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

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Judgment delivered on: 04.12.2017

+ **LPA 771/2017**

KAMLA DEVI SOHAN RAJ SINGHVI JAIN COLLEGE OF
EDUCATION 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 Ms 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.44048 /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 771/2017

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 Bachelor in Education(B.Ed.) Course. It was established in 2008.
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 30.05.2015, applied, through the online procedure to the NCTE through its Regional Committee for grant of recognition for the Elementary Education (D.El.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 22.02.2016 a show-cause notice was issued to the Appellant.
7. The subject-matter of the show-cause notice related to the

deficiency in the building plan with regard to plot number etc. The Appellant submitted the blueprint of Building Plan indicating the plot number, total land area, total built up area etc. This was furnished to the respondent – NCTE on 24.02.2016. However, the Regional Committee in its meeting held on 02.05.2016 rejected the application of the Petitioner.

8. The Writ Petitioner approached the Appellate Authority against the order of the Regional Committee and filed the online appeal on 11.07.2016. The Appellate Authority rejected the Appeal on 26.09.2016.

9. The learned Single Judge, after noticing the salient facts, applied her mind to Regulation 7(1) and while dismissing the Writ Petition, observed as follows:-

“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.

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 document, i.e. the blueprint of Building Plan indicating the plot number, total land area, total built up area etc., 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 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 13-15.04.2016. On its communication, the appellant filed the blueprint of Building Plan indicating the plot number, total land area, total built up area etc.. That Building Plan was matter of record before the Appellate

Authority.

15. For unknown reasons, the Appellate Authority completely ignored the Building Plan and did not take remedial action, either to have the premises re-inspected or verified or remitted to the concerned Eastern Regional Committee (ERC). Even if assuming that the appellate authority could not correlate the Building Plan, it could have remitted the matter to the concerned ERC. It is not in dispute that a copy of the Building Plan with complete requisite details indicating the plot number, total land area, total built up area etc., was filed along with the Writ Petition.

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 three months later, i.e. 29.09.2016 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 blueprint of Building Plan filed 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/§D'