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

Date of Decision: 10th May, 2019

+ W.P.(C) 5064/2019 and CM Nos.22439, 22440, 22441/2019

**TINY TODD SCHOOL AND COLLEGE EDUCATION
SOCIETY AND ANR.**

..... Petitioners

Through: Mr. Amitesh Kumar,
Ms. Binisa Mohanty and Ms. Priti Kumari,
Advs.

versus

**NATIONAL COUNCIL FOR TEACHER
EDUCATION AND ANR.**

..... Respondents

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

CORAM:

HON'BLE MR. JUSTICE C. HARI SHANKAR

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JUDGMENT (ORAL)

1. The controversy in this writ petition being brief, and both parties having been heard, I am proceeding to dispose of the writ petition at this stage itself.

2. *Vide* an order dated 6th August, 2017, issued by the Western Regional Committee (WRC) of the National Council for Teachers Education (NCTE), recognition was granted, to the petitioner, under Section 14 of the National Council of Teachers Education Act, 1993 (hereinafter referred to as the “NCTE Act”), for conducting a B.Ed.

Course in its institute, namely the Gyanodaya Mahavidhyalaya, F Sector, MIG Colony, Khajrani, Indore-452008, Madhya Pradesh.

3. On 31st May, 2015, the WRC issued a revised recognition order to the petitioner, for two basic units of 50 students each. The matter was, thereafter, placed before the WRC in its 255th meeting, held on 22nd - 24th June, 2016. In the said meeting, the WRC decided that a show cause notice be issued to the petitioner, for non-compliance of the National Council for Teachers Education Regulations, 2014 (hereinafter referred to as the “2014 Regulations”).

4. Resultantly on 6th October, 2016, a show cause notice was issued, to the petitioner, alleging that it had not complied with the provisions of the 2014 Regulations in the following respects:

- (i) It had not provided the staff profile of its staff and employees for the session 2015-2016, duly approved by the affiliating body.
- (ii) The originally notarised change of land use certificate, non-encumbrance certificate, building plan and building completion certificate had not been produced by it.

5. A reply, dated 21st November, 2016, was submitted, by the petitioner, to the aforesaid show cause notice. Annexed, to the said reply, were the staff profile of the petitioner institution, its notarised building plan and a notarised building completion certificate.

6. It is also averred, in the writ petition, that the CLU certificate and the NEC, were provided by the petitioner, in 2007 itself.

7. By the impugned order dated 23rd April, 2019, issued under Section 17 of the NCTE Act, the WRC has withdrawn the recognition, granted to the petitioner, for its B.Ed. programme with effect “from the end of the academic session next following the date of communication of the said order”. Inasmuch as the order is dated 23rd April, 2019, by which date the 2019-2020 academic session had already commenced, this order would, therefore, take effect from the end of the 2020-2021 academic session.

8. The grounds on which the order of withdrawal has been passed are to be found in the following paragraph figuring therein:

“On perusal of the reply of the institution it is observed that the institution has not submitted the following documents:

- The institution has not submitted a letter of approval of faculty of affiliating body along with detailed staff profile approved by competent authority of the University as per NCTE Regulations 2014.
- The institution website found functional but contents not as per clause 7(14)(i) of NCTE Regulations, 2014.
- The institution has not submitted land use certificate issued by the competent authority.
- The institution has not submitted NEC issued by the competent authority.
- The institution has submitted FDRs Rs. 5+4 lakhs in original and photocopy of 3 lakh FDR.”

9. Mr. Amitesh Kumar, learned counsel for the petitioner, has raised various submissions. He submits, firstly, that the grounds on which the decision to withdraw the recognition granted to the petitioner has been taken, are different from those in the show cause notice, inasmuch as, while the non-submission of CLU certificate and NEC figured in the show cause notice, the other three grounds, on which recognition was withdrawn, did not find place therein. Despite this, Mr. Amitesh Kumar submits that his client is not deficient on any of these grounds. He has drawn my attention to the objection regarding non-submission of the letter of approval of the faculty of the affiliating body, alongwith the detailed staff profile. He has also drawn my attention to a letter dated 18th April, 2019, issued by the Devi Ahilya Vishwavidyalaya, Indore, being the affiliating body of the petitioner, the translation of which reads thus :

