

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**Civil Writ Jurisdiction Case No.14486 of 2014**

- 
1. Mahendra Das B.Ed Teachers Training College at Mathia Nechua Jalalpur, Gopalganj, District Gopalganj, Bihar through its Secretary Ram Dular Prasad S/o Late Deo Narain Yadav.
  2. Ram Dular Prasad S/o Late Deo Narain Yadav Resident of Village M.N. Jalalpur, P.S. + District Gopalganj.

... .. Petitioner/s

Versus

1. The National Council for Teachers Education, Hans Bhawan, Wing-II, 1, Bahadur Shah Zafar Marg, New Delhi-110002 through its Chairperson.
2. The National Council for Teacher's Education Eastern Regional Committee, 15, Nelkanth Nagar, Nayapalli, Bhubhaneshwar through its Regional Director.
3. The Regional Director, The National Council for Teacher's Education Eastern Regional Committee, 15, Nelkanth Nagar, Nayapalli, Bhubhaneshwar.
4. Mr. C. Neelap , the then Regional Director, NCTE, Eastern Regional Committee, Bhubhaneshwar through its Regional Director.

... .. Respondent/s

---

**Appearance :**

|                      |   |                        |
|----------------------|---|------------------------|
| For the Petitioner/s | : | Mr. Rajeev Kumar Singh |
| For the Respondent/s | : | Mr. Shri Nath Pathak   |
| For NCTE             | : | Mr. Kumar Brijnandan   |

---

**CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN SINGH**

**ORAL JUDGMENT**

**Date : 04-09-2017**

Aggrieved by the order, dated 05.11.2013, (Annexure-2) issued by the Regional Director of the Eastern Regional Committee of the National Teachers Education Council, Bhubneshwar (hereinafter referred to as the ERC-NCTE), the petitioner has filed this writ application under Article 226 of the Constitution of India, seeking quashing of the said order. The petitioner has also sought for quashing of the decision taken by the ERC-NCTE in its 128<sup>th</sup> meeting, held on 09.11.2011,



whereby an application for grant of recognition had been refused.

2. The petitioner is a Teachers Training College, which has approached this Court for seeking relief as noted above.

3. In order to appreciate the controversy involved in the present case, certain relevant facts, which are not at all in dispute, need to be taken note of.

4. The petitioner-College had applied for recognition of the College before the NCTE in the year 2007. It was assigned a Code by ERC/NCTE being APE 00852 to be used for correspondence in respect of grant of recognition on 08.07.2007. Through letter No. 1052(1), dated 05.08.2009, the Regional Director, ERC-NCTE, Bhubneshwar informed the petitioner about refusal of the request for grant of recognition. An appeal preferred by the petitioner under Section 18 of the National Council for Teachers Education Act, 1993 (hereinafter referred to as the NCTE ACT) against the said order, dated 05.08.2009, was rejected by the appellate Tribunal by an order, dated 05.03.2010. The petitioner challenged the said decision of the ERC-NCTE, dated 05.08.2009 and the appellate order, dated 05.03.2010 by filing a writ application before this Court,



which gave rise to CWJC No. 17884 of 2010. This Court disposed of the writ application with the following observations and directions by an order, dated 11.04.2011:-

“From the last paragraph of Annexure-8, as quoted above, it is apparent that the application of the petitioner for grant of recognition was not finally rejected. However, when the Institution did not rectify all the deficiencies the same was finally rejected by the Regional Committee, vide Annexure-10, against which petitioner moved in appeal which was also rejected on the ground that the deficiencies still continued. Now the documents show that one after another the Institution has removed the deficiencies. The last deficiency which remained with the Institution at the time of consideration of its appeal was inexperienced Principal functioning in the Institution. As per the case of the petitioner, the same has also been removed which has been intimated to the Regional Committee, vide Annexure-14.

