

IN THE HIGH COURT OF DELHI AT NEW DELHI

Judgment reserved on: February 16, 2017

Judgment delivered on: February 23, 2017

+ W.P.(C) 3231/2016 & CM 13803/2016

RAMBHA COLLEGE OF EDUCATION

..... Petitioner

Through: Mr.Mayank Manish, Adv.

versus

NATIONAL COUNCIL FOR TEACHER EDUCATION AND ANR

..... Respondents

Through: Mr.Rohit Gandhi, Adv.

CORAM:

HON'BLE MR JUSTICE V. KAMESWAR RAO

J U D G M E N T

V. KAMESWAR RAO, J

1. The present petition has been filed by the petitioner with the following prayers:-

“It is, therefore, most respectfully prayed that this Hon’ble Court may graciously be pleased to :-

A. issue an appropriate writ[s]/direction[s] or order[s] quashing and setting aside the impugned order F. No.89-234/2015 Appeal/2nd Meeting-2016 dated NIL and ERC order dated 16.11.2015 as contained in ANNEXURE P-1 colly, and/or;

B. issue an appropriate writ[s]/direction[s] or order[s] remanding back the case to the ERC for grant of recognition for the D.El.Ed Course for academic year 2016-2017, and/or;

C. Pass any such other orders/directions as this Hon'ble Court deems fit and proper in the facts and circumstances of the case."

2. Vide order dated November 16, 2015, the Eastern Regional Committee of NCTE has rejected the application filed by the petitioner Institution by stating as under:-

"2. After considering and examining the application along with the documents submitted by the institution, the agenda note, the NCTE Regulations 2014 including Norms and Standards, guidelines received from the NCTE Hqs from time to time, the minutes of Regional Directors meeting held on 11.10.2015, the Eastern Regional Committee observed as follows:

As per Clause 7(2)(a) & (b), the application shall be summarily rejected under one or more of the following circumstances:

(a) Failure to furnish the application fee, as prescribed under rule 9 of the National Council for Teacher Education Rules, 1997 on or before the date of submission of online applications;

(b) Failure to submit print out the applications made online along with the land documents as required under sub-regulation (4) of Regulation 5 within fifteen days of the submission of the online application.

Taking the above Clauses of the Regulation 2014 into consideration, the Eastern Regional Committee observed as follows:

(i) The date of application through online is 30.05.2015 and date of dispatch of printout of online application is 26.06.2015 i.e after 15 days of submission of online application.

In view of the above the Committee decided as under:-

The application of the institution is summarily rejected as per clause 7(2)(b) of NCTE Regulation 2014.

3. NOW, THEREFORE, as per the decision of ERC, the application submitted by the applicant for grant of recognition for D.Ed.Ed Course to the institution viz. **Rambha College of Education, Plot No.464, 466, 467,**

468 etc. Street no. –SH-6, Vill/Po – Gitilata, Tehsil/Taluka-Dhalbhumgarh, Town/City- Near Jamshedpur, Dist-Purba Singhbhum, Jharkhand-832107 (Code No.ERCAPP3090) is hereby summarily rejected as per Clause 7(2)(b) of NCTE Regulation 2014.”

3. Vide order dated NIL at page 20, the Appellate Committee rejected the appeal of the petitioner by stating as under:-

“AND WHEREAS Appeal Committee noted that recognition for conducting D.El.Ed. course applied by the appellant institution has been refused by E.R.C. on the ground that “the date of online application is 30.05.2015 and date of dispatch of printout of online application is 26.06.2015 i.e after 15 days of the submission of online application.” Appeal Committee further noted that NCTE (HQs) has issued directions to all Regional Committee offices stating that 15.07.2015 shall be the last date for submission of hard copy of application alongwith N.O.C. irrespective of the date of submission of online application. Committee noted that hard copy of application in the present case was received in the office of E.R.C. on 26.06.2015 and as such reason for refusal as mentioned in the refusal order dated 16/11/2015 is not sustainable. Appeal Committee further noted from the documents submitted alongwith the Appeal Memoranda dated 27.11.2015 that N.O.C. of the State School Education & Literacy Department was issued on 26.10.2015 and as such N.O.C. could not have been a part of the hard copy of application which was received in the office of E.R.C. on 26.06.2015. Appeal Committee, therefore, concluded that the appeal deserves to be rejected on the ground that the appellant neither submitted the N.O.C. alongwith the hard copy nor even obtained it from the affiliating body within the extended time limit i.e 15.07.2015.

