



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **27.11.2019**

CORAM:

THE HONOURABLE **MR. JUSTICE M. SUNDAR**

W.P. (MD) No. 25181 of 2019

and

W.M.P. (MD) No. 21767 of 2019

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St. Paul's College of Education,
Devakottai-Karaikudi Highways,
Mullikkundu, Devakottai,
Sivagangai District,
Represented by its Chairman,
Mr.C.Raja

... Petitioner

/Vs./

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

... Respondent

PRAYER:- Writ Petition - filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Certiorari, calling for the records relating to the impugned final show cause notice issued by the respondent vide u/s 17 111826, dated 15.11.2019 and quash the same.

For Petitioner	: Mr.VR.Shanmuganathan
For Respondent	: Mr.C.Nandagopal
	Central Government Standing Counsel

ORDER

Mr.V.R.Shanmuganathan, learned counsel on record for writ petitioner and Mr.C.Nandagopal, learned Standing counsel representing Mr.Su.Srinivasan, learned Standing counsel for 'National Council for Teachers' Education' (hereinafter referred to as 'NCTE') who accepts notice on behalf of sole respondent are before this Court.

2. Short point shorn of elaboration is that a 'show cause notice dated 15.11.2019 captioned 'FINAL SHOW CAUSE NOTICE U/S 17' bearing reference F.SRO/NCTE/APS09812/B.Ed./TN/2019' (hereinafter referred to as 'impugned SCN' for brevity) has been called in question in instant writ petition.



3. With consent of learned counsel on both sides, main writ petition is taken up, heard out and is being disposed of.

4. Learned counsel for writ petitioner assails the impugned show cause notice on three main grounds and they are as follows:

(a) no decision was taken regarding writ petitioner in the 380th meeting of 'Southern Regional Committee' (hereinafter referred to as 'SRC' for brevity) of NCTE held on 18th and 19th of September, 2019.

(b) no resolution was passed against writ petitioner in the aforesaid meeting.

(c) no prior show cause notice or physical inspection was done.

5. Adverting to the impugned SCN, learned counsel representing the learned standing counsel for NCTE points out that impugned SCN has been issued under Section 17 of 'National Council for Teachers Education Act, 1993 (Act No.73 of 1993)' (hereinafter referred to as 'said Act' for the sake of brevity, clarity and convenience) as is evident from the caption itself. It is submitted that caption is obviously a reference to Section 17 of said Act.

6. This Court deems it appropriate to extract entire Section 17 of said Act which reads as follows:

17. Contravention of provisions of the Act and consequences thereof.-(1) Where the Regional Committee is, on its own motion or on any representation received from any person, satisfied that a recognised institution has contravened any of the provisions of this Act, or the rules, regulations, orders made or issued thereunder, or any condition subject to which recognition under sub-section (3) of section 14 or permission under sub-section (3) of section 15 was granted, it may withdraw recognition of such recognised institution, for reasons to be recorded in writing:

Provided that no such order against the recognised institution shall be passed unless a reasonable opportunity of making representation against the proposed order has been given to such recognised institution:

Provided further that the order withdrawing or refusing recognition passed by the Regional Committee shall come into force only with effect from the end of the academic session



next following the date of communication of such order.

(2) A copy of every order passed by the Regional Committee under sub-section (1),—

(a) shall be communicated to the recognised institution concerned and a copy thereof shall also be forwarded simultaneously to the University or the examining body to which such institution was affiliated for cancelling affiliation; and

(b) shall be published in the Official Gazette for general information.

(3) Once the recognition of a recognised institution is withdrawn under sub-section (1), such institution shall discontinue the course or training in teacher education, and the concerned University or the examining body shall cancel affiliation of the institution in accordance with the order passed under sub-section (1), with effect from the end of the academic session next following the date of communication of the said order.

(4) If an institution offers any course or training in teacher education after the coming into force of the order withdrawing recognition under sub-section (1), or where an institution offering a course or training in teacher education immediately before the appointed day fails or neglects to obtain recognition or permission under this Act, the qualification in teacher education obtained pursuant to such course or training or after undertaking a course or training in such institution, shall not be treated as a valid qualification for purposes of employment under the Central Government, any State Government or University, or in any school, college or other educational body aided by the Central Government or any State Government. '

7. The three points urged by learned counsel for writ petitioner have been articulated in the synopsis filed in support of this writ petition and the same read as follows:



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- Respondent vide u/s 17 111826, dated 15-11-2019 as if the said notice was issued as per the SRC decision taken in 380th meeting held on 18th -19th September 2019 to all such institution where reply SCN has not been submitted by the institution, thereby directing the petitioner institution to submit its explanation within a period of 21 days, failing which without any further opportunity to withdraw the recognition granted to the petitioner institution.
- No resolution was passed against the petitioner college in the 380th SRC meeting held on 18th -19th September 2019.
- No prior show cause notice, No physical inspection, none of procedures were followed before issuing impugned final show cause notice.
- Hence this writ petition.

