

**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT****DATED: 15.07.2019****CORAM:****THE HONOURABLE MR.JUSTICE R.SURESH KUMAR****W.P. (MD) No.14394 of 2019****and W.M.P. (MD) Nos.10832 and 10833 of 2019**

Christ College of Education for Women
No.1626 Christ Bhawan
First Street, Rahuman Nagar,
Medical College Road, Thanjavur
Rep. By its Correspondent
A.Gerald Phingnora Raja

... Petitioner

Vs.

1. The Southern Regional Committee (SRC)
National Council for Teachers' Education (NCTE)
G-7 Sector-10, Dwarka
New Delhi - 110 075
Rep. By its Regional Director.

2. The Tamil Nadu Teachers Education University
Rep. By its Registrar,
Lady Wellington College Campus,
Kamarajar Salai, Chennai.

... Respondents

PRAYER : Writ Petition is filed under Article 226 of the Constitution of India to issue a Writ of Certiorari Mandamus to call for the records relating to the impugned resolution Number No.46 passed by the 1st respondent in 376th meeting of the SRC held from 11th and 12th June, 2019 quash the same and consequently, directing the respondents to conduct the inspection at new building of petitioner College situated at First Street, Rahuman Nagar, Medical College Road, Thanjavur - 613 004 and continue the recognition without any interruption.

For Petitioner : Mr.M.Muthugeethayan

For Respondents : Mr.Su.Srinivasan
standing counsel for R1
Mr.U.Venkatesan for R2**ORDER**

In this writ petition, the challenge is made to the impugned resolution No.46 passed by the 1st respondent in its 376th meeting of the Southern Regional Committee (SRC) held on 11th and



12th June, 2019 and for a consequential direction to the respondents to conduct the inspection of the petitioner Institution and continue the recognition.

2. Heard the learned counsel for the petitioner and the learned standing counsel for the first and second respondents.

3. The very short facts, which are required to be noticed for the disposal of this writ petition, are as follows:

That the petitioner is a College of Education conducting B.Ed., course, after getting due recognition from the first respondent, ie., the National Council for Teachers Education (In short "NCTE") Southern Regional Committee, by order of recognition dated 11.01.2008. Pursuant to the said recognition order, the Institute was affiliated to the second respondent University and accordingly, it was running for all these years.

4. While so, sometime in the year 2015, pursuant to the change in regulations of the NCTE and adopting the same, the first respondent, by order dated 25.05.2015, had granted renewal of recognition for the petitioner Institute from the academic year 2015-16, whereby, certain conditions have been imposed by the NCTE, as per the rules and regulations. After having fulfilled those conditions imposed, compliance report have been submitted and subsequently, the second respondent University had their own inspection for extension of affiliation and with the strength of the renewed recognition of the first respondent and the extension of affiliation granted by the second respondent University, the petitioner Institution was functioning.

5. While so, on 18.08.2016, the first respondent has sent communication to the petitioner Institution informing that, since the petitioner Institution wanted to shift or shifting the Institution to a permanent site, as required by the first respondent, under its regulations and though the Institution of the petitioner shifted to the new place, having been intimated by the second respondent University, that would not be enough for the first respondent, which is a recognising body to confirm its recognition, which was conditionally given some time in the year 2015. Therefore, in that letter, dated 18.08.2016, the first respondent had intimated the petitioner that, a team of members of the inspection team would visit the petitioner's Institution in due course and inspect the Institute to verify whether the conditions imposed by the first respondent as well as the norms prescribed under the regulations of the NCTE have been fulfilled by the petitioner or not.

6. Though such a communication had been issued on 18.08.2016 by the first respondent, thereafter, for some time, it seems that, there has been no correspondences between the petitioner and the first respondent or the first respondent and



the petitioner. In the meanwhile, it seems that, the Southern Regional Committee of the NCTE Office, which was hitherto located at Bangalore was shifted to New Delhi and at that time, on 16.01.2018, the first respondent has issued a show cause notice, whereby, it has observed that, the inspection conducted by the second respondent University on the infra-structural and instructional facilities created by the petitioner Institute in the new site would not be enough for the first respondent to come to the conclusion that, the petitioner is entitled to continue and enjoy the recognition, which was renewed in the year 2015-16 under new regulation, therefore, a shifting inspection has to be done by the NCTE and hence, collection of fee and cost for inspection for B.Ed., course (two units) was sought for. By stating this, in the operative portion of the said show cause notice, dated 16.01.2018, the first respondent stated that, the petitioner shall give written representation within 21 days with regard to the said show cause notice, dated 16.01.2018.

