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

+ **W.P.(C) 1943/2020 & CM No.6803/2020**

Date of decision: 19.02.2020

APEX PROFESSIONAL UNIVERSITY Petitioner
Through : Mr. Amitesh Kumar, Ms. Binisa
Mohanty and Ms. Priti Kumar, 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

RAJIV SHAKDHER, J. (ORAL):

CM No.6803/2020

1. Allowed, subject to just exceptions.

W.P.(C) 1943/2020

2. Issue notice to the respondents.
3. Ms. Arunima Dwivedi accepts notice on behalf of the respondents.
4. Ms. Dwivedi says that she would advance the submissions in the matter based on the record.

5. The substantive prayers made in the writ petition are as follows :

“(a) a writ of certiorari or any other suitable writ or order quashing and setting aside the impugned decision taken by ERC in its 278th meeting held on 16th – 18th January, 2020 rejecting petitioners' application for integrated teacher education programme (ITEP) i.e. [Pre-Primary to Primary (Arts Stream),

Pre-Primary to Primary (Science Stream), Upper Primary to Secondary (Arts Stream) and Upper Primary to Secondary (Science Stream)]; and/or

(b) writ of mandamus or any other suitable writ, order or direction directing the respondents to process the petitioners' application for integrated teacher education programme (ITEP) for i.e. [Pre- Primary to Primary (Arts Stream), Pre-Primary to Primary (Science Stream), Upper Primary to Secondary (Arts Stream) and Upper Primary to Secondary (Science Stream)].”

6. Learned counsel for the petitioners says that the only reason that the petitioners' application for Integrated Teacher Education Programme (ITEP) *qua* the subject course was rejected was because a hard copy of the online application had not been received by the respondents within 15 days, as prescribed.

7. Learned counsel for the petitioners says that the respondents have misread the relevant regulation. In this behalf, my attention has been drawn to Regulation 7(2)(b) of the National Council for Teacher Education (Recognition Norms and Procedure) Regulations, 2014 (in short “2014 Regulations”). The said regulation reads as follows :

“7. Processing of applications.-

xxx xxx xxx

(2) *The application shall be summarily rejected under one or more of the following circumstance –*

xxx xxx xxx

(b) *failure to submit print out of the applications made online along with the land documents as required under sub-regulation (4) of Regulation 5 within fifteen days of the submission of the online application.”*

8. Learned counsel for the petitioners further submits that the expression

“submit” in the aforementioned regulation does not necessarily exclude other modes of submission, for example, submission made *via* post.

9. It is the submission of learned counsel for the petitioners that as long as the concerned applicant has dispatched a hard copy of the online application before the expiry of 15 days *via* post, his application cannot be rejected by invoking the provisions of Regulation 7(2)(b).

10. Furthermore, learned counsel for the petitioners says that the expression “submit” cannot be equated with receipt of the hard copy of the online application.

11. According to learned counsel for the petitioners, the issue raised in the instant matter is covered by a series of orders passed by co-ordinate benches of this court. In this behalf, my attention has been drawn to the following orders :

- (i) Order dated 23.05.2016, passed in W.P.(C)No.4667/2016, titled : ***Raiganj Educare v. National Council for Teacher Education & Anr.***
- (ii) Order dated 21.02.2018, passed in W.P.(C)No.1634/2018, titled : ***Kumar B.Ed. College v. National Council for Teacher Education & Anr.***
- (iii) Order dated 23.02.2018, passed in W.P.(C)No.7597/2016, titled : ***Midnapore Institute of Education v. National Council for Teacher Education & Anr.***

12. In support of the aforementioned plea, it is pointed out that the hard copy of the online application was dispatched *via* speed post on 14.08.2019 which was well within 15 days window provided under Regulation 7(2)(b) as the online application filed by the petitioners was uploaded only on 31.07.2019.

12.1 Learned counsel for the petitioners relies upon the documents appended on pages 113 and 129 to 131 of the paper book for this purpose.

12.2 Since the document at page 130 is illegible, a better copy of the same has been placed before me. A perusal of this photocopy shows that the hard copy of the online application was, apparently, dispatched *via* speed post on 14.08.2019.

13. Ms. Arunima Dwivedi, who appears on behalf of the respondents, on the other hand, submits that the provisions of Regulation 7(2)(b) are sacrosanct and once a hard copy of the online application is not received within 15 days of the online application being uploaded, the respondents have every right to reject the application.

14. Having heard learned counsel for the parties and perused the record, in my view, as correctly argued by learned counsel for the petitioners, if the regulation were to be applied everything would turn on the expression “submission”.

15. The expression “submission” is not hemmed-in as to its width and amplitude by prescription of any mode by which submission is to be made by the concerned applicant.

16. Learned counsel for the petitioners is right that the hard copy of the online application can be submitted by various modes which includes submission *via* speed post as also physical delivery.

17. Furthermore, I agree with learned counsel for the petitioners that the expression “submit” cannot be equated with the word “receipt”. As long as the hard copy of the online application is dispatched *via* post before the expiry of the prescribed period of 15 days, it would not fall foul of Regulation 7(2)(b).

18. I may also note that, although, the court has expressed a *prima facie* view in the order dated 23.05.2016, passed in W.P.(C)No.4667/2016 i.e. ***Raiganj Educare*** case, that Regulation 7(2)(b) may not be valid, no final view has been rendered by at least this court.

19. Learned counsel for the parties have not been able to place any decision which renders a final view on the validity of Regulation 7(2)(b). However, to my mind, there is merit in the submission of the learned counsel for the petitioners, as was observed by the court in the very same judgment that once an online application has been submitted, the failure to submit a hard copy within the prescribed period can only be an irregularity for which a drastic step such as rejection of the application cannot be taken and that too, in my view, without any prior notice.

20. Therefore, for the foregoing reasons, I am inclined to allow the writ petition. It is ordered accordingly.

21. The impugned decision is set aside. The Eastern Regional Committee (ERC) will reconsider the application of the petitioners, *albeit*, in accordance with the extant provisions of the law.

22. Since the prescribed cut-off date is 30.04.2020, the ERC will carry out the aforesaid exercise with due expedition, though, not later than four weeks from the date of receipt of a copy of the order.

23. *Dasti.*

RAJIV SHAKDHER, J

FEBRUARY 19, 2020

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