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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **W.P.(C) 3390/2016 & C.M. No.14476/2016**
ROYAL INSTITUTE OF SCIENCE & MANAGEMENT

..... Petitioner

Through Mr.Sanjay Sharawat, Advocate.

versus

NATIONAL COUNCIL FOR TEACHER EDUCATION & ANR

..... Respondents

Through Mr.Kishan Nautiyal, Advocate.

CORAM:

HON'BLE MS. JUSTICE INDERMEET KAUR

ORDER

% **12.09.2017**

1 Petitioner is aggrieved by the order dated 28.12.2015 passed by respondent no.2 (Northern Regional Committee) as also subsequent order dated 18.4.2016 passed by respondent no.1 (National Council for Teacher Education- NCTE). Contention is that the refusal to grant recognition to the petitioner suffers from an illegality.

2 Counter affidavit has been filed negating the submissions.

3 Record shows that the petitioner institute has submitted his application with respondent no.2 seeking recognition to the D.El.Ed. course in the academic session 2013-14. On 04.9.2015 a show cause notice was issued by respondent no.2 to the petitioner wherein two deficiencies were pointed out. These deficiencies read as under:

“(i) The copy of approved building plan indicating name of institution, name of course, khasra number/plot number of land, total land area and earmarked built up area, size of multipurpose hall and class rooms etc. for the proposed course is required to be submitted.

(ii) Non Encumbrance certificate as required under clause 8(4)(1) of the NCTE Regulations, 2014 not submitted.”

4 Contention of the petitioner is that the aforementioned deficiencies were removed by the petitioner by replying to the show cause notice as also by submitting necessary documents but his application was not considered favourably by respondent no.2. He suffered the first rejection order dated 28.12.2015. In appeal respondent no.1 endorsed the order vide the second impugned order dated 18.4.2016.

5 Learned counsel for petitioner points out that qua the first objection, the copy of the approved building plan indicating the name of the institute along with details of khasra number had been submitted by the petitioner and all the requisite parameters had been adhered to; this was clearly in conformity with the Regulations; Clause 7.7 of the NCTE Regulations, 2014 has been highlighted.

6 Clause 7.7 of the aforementioned Regulations inter alia stipulates as under:

“7. Processing of applications.-

(1).....

(2).....

.....

(7).....The institution shall be required to provide details about the infrastructure and other preparedness on the specified proforma available on the website of the Council to the visiting team at the time of inspection along with building completion certificate issued by the competent civil authority, if

not submitted earlier:”

7 The document submitted by the petitioner qua this aspect was annexed along with his reply to the show cause notice. This document is a building completion certificate in the formatted version of the respondent. Clause 11 reflects that the building plan has been approved by the Gram Panchayat Village Wazirpur. It bears the stamp and signatures of Gram Panchayat Village Wazirpur. The map of the building had also been annexed. This position is not in dispute. Learned counsel for respondent on this count submits that this building plan has not been approved by any Civic Authorities and there is no separate letter.

8 Clause 7.7 (supra) provides that the building completion certificate issued by the competent Civic Authority shall be filed. Counsel for the petitioner rightly points out that in the formatted document of the respondent, Clause 11 stipulates that the building plan has to be approved either by the Corporation, Municipality or Panchayat. Since the petitioner institute falls in the rural area, the necessary certificate has been issued by the Gram Panchayat, Village Wazirpur. This is clearly in conformity with the formatted document which is a document of the respondent itself.

9 This submission of the petitioner is correct.

10 Clause 11 of this document reads herein as under:

11.	<i>Building plan approved by (address of Corporation/Municipality/Panchayat/any other Govt.Agency</i>	<i>Gram Panchayat Wazirpur</i>
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11 The building completion certificate having been certified by Gram Panchayat thus appears to be a valid document. Objection of the respondent on this issue is frivolous. It is set aside.

12 Qua the second objection raised by the respondent, which is on the non-encumbrance certificate, the objection raised in the show cause notice reads herein as under:

“Non Encumbrance certificate as required under clause 8(4)(1) of the NCTE Regulations, 2014 not submitted.”

13 Learned counsel for respondent vehemently points out that what was required to be furnished was a certificate and not a non-encumbrance affidavit as has been done by the petitioner. The petitioner had placed on record an affidavit stating that this building is free from encumbrances. Submission being that this non-encumbrance document was required to be furnished in terms of Clause 8(4)(1) of the NCTE Regulations.

14 Clause 8(4)(1) of the NCTE Regulations reads herein as under:

“8.Conditions for grant of recognition:-

(4) (i) No institution shall be granted recognition under these regulations unless the institution or society sponsoring the institution is in possession of required land on the date of application. The land free from all encumbrances could be either on ownership basis or on lease from Government or Government institutions for a period of not less than thirty years. In cases where under relevant State or Union Territory laws the maximum permissible lease period is less than thirty years, the State Government or Union Territory administration

law shall prevail and in any case no building shall be taken on lease for running any teacher training programme.”

15 A reading of this Regulation show that what the institution has to provide is information that the land is free from all encumbrances. There is no mention of a certificate as has rightly been pointed out by learned counsel for petitioner. The petitioner had on his affidavit stated that the land is free from all encumbrances and the fact that such an affidavit had been filed before the respondent no.2 is not in dispute. There being no mention of a “certificate” it had not been filed. It was only later on that the petitioner learnt that a certificate is the requirement and accordingly he obtained a certificate from his advocate and filed the said non-encumbrance certificate as well (page 61 of the paper book). Learned counsel for respondent really has no dispute on the provisions of Regulation 8(4)(1). Regulation 8(4)(1) does not make a mention of any “certificate”; it only states that the petitioner institute must state that the land is free from all encumbrances. The fact that this has been so stated by the petitioner institute on an affidavit not being in dispute and the Regulation being silent on the word “certificate” the petitioner did not file the certificate for this reason. He had thereafter furnished a certificate obtained from his advocate. The Appeal Committee having rejected the application for the reason that non-encumbrance certificate had not been filed suffers thus from an infirmity. At the cost of repetition the word “certificate” does not find mention in Regulation 8(4)(1).

16 On both grounds, the order passed by the Appeal Committee is

liable to be set aside. The orders dated 28.12.2015 and 18.4.2016 passed by the Appeal Committee are set aside. The case of the petitioner institute be considered afresh in the light of the above noted observations and the petitioner institute be granted recognition. Needless to state that this will be for the next academic year 2018-19.

17 Petition disposed of in the above terms.

INDERMEET KAUR, J

SEPTEMBER 12, 2017
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