AND WHEREAS after perusal of the Memorandum of Appeal, affidavit, documents on record and oral arguments advanced during the hearing, Appeal Committee concluded that the appeal deserves to be rejected on the ground that the appellant neither submitted the N.O.C. alongwith the hard copy nor even obtained it from the affiliating body within the extended time limit i.e 15.07.2015.

AND WHEREAS after perusal of the memorandum of appeal, affidavit, the documents available on records and considering the oral arguments

advanced during the hearing, the Committee concluded that the ERC was justified in refusing recognition and therefore, the appeal deserved to be rejected and the order of the ERC is confirmed.”

4. From the perusal of the impugned orders, it is noted that the Eastern Regional Committee (for short ‘ERC’) of the NCTE has rejected the application primarily on the ground that the date of application of the Institution through online is May 30, 2015 and date of despatch of printout of online application is June 26, 2015, i.e after 15 days of submission of the online application, whereas the Appellate Committee, in the appeal has observed that the Appellate Committee of the NCTE has issued directions to all Regional Committee/Officers stating that July 15, 2015 shall be the last date for submission of hard copy of application along with NOC, irrespective of the date of submission of online application and the hard copy of the application of the petitioner was received in the ERC on June 26, 2015 and as such, the reason for refusal vide order dated November 16, 2015 is not sustainable. Even though, the Appellate Committee has accepted the appeal to the extent of the ground of rejection of the application by the ERC but the Appellate Committee after noting that the documents as submitted along with the appeal dated November 27, 2015 that NOC of the State School Education & Literacy Department was issued on October 26, 2015 and as such NOC could not have been part of the hard copy of application, which was received in the office of ERC on June 26, 2015 and rejected the appeal on the ground that the appellant neither submitted the NOC along with hard copy nor even obtained it from the affiliating body within the extended time limit of July 15, 2015.

5. Mr. Mayank Manish, learned counsel for the petitioner would submit that the petitioner had no opportunity to explain before the NCTE that NOC was obtained by the petitioner. He would state that, as noted from the Appellate Order, the Appellate Committee did note that the NOC has since been given by the concerned Affiliating Body but still rejected the case of the petitioner on the ground that the same was not obtained from the Affiliating Body within the extended time limit of July 15, 2015. According to him, the Appellate Committee could have considered the aspect of NOC having been granted by the Affiliating Body while considering the appeal. That apart, it is his submission that the Southern Regional Committee (for short 'SRC') in a recent decision dated January 31, 2016 decided to reopen all the cases rejected on the ground of non submission or delayed submission of NOCs and process such cases by accepting NOCs irrespective of the dates of issue. He would also state that in one case of Indra Ganesan College of Education, Tiruchirapalli, Tamil Nadu, the Appellate Committee while considering an order of the SRC dated December 22, 2015 refusing recognition for conducting M.Ed course on the ground that the institution has not submitted NOC from the affiliating body and by noting that the said institution however, sent a letter dated April 21, 2016 informing that they have submitted the NOC issued by Tamil Nadu Teachers Education University, Chennai to the SRC on February 23, 2016 and based on an inspection of their college conducted on March 26, 2016, the SRC released LOI, has held that the appeal has become infructuous. In other words, it is his submission that the SRC has

