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

+ **W.P.(C) 8419/2016**

**VIDYASAGAR PRIMARY TEACHER TRAINING  
INSTITUTE**

..... Petitioner

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

versus

**NATIONAL COUNCIL FOR TEACHER EDUCATION  
AND ANR**

..... Respondents

Through: Mr. Saurabh Chadda, Adv.

**CORAM:**

**HON'BLE MR. JUSTICE V. KAMESWAR RAO**

**ORDER**

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**01.03.2017**

**CM No. 8177/2017**

This is an application filed by the petitioner for early hearing of the writ petition. The pleadings in this writ petition are complete.

Mr. Saurabh Chadda, learned counsel appearing for the respondents has no objection in this regard. The application is allowed and is disposed of.

**W.P.(C) 8419/2016**

1. The learned counsel for the parties have been heard on the writ petition. 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 order dated 07.04.2016 passed by the ERC, NCTE and order dated 08.08.2016 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 B.Ed Additional 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.”*

2. The petitioner was granted recognition for running B.Ed. Course for 100 students for the session 2012-2013. The petitioner had on May 30, 2015 applied to the respondent no.2 seeking recognition for additional intake of 100 seats in B.Ed. Course. It is the case of the petitioner that on June 9, 2015 it had submitted a hard copy of the application along with the relevant documents. The same was received in the respondent no.2 office on June 11, 2015. It is the case of the petitioner that respondent no.2 failed to process the application of the petitioner till 18-23 January, 2016 when in its 202th Meeting, respondent no.2 decided to issue a show-cause notice to the petitioner and accordingly show-cause notice was issued on February 9, 2016 on the following grounds: -

- i) *NOC issued by the affiliating University, i.e., University of Gaur Banga not submitted.*
- ii) *Land is on the name of the President Safiqur Rehman Chowdhry, i.e., in the name of the president is not acceptable as per Regulations 2014.*

3. The petitioner submitted its reply to the show-cause notice on February 20, 2016. It is the case of the petitioner that on March 10, 2016 a No Objection Certificate was issued by the University of Gaur Banga and the same was submitted to ERC, NCTE.

4. Suffice to state, in terms of the order of the Eastern Regional Committee dated April 7, 2016, the application of the petitioner for grant of recognition for B.Ed. (Additional Intake) has been rejected on the grounds; (1) NOC issued from affiliating University i.e. University of Gour Banga not submitted; (2) land is in the name of President Safiqur Rehman Choudhary i.e. in the name of individual, which is not acceptable as per NCTE Regulations, 2014.

5. In the appeal order dated August 8, 2016, the Appellate Committee has accepted the ground of the petitioner with regard to the land being found in the name of Safiqur Rehman Choudhary, by holding as under:

*“AND WHEREAS, as regards, land being found in the name of Safiqur Rehman Choudhary, the appellant has stated that in the sale deed name of*

*Safiqur Rehman Choudhary is mentioned as President on behalf of Vidyasagar Primary Teacher Training Institute. Appeal Committee noted that appellant institution has already been recognition for B.Ed.course (Basic intake) in the year 2012. Ownership of land having been treated in the name of institution once, prima facie there is no logic in refusing to accept the same land documents while granting recognition for additional intake”.*

6. But, with regard to the ground of NOC, the Appellate Committee has upheld the order of the Eastern Regional Committee inasmuch as the NOC issued from the affiliating University has not been submitted. The learned counsel for the petitioner would urge that NOC from the affiliating body dated March 10, 2016 was issued before ERC had passed the impugned order dated April 17, 2016 and it was also there before the Appellate Committee and which fact has also been noted by the Appellate Committee at page 21 of the paper book. He states, as the NOC was there, the Appellate Committee should have taken into consideration the same and granted recognition. He would rely upon the two judgments of this Court in the case of ***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. Saurabh Chadda, learned counsel for the respondents would rely upon the reply 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 applications 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 NOC from the affiliating body, the ERC and the affiliating body had rightly rejected the application / upheld the order of the ERC.

8. Having considered the submissions made by the learned counsel for the parties, the only issue which arises for consideration is whether the rejection of the application on the ground that NOC was not submitted at the time of filing of the application is justified. It is an admitted position that NOC of the University of Gaur Banga was issued on March 10 2016, which date is before the issuance of the impugned order dated April 7, 2016 but there is no evidence on record to show the said certificate was submitted to ERC on or before April 7, 2016. Be that as it may, when the Appellate Committee had passed the order on August 8, 2016, the NOC was on its

record. The issue of non submission of NOC along with the application is no more *res-integra* in view of the judgment of this Court in the case of ***Rambha College of Education vs. NCTE and Anr. WP (C) 3231/2016*** decided on February 23, 2017. In the said judgment this Court has noted that Southern Regional Committee had vide its decision dated January 31, 2016 had reopened and process those cases which were rejected on the ground of non-submission or delayed submission of NOC. One such case being ***Indra Ganesan College of Education*** from where it is noted, 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. That apart there is one aspect which has been brought to my notice in this case by the learned counsel for the petitioner is an order dated April 18, 2016 with regard to ***Shri B.N. Memorial Technical Institute, Maharajpur, District-Pratapgarh, Uttar Pradesh*** wherein the Appellate Committee while considering the appeal of the institution has stated as under:

*“AND WHEREAS the Committee noting that the appellant obtained the approval of the University for the faculty, undertook to convert their institute into a composite one and they are pursuing the matter relating to N.O.C. with the university, concluded that the matter deserved to be remanded to the N.R.C.*

*with a direction to consider afresh taking into account the University's approval of the faculty and other replies furnished by the appellant. The appellant is directed to submit the letters relating to faculty approval and the latest position of N.O.C. to the N.R.C within 15 days of receipt of the orders on the appeal.*

*AND WHEREAS after perusal of the memorandum of appeal, affidavit, documents available on records and considering the oral arguments advanced during the hearing, the Committee concluded that the appeal deserves to be remanded to the NRC with a direction to consider afresh taking into account the university's approval of the faculty and other replies furnished by the appellant. The appellant is directed to submit the letters relating to faculty approval and the latest position of N.O.C. to the N.R.C. within 15 days of receipt of the orders on the appeal."*

9. The above reveals 15 days time was granted to the institution for submission of the NOC. In other words, the application was not dismissed on the ground of non submission of NOC along with application. In ***Rambha College of Education (supra)*** this Court had referred to its earlier judgment in ***CH S.S.D College (supra) and other connected writ petitions*** decided on January 3, 2017; the judgment of Allahabad High Court in ***R.D. College of Education v. National Council for Teacher Education and Ors. W.P.(C) No. 23771/2016*** decided on July 4, 2016, and of this Court in the case of ***Guru Nanak Khalsa College v. NCTE and Anr. W.P.(C) No. 4218/2010*** decided on July 2, 2010. This Court in Para 7, 8 and 9 of

***Rambha College of Education (Supra)*** has held 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 [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.*

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

appellate order dated August 8, 2016 is set aside. The matter is remanded back to the Appellate Committee to consider the appeal of the petitioner afresh by taking into consideration the NOC of the University of Gour Banga dated March 10, 2016; the plea of the petitioner that its case be considered for 2017-18; the submissions made by the learned counsel for the parties during the hearing of the petition, as noted above, and pass appropriate orders in accordance with the law.

11. The petition is disposed of in the above terms.

**V. KAMESWAR RAO, J**

**MARCH 01, 2017/jg**