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IN THE HIGH COURT OF DELHI AT NEW DELHI

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Judgment reserved on : 20.9.2017

Judgment delivered on : 26.9.2017

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W.P.(C) 9878/2016

MASS EDUCATION PRIMARY TEACHERS TRAINING
INSTITUTE

..... Petitioner

Through: Mr MayankManish, Adv

versus

NATIONAL COUNCIL FOR TEACHER EDUCATION AND ANR

..... Respondents

Through Ms. Arunima Dwivedi, Adv for
NCTE.

CORAM:

HON'BLE MS. JUSTICE INDERMEET KAUR

INDERMEET KAUR, J.

1 Petitioner is aggrieved by the order dated 02.5.2016 passed by the Eastern Regional Committee (respondent no.2) which was affirmed on 02.9.2016 by its Appellate Authority, National Council for Teacher Education (respondent no.1).

2 Petitioner is an educational institution situated in West Bengal (India). It had been granted recognition for running diploma in elementary education (D.El.Ed.) course by respondent no.2 in the year 2009. Record shows that

on 29.5.2015 the petitioner institute had applied (online) to respondent no.2 seeking recognition for its course of Bachelor of Education (B.Ed. course) along with the requisite documents and processing fee. Respondent no.2 failed to process the application of the petitioner for some time and on 08.02.2016 intimated the petitioner for the expert team inspection which inspection of the petitioner institution was accordingly conducted. Respondent No. 2 in its 211th meeting (between 14.04.2016 to 16.04.2016) considered the visit team report and accordingly decided to issue a show cause notice to the petitioner.

3 Petitioner after seeing the minutes of the meeting on the NCTE website, without waiting for the show cause notice, submitted the Building Completion Certificate (BCC) related documents approved by the Gram Panchayat to respondent no. 2 on 19.04.2016. Respondent No. 2, however, in its meeting (between 24.05.2016 to 25.04.2016) refused to grant recognition to the petitioner and dismissed his prayer. BCC related document approved by the government engineer was obtained by the petitioner on 01.05.2016 and the same was submitted to respondent no. 2 on 02.05.2016. Thereafter, the petitioner filed an appeal before respondent no. 1, which was rejected and the order of respondent no. 2 (dated 02.05.2017) was confirmed. This

exercise by the respondents is arbitrary. The order is liable to be set aside.

4 Counter affidavit has been filed. It is pointed out that respondent no. 2 in its 211th meeting (between 14.04.2016 to 16.04.2016) observed that show cause notice be issued to petitioner on the ground that BCC related documents were not signed by the government engineer. On 19.04.2016 petitioner in response to the show cause notice submitted the BCC related documents which were approved by the Gram Panchayat. Respondent No. 2 vide its letter dated 02.05.2016 refused recognition of the petitioner institution on the ground that the BCC related documents were not signed by the government engineer. It is further pointed out that petitioner submitted the BCC document approved and signed by the government engineer (obtained by him on 01.05.2016) to respondent no. 2 on the same date i.e. 02.05.2016 as that of the refusal order; however by then respondent no. 2 had already taken its decision and had refused recognition of the petitioner institution. Learned counsel for the respondents submits that the BCC related documents duly approved by the government engineer were not filed by the petitioner within the prescribed period of time. There is a time schedule laid down by the respondents during which the documents have to be submitted and since the requisite documents were forwarded by the

petitioner after issuance of the refusal order, respondent no. 1 (the appellate authority) rejected the appeal filed by the petitioner and endorsed the order of respondent no. 2.

5 Rejoinder has been filed affirming the averments made in the petition. It is not disputed that a show cause notice was issued by respondent no. 2 in its meeting (between 14.04.2016 to 16.04.2016) on the ground that building plan building completion certificate was not signed by any government engineer. This averment of the respondent finds mention in para 2(e) of the counter affidavit. Corresponding para in the rejoinder admits that this is a matter of record. Learned counsel for the petitioner submits that the petitioner had already submitted the BCC related documents signed by an engineer and approved by gram panchayat on 19.04.2016 to respondent no. 2, however his application stood rejected on 02.05.2016 by respondent no.2 for the reason that the petitioner had failed to submit the said documents duly signed by a government engineer within the scheduled period. The same had also been endorsed by respondent no. 1 (appellate authority) while dismissing the appeal filed by the petitioner. Learned counsel for the petitioner further submits that the NCTE Regulations 2014 nowhere provide that the BCC related documents should be signed by the government

engineer and thus the impugned orders are liable to be set aside.

6 Arguments have been heard. Record perused.

7 Perusal of the records shows that subsequent to an application made by the petitioner to respondent no. 2 seeking grant of recognition for B.Ed course, an inspection of the petitioner institute was carried out on 19.03.2016 to verify infrastructural and instructional facilities provided by the institutions and also the essential documents as per NCTE Regulation. Respondent no. 2 in its 211th meeting (between 14.04.2016 to 16.04.2016) issued show cause notice to petitioner institute as to why recognition to the institution be not refused on the point that “building plan and building completion certificate is not signed by any government engineer.” Petitioner had submitted representation dated 19.04.2016 on the basis of proceedings uploaded on respondent no. 2 website. Respondent no. 2 in its emergent meeting (between 24.04.2016 to 25.04.2016) considered and examined petitioner’s application along with the documents submitted and refused permission for recognition (B.Ed course) vide order dated 02.05.2016 to petitioner institution for the reason that the BCC related documents were not signed by a government engineer. The petitioner thereafter for the first time on 02.05.2016 i.e. on the same date as that of the refusal order, submitted the

requisite BCC related documents duly approved by Government Assistant Engineer to respondent no. 2. Since the requisite document was forwarded by the petitioner after the issuance of the refusal order, respondent no. 1 noting the same in its order dated 02.09.2016 rejected the appeal filed by the petitioner and affirmed the order of respondent no. 2.

