

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

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CWP-20821-2017

Date of Decision : 13.09.2017

Parveen Educational Society

..... Petitioner

Versus

State of Haryana and others

..... Respondents

CORAM : HON'BLE MR.JUSTICE AJAY TEWARI

Present : Mr. Aman Pal, Advocate
for the petitioner.

AJAY TEWARI, J. (Oral)

By this petition the petitioner has challenged the order/letter dated 12.07.2017 (Annexure P-14) by which the respondent No.3 has declined to grant its recommendation and has directed them to comply with the amended academic requirements of Teachers.

The petitioner-society runs a college of education in District Panipat and was running B.Ed. and D.Ed. Course. In 2015 the petitioner applied for introduction of Bachelor of Elementary Teacher Education Programme (B.El.Ed.) for the Session 2016-2017. By letter dated 01.03.2016 it was informed about some further requirements which were needed to be added in the application and this letter was replied on

N.C.T.E on 08.07.2016. After about 2 months on 07.09.2017 the petitioner applied for recommendation. As part of that process the petitioner had to submit the list of faculty. By an order dated 28.12.2016 the respondent No.3-The Regional Director, NCTE rejected their application on the ground that the list of faculty had been submitted beyond the time prescribed therefor. The petitioner filed an appeal to the Appellate Committee where the main ground taken was that during the time when the petitioner had to submit the list of faculty the University to which it was affiliated was changed and whereas it was earlier affiliated to the respondent No.4-Kurukshetra University it was later affiliated to the respondent No.5-Chaudhary Ranbir Singh University, Jind and it was as a result of this that there was a delay in the submission of the faculty. The Appellate Authority accepted the delay which was beyond the control of the petitioner and by order dated 21.06.2017 set aside the rejection order and directed the petitioner to submit a full and final compliance report with response to the Letter of Intent (LOI) within 15 days. At this stage it would be necessary to reproduce the relevant part of the LOI (Annexure P-8):-

“2. As per provision of clause 7(13) of the NCTE Regulations, 2014, the process of appointment of qualified staff as per policy of State Government or University Grant Commission or University may be initiated by the institution and affiliating body will provide all assistant to the institution to ensure that the staff or faculty is appointed as per National Council for Teacher Education norms within two months. The institution shall submit the list of faculty, as approved by the affiliating body, to the Regional Committee.

3. In this regard as per decision taken by NRC in its 199th meeting, it is clarified that the above implies that where there

exists a provision of nomination of expert/experts for the Selection Committee by the affiliating university, the same be adhered to. In the absence of such a provision in the Act/Statutes of the affiliating university, the institution shall select faculty members by employing a transparent, objective and judicious process and shall get the list of selected teachers approved by the affiliating university. This approved list, alongwith details of educational qualifications and teaching experience, shall be submitted by the institution to the Regional Committee.

4. In view of above, before grant of formal recognition under Regulation 7(16) of the NCTE Regulations, 2014 is considered, the following documents are required to be submitted by the institution:-

- a. The institution shall submit particulars of the staff duly approved by the University/affiliating body as per prescribed format available on the NRC, NCTE website.*
- b. Advertisement given for recruitment of faculty and staff.*
- c. An affidavit on Rs.100/- stamp paper to the effect that the institution has selected staff as per NCTE/State/University norms (Format Enclosed).*
- d. Educational & professional qualification certificates of all teaching staff showing their eligibility for appointment as per the NCTE norms and experience certificate of the Principal/HOD.*
- e. Downloaded copies of the website of the institution with the hyperlink of the same as per provisions of clause 7(14) of the NCTE Regulations, 2014.*
- f. The institution shall convert the above Endowment Fund & Reserve Fund into a Joint Account and furnish the evidence/documents in this regard to NRC alongwith Form A showing the details of the FDR Account No., Name of the Bank and address, Phone No. of the Bank, Branch Code, IFSC Code, Signature ID Code of the issuing authority of the FDR. ”*

Thereafter the petitioner gave its compliance report in terms of the appellate order. Subsequently, the impugned order was passed on the following ground:-

“The matter was considered by NRC in its 272nd meeting held on 06th to 07th July, 2017 and the Committee decided as under:-
NRC considered the matter as per the provisions of the NCTE (Recognition Norms & Procedure) (Amendment) Regulations, 2017 dated 29.05.2017 notified on 09.06.2017 and observed that the NET/Ph.D. (as per UGC (Minimum Standard and Procedure for award of Ph.D. Degree) Regulations, 2009) is now an essential qualification for the post of Lecturer/Assistant Professor for B.Ed., B.El.E.D. and B.A.B.Ed./B.Sc. B.Ed. Programmes. Accordingly, the institution is directed to submit the list of qualified teachers as per the amended NCTE Regulations, 2017 duly approved by the affiliating University within two months of the date of issue of this letter.”

The precise argument of the counsel is that as far back as on December, 2016 the petitioner had supplied the list of faculty which had not been considered at that time only account of the delay and therefore once the delay was condoned by the appellate authority the respondent - NCTE had to consider the compliance report as if it was December, 2016 and could not refuse the recommendation on account of the amended notification which came into effect only on 09.06.2017. As per the counsel, the petitioner had a vested right that its faculty conformed to the requirements of 2014 Regulations and did not have to conform to the 2017 Regulations.

I am unable to agree with the counsel for the petitioner. It is not a case where any person has actually joined the service pursuant to the appointment orders. Counsel for the petitioner has accepted that these were,

in a sense notional appointment orders because neither did any of the faculty joins as a response to those appointment orders nor was any salary paid to any person and the intention was that as and when the recommendation is granted the persons would be invited to join. It cannot be lost sight of that all educational institutions exists for benefit of students and if prior to the recommendation of the course the prescribed academic requirements for the teachers are amended upwards the educational institutions can have no objection to the same and such amendments can only be held inapplicable to actually existing teachers. In the circumstances, the argument that the respondents are seeking to apply the 2017 Regulations retrospectively cannot be accepted. Of course, the 2017 Regulations cannot be held applicable to such colleges or courses which have already been recognized but merely because a college had applied for recognition can not mean to say that it has a vested right of recognition w.e.f. the date of application and not w.e.f. the date when it fulfils all the requirement. Consequently, the decision of the respondents that the petitioner has to conform to the 2017 Regulations, cannot be faulted in the facts and circumstances of the present case.

Consequently, the petition is dismissed.

Since the main case has been decided, the pending civil miscellaneous application, if any, also stands disposed of.

September 13, 2017

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**(AJAY TEWARI)
JUDGE**

Whether speaking/reasoned - Yes/No

Whether reportable - Yes/No