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

+ **W.P.(C) 7847/2016**

**DR. CC MAHTO TEACHERS TRAINING
COLLEGE**

..... Petitioner

Through: Mr. Mayank Manish and Mr. Ravi
Kant, Advs.

versus

**NATIONAL COUNCIL FOR TEACHER EDUCATION
& ANR.**

..... Respondents

Through: Mr. Ashok Kumar Panigrahi, Adv. for
R1 and R2.

CORAM:

HON'BLE MR. JUSTICE V. KAMESWAR RAO

ORDER

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01.03.2017

CM. No. 7954/2017 (for early hearing)

This is an application filed by the petitioner for early hearing of the petition.

Learned counsel for the petitioner does not wish to file rejoinder-affidavit and states that matter is covered by the judgments of this Court and seeks early hearing of the writ petition.

Mr. Ashok Kumar Panigrahi, learned counsel appearing for the respondent nos.1 and 2 has no objection in this regard. The application is allowed and disposed of.

W.P.(C) 7847/2016

1. The learned counsel for the parties have been heard on the writ petition.

2. 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] order[s] quashing the impugned decisions taken by the ERC, NCTE in its 205th meeting held between 21-21.02.2016 and orders dated 04.08.2016 passed by National Council for Teacher Education as contained in Annexure P-1 Colly, and/or;

b. issue an appropriate writ[s]/direction[s] order[s] directing the ERC for further processing of the application for the D.El.Ed and B.Ed course for academic year 2017-18, 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.”

3. From the above, it is seen the petitioner has challenged the Minutes of 205th Meeting of ERC (NCTE) dated 20/21st February, 2016 and the orders of the Appellate Committee dated 4th August, 2016. Vide the 205th meeting of the ERC (NCTE) held on 20/21st February, 2016 the applications of the petitioner for D.El.Ed Programme and B.Ed programme were rejected. The ground for rejecting the application for D.El.ED programme by the ERC was that the NOC of the Under Secretary, Department of Primary Education, Jharkhand was issued on 23rd September, 2016 after the stipulated date of 15th July, 2015 and in so far as the B.Ed application is concerned, the ground for rejecting the said application was that it comes under the category of stand alone Institution. From the appellate orders, it is noted that

communications dated 24th February, 2016 were sent by the ERC to the petitioner college communicating the decisions of the 205th meeting of ERC as referred above. The petitioner filed two appeals. The appeals were rejected by the Appellate Committee.

4. The view of the appellate committee qua D.El.Ed. Course was as under:

“AND WHEREAS Sh. Kundan Kishore, Secretary and Sh. Arbind Kumar, Member, Dr. C.C. Mahato Teachers Training College, Bokaro, Jharkhand presented the case of the appellant institution on 23/06/2016. In the appeal and during personal presentation and in a written submission dt. 23.06.2016, it was submitted that (i) NCTE introduced the Regulation 2014 in the month of December, 2014 and it was the first time that the NCTE introduced the provisions of the NOC; (ii) the appellant vide its letter No. CCMTTC/05/2015 dated 19/05/2015 applied to the Jharkhand Academic Council (JAC), i.e., the affiliating body for issuance of the NOC as per the format provided by the NCTE; (iii) JAC directed the appellant to apply to the Director, Primary Education, MHRD, Government of Jharkhand; (iv) while submitting the hard copy of the application on 09.06.2015, it was stated that the issuance of the N.O.C. was under process; (v) the matter relating to the issue of N.O.C was under process by the State Government authorities from may, 2015 onwards which included inspection of the appellant's premises and the N.O.C. was finally issued on 23.09.2015; and (vi) the appellant vide its letter dated 10/02/2016 clarified the delay with the documentary proof to the ERC, but the ERC failed to consider the facts and the details mentioned in the reply. The appellant has also made reference to certain orders of the Hon'ble Supreme Court regarding consideration of N.O.C. The appellant has drawn attention to some order in appeals against the orders of the Southern Regional Committee rejecting the applications of institutions on the ground that N.O.C's obtained by them

were post 15.07.2015, the last date fixed by the Council, treating them as infructuous as the S.R.C. subsequently informed that Letters of Intent (L.O.I) were issued to them. The appellant has claimed that those institutions are also similarly placed like theirs.

AND WHEREAS the Committee noted that the Council has issued instructions to their Regional Committees informing them that, for 2016-17, 15th July, 2015 will be the last date for submission of hard copies of the application with N.O.C, irrespective of the date of online submission. The appellant submitted the N.O.C, after the last date prescribed, i.e., 15.07.2015. From the orders of the Hon'ble Supreme Court of India cited by the appellant it is seen that they were prior to the notification of NCTE Regulations, 2014 which introduced the requirement of No Objection Certificate from the affiliating body along with application itself. Further the order cited relates to a specific case of particular institution, who approached the Hon'ble Apex Court against the Judgment of Hon'ble High Court of Kerala. In the instances of the S.R.C. cited by the appellant, it is noted that decisions were taken by that Regional Committee and not the Council. In these circumstances, the Committee concluded that the E.R.C. was justified in refusing recognition and therefore, the appeal deserved to be rejected and the order of the E.R.C. confirmed.