In the circumstances, this Court is of the view that the Regional Committee can proceed in the matter from that stage itself on the basis of the earlier Inspection report and, if it finds that all the deficiencies have been removed by the Institution it can proceed to consider the case of the petitioner for final recognition. This Court directs the Regional Committee to do so. For this purpose this Court also directs that the earlier rejection order of Regional Committee, as contained in Annexure-10, and the order of rejection of appeal of the petitioner, as contained in Annexure-12, shall not come in the way.

Since it is a matter of educational Institution and without recognition the Institution cannot proceed with the teaching, the Regional Committee is directed to take a final decision in the matter within four months. In case, the Regional Committee requires a formal application for the purpose, it may ask the



Institution within two weeks from today for the same. On receipt of such intimation from the Regional Committee, the Institution shall submit a formal application within one week thereafter with all the details. If the earlier security money has been refunded to the petitioner, the petitioner will deposit security money afresh. In case, it has not been refunded the same shall stand exempted to the petitioner for his present application. On submission of application by the petitioner the Regional Committee shall take all steps in accordance with law and take a final decision in the matter of recognition of the petitioner-Institution within four months positively.

The writ application is disposed of with the aforesaid observations and directions.”

5. On plain reading of the order of this Court, dated 11.04.2011 (supra), it is manifest that the Court desired to proceed with the application, which the petitioner had already filed in the year 2007 by making a formal application. It is amply clear from the said order that ERC-NCTE was required to proceed on the basis of same application inasmuch as the Court indicated that if the security money had been refunded to the petitioner, the petitioner will deposit the security money afresh and if it had not been refunded, the same shall stand exempted to the petitioner for the said formal application.

6. The petitioner made an application in terms of the said order of this Court, dated 11.04.2011. Again the ERC-



NCTE refused the application for recognition on 11.11.2011, which made the petitioner-College to again rush to this Court by filing application, which gave rise to CWJC No. 3438 of 2012. When the matter was taken up by this Court on 15.03.2012, the Court took note of the facts and circumstances and the background of the case in detail including the conduct of the respondents in pointing out new deficiencies, which were not earlier pointed out. Relevant portion of the said order may be taken note of, which demonstrates the conduct of the NCTE, in dealing with the case for grant of recognition of the petitioner-College as was noticed by this Court, which is as follows:-

“The new objection by the respondents that the list of part time lecturers in Art Education and Director of Physical Education had not been submitted, was not raised on earlier occasions by the Committee and on the contrary the identified deficiencies had been singled out. The power possessed by the respondents is a regulatory public power which cannot be exercised in fits and starts raising new objections at every stage.”

7. Finally, the said writ application came to be disposed of by this Court by an order, dated 06.07.2012, which reads thus:-

“Upon hearing learned counsel for the parties, this Court is of the view that order is unreasoned requiring for



reconsideration. Learned counsel for the NCTE, Eastern Regional Committee does not have any objection.

The writ petition is disposed of with a direction to the concerned authority to reconsider the application for the petitioner and pass fresh order within a period of one month from the date of receipt/production of a certified copy of this order.

With the above observation, the writ petition is disposed of.”

8. The facts noted above, go to show that the application, which the petitioner-College had filed for grant of affiliation in the year 2007 could not be said to have been finally disposed of and ERC-NCTE was asked to reconsider the said application and pass an order afresh within a period of one month. What happened thereafter speaks of the climax of the entire story. This Court by order, dated 06.07.2012 had directed to reconsider the application within one month of the petitioner for grant of recognition. The Regional Director, ERC-NCTE, Bubneshwar, purportedly acting in compliance of the said order, this time rejected the application, letter, dated 05.11.2013, referring to a decision taken in the first meeting of Regional Directors and NCTE Officers held on 01.09.2011 that once a decision for grant or refusal of recognition had been taken by the Regional Committee, such decision cannot be opened for



further scrutiny by the Regional Office and should be immediately given effect to.

