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

+ **W.P.(C) 13257/2019 & CM APPL. 53894/2019**

Date of decision: 17.01.2020

MAHARISHI DAYANAND EDUCATIONAL SOCIETY AND

ANR.

..... Petitioners

Through: Mr. Amitesh Kumar with Ms. Binisa
Mohanty and Ms. Priti Kumar,
Advocates.

versus

NATIONAL COUNCIL FOR TEACHER EDUCATION AND

ANR.

..... Respondents

Through: Ms. Arunima Dwivedi, Standing
counsel.

CORAM:

HON'BLE MR. JUSTICE RAJIV SHAKDHER

RAJIV SHAKDHER, J. (ORAL):

1. At the outset, Mr. Amitesh Kumar says that a typographical error has crept in the order dated 15.01.2020.
2. Mr. Amitesh Kumar points out that in paragraph 6 of the order dated 15.01.2020 instead of the expression “*managing committee*” what should have been incorporated was the expression “*governing body*”.
3. The order dated 15.01.2020 is corrected to that extent. The remaining part of the order dated 15.1.2020 shall remain unaltered.
4. On the previous date i.e. 15.01.2020, having heard the counsel for the parties at great length, the following had been recorded:-

“1. I have heard Mr. Amitesh Kumar, who appears on behalf of the petitioners, for some time.

2. *The record shows that the impugned decision to close petitioner no.2 institute was taken based on a request made in that behalf by the then Vice-President of the petitioner no.1 society.*

2.1 *The impugned decision was taken by the Northern Regional Committee (NRC) at its 310th meeting held between 20 and 22.11.2019.*

3. *Mr. Amitesh Kumar says that this was not a request which was backed by a decision of the governing body of the petitioner no.1 society or by a resolution of the general body of the petitioner no.1 society.*

4. *The record reveals that the impugned decision is pivoted only on the request made by the then Vice-President of petitioner no.1 society and not based on any deficiency found with petitioner no.2 institute.*

5. *Given these circumstances, Ms. Arunima Dwivedi, who appears on behalf of the respondents, will revert with instructions as to whether the NRC would be willing to consider the request of the petitioners' for withdrawal of the impugned decision if a representation is made by them and a direction is issued in that behalf by the court.*

6. *Mr. Amitesh Kumar says that if the NRC were to agree to the aforementioned suggestion, then petitioner no.1 society will place on record the view of the managing committee (today corrected as "Governing Body") as constituted today and also the resolution of the general body of petitioner no.1 society.*

7. *Ms. Dwivedi will also place on record the formal order passed by the NRC pursuant to the impugned decision, to which I have made a reference hereinabove.*

8. *At request, renotify the matter on 17.01.2020."*

5. A perusal of the aforesaid extract of the proceedings held on 15.01.2020 brings to fore the principal grievance of the petitioner.

6. As noted in paragraph 4 of the order dated 15.01.2020, the recognition given to the petitioner no. 2 institute was withdrawn on the request made by the Vice-President of petitioner no. 1 society. The decision did not have the mandate of the governing body of the petitioner no. 1 society.

7. Admittedly, the concerned Regional Committee i.e. the Northern Regional Committee (in short “NRC”) acted on the said request made by the Vice-President of the petitioner no. 1 society in its 310th meeting, which was held between 20.11.2019 to 22.11.2019, and decided to withdraw the recognition granted to petitioner no. 2 institute for conducting D.Ed course with an annual intake of 2 basic units (100 students)

8. It is the submission of Mr. Amitesh Kumar, who, appears on behalf on behalf of the petitioners that the mandate of Section 17 of the National Council for Teacher Education Act, 1993 (in short “NCTE Act”), 1993 was not followed. *Inter alia*, Mr. Amitesh Kumar says that no reasonable opportunity was given as mandatorily required under the said provision to establish that there had been no violation of the NCTE Act, 1993 and the rules and regulations framed thereunder.

