

IN THE HIGH COURT OF JUDICATURE AT PATNA
Letters Patent Appeal No.105 of 2019

In
Civil Writ Jurisdiction Case No.19829 of 2018

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Sabhapati Mishra Institute of Education, Mohammadpur, Naya Bhojpur, Maharaja Path, Dumraon, Buxar through its President Chandan Kumar Mishra, Aged about 29 years, male, son of Arun Kumar Mishra, Resident of Village and P.O.-Naya Bhojpur, Dist.-Buxar(Bihar)

... .. Appellant/s

Versus

1. The National Council For Teacher Education through its Chairman Hans Bhawan, Wing-II, Bahadur Shah Zafar Marg, New Delhi.
2. The Secretary, National Council for Teacher Education, Hans Bhawan, Wing-II, Bahadur Shah Zafar Marg, New Delhi.
3. The Regional Director, Eastern Regional Committee, National Council for Teachers Education, 15 Neel Kanth Nagar, Nayapalli, Bhubaneswar-751012
4. Bihar School Examination Board through its Secretary, Patna
5. The Secretary, Bihar School Examination Board, Patna.

... .. Respondent/s

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with
Letters Patent Appeal No. 106 of 2019
In
Civil Writ Jurisdiction Case No.19526 of 2018

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Sabhapati Mishra Institute of Education, Mohammadpur, Naya Bhojpur, Maharaja Path, Dumraon, Buxar through its President Chandan Kumar Mishra, Aged about 29 years, male, son of Arun Kumar Mishra, Resident of Village and P.O.-Naya Bhojpur, Dist.-Buxar(Bihar)

... .. Appellant/s

Versus

1. The State Of Bihar through the Secretary, Higher Education, Government of Bihar, Patna
2. The National Council for Teacher Education through its Secretary, Hans Bhawan, Wing-II, Bahadur Shah Zafar, New Delhi
3. The Regional Director, Eastern Regional Committee, National Council for Teachers Education, 15 Neel Kanth Nagar, Nayapalli, Bhubaneswar-751012
4. Vice Chancellor, Veer Kumar Singh University, Ara, Bihar
5. Registrar, Veer Kumar Singh University, Ara, Bihar

... .. Respondent/s

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Appearance :

(In Letters Patent Appeal No. 105 of 2019)

For the Appellant : Mr. Y.V. Giri, Sr. Advocate
Mr. Raju Giri, Advocate



		Mr. Santosh Kumar Mishra, Advocate
For the NCTE	:	Mr. Sunil Kumar Singh, Advocate
For the BSEB	:	Mr. Gyan Shankar, Advocate
For the S t a t e	:	Mr. Ashutosh Ranjan Pandey, AAG-15
For V.K.U.	:	Mr. P.K. Verma, Sr. Advocate
		Mr. Saroj Kumar Sharma, Advocate

(In Letters Patent Appeal No. 106 of 2019)

For the Appellant	:	Mr. Y.V. Giri, Sr. Advocate
		Mr. Raju Giri, Advocate
		Mr. Santosh Kumar Mishra, Advocate
For the NCTE	:	Mr. Sunil Kumar Singh, Advocate
For the BSEB	:	Mr. Gyan Shankar, Advocate
For the S t a t e	:	Mr. Ashutosh Ranjan Pandey, AAG-15
For V.K.U.	:	Mr. P.K. Verma, Sr. Advocate
		Mr. Saroj Kumar Sharma, Advocate

CORAM: HONOURABLE THE CHIEF JUSTICE
and
HONOURABLE JUSTICE SMT. ANJANA MISHRA
ORAL JUDGMENT
(Per: HONOURABLE THE CHIEF JUSTICE)

Date : 01-03-2019

Re: I.A. No.253 of 2019 in L.P.A. No.105/2019

Re: I.A. No.251 of 2019 in L.P.A. No.106/2019

Both the appeals are stated to be beyond time by two or three days.

2. We have considered the submissions raised and we are satisfied that the delay has been sufficiently explained. The interlocutory applications are allowed and the appeals shall be treated to be within time.

Re: L.P.A. No.105 and 106 of 2019

These two appeals raise a common question arising out of a common judgment in the two writ petitions that were filed by the appellants in relation to recognition by the National Council



for Teacher Education of courses proposed to be run by the appellant institution.

2. The main ground on which the application of the appellant has been rejected is that while seeking recognition, the application moved by the appellant did not accompany the “No Objection Certificate” of the affiliating body. This fact is also not in dispute between the parties that such an application was moved with the aforesaid deficiency and it was not accompanied by the “No Objection Certificate” as required under the relevant Regulations.

3. At the very outset, we may gainfully reproduce Clause 5(3) of the National Council for Teacher Education [Recognition Norms and Procedure] Regulations, 2014:

“5. Manner of making application and time limit.--

(1)

(2)

(3) The application shall be submitted online electronically alongwith the processing fee and scanned copies of the required documents such as no objection certificate issued by the concerned affiliating body. While submitting the application, it has to be ensured that the application is duly signed by the applicant on every page, including digital signature at appropriate place at the end of the application.”