considered the NOC even at a later stage and granted LOI. He would also rely upon the judgment of this Court in ***Ch. S.S.D. College W.P.(C) No. 6627/2016 and connected writ petitions decided on January 3, 2017*** to contend that this Court in similar circumstances, has remanded the matter back to the Appellate Authority for considering the case of the institutions and noting the plea on behalf of the petitioners in that case to consider their case for the academic year 2017-18. He states, in the said judgment this Court had referred to the judgment of the Allahabad High Court in the case of ***R.D. College of Education v. National Council for Teacher Education and ors W.P.(C) No. 23771/2016 decided on July 4, 2016*** wherein, the High Court has held that nothing prevented the NCTE while exercising appellate powers from considering the subsequent events i.e the events taken place in the intervening period between the date of decision of Regional Committee and the Appellate Authority. If deficiency has been duly removed to the satisfaction of the NCTE, it should be considered by the Appellate Authority and it was open to the NCTE to remand back the matter to the Regional Committee for consideration. He also referred to the judgment of this Court in ***Guru Nanak Khalsa College v. NCTE and Anr. W.P.(C) No. 4218/2010 decided on July 2, 2010***, which was referred to in Ch. S.S.D.College (supra) and connected petitions on similar lines. In the last, Mr. Manish would draw my attention to the orders dated July 13, 2016 and September 26, 2016, wherein it was represented on behalf of the petitioner that its case be considered for the academic session 2017-18.

6. On the other hand, Mr. Rohit Gandhi, learned counsel for the respondents would rely

upon the short counter-affidavit filed by the respondents to contend that the Regulations of 2014 are bound to be implemented without any change. He would rely upon Regulations 5(3) and 7(1), which relates to manner of making application and time limit and processing of applications to state that the petitioner was required to submit the documents on time, on or before July 15, 2015. According to him, in the absence of an NOC from the affiliating body, the Appellate Committee even though on a ground different from the ground on which ERC has rejected the application, has rejected the appeal, stating the NOC was not submitted or even obtained within the extended time limit of July 15, 2015.

7. Having considered the submissions made by the learned counsel for the parties, the only issue, which arises for consideration is whether the ground for rejecting the appeal that the appellant neither submitted the NOC along with hard copy nor even obtained it from the affiliating body within the extended time limit of July 15, 2015 is justified. It is an admitted position that the NOC of the State School Education & Literacy Department was issued on October 26, 2015 and this fact has been noted by the Appellate Committee. No doubt, that the NOC was not filed by the petitioner along with its application either on May 30, 2015 or on June 26, 2015 or within the extended time limit of July 15, 2015. But I note, that the SRC has, vide its decision dated January 31, 2016 had reopened and processed those cases, which were rejected on the ground of non submission or delayed submission of NOC. One such case being the Indra Ganesan College of Education, of which copy has been placed on record by Mr. Mayank Manish from where it is noted that even though the application of

the institution was rejected by the SRC on December 22, 2015 but subsequently on the institution submitting the NOC of the affiliating institution to SRC on February 23, 2016 had granted the LOI.

8. That apart, this Court in ***Ch. S.S.D. College (supra) and connected writ petitions***, by relying upon the judgment in ***R.D. College of Education (supra)*** of Allahabad High Court, which has been implemented by the Appellate Authority by remanding the matter to NRC for fresh consideration vide order dated September 26, 2016 and also noting the judgment of this Court in ***Guru Nanak Khalsa College (supra)*** and the order of the Supreme Court in the case of ***Infant Jesus College of Education vs. National Council for Teacher Education and Anr., Writ Petition (Civil) No. 398/2016***, as relied upon by the learned counsel for the petitioners in that case i.e. Ch. S.S.D.College (Supra), wherein the Supreme Court has by noting that the NCTE has granted recognition for the academic year 2017-18 rejected the prayer of the petitioner for recognition for the academic year 2016-17. In other words, despite request for 2016-17, the recognition was granted by NCTE for the academic year 2017-18, has in para 40 (W.P.(C) No. 6627/2016), para 42 (W.P.(C) No. 7563/2016) and para 43 (W.P.(C) No. 7981/2016), held as under:-