9. It is the contention of Mr. Amitesh Kumar that merely because one disgruntled member of the petitioner no. 1 society approached the NRC for withdrawal of the recognition, that was not enough in law to withdraw recognition, the NRC was duty bound to call upon the petitioners to have their say in the matter.

10. It is Mr. Amitesh Kumar’s submission that since withdrawal of recognition affects the students, the NRC was obliged as a matter of law to accord an opportunity to the petitioners to have their say against the proposed action.

11. Ms. Dwivedi, on the other hand, contends that an alternate remedy by way of an appeal under Section 18 of the NCTE Act is available to the petitioners and therefore, this Court should not intercede in the matter at this stage.

12. Ms. Dwivedi says that since the Vice-President of the petitioner no. 1 society approached the NRC, the NRC chose to act in the matter and, accordingly, ordered withdrawal of recognition.

13. Ms. Dwivedi also says that the Vice President in fact surrendered the original documents which includes the resolution and the undertaking filed by way of an affidavit at the time when the recognition was sought.

14. The record shows that notice in this petition was issued on 17.12.2019.

15. Thereafter, time to file a counter-affidavit in the matter was given to the respondents on 08.01.2020 and 15.01.2020.

16. Despite three opportunities, no counter-affidavit has been filed on behalf of the respondents.

17. Therefore, the assertions made by the petitioners in the writ petition have to be accepted as no dispute has been raised qua the same.

18. That apart on 15.01.2020, I had directed Ms. Dwivedi to place on record the formal order passed by the NRC pursuant to the impugned decision.

19. This direction was issued as Ms. Dwivedi had indicated to me that the formal order has been passed, as is the usual practice, after a decision is taken by the concerned Regional Committee in their meetings concerning various institutes and colleges.

20. The formal order, however, has not been placed on record.

21. This Court, therefore, will have to rely upon the impugned decision which the petitioner has placed on record.

22. Insofar as Ms. Dwivedi's objection as to the maintainability of the present writ petition is concerned, which veers around availability of an alternate remedy, I am not persuaded to sustain the same.

23. The reason I hold this view is because withdrawal of recognition causes grave civil consequences and therefore, even *de hors* the provisions of Section 17 of the NCTE Act, the NRC was duty bound to accord an opportunity of hearing to the petitioners in view of the fact that such an order, if not the petitioners, would certainly affect the students. The impugned decision violates principles of natural justice. Relegating litigants to an alternate remedy is a self-imposed limitation on writ court. A writ court can and should interfere where there is non-adherence to principles of natural justice.

24. The NRC's cannot withdraw the recognition merely because one person and in this case, the Vice-President of the petitioner no. 1 society had approached them.

25. The NRC's are required to adhere to the mandate of the NCTE Act and the rules and regulations framed thereunder.

26. The NRC, ordinarily, should pass such orders, only if, deficiencies are found in the concerned institute/college.

27. Therefore, the other argument of Ms. Dwivedi that Section 17 comes into play only when there is violation of provisions of the NCTE Act and the rules and regulations framed thereunder and, thus, by logical corollary, opportunity of hearing had not been given cannot be sustained.

28. Thus, for the foregoing reasons, I am inclined to set aside the

impugned decision. It is ordered accordingly.

29. The NRC will re-examine the matter and for this purpose, the petitioners will place before the NRC, the view of the governing body of the petitioner no. 1 society and also resolution of the general body of the petitioner no. 1 society. This step will be taken by the petitioners within two weeks from the date of receipt of a copy of the order.

30. The NRC will consider the matter afresh and pass an appropriate order, thereafter, concerning the continuation of recognition *vis-a-vis* the D.Ed course offered by Petitioner no. 2 institute.

31. That being said, if the NRC is so inclined, it can also inspect the petitioner no. 2 institute before passing a fresh order in the matter.

32. *Dasti.*

JANUARY 17, 2020

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RAJIV SHAKDHER, J