

HIGH COURT OF CHHATTISGARH, BILASPUR

WPC No. 719 of 2013

Agrasen Mahavidyalaya Through Its Director Dr. V.K.Agrawal,
Jaitusao Math Parisar, P.S. Purani Basti, Purani Basti, Raipur,
(C.G.)

---- Petitioner

Versus

1. Regional Director, National Council For Teacher Education,
Western Regional Committee, Manas Bhawan, Shyamla Hills,
Bhopal, M.P.
2. National Council For Teacher Education Through Its Member
Secretary, New Delhi

---Respondents

For petitioner- Shri H.B. Agrawal, Sr. Advocate with Smt. Prabha
Sharma, Advocate.

For respondents-Shri Bhaskar Payasi, Advocate.

Hon'ble Shri Justice Goutam Bhaduri

Order

09/07/2019

Heard.

1. The instant petition is filed for the following reliefs:

“1. That, the Hon'ble Court may kindly be pleased to allow the petition by directing respondent no.1 & 2 to visit and inspect the purchased area of land by the petitioner and then they should give decision whether it is sufficient or not as per rule and if yes, then permit the petitioner to construct the building over it in writing so that petitioner may start construction till then recognition be continued in old premises, furthermore the Annexure P/2 withdrawal for recognition (which has been impliedly quash by Division Bench) if requires to be quashed formally then the same be quashed for reconsideration of case of petitioner by holding further that orders Annexures P/15 issued by respondent No.1 and Annexure P/18 by respondent No.2 are illegal and without authority because no refusal of recognition and not entertaining appeal respectively are illegal.

2. Costs of the petition be awarded.

3. Any other relief or direction which the Hon'ble Court may deems

fit, be also awarded.”

2. It appears that the present petition is a second round of litigation. The facts as would disclose that the petitioner was running a B.Ed. College under the name and style Agrasen Mahavidyalaya at Raipur. The recognition was given to them under the National Council for Teacher Education Act, 1993 (for short 'the NCTE Act, 1993') read with National Council for Teacher Education (Recognition Norms & Procedure) Regulations, 2005 (for short “the Regulations, 2005”). The said recognition was withdrawn under the NCTE Act, 1993 for running B.Ed course in the institute on the ground that the petitioner do not possess sufficient infrastructure i.e. land and the building and thereby the recognition was withdrawn on 18/05/2010.

3. Withdrawal of recognition was predominantly on the two grounds which are reproduced here under:-

“6. AND WHEREAS, the matter was again considered by the Committee in its 134th meeting held on May 05-06, 2010 and having taken into consideration all the relevant facts of the case, it was decided to withdrawn recognition for conducting B.Ed course on the following grounds-

1. Approved building plan not submitted.

2. Land area is only 3360 sq.ft. which is inadequate as per the NCTE norms.

7. NOW, THEREFORE, in exercise of powers vested to Western Regional Committee under Section 17(1) of NCTE Act, 1993, the recognition granted to AGRASEN MAHAVIDYALAY AGRWAL BHAWAN, PURANI BASTI, RAIPUR-492001, CHHATTISGARH for B.Ed course is hereby withdrawn from the end of the academic session next to the following date of this withdrawal order on the grounds mentioned above.”

4. Petitioner thereafter filed an appeal in the first instance to National Council for Teachers Education, New Delhi. However, by order dated 15/09/2010 the appeal was dismissed which lead to filing of writ petition before the court at the first instance bearing number WPC No.6461/2010

which was decided on 18/07/2011. Thereafter it lead to filing of a writ appeal before the division bench bearing number W.A. No. 360/2011. The division bench of this court on 25/04/2012 passed the following orders. The relevant part of the writ appeal is reproduced hereunder:-

“5.At the outset, learned counsel appearing for the appellant stated that the appellant (writ petitioner) has not filed necessary documents in this appeal along with an application on 26/03/2012, to enable the respondent No.1 to consider the case of grant of recognition to the appellant.

