

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CWP-23778-2018 (O&M)

Date of decision: - 26.09.2018

Baba Farid Vidyak Society and another

...Petitioners

Versus

National Council for Teacher Education and others

...Respondents

**CORAM : HON'BLE MR. JUSTICE MAHESH GROVER
HON'BLE MR. JUSTICE MAHABIR SINGH SINDHU**

Present:- Mr. Amit Jhanji, Advocate,
for the petitioners.

Mr. Aman Kashyap, Advocate
for respondents No.1 and 2.

Mr. Vishal Khatri, Advocate
for respondent No.3.

MAHESH GROVER, J. (ORAL)

This writ petition has been filed by the petitioners with a prayer that minutes of meeting dated 05.09.2018 to 07.09.2018 (Annexure P-21) be quashed to the extent that petitioner No.2 has been granted recognition for Diploma in Elementary Education Course (hereinafter known as 'D.El.Ed.') for the academic session 2019-2020 despite the fact that the petitioner-College had applied for B.A. B.Ed/B.Sc. B.Ed (integrated course) for the academic year 2018-19. The petitioner No.2

college, is in existence since 2005 and affiliated to Punjabi University, Patiala running various courses. The petitioner-College was desirous of introducing B.A. B.Ed/B.Sc. B.Ed (integrated course) for which it sought necessary recognition from the National Council for Teacher Education-responder No.1 (hereinafter known as 'NCTE').

The NCTE Act, 1993 lays down the procedure for according recognition to Teachers Education Institution. Chapter IV of the Act stipulates that any refusal resulting on an application is amenable to an appeal.

To be correct to the facts, we need to record the journey of the petitioner-College's application made in the year 2015 seeking recognition to conduct B.A. B.Ed/B.Sc. B.Ed (integrated course) (hereinafter known as 'integrated course') with an intake capacity of 100 students, vide application dated 29.05.2015. The petitioner-College was issued a show-cause notice dated 01.03.2016 to which it responded vide letter dated 08.04.2016. Its application was rejected in the meeting of NCTE held from 19.04.2016 to 02.05.2016, but conveyed to the petitioner on 29.06.2016. The petitioners filed an appeal against the rejection on 30.06.2016 with a request that it be supplied a copy of rejection order. The appeal was considered on 27.08.2016 and vide order dated 26.09.2016, the appeal was accepted and the matter was remanded back to the Northern Regional Committee for reconsideration. On 05.12.2016 a second rejection followed, which was also challenged in appeal with a decision on 29.05.2017. The order dated 05.12.2016 was set aside with a direction that the institution be inspected again on a payment of fee. On

07.07.2017 the meeting of the Northern Regional Committee (hereinafter known as 'NRC') decided as follows: -

46.	NRCAPP-11299	Baba Farid College of Education, Plot No.- 161/11/2 (4-0) 12 Min (5-13), Street/Road – NA, Village Deon, Post Office - Bathinda. Tehsil/Taluka – Bathinda, Town/City – Bathinda. Distt. Bathinda. Pin Code – 151001, Punjab	B.A.B.Ed./ B.Sc.B.Ed.	xxxxxxx In compliance with appeal order dated 29.05.2017, NRC decided to conduct inspection of the appellant institution subject to payment of inspection fee Rs.1.5 Lakh by the institution. The NRC decided that the VT be constituted in order to ascertain & scrutinize all the essential documents such as land documents, building plan, CLU, BCC. Non Encumbrance Certificate and all required documents in original and verify its authenticity with reference to NCTE Regulations, 2014 and mention the status/position of these documents including deficiencies observed in these documents as per the provisions in the NCTE Regulations, 2014 in the check list prepared by NRC in this regard. Check list be forwarded to the visiting team with the VTR. In addition the VT shall verify the infrastructure and instructional facilities created by the institution so as to assess preparedness of the institution as per provisions of the NCTE Regulations, 2014. On receipt of the VTR the same be placed before NRC with original file for further decision.
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The petitioner(s) paid the requisite amount of fee on 12.07.2017, but surprisingly the inspection was eventually carried out on 17.01.2018 by the visiting team (for short 'VT'). The petitioner(s) was also issued a show-cause notice on 08.02.2018 and it would be essential to extract the relevant here below: -

AND WHEREAS, the matter was placed before NRC in its 280th meeting held from 06th to 07th February, 2018 and the Committee, decided to issue Show Cause Notice under section 14/15 (3)(b) of the NCTE Act, 1993 giving to 30 days time for submission of reply on the following grounds:

- The institution has not submitted the Land Use Certificate issued by the Competent Authority to use to land for educational purpose.
- CD prepared during the inspection by the VT members has not been submitted.”

