

#63

IN THE HIGH COURT OF DELHI AT NEW DELHI

Judgment delivered on: 09.08.2018

W.P.(C) 7942/2018

**SWARGIYA SHRI BHAGWAN SINGH SHARMA
SHIKSHA PRASAR SAMITI & ANR.**

..... Petitioners

versus

**NATIONAL COUNCIL FOR TEACHER
EDUCATION & ANR.**

..... Respondents

Advocates who appeared in this case:

For the Petitioners : Mr. Amitesh Kumar, Ms. Binisa Mohanty and Ms. Priti Kumari,
Advocates

For the Respondents : Ms. Arunima Dwivedi, Standing Counsel, NCTE with Ms. Preeti
Kumra, Advocate

CORAM:

HON'BLE MR. JUSTICE SIDDHARTH MRIDUL

J U D G M E N T

SIDDHARTH MRIDUL, J (ORAL)

CM APPL.31829/2018 (Early Hearing)

The present application under Section 151 of the Code of Civil Procedure, 1908 instituted on behalf of the applicants/petitioners pray for an advancement of the date of hearing in the accompanying petition.

Notice.

Ms. Arunima Dwivedi, learned counsel accepts notice on behalf of the non-applicants/respondents.

Having heard learned counsel for the parties and in view of the urgency expressed by Mr. Amitesh Kumar, learned counsel for the applicants/petitioners, the application is allowed. The hearing of the accompanying petition is advanced to today.

The application is disposed of accordingly.

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1. The date already fixed i.e. 13.08.2018 stands cancelled.
2. The present petition under Article 226 of the Constitution of India prays as follows:-

“It is, therefore, most respectfully prayed that this Hon’ble Court may graciously be pleased to:-

- a) Direct the NCTE to decide and dispose off the statutory appeal filed by petitioners before the NCTE on 03.02.2018 as expeditiously as possible in time bound manner; and/or
- b) Stay the operation and effect of the withdrawal order dated 04.12.2017 issued by WRC in respect of remaining 50 seats during pendency and till final disposal of the statutory appeal of petitioners by the appeal committee; and/or
- c) Pass any such other orders/directions as this Hon’ble

Court deems fit and proper in the facts and circumstances of the case.”

3. With the consent of counsel for the parties, the present writ petition has been heard finally and is disposed of with the following order:-

4. The grievance of the petitioner in the present petition, arises out of the non-compliance of the directions, issued by this Court vide order dated 01.06.2018, in a writ petition being Writ Petition (Civil) No.5262/2018, titled as “*Swargiya Shri Bhagwan Singh Sharma Shiksha Prasar Samiti and Anr. vs. National Council for Teacher Education and Anr.*”, earlier instituted on their behalf.

5. It would be profitable to extract the relevant portion of the said order dated 01.06.2018 to effectively adjudicate the present proceedings. The same is reproduced as hereunder:-

“In these circumstances, learned counsel for the petitioners submits that the impugned withdrawal order should be stayed till a decision on the petitioners’ appeal is taken by the respondent.

He further submits that the show cause notice issued to the petitioners referred to cancellation of only one out of the two units whereas the impugned withdrawal order withdraws the recognition for both the units.

Having considered the submissions of learned counsel for the parties, I am of the considered view that in the peculiar circumstances of the case, the petitioners cannot be penalised for not being able to appear before the Appellate Committee on 6th April, 2018 and, accordingly, while directing the respondents to consider the petitioners' appeal in the next scheduled meeting of the respondent no.1, it is directed that the impugned withdrawal order in so far as it relates to one unit comprising 50 seats, would remain stayed.

Needless to say that the said stay of the withdrawal order of first unit will operate till a final decision is taken by the respondents in the petitioners' appeal.

It is further made clear that this Court has not examined the merits of the petitioners' claim. In case the petitioners are aggrieved by any order passed by respondent no.1, it will be open for the petitioners to take legal recourse as permissible under law.

The petition and pending application is disposed of in the aforesaid terms.”

6. In terms of the above directions, the respondents were required to consider the petitioners' appeal, in the meeting next scheduled, to be held in that behalf, with a further direction that, till the disposal of the petitioners' appeal, pending adjudication before respondent No.1, the order dated 04.12.2017, impugned in the previous writ petition would remain stayed, insofar as it relates to one unit, comprising 50 seats.

7. In other words, this Court vide the said order dated 01.06.2018 issued

twofold directions to the respondent No.1:-

- a) That the withdrawal order, insofar as, it relates to one unit, comprising 50 seats, would remain stayed till the petitioners' appeal is pending adjudication before respondent No.1;
- b) That respondent No.1 would consider the petitioners' appeal in the next scheduled meeting.

8. It is grievance of the petitioner that neither of the directions have been complied with.

9. Notice.

10. Ms. Arunima Dwivedi, learned Standing Counsel accepts notice on behalf of the respondents, and on instructions states that, the petitioners' appeal shall be taken up for hearing, in accordance with law, in their next meeting scheduled for the said purpose, in the first week of September, 2018.

11. Ms. Dwivedi, learned Standing Counsel appearing on behalf of the respondents further states that, in view of the directions contained in the order of this Court dated 01.06.2018, in Writ Petition (Civil) No.5262/2018, they shall permit the petitioners to grant admission to one unit, comprising 50 seats, in accordance with law, forthwith.

12. Directed accordingly.

13. With the above directions, the writ petition is disposed of with a further direction to respondent No.1 to communicate the directions issued by this Court today, to all the concerned authorities, expeditiously. The pending application also stands disposed of.

14. A copy of this order be given *dasti* under the signature of Court Master to counsel for the parties.

SIDDHARTH MRIDUL
(JUDGE)

AUGUST 09, 2018
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