

\$~

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

% *Judgment reserved on : 20.9.2017*

Judgment delivered on : 27.9.2017

+ W.P.(C) 10102/2016

KAMLA DEVI SOHAN RAJ SINGHVI JAIN COLLEGE OF
EDUCATION Petitioner

Through: Mr Mayank Manish, Adv

versus

NATIONAL COUNCIL FOR TEACHER EDUCATION AND ANR

..... Respondents

Through Ms. Arunima Dwivedi, Adv for
NCTE.

CORAM:

HON'BLE MS. JUSTICEINDERMEET KAUR

INDERMEET KAUR, J.

1. Petitioner is aggrieved by the order dated 27.06.2016 passed by the Eastern Regional Committee (respondent no.2) which was affirmed on 26.09.2016 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 bachelor in elementary education (B.Ed.) course by respondent no.2 in the year 2008. Record shows that on 30.06.2015 the petitioner institute had applied (online) to respondent no.2 seeking recognition for its course of diploma in education (D.El.Ed) along

with the requisite documents and processing fee. Respondent no.2 failed to process the application of the petitioner for some time and vide its letter dated 22.02.2016 issued a show cause notice to the petitioner. Petitioner after seeing the minutes of the meeting on the NCTE website, without waiting for the show cause notice, submitted the blue print of Building Plan indicating plot number, total land area, total built up area, etc vide its letter dated 24.02.2016. Respondent no. 2 however in its 214th meeting (held between 13.05.2016 to 15.05.2016) refused the application; this was vide refusal order dated 27.06.2016 on the ground that blue print of the building plan did not indicate the plot number and name of institution. Thereafter on 11.07.2016 petitioner filed an online appeal before respondent no. 1 which was rejected vide order dated 26.09.2016 thereby confirming the order passed by respondent no. 2. This exercise of respondent no. 1 rejecting the appeal without considering the fact that whether the petitioner has submitted the blue print of the building plan or not, wrongly observing that application at page 3 does not mention the plot no. is arbitrary. Submission is that this order is liable to be set aside. Additional submission being that there was a typographical error on page 3 of his application for which he never got a chance to explain.

3. Counter affidavit has been filed. It is pointed out that respondent no. 2 issued a show cause notice dated 22.02.2016 to the petitioner institute for non submission of the proper building plan. Petitioner was directed to submit a blue print of the building plan indicating plot no., total land area, total built up area, etc. duly approved by any government engineer in compliance thereof on or before 29.02.2016; cut off date for granting/refusal of recognition for the session 2016-17 being 03.03.2017. Petitioner in response to the show cause notice submitted its reply dated 02.05.2016 wherein it failed to give the complete and correct details of the property as sought for in the said notice. The building plan submitted was without any plot no. and name of the institution. Therefore, respondent no.2 on 27.06.2016 refused permission to petitioner for D.El.Ed course. Thereafter an appeal was preferred by petitioner which was rejected vide order dated 26.09.2016 by respondent no. 1 after considering the documents on record and after hearing the oral arguments advanced by the petitioner on the ground that the response to the show cause notice was not only late but it was incomplete; building plan submitted nowhere mentioned the plot no., name of the society/institution. Respondent no.1 having acknowledged the fact that the refusal order issued by respondent no.2 was made after giving

due opportunities to the petitioner to submit a valid and acceptable building plan, the appeal order passed by respondent no.1 endorsing these facts thus suffers from no infirmity.

4. Arguments have been heard. Record perused.

5. Before going into the merits of the case, it is relevant to discuss the Regulations of National Council for Teacher Education, 2014 (made pursuant to a statutory legislation i.e. the National Council for Teacher Education Act, 1993). Regulation 7 of the aforementioned Regulations deals with the processing of applications; regulation 7(1) and regulation 7(2)(b) are relevant.

Regulation 7 reads as under:

“7. Processing of applications-

(1) In case an application is not complete, or requisite documents are not attached with application, the application shall be treated incomplete and rejected, an application fees paid shall be forfeited.

(2) The application shall be summarily rejected under one or more of the following circumstance-

(b) failure to submit printout of the application made online along with the land documents as required under sub regulation (4) of regulation 5 within 15 days of the submission of the online application”.

Regulation 7(1) mandates that if an application is not complete or requisite documents are not attached with it, the application shall be treated as incomplete and shall be rejected. The application fees paid shall also be forfeited. Failure to submit the land documents along with printout of the application (made online) within 15 days of making the application online is made a ground for rejection of the application under regulation 7(2)(b).

