

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 30.10.2018

CORAM

THE HONOURABLE Mr.JUSTICE S.S.SUNDAR

W.P.No.4596 of 2018 and
W.M.P.Nos. 5642 & 5643 of 2018

National College of Educaiton,
Ayyampudur (PO),
Kolathur -636 303
Mettur Taluk,
Salem District
Rep. By its Secretary,
J.Thangavelan,

...Petitioner
Vs

1. The Member Secretary,
National Council for Teacher Education,
Hans Bhawan Wing II,
1, Bahadur Shah Zafar Marg,
New Delhi -110 002.
2. The Regional Director,
Southern Regional Committee,
National Council for Teacher Education,
Nagarabhavi, Jnana Bharathi Campus Road,
Opp. National Law School,
Bangalore- 560 072.
3. The Registrar,
Tamil Nadu Teachers Education University,
Gangaiamman Kovil Street,
Karapakkam,
Chennai- 600097.

....Respondents

PRAYER in both Writ Petitions : Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus calling for the records relating to the impugned proceedings issued by the 2nd Respondent in F.No.SRO/NCTE/SRCAPP201630058/B.ED-AI/TN/2017-18/93170 dated 08.05.2017 as confirmed in the orders passed by the 1st Respondent in F.No.89/497/E-10242/2017 Appeal/18th Meeting-2017/60965 dated 29.11.2017 and to QUASH the same and consequently directing the Respondents to grant recognition for conducting B.ED., degree programme with additional intake of 50

students from the academic year 2018-19.

For petitioner : M/S.G.Sankaran
For R1 & R2 : Mr.Su.Srinivasan, Standing counsel
For R3 : Mr. U.Venkatesan

COMMON ORDER

This writ petition has been filed for issuance of a Writ of Certiorarified Mandamus, calling for the records relating to the impugned proceedings issued by the 2nd Respondent dated 08.05.2017 as confirmed in the orders passed by the 1st Respondent dated 29.11.2017 and quash the same.

2 The brief facts that are necessary for the disposal of this writ petition are as follows:

The petitioner college was established by a Trust known as Kolathur J.B.Educational Trust which is a registered Trust. After establishing the college in the name of the petitioner namely National College of Education on 28.05.2015, an application was submitted to the first respondent (NCTE) to grant recognition for B.Ed., Teacher Education programme for the year 2016-17. The first respondent granted recognition to the petitioner's college for conducting two year B.Ed., programme with annual intake of 50 students (one unit) from the academic year 2016-17 based on the NOC issued by the third respondent in November 2015.

3 The petitioner college submitted an application through online for grant of recognition for additional intake of 50 students (second unit) for the academic year 2017-18. The petitioner has paid the processing fee of Rs.1,50,000/-. The petitioner also included the No Objection Certificate issued by the third respondent dated 13.11.2015, as the petitioner believed that NOC issued for the first unit is sufficient for grant of recognition for additional unit.

4 However, the second respondent namely the Director of the Southern Regional Committee of National Council for Teacher Education issued a show-cause notice dated 21.01.2017 that a final decision has to be taken in the matter including rejection of application. However, in the said show-cause notice the fact that the petitioner institution has provided all the requirements except the Encumbrance Certificate in Original and want of NOC for the year 2017-18. The petitioner submitted a reply to the notice on 30.01.2017 along with the Encumbrance Certificate in Original upto date and NOC dated 27.01.2017. It is admitted that the respondent NCTE, conducted an inspection on 24.03.2017 and the report was submitted by the visiting team before the first respondent/NCTE on 27.03.2017. It is also admitted that the visiting team recommended for conducting

B.Ed., programme with the additional intake of 50 students to the petitioner institution.

5 However, taking note of the fact that NOC was given only for the academic year 2016-17, the second respondent found that the NOC obtained in January 2017 cannot be accepted as a valid certificate. Therefore, the NCTE issued second show-cause notice dated 26.04.2017. In the second show-cause notice it is admitted that it is a mistake committed by the NCTE for erroneously ordering visiting team for inspection. A detailed reply was given by the petitioner on 02.05.2017. Thereafter, the second respondent passed a final order on 08.05.2017 by rejecting the petitioner's application for the following reasons.

'I submit that thereafter, the 2nd Respondent issued final orders on 08.05.2017 by rejecting the application submitted by the Petitioner College by stating as follows:

- (1). Their copy to the SCN is seen
- (2). We can only say this has been a pathetic case.
- (3.1). The NOC given was for 2016-17. It will not be valid for 2017-18.
- (3.2). The NOC was not valid even for 2016-17 because it was presented in Nov.16 when it should have been presented on or before 15 July 16.
- (4). We are totally helpless to deal with their grievance that they should not be made to suffer for the delay by the NOC issuing University.
- (5). Regretfully, we have to reject this application.
- (6). Return FDRs.
- (7). Close the file.

6 It is stated by the petitioner that the respondent had not taken note of the fact that the petitioner's college has produced NOC issued by the third respondent along with the application submitted on 30.05.2018. The petitioner college thereafter, filed an appeal on 30.06.2017 before the first respondent and the appeal was also dismissed by assigning the same reasons cited by the second respondent. Challenging the order passed by the second respondent dated 08.05.2017 and the order of the first respondent dated 29.11.2017, the above writ petition is filed.

