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

+ **W.P.(C) 1928/2020 & CM APPL. 6755/2020**

STAR SCHOOL SAMITI 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, Standing
Counsel with Ms. Niharika Rai and
Mrs. Ankita, Advs. for NCTE.**

CORAM:

HON'BLE MR. JUSTICE RAJIV SHAKDHER

ORDER

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19.02.2020

CM APPL. 6754/2020

1. Allowed, subject to just exceptions.

W.P.(C) 1928/2020 & CM APPL. 6755/2020

2. Issue notice. Ms. Dwivedi accepts notice on behalf of respondents/NCTE.

3. Ms. Dwivedi says that she will argue the matter based on the record which includes the impugned orders.

4. Via the separate petition, challenge is laid to the order dated 4.9.2019, passed by the Western Regional Committee (for short 'WRC') whereby the recognition of petitioner no.2 institute has been withdrawn qua the B.Ed. course with intake of 100 seats (i.e. two units).

5. The petitioners, in effect, seek restoration of the recognition by having the impugned order set aside.

6. The broad facts that are required to be noticed to adjudicate upon the writ petition are as follows:

6.1 The petitioner no.2 institute was issued a show cause notice dated 23.5.2017, wherein the following infractions were noticed:

*“1. Original Staff Profile (I-Principal/HOD)+15-Faculties) for the session 2015-16 duly approved by the affiliating body.
2. Originally notarized (not xerox) CLU, NEC, Building Plan and Building Completion in Prescribed format.”*

6.2 The petitioner no.1 was given 21 days to file a reply. Concededly, the petitioners filed a reply after the period adverted to in the aforementioned show cause notice had expired.

6.3 Petitioner no.1 filed a reply dated 31.10.2017, which was, received by the WRC on 6.11.2017.

6.4 Thereafter, WRC, considered the show cause notice issued to petitioner no.2 institute along with the other matters in its 310th meeting held between 19.8.2019 and 21.8.2019.

6.5 At this meeting, a decision was taken to withdraw the recognition of petitioner no.2 institute. The reasons given qua the same as recorded by WRC were as follows:

58.	APW05892/ 223646	SHIV KUMAR SINGH COLLEGE OF PROFESSIONAL STUDIES, 111, 88, BANK COLONY, ANNAPURNA ROAD, INDORE, Madhya Pradesh	B.Ed.	The summary of the case reveals that the reply was not submitted within the stipulated time of 30 days as per the Show Cause Notice. Moreover, the Building Completion,
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				Certificate & Building Plan are not submitted in original. FDR of Rs. 4 lakhs are also not submitted.
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6.6 A perusal of the reasons given by the WRC would show that the decision taken by it to withdraw petitioner no.2 institute's recognition for B.Ed. programme was essentially on three grounds:

- (i) That it had not submitted a reply to the show cause notice within 30 days.
- (ii) The originals of Building Completion Certificate (in short 'BCC') and the Building Plan were not submitted.
- (iii) The Fixed Deposit Receipt (FDR) of Rs.4 lakhs was not submitted.

7. Mr. Amitesh Kumar, who appears on behalf of the petitioners, says that since no time limit has been provided either under the National Council for Teacher Education Act, 1993 or the NCTE (Recognition, Norms and Procedure) Regulation, 2014 (in short "2014 Regulations") for filing a reply to show cause notice, this ground given in the impugned decision is unsustainable in law.

8. In support of this submission, Mr. Amitesh Kumar relies upon the judgment of this Court dated 15.5.2019, passed in W.P.(C) No.5280/2019.

9. Insofar as the other ground is concerned, which is, that the BCC and the Building Plan were not submitted in original, it is contended that only notarize copies of the same were sought which were submitted to the WRC along with reply dated 31.10.2017.

10. As regards the third ground, which is, non-submission of an FDR amounting to Rs.4 lacs, Mr. Amitesh Kumar points out that this was not an aspect which was flagged in the aforementioned show cause notice.

11. Mr. Amitesh Kumar says that the petitioners are ready to submit an FDR of a value of Rs.4 lakhs.
12. Ms. Dwivedi, on the other hand, relies upon the impugned decision to resist the petition.
13. It is Ms. Dwivedi's contention that the petitioners should not have waited for 5 months to file a reply to the show cause notice.
14. Ms. Dwivedi says that the petitioners have also approached the Court after a delay of 5 months.
15. I have heard the learned counsel for the parties and perused the record. First and foremost, I may indicate that the timeframe given in the show cause notice to file a reply was only 21 days, although, in the impugned decision taken by the WRC, it has been stated that 30 days were given to file a reply.
16. Therefore, *prima facie*, there is a non-application of mind on behalf of WRC.
17. Mr. Amitesh Kumar is right that the coordinate bench has already taken a view that since no statutory time limit is given, non-consideration of the reply on merits was not a route available to the WRC.
18. In my view, at the time when the impugned decision was rendered, since WRC was in possession of the reply, it ought to have taken a view, one way or the other, on the merits of the case and not rejected the same by taking recourse to the fact that the reply had not been filed within 30 days.
19. Furthermore, it has been correctly pointed out by Mr. Amitesh Kumar that *via* the show cause notice only notarized (attested copies), of the BCC and Building Plans were sought and the originals.
20. Therefore, once again, there has been a non-application of mind by WRC in passing the impugned decision by holding that originals of these documents were not furnished.

21. Likewise, insofar fault is found with the petitioners in the impugned order in not submitting an FDR amounting to Rs.4 lakhs, this aspect also suffers from a complete non-application of mind as this was not an issue which was adverted to in the aforementioned show cause notice.

22. I must emphasize that withdrawal of recognition, accorded to any teacher training education institution entails severe civil consequences. The concerned regional committees are obliged to peruse the case files carefully before arriving at the decision one way or the other. This case is a prime example where WRC failed to look at its own show cause notice before rendering the impugned decision.

23. Accordingly, the impugned decision is set aside. The WRC is directed to reconsider the petitioners' case.

23.1 The petitioners will submit to the WRC an FDR amounting to Rs.4 lakhs and, any other documents, whether in original or in the form of copies, as may be sought by WRC.

24. Needless to add, WRC will take a decision qua the petitioners' case with due expedition. In the interregnum, the WRC will restore the recognition of petitioner no.2 institute *vis-à-vis* the concerned B.Ed. course.

25. Furthermore, in view of the order passed today, WRC will include, pending the decision in the matter, petitioner no.2 institute in the list of recognised institutes available on its website.

RAJIV SHAKDHER, J

FEBRUARY 19, 2020

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