7. Thereafter, no reply had been given by the petitioner to the said show cause notice. However, the learned counsel for the petitioner claimed that, the Management representative in-person appeared before the first respondent office and enquired about the prospective dates of inspection. It was claimed that, on behalf of the first respondent, in that office, it was informed that, in view of the shifting process, which was taken place very recently from Bangalore to New Delhi, date of inspection would be intimated later on.

8. Though such a claim was made by the learned counsel for the petitioner on behalf of the petitioner, the said claim has been stoutly denied by the learned standing counsel for the first respondent, as there has been no proof to show that, the representative of the petitioner appeared before the first respondent Office during that point of time.

9. Be that as it may, subsequently, almost after one year, the first respondent, in its 376th SRC meeting held on 11th - 12th June, 2019 had, among various issues pertaining to other Institutions, also taken into account the issue relates to the petitioner Institution as item No.46 and has taken the following decision:

"Christ College of Education for Women, No.4581A, Mathakottai, Don Bosco Street, Thanjavur - 613 005, Tamilnadu. (File No.-APS01349, Course - B.Ed)

The original files of the Institution along with other related documents, NCTE Act, 1993, Regulations Guidelines issued by NCTE from time to time and documents furnished by the institution were carefully considered by the SRC and the following observations were made:



The SRC observed that the institution has not submitted any reply to show cause notice dated 16.01.2018 and hence decided to withdraw the recognition of B.Ed., course granted vide order dt. 11.01.2008 w.e.f. The academic session 2019-20 under clause 17(1) of NCTE Act, 1993."

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10. Since the said decision has been taken in the SRC meeting of the NCTE to withdraw the recognition, pursuant to the said decision taken in the SRC meeting, consequential order would be issued by the first respondent. However, without waiting for the consequential order to be issued by the first respondent, challenging the said decision taken by the SRC in its 376th meeting, dated 11th and 12th June, 2019, the petitioner filed the present writ petition with the aforesaid prayer.

11. It is to be noted that, subsequently on 12.06.2019, the consequential order of withdrawal of recognition under Section 17 (1) of the NCTE Act has been issued by the first respondent.

12. The learned counsel for the petitioner would submit that, the Institution is a running Institution, which has been running from 2008 with due recognition of the first respondent and subsequently in the year 2015, renewal of recognition also was issued on certain conditions, that conditions, having been fulfilled, the compliance to that effect also has been filed. Subsequently the second respondent University for extension of affiliation also inspected the premises of the petitioner and accordingly, extension of affiliation was given and in view of the renewal of recognition issued by the first respondent as well as the extension of affiliation accorded by the second respondent, the Institution has been functioning in the own building constructed at the own site with all infra-structural and instructional facilities and subsequently, the first respondent decided to inspect the Institute, the petitioner, though was ready and willing to subject itself for the said inspection proposed by the first respondent, since some time, there had been no communication and subsequently, when show cause notice was issued in the year 2018, the petitioner claimed to have appeared in person before the respondent office and claimed to have been told by the first respondent office that, the inspection date would be announced some time after.

13. Therefore, the learned counsel for the petitioner would submit that, without inspecting the Institution, now, since, the impugned decision has been taken by the first respondent through its SRC meeting on the only ground that, the petitioner has not responded to the show cause notice, the said decision can be ~~challenged~~ by this Court and in this regard, the learned counsel for the petitioner would submit that, the petitioner Institution is ready and willing to receive the inspection team



and to have the Institute inspected at any point of time, for which, whatever fee to be paid, the Institution is ready and willing to pay immediately, hence reconsideration can be made by the first respondent.

