

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

% **Date of decision: 23rd November, 2015.**

+ **W.P.(C) 6044/2015 & CM No.10984/2015 (for interim direction)**

SHIVOM COLLEGE OF EDUCATION Petitioner

Versus

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

+ **W.P.(C) 6045/2015 & CM No.10986/2015 (for interim direction)**

RAM NARAYAN INSTITUTE OF EDUCATION Petitioner

Versus

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

+ **W.P.(C) 6047/2015 & CM No.10987/2015 (for interim direction)**

JANKIJI COLLEGE OF EDUCATION Petitioner

Versus

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

+ **W.P.(C) 6048/2015 & CM No.10988/2015 (for interim direction)**

**M.C.M. EDUCATIONAL AND
TRAINING INSTITUTE**Petitioner

Versus

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

+ **W.P.(C) 6079/2015**

**HARYANA COLLEGE OF
EDUCATION FOR WOMEN**Petitioner

Versus

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

+ **W.P.(C) 6104/2015**

RAO SULTAN SINGH COLLEGE OF EDUCATION ..Petitioner

Versus

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

+ **W.P.(C) 6125/2015**

R.N. COLLEGE OF EDUCATION Petitioner

Versus

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

+ **W.P.(C) 6405/2015**

PARMANAND COLLEGE OF EDUCATION Petitioner

Versus

**NATIONAL COUNCIL FOR TEACHER EDUCATION
& ANR**

..... Respondents

Counsel for the petitioners: Mr. Sanjay Sharawat, Adv.

Counsel for the respondents: Mr. Arjun Harkauli and Mr. Satyawan
Shekhawat, Advs. for NCTE.
Mr. Anil Soni and Mr. Naginder
Benipal, Advs. for NCTE.

CORAM:

HON'BLE MR. JUSTICE RAJIV SAHAI ENDLAW

1. The petitioner in each of the petitions claims to be an unaided and self-financed institution in the State of Haryana, established for imparting education in teacher training. It is the case of all the petitioners, that:

(i) the respondent No.1 National Council for Teacher Education (NCTE), constituted by the National Council for Teacher Education Act, 1993 (NCTE Act) to regulate and maintain norms and standards in teacher education system and being the final authority for granting recognition for conducting teacher training course, invites applications every year from institutions desirous of seeking permission to start various teacher training courses;

(ii) however, the applications are invited from particular States only, on the ground of the Governments of other States having advised against grant of recognition for more institutions in their respective

States;

(iii) as far as the State of Haryana, to which the petitioner Institutions and all these petitions belong, no application for grant of recognition for imparting education in Diploma in Elementary Education (D.El.Ed.) course was invited from the year 2008 till the year 2012;

(iv) on 26th November, 2012, the respondent No.1 NCTE issued public notice inviting fresh applications for academic session 2013, again for some of the States and for some of the courses only; however this time, applications were invited from the State of Haryana also for grant of recognition for D.El.Ed. course;

(v) the petitioner in each of the petitions, on 31st December, 2012, 20th December, 2012, 27th December, 2012, 31st December, 2012, 24th December, 2012, 15th December, 2012, 30th December, 2012 and 25th December, 2012 respectively applied, seeking recognition for imparting education in the D.El.Ed. course with effect from the academic session 2013-2014;

(vi) however, the respondent No.2 Northern Regional Committee (NRC) of the NCTE, though required to process the applications and

to point out the deficiencies if any within 45 days, did not even commence processing the applications;

(vii) that the respondent No.1 NCTE, on receipt of letter dated 1st January, 2013 from the Government of Haryana imposing a ban on opening of new colleges in the State and treating this general instruction as a general negative recommendation to be applicable to all the applications, vide letter dated 20th March, 2013 to the respondent No.2 NRC directed / instructed to reject all the applications from the State of Haryana and refund their fee;

(viii) the respondent No.2 NRC, though not required to abide by the aforesaid illegal direction of the respondent No.1 NCTE, returned the application of each of the petitioners, as also the other applications received from the State of Haryana, without deciding the same on merits;

(ix) the respondent No.2 NRC vide letters dated 19th September, 2013, 11th September, 2013, 19th September, 2013, 10th October, 2013, 28th August, 2013, 28th August, 2013, NIL and 27th August, 2013 received by each of the petitioner respectively returned their applications for recognition;