4. The aforesaid Clause therefore requires that the online applications should be accompanied with the required documents, including a “No Objection Certificate” to be issued by the concerned affiliating body.

5. Clause 7(1) of the said Regulations reads as follows :

“7. Processing of applications.--(1)

In case an application is not complete, or requisite documents are not attached with the application, the application shall be treated : incomplete and rejected, and application fees paid shall be forfeited.”

6. It is therefore evident that as per the aforesaid Regulations, since the application of the appellant was incomplete, the same has been rejected.

7. The appellant preferred an appeal before the appellate authority. We may mention at this stage that the appellant had applied on 31st May, 2016. Show cause notice was issued on 28.02.2017 and 05.04.2017 pointing out certain deficiencies, including the deficiency of a “No Objection Certificate” from the affiliating body. Vide order dated 30th May, 2017, the Eastern Regional Committee, which is the authority competent to process such application, refused to grant recognition to the appellant.

8. The appellant aggrieved by the said decision filed an appeal on 09.12.2017. In between the pendency of the appeal on 23rd May, 2018, the concerned affiliating body, namely, Veer



Kunwar Singh University, issued a “No Objection Certificate” to the appellant, that came to be produced before the appellate authority. The appellate authority in spite of the said “No Objection Certificate” again proceeded to uphold the order of the refusal.

9. The appellant came up before this Court and filed the two writ petitions that have given rise to these two appeals contending that the legal position in respect of such cases was considered by the Delhi High Court in the case of Rambha College of Education Vs. NCTE, decided on 23rd February, 2017, where in identical circumstances, where the certificate had been obtained after the rejection order and during the pendency of the appeal, was taken into consideration and the matter was remitted back to the concerned Committee for consideration afresh for recognition in the coming session. The judgment of the Delhi High Court in the case of Rambha College of Education (supra) was taken up in appeal before a Division Bench, that upheld the judgment and issued a direction to the authority to consider the matter in the light of the judgment of the learned single Judge.

10. The said judgment of the Division Bench was taken up in appeal before the Apex Court by the National Council for Teacher Education and Anr. vide Special Leave Petition (Civil)



Diary No.42238 of 2017, that was dismissed on 25th of January, 2018.

11. It is on the strength of the aforesaid judgment as well as such similar decisions having been taken by the appellate authority itself, that the learned counsel for the appellant submits that the appellant was also entitled for a similar treatment, but the learned single Judge has completely overlooked the aforesaid aspect of the matter and therefore has arrived at an incorrect decision.

12. Shri Sunil Kumar Singh, learned counsel for the National Council for Teacher Education has invited the attention of the Court to the provisions extracted herein above to contend that once an application is incomplete, then it has to be rejected with the consequence of forfeiture of fees. The remedy available therefore to the appellants is to apply afresh in case they fulfil the eligibility conditions, which aspect has not been considered by the Delhi High Court in its judgment and any amount of relief extended by the appellate authority to any other institutions cannot be treated as a precedent for the purpose of the present claim.

13. Having considered the submissions raised, we find that the admitted position is that the appellant-Institution had not moved the application along with the “No Objection Certificate”, as desired. The consequences therefore were well-known as per



the terms and conditions referred to in 2014 Regulations, extracted herein above.

14. However, the Delhi High Court did take a view that if such a “No Objection Certificate” is obtained during the pendency of the appeal, then such a defect can be taken to have been cured for a reconsideration of the matter. The said judgment was taken up in appeal and has been ultimately affirmed by the Apex Court. Apart from this, the appellate authority itself remitted some of the matters that have been brought on record by the appellant for a reconsideration by the Eastern Regional Committee.

15. We therefore find that the learned single Judge has not taken into consideration the aforesaid enunciation of a methodology by the Delhi High Court which enables the reconsideration of the application by the NCTE on account of the defect having been cured with the availability of a “No Objection Certificate” from the affiliating body. We therefore find ourselves in agreement with the view taken by the Delhi High Court and accordingly the impugned judgment of the learned single Judge in both the appeals of the learned single Judge dated 06.12.2018 is set aside. The orders dated 30.05.2017 and 12.07.2018 impugned in both the petitions are quashed with a direction to the Eastern Regional Committee (Respondent No.3 herein) to consider the



claim of the appellant and pass an appropriate order, which shall, however, be with regard to a future recognition as per the Regulations, 2014.

16. This view is supported by the observations made by the Division Bench of the Delhi High Court, that records that a direction of this nature will not tantamount to extending the last date for submission of the relevant documents since the consideration would be for the subsequent year.

17. The decision to be taken by the Committee shall be not later than eight weeks from the date of presentation of the certified copy of this judgment/order in respect of both the courses.

18. In the result, both the appeals are allowed as above.

(Amreshwar Pratap Sahi, CJ)

(Anjana Mishra, J)

PNM

AFR/NAFR	
CAV DATE	N.A.
Uploading Date	
Transmission Date	N.A.

