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

+ **W.P.(C) 775/2016 & C.M.No.3375/2016**

VIDHA SUDHA WELFARE FOUNDATION SAMITI

..... Petitioner

Through Mr.Mayank Manish with Mr.Ravi
Kant, Advocates.

versus

NATIONAL COUNCIL FOR TEACHER EDUCATION AND ANR

..... Respondents

Through None

+ **W.P.(C) 871/2016**

NEW GYANDEEP SHIKSHA PRASAR SAMITI Petitioner

Through Mr.Mayank Manish with Mr.Ravi
Kant, Advocates.

versus

NATIONAL COUNCIL FOR TEACHER EDUCATION AND ANR

..... Respondents

Through None

+ **W.P.(C) 872/2016**

SHREE CHINTAMANI EDUCATION SOCIETY Petitioner

Through Mr.Mayank Manish with Mr.Ravi
Kant, Advocates.

versus

NATIONAL COUNCIL FOR TEACHER EDUCATION AND ANR

..... Respondents

Through None

+ **W.P.(C) 443/2016**

SACRED HEART MINORITY SOCIETY Petitioner

Through Mr.Mayank Manish with Mr.Ravi
Kant, Advocates.

versus

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

Through None

+ **W.P.(C) 449/2016**

ASPIRE INSTITUTE Petitioner

Through Mr.Mayank Manish with Mr.Ravi
Kant, Advocates.

versus

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

Through None

+ **W.P.(C) 5665/2015 & C.M.No.10194/2015**

SHRI SIDDHI VINAYAK COLLEGE Petitioner

Through Mr.Mayank Manish with Mr.Ravi
Kant, Advocates.

versus

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

Through None

+ **W.P.(C) 5758/2015 & C.M.No.10354/2015**

MHOW ERA EDUCATIONAL SOCIETY Petitioner

Through Mr.Mayank Manish with Mr.Ravi
Kant, Advocates.

versus

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

Through None

+ **W.P.(C) 530/2016**

ACHARY SHREERAM VIDYAPEETH

..... Petitioner

Through Mr.Mayank Manish with Mr.Ravi
Kant, Advocates.

versus

NATIONAL COUNCIL FOR TEACHER EDUCATION AND ANR

..... Respondents

Through None

+ **W.P.(C) 5761/2015 & C.M.No.10358/2015**

KATYAN SHIKSHAN SAMITI

..... Petitioner

Through Mr.Mayank Manish with Mr.Ravi
Kant, Advocates.

versus

NATIONAL COUNCIL FOR TEACHER EDUCATION AND ANR

..... Respondents

Through None

+ **W.P.(C) 6080/2015 & C.M.No.11054/2015**

TRIPATHI GRUDEV VIDYANAND SARASWATI SHIKSHA
UTTHAN SAMITI

..... Petitioner

Through Mr.Mayank Manish with Mr.Ravi
Kant, Advocates.

versus

NATIONAL COUNCIL FOR TEACHER EDUCATION AND ANR

..... Respondents

Through Mr.Gaurav Upadhaya, Advocate for
Ms.Monika Arora, Advocate for
NCTE.

+ W.P.(C) 6081/2015 & C.M.No.11056/2015

R.D. EDUCATION SOCIETY Petitioner
Through Mr.Mayank Manish with Mr.Ravi
Kant, Advocates.
versus

NATIONAL COUNCIL FOR TEACHER EDUCATION AND ANR
..... Respondents
Through Mr.Gaurav Upadhaya, Advocate for
Ms.Monika Arora, Advocate for
NCTD.

+ W.P.(C) 6083/2015 & C.M.No.11060/2015

GRAMIN SHIKSHA AVAM VIKAS SAMITI Petitioner
Through Mr.Mayank Manish with Mr.Ravi
Kant, Advocates.
versus

NATIONAL COUNCIL FOR TEACHER EDUCATION AND ANR
..... Respondents
Through Mr.Gaurav Upadhaya, Advocate for
Ms.Monika Arora, Advocate for
NCTE.

+ W.P.(C) 6084/2015 & C.M.No.11062/2015

RAMDEV SHIKSHA PRASAR EVAM JANKALYAN SAMITI
..... Petitioner
Through Mr.Mayank Manish with Mr.Ravi
Kant, Advocates.
versus

NATIONAL COUNCIL FOR TEACHER EDUCATION AND ANR
..... Respondents
Through Mr.Gaurav Upadhaya, Advocate for
Ms.Monika Arora, Advocate for
NCTE.