The petitioners in turn responded on 15.02.2018 and it would be equally important to extract its response: -

Observation	Action taken
3. The institution has not submitted the Land Use Certificate issued by the Competent Authority the land for education purpose	3. In regards to this point, it is submitted that a notarized copy of Land Use Certificate issued by the Competent Authority (in hard copy & soft copy) was submitted by the institution to the worthy VT members at the time of inspection and VT members verified the same. However, we resubmitting the same for your kind consideration, hence there is no deficiency.
4 CD prepared during the inspection by VT members has not been submitted.	4. In regards to this point, the institution has submitted all the data (Photos, videos including all annexures) in (03 pen drives) 02 for VT Members 01 for NRC, NCTE. However, we resubmitting the same for your kind consideration, hence there is no deficiency.

The NCTE then responded to this on 03.03.2018 as follows: -

“AND WHEREAS, the matter was placed before NRC in its 282nd (Part-I-28th February, 2018) meeting held from 28th February to 01st March & 03rd March, 2018 and the Committee, decided to issue Show Cause Notice under section 14/15 (3)(b) of the NCTE Act, 1993 giving 30 days time for submission of reply on the following grounds: -

- The LUC submitted by the institution has been issued by a Sarpanch and not by a Competent Authority authorised to issue LUC in the State of Punjab.”

The petitioners filed it response on 31.03.2018, which is as below:-

Observation	Submission
“The CLU submitted by the institution has been issued by a Sarpanch and not by a Competent Authority authorized to issue CLU in the State of Punjab”.	In regard to CLU submitted to your goodself Baba Farid College of Education has obtained the certificate of CLU from both, Sarpanch Gram Panchayat, village Deon and from Tehsildar (Copies attached) because according to Punjab Govt. policy multiple agencies were authorized to issue certificate of CLU prior dated 17.08.2007. As per the reference of notification of Govt. of Punjab, Department of Housing & Urban Development, dated 17.08.2007 No. 17/17/01-5HG2/6682 “As has been decided in the meetings of cabinets Sub-Committee on additional resource mobilization, process of grant of CLU has to be simplified and rationalized. It has been decided that to avoid the multiplicity and to have uniform rates, only one agency i.e. Department of Housing and Urban Development will approve the Change of Land Use/grant nof permission of Land use against payment of prescribed charges.”

On 12.06.2018, the NCTE issued Letter of Intent to the institution for the B.A. B.Ed/B.Sc. B.Ed course as desired by the College, but vide the impugned meeting note this was omitted and instead it was noticed that the petitioner(s) was granted recognition for D.El.Ed. course for two years for 100 students for the session 2019-2020.

It would be pertinent to mention here that the case with the NCTE was for grant of recognition for B.A. B.Ed/B.Sc. B.Ed (integrated course) and not for D.El.Ed. Course.

It is therefore at this stage the petitioners approached the Court with the grievance as noticed above. We had issued notice for a

short date noticing the underlying urgency of the matter and issued dasti process for 21.09.2018, vide order dated 17.09.2018.

On 21.09.2018 despite service no one put in appearance on behalf of the respondents. It was with the efforts of the Court that the presence of the NCTE was ensured on 25.09.2018 when a request for adjournment was made by Mr. Sandeep Jasuja, Advocate. The matter was then taken up today and no response has been filed by the NCTE. Matters relating to admission in higher education are bound to a time frame, which necessitates an urgent hearing which is also to be acknowledged by those, who are contesting the proceedings as respondents.

We cannot grant them the luxury of repeated adjournments to file the reply. We have already noticed that the NCTE despite service chose not to appear thereby delaying the process of adjudication and finally, when entered appearance they chose not to file reply.

We have however gone through the material before us. It is not in dispute that the petitioner(s) first submitted an application in the year 2015 and we have already noticed that their claim meandered through various procedures either before the Committee or the decision making authority in the NCTE including the appellate authority. Even if we were to wish away whatever transpired up to 29.05.2017 when the appellate authority directed inspection upon payment of fee, then also the NCTE has little justification to offer for the lax approach. On 07.07.2017, a decision was taken by the Committee in its 272nd meeting, the minutes of which we extracted above directing the institution to pay a fee of Rs.1.5 lakhs for the inspection, which was complied with by the petitioner

(s) on 12.07.2017 itself, but the inspection for no ostensible reason took place on 17.01.2018 with a show-cause notice, being issued on 08.02.2018. It would be interesting to note the objections conveyed to the petitioners in this notice.

It has been stated that the institution has not submitted the land use certificate issued by the Competent Authority to use the land for educational purposes and secondly the CD prepared from the inspection for the VT members has not been submitted.

