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

+ W.P.(C) 1227/2016 & CM No.5412/2016

AL MADEENA MINORITY EDUCATIONAL

AND WELFARE SOCIETY KADAPA & ANR. Petitioners

Through: Mr.Amitesh Kumar with
Mr.Shashank Shekhar, Adv.

Versus

NATIONAL COUNCIL FOR TEACHER

EDUCATION & ANR. Respondents

Through: Ms.Arunima Dwivedi, Adv.

+ W.P.(C) 1228/2016 & CM No.5414/2016

AL MADEENA MINORITY EDUCATIONAL

AND WELFARE SOCIETY KADAPA AND ANR Petitioners

Through: Mr.Amitesh Kumar with
Mr.Shashank Shekhar, Adv.

Versus

NATIONAL COUNCIL FOR TEACHER

EDUCATION AND ANR Respondents

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CORAM:

HON'BLE THE CHIEF JUSTICE

HON'BLE MR. JUSTICE JAYANT NATH

ORDER

29.02.2016

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1. The petitioner No.1 in both the petitions is stated to be a Minority Educational Society. Having proposed to start educational institutions with (i) D.El.Ed. Course and (ii) D.P.Ed. Course in Kadapa District in Andhra Pradesh, the petitioner No.1 applied for grant of recognition for the said courses for the Academic Year 2016-17 in terms of the provisions of the National Council for Teacher Education Act, 1983 (NCTE Act). The said

applications were rejected by the National Council for Teacher Education (NCTE), Southern Regional Committee (SRC)/respondent No.2 by separate orders dated 20.10.2015 and 13.11.2015 on the ground that the petitioners failed to furnish the application fees as prescribed under Rule 9 of NCTE Rules, 1997 on or before the date of submission of online application.

2. The said orders are sought to be assailed in these petitions seeking a declaration that Regulations 7(1) and (2) of the NCTE (Recognition Norms and Procedure) Regulations, 2014 (for short 'the Regulations') are *ultra vires* the provisions of the NCTE Act apart from being violative of Articles 14 and 19 of the Constitution of India. The impugned orders of rejection dated 20.10.2015 and 13.11.2015 are consequently sought to be set aside and it is prayed that the respondents be directed to process the applications of the petitioners for permission/recognition for D.El.Ed and D.P.Ed courses for the Academic Year 2016-17.

3. It is contended by the petitioners that Regulation 7(1) and (2) of the impugned Regulations which provide for summary rejection of the application on the ground of failure to furnish the application fees on or before the date of submission of online application is contrary to the provisions of Section 14(3) of NCTE Act which expressly provides for giving a reasonable opportunity to the applicant for making a written representation before passing an order refusing recognition on the ground it failed to fulfil the requirements laid down in Clause (a) of Section 14(3). It is, thus, contended that the impugned Regulations are liable to be struck down being *ultra vires* the Act.

4. However, it is vehemently contended by Ms.Arunima Dwivedi, the learned counsel appearing for the respondents that the issue relating to the validity of the impugned regulations deserves no consideration in the facts and circumstances of the cases on hand. Pointing out that 3rd March, 2016 is the last date for the grant of recognition as per the statutory schedule prescribed by NCTE, it is contended by the learned counsel that the present petitions which are filed at the fag end of the statutory schedule are not bonafide and therefore, the same are liable to be dismissed in limine.

5. The material available on record shows that the petitioners made the applications online on 14.07.2015. It is pleaded in the petitions that for the purpose of submitting online applications, the management of the petitioner No.1 Society requested one of its employees to get the demand drafts of Rs.1,50,000/- for paying the processing fees and for the said purpose, Cheques No.163870 and 163897 were issued, however, inadvertently and due to communication gap, the said employee instead of getting the demand drafts entered the cheque numbers in the online applications dated 14.07.2015. It is also pleaded that on the next date, i.e., 15.07.2015, the petitioners submitted the hard copies of the applications to the SRC of NCTE at Bangalore along with the essential documents. However, it is not disputed before us that neither the cheques nor the demand drafts towards the application fees were submitted along with the said applications and the cheques stated to have been drawn for the purpose of the application fees remained with the petitioners only.

6. Thus, the petitioners are very well aware of the fact that their applications were not accompanied by the stipulated application fees. After

the impugned orders dated 20.10.2015 and 13.11.2015 were passed by the respondent No.2, the petitioners made representations dated 15.12.2015 contending that the summary rejection of their applications is illegal and, therefore, to permit them to deposit the application fees and to process their applications for the Academic Session 2016-17. Thereafter, the present petitions came to be filed with the above mentioned prayers on 09.02.2016.

7. Be it noted that as per the Schedule for Recognition and Affiliation prescribed by NCTE in terms of the decision of the Supreme Court in ***Maa Vaishno Devi Mahila Mahavidyalay v. State of Uttar Pradesh & Ors.,(2013) 2 SCC 617***, the last date for grant of recognition by NCTE is 3rd March of each year. Thus, the last date for the Academic Year 2016-17 would be expiring in another three days, i.e., on 03.03.2016.

8. In the light of the facts borne out of the record, we find force in the submission of the learned counsel for the respondents that the petitioners cannot be granted any relief for consideration of their applications for the Academic Year 2016-17. We are also of the view that the writ petitions are misconceived and not bonafide and, therefore, the issue relating to validity of the impugned regulations deserves no consideration.

9. Accordingly both the writ petitions are dismissed.

No costs.

CHIEF JUSTICE

JAYANT NATH, J

FEBRUARY 29, 2016/pmc