7 Having regard to the facts that the petitioner institution has not admitted any students for the year 2017-18 and has given up his right to admit students for the year 2018-19, the learned counsel for the petitioner submitted that his application, which was submitted before the first respondent may be treated as one for 2019-20 and that the second respondent may

be directed to consider his application.

8 The learned counsel for the second respondent however, submitted that the petitioner's application along with the particulars, which are required for the academic year 2018-19 may not be considered for the grant of approval for the year 2019-20. The learned counsel appearing for the first and second respondent suggested that the petitioner may be directed to file a fresh application for the year 2019-20, so that the respondent will be in a position to consider the application on merits in the petitioner's case for grant of recognition for additional intake for 50 students for the academic year 2019-20.

9 In view of the fact that the petitioner has not admitted students and agreed not to admit any students for the year 2018-19, the request of the petitioner is fair and equitable. In such circumstances, without going to the merits, this Court is inclined to pass the following directions:

(i) The petitioner is directed to resubmit the application for grant of recognition along with all the particulars required for the grant of recognition to the petitioner college for conducting the B.Ed., programme with the additional intake of 50 students from the academic year 2019-20, along with the No Objection Certificate, which is required for the academic year 2019-20. Upon the petitioner submitting application for the grant of approval for the academic year 2019-20. The second respondent is directed to consider and pass appropriate orders on merits and in accordance with law, after giving sufficient opportunity to the petitioner. It is made clear that the petitioner is required to comply with all the infrastructures including the faculty position to the satisfaction of the university. The university is permitted to inspect the college so that the college satisfy the norms required in law.

(ii) Learned counsel appearing for the third respondent university submitted that the petitioner college was given approval for faculty for intake of 100 students, pointed out that the approval for 60 teaching staff granted by the university. Earlier may not hold good as 8 out of 16 staff had already left from petitioner's college and joined in some other College of Education. No doubt, the third respondent university is competent to grant education qualification approval for the teaching staff of the petitioner or any other institutions before grant of affiliation as examining body is always entitled to monitor to ensure proper training to the students concerned.

(iii) It is also to be noted that the second respondent is competent to grant recognition to the petitioner's institution after satisfying the norms and infrastructures provided by the petitioner's institution including the required faculty position

and the qualification of the teachers, who are engaged in the petitioner's institution. Once the recognition is given by the second respondent by satisfying the sufficiency of the infrastructure and other facilities and faculty position, it is not for the university to refuse No Objection Certificate once again for want of certain facilities or deficiencies in infrastructure including faculty position. This is made clear since the learned counsel appearing for the university was tried to impress upon this Court that the university has absolute discretion in the matter of issuing No Objection Certificate.

(iv) The learned counsel appearing for the university also produced before this Court a table showing the statistics of the annual intake of students in the entire Salem District and the number of students admitted to show that number of seats left unfilled is 33% in the academic year 2018-19. The percentage of unfilled seats depends upon various factors and No Objection Certificate to a particular college cannot be denied merely on the basis of the statistics regarding the percentage of seats left unfilled in a particular district. The petitioner college may be located in a place, which is convenient to more number of students and the facilities and the infrastructure provided may also attract more students to fill entire seats in the petitioner institution and hence, the respondent university may have to consider for grant of No Objection Certificate after giving opportunity to the petitioner. It is admitted that the university has granted NOC for the academic year 2016-17, 2017-18 and also for 2018-19 despite such vacancy position.

(v) Hence, the submission of the learned counsel for the university cannot be accepted based on this statistics. When the respondents university was convinced to give No Objection Certificate for all these years despite the percentage of seats left unfilled in the Salem Districts is between 30% and 38%. It is not open to reject No Objection Certificate only on the basis of such statistics. However, this Court is conscious of the fact that the university has absolute discretion in the matter of NOC to the petitioner's College.

(vi) Having regard to the fact that the petitioner could not admit the students for the past two academic year only for want of NOC, the third respondent university may consider the application and pass appropriate orders on merits on or before 28.12.2018. The second respondent is directed to consider the application and pass appropriate orders as expeditiously as possible after giving sufficient opportunity to the petitioner to comply with any deficiencies as the application is going to be for the academic year 2019-20.

10 With the above directions, this writ petition is disposed of. No costs. Consequently, connected miscellaneous petitions are also closed.

-s/d-
Deputy Registrar

True Copy

Sub-Assistant Registrar

ssb/rpl

To

1. The Member Secretary,
National Council for Teacher Education,
Hans Bhawan Wing II,
1, Bahadur Shah Zafar Marg,
New Delhi -110 002.
2. The Regional Director,
Southern Regional Committee,
National Council for Teacher Education,
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3. The Registrar,
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Gangaiammal Kovil Street,
Karapakkam,
Chennai- 600 097.

+1 CC to Mr.G. Sankaran, Advocate sr 75006.

+1 CC to Mr.U. Venkatesan, Advocate sr 74129.

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SP(17/12/2018)

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