5. The view of the appellate committee qua B.Ed Course was as under:

AND WHEREAS Sh. Kundan Kishore, Secretary and Sh. Arbind Kumar, Member, Dr. C.C. Mahato Teachers Training College, Bokaro, Jharkhand presented the case of the appellant institution on 23/06/2016. In the appeal and during personal presentation and in a written submission dt. 23.06.2016, it was submitted that (i) NCTE introduced the Regulation 2014 in the month of December, 2014 and it was

the first time that the NCTE introduced the provisions of the NOC; (ii) the appellant vide its letter No. CCMTTC/05/2015 dated 19/05/2015 applied to the Jharkhand Academic Council (JAC), i.e., the affiliating body for issuance of the NOC as per the format provided by the NCTE; (iii) JAC directed the appellant to apply to the Director, Primary Education, MHRD, Government of Jharkhand. It is submitted that the appellant vide its letter dated 10.02.2016 clarified the delay of the NOC submission for the D.El.Ed. course with the documentary proofs to the ERC, but the ERC failed to consider the facts and the details mentioned in the reply; (iv) while submitting the hard copy of the application on 09.06.2015, it was stated that the issuance of the N.O.C. was under process; (v) the matter relating to the issue of N.O.C was under process by the State Government authorities from May, 2015 onwards which included inspection of the appellant's premises and the N.O.C. was finally issued on 23.09.2015; and (vi) the appellant vide its letter dated 10/02/2016 clarified the delay with the documentary proof to the ERC, but the ERC failed to consider the facts and the details mentioned in the reply. The appellant has also made reference to certain orders of the Hon'ble Supreme Court regarding consideration of N.O.C. The appellant has drawn attention to some order in appeals against the orders of the Southern Regional Committee rejecting the applications of institutions on the ground that N.O.C's obtained by them were post 15.07.2015, the last date fixed by the Council, treating them as infructuous as the S.R.C. subsequently informed that Letters of Intent (L.O.I) were issued to them. The appellant has claimed that those institutions are also similarly placed like theirs.

AND WHEREAS the Committee noted that the ERC refused recognition for conducting the B.Ed course on the ground that it falls under the category of stand alone institution, with their application for another teacher course, namely, D.El.Ed. falling through on account of non-submission of No Objection Certificate from the affiliating

body. The submissions made by the appellant are the same which he made in his appeal against the order of the ERC refusing recognition for conducting D.El.Ed. course. The Committee noted that according the provisions of clause 8 (i) of the NCTE Regulations, 2014, new teacher education institutions shall be located in composite institutions. In these circumstances, 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 confirmed.

6. Mr. Mayank Manish, learned counsel appearing for the petitioner states that rejection of the D.El.ED application on the ground that NOC dated 23rd September, 2016 was issued after 15th July, 2015 cannot be a ground for the ERC or the Appellate Committee to reject the application and uphold the rejection and the issue is no more *res-integra* in view of the judgments of this Court in ***CH S.S.D College v. NCTE W.P.(C) 6627/2016 and other connected writ petitions decided on January 3, 2017*** and ***Rambha College of Education vs. NCTE and Anr WP(C) 3231/2016 decided on February 23, 2017.***

7. On the other hand, Mr. Ashok Kumar Panigrahi, learned counsel for the respondents would submit that in terms of the Regulations, the NOC should have accompanied the application for D.El.ED programme. It is his submission in the absence of NOC accompanying the application for D.El.ED Programme, the application for D.El.ED was rightly rejected. He states that rejection of the D.El.ED application has the effect on the B.Ed application as it came under the category of stand alone Institution inasmuch as the regulations require conduct of composite course. That apart, he would rely on Regulations 5(3) and 7(1), which relates to manner of making application and time limit and procession of applications, in support of his

submissions.

8. Having heard the learned counsel for the parties, the only issue, which arises for consideration is, whether the ground for rejecting D.El.Ed application that NOC dated September 23, 2016 was issued after July 15, 2015 and resultantly the rejection of the application for B.Ed Programme is justified. It is an admitted position that the NOC of the affiliating body was issued on September 23, 2016 after July, 15, 2016 the last date. The issue, which arises for consideration has been settled by this Court in the case of ***Rambha College of Education (supra)***, as relied upon by Mr. Mayank Manish. In the said case, this Court had noted that the Southern Regional Committee vide its decision dated January 31, 2016 had reopened and processed cases, which were rejected on the ground of non submission or delayed submission of NOC. I had referred to the decision of the Southern Regional Committee in the case of ***Indra Ganesan College of Education*** in which case, even though 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 and the appeal filed by the Institution, was held to be infructuous by the appellate Committee. If that be so, the Eastern Regional Committee with whose decision this Court is concerned in this petition cannot take a different stand that the NOC was not filed along with the application or the said decision was of SRC and not the Council.

9. That apart, this Court in ***Rambha College of Education (supra)***, has referred to a judgment in ***CH S.S.D College (supra) W.P.(C) No. 6627/2016 and connected writ petitions decided on January 3, 2017***. I would like to reproduce the relevant paras of the judgment in ***Rambha College of***

Education (supra) as under:-

“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 [Annexure P-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.”*

10. For parity of reasons, this petition also needs to be allowed.

11. Suffice to state, as the outcome of the appeal qua D.El.Ed. Programme would have a bearing on the appeal qua B.Ed. Programme the appellate orders dated 4th August, 2016 qua D.El.ED Programme (Page 20) and qua B.Ed. Programme (Page 23) are set aside. The matters are remanded back to the Appellate Committee for consideration of appeals afresh after taking into consideration (1) the NOC of the affiliating body issued on 23rd September, 2016; (2) the prayer of the petitioner that its

applications need to 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. The petition is disposed of on the above terms.

The date already fixed, i.e., 25th April, 2017 stands cancelled.

V. KAMESWAR RAO, J

MARCH 01, 2017/jg