

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19.03.2020

CORAM

THE HONOURABLE Mr.JUSTICE N.ANAND VENKATESH

W.P.No.5908 of 2020
and
W.M.P.No.6922 of 2020

Institute of Education,
Represented by Managing Trustee,
P.Rajathi,
Pothavur, Thogamalai Main Road,
Inampuliyur (Po),
Trichy - 639 103.

... Petitioner

Vs.

1. The National Council for Teacher Education,
Rep. by its Member Secretary,
Hans Bhawan Wing II,
1, Bahadur Shah Zafar Marg,
New Delhi - 110 002.
2. The Regional Director,
Southern Regional Committee,
National Council for Teacher Education,
Jnanabarathy Campus Road,
Opp. to National Law School,
Nagarabhavi,
Bengaluru - 560 072.
3. The Tamil Nadu Teacher Education University,
Rep. by its Registrar,
Gangaiamman Kovil Street,
Karapakkam,
Chennai - 600 097.

... Respondents

PRAYER :

Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorarified Mandamus calling for the entire records of the second respondent relating to the proceedings in F.SRC/NCTE/APS04030/B.Ed. 115050-115056 dated 21.02.2020 withdrawing the recognition with effect from the next academic year, quash the same and consequently forbear the respondent from in any manner cancelling the recognition of the

petitioner for the running of the B.Ed. Course in its institution in implementation of the 2014 Regulations.

For Petitioner : Mr.P.Srinivas
For Respondents 1 & 2 : Mr.SU.Srinivasan
Standing Counsel
For Respondent - 3 : Mr.U.Venkatesh

O R D E R

This Writ Petition has been filed challenging the impugned proceedings of the second respondent dated 21.02.2020, wherein the second respondent has withdrawn the recognition granted to the petitioner institution.

2. The case of the petitioner is that they were granted recognition by the first and second respondents for intake of hundred students. Thereafter, it was increased to two hundred students from the year 2008. The further case of the petitioner is that the respondents amended the regulations in the year 2014. These regulations became the subject matter of challenge before this Court in W.P.No.999 and 1000 of 2015. During the pendency of this Writ Petition, the respondents have submitted that a committee has been formed to reconsider the regulations and undertaking was also given not to implement the regulations till the reconsideration is finalized.

3. The further case of the petitioner is that the respondents started to make changes to the existing set of institutions by relying upon the 2014 regulations. The same was again challenged before this Court in W.P. No. 23313 of 2017 and W.P. No. 37684 of 2016.

4. A batch of Writ Petitions came to be heard on 12.08.2017 including the Writ Petition filed by the petitioner. An interim order was passed in those Writ Petitions and the same is extracted hereunder:

"It appears that Transfer Petitions are filed before the Honourable Supreme Court to transfer the cases pending before different High Courts, like that of the present cases pending before this Court, to the Delhi High Court and the said Transfer Petitions are still pending before the Honourable Apex Court.

2. Mr. P.R.Gopinath, learned counsel appearing for NCTE, based on instruction, submitted that all

these Writ Petitions are also to be transferred and for such purpose NCTE has taken steps to include these Writ Petitions also in the Transfer Petitions which are already pending before the Honourable Apex Court.

3. It is admitted by both sides that as on today, that the Transfer Petitions are not ordered and the same are still pending before Honourable Supreme Court. It is also stated that the Honourable Supreme Court granted an interim order not to take coercive action and the said interim order was subsequently clarified on 08.09.2017 that the same was passed in respect of the subject matter of the Transfer Petitions is concerned. This Court, in fact, while entertained these Writ Petitions had directed the respondents not to precipitate the matter as an interim measure. Therefore, this Court of the considered view that the same order shall have to be continued to operate until further orders in so far as these writ petitions are concerned, however, subject to the outcome of the order to be passed in the Transfer Petitions pending before the Honourable Supreme Court. Accordingly, the respondents are directed not to take any coercive steps until further orders, however, subject to the outcome of the order to be passed in the Transfer Petitions. Post these matters after four weeks."