(x) the respondent No.1 NCTE in compliance of the order dated 10th September, 2013 of the Supreme Court in SLP(C) Nos.4247-4278/2009 titled ***Rashtrasant T.M.S. & S.B.V.M.C.A. VID. Vs. Gangadar Nilkant Shende*** notified the National Council for Teacher Education (Recognition, Norms and Procedure) Regulations, 2014 on 1st December, 2014;

(xi) on 27th February, 2015, the respondent No.1 NCTE issued public notice inviting fresh applications for the academic year 2016-2017 from institutions for recognition of teacher training programmes;

(xii) however in the aforesaid public notice also, applications were not invited from the State of Haryana for the D.El.Ed. course.

2. Accordingly, these petitions have been filed in or about June, 2015 impugning the letters aforesaid of the year 2013 returning the applications made by each of the petitioner for recognition for the academic session 2013-2014 for D.El.Ed. course and seeking a direction to the respondents to process and finally decide the applications aforesaid made by each of the petitioner in pursuance to the public notice dated 26th November, 2012 supra issued by the respondent No.1 NCTE (originally for the academic session 2013-2014), for the academic session 2015-2016.

3. Some of these petitions came up before the Vacation Bench of this Court when the same were ordered to be posted on 29th June, 2015, the date of re-opening of this Court, after the summer break. On 29th June, 2015, the contention of the counsel for the petitioners was that some other petitions similar to these petitions had already been allowed and copies of orders wherein were also filed in the paper book. However, certain queries were made from the counsel for the petitioners who was also required to produce letter dated 4th May, 2015 of the Director of Secondary Education, Haryana. Thereafter from time to time the counsel for the petitioners in all the cases as well as the counsel for the respondent No.1 NCTE were heard, without calling for any counter affidavit and on 17th July, 2015 hearing was concluded and judgment reserved.

4. The counsel for the petitioners has contended:

(a) that the Supreme Court vide order dated 10th September, 2013 in *Rashtrasant T.M.S. & S.B.V.M.C.A. VID.* supra, while directing revision of the Regulations of Recognition Norms and Procedure and notification of new / revised regulations latest by 30th November, 2013 had also directed that all the pending applications be decided in accordance with the new Regulations to be notified;

(b) that as on 10th September, 2013 being the date of the order aforesaid of the Supreme Court, the applications of the petitioners were pending and ought not to have been returned as aforesaid and the orders of the respondent No.2 NRC returning the applications are in violation of the order of the Supreme Court;

(c) that this Court vide order dated 19th May, 2015 in W.P.(C) No.4414/2015 titled ***Education Culture Society (Regd.) Vs. National Council for Teacher Education*** and other connected petitions had already permitted the petitioners therein to re-submit their applications and directed the respondents to re-consider the applications for the academic session 2016-2017, in accordance with law;

(d) that in fact, prior thereto also, vide order dated 24th November, 2014 this Court in W.P.(C) No.2889/2013 titled ***Divine Mission Society (Regd.) Vs. National Council for Teacher Education*** and other connected petitions also directed the respondents to consider the petitioners therein for the academic session 2015-2016 and in accordance therewith, the respondent No.2 NRC in its 238th Meeting held from 20th to 31st May, 2015, notwithstanding the receipt of the

letter dated 4th May, 2015 from the Director of Secondary Education, Haryana proceeded to consider the said applications.

5. I had during the hearing enquired from the counsel for the petitioners, what is the right of the petitioner's Institutions to impart education in D.El.Ed. course and what is the role of the State Government in grant of recognition.

6. The counsel for the petitioners contended that a right to establish an educational institution has been held to be a fundamental right by the Supreme Court in *T.M.A. Pai Foundation Vs. State of Karnataka* (2002) 8 SCC 481 and the said right is also recognized by Section 14 of the NCTE Act enabling every institution offering or intending to offer a course or training in teacher education to apply for recognition. It was argued that thus the law only regulates the exercise of fundamental right to establish educational institutions and the question of the respondent No.1 NCTE or the State Government refusing establishment of such an educational institution or grant of recognition thereto, even if the institution complies with all the criteria laid down for grant of recognition, does not arise.

