

\$~50

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

%

Judgment delivered on: 04.12.2017

+ **LPA 769/2017**

MASS EDUCATION PRIMARY TEACHERS TRAINING
INSTITUTE

..... Appellant

Through : Mr Mayank Manish and Mr
Ravi Kant, Advocates.

versus

NATIONAL COUNCIL FOR TEACHER EDUCATION &

ANR

..... Respondents

Through : Ms Arunima Dwivedi, Ms
Preeti Kumra and Mr Nirbhay
Kumar Pathak, Advocates for
R-1 & 2.

CORAM:-

HON'BLE MR. JUSTICE S. RAVINDRA BHAT

HON'BLE MR. JUSTICE SANJEEV SACHDEVA

S. RAVINDRA BHAT, J. (OPEN COURT)

CM No.44029 /2017(exemption)

Allowed, subject to all just exceptions.

CM No.44049/2017(delay in filing appeal for 34 days)

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

LPA 769/2017 &

1. Issue notice. Ms Arunima Dwivedi, Advocate accepts notice for the respondents.
2. With the consent of the learned counsel for the parties, the Appeal is heard today.
3. The Appellant is aggrieved by an order of the learned Single Judge rejecting its Writ Petition. It had approached the Court for a direction to the National Council for Teacher Education (NCTE) to grant recognition to its Institution; it imparts training and Diploma to teachers in Elementary Education (D.El.Ed.) Course. It was established in 2009.
4. The Single Judge rejected the Writ Petition holding that there was no infirmity in the approach of the NCTE or its authorities in the rejection while rejecting the application.
5. The petitioner had, on 29.05.2015, applied, through the online procedure to the NCTE through its Regional Committee for grant of recognition for the Bachelor in Education(B.Ed.) Course along with the requisite documents and processing fee of Rs.1.5 lakhs.
6. The processing procedure went on, on a considerable time, and on 08.02.2016, the Appellant was informed that the Expert Team would inspect its premises. The Expert Team inspected the premises

and made a report subsequently. The report was considered on 14-16.04.2016 and a show-cause notice was issued to the Appellant.

7. The subject-matter of the show-cause notice related to the approval given to its building plan, in the form of a building Completion Certificate. The NCTE felt that the approval by the Gram Panchayat was inadequate. The Appellant approached the Government Engineer, who after inspection and appraisal issued a required Certificate on 01.05.2016. This was furnished to the respondent – NCTE on the very next day, i.e. 02.05.2016. However, the Regional Committee in its meeting held on 02.05.2016 rejected the application of the Petitioner.

8. Armed with this document, the Writ Petitioner approached the Appellate Authority against the order of the Regional Committee and filed the online appeal on 21.06.2016. The Appellate Authority rejected the Appeal on 02.09.2016.

9. The learned Single Judge, after noticing the salient facts, applied her mind to Regulation 8(7) and while dismissing the Writ Petition, observed as follows:-

“.....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 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.

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.....”

10. It is urged on behalf of the Appellant that once the Appellate Authority was seized of the grievance and had occasion to consider the correct document, i.e. Certificate issued by the Government Engineer, it ought not to have rejected the Appeal.

11. Counsel stressed that in overlooking this aspect and confining the enquiry to the narrow framework of Regulation 8(7) and holding that Original application, when furnished, was deficient and, therefore, Regulation was not complied with, the Single Judge erred.

12. The learned counsel for the NCTE argued that the Regulations have to be complied with strictly. It was highlighted that the Schedule for admissions to the Institutions, is non-negotiable. She relied upon the decision of the Supreme Court in *Maa Vaishno Devi Mahila Mahavidyalaya versus State of Uttar Pradesh & Others*, 2013(2) SCC 617.

13. It is stated that once the Schedules are prescribed- the schedule

here – emanated from the cut-off date of 03.03.2017, the question of entertaining any further applications for recognition did not arise.

14. It is not in dispute that, in the present case, the original proposal for rejection by the Regional Committee was on 14-16.04.2016. On its communication, the appellant approached the concerned Officer, who after inspection, issued the required Certificate. That Certificate was matter of record before the Appellate Authority.

15. For unknown reasons, the Appellate Authority completely ignored the certificate and did not take remedial action, either to have the premises re-inspected or verified or remitted to the concerned Eastern Regional Committee (ERC).

16. Undoubtedly, for the Academic Year 2016-2017, the Appellant had missed the bus. However, in the opinion of the Court, was only half story. That the Appeal was kept on the file and decided four months later, i.e. 02.09.2016 necessitated that the Appellate Authority should have at least gone into the aspect and obtained necessary input at the relevant time to satisfy itself after due inspection, if needed, that the concerned deficiency had been taken care of. It is a dereliction. This does not and cannot, in the opinion of the Court, translate into denial of the Appellant's right to consideration at least for the next year. The rejection of its Writ Petition, in these circumstances, has virtually resulted in it being put back to the Regional Committee when it has not filed its application.

17. In view of the foregoing discussion, it is hereby directed that the Certificate dated 02.05.2016 filed with the Appellate Authority shall be considered by the ERC, which shall then proceed to make appropriate orders, after processing all documents, to ensure that in the event the Appellant satisfies the prescribed requirements of the National Council for Teachers Education Act, 1993 and the Regulations framed under the Act, its decision is communicated to it sufficiently in advance and in any event, not later than 31.01.2018.

18. Needless to say, in the event, the NCTE or its authorities decide that the Appellant's request/application for recognition is justified, it would be for the coming Academic Year 2018-2019.

19. In the event the Authorities deem it necessary to inspect the premises, the Appellant shall be notified about the formalities such as payment/deposit of inspection fee at the earliest to ensure that the outer time limit indicated by the Court is adhered to.

20. The Appeal is allowed in the above terms.

**S. RAVINDRA BHAT
(JUDGE)**

**SANJEEV SACHDEVA
(JUDGE)**

DECEMBER 04, 2017/§n'