9. The said communication, dated 05.11.2013, has thus, been challenged in the present proceeding.

10. I have carefully perused the said communication, dated 05.11.2013, which has altogether 15 paragraphs, which refer to the history of the case right from the receipt of application by ERC-NCTE on 01.08.2007 till making of the order of this Court, dated 06.07.2012. In the last paragraph, the Regional Director, ERC-NCTE has referred to the said decision, dated 01.09.2011 to reject the petitioner's application on the ground that it was not open for the Regional Director to reconsider it.

11. The present writ application remained pending for nearly three years before this Court, when the matter was taken up on 06.04.2017. This Court took serious note of the conduct of the Regional Director, who had passed the said order, dated 05.11.2013 and while asking Mr. C. Neelap, the then Regional Director, Eastern Regional Committee, NCTE to explain as to why contempt proceeding be not initiated against him for deliberate violation of this Court's order, dated



06.07.2012, relevant portion of the said order, dated 06.04.2017

is being reproduced herein below:-

“ In compliance of the said order of this Court, dated, 06.07.2012, an order, dated 05.11.2013, has been passed by the Regional Director, whereby, he has rejected the said request for grant of recognition, on the ground that once a decision for grant of refusal or recognition has been taken by the Regional Committee, such decision cannot be reopened for further scrutiny by the Regional Office and should be immediately given effect to. This, according to the Regional Director, is in view of the decision taken in the 1<sup>st</sup> meeting of Regional Directors and NCTE Officers, held on 01.09.2011.

I am, *prima facie*, of the view that either the Regional Director is not capable of understanding the basic principle that he has to abide by the order of this Court in its letters and spirit, irrespective of decision taken by any other body, under the NCTE, or he has knowingly disobeyed this Court's order, amounting to contempt of Court.

Learned counsel, appearing on behalf of the petitioner, is permitted to implead Mr. C. Neelap, the then Regional Director, Eastern Regional Committee, NCTE, as respondent No.4.

Since the Court is of the *prima facie* view that he (respondent No.4) has committed deliberate contempt of this Court, let notice of the petition be served upon him through the Regional Director, NCTE, Eastern Regional Committee, Bhubneshwar.

List this matter, under the



same heading, on 4<sup>th</sup> May, 2017.

In the meanwhile, respondent No.4 will be required to file his show-cause as to why contempt proceeding be not initiated against him for disobeying this Court's order."

12. Subsequently, the Regional Director has passed and order rejecting the application for recognition by an order, dated 02.05.2017. Relevant portion of the order reads thus:-

"NOW THEREFORE, the institution namely, Mahendra Das B.Ed Teacher's training College, Mithila, Nechua Jalalpur, Dist-Gopalganj, Bihar-84150 had not submitted any application as per Regulation, 2014 which came into force on 28.11.2014. The said institution may apply afresh to ERC. NCTE for grant of permission/recognition of teacher education programmes as per Regulation, 2014 as and when online application will be invited."

13. I must indicate here that there is nothing more in the order then what has been quoted herein above and reference to this Court's order, dated 06.04.2017.

14. The said order, dated 02.05.2017, is being assailed by seeking amendment in the writ application through I.A. No. 4820 of 2017. I.A. No. 4820 of 2017 stands allowed and the prayer to challenge the legality of the order, dated



02.05.2017 is also thereby allowed.

15. From the facts as noted above, it is evident that the application, which was filed by the petitioner for grant of recognition cannot be said to have been disposed of before passing of the present order, dated 02.05.2017, which is under challenge in the present proceeding. More than five years ago on 06.07.2012, the Court had directed the NCTE to reconsider the petitioner's application for grant of recognition. The Regional Director, ERC-NCTE, despite order of this Court refused to reconsider by referring to a decision taken in a meeting and passed an order, on 05.11.2013. Now a plea is being taken that in view of coming into force of the new Regulations in the year 2014, the petitioner's application for recognition cannot be considered.