+ W.P.(C) 6085/2015 & C.M.No.11064/2015

RAJEEV JAN VIKAS PARISHAD Petitioner
Through Mr.Mayank Manish with Mr.Ravi
Kant, Advocates.
versus

NATIONAL COUNCIL FOR TEACHER EDUCATION AND ANR
..... Respondents
Through Mr.Gaurav Upadhaya, Advocate for
Ms.Monika Arora, Advocate for
NCTE.

+ W.P.(C) 6102/2015 & C.M.No.11095/2015

BHAGWATI PREM SHIKSHA PRASAR SAMITI Petitioner
Through Mr.Mayank Manish with Mr.Ravi
Kant, Advocates.
versus

NATIONAL COUNCIL FOR TEACHER EDUCATION AND ANR
..... Respondents
Through Mr.Gaurav Upadhaya, Advocate for
Ms.Monika Arora, Advocate for
NCTE.

+ W.P.(C) 6103/2015 & C.M.No.11097/2015

SENDHAWA WELFARE & EDUCATION COUNCIL SOCIETY
..... Petitioner
Through Mr.Mayank Manish with Mr.Ravi
Kant, Advocates.
versus

NATIONAL COUNCIL FOR TEACHER EDUCATION AND ANR
..... Respondents
Through Mr.Gaurav Upadhaya, Advocate for
Ms.Monika Arora, Advocate for
NCTE.

+ **W.P.(C) 9863/2015**

PATIRAM SHIVHARE LOK KALYAN EVAM SHIKSHA NYAS

..... Petitioner

Through Mr.Mayank Manish with Mr.Ravi
Kant, Advocates.

versus

NATIONAL COUNCIL FOR TEACHER EDUCATION AND ANR

..... Respondents

Through None.

+ **W.P.(C) 356/2016**

ANJUMAN TARRAKKI ALPSANKHYAK SHIKSHA PRASAR
SAMITI

..... Petitioner

Through Mr.Mayank Manish with Mr.Ravi
Kant, Advocates.

versus

NATIONAL COUNCIL FOR TEACHER EDUCATION AND ANR

..... Respondents

Through None.

+ **W.P.(C) 357/2016**

KAMRAN SHIKSHA PRASAR SAMITI

..... Petitioner

Through Mr.Mayank Manish with Mr.Ravi
Kant, Advocates.

versus

NATIONAL COUNCIL FOR TEACHER EDUCATION AND ANR

..... Respondents

Through None.

Date of Decision: 2nd February, 2016

CORAM:

HON'BLE MR. JUSTICE MANMOHAN

J U D G M E N T

MANMOHAN, J: (Oral)

1. Present batch of writ petitions has been filed challenging the notice dated 27th February, 2015 passed by NCTE/respondent No.1, whereby respondent No.1 invited applications for teaching training courses but excluded certain districts of Madhya Pradesh (where petitioners-institutes are situated) for new courses as well as for the additional intake/increase in seats.
2. Learned counsel for petitioners states that the petitioners-institutes after fulfilling all the criteria as per the Regulation 2014 of the NCTE, applied for the grant of the recognition for the D.El.Ed. course; but NCTE failed to process the applications of the petitioners.
3. Though a prayer has also been made for a direction to NCTE to grant exemption from Clause 8(1) of NCTE, 2014, yet learned counsel for the petitioners does not pray for the said relief at this stage.
4. Learned counsel for the petitioners states that the High Court of Madhya Pradesh vide judgment and order dated 28th January, 2016 in W.P.(C) No.19819/2015 has held that all applications received before the cut-off date from the excluded districts of State of Madhya Pradesh shall be treated as valid and eligible to participate in the consideration process. The Division Bench judgment/order dated 28th January, 2016 passed by the High Court of Madhya Pradesh is reproduced hereinbelow:-

“Heard counsel for the parties.

This matter was almost fully heard on 07.01.2016. We

dealt with the argument as was advanced before us on that date and rejected the stand taken by the respondents. However, counsel for the respondents No.1 raised a new ground in support of its impugned action. He submitted that the petitioner had submitted application beyond the prescribed time and was not in terms of Regulation 5(5) of Regulations of 2014. Even this contention was answered against the respondents on the finding that no such reason has been noted in the impugned order and, for which, cannot be allowed to be raised for the first time during the course of argument to oppose the writ petition.

Nevertheless, the Court adjourned the matter for one week to enable the petitioner to carry out amendment in the writ petition so as to challenge the new ground urged by the respondent No.1 across the Bar.

The petitioner has carried out such amendment.

In response, the counsel for the respondent No.1 now relies on the decision of the Supreme Court in case of Adarsh Shiksha Mahavidyalaya and Others vs. Subhash Rahangdale and Others, (2012) 2 SCC 425, in particular paragraph 76 to contend that it was open to the respondent No.1 to issue notification to invite applications from restricted or limited districts in the State of Madhya Pradesh keeping in mind the demand and supply ratio in the State.

