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

+ **W.P.(C) 6153/2018**

PANDIT MAHAVEER PRASAD TRIPATHI MAHAVIDYALAYA

..... Petitioner

Through Mr.Mayank Manish with Mr.Ravi Kant,
Adv.

versus

NATIONAL COUNCIL FOR TEACHER EDUCATION & ANR

..... Respondent

Through Ms.Arunima Dwivedi with Ms.Preeti
Kumra, Adv.

CORAM:

HON'BLE MS. JUSTICE REKHA PALLI

ORDER

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30.05.2018

Vide the present petition, the petitioner/Institute, has sought quashing of the order dated 16th October, 2017, whereby its appeal had been rejected by respondent no.1.

Learned counsel for the petitioner submits that even though the No Objection Certificate (NOC) was duly submitted to the Appellate Authority i.e. respondent no.1, the same had not been considered by it only on the ground that the said NOC had not been furnished by the petitioner in response to the show-cause notice dated 02.03.2017 issued by the respondent no.2. Mr.Manish, submits that while rejecting the

petitioner's appeal, the respondent no.1 has not only ignored that the show cause notice was never received by the petitioner, but has also ignored the various decisions of this Court, wherein it has been categorically held that, in cases where any further documents are presented before the Appellate Authority, the same should be duly considered by the Appellate Authority before passing an order in the appeal.

Ms.Dwivedi, who appears on advance notice on behalf of the respondent no.1, though not denying that the respondent no.1 had not considered the aforesaid NOC while considering the petitioner's appeal, contends that the petitioner is to be squarely blamed for the same as the petitioner, despite being in possession of the NOC w.e.f. 04.01.2017 itself, had not furnished the same to the respondent no.2 even after issuance of a show cause notice dated 02.03.2017 by respondent no.2.

She further submits that in these circumstances even if the matter is remanded back to the respondent no.1 for reconsideration of the appeal, the petitioner should be put to terms.

Having heard learned counsel for the parties, I am of the considered view that even if the petitioner was at fault in not furnishing the NOC to the respondent no.2, once the said NOC was very much available with the appellate authority at the time of deciding the petitioner's appeal, the same ought to have been considered by the Appellate Authority. The issue regarding the requirement to consider subsequent documents as made available to the Appellate Authority,

already stands settled by the decision of this Court in *Rambha College of Education vs. NCT and Ors.*, which decision has already attained finality.

Accordingly, the impugned order dated 16.10.2017 is quashed and the matter is remanded back to respondent no.1 to reconsider the petitioner's appeal and pass a reasoned and speaking order thereon by following the due procedure within 12 weeks from today.

The petition is allowed subject to payment of cost of Rs. 50,000/- to the learned counsel for the respondents.

Needless to say, in case, the petitioner is still aggrieved by the decision of the respondent no.1, it will be open for the petitioner to take legal recourse as permissible in law.

REKHA PALLI, J

MAY 30, 2018

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