“DEVI AHILYAVISHWAVIDYALAYA, INDORE
Vishwavidyalay Bhawan,
Indore-452001

No. Administration IV / Selection Committee / 2019 /255

Dated 18 APR 2019

To,

Principal,
Gyanodaya Mahavidyalaya
F Sector, MIG Colony, Indore

Subject: Regarding grant of approval of Staff Profile of
B.Ed. course

Reference: Letter No.1080/2019 dated 11.04.2019

With reference to the letter on the subject mentioned above, a list of teachers for B.Ed. course selected in your institution has been submitted. The said staff profile was examined by the then Chairman, College Development Council, Devi Ahilya Vishwavidyalaya, Indore and thereafter, the said staff profile was duly approved, which is also approved by the then Registrar. The University was not issuing any such letter in the past. However, in view of the request of the institution, the letter to this effect is being issued by the University.

Therefore, a list of staff of your college, approved by the University is attached.

Sd/-
Registrar
Devi Ahilya Vishwavidyalaya
Indore”

10. The submission of Mr. Amitesh Kumar is that this letter more than sufficed as a letter of approval, by the affiliating University, of the staff appointed by the petitioner, so that, even on facts, the first ground, in the impugned withdrawal order, could not sustain.

11. Mr. Amitesh Kumar has also relied on the judgment of the Supreme Court in *NCTE v. Vaishnav Institute of Technology and Management, (2012) 5 SCC 139*, specifically paragraphs 24 to 31 therein, which read thus :

“24. What is clear from the provisions of the 1993 Act is that post-recognition, an institution acquires a different position. On recognition by the Regional Committee under Section 14 and on affiliation being granted by the examining body, once the recognised institution starts

functioning, the interest of teachers, employees and the students intervene. In order to ensure that the recognised institutions function in accordance with the 1993 Act, the 1997 Rules, Regulations and the conditions of recognition and, at the same time, the functioning of such recognised institutions is not disturbed unnecessarily, the provision for inspection and follow-up action pursuant thereto has been made in Section 13.

25. By Section 13, as a matter of law, it is intended that the Council ascertains whether the recognised institutions are functioning in accordance with the provisions of the 1993 Act or not. For that purpose, it empowers the Council to cause inspection of any such institution to be made by such persons as it may direct, and in such manner as may be prescribed. The Council may authorise the Regional Committee to carry out its function of inspection. But such inspection has to be made as prescribed in Rule 8 to find out whether such recognised institution is or is not functioning in accordance with the provisions of the 1993 Act.

26. In the 1997 Rules framed by the Central Government, Rule 8 deals with the inspection and sub-rule (6) provides that the inspection team shall ascertain as to whether the recognised institution is functioning in accordance with the provisions of the 1993 Act and the Rules and Regulations made thereunder.

27. On the inspection being completed as provided in sub-sections (1) and (2) of Section 13 of the 1993 Act read with Rule 8 of the 1997 Rules, the Council is required to communicate to the institution concerned its views with regard to the outcome of the inspection and, if deficiencies are found, to recommend to such institution to make up the deficiencies. The whole idea is that the Council as a parent body keeps an eye over the recognised institutions that they function in accordance with the 1993 Act and the Rules and the Regulations and Orders made or issued thereunder and, if any recognised

institution is found wanting in its functioning, it is given an opportunity to rectify the deficiencies.

28. Derecognition or withdrawal of recognition of a recognised institution is a drastic measure. It results in dislocating the students, teachers and the staff. That is why, the Council has been empowered under Section 13 to have a constant vigil on the functioning of a recognised institution. On the recommendation of the Council after inspection, if a recognised institution does not rectify the deficiencies and continues to function in contravention of the provisions of the 1993 Act or the Rules or the Regulations, the Regional Committee under Section 17 has full power to proceed for withdrawal of recognition in accordance with the procedure prescribed therein.

