

\$~11

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

%

Judgment delivered on: 26.10.2017

+ **LPA 645/2017**

VISHWA GANGA BTC COLLAGE Appellant

versus

NATIONAL COUNCIL FOR TEACHER EDUCATION &
ANOTHER Respondent

Advocates who appeared in this case:

For the Appellant : Mr Sanjay Sharawat

For the Respondent : Mr Kishan Nautiyal

CORAM:-

**HON'BLE MR. JUSTICE S. RAVINDRA BHAT
HON'BLE MR. JUSTICE SANJEEV SACHDEVA**

S. RAVINDRA BHAT, J. (OPEN COURT)

CM No.35897/2017(exemption)

Allowed, subject to all just exceptions.

LPA 645/2017

1. The appellant's complaint is that the Single Judge has not redressed the grievance with respect to non-compliance with the Statute by the respondent No.1 – National Council for Teacher Education (hereinafter referred to as '*the NCTE*') and respondent No.2 – Northern Regional Committee (hereinafter referred to as '*the*

Committee’) of the respondent No.1 - the NCTE, as regards the condition prescribed by Section 14(3)(b) and 14(4) of the National Council of Teacher Education Act, 1993 (hereinafter referred to as *‘the Act’*).

2. The Appellant had approached this Court under Article 226 of the Constitution of India complaining that the denial of recognition to the Institute was contrary to the Statute and that reasons for rejection of its application were not given to it in order to enable it to avail of the statutory available remedies.

3. In this regard, the appellant had complained Section 14 mandates that the application, along with the inspection report, had to be considered by the concerned Regional Committee, the second respondent in this case, which, after due consideration, had to decide in accordance with Section 14. In case the decisions were adverse, the Committee is under mandate to record reasons and ensure its communication to the concerned aggrieved party/Institution. It was contended that this statutory prescribed course was not adopted in the present instance.

4. The Single Judge rejected the petition holding that if the formal order had not been communicated, the Appellant should not have waited for more than a year to approach this Court. The appellant’s plea of visits and verbal communications with the NCTE was rejected. The Single Judge also declined liberty to approach the NCTE and avail of the statutory remedy of Appeal provided under Section 18 of

the Act.

5. In this case, the decision of the Committee recorded in its Meeting held between 22.08.2016 and 25.08.2016 till the extent it is relevant records as follows:-

111	NRCAPP-11958	Vishwa Ganga B.T.C.College, Plot No.24, Street No.NA, Village- Ranepur, P.O. Ranepur, Tehsil – Sakaldiha, Town- Chandauli, District – Chandauli – 232108, Uttar Pradesh.	D.El.Ed.	The original file of the Institution along with other related documents, NCTE Act, 1993, Regulations were carefully considered by NRC and following observation was made:- • The institution has not submitted any proof/evidence to prove that it is a composite institution as per clause 2(b) of NCTE Regulations, 2014. • Building plan submitted by the Institution does not mention the name of applicant Institution. • The institution has not submitted the proof to show that furniture in the resource centre is as per NCTE norms. • No proof to show that library is per NCTE norms. • Building Completion Certificate is not in the name of Vishwa
-----	--------------	---	----------	---

				Ganga BTC College. Hence, the Committee decided that the application is rejected and recognition/permission is refused u/S.14/15(3)(b) of the NCTE Act, 1993. FDRs, if any, be returned to the Institution.
--	--	--	--	--

6. Section 14 of the Act reads as follows:-

“14. RECOGNITION OF INSTITUTIONS OFFERING COURSE OR TRAINING IN TEACHER EDUCATION

(1) Every Institution offering or intending to offer a course or training in teacher education on or after the appointed day, may, for grant of recognition under this Act, make an application to the Regional Committee concerned in such form and in such manner as may be determined by regulations:

Provided that an Institution offering a course or training in teacher education immediately before the appointed day, shall be entitled to continue such course or training for a period of six months, if it has made an application for recognition within the said period and until the disposal of the application by the Regional Committee.