5. In the meantime, the second respondent issued show cause notice dated 07.05.2019, to the petitioner directing him to comply with 2014 regulations. The petitioner did not given any reply to the show cause notice since they were under the impression that this Court had already directed the respondents not to take any coercive steps till the outcome of transfer petitions that were pending before the Hon'ble Supreme Court. Since no reply was given, the final show cause notice came to be issued on 18.11.2019 to the petitioner. The petitioner gave his reply to the show cause notice. The petitioner did not meet any of the deficiencies that were mentioned in the final show cause notice and it was merely stated in the reply that already interim orders have been passed by this Court directing the respondents not to take any coercive steps and orders are awaited in the present Writ Petition. Pursuant to this reply, the impugned withdrawal was came to be passed by the second respondent on 21.02.2020 withdrawing recognition give to the petitioner institution.

6. Mr.P.Srinivas, learned counsel appearing on behalf of the petitioner submitted that the petitioner has satisfied almost all the requirements that have been pointed out as deficiencies in the final show cause notice. Learned counsel further

submitted that the petitioner did not give any reply touching upon the deficiencies raised by the respondents and the reply merely confined itself to the interim orders passed by this Court and the final outcome of the transfer petitions pending before the Hon'ble Supreme Court. Learned counsel further submitted that the transfer petitions subsequently came to be disposed of by the Hon'ble Supreme Court wherein, all the cases were transferred to the file of the High Court of Delhi. These petitions were also disposed of by the High Court of Delhi by order dated 19.09.2019. Learned counsel submitted that an opportunity must be given to the petitioner to give a detailed reply for the final show cause notice issued by the second respondent on 18.11.2019. The same shall be considered by the second respondent before taking any final decision after giving an opportunity to the petitioner institution.

7. Per contra, learned Central Government Standing Counsel appearing on behalf of the first and second respondents submitted that the petitioner was given sufficient opportunity to submit the reply for the show cause notice. Learned counsel submitted that the petitioner did not give any reply for the first show cause notice that was issued on 07.05.2019. Even for the final show cause notice dated 18.11.2019, the petitioner has not given any explanation and therefore the second respondent was left with no other alternative except to pass final orders withdrawing recognition. Learned counsel submitted that there are absolutely no grounds to interfere with the orders passed by the second respondent and this Writ Petition is liable to be dismissed.

8. This Court has carefully considered the submissions made on either side and perused the entire records placed on record.

9. The second respondent had issued show cause notice to the petitioner institution by pointing out various deficiencies. The petitioner was under the impression that already an interim order was passed by this Court in a batch of Writ Petitions and the respondents were directed not to take any coercive steps during the disposal of the transfer petitions which was pending before Hon'ble Supreme Court. Therefore, the petitioner did not specifically reply to any of the deficiencies pointed out in the show cause notice. The petitioner merely referred to the interim order passed by this Court.

10. It is seen from the records that ultimately the transfer petitions were disposed of by the Hon'ble Supreme Court and all the cases were transferred to the file of the High Court of Delhi. The transfer petitions were also disposed of High Court of Delhi by an order dated 19.09.2019.

11. It is the specific case of the petitioner that they have complied with almost all of the deficiencies pointed out in the show cause notice and if an opportunity is given, a detailed reply will be given to the second respondent and the second respondent can thereafter conduct inspection and pass necessary orders.

12. The petitioner has been given recognition in the year 2006 and they have been carrying on with this recognition till the year 2020 and by virtue of the impugned order dated 21.02.2020, the same has been withdrawn. In the considered view of this Court, an opportunity must be given to the petitioner to give a detailed reply for the show cause notice issued by the second respondent. If required, the second respondent can also make an inspection of the institution and the entire report can be placed before the next Southern Regional Committee conducted by the second respondent. By resorting to this process, the petitioner will have sufficient opportunity to defend themselves and the respondents will also have all the materials before them before coming to any final conclusion.

