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

+ LPA 535/2017

NATIONAL COUNCIL FOR TEACHER EDUCATION & ANR

..... Appellant

Through: Ms. Monika Arora, ASC with Mr.
Harsh Ahuja and Kunal Kumar, Adv.

versus

RAMBHA COLLEGE OF EDUCATION

..... Respondent

Through: Mr. Sanjay Sharawat, Mr. Ravi Kant
and Mayank Manish, Adv.

CORAM:

HON'BLE MR. JUSTICE VIPIN SANGHI

HON'BLE MS. JUSTICE REKHA PALLI

ORDER

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09.08.2017

C.M. No. 28290/2017

Exemption allowed, subject to all just exceptions. The application stands disposed of.

C.M. No. 28292/2017

For the reasons stated in the application, the delay in filing the appeal is condoned. The application stands disposed of.

C.M. No. 28291/2017

By this application, the appellant wishes to bring on record additional documents. Heard. The application is allowed.

LPA 535/2017 & C.M. No. 28289/2017

1. The aforesaid appeal is directed against the judgment dated 23.02.2017 rendered by the learned Single Judge in W.P. (C.) No.3231/2016. The learned Single Judge has allowed the said writ petition and quashed and set aside the undated appellate order bearing F. No.89-234/2015 Appeal/ 2nd Meeting-2016 (whereby the respondent/ writ petitioners appeal against the order of the Eastern Regional Committee (ERC) dated 16.11.2015 was dismissed), and the matter has been remanded back to the Appellate Authority to consider the appeal of the respondent afresh, by taking into consideration the No Objection Certificate (NOC) of the affiliating body issued on 26.10.2013, and to consider the case of the respondent for academic session 2017-18.

2. The application of the respondent was rejected by the ERC of the NCTE on 16.11.2015, inter alia, on the ground of the failure of the respondent to submit the hard copy of the application within 15 days of submission of the on-line application. The on-line application had been submitted by the respondent on 30.05.2015, whereas the hard copy was submitted on 26.06.2015.

3. The respondent then preferred the appeal before the Appellate Authority. The Appellate Authority in its order observed that the last date for submission of hard copy stood extended to 15.07.2015. Consequently, the submission of hard copy of the application by the respondent on 26.06.2015 could not be the ground for rejection of the application of the respondent. However, the Appellate Authority held that the respondent had not submitted the NOC from the Competent Authority even by the extended

date i.e. 15.07.2015, and the same had been obtained only on 26.10.2015. The respondent, consequently, preferred the aforesaid writ petition.

4. The learned Single Judge in the impugned order holds that the submission of the NOC by the respondent was belated and, consequently, the application of the respondent for the concerned year i.e. 2016-17 could not be allowed. However, the learned Single Judge – by placing reliance on the practice adopted by the Southern Regional Committee (SRC), and the decision of the Allahabad High Court in *R.D. College of Education v. National Council for Teacher Education & Ors.* in W.P. (C.) No.23771/2016 decided on 04.07.2012, which in turn has been followed by this Court in *Ch. SSD College* in W.P. (C.) No.6627/2016 and in the connected writ petitions decided on 03.10.2015, held that the Appellate Authority could have considered the application of the respondent for the subsequent year in view of the fact that the respondent had obtained the NOC and the Appellate Authority was seized of the same, as would be evident from the order passed by the Appellate Authority.

5. The submission of counsel for the appellant is that the reliance placed on the practice adopted by the SRC for reopening the case and processing the same even beyond the last date for submission of relevant documents is erroneous inasmuch, as, the appellant has not accepted the said practice adopted by the SRC. Learned counsel has referred to the additional document placed on record in the present appeal dated 29.06.2017, which is an office order initiating investigation/ inquiry into the unilateral decision taken by the members of the SRC to reopen and process all the rejected applications by accepting the NOC even after 15.07.2017, irrespective of the

dates of issue. Learned counsel also places reliance on Section 21 of the NCTE Act to submit that the appellant has power to terminate the Regional Committee if it abuses and exceeds its powers.

6. Pertinently, this decision to initiate action against the officers of the SRC has been taken after the passing of the impugned order on 23.02.2017. This document, obviously, was not in existence when the writ petition was disposed of. In any event, even if the reliance placed by the learned Single Judge on the practice adopted by the SRC were to be kept aside, the fact remains that there are precedents of the Allahabad High Court and this Court whereby the Courts have directed the Appellate Authority to reconsider the case in view of the fact that the applicant has obtained the NOC subsequently, which have also been placed before the Appellate Authority. Such reconsideration, obviously, would relate to the following year. Such a direction does not tantamount to the Court extending the last date for submission of relevant documents by the applicant, since the consideration would be for the subsequent year.

7. Thus, we do not find any error in the direction issued by the learned Single Judge while disposing of the writ petition.

8. We may observe that the direction was issued by the learned Single Judge for reconsideration by the Appellate Authority on 23.02.2017. As observed by the learned Single Judge in the impugned judgment, the last date for granting approval for the session 2017-18 was 03.03.2017 which, it is informed, was extended by the Supreme Court to 02.05.2017. On account of non compliance of the impugned decision by the appellant, even that date is past. The respondent has, therefore, already been prejudiced by losing

another academic session.

9. In these circumstances, we direct the appellant to positively comply with the decision of the learned Single Judge in the very first meeting of the Appellate Authority that shall be held henceforth. In case this order is not complied with, the Chairman of the Appellate Authority shall be personally held responsible.

10. The appeal stands disposed of in the aforesaid terms.

11. Dasti.

VIPIN SANGHI, J

REKHA PALLI, J

AUGUST 09, 2017

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