(2) The fee to be paid along with the application under sub-section (1) shall be such as may be prescribed.

(3) On receipt of an application by the Regional Committee from any Institution under sub-section(1), and after obtaining from the Institution concerned such other

particulars as it may consider necessary, it shall –

(a) if it is satisfied that such institution has adequate financial resources, accommodation, library, qualified staff, laboratory and that it fulfils such other conditions required for proper functioning of the Institution for a course for training in teacher education, as may be determined by Regulations, pass an order granting recognition to such Institution, subject to such conditions as may be determined by Regulations; or

(b) if it is of the opinion that such Institution does not fulfil the requirements laid down in sub-clause (a), pass an order refusing recognition to such Institution for reasons to be recorded in writing :

Provided that before passing an order under sub-clause (b), the Regional Committee shall provide a reasonable opportunity to the concerned Institution for making a written representation.

(4) Every order granting or refusing recognition to an Institution for a course or training in teacher education under sub-section (3) shall be published in the official gazette and communicated in writing for appropriate action to such Institution and to the concerned examining body, the local authority or the State Government and the Central Government.

(5) Every Institution, in respect of which recognition has been refused shall discontinue the course or training in teacher education from the end of the academic session next following the date of receipt of the order refusing recognition passed under clause (b) of sub-section (3).

(6) Every examining body shall, on receipt of the order under sub-section (4), -

(a) grant affiliation to the Institution, where recognition

has been granted; or

(b) cancel the affiliation of the Institution, where recognition has been refused.”

7. During hearing, it was informed that in most other cases, formal orders are communicated to the concerned parties. Counsel for the NCTE did not dispute this proposition. He, however, suggested that the minutes of the Meeting contain reasons and those were sufficient for the Appellant to avail the remedy under Section 18.

8. The appellant had relied upon the Online Submission of Appeals. The relevant extracts of the said Instructions especially point Nos.3, 8 & 12 read as follows:-

“Application for preferring Appeal under section 18 of the NCTE Act should be submitted in the format as prescribed with the following essential documents:

1. *****
2. *****
3. *Copy of the Orders of the Regional Committee appealed against.*

8. *Once the payment is made, take a print-out of the Online-Appeal submitted form. You should make two copies of the print-out and sent two copies of the same with the proof of the payment and relevant documents in support of your appeal for setting aside the Regional Committee’s refusal/withdrawal order by registered*

post/speed post to 'The Member Secretary, NCTE, Wing-II, Hans Bhawan, 1, Bahadur Shah Zafar Marg, New Delhi-110002'. The documents shall be posted within seven days of online submission of the application. You should keep a copy of the Appeal preferred and supporting documents which has been sent to NCTE Headquarters, with you for reference.

12. The Memorandum of Appeal

(i) should have a copy of the order appealed against enclosed to the Memorandum of Appeal. No appeal shall be processed, if copy of the minutes of the Regional Committee's meeting are enclosed with appeal.

*(ii) ******

*****''

9. It is quite evident from the above instructions that the NCTE has understood the contents of Section 14(3)(b) to mean that formal orders are to be communicated to the concerned parties. This course was not adopted. If the NCTE/Committee's decision was that reasons embodied in the Minutes of the Meeting were sufficient to file an appeal, the instructions facilitating the availing of the Appeal would have been appropriately amended. Clearly, they have not been.

10. In these circumstances, we are of the opinion that the judgment and conclusions of the learned Single Judge cannot be sustained. They are hereby set aside.

11. The second respondent – Committee shall ensure that the

reasons for rejection of the Appellant's application for recognition are communicated – preferably within two weeks. In such event, the Appellate remedy may be resorted to by the Appellant, if so advised.

12. The Appeal is allowed in the above terms.

13. Order *Dasti*.

**S. RAVINDRA BHAT
(JUDGE)**

**SANJEEV SACHDEVA
(JUDGE)**

OCTOBER 26, 2017

‘n’

