

\$~34

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

+ W.P.(C) 1358/2018 & CM No. 5640/2018

%

Date of decision : 19th February, 2018

R.A.S. COLLEGE OF EDUCATION

..... Petitioner

Through : *Mr. Sanjay Sharawat, Adv.*

versus

NATIONAL COUNCIL FOR TEACHER EDUCATION & ANR

..... Respondents

Through : *Ms. Monika Arora, Standing Counsel, NCTE with Mr. Harsh Ahuja, Mr. Kushal Kumar and Mr. Vibhu Tripathi, Adv.*

CORAM:

HON'BLE THE ACTING CHIEF JUSTICE

HON'BLE MR. JUSTICE C.HARI SHANKAR

JUDGMENT (ORAL)

GITA MITTAL, ACTING CHIEF JUSTICE

1. The writ petitioner, an educational institution, was desirous of commencement of the B.Ed. Course in the year 2006 for which prior recognition is required from the National Council of Teachers Education (*respondent no. 1 – hereafter 'NCTE'*) which exercises jurisdiction under the National Council for Teacher Education Act, 1993 (*hereafter the 'NCTE Act'*).

2. The manner in which an application for grant of recognition is processed, had been stipulated by the respondent in the National

Council for Teacher Education (*Recognition, Norms and Procedure*) Regulation, 2006 (NCTE Regulations, 2006 hereafter), which stands amended subsequently.

3. It appears that Sh. Dharam Singh, President of the petitioner society was the owner in possession of land admeasuring 25 *kanal* 10 *marla* in Village Khatiwas (Gogjaka) District Mewat, Haryana. The writ petitioner has submitted that as per the NCTE Regulation, 2006, any society having ownership of the land or having leasehold rights thereon for a period of 30 years or more, either from a private party or from the Government, was eligible to apply for seeking recognition. Sh. Dharam Singh had, vide a registered lease deed dated 25th May, 2007, leased the said land to the Petitioner society for a period of 30 years.

4. Premised on these leasehold rights, the writ petitioner submitted an application with the Northern Regional Committee (NRC) of the NCTE in the year 2006 seeking recognition, for commencement of the B.Ed. Course from the Academic Session 2008-09. Vide an order dated 22nd February, 2008, the petitioner was actually granted recognition, in accordance with law.

5. On 30th December, 2012, the petitioner submitted a fresh application with the NRC, this time seeking recognition to commence a Diploma in Elementary Education Course (*D.El.Ed.* course hereafter) in the very premises in which the petitioner stood granted recognition for the B.Ed. Course.

6. It appears that a ban stood imposed by the Government of Haryana at this stage with regard to opening of new educational institutions in the State. Based on this prohibition, on the 11th of September, 2013, the NRC rejected the petitioner's application for commencement of the D.El.Ed. Course.

7. The writ petitioner challenged this decision of the NRC by way of W.P.(C) 7837/2013 which came to be allowed by this court by an order dated 24th November, 2014. The petitioner's application was thereby remanded to the NRC for consideration afresh.

8. Before the matter could be considered afresh by the NRC, it appears that amendments were effected to the Regulation and the NCTE Regulations, 2014 came to be notified whereby the respondents had excluded eligibility of an educational institution to run the courses on land in which it had only leasehold rights from private persons.

9. In this regard, we may extract Regulation 8(4) of the NCTE Regulation, 2014 which reads as follows:

“8. Conditions for grant of recognitions

(4) xxx xxx xxx

(i) No institution shall be granted recognition under these regulations unless the institution or society sponsoring the institution is in possession of required land on the date of application. The land free from all encumbrances could be either on ownership basis or on lease from all Government or Government institutions for a period of not less

than thirty years. In cases where under relevant State or Union Territory laws the maximum permissible lease period is less than thirty years, the State Government or Union territory administration law shall prevail and in any case no building shall be taken on lease for running any teacher training programme

(ii) The society sponsoring the institution shall have to ensure that proposed teacher education institution has a well demarcated land area as specified by the norms.

(iii) The society sponsoring the institution shall be required to transfer the vest and title of the land and building in the name of the institution within a period of six months from the date of issue of formal recognition order under sub-regulation (16) of regulation 7. However, in case, the society fails to do so due to local laws or rules or bye-laws, it shall intimate in writing with documentary evidence of its inability to do so. The Regional Office shall keep this information on record and place it before the Regional Committee for its approval.”