In the context of this argument, we called upon the counsel for the respondent No.1 to produce contemporaneous record, which was before respondent No.1 at the time of taking decision for issuing notice inviting applications from limited districts and excluding 20 districts in the State of Madhya Pradesh from setting up new D.Ed College for the academic year 2016-17.

Counsel for respondent No.1 submits that the notification was issued on the basis of recommendation made by the State Government in that behalf.

Indubitably, the final Authority and the Technical Expert is the respondent No.1. The respondent No.1 should have insisted for empirical data in support of its decision to exclude 20 districts in the final notification to be issued by it. The respondent No.1 cannot be permitted to take excuse on the ground that the State Government made recommendation, and the same was mechanically acted upon by the respondent No.1.

Respondent No.1 being the final Authority was expected to and should have independently examined the justness of such recommendation and acted upon the same only if adequate material was available before it on record to justify its final decision. Any other approach would be nothing short of abdication of statutory obligation of doing proper scrutiny of the proposal and decision to be taken to maintain highest quality of education in the concerned State. Counsel for the petitioner has justly relied on the decision of Supreme Court in St. Johns Teachers Training Institute vs. Regional Director, National Council For Teacher Education and Another, (2003) 3 SCC 321 to contend that recommendation made by the State Government is not binding on the respondent No.1.

In our opinion, the condition specified in the impugned notification dated 27.02.2015 (Annexure-P/3) to exclude 20 districts of State of Madhya Pradesh from consideration, deserves to be quashed and set aside in terms of this order.

In other words, all applications received before the cut off date including of the respondent No.1 from concerned twenty districts of State of Madhya Pradesh ought to be treated as valid and eligible to participate in the consideration process. Indisputably, the petitioner had submitted such application in response to the notification on 30.06.2015, which is within the extended cut off date (i.e. 30.06.2015). In that, the fact that the petitioner had submitted application on 30.06.2015 has not been disputed. For that reason, respondent No.1 and other statutory Authorities will be obliged to decide the application preferred by the petitioner and take a final decision thereon expeditiously and not later than 3rd March, 2016. If any other application has been received from the districts which were otherwise excluded in terms of the impugned notification, within specified time, even those applications be processed by the respondent No.1 and other statutory Authorities in accordance with law before 3rd March, 2016 and decision thereon be communicated to the concerned applicants. If the decision is adverse to the concerned applicants, they will be free to challenge the same on grounds as may be permissible in law.

Disposed of accordingly.”

5. Learned counsel for the petitioners also states that despite the interim direction passed by this Court to the respondents to process the petitioners' applications for the academic year 2016-2017, no action has been taken by the respondents till date.

6. In majority of the writ petitions, though notice had been accepted, yet no counter-affidavit has been filed till date. Consequently, this Court has no other option but to proceed ahead with the matters.

7. It is pertinent to mention that in an earlier batch of writ petitions challenging the communication dated 20th March, 2013, whereby the Regional Committees were directed/instructed to reject and return all applications for recognition of B.Ed and D.El.Ed. courses on the ground that the State of Haryana had given a general negative recommendation, this Court had directed that the petitioners in the said case would apply afresh and the same shall be considered by the NCTE/NRC in accordance with the regulations. The relevant portion of the said judgment passed by this Court in ***Divine Mission Society (Regd.) Vs. National Council for Teacher Education & Ors., W.P.(C) No.2889/2013*** and other connected matters on 24th November, 2014, is reproduced hereinbelow:-

“6. This Court is of the view that after filing of an application, an institution is legally entitled to have it processed by the statutorily designated authority strictly in accordance with the statutorily prescribed procedure. The input of the State Government as a stake holder under the current rules is certainly relevant but it cannot be accepted as ‘gospel truth’ and that too, without giving an opportunity of hearing to the petitioners.”

8. Keeping in view the aforesaid judgement of this Court as well as the judgment of the High Court of Madhya Pradesh, this Court is of the opinion that there cannot be a threshold bar imposed by NCTE/WRC without affording an opportunity of hearing to the petitioners. Moreover, as both NCTE and WRC are independent statutory bodies, they have not only to apply their mind independently but also have to comply with the principles of natural justice.

9. Consequently, the applications filed by the petitioners will be decided by the respondents and a final decision will be taken thereon expeditiously, but not later than 3rd March, 2016. If a decision is adverse to the petitioners, they will be free to file appropriate proceedings in accordance with law.

10. With the aforesaid directions, the present writ petitions along with the applications are disposed of.

MANMOHAN, J

FEBRUARY 02, 2016
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