8 It is against these orders dated 02.05.2016 and 02.09.2016 that the petitioner has approached this court. Before going into the merits of the case, it is relevant to discuss the Regulations of National Council for Teacher Education (made pursuant to a statutory legislation i.e. the National Council for Teacher Education Act, 1993). Regulation 8(7) of the aforementioned Regulations deals with the conditions for grant of recognition and is relevant.

Regulation 8(7) reads as under:

“8. Conditions for grant of recognition-

(7) At the time of inspection, the building of the institution shall be completed in the form of a permanent structure on the land possessed by the institution, equipped with all necessary amenities and fulfilling all such requirements as prescribed in the norms and standards. The applicant institution shall produce the original completion certificate issued by the competent Authority, approved building plan in proof of the completion of building and built up area and other documents to the visiting team for verification. No temporary structure or asbestos roofing shall be allowed in the institution, even if it is in addition to the prescribed built up area.”

9 This regulation mandates that at the time of inspection the building of the institution should be complete as per the requirement, norms and standards; the institution should produce original completion certificate issued by a competent authority along with the approved building plan for the purposes of verification.

10 The petitioner institute had been inspected on 19.03.2016; pursuant to which a deficiency with respect to the BCC document not being signed by a government engineer was noted by respondent no. 2 in its show cause notice. Petitioner was given an opportunity to remove this deficiency. Vide his representation dated 19.04.2016; he again submitted the BCC document. A scrutiny of the said BCC related document reveals that this document was issued by one Santi Ranjan Mondal, a private engineer and approved by the gram panchayat. It was again not a document signed by any government engineer as was required by respondent no. 2 in terms of the show cause notice issued to the petitioner. Thereafter upon examination of representation dated 19.04.2016 by respondent no. 2 in its meeting held between 24 – 25 April 2016, the application of petitioner for recognition was refused vide order dated 02.05.2016. This court notes that the petitioner had been afforded ample opportunity to rectify the defect which stood as a hurdle in

perfecting his application for grant. The respondent no. 2 had already taken a decision qua the petitioner's application (refusing to grant recognition) in its meeting after examining the representation and documents forwarded to it by the petitioner; this decision was recorded in terms of an order by the committee on 02.05.2017. However, the petitioner being well aware of the lacuna existing in his BCC related documents already submitted to respondent no. 2, chose to file the requisite documents duly signed by a government assistant engineer, Niranjan Kutty only on 02.05.2016 i.e. after the scheduled period of time; on the same date as that of the refusal order. This document is dated 01.05.2016. Thus, it is only on 01.05.2016 that the petitioner had procured for the first time the BCC document signed by the competent authority being the government engineer.

11 In light of the aforementioned discussion, it is evident that the essential intent of Regulation 8 (7) of the NCTE Regulations being that the requisite documents have to be issued by the competent authority and shall have to be produced at the time of inspection has not been complied with; the document issued by government assistant engineer being obtained by the petitioner only on 01.05.2016 i.e., much after the respondent no. 2 committee had inspected the petitioner institute which was on 19.03.2016.

12 This court further notes that the contention of the petitioner that the NCTE Regulations 2014 nowhere provide that the BCC related documents should be signed by the government engineer is also one without merit. The petitioner was well aware of the fact that it was the government engineer and not the private engineer who was the competent authority to issue the BCC related documents and the same being emphasized upon in the show cause notice as well. Petitioner had been responding without any demur or protest; he has also submitted the requisite BCC documents duly signed by a government assistant engineer to respondent no. 2 which however could not be acceded to on account of the delay in forwarding the same i.e. after issuance of the refusal order dated 02.05.2016.

13 In the context of the defence of the time schedule, the Apex Court had an occasion to consider this issue in the case of Maa Vaishno Devi Mahila Mahavidyala Vs. State of Uttar Pradesh and Ors. reported as (2013) 2 SCC 617 and the observation of the Apex Court in this regard would be relevant; the same reads as under:

81. Lastly, the question which is required to be discussed in light of the facts of the present cases is adherence to the Schedule. Once the relevant Schedules have been prescribed under the Regulations or under the Judge made law, none, whosoever it be, is entitled to carve out exceptions to the prescribed Schedule. Adherence to the Schedule is the essence of granting admission in a fair and transparent manner as well as to maintain the

standards of education. The purpose of providing a time schedule is to ensure that all concerned authorities act within the stipulated time. Where, on the one hand, it places an obligation upon the authorities to act according to the Schedule, there it also provides complete clarity to other stakeholders as to when their application would either be accepted and/or rejected and what will be the time duration for it to be processed at different quarters. It also gives clear understanding to the students for whose benefit the entire process is set up as to when their examinations would be held, when results would be declared and when they are expected to take admission to different colleges in order of merit obtained by them in the entrance examinations or other processes for the purposes of subject and college preference.

82. We are constrained to reiterate with emphasis at our command that the prescribed schedules under the Regulations and the judgments must be strictly adhered to without exceptions. None in the hierarchy of the State Government, University, NCTE or any other authority or body involved in this process can breach the Schedule for any direct or indirect reason. Anybody who is found to be defaulting in this behalf is bound to render himself or herself liable for initiation of proceedings under the provisions of the Contempt of Courts Act, 1971 as well as for a disciplinary action in accordance with the orders of the Court.”

14 In light of the above, the order of respondent no. 1 dated 02.09.2016 rejecting the appeal filed by petitioner and affirming the order dated 02.05.2016 of respondent no. 2 suffers from no infirmity.

15. Petition dismissed.

INDERMEET KAUR, J

SEPTEMBER 26, 2017