13. In view of the above, the impugned proceedings of the second respondent dated 21.02.2020 is hereby quashed and the matter is again remitted back to the file of second respondent. The petitioner is directed to give their explanation for the final show cause notice dated 18.11.2018 within a period of four weeks from the date of receipt of the copy of this order. Immediately, on receipt of the explanation, the second respondent shall make an inspection, if required, and place the issue in the next Southern Regional Committee meeting. If any explanation is required, the petitioner can be called for such an explanation and thereafter, a final decision can be taken by the second respondent.

14. This Writ Petition is allowed with the above directions. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

bkn

To

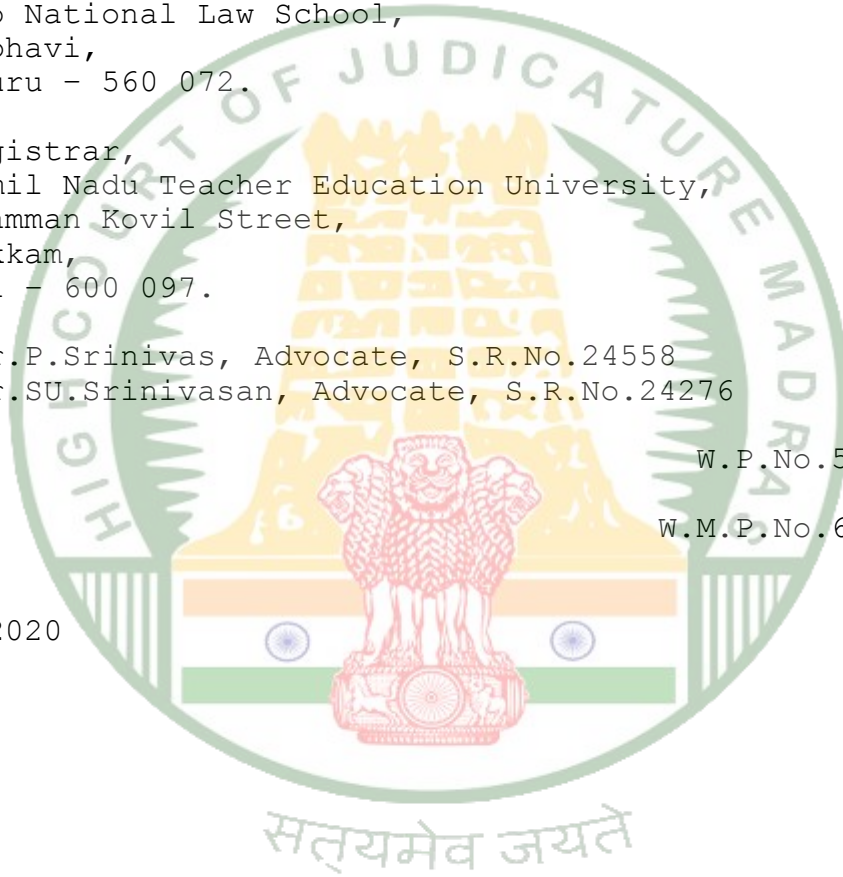
1. The Member Secretary,
The National Council for Teacher Education,
Hans Bhawan Wing II,
1, Bahadur Shah Zafar Marg,
New Delhi - 110 002.
2. The Regional Director,
Southern Regional Committee,
National Council for Teacher Education,
Jnanabarathy Campus Road,
Opp. to National Law School,
Nagarabhavi,
Bengaluru - 560 072.
3. The Registrar,
The Tamil Nadu Teacher Education University,
Gangaiamman Kovil Street,
Karapakkam,
Chennai - 600 097.

+1cc to Mr.P.Srinivas, Advocate, S.R.No.24558

+1cc to Mr.SU.Srinivasan, Advocate, S.R.No.24276

W.P.No.5908 of 2020
and
W.M.P.No.6922 of 2020

LN (CO)
CS/22/05/2020



WEB COPY