(Emphasis supplied)

10. In order to obviate an objection which could be raised on the pending application of the writ petitioner, Sh. Dharam Singh, president of the society transferred the land in question absolutely in favour of the writ petitioner by way of a registered sale deed on 11th February, 2015.

11. Inasmuch as the pending application had relied on the lease deed which was not acceptable under the Amended Regulations of

2014, a notice to show cause dated 4th September, 2015 was issued by it to the petitioner *inter alia* on the following ground :

“The institute has submitted pho copy of land document on lease basis which is not acceptable as per Regulations, 2014”

12. It was only in its reply dated 5th October, 2015 that the petitioner submitted the copy of the sale deed dated 11th February, 2015 and informed the NRC that even the requirement of the afore extracted amended Regulation 8(4) stood satisfied.

13. Unfortunately, by the order dated 30th December, 2015, the NRC once again rejected the application of the petitioner again ostensibly on the ground of the ban imposed by the State of Haryana with regard to opening of new educational institutions. The writ petitioner contends that no objection was taken with regard to the ownership rights of the petitioner under the land and consequently, it has to be presumed that the NRC had accepted the validity of the petitioner's title so far as the requirement of ownership of the land was concerned.

14. The petitioner was compelled to assail the order of the 30th of December, 2015 by way of an appeal before the NCTE. This appeal was allowed by an order dated 18th April, 2016 and the matter was once again remanded to the NRC with a direction to decide the petitioner's application as per the NCTE Regulations.

15. Despite the judgment of this court dated 24th November, 2014 in W.P.(C) 7837/2013 rejecting any objection premised on a ban imposed by any State Government with regard to opening of new institutions in the State, the NRC yet again issued a notice to show cause dated 8th June, 2016 again objecting to the opening of the institution by the petitioner on the ground that the State Government had imposed such a ban. It is noteworthy that no objection regarding the rights of the petitioner in the subject land was raised even this time.

16. Despite the petitioner's response, the NRC passed an order dated 30th December, 2016 once again rejecting the petitioner's application on the ground that opening of new institutions in the State had been banned by the State Government.

17. This matter was again brought to the court by way of a second writ petition being W.P.(C) 177/2018. The writ petition came to be allowed and by an order dated 29th January, 2018, and the court remanded the matter to the respondents with a direction to decide the petitioner's application latest by the 3rd of March, 2018 irrespective of the ban imposed by the State Government.

18. The present writ petition has been necessitated inasmuch as the case of the petitioner was considered by the NRC in its 280th Meeting held from 6 to 7th February, 2018 as the 112th item when an objection has been recorded so far as the petitioner's application is concerned :

The petitioner's application appears at serial no.112 of the minutes which records as follows :

“

112	NRCAP P-6867	R A S College of Education, Plot No.- 103,37,9,2/1,3 1, Village Khatiwas, Post office- Turu, Tehsil/Taluka -Tauru, Town/City- Tauru, Distt.- Mewat, Haryana- 122105	D.El.Ed.	The original file of the institution alongwith other related documents, NCTE Act, 1993 Regulations and Guidelines of NCTE published from time to time were carefully considered by NRC and following observations were made:- Land has been registered in the name of the applicant Society on 11.02.2015 i.e. after the date of making application online Hence show cause notice under Section u/s 14/15(3) (b) of the NCTE Act, 1993 be issued to the institution to submit reply within 30 days from the date of issue of show cause notice.
-----	-----------------	---	----------	--

”

19. The petitioner has challenged this decision *inter alia* on the ground that when the petitioner submitted his application on the 30th of December, 2012, for additionally commencing the D.El.Ed. Course in the premises (*in which the petitioner had already been granted recognition for the B.Ed. Course on 22nd February, 2008*), it were the NCTE Regulation, 2006 which were in vogue. These regulations permitted commencement of an educational institution in a premises in which the applicant had leasehold rights for a period of more than 30 years from a private owner. This application and the matter of recognition of the diploma course has remained pending for all these years only on account of the erroneous orders and an illegal stand adopted by the respondents.

20. It is submitted by Mr. Sanjay Sharawat that, but for the orders which had necessitated filing of the writ petitions on the earlier occasion, the application of the petitioner ought to have been favorably considered in terms of the Regulations as prevailed when the application was made.