29. Sections 17 and 13 must be harmoniously construed. In exercise of its powers under Section 17, the Regional Committee may feel that inspection of a recognised institution is necessary before it can arrive at the satisfaction as to whether such a recognised institution has contravened any of the provisions of the 1993 Act or the Rules or the Regulations or the Orders made thereunder or breached the terms of the recognition. In that event, the route of inspection as provided under Section 13 has to be followed. If the Regional Committee has been authorised by the Council to perform its function of inspection, the Regional Committee may cause the inspection of recognised institution to be made as provided in Section 13 and prescribed in Rule 8. Where, however, the Regional Committee feels that the inspection of a recognised institution is not necessary for the proposed action under Section 17, obviously it can proceed in accordance with the law without following the route of inspection as provided under Section 13.

30. Mr Amitesh Kumar, learned counsel for NCTE, submitted that for an action under Section 17, inspection of the recognised institutions would be necessary in most of the situations and, if the route of inspection under Section 13 was followed, it would result in delay and

might affect right of appeal given to an aggrieved institution under Section 18 against the order of the Regional Committee passed under Section 17. The submission does not appeal us.

31. It is hard to accept that unnecessary delay would occasion if inspection of a recognised institution is carried out in terms of Section 13 and as prescribed by Rule 8. Rather the inspection in that manner would bring objectivity and fairness. The guidelines for expeditious completion of such inspection can always be framed by the Council. The efficacy of right of appeal under Section 18 is not at all affected if the inspection of a recognised institution is done in the manner indicated above.”

12. Mr. Amitesh Kumar would seek to submit that the procedure outlined in these paragraphs has not been followed, before issuing the impugned withdrawal order.

13. As against this, Ms. Arunima Dwivedi, while asserting that this Court should not interfere in the matter, in exercise of its jurisdiction under Article 226 of the Constitution of India, as the impugned withdrawal order is appealable submits, nevertheless, that the objection, of the petitioner, to the effect that the impugned order was passed without inspection, had no legs to stand on, as inspection was not a necessary *sine qua non* before passing of an order withdrawing recognition, as is apparent from the judgment of the Supreme Court in *Vaishnav Institute of Technology (supra)* on which Mr. Amitesh Kumar relies. That apart, she submits that the requirement of furnishing a letter of approval for the appointment of faculty is a statutory requirement, to be found in Regulation 7(16) of the 2014

Regulations, and that the petitioner could not shy away from the said requirement.

14. Having heard learned counsel, I am of the opinion that, before this Court takes a view in the matter, it would be appropriate that the petitioner be directed to present his case before the appellate committee of the NCTE, as an efficacious statutory remedy in appeal exists. It is for the appreciation of the case, by the Appellate Committee, that the contentions of both parties have been recorded as hereinabove.

15. There is already a precedent, in a judgment dated 14th May, 2018 passed by a Coordinate Bench of this Court in W.P.(C) 4815/2018 (*Aryan College of Education v. NCTE*), to the effect that, where the petitioner appeals before the Appellate committee, till a final decision is taken on the appeal, the operation of the order of withdrawal of recognition, remains stayed. In my view, this is a wholesome dispensation, especially in the light of para 28 of the judgment of the Supreme Court in *Vaishnav Institute of Technology (supra)*, which clearly notes the drastic nature of an order of de-recognition of a functioning institution and the deleterious consequences that such action would have, on the dislocated students, teachers and staff. As such, I do not see that there can be any legitimate objection, to allowing the institution to function till the appeal is decided. I may note, in this context that, as was the case with the petitioner in *Aryan College of Education (supra)* the

petitioner in this writ petition, too, has been functioning from 2007, i.e. for over 12 years as on date.

16. In view thereof, I am of the opinion that the interests of justice would be subserved if the writ petition is disposed of, with liberty to the petitioner to file an appeal in terms of Section 18 of the NCTE Act, before the Appellate Committee within a period of one week. All contentions of the parties are left open to be decided by the Appellate Committee in the said appeal. Such appeal, if filed within the above period, would be heard by the Appellate Committee in its next sitting, and would be disposed of within a period of four weeks from the date of hearing.

17. Till the disposal of the appeal by the appellate committee, the petitioner institute shall be allowed to continue to function.

18. The writ petition is disposed of in the above terms with no order as to costs.

C. HARI SHANKAR, J

MAY 10, 2019/kr