14. However, the learned counsel for the first respondent would submit that, no doubt, the petitioner Institution had been given the renewed recognition in the year 2015, which was the renewal of the original recognition given in the year 2008 and it also been affiliated with the second respondent University and was functioning for all these years. However, once the Institution shifted to the new premises, where, the necessary infra-structural and instructional facilities required under the NCTE regulations have been fulfilled or not to be verified by the inspection team to be deputed by the first respondent and once, the inspection team completed the inspection and file the report, based on which input to be supplied by the inspection team, the Southern Regional Committee (SRC) or NCTE would take a decision and then only, the renewal of recognition to the petitioner Institution at the new site would be considered/accorded.

15. The learned standing counsel for the first respondent would also submit that, in this regard, even though it was expressed the desire of the first respondent to have the inspection as early as on 18.08.2016, subsequently, there has been no follow up action on the part of the petitioner Institution. Therefore, on finding that, the Institution was not inspected by the first respondent inspection team, and some inspection undertaken by the second respondent affiliating body would not be enough for the purpose of extension of recognition to be accorded by the first respondent, it has issued a show cause notice on 16.01.2018, whereby, the collection of fee and to cause inspection of the petitioner Institution has been specifically mentioned and in this regard, 21 days time was given to the petitioner to respond. Though 21 days time was given, within the said time, even thereafter, for a longer period, there was no response from the petitioner side and in this context, the learned counsel for the first respondent would stoutly deny the claim made by the learned counsel appearing on behalf of the petitioner that, the representative of the petitioner Institution personally met the concerned officers/staff of the first respondent office, during the relevant point of time and noted that, because of the shifting, the inspection process getting delayed and the date of the inspection would be intimated later on.

16. The learned counsel would further submit that, once a show cause notice was issued by the first respondent and also a time limit was given, and within which, the petitioner was expected to respond, within the said time, the petitioner should have responded in writing and the necessary fee for inspection should have been paid or remitted in the manner known to law ie.,



under regulations.

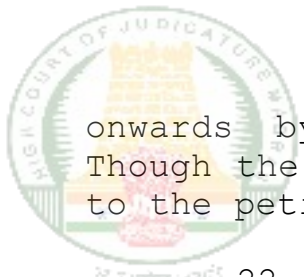
17. Since the petitioner failed to respond to the show cause notice and failed to make the payment of inspection fee, the petitioner cannot put the blame on the first respondent, by merely stating that, the representative of the petitioner met the officials of the first respondent in person. The question of appearing personally before the officers or staff of the first respondent does not arise, as such kind of appearances would be possible only if the first respondent sent any communication for personal hearing and once show cause notice issued seeking specifically the written representations within a time frame, that should have been responded in writing by paying the fee and therefore, for the said reason of non response from the side of the petitioner, having waited for some time, the first respondent, placed the petitioner Institution's issue also in the Agenda to the 376th meeting of the SRC and accordingly, a decision was taken, which is impugned in this writ petition.

18. The said decision taken by the SRC meeting on the ground of non response from the side of the petitioner is fully justifiable and therefore, the said decision, which is impugned herein, cannot be challenged and it cannot be found fault with on the side of the first respondent. Therefore, the said decision is sustainable and consequently, the order of withdrawal of recognition dated 12.06.2019 is also sustainable. Hence, this writ petition is deserved to be dismissed, the learned counsel contended.

19. I have heard the said submissions made by the learned counsel for the parties.

20. As has been stated above or discussed above, the facts right from 2008, till the culmination of the impugned decision and subsequent withdrawal order dated 12.06.2019 of the first respondent NCTE have been admitted, except one area, where, after the show cause notice issued on 16.01.2018, whether the petitioner had approached the office of the first respondent or not and whether the first respondent, by way of oral response, directed the petitioner to wait for sometime to get instruction of inspection date, because of the shifting of the regional office from Bangalore to New Delhi. This is the only grey area, where there has been no documentary proof to show that, the petitioner has approached the first respondent office.

21. In this context, this Court has gone into the documents filed in support of this writ petition, where, this Court finds that, the petitioner institute is a running institution, as the



onwards by order of the first respondent, dated 25.05.2015. Though the said order was given with certain conditions, according to the petitioner, those conditions have been fulfilled.