6. The petitioner institute had made an online application on 30.06.2015. This application has been annexed as P-3. The column for 'plot no.' as appearing on page 3 of the application reflects 'NA' and the address thus reads as 'street no. 6, P.O. Cossipare, Kolkata (WB)'; clearly the application does not mention any plot no. A show cause notice (dated 22.02.2016) to this effect calling upon the petitioner to submit a proper building plan indicating plot no., total land area, total built up area and duly approved by any govt. engineer on or before 29.02.2016 was issued keeping in view that the last date for granting/refusal of recognition for the session 2016-2017 was 03.03.2016; written representation to be filed within 21 days of issuance of the show cause notice. This court notes that the petitioner had thus been granted ample opportunity to reply to the show cause notice and to submit a valid and acceptable building plan thereby curing the defect qua his

application. It is the case of the respondents that after considering the representation (dated 02.05.2016) submitted by the petitioner, which was highly belated having been filed on 02.05.2016 when the last date as per the time schedule was 29.02.2016; it was also incomplete (plot no. and name of institution not being indicated in the reply along with blue print building plan); the application thus rightly stood rejected. The show cause notice was clear in its terms, it explicitly required the petitioner to submit a building plan indicating plot number, total land area, total built up area duly approved by any government engineer, but the same was not answered either in the representation or as per the requirement of Regulation 7(2)(b). It was the mandate of regulations 5 and 7 of the Regulation of 2014, that on the date of filing of the application, the mandatory infrastructural requirements prescribed under law had to be complied with and these had to be specifically and clearly mentioned in the application. Despite the lacunae appearing in the application of the petitioner institute, respondent no. 2 had still afforded due opportunities to the petitioner to rectify the same. Thus the contention of the petitioner that no opportunity had been granted to him to explain the error on page 3 of the application cannot be accepted.

7. The submission of the petitioner that he had submitted the blue print

of Building Plan indicating plot number, total land area, total built up area, etc vide its letter dated 24.02.2016 is palpably false; he has nothing on record to substantiate this submission. It is only on 03.05.2016 that respondent no. 2 had for the first time received petitioner's representation dated 02.05.2016 in response to the show cause notice. At the cost of repetition even in this response he failed to mention the plot number, name of the society/institution and the same was not even approved by a government engineer, thereby flouting all the essential requirements. In this background it has rightly been observed by respondent no.1 in its order dated 26.09.2016 that it was not possible for them to correlate the plan with the property details thereby rejecting the appeal and confirming the refusal order dated 27.06.2016 and in case the petitioner wishes to apply for recognition for the year 2017-18, he is required to make a fresh application. The Division Bench of the Madhya Pradesh High Court in the W.P. (C) No. 6677 of 2016 Malwanchal University Indore Vs. National Council For Teachers in this regard had held interalia as under:

“We are also of the considered opinion that the prayer of the learned counsel for the petitioner that the application filed by the petitioner in the year 2015 should be treated as the application for processing the case for the year 2017-18 cannot be accepted. Regulations 5 and 7 of the Regulation of 2014 necessarily requires the person applying for recognition to state the factual aspects and to comply with the mandatory infrastructural

requirements prescribed under law as on the date of filing the application and these facts have to be specifically and clearly mentioned in the application and therefore in case the petitioner wishes to apply for recognition for the year 2017-18, he is required to make a fresh application giving the said details in the application for recognition which should be filed before the cut off date i.e. 30 of May, 2016 which date in the instant case has already lapsed.

In the circumstances, the prayer made by the learned counsel for the petitioner that the application should be treated as an application seeking recognition for the 2017-18 session is also rejected.

In the last, the learned counsel for the petitioner submits that as the petitioner's application has been rejected outright, the respondents/authorities be directed to refund the amount of Rs.1,50,000/- deposited by the petitioner.

The prayer of the learned counsel for the petitioner is heard only to be rejected in view of the provisions or regulations 7(1), 7(2), a conjoint reading of which makes it clear that in case the application filed by a person is rejected at the initial stage itself the application fee paid shall be forfeited. In view of the mandate of regulations 2014, the prayer for refund of the application fees made by the petitioner cannot be considered and is hereby rejected.

The petition filed by the petitioner being meritless is accordingly dismissed.”

This court endorses this ratio in the facts of this case.

8. 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.”

9. In light of the above, the order of respondent no. 1 dated 26.06.2016 rejecting the appeal filed by petitioner and affirming the order dated 27.06.2016 of respondent no. 2 suffers from no infirmity.

10. Petition dismissed.

INDERMEET KAUR, J

SEPTEMBER 27, 2017

N