7. With respect to the role of the State Government, it was contended by the counsel for the petitioners that though in the NCTE Act the Government

of the State where the educational institution is situated has no role in the grant of permission for establishment of an educational institution or recognition thereof but in the Recognition Norms and Procedure Regulations of the year 2009 invogue prior to coming into force of the 2014 Regulations the respondent No.2 NRC was required to send a copy of the application for recognition to the State Government and the State Government was to be given an opportunity to furnish its recommendations or comments and if the State Government was not in favour of recognition, to provide detailed reasons or grounds therefor. It was however argued that such opportunity to the State Government was for a definite period only and even if the State Government gave negative recommendation, the decision rested with the Regional Committees who were required to determine whether the reasons given by the State Government had any merit or not. Attention in this regard was invited to Regulations 7 (2) & (3) of the 2009 Regulations.

8. The position in this regard is found to be same under the 2014 Regulations also in Regulations 7 (4), (5), (6) & (7).

9. It was thus the contention of the counsel for the petitioners that neither the respondent No.1 NCTE nor the respondent No.2 NRC were bound by any general communication of the State to not to receive any application and

even if the State Government was of the view that there was no need for any particular institution or for an additional institution, it was required to give detailed reasons therefor and which reasons also were to be considered by the Regional Committee and only if the Regional Committee agreed therewith, could the recognition have been denied; else, the applicant if fulfilling the other conditions, would be entitled for recognition.

10. I yet further enquired from the counsel for the petitioners that if that be the position and the understanding of the petitioners, why did the petitioners have to wait for a public notice inviting applications and the petitioners could have at any time, even in the absence of public notice, applied for recognition.

11. It was informed that the application for recognition has to be submitted on the web portal of the respondent No.1 NCTE and the said web portal entertains application to be made only for the States qua which applications have been invited.

12. I had during the hearing also enquired from the counsel for the petitioners, whether the petitioners or any of them had sought permission for recognition for the academic session 2016-2017 in pursuance to the public notice dated 27th February, 2015 but was told that owing to the aforesaid

reason, no such application could be made.

13. Mr. Anil Soni, counsel for the respondent No.1 NCTE in some of the petitions per contra contended that it is not as if the respondent No.1 NCTE had not applied its mind to the objections of the Government of State of Haryana. Attention was invited to the Minutes of 238th Meeting of the respondent No.2 NRC held from 20th to 31st May, 2015 to show that the reasons given by the State Government were duly considered by the respondent No.2 NRC.

14. The counsel for the petitioners in rejoinder contended that as per the scheme of the Act and the Regulations, the recommendations of the State Government have to be institution-wise and not general. It was also contended that the discussion, even if any in the respondent No.2 NRC with respect to the letter of the State Government, was again in general and not institution-wise, as it was required to be. It was argued that the Districts in the State of Haryana in which some of the petitioner's Institutions are situated have no educational institution imparting education in D.El.Ed. course / programme education wherein the petitioners want to impart and there is a serious dearth of teachers and only if the respondent No.2 NRC had invited institution-wise comments / recommendations of the Government of

State of Haryana and if the Government had then given a negative recommendation, the petitioner would have had an opportunity to satisfy the respondent No.2 NRC. It was argued that all that the petitioners are seeking consideration of their applications for the academic session 2016-2017 and the petitioners are not seeking a direction conferring recognition on them.

15. It was yet further enquired from the counsel for the petitioners, why the petitions filed in June/July, 2015 impugning the orders aforesaid of returning of applications for the year 2013-2014, should not be dismissed as barred by laches, acquiescence and waiver.

16. The counsel for the petitioners though not disputing that there was a delay, contended that since at the time when the applications filed for recognition for the academic session 2013-2014 were returned the matter was in a limbo owing to a direction for framing of new Regulations having been made, the petitioners did not immediately rush to the Court. Else, it was contended that relief having been granted to others similarly situated as the petitioners herein, the petitioners are also entitled thereto. Attention was also invited to *State of Maharashtra Vs. Sant Dnyaneshwar Shikshan Shastra Mahavidyalaya* (2006) 9 SCC 1 and to *Maa Vaishno Devi Mahila Mahavidyalaya Vs. State of Uttar Pradesh* (2013) 2 SCC 617.

17. I have considered the aforesaid contentions and gone through all the materials placed by the petitioners before this Court.

