

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.06.2018

CORAM:

THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN

W.P.No.167 of 2018  
and  
W.M.P.Nos.224 & 225 of 2018

D.N.C.Manivannan College of Physical Education,  
Elagiri Village, Nallampalli Taluk,  
Dharmapuri District, PIN-636 807.  
Rep. by its Correspondent D.N.C.Manivannan

... Petitioner

Vs.

1.The National Council for Teacher Education,  
Rep by its Member Secretary,  
Hans Bhavwan Wing II,  
1, Bahadur Shah Zafar Marg,  
New Delhi-110 002.

2.The Regional Director,  
Southern Regional Committee,  
National Council for Teacher Education,  
Jnanabarathy Campus Road,  
Nagarabhavi, Bengaluru-72.

.. Respondents

Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus calling for the records relating to the impugned order passed by the 2<sup>nd</sup> respondent in F.No.SRO/NCTE/SRCAPP201630046/B.PEd.TN/2017-18/92805 dated 12.04.2017 confirmed in Appeal by the 1<sup>st</sup> respondent in F.No.89-316/E-2568/2017/Appeal/15<sup>th</sup> Meeting 2017 dated 16.10.2017, quash the same and further direct the respondents to grant recognition to the petitioner college namely D.N.C. Manivannan College of Physical Education, Dharmapuri for the 2 year B.P.Ed., Degree Course from the Academic year 2018-2019.

For Petitioner : Mr.Prabhu Mukunth Arunkumar  
For Respondents: Mr.P.R.Gopinathan

ORDER

The petitioner has come forward with the above Writ Petition praying for issuance of a Writ of Certiorarified Mandamus to call

for the records relating to the impugned order passed by the 2<sup>nd</sup> respondent in F.No.SRO/NCTE/SRCAPP201630046/B.PEd.TN/2017-18/92805, dated 12.04.2017, confirmed in Appeal by the 1<sup>st</sup> respondent in F.No.89-316/E-2568/2017/Appeal/15<sup>th</sup> Meeting 2017, dated 16.10.2017, quash the same and further direct the respondents to grant recognition to the petitioner-college, namely D.N.C. Manivannan College of Physical Education, Dharmapuri for the 2 year B.P.Ed., Degree Course from the Academic year 2018-2019.

2. The grievance of the petitioner is that the Appellate authority has confirmed the order of the original authority without ascertaining the fact that there is a building plan approval of the year 2014 and that there is also No Objection Certificate issued by the State Government with regard to the starting of B.P.Ed. course. The rejection made by the authorities runs counter to the National Council for Teacher Education (Recognition Norms and Procedures) Regulations, 2014. According to the petitioner, in terms of Regulation 7(5) and (6) of the said Regulations, the authorities ought not to have rejected the request of the petitioner for recognition of the said course. The said Regulation 7(5) and (6) reads as follows:

"Regulation 7: Processing of applications:

.. ..

(5) On receipt of the communication, the State Government or the Union Territory administration concerned shall furnish its recommendations or comments to the Regional Committee concerned within forty five days from the date of issue of the letter to the State Government or Union Territory, as the case may be. In case, the State Government or Union Territory Administration is not in favour of recognition, it shall provide detailed reasons or grounds thereof with necessary statistics, which shall be taken into consideration by the Regional Committee concerned while disposing of the application.

(6) If the recommendation of the State Government is not received within the aforesaid period, the Regional Committee concerned shall send a reminder to the State Government providing further time of another thirty days to furnish their comments on the proposal. In case no reply is received, a second reminder shall be given for furnishing recommendation within fifteen days from the issue of such second reminder. In case no reply is received from the State Government within aforesaid period the Regional Committee shall process and decide the case on merits and placing the application before the Regional Committee shall not be deferred on account of non-receipt of comments or recommendation of the State Government.

.. .."

3. In his reply, the learned counsel for the respondents, by filing counter affidavit of the second respondent, submitted that the appellate authority has confirmed the order of the original authority, dated 12.04.2017 and that the No Objection Certificate was given in May 2017 by the State Government and that the building plan was granted by the competent authority even in May 2014. He further submitted that now that the documents having been furnished by the petitioner, this Court may consider for issuing direction to the second respondent who is the competent authority to pass appropriate orders.

4. Heard both sides and perused the materials available on record.

5. It is not in dispute that the No Objection Certificate, dated 17.05.2017 was issued by the State Government subsequent to the order of the original authority, dated 12.04.2017. However, as could be seen from the records, building plan has been furnished, which is of the year 2014. Since the petitioner has again furnished all the documents and taking note of the said Regulation 7(5) and (6) extracted supra, the petitioner has to be given an opportunity of hearing and the authority, namely the second respondent will have to consider the request of the petitioner on merits and in accordance with law. In view of the subsequent development, the original order and the appellate order passed by the authorities which are subject matter of the writ petition, cannot be put against the petitioner.

6. Taking note of the fact that from the date of the order passed by the original authority, a year has gone by, the second respondent is directed to consider the request of the petitioner-College for recognition of the two year B.P.Ed. course, as they have already filed necessary documents, and after giving an opportunity of hearing to the petitioner, pass orders on merits and in accordance with law, within a period of one month from the date of receipt of a copy of this order or production of a copy of this order by the petitioner, whichever is earlier. This order is passed in respect of the academic year 2018-2019.

7. With the above observations and direction, the Writ petition is disposed of. Consequently, the connected Miscellaneous Petitions are closed. No costs.

Sd/-  
Assistant Registrar (CS VI)

//True Copy//

Sub Assistant Registrar

cs/dss

To

1.The Member Secretary,  
The National Council for Teacher Education,  
Hans Bhavwan Wing II,  
1, Bahadur Shah Zafar Marg,  
New Delhi-110 002.

2.The Regional Director,  
Southern Regional Committee,  
National Council for Teacher Education,  
Jnanabarathy Campus Road,  
Nagarabhavi, Bengaluru-72.

+1cc to Mr.Prabhu Mukunth Arunkumar, Advocate sr.no.36224

+1cc to Mr.P.R.Gopinathan, Advocate sr.no.36117

W.P.No.167 of 2018

nr 20/06/2018



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