“40. In the facts, this Court is of the view the fact, that when the Appellate Authority had decided the appeal, the decision of the affiliating University approving the faculty was in place, and the Appellate Authority should have taken into consideration the said aspect which deciding the appeal. Having not done that, one of the impugned order dated June 9, 2016 of the Appellate Authority need to be set aside. It is ordered accordingly. The matter is remanded back to the Appellate Authority to consider the case of the

petitioner for recognition based on the petitioner's letter dated October 27, 2015, whereby the petitioner has enclosed the letters of the affiliating University, approving the faculty and also the plea of the petitioner that its case be considered for 2017-18 and the submissions made by the counsel for the parties during the hearing in these petitions, as noted above and pass appropriate orders in accordance with law. The writ petition is disposed of.

42. In this case also, when the appellate authority had considered the appeal, the order of approval dated February 10, 2016 was in place. But the same was not considered by the appellate authority while rejecting the appeal of the petitioner. For parity of reasons like in WP(C) No.6627/2016, I set aside the order of the Appellate Authority dated July 4, 2016 and remand the matter to the appellate authority to consider the case of the petitioner for recognition based on the approval dated February 10, 2016 of the Board of Examinations, Allahabad and also the plea of the petitioner that its case be considered for 2017-18 and the submissions made by the counsel for the parties during the hearing in these petitions as noted above and pass appropriate orders in accordance with law. The writ petition is disposed of.

43. In this writ petition, it is noted from the above the LOI was issued to the petitioner on March 20, 2015. Pursuant to the show cause note, the Regional Committee refused the recognition vide order dated October 13, 2015 on the grounds of non submission of the documents and reply to show cause notice. The plea of the petitioner that it has not received the show cause notice is proved by the letter of the post office dated February 18, 2016, which has an endorsement "No letter has been received during this period in the name of Chaudhary Raghunath Singh Mahavidyalaya". If that be so, the ground, the NRC file does not indicate that the show cause notice dated August 14, 2015 was returned undelivered, is unsustainable. That apart, on November 6, 2015, the Board of Examinations, Allahabad granted approval to the appointments made by the petitioner. The appeal filed by the petitioner on December 11, 2015 was rejected on August 8, 2016 by the Appellate Authority by holding that Regional Committee was justified in refusing recognition. For parity of reasons like in WP(C) No.6627/2016, the order dated August 8, 2016 of the Appellate Authority need to be set aside. Ordered accordingly. The matter is remanded back to the Appellate Authority to consider the appeal of the petitioner keeping in view the fact, show cause notice dated August 14, 2015 was not received by the petitioner

and that on November 6, 2015, the Board of Examinations, Allahabad granted approval to the appointments made by the petitioner and also the plea of the petitioner that its case be considered for 2017-18 and also the submissions made by the counsel for the parties as noted above and pass appropriate orders in accordance with law. The writ petition is disposed of.”

9. For parity of reasons, this petition also needs to be allowed and the Appellate Order dated NIL at page 20 of the paper-book [AnnexureP-1 (colly)] is set aside and the matter is remanded back to the Appellate Authority to consider the appeal of the petitioner afresh by taking into consideration the NOC of the affiliating body issued on October 26, 2015 as noted in the Appellate Order and also the plea of the petitioner that its case be considered for the academic session 2017-18, by keeping in view the submissions made by the learned counsel for the parties during the hearing of this petition as noted above and pass appropriate orders in accordance with law. As, it is the case of the learned counsel for the petitioner that the last date for granting approval is March 3, 2017, the petitioner shall be at liberty to make a request for considering the appeal before March 3, 2017. The petition is disposed of on the above terms.

CM 13803/2016 (for direction)

Dismissed as infructuous.

V. KAMESWAR RAO, J

FEBRUARY 23, 2017

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