16. There has been substantially change in the provisions governing Teachers Education with coming into force of 2014 Regulations. In the absence of recognition granted by the NCTE, the petitioner-College did not give admission to the candidates for the courses in Teachers Training. In that background a direction to reconsider petitioner's application under the old Regulations will certainly be an exercise in futility, since curriculum and requirements for



grant of recognition have changed. For the College to have recognition of the NCTE to conduct Teachers Training Courses will have to have recognition under new Regulations only for, which the College will have to apply afresh, under the new Regulations.

17. That being the position, should be Court just leave the matter as *fait accompli* with the coming into force of 2014 Regulations, without any relief to the petitioner who has apparently wronged because of deliberate unfair and unjust acts of the official of NCTE.

18. The facts narrated above, speak for themselves. It was only because of high handed, arbitrary and casual approach of the Regional Director, NCTE that petitioner's application for grant of recognition could not be decided on merits, despite specific orders of this Court, dated 06.07.2012, for reconsideration. The petitioner was apparently made to suffer because of capricious and obstinate conduct of the Regional Director, ERC-NCTE, being a statutory public authority. I am of the view that conduct of the Regional Director, ERC-NCTE, cannot be said to be mere result of his carelessness or negligence. It is something more than that. In such circumstance, in my view, the rule of fairness requires



such statutory body to compensate the loss occasioned to private parties.

19. The petitioner had paid fee along with application for grant of recognition, which has not been refunded and a plea has been taken that since with the passing of the final order, dated 02.05.2017, the application stood rejected, the application fee paid by the petitioner-college cannot be refunded. The plea taken on behalf of the NCTE is utterly absurd, on the face of the order, dated 02.05.2017, which has been passed by the Regional Director. He has just asked the Institution to apply a fresh as per Regulations, 2014 as and when *online* applications are to be invited.

20. As I have already noted above, after coming into force of 2014 Regulations, it would be a futile exercise to direct the NCTE to take a decision on petitioner's application, which was made by him in the year 2007 for grant of recognition under the then existing National Council for Teachers Education (Application for recognition, Manner for submission, Determination of conditions for recognition of Institutions and Permission to start new Course or Training) Regulations, 1995. In that background, I have considered it proper taking into account all facts and circumstances of the



case to dispose of the writ application by passing following order, which, in my opinion, will subserve the ends of justice:-

(i) The Regional Director, ERC-NCTE, Bhubneshwar, is directed to refund the amount of application fee to the petitioner, which was deposited at the time of making of application in the year 2007, with interest at the rate of 12% per annum from the date it was paid till the date of refund. The amount must be paid within a period of three months from the date of the present order.

(ii) The petitioner needs to be compensated for careless and negligent act of the respondents, which is evident from the facts noted above. The petitioner is, therefore, entitled to be compensated by the respondents, by awarding adequate monetary compensation. I quantify the said amount to be a sum of Rs. 3 lacs to be paid by the ERC-NCTE within a period of three months from the date of receipt/production of a copy of this order.

(iii) It will be the responsibility of the Chairman, NCTE, Bhubneshwar to ensure that the said amount is paid to the petitioner within the same period of three months.

(iv) The Chairman, NCTE is directed to examine the



conduct of the then Regional Director, ERC-NCTE, Bhubneshwar, r for the purpose of initiating disciplinary action against him.

(v) If the aforesaid amount as indicated in (i) and (ii) are not paid within the stipulated time, it will earn interest at the rate of 18% per annum, thereafter.

21. This application is, accordingly, disposed of with a cost of litigation, which is assessed at Rs. 50,000/-(fifty thousand) payable by the NCTE to the petitioner.

22. The NCTE shall be at liberty to recover the amount of compensation and cost, after fixing responsibility on Officers of the NCTE, if any, in accordance with law.

**(Chakradhari Sharan Singh, J)**

arun/-

|                   |            |
|-------------------|------------|
| AFR/NAFR          | AFR        |
| CAV DATE          | N/A        |
| Uploading Date    | 04.09.2017 |
| Transmission Date | 04.09.2017 |

