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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **W.P.(C) 7989/2017**

AARAYN COLLAGE OF EDUCATION

..... Petitioner

Through Mr. Sanjay Sharawat, Adv.

versus

NATIONAL COUNCIL FOR TEACHER EDUCATION AND ANR.

..... Respondents

Through Mr. Kishan Nautiyal, Adv for R-1.
Ms. Avnish Ahlawat and Ms. Palak
Rohmetra, Adv for R-2.

CORAM:

HON'BLE MS. JUSTICE INDERMEET KAUR

ORDER

% **17.11.2017**

C.M. No. 41246/2017

1 Delay in filing the counter affidavit of respondent No.2 is condoned. Application disposed of.

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2 The petitioner is aggrieved by the fact that although respondent No.1 has granted recognition to the petitioner for D. El. Ed & DPSE courses for the academic session 2018-2019 yet this recognition should have been for the academic session 2017-2018. The present petition is premised on this prayer.

3 Counter affidavit has been filed by respondent No.1 (National Council for Teacher Education). Submission is that the answering respondent is the principal body to take a policy decision as per its Regulations to carry out the provisions of the Act i.e. the National

Council for Teacher Education Act, 1993. It is pointed out that the Apex Court in the case of Maa Vaishno Devi Mahila Mahavidyalaya Vs. State of U.P. & Others (2013) 2 SCC 617 had made it clear that the schedule laid down by the Apex Court would be binding and no authority/person/Council/Committee would be entitled to vary that schedule. It was in this view of the matter, keeping in view the schedule formulated by the Apex Court that the petitioner institute has been granted recognition for the next ensuing session i.e. the year 2018-2019.

4 In this counter affidavit the stand of respondent No.2 is that the delay which has occurred in the processing of this case is not for the fault of respondent No.2. The proper procedure has been followed. The Faculty of the petitioner was inspected and it was only on 20.06.2017 that the petitioner had made a request to respondent No.2 to grant approval for the aforementioned courses and the faculty approval was done by respondent No.2 on 23.06.2017. Orally it is submitted that it is for respondent No.1 to take a call on the recognition to be granted to the petitioner institute.

5 In rejoinder, learned counsel for the petitioner points out that the petitioner had in fact approached the Apex Court against the recognition which had been granted by respondent No.1 for the session 2018-2019 and the Apex Court had disposed of this petition on 04.09.2017 inter-alia noting the contentions of the petitioner and recording herein as under:-

“Having heard learned counsel for the parties, we are of the view that the petitioners should approach the High Court under

Article 226 of the Constitution of India.

If the petitioners approach the High Court within two weeks from today, the High Court is requested to dispose of the matter within six weeks therefrom.

With the above observation, the writ petitions stand disposed of.

The High Court is requested to consider for granting of time for the academic session 2017-2018, if possible.”

6 Submission is that it was brought to the knowledge of the Apex Court that the grant of recognition for the academic session 2018-2019 was not correct and that is the reason why this Court has been directed to consider the grant of recognition for the academic session 2017-2018, if possible with a direction to dispose of the petition within six weeks. The urgency had been understood by the Apex Court. Learned counsel for the petitioner points out that in similar circumstances on 26.06.2013, in W.P. (C) No.370/2013 Suprabhath College of Diploma in Education Vs. National Council for Teacher Education & Anr. as also another judgment of the Apex Court delivered in 631/2015 G.V. & V.B. Teacher Education Institution Vs. National Council for Teacher Education & Others decided on 20.11.2015 such a similar submissions had been considered and those petitioner institutes had been granted recognition for the current academic years. Learned counsel for the petitioner additionally points out that the last date for admission in the management seat quota for the aforementioned courses has in fact taken place on 16.11.2017 and a document to the said effect has been placed on record. This is to

answer the submission that the full time program will conclude only sometime in June-July, 2018 when the examinations are scheduled and if recognition is granted to the petitioner institute today, there is time enough for the full time course to be completed. It is additionally pointed out that the timeline which has been laid down by the Apex Court in Maa Vaishno Devi Mahila Mahavidyalaya (supra) is not applicable to the High Court. Learned counsel for the petitioner places reliance upon a judgment in (2003) 1 SCC 726 Beg Raj Singh Vs. State of U.P. & Others to submit that delay on account of time lost in prosecuting the proceedings should not dis-entitle a party to the relief when there is no fault on the part of such a litigant. Reliance has also been placed upon on (2014) 16 SCC 330 Varun Saini & Others Vs. Guru Gobind Singh Indraprastha University to advance an argument that keeping in view the special circumstances of the present case, even for the current academic session, this Court is fully empowered to grant relief.

7 Arguments have been heard. Record has been perused.

8 Record shows that the petitioner institute had approached the Apex Court against the grant of recognition of the petitioner institute for the year 2018-2019; he wanted recognition for the aforementioned courses i.e. D. El. Ed & DPSE for the academic session 2018-2019. The Apex Court in terms of the order (dated 04.09.2017- supra) had directed this Court to dispose of the petition within six weeks and to consider the prayer of the petitioner for grant of recognition for the academic session 2017-2018, if possible. This Court notes that in Suprabhath College of Diploma in Education as also G.V. & V.B.

Teacher Education Institution, the Court had noted the timeline of the case and had granted recognition for the current year.

9 This Court notes that the facts of the instant case would entitle the petitioner to the relief. It has been brought on record that the last intake of admission in the management quota was 16.11.2017 i.e. for the D. El. Ed & DPSE courses. This document is not in dispute. It is part of the record. Obviously the management quota seats would have to fulfil the criteria of completing the full course to the management quota seats before examinations can be taken. This would apply to other students as well. Thus the submission of the petitioner that the complete program will be completed and there would be no sufferance for the candidates is a submission which carries force. His submission that the examinations are scheduled in June-July, 2018 and not in March, 2018 has also not been contravened by the respondents. The petitioner had also applied well within time for pursuing his course. He had been granted recognition for the session 2018-2019 in July, 2017; this petition was filed on 07.09.2017; the order of the Apex Court directing the petitioner to approach this Court was during the interregnum period; the Apex Court had disposed of the petition on 04.09.2017 giving liberty to the petitioner to approach this Court which was done forthwith i.e. on 07.09.2017.

10 In Varun Saini (supra), the Apex Court had noted that procedural delays in the court should not be a cause of sufferance to a litigant for no fault on his part and which would dis-entitle him to the relief to which he would otherwise have been entitled to.

11 The import of the order passed by the Apex Court on

04.09.2017 also notes the prayer of the petitioner and a consideration by this Court for a grant of recognition for the academic session 2017-2018, if possible.

12 This Court thus notes that it would be possible for the petitioner to complete the full course even if the recognition is granted for the aforementioned courses i.e. D. El. Ed & DPSE courses today.

13 Accordingly, the petition is allowed and the recognition to the aforementioned course be granted to the petitioner institute for the academic session 2017-2018.

14 Petition disposed of in the above terms.

INDERMEET KAUR, J

NOVEMBER 17, 2017

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