

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

% *Date of decision: 31<sup>st</sup> October, 2018*

+ LPA 619/2018 & CM. Nos. 45733/2018, 45734/2018 and  
45735/2018

SARASWATI DEEP COLLEGE OF EDUCATION

..... Appellant

Through: Mr. Sanjay Sharawat, Adv. with  
Mr. Divyank Rana & Mr. Ashok  
Kumar, Advs.

versus

NATIONAL COUNCIL FOR TEACHER EDUCATION &  
ANR

..... Respondent

Through: Ms. Arunima Dwivedi, SC for  
NCTE/R-1 & 2

**CORAM:  
HON'BLE THE CHIEF JUSTICE  
HON'BLE MR. JUSTICE V. KAMESWAR RAO**

**V. KAMESWAR RAO, J. (ORAL)**

**CM. No. 45733/2018**

Exemption allowed subject to all just exceptions.

Application stands disposed of.

**LPA 619/2018**

1. This Intra-Court appeal has been filed by the appellant challenging the order passed by the learned Single Judge dated October 05, 2018 whereby the learned Single Judge has dismissed the writ petition filed by the petitioner, wherein the appellant has

challenged the action of the NCTE returning the appellant Institution's applications seeking recognition for B.Ed courses all in the year 2013 along with the fee on the ground of the ban imposed by the State of Haryana on granting of recognition for inter-alia B.Ed and D.El.Ed courses.

2. The brief facts as noted from the appeal are that on November 26, 2012, the NCTE had issued a public notice for inviting fresh applications for seeking recognition for various Teacher training courses for the academic session 2013-14 from Institutions situated only in respect of those States in which respective State Governments have not imposed ban on opening of new Institutions. It is the case of the appellant that the appellant being situated in the State of Haryana, there was no such restriction and thus the NCTE had invited the applications from the Institutions situated in Haryana also. It is the case of the appellant that on December 31, 2012 with a view to start B.Ed course from 2013-14 academic session, the appellant submitted an application with the NRC. Vide letter dated March 20, 2013, the NCTE, New Delhi issued a communication to the NRC directing / instructing it that the Govt. of Haryana had subsequently taken a policy decision against

opening of new colleges in the State and hence all the applications received from the State of Haryana should be returned along with their processing fee.

3. It is the case of the appellant that there is no provision in the NCTE Act, Rules and Regulations empowering to issue directions to its Regional Committee. While processing applications under Section 14 of the NCTE Act, the Regional committee is obliged to follow the procedure prescribed by the Regulations and once applications are invited by the NCTE, which is the final authority in that regard, the applications are required to be decided strictly as per the prescribed procedure.

4. It is averred that in the meeting held from April 24, 2013 to April 25, 2013, the Regional Committee of the NCTE took a decision to return all the applications received from the State of Haryana.

5. Mr. Sanjay Sharawat, learned counsel for the appellant states that several Institutions like the appellant, who had submitted applications in the year 2012 and whose applications have been returned in the year 2013, filed writ petitions before this Court, wherein the learned Single Judge noting the submission made on

behalf of NCTE that respondents have taken a decision to process all the applications, which were submitted by the Institutes before the imposition of the ban by the State Government, had remanded the matter back to the authorities by observing that the petitioner's application should not be rejected on the ground of there being a ban imposed by the State of Haryana on opening of such educational Institutions. He states that in some cases, the Appellate Committee had remanded the matter back to the NRC for fresh consideration and those Institutes have been granted recognition.

6. We note that the learned Single Judge in the impugned judgment has relied upon an order dated July 18, 2018 passed by the Supreme Court in W.P.(Civil) No. 276/2012 ***Maa Vaishno Devi Mahil Mahavidyalaya v. The State of Uttar Pradesh & Ors.*** to decline the relief to the appellant. The relevant paras, i.e., Paras 4 and 5 of the impugned order reads as under:

*“4. It would be relevant and profitable to extract the order dated 18.07.2018 in Maa Vaishno Devi (supra) insofar as it is germane, in order to appreciate its ambit and import and the same is reproduced in extenso hereunder:*

*1. An application for direction has been filed by the applicant seeking, inter alia, following direction:*

*“(a) Allow the present application by relaxing and extending the last date the cut off date for grant of recognition as 15.05.2018 and for grant of affiliation as 31.05.2018 for the present academic session 2018-19;*

2. *A counter has been filed by behalf of the respondent No.2-National Council for Teacher Education (NCTE) wherein it has been, inter alia, stated as follows:*

