

\$~32

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

Date of Decision: 20.04.2018

+ W.P.(C) 2256/2018 & C.M. No.9319/2018

BAIDYANATH SHUKLA COLLEGE OF
EDUCATION.

..Petitioner

Through Mr.Sanjay Sherawat, Adv.

versus

NATIONAL COUNCIL FOR TEACHER EDUCATION
AND ANR.

..... Respondents

Through Ms.Arunima Dwivedi, Adv.

CORAM:

HON'BLE MS. JUSTICE REKHA PALLI

ORDER

%

20.04.2018

1. Vide the present petition, the petitioner impugns the order dated 27th February, 2018, passed by respondent no.1 as also the order dated 5th April, 2017, passed by respondent no.2.
2. After hearing learned counsel for the parties at length, this Court had on 6th April, 2018, passed the following order:-

“Vide the present petition, the petitioner impugns the order dated 27th February, 2018, passed by respondent no.1 as also the order dated 5th April, 2017, passed by respondent no.2, whereby the petitioner’s application for grant of recognition, has been

rejected on the ground that when the visiting team of respondent no.2 proposed to visit the petitioner's Institute, the petitioner had, vide its letter dated 22nd April, 2016, requested the respondents not to conduct the inspection at that stage as the concerned Officers of the petitioner/Institute, were busy due to some family engagement.

Learned counsel for the petitioner submits that merely because the petitioner had requested for an extension which request was admittedly not answered by the respondents either in the negative or in the positive, the respondents could not, without carrying out any inspection whatsoever, reject the petitioner's application by treating the same to be in violation of Regulation 7(7) of the NCTE Regulations, 2014.

Learned counsel for the petitioner further contends that even otherwise as per the Regulations, the respondents were enjoined to carry out the inspection within twenty days of its letter informing the petitioner about the proposed inspection and respondents having admittedly not carried out any inspection at that stage, cannot hold the same against the petitioner. He, further, submits that the Regulation 7(7) does not give a right to the respondents to reject the petitioner's application without carrying out any inspection, by treating the request for extension as a refusal for permitting inspection.

On the other hand, Ms.Dwivedi, learned counsel for the respondent submits that even though the respondents had not given any reply to the petitioner's extension letter, but

contends that since the respondents had issued a show cause notice dated 17th December, 2016, to the petitioner/Institute, which notice the petitioner denies having received, it is apparent that the Committee had rejected the request of the petitioner/Institute for extension. It has been put to learned counsel for the respondent as to whether any letter or any communication was ever addressed to the petitioner informing the Institute that their request for extension had been rejected and whether the respondent had ever carried out inspection. At this stage, learned counsel for the respondent seeks time to take instructions.

At request, adjourned to 20th April, 2018.”

3. Today Ms.Arunima Dwivedi, learned counsel for the respondents submits that she has instructions to state that even though the respondents had not responded to the request letter made by the petitioner seeking extension, it was apparent that the respondents had rejected the petitioner’s request by way of issuing show cause notice dated 17th December, 2016 to the petitioner. She, thus, contends that the respondents were justified in coming to the conclusion that the petitioner had refused inspection.

4. In view of the admitted position that no refusal letter had ever been sent by the respondent to the petitioner rejecting its request for extension of time for inspecting its premises, in my considered view, the respondents could not have held that the petitioner had refused inspection of its premises. In my

considered opinion, in case the respondents were not inclined to accept the request of the petitioner for grant of extension of time for inspection of the premises of its Institute, they were well within their right to reject the petitioner's request for extension of time.

5. At this stage, it may be appropriate to refer to clause 7(7) of NCTE Regulation, which reads as under:-

“7 Processing of applications.—

(7) After consideration of the recommendation of the State Government or on its own merits, the Regional Committee concerned shall decide that institution shall be inspected by a team of experts called visiting team with a view to assess the level of preparedness of the institution to commence the course. In case of open and distance learning programmes, sampled study centres shall be inspected. Inspection shall not be subject to the consent of the institution, rather the decision of the Regional Committee to cause the inspection shall be communicated to the institution with the direction that the inspection shall be caused on any day after ten days from the date of communication by the Regional Office. The Regional Committee shall ensure that inspection is conducted ordinarily within thirty days from the date of its communication to the institution. The institution shall be required to provide details about the infrastructure and other preparedness on the specified proforma

available on the website of the Council to the visiting team at the time of inspection along with building completion certificate issued by the competent civil authority, if not submitted earlier:

Provided that the Regional Committee shall organise such inspections strictly in chronological order of the receipt of application for the cases to be approved by it:

Provided further that the members of the visiting team for inspection shall be decided by the Regional Committee out of the panel of experts approved by the Council and in accordance with the visiting team policy of the Council.”

6. A perusal of Clause 7(7) of the NCTE Regulations, makes it very clear that inspection of the Institution by the visiting team is not to be conducted subject to the consent of the Institution and it is for the Regional Committee to communicate the date of inspection to the petitioner/Institute. The inspection has, thereafter, to be conducted on any date after ten days from the date of such communication. Thus, even though the respondents are fully justified in contending that it is not for any Institute to insist for a fixed date for inspecting the premises or to urge that they will not get the inspection done on a date fixed by the respondents, but on the other hand, it is equally incumbent on the respondents to respond to any request for extension made by the Institute and, thereafter, inspect the

Institute on the proposed date. It is only if the Institute still refuses the inspection, can the respondents come to a conclusion that the Institute is guilty of refusing inspection.

7. In view of my aforesaid conclusion that merely because an Institute seeks postponement of date of inspection, it cannot be taken as a refusal for inspection on the part of the Institute, the impugned decision dated 5th April, 2017, passed by respondent no.2, holding that the petitioner/Institute had refused inspection, is quashed. For the same reasons, the Appellate order dated 27th February, 2018, passed by respondent no.1 is also quashed. The matter is remanded back to respondent no.2, to process the application of the petitioner in accordance with law, by conducting the necessary inspection.

8. Keeping in view the fact that the petitioner's application has been pending for the last more than two years, it is expected that the respondents will take expeditious steps to inspect the petitioner/Institute and process the application of the petitioner in accordance with law.

9. It is made clear that this order would not be treated as a precedent and has been passed in the peculiar facts and circumstances of this case.

10. The writ petition and application are disposed of in the aforesaid terms.

(REKHA PALLI)
JUDGE

APRIL 20, 2018/aa