18. The applications made by the petitioners in W.P.(C) Nos.6079/2015, 6104/2015, 6125/2015 & 6405/2015 for recognition in the academic session 2013-2014 having been returned on 28th August, 2013, 28th August, 2013, 25th April, 2013 and 27th August, 2013 as aforesaid, it cannot be said that the same were returned after the order dated 10th September, 2013 supra of the Supreme Court or in violation thereof. However, undoubtedly the applications of the petitioners in W.P.(C) Nos.6047/2015, 6048/2015, 6079/2015 & 6104/2015 having been returned on 11th September, 2013, 19th September, 2013, 19th September, 2013 and 10th October, 2013 were after the said order.

19. I had during the hearing enquired from the counsel for the petitioners, why the petitioners, at the contemporaneous time, did not approach the respondent No.2 NRC for holding their applications in view of the order dated 10th September, 2013 supra of the Supreme Court.

20. The counsel for the petitioners fairly admitted that the petitioners then were not aware of the order of the Supreme Court.

21. In my view, the order dated 10th September, 2013 of the Supreme

Court directing the respondents to decide the pending applications in accordance with the new Regulations ordered to be framed, was not such from which it can be said that the orders of the respondent NRC, nevertheless rejecting the applications, are liable to be set aside on that ground alone. A perusal of the order dated 10th September, 2013 of the Supreme Court shows that the Supreme Court in those matters which were of the year 2009, being apparently dissatisfied with the functioning of the respondents, had first appointed a Commission to examine the entire gamut of recognition and after going through the report of the Commission constituted a group of eminent educationists to oversee the implementation of the recommendations made by the Commission. One of the recommendations of the Commission was for revision of the Recognition Norms and Procedure Regulations and direction in that respect was issued. Having issued such direction, it was observed that those who were desirous of establishing teacher education institute / institution shall be permitted to make application in accordance with the new Regulations and all the pending applications shall be decided in accordance with the new Regulations. It is significant that the Supreme Court on 10th September, 2013 had given time till 30th November, 2013 only for notifying the new regulations.

22. All the petitioners herein were new institutions, which were for the first time making applications for recognition for the academic session 2013-2014. Even if it were to be believed that owing to the revision of the Regulations the said applications as per the order of the Supreme Court could not have been processed, the petitioners ought to have pursued the same for the academic session 2014-2015 and / or for the academic session 2015-2016. The petitioners however did not do so and filed these petitions only after the last date for filing application vis. of 30th May, 2015 for the academic session 2016-2017 also was over. The only reason for flogging the applications made for the academic sessions 2013-2014 for the academic session 2016-2017 is that while the applications for the academic session 2013-2014 were in pursuance to a public notice inviting applications including from the State of Haryana, for the academic sessions 2014-2015, 2015-2016 and 2016-2017, there is no such public notice.

23. However according to the petitioners themselves they have a right to make an application whenever they want and the said applications are to be considered by the respondents on their own merits and in accordance with the Regulations, including by inviting comments / recommendations of the State Government and even if the recommendation of the State Government

were to be in the negative, the respondents have to still satisfy themselves whether the State Government was justified in making a negative recommendation and if not so satisfied, to still grant approval to the institution. The petitioners however, instead of asserting the said right which they have argued to have, have chosen to flog an old application for an academic year two years thereafter.

24. Though the counsel for the petitioners has argued that under the Act, there is no role assigned to the State Government in the process of grant of recognition but significantly the Regulations providing therefor are not challenged, as being beyond the ambit of the Act. I am even otherwise not able to accept the said contention. Supreme Court in ***St. Johns Teachers Training Institute Vs. Regional Director, National Council for Teacher Education*** (2003) 3 SCC 321 held that (i) Section 14(3) of the NCTE Act casts a duty upon the Regional Committee to be satisfied with regard to a large number of matters before passing an order granting recognition to an institution which has moved an application for the said purpose; (ii) the factors mentioned in sub-Section (3) are that the 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 laid down in the Regulations; (iii) there being only four Regional Committees, each Regional Committee has to deal with the applications from several States; (iv) it is therefore obvious that it will not only be difficult but almost impossible for the Regional Committee to itself obtain complete particulars and details of financial resources, accommodation, library, qualified staff, laboratory and other conditions of the institution which has moved an application for grant of recognition; (v) the Regional Committee has to necessarily depend upon some other agency or body for obtaining necessary information; it is for this reason that the assistance of Government of the State in which the institution is located is taken by the Regional Committee and this is achieved by providing for obtaining a No Objection Certificate (NOC); and, (vi) while considering an application for grant of an NOC, the State Government has to confine itself to the matters enumerated in the guidelines issued by the NCTE to State Governments to assess the need for trained teachers by taking into consideration supply of teachers from existing institutions, the requirement of such teachers in relation to enrolment projections, attrition rate, teachers due to superannuate etc. and giving preference to such institutions which lay emphasis on preparation of teachers