The petitioner(s) responded to this on 15.02.2018 and conveyed that the land use certificate issued by the competent authority both in hard and soft copy were submitted to the members of the visiting team at the time of inspection, but by way of abundant caution it was resubmitted. Now if we are to reconcile it with the objections raised by the respondents in the show-cause notice dated 08.02.2018 it notices that the CD prepared by the VT members had not been submitted whereas it was the duty of the visiting members to do so as it was entrusted to them.

The petitioner(s) therefore cannot be faulted for the same and if they had submitted the requisite documents, it was for the VT to submit the result of their inspection along with whatever documents/material they had to, particularly when they had been authorized to do so if the minutes of the 272nd meeting are to be considered.

The petitioner(s) were then again issued a show-cause notice, which was totally unwarranted considering the time frame in which the rejection is to be conveyed.

For the purposes of reference, the relevant extract of the notification dated 28.11.2014 is set down here below:-

“(5) Duly completed applicatoin in all respects may be submitted to the Regional Committee concerned between 1st March to 31st May of the preceding year from the academic session for which recognition is sought.

Provided that the aforesaid period shall not be applicable for submission of application to innovative programmes of teacher education.

(6) All applications received online from 1st March to 31st May of the year shall be processed for the next academic session and final decision, either recognition granted or refused, shall be communicated to the applicant on or before the 3rd day of March of the succeeding year.”

The Hon'ble Supreme Court in case titled **'Maa Vaishno Devi Mahila Mahavidyalaya Vs. State of U.P. and others, in W.P. (Civil) No.276 of 2012 along with other connected matters, decided on 13.12.2012**, has observed as under: -

“65. Lastly, the question which is required to be discussed in light of the facts of the present cases is adherence to the Schedule. Once the relevant Schedules have been prescribed under the Regulations or under the Judge made law, none, whosoever it be, is entitled to carve out exceptions to the prescribed Schedule. Adherence to the Schedule is the essence of granting admission in a fair and transparent manner as well as to maintain the standards of education. The purpose of providing a time schedule is to ensure that all concerned authorities act within the stipulated time. Where, on the one hand, it places an obligation upon the authorities to act according to the Schedule, there it also provides complete clarity to other stakeholders as to when their application would either be accepted and/or rejected and what will be the time duration for it to be processed at different quarters. It also gives clear understanding to the

students for whose benefit the entire process is set up as to when their examinations would be held, when results would be declared and when they are expected to take admission to different colleges in order of merit obtained by them in the entrance examinations or other processes for the purposes of subject and college preference.”

Clearly the NCTE had no choice but to adhere to the schedule, rather it has taken upon itself the luxury of flexibility in bending the time schedule which the aforesaid notification and the time schedule does not permit.

Not only has the NCTE defaulted here but if the final decision is to be construed there is a lapse here as well. The petitioner-College did not apply for D.El.Ed. course and had sought recognition for B.A. B.Ed/B.Sc. B.Ed (integrated course) alone.

This is sought to be wished away by the NCTE as a typographical error.

We would not look upon this kindly, as they are dealing with institutions providing academic avenues to multitudes in higher education and if both these lapses are viewed cumulatively it has not only resulted in depriving the institution an integrated course as desired, but has also cost it one year.

The corrected order has been submitted by the NCTE now and the same is taken on record.

We need not comment on the conduct of the NCTE any further, but notice the fact that recognition has indeed been granted and evidently for the B.A. B.Ed/B.Sc. B.Ed (integrated course) as per the corrected order and even otherwise the learned counsel for the NCTE has

conceded that the decision conveyed to the petitioner(s) qua the course of D.El.Ed. was on account of inadvertence.

Since NCTE has granted recognition to the petitioner for the desired courses i.e. B.A.B.Ed./B.Sc.B.Ed. but have delayed the process and permitted institution to admit students from session 2019-20 which we have recorded to be unjust, so while quashing the stipulation enabling the institution to undertake course for the session 2019-20 we permit the institution to do so with effect from current session 2018-19 subject to the condition that the University grants it affiliation.

Learned counsel for the University on instructions has stated that they will take decision with regard to affiliation once the NCTE has accorded recognition for the desired course by the institution. Since the NCTE has granted necessary recognition to the college, we direct Punjabi University, Patiala-respondent No.3 to take a decision on the affiliation to be accorded to the petitioner by tomorrow i.e. 27.09.2018.

In view of above, the present writ petition stands disposed of.

**(MAHESH GROVER)
JUDGE**

**(MAHABIR SINGH SINDHU)
JUDGE**

September 26, 2018
naresh.k

Whether reportable?	No
Whether reasoned/speaking?	Yes