*“8.1 It is important to point out that the High Court of Punjab & Haryana vide order dated 21.11.2008 passed in the case of Association of Education Colleges (Self Financing) of Haryana v. State of Haryana, CWP 17284 of 2008 noted that the total number of seats available in these institutions was so large that even when the last candidate who appeared in entrance test for admission is admitted to the course, and then thousands of seats remained unfilled.*

*xxx*

*xxx*

*xxx*

*8.5 Further vide letter bearing MEMO number 17/10 DIET (TF) dated 28.02.2016, the Director of Elementary Education, State of Haryana communicated a decision of the State Government not to recommend any new private self financing and self financing minority D.Ed. institutions for the academic sessions 2016-17 and 2017-18. It was highlighted in the letter that there were 25 government, 325 self financing and 14 private self financing minority D.El.Ed, institutes on the said date with a total intake capacity of 20,600 candidates, against a mere requisition of 9870 primary teachers. Hence the NCTE was requested not to entertain any fresh applications from the*

*State of Haryana pursuant to the aforesaid decision.*

*8.6 Furthermore the vide letter bearing MEMO No.KW12/16-2003 C-II(3) dated 12.04.2016, the Deputy Secretary Higher Education, State of Haryana, also requested the NCTE not to entertain any applications of societies/trusts seeking recognition for 4 years integrated course B.A., B.Ed/B.Sc. and B.Ed. and opening of new B.Ed. Colleges for the academic session 2016-17 and 2017-18. The said request was made pursuant to order dated 19.02.2016 passed by the High Court in CWP No.25532 of 2015 titled as Ganga Institute of Education v. MDU, Rohtak, in which the High Court took cognizance of the fact that the total intake capacity of the existing TEIs in the State of Haryana was 60,672 out of which 27,951 seats were lying vacant, and opined that no further colleges should be allowed to be opened as it will result in compromising the quality of education.*

*xxx*

*xxx*

*xxx*

*9. In addition to the aforesaid communications received from the State of Haryana, it is most important to point out to this Hon'ble Court that NCTE also decided not to invite/accept any applications for recognition of new TEIs from certain states including Haryana from academic year 2010- 11 till the next academic year 2019-20, and it has been issuing public notices from time to time to communicate the said decision. The said action has been taken in order regulate growth of teachers education at all levels on the basis of recommendation received from State Government and U.T's."*

3. *In view of the aforesaid and the categorical stand taken by the NCTE as reflected in the aforesaid paragraphs of the counter we decline to grant any relief as prayed for to the applicant.*

4. *Consequently and in the light of the above Miscellaneous Application is disposed of.”*

5. *A plain reading of the above extracted order leaves no manner of doubt that, in view of the categorical stand taken by the NCTE, inter alia, to the effect that, the decision not to invite/accept any application for recognition of new TEIs in certain states including Haryana from the academic year 2010-11 was taken, in order to regulate growth of teachers education at all levels, on the basis of the recommendations received from, inter alia, the Government of the State of Haryana; the Hon’ble Supreme Court was of the considered view that the same need not to be interfered with and no relief for grant of recognition as prayed for, in that case, could be granted”.*

7. From the above, it is clear that many seats in Teacher Education Institutes remained unfilled. In such a scenario, no further recognition can be granted to the Institutes. There is no justification to allow the mushrooming of Institutes conducting Teacher Education courses. The NCTE is within its competence to consider the decision of the State of Haryana not to allow setting up of new B.Ed Institutions in the State. In fact, the Regional

Committee of the NCTE declined to grant recognition vide order dated 3<sup>rd</sup> July, 2013. The last para of which reads as under:

*“In view of the above judgment of the Hon’ble Supreme Court and the decision taken by the NCTE Committee, the NRC decided that the recommendations of the State of Govt. of Haryana, i.e., not to allow setting up of new B.Ed. institutions in the State be accepted and the applications so received be returned to the respective institutions. Also the application fees be refunded to the applicants.”*

8. The aforesaid reveals that the decision of the State of Haryana is a necessary input for the NCTE to return the applications received from the institutes.

9. We find the impugned order of the learned Single Judge is proper and justified and the same does not require any interference. Accordingly, the appeal is dismissed.

**CM. Nos. 45734/2018 (for direction to file additional documents)**

**CM No. 45735/2018(for permission to file lengthy list of dates and events)**

Dismissed as infructuous.

**V. KAMESWAR RAO, J**

**CHIEF JUSTICE**

**OCTOBER 31, 2018/ak**