for subjects like Science, Mathematics, English etc. for which trained teachers are in short supply and institutions which propose to concern themselves with new and emerging specialities like computer education, use of electronic media, etc. and also for speciality education for the disabled and vocational education etc. Similarly in ***Government of Andhra Pradesh Vs. J.B. Educational Society*** (2005) 3 SCC 212, the challenge to the Andhra Pradesh Education Act, 1982, under which obtaining of permission of the State Government was made sine qua non for establishing an institution for technical education, on the ground of being as *ultra vires* the provisions of the All India Council for Technical Education Act, 1987 and the Regulation made thereunder was rejected observing/holding that (a) Entry 25 of the Concurrent List gives power to the State Legislature to make laws regarding education, including technical education, though the same is subject to the provisions of Entries 63, 64, 65 & 66 of List-I of Schedule-VII of the Constitution of India; (b) the State certainly has the legislative competence to pass the legislation in respect of education, for general welfare of the citizens of the State and in discharge of the constitutional duty enumerated under Article 41 of the Constitution; (c) the provisions of the Act providing for conduct of a survey to identify the educational needs of the locality under

its jurisdiction and calling for applications from educational agencies and providing that before permission is granted the authority concerned must be satisfied that there is need for providing educational facilities to the people in the locality could not be said to be contradictory to the AICTE Act and the Regulations thereunder; (d) if there are more colleges in a particular area, the State would not be justified in granting permission to one more college in that locality; (e) whether a particular educational institution is to be established in a particular area in a State is certainly within the domain of the State in which the institution is to be established.

25. Supreme Court in *State of Maharashtra Vs. Sant Dnyaneshwar Shikshan Shastra Mahavidyalaya* (2006) 9 SCC 1 was concerned with a challenge to the policy decision taken by the State of Maharashtra not to grant NOC to any institution for starting new B.Ed. College for the Academic Year 2005-2006. It was the case of the State that the said decision was, taking into consideration that as against the demand of about 7,500 teachers per year, more than 25,000 teachers were available and if yet more colleges were to be opened, there will be unemployment. It was held (i) co-ordination and determination of standards in institutions of higher education or research, scientific and technical institutions is exclusively covered by

Entry 66 of List-I of Schedule VII to the Constitution and State has no power to encroach upon the legislative power of Parliament; (ii) it is only when the subject is covered by Entry 25 of List III of Schedule VII to the Constitution that there is a concurrent power of Parliament as well as State Legislature subject to limitations and restrictions under the Constitution on the power of the State Legislature; (iii) NCTE Act as per its Preamble has been enacted for establishment of NCTE with a view to achieving planned and co-ordinated development of teacher education system throughout the country, the regulation and proper maintenance of norms and standards in the teacher education system and for matters connected therewith; (iv) the field is fully and completely occupied by the NCTE Act enacted by Parliament covered by Entry 66 of List-I of Schedule VII; (v) it is therefore not open to the State Legislature to encroach upon the said field and to refuse permission relying on a State Act or on a policy consideration; (vi) during the pendency of *St. Johns Teachers Training Institute* supra, NCTE (Form of application for recognition, the time limit of submission of application, determination of norms and standards for recognition of teacher education programmes and permission to start new course or training) Regulations, 2002 providing for obtaining NOC from the State had been framed; (vii) however the final

authority lies with NCTE and NCTE cannot be deprived of its authority or power in taking an appropriate decision under the Act, irrespective of absence of NOC by the State Government/Union Territory; (viii) absence or non production of NOC therefore was immaterial and irrelevant so far as the power of NCTE is concerned; and, (ix) it is neither open to the State Government nor to a University to consider the local conditions or apply State Policy to refuse such permission.