6. According to the appellant, if the documents now filed are taken into account by the respondent No.1, then appropriate orders with regard to grant/restoration of recognition can be passed.

7. In our opinion, in the light of subsequent events, which have come into existence, we, while disposing this writ appeal, direct the respondent No.1 to examine the case of the appellant afresh, in the light of the documents filed by the appellant and pass appropriate order in relation to their recognition, keeping in view the provisions of NCTE Act, 1993 and the regulations made thereunder. The appellant is granted liberty to file all such documents including any other documents, in case, if they wish to file, with the respondent No.1 within a period of two weeks from today to enable the respondent No.1 to examine the case of the appellant-institute and then pass appropriate order on the issue of their recognition, preferably within a period of one month from the date of submission of application/documents, strictly in accordance with law.”

5. Learned counsel for the petitioner would submit that the petitioner thereafter had placed the documents of purchase of land which fulfills the requisite condition under the NCTE Regulation 2005 and submits that it was to the compliance as directed by the division bench of this court. The respondent however again dismissed the same by resolution Annexure P-8 wherein it was held that document which was placed for consideration is only an agreement which is not acceptable as per the NCTE norms. In respect of the photo copy of the sale deed, which was placed it was held that the land which has been shown is other than the land where the

institution was running as per their address shown that of the institution. Learned counsel submits that naturally purchase of land was in other place from the earlier place where the institution was running and unless there is some assurance is given that the area is suitable the building cannot be erected only on presumption as it may incur the huge financial expenses. Therefore it is prayed that the NCTE may be directed to inspect the land and recognition may be granted with a pre-condition that if the land is suitable then they may construct the building and subject to it the permission may be granted.

6. Per contra, learned counsel for the respondents submits that as per the NCTE Regulation 2005 the condition for grant of recognition is prescribed as regulation 8 and regulation 8 (8) requires that at the time of inspection of the building institution should be complete and should be equipped with all necessary amenities. Therefore since the building is not existing the recognition cannot be considered.

7. Perused the documents. The regulation National Council for Teachers Education (Recognition Norms & Procedure) Regulations, 2005 the condition for grant of recognition is shown in regulation 8. The relevant part for the purpose of this case would be regulation 5 and 8 which are reproduced hereunder:-

“5. No institution shall be granted recognition under these regulations unless it is in possession of required land on the date of application. The land free from all encumbrances could be either on ownership basis or on lease for a period of not less than 30 years. In cases where under relevant State/UT laws the maximum permissible lease period is less than 30 years, the State Government/UT Administration law shall prevail.

8. At the time of inspection, the building of the institution shall be complete in the form of a permanent structure on the land possessed by the institution in terms of Regulation 8(5), equipped with all necessary amenities and fulfilling all such requirements as prescribed in the norms and standards.”

8. The perusal of said regulation would show that at the time of inspection, building of the institution shall be complete in all respect of permanent structure coupled with the fact that land held by them should be according to the regulation 8(5). The petitioner's case as would fall admittedly the land has been purchased, therefore regulation 8(5) might have been fulfilled but in order to grant the recognition regulation 8 (8) purports that at the time of inspection permanent structure on the land should be complete and equipped with all necessary amenities. Since the building in the case the building itself is not existing, therefore regulation 8(8) cannot be said to have fulfilled. Since the regulation have a statutory force made under the NCTE Act of 1993 grant of pre-conditional recognition would amount to over reach the regulation 8 which this court cannot legislate. In case of the education the doctrine of legitimate expectation and promissory estoppel also cannot be pressed into motion since the statute is clear and unambiguous. Therefore the prayer made by the petitioner may be logical but cannot be recognized under the law so as to grant any relief. Under the circumstances no relief can be granted.

9. Accordingly, the petition is dismissed.

Sd/-

(Goutam Bhaduri)

JUDGE