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

Date of Decision: 29th April, 2019

+ W.P.(C) 4404/2019 & CM APPLs. 19578-79/2019

DEHAT VIKAS SHIKSHA SAMITI BEWAL AND ANR.

..... Petitioners

Through: Mr. Amitesh Kumar, Adv.

versus

NATIONAL COUNCIL FOR TEACHER
EDUCATION AND ANR.

..... Respondents

Through: Ms. Arunima Dwivedi, SC for
NCTE with Ms. Preeti Kumra, Adv.

CORAM:

HON'BLE MR. JUSTICE C. HARI SHANKAR

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J U D G M E N T (O R A L)

1. This writ petition is directed against a “refusal order” dated 30th August, 2018, passed by the Northern Regional Committee (hereinafter referred to as “the NRC”) of the National Council for Teachers Education (hereinafter referred to as ‘the NCTE’), whereby, in exercise of powers conferred by Section 14/15 (3) of the NCTE Act, 1993, the application, of the petitioners, for recognition/permission to start a two year B.Ed. Course in the MDS College of Education, Mahendragarh, Haryana, has been refused.

2. Incidentally, the impugned refusal order records the fact that the petitioners had, in fact, submitted a reply, dated 19th July, 2018, to the Show Cause Notice dated 6th July, 2018.

3. It is a settled position, in law, that any order, visiting a citizen with civil consequences, has necessarily to be preceded by strict compliance with the principles of natural justice, unless the provisions of the statute exclude the same, either expressly or by necessary implication.

4. Ms. Arunima Dwivedi, learned SC for the NCTE, does not seek to contend that there is any exclusion of the applicability of the principles of natural justice in the provisions of the NCTE Act governing issuance of Show Cause Notice dated 6th July, 2018 and adjudication thereof. She only seeks to contend that the said provisions do not contemplate grant of hearing prior to adjudication of the show cause notice and that, the petitioners have a right of appeal which, if they choose to exercise, would entitle them to a hearing before the Appellate Committee.

5. It is settled that grant of hearing, at the stage of appeal, cannot cure the defect of non-compliance with the *audi alteram partem* requirement at the stage of adjudication of a show cause notice.

6. The impugned order, clearly, visits the petitioners with civil consequences.

7. It has been held by Supreme Court, in a catena of authorities, including *Whirlpool Corporation v. Registrar of Trade Marks, Mumbai (1998) 8 SCC 1* and *Harbans Lal Sahnia v Indian Oil Corporation Limited (2003) 2 SCC 107*, that, where an order is passed in violation of the principles of natural justice, the party ought not to

be relegated to an alternate remedy and that this Court should not hesitate from exercising its prerogative writ jurisdiction under Article 226 of the Constitution of India.

8. Mr. Amitesh Kumar is agreeable to the matter being remanded to the NRC for a re-consideration, after affording his client an opportunity of personal hearing.

9. In view thereof, I am of the opinion that the interests of justice would be sub-served if the impugned refusal order dated 30th August, 2016 is quashed and set aside and the matter is remanded to the NRC for a re-consideration, after affording the petitioners an opportunity of personal hearing.

10. For the said purpose, the petitioners shall appear before the NRC in its next meeting, the date of which would be notified by the NRC to the petitioners sufficiently in advance. The petitioners be also informed of the next date on its e-mail Id, which is mdsbewal@gmail.com.

11. With the above directions, the writ petition is disposed of with no order as to costs.

12. CM APPLs.19578 and 19579/2019 also stand disposed of.

C. HARI SHANKAR, J

APRIL 29, 2019/dsn