26. The same question was considered by the Supreme Court again in ***National Council for Teacher Education Vs. Shri Shyam Shiksha Prashikshan Sansthan*** (2011) 3 SCC 238. It was held (i) the consultation with the State Government and consideration of the recommendations/suggestions made are of considerable importance; (ii) majority of the candidates who complete B.Ed. and similar courses aspire for appointment as teachers in the Government and Governmental aided institutions; (iii) the State Government sanctions the post keeping in view the requirement of trained teachers and budgetary provisions made for that purpose; (iv) they cannot appoint all those who successfully pass B.Ed. and like courses every year; (v) therefore, NCTE by incorporating the provision for sending the applications to the State Government and consideration of the

recommendations/suggestions, if any made by the State Government has made an attempt to ensure that as a result of grant of recognition to unlimited number of institutions to start B.Ed. and like courses, candidates far in excess of the requirement of trained teachers do not become available and who cannot be appointed as teachers; (vi) if it is found that adequate number of suitable candidates possessing the requisite qualifications are already available to meet requirement of trained teachers, the State Government can suggest to the Regional Committee concerned not to grant recognition to new institutions or increase intake in the existing institutions; (vii) if the Regional Committee finds that the recommendation made by the State Government is based on valid grounds, it can refuse to grant recognition to any new institution or entertain an application made by an existing institution for increase of intake and it cannot be said that such decision is *ultra vires* the provisions of the NCTE Act or the Rules.

27. Mention may lastly be made of *Adarsh Shiksha Mahavidyalaya Vs. Subhash Rahangdale* (2012) 2 SCC 425 where the challenge, to the direction of the Central Government to the NCTE to, in the light of uneven and disproportionate growth in the number of recognitions granted to various courses and institutions in the States falling under the Western Regional

Committee of NCTE, not grant recognition to any teacher training institution/courses/additional intake in the jurisdiction of the Western Regional Committee till a comprehensive review was made, was dismissed by holding that (i) in the light of Sections 14(3) and 15 (3) of the NCTE Act and the Regulations and which are mandatory, the Regional Committee cannot grant recognition unless it is satisfied that the applicant has fulfilled the mandatory conditions prescribed in the Act and the Regulations; (ii) under the Regulations, the State Government is entitled to make recommendations on the application made for grant of recognition and which recommendations are required to be considered by the concerned Regional Committee before taking a final decision on the application.

28. It thus cannot be said that the recommendation of the State Government is irrelevant. The only question is whether the State Government, if of the opinion that no more educational institutions are required in the State, is required to make such negative recommendation each time an application is received or can make an omnibus negative recommendation as has been done.

29. Under the Regulations, the State Government has to make the recommendation within the time given therein and if fails to do so, the

Regional Committee is to proceed with the application without waiting for the recommendation of the State Government. It appears that to obviate any failure in making the negative recommendation within the prescribed time and the applicant institution resultantly getting approval from NCTE, the State Government has chosen to make a general/omnibus negative recommendation. It cannot also be lost sight of that according to the petitioners themselves, no applications from the State of Haryana had been invited since the year 2008. Presumably the State of Haryana has been making a negative recommendation since then and which has been accepted by the NCTE and none has challenged the same. It is in this light that the decision of the NCTE/NRC to accept the general negative recommendation of the State of Haryana for the Academic Year 2013-2014 is to be gauged.

30. It is significant that even the petitioners were satisfied with the said omnibus/general recommendation of the State of Haryana and acceptance thereof by NCTE/NRC and did not challenge the same. Needless to state that in any challenge thereto, State of Haryana would have to be heard and be impleaded. The petitioners in these petition have not impleaded the State of Haryana and have in fact not even challenged the negative recommendation or its acceptance by the NCTE. These petitions are solely premised on the

order aforesaid of the Supreme Court and seeking a consideration of their applications made for the Academic Year 2013-2014, for the Academic Year 2016-2017. The same cannot be permitted.