22. In order to verify those conditions, necessarily, the inspection had to be undertaken by the first respondent, but for some reason or other, that inspection could not be taken place immediately, but, at any rate, on 16.01.2018, the desire of the first respondent to have the inspection was intimated by way of show cause notice and in response to the same, the petitioner could have paid the inspection fee. However, the petitioner projects his case that, when they made an attempt to pay the fee and to get the date for inspection by appearing in person, that was responded by the first respondent office by stating that because of the shifting, it will take some time to send the inspection team.

23. If strictly speaking, the show cause notice dated 16.01.2018 should have been properly responded by way of written communication by the petitioner Institution, since the first respondent is a statutory body, which has issued a show cause notice, whether there are reasons to issue such show cause notice or not, is altogether may be a different matter, but, once the Institution received the show cause notice, the same should have been responded. Failing to respond the show cause notice, definitely, a default on the part of the petitioner.

24. However, after finding that, there is no response from the petitioner side for the said show cause notice, dated 16.01.2018, which infact, is not a show cause notice in nature, as under which, the first respondent only expressed its desire to have the inspection and therefore, if at all the first respondent decides to take any final decision to the extent of withdrawal of recognition on the only ground of non response from the petitioner to the show cause notice, an opportunity to that effect could have been given by the first respondent.

25. This view is taken by this Court, because, it is not a fresh application to seek for fresh recognition, as the petitioner Institution is a running Institution for more than a decade and therefore, in all fairness, before taking a decision of withdrawal of recognition on the ground of non response from the petitioner for the show cause notice, which infact is not a show cause notice in the strict sense as the first respondent has only expressed its desire to collect fee and to have the inspection, this Court is of the considered view that, one opportunity could have been given, for which, whatever reason, has been given, the fact remains that no such opportunity was given to the petitioner.

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26. This Court finds some force in the contention raised by the learned counsel for the petitioner in that aspect of no



opportunity and also by taking into account the factual matrix of the case, as it is a running Institution, this Court takes a view that, the said decision taken by the first respondent in its 376th SRC meeting dated 11th and 12th of June, 2019 to withdraw the recognition for the only reason of non response to the show cause notice is arbitrary and therefore, the same can be interfered with.

27. In that view of the matter, the impugned resolution of the SRC of NCTE in its 376th meeting dated 11th and 12th June 2019, insofar as the petitioner is concerned, is hereby set aside and in view of the same, the consequential withdrawal order dated 12.06.2019 will have no effect and therefore, this Court remits the matter for reconsideration to the first respondent. While making such reconsideration, the first respondent can make an inspection by sending an inspection team to the petitioner Institute at the earliest possible time and after having inspected the petitioner Institution and on receipt of the input from the inspection team, a decision can be taken in the next SRC meeting to be held thereafter, as to whether the petitioner is entitled to have the renewal of recognition continuously, in accordance with law and also on merits.

28. Enabling the first respondent to take such a decision, let the petitioner pay the inspection fee with specific written request immediately within seven days from the date of receipt of a copy of this order. On such receipt, the needful, as indicated above, shall be undertaken by the first respondent. It is made clear that, this order is passed taking into consideration the peculiar facts and circumstances of the case. Therefore, the same shall not be treated as a precedent for any other case similar to that of it.

29. With the above observations and directions, the writ petition is ordered accordingly. No costs. Consequently connected Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar

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Sub Assistant Registrar(CS)

To

1. The Regional Director
Southern Regional Committee (SRC)
National Council for Teachers' Education (NCTE)
G-7 Sector-10, Dwarka
New Delhi - 110 075



2. The Registrar,
Tamil Nadu Teachers Education University
Lady Wellington College Campus,
Kamarajar Salai, Chennai.

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+1 CC to Mr.SU.SRINIVASAN, Advocate (SR-75382[F] dated 16/07/2019)

+1 CC to Mr.D.SRINIVASARAGAVAN, Advocate (SR-75357[F] dated 16/07/2019)

+1 CC to Mr.U.VENKATESAN, Advocate (SR-75473[F] dated 16/07/2019)

**W.P. (MD) No.14394 of 2019
and W.M.P. (MD) Nos.10832 and 10833 of 2019
15.07.2019**

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