21. The writ petitioner has acquired absolute ownership in the land by virtue of the sale deed dated 11th February, 2015 to enable the petitioner to satisfy the requirements under the amendments to the NCTE Regulation, 2014 which have come into existence while the petitioner's application was pending.

22. It is obvious from the above narration of facts that an applicant would have the option to remove deficiencies, if any, during the pendency of the application, prior to the final order having been

passed thereon. The petitioner's application was pending in 2014 when the Regulations were amended. This was the situation which obtained on 11th February, 2015 when the petitioner obtained the sale deed in his favour, thereby satisfying the requirements of the amended Regulations.

23. On this very issue, Mr. Sanjay Sharawat, learned counsel has placed a series of decisions by learned Single Judges of this court in identical circumstances directing the respondents to consider the application of the petitioner for recognition in accordance with law taking into consideration the removal of the deficiencies pointed out by the respondents. We tabulate hereafter the decisions in this regard :

<i>S.No.</i>	<i>Case Number</i>	<i>Case Title</i>	<i>Date of Decision</i>
1.	<i>W.P.(C).No. 4049/2010</i>	<i>G.D.Memorial College of Education v. National Council for Teacher Education & Anr.</i>	<i>13th July, 2010</i>
2.	<i>W.P.(C) 1773/2010</i>	<i>Fairfiel Institute of Management and Technology v. National Council for Teacher Education and Anr.</i>	<i>12th August, 2010</i>
3.	<i>W.P.(C). 5621/2010</i>	<i>Balaji College of Education v. National Council for Teacher Education and Anr.</i>	<i>18th August, 2010</i>
4.	<i>W.P.(C) 3647/2015</i>	<i>Riya International College v. National Council for Teacher</i>	<i>21st April 2015</i>

		<i>Education</i>	
5.	<i>W.P.(C) 1829/2016</i>	<i>SMD Girls College of Education v. National Council for Teacher Education and Anr</i>	<i>2nd March 2016</i>
6.	<i>W.P.(C) 3328/2016</i>	<i>Rao Raj Singh College of Education v. National Council for Teacher Education and Anr.</i>	<i>22nd April 2016</i>

24. It is trite that the failure to abide by principles laid down by a decision of the court is contumacious and would invite action under the Contempt of Courts Act, 1971 against the authorities concerned. In the present case, despite the decisions on the very issue upon which the objection has been raised qua the petitioner, the earliest decision laid before us is the order dated 13th July, 2010 passed in ***W.P.(C) 4094/2010 G.D. Memorial Collage of Education v. NCT & Anr.*** We would be justified in invoking proceedings under the Contempt of Court Act against the respondents for failing to abide by the principles of law laid down.

25. Additionally, the petitioner has been made to run from pillar to post from the 30th of December, 2012 when he submitted the application seeking recognition for the D.El.Ed. Course. It is a shocking state of affairs that the respondents have admittedly granted recognition in these very premises to the petitioner for running the B.Ed. Course, which he is stated to be running successfully without any objection from the respondents.

26. In our view, the respondents have proceeded capriciously and without application of mind and deserve to be burdened with punitive costs.

27. It is submitted by Mr. Sanjay Sharawat, learned counsel for the petitioner that this court may not take a strict view as at present inasmuch as the petitioner is more anxious to commence the Course for which his application has remained pending. We, therefore, are not proposing to take punitive action against the respondents at this stage.

28. In view thereof, it is directed as follows:

- (i) *The decision taken by the respondent no.2 on agenda item no.112 in its 280th Meeting held from 6th to 7th February, 2018 so far as the petitioner is concerned, shall stand quashed.*
- (ii) *The respondent no.2 is directed to examine the application of the petitioner for grant of recognition under clause 7(16) of the NCTE Regulations, 2014 for D.El.Ed course from 2018-19 academic session.*
- (iii) *Such consideration as directed above shall be completed and a view shall be taken and communicated to the petitioner well before the 3rd of March, 2018 which is the last date for grant of recognition for the academic session 2018-19.*

29. We make it clear that we have not expressed any view on prayer (a) whereby the writ petitioner has challenged the constitutionality of

Regulation 8(4) of the NCTE Amendment Regulations, 2017 notified in the official gazette on 28th April, 2017. The same is left open.

This writ petition is allowed in the above terms.

Dasti

ACTING CHIEF JUSTICE

C.HARI SHANKAR, J

FEBRUARY 19, 2018/kr