31. That brings me to the judgment supra of the learned Single Judge of this Court in ***Divine Mission Society (Regd.)***. A perusal thereof shows that the challenge therein was to the communication dated 20th March, 2013 supra of the respondent NCTE to the Regional Committees to reject the applications for recommendation received from institutions in the State of Haryana. Reliance by the counsel for the petitioners was placed on the judgments of the High Courts of Madhya Pradesh and Punjab & Haryana and since till the date of pronouncement of the judgment on 24th November, 2014 the Regulations as directed to be framed by the Supreme Court had not been notified, the counsel for the respondent No.1 NCTE also did not object. In this view of the matter, this Court following the judgments of the Madhya Pradesh and Punjab & Haryana High Courts disposed of the writ petitions permitting the petitioners therein to apply afresh in accordance with the new Regulations to be notified for the academic session 2015-2016.

32. It appears that in the light of the judgment in ***Divine Mission Society (Regd.)***, a large number of other petitions of educational institutions situated

in the State of Haryana were filed and which were allowed merely following the judgment in *Divine Mission Society (Regd.)*. While the respondent No.2 NRC in accordance with the directions in the said writ petitions, was considering the applications, the State of Haryana issued the letter dated 4th May, 2015 supra informing the respondent No.1 NCTE, (a) that there are 27 Government, 325 Private Self-Financing and 14 Private Self-Financing (Minority) D.El.Ed. Institutes (total 366 Institutes) with total intake capacity of 20,600 students annually in Haryana State; (b) since 26th June, 2012, Haryana School Education Department sent requisition for the recruitment of 9,870 Primary Teachers, which is far lower than the total number of students passed out from D.El.Ed. Institutes till now; (c) taking in view the said facts, no recognition for any new Institute to impart education in D.El.Ed. course should be granted.

33. However the respondent No.2 NRC while considering the applications made in pursuance to the orders of this Court in the petitions aforesaid, chose not to follow the letter dated 4th May, 2015, for the reason that the same had been received after the date for filing the applications and it was felt that for this reason, would be of no avail.

34. However the petitioners as aforesaid have filed these petitions after the

said letter. It was for this reason that it was on 29th June, 2015 enquired, whether in any of the earlier orders, the said letter has been considered and upon the counsel for the petitioners fairly stating that it had not been, the counsel was asked to produce the same.

35. Though the counsel for the petitioners has argued that the petitioners have a right to establish and the right to apply for recognition cannot be blocked by not inviting applications, but that is not the relief claimed in the present cases. The relief claimed in the present cases is of setting aside the instructions dated 20th March, 2013 supra of the respondent No.1 NCTE and of considering the applications made for the academic session 2013-2014 and which were rejected, for the academic session 2016-2017. Though in some of the petitions the relief claimed is for consideration for the year 2015-2016 but the counsel stated that the same be also treated for 2016-2017.

36. As far as the challenge to the letter dated 20th March, 2013 is concerned, the said challenge is not only highly belated and not maintainable on the ground of principles of laches, acquiescence and waiver but is also of no avail, inasmuch as what the petitioners have now to contest is the letter dated 4th May, 2015 supra. No purpose would therefore be served in

challenging the letter dated 20th March, 2013.

37. Same is the position with respect to the challenge to the letters of the respondent No.2 NRC returning the applications of the petitioners for recognition for the academic session 2013-2014. The said challenge is also highly belated. Even if it were to be held that the petitioners are entitled to the benefit of the order dated 10th September, 2013 supra of the Supreme Court, the petitioners ought to have pursued their applications for the academic sessions 2014-2015 and / or 2015-2016 and which they failed to do. The inference is that the petitioners were no longer interested. Merely because the petitions filed by some others succeeded, is no ground for overlooking the said fact or giving effect thereto. Moreover, the challenge to return of the applications is also predicated on the challenge to the letter dated 20th March, 2013, which is infructuous.

38. I am therefore of the view that there is no merit in the petitions which are dismissed. However the same will not come in the way of the petitioners to challenge the procedure followed by the respondent No.1 NCTE of inviting applications from some States only and from claiming that their applications to be considered and a right to contest before the respondent No.2 NRC against the negative recommendation of the State Government.

No costs.

PS: *This judgment, owing to urgency expressed was dictated in July, 2015 but was not pronounced on request of counsel for petitioners, to let the petitioners avail other avenues and has been corrected and pronounced after the counsel has mentioned the matters.*

RAJIV SAHAI ENDLAW, J.

NOVEMBER 23, 2015

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