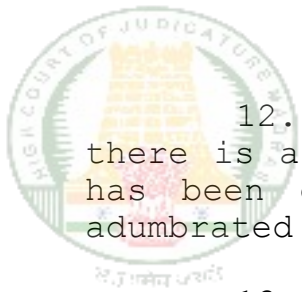
Prayer:

8. Adverting to Minutes of the 380th SRC meeting of NCTE held on 18th and 19th of September, 2019, learned counsel for writ petitioner submits that though a decision has been taken with regard to nearly 150 Colleges, name of the writ petitioner does not figure in the same, whereas impugned SCN says that it has been issued pursuant to decision taken in the said SRC meeting of NCTE. It follows as a sequitur that no resolution has been passed against the writ petitioner College is learned counsel's say. To be noted, this is the second point. With regard to third point, it is asserted that there was no prior show cause notice / no physical inspection though impugned SCN is captioned 'Final SCN'.

9. This Court has carefully considered the submissions.

10. Impugned SCN clearly mentions in the caption itself that it has been issued under Section 17 of said Act. Section 17 of said Act has also been extracted and reproduced supra. Careful and close perusal of Section 17 of said Act reveals that impugned SCN is obviously under first Proviso to Section 17 (1) of said Act.

11. Merely because impugned SCN goes by the caption 'FINAL SHOW CAUSE NOTICE U/S 17', it cannot be gainsaid that it is imperative that prior preliminary SCN ought to have been issued. First proviso to Section 17 of said Act is clear that it is statutorily imperative to give a reasonable opportunity of making representation when any noticee is to be visited with consequences of alleged contravention of provisions of said Act. This puts at rest the third point urged by writ petitioner. Regarding first and second points merely because there is no mention in 380th SRC meeting of NCTE held on 18th and 19th September, 2019, the respondent is not denuded of its powers to issue impugned SCN.



12. A careful perusal of impugned SCN makes it clear that there is a adumbration of as many as 13 points and writ petitioner has been called upon to submit or clarify the decision qua 13 adumbrated points.

13. More importantly, Paragraph No.8 of impugned SCN gives twenty one (21) days time to the noticee / writ petitioner to send a reply in all respects to the impugned SCN. Though writ petitioner is unable to give the exact date on which impugned SCN was served on the writ petitioner, even if 21 days is computed from the date of impugned SCN itself, writ petitioner has time till 06.12.2019.

14. In the light of the narrative thus far, this Court is convinced that impugned SCN is clearly a usual show cause notice within the meaning of first proviso to Section 17(1) of said Act.

15. The scope of interference in writ jurisdiction qua show cause notices has been laid down by Hon'ble Supreme Court in the case of Union of India and another vs. Kunisetty Satyanaraya reported in 2006 (12) SCC 28. Relevant paragraphs are paragraph Nos.15 and 16 and the same read as follows:

'15.Writ jurisdiction is discretionary jurisdiction and hence such discretion under Article 226 should not ordinarily be exercised by quashing a show-cause notice or charge sheet.

16.No doubt, in some very rare and exceptional cases the High Court can quash a charge-sheet or show-cause notice if it is found to be wholly without jurisdiction or for some other reason if it is wholly illegal. However, ordinarily the High Court should not interfere in such a matter.'

16. From the submissions made at the bar, it is clear that this case does not fall under any of the exceptions for interference qua show cause notice ie., exception in the nature of entity / authority issuing notice lacking jurisdiction, the show cause notice being issued in a predetermined manner or the show cause notice attempting to bye-pass or give a go-by to settled position of law. Therefore, this Court is not inclined to interfere with the impugned SCN.

17. Faced with the above situation, learned counsel for writ petitioner submitted that writ petitioner would submit a reply to impugned SCN on or before 06.12.2019 and respondents may please be directed to consider the reply on its own merits and pass orders *inter alia* by treating impugned SCN as one under first proviso to Section 17 of said Act.



18. Recording the aforesaid submission, instant writ petition is disposed of holding that this Court is not interfering with the impugned SCN as mentioned above. It is open to the writ petitioner to submit a reply to impugned SCN on or before 06.12.2019 and if the writ petitioner chooses to do so, treating the impugned SCN as one under first proviso to Section 17 of said Act, the respondents shall consider the reply on its own merits and pass orders in accordance with law. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar(CS-II)

// True Copy //

Sub Assistant Registrar(CS)

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TO

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

+1CC TO MR.SU.SRINIVASAN, Advocate Sr. No.101737

+1CC TO MR.VR.SHANMUGANATHAN, Advocate Sr. No. 102107

Order made in
W.P. (MD) No. 25181 of 2019
Dated: 27.11.2019

KG (CO)
TR(29.11.2019) 6P 4C