner

Versus

The National Council for Teachers Education and another

. . . . Respondents

CORAM: HON'BLE MR.JUSTICE RAKESH KUMAR JAIN

Present: Mr.Pankaj Maini, Advocate,
for the petitioner.

Mr.Nilesh Bhardwaj, DAG, Punjab.

RAKESH KUMAR JAIN, J.

The petitioner has prayed for the issuance of a writ in the nature of mandamus, directing the respondents to consider the proposal form submitted on 28.12.2012, for grant of recognition of D.El.Ed. Course (Diploma in Elementary Education Course) under the new Regulations issued by the respondents on 28.11.2014.

In short, on 28.12.2012, the petitioner applied for grant of recognition of D.El.Ed. course which was rejected by the respondents. The petitioner along with similarly situated other institutions filed writ petitions in which the writ petition filed by the petitioner was CWP No.12310 of 2014. The said writ petition was disposed of on 6.8.2014 in which it was noticed that by virtue of an order passed by the Supreme Court, a Commission was appointed to make recommendations on the basis of which new Regulations were

to be notified and in its order dated 10.9.2013, the Supreme Court had stated that the persons desirous of establishing teachers education colleges/institutes shall make a fresh application in accordance with the new Regulations and all the pending applications shall also be decided in accordance with the new Regulations. It is further observed by the Single Bench that no direction can be given for recognition till Regulations are framed and cases of the petitioners are considered under the new Regulations. Against the order dated 6.8.2014, intra-court appeal bearing LPA No.1585 of 2014 was filed by the petitioner, which was disposed of on 22.9.2014 concurring with the view taken by the learned single Judge. The petitioner has alleged that the new Regulations have been notified on 28.11.2014 and has submitted that in view of the order passed by the Supreme Court dated 10.9.2013, since all pending applications were to be decided in accordance with the new Regulations, therefore, the application filed by the petitioner dated 28.12.2012 be treated as a pending application and be considered according to the new Regulations.

Learned counsel for the respondents has submitted that the application filed by the petitioner on 28.12.2012 was already rejected and as a result thereof, the petitioner had filed CWP No.12310 of 2014 and as per the new Regulations dated 28.11.2014, the application received online from 1st March to 31st May of the year was to be processed for the next academic session, as such the application filed by the petitioner on 28.12.2012 cannot be considered.

I have heard both the learned counsel for the parties and examined the record.

There is no dispute that the petitioner had applied for recognition of D.EL.Ed. course on 28.12.2012 in response to a public notice issued by the respondents on 26.11.2012 and the said application was rejected on 19.9.2013. The relevant part of the reasons for rejection of the application, are reproduced as under: -

“The NRC considered the letter No.49-7/2012/NCTE/N&S dated 20.3.2013 containing instructions in respect of consideration/processing of applications for recognition of Teacher Education Programmes viz a viz recommendations of the State Govt. of Haryana as well as the Demand and Supply, study, of Teachers conducted by the NCTE and also the following judgments of the Hon’ble Supreme Court: -

The Hon’ble Supreme Court vide its judgment dated 31.1.2011 in SLP No.17165-168/2009, has held that the provisions contained in Section 14 of the NCTE act 1993 and the Regulations framed for grant of recognition including the requirement of recommendation of the State Government/Union Territory Administration are mandatory and an institution is not entitled to recognition unless it fulfils the conditions specified in various clauses of the Regulations.

Further, the Hon’ble Supreme Court in its judgment dated 6.1.2012 in SLP (C) No.14020/2009, has held that the State Government/UT Administration, to whom a copy of the application made by an institution for grant of recognition is

sent in terms of Regulation 7(2) of the Regulations of the NCTE, is under an obligation to make its recommendation within the time specified in the Regulations 7(3) of the Regulations.

The NRC noted that the NCTE Committee vide letter dated 20.3.2013 made it is clear that the general recommendations of the State Government were applicable in each individual cases, since in view of the Hon'ble Supreme Court's order, it is mandatory to obtain the recommendation of the State Government.

In view of the above judgment of the Hon'ble Supreme Court and the decision taken by the NCTE Committee, the NRC decided that the recommendations of the State Govt. of Haryana i.e. not to allow setting up of new D.EL.Ed. institutions in the State be accepted and the applications so received be returned to the respective institutions. Also the application fees be returned to the applicants.

In terms of the above decision of the NRC, your above application i.e. NRCAPP No.5345 is returned herewith in original alongwith all attached documents and the original FDR No.3225818929 dated 24.12.2012 for Rs.5 lach."

It is also an admitted fact that in the entire litigation finally decided by the Supreme Court, it has been held that the

application shall now be processed and decided in terms of the new Regulations called the National Council for Teacher Education [Recognition Norms and Procedure] Regulations, 2014 framed in exercise of powers conferred under Section 32(2) of the National Council for Teacher Education Act, 1993. These regulations provide the manner of making the application and time limit, which reads as under: -

“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 programme recognised by the Council.

(2) The application form may be downloaded from the website of the Council, namely, www.ncte-india.org and different forms may be downloaded for programmes offered through open and distance learning.

(3) the application shall be submitted online electronically alongwith the processing fee and scanned copies of required documents such as no objection certificate issued by the concerned affiliating body. While submitting the application, it has to be ensured that the application is duly signed by the applicant on every page, including digital signature at appropriate place at the end of the application.

(4) While submitting the application online a copy of the registered land document issued by the competent authority, indicating that the society or institution applying for the programme possesses land on the date of application, shall be attached along with the application.

(5) Duly completed in all respects may be submitted to the Regional Committee concerned between 1st March to 31st May of the preceding year from the academic session for which recognition is sought.

Provided that the aforesaid period shall not be applicable for submission of application to innovative programmes of teacher education.

(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.”*

According to Clause 5(6) of the new Regulations, the application has to be received online from 1st March to 31st May of the year and was to be processed for the next academic session, therefore, the application of the petitioner cannot be processed. Moreover, the petitioner is required to file the application afresh as the application earlier filed has already been rejected and was not pending.

Thus, I do not find any merit in the present writ petition for the issuance of direction as prayed for.

Dismissed.

07.04.2015

Vivek

**(RAKESH KUMAR JAIN)
JUDGE**