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

+ **W.P.(C) 4664/2019**

GRAMIN UTHAN SHIKSHA SAMITI AND ANR. Petitioners

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

versus

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

..... Respondents

**Through : Mr. Mohit Siwach, Adv. for
Mr.Karan Sharma, Adv. for NCTE.**

CORAM:

HON'BLE MR. JUSTICE RAJIV SHAKDHER

ORDER

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10.02.2020

1. *Via* this writ petition, a challenge is laid to the order dated 13.09.2018 passed by the Northern Regional Committee (NRC) and the order passed by the Appeal Committee of the NCTE in appeal dated 18.02.2019.
2. Notice in this petition was issued on 01.05.2019. Despite opportunities being given, no counter affidavit has been filed on behalf of the respondents. Therefore, the contentions made in the writ petition which are supported by an affidavit will have to be accepted.
3. However, I did permit learned counsel for the respondents to argue the matter based on the record.
4. The record shows that the petitioners had applied for recognition to conduct the B.Ed. course. The application in this behalf was made on 30.06.2015 pursuant to two public notices issued by the NCTE dated 27.02.2015 and 30.05.2015.

5. The petitioners' application was, however, rejected on the ground that it had not obtained an NOC from the affiliating body in terms of the Regulation 5(3) of the NCTE (Recognition, Norms and Procedure) Regulations, 2014 (in short "2014 Regulations").

6. The petitioners challenged the aforesaid rejection before the Division Bench of this court. This writ petition was numbered as W.P.(C)No.5150/2018. The writ petition is pending adjudication before the Division Bench. The Division Bench, however, on 15.05.2018 passed an interim order whereby the respondents were directed to process the application filed by the petitioners for being granted recognition to run the B.Ed. course.

7. The record also shows that pursuant to the aforementioned order passed by the Division Bench, the petitioners placed before the NCTE a hard copy of the online application under the cover of the communication dated 22.05.2018. Along with this communication, the petitioners had also placed before the NCTE a copy of the order passed by the Division Bench.

8. The application was, accordingly, processed and the show cause notice was issued to the petitioners on 31.07.2018. *Via* this show cause notice, broadly, the following four deficiencies were communicated to the petitioners :

“(i) The institution has not submitted the Land Use Certificate issued by the Competent Authority to use the land for educational purpose.

(ii) Latest NOC from the District Town Planner regarding land use has not been submitted.

- (iii) *The institution has not submitted the Non-Encumbrance Certificate issued by the Competent Authority indicating that the land is free from all encumbrances.*
- (iv) *Building plan is in the name of M.D. College of Education, which is nowhere mentioned in online application.”*

9. The petitioners responded to the show cause notice with a reply dated 18.09.2018.

10. It is the petitioners’ case that all four deficiencies pointed out in the show cause notice issued by the NCTE were met and/or cured. However, the NRC vide order dated 13.09.2018 rejected the petitioners’ application on the following grounds :

- “(i) NOC from the District Town Planner regarding land use has not been submitted.*
- (ii) The institution has not submitted the Non-Encumbrance certificate issued by the Competent Authority indicating that the land is free from all encumbrances.*
- (iii) Building plan is in the name of M.D. College of Education, which is nowhere mentioned in online application.”*

11. Being aggrieved, the petitioners preferred an appeal with the Appeal Committee of the NCTE. However, the appeal filed by the petitioners was rejected. The order to this effect was passed by the Appeal Committee on 18.02.2019. The result was that the Appeal Committee sustained the order of the NRC dated 13.09.2018.

12. A perusal of the order passed by the Appeal Committee would show that it has narrowed down the grounds on which the appeal was dismissed to two aspects.

13. The first aspect that the building plan was not approved by the competent authority. The second was that the non-encumbrance certificate and the land use certificate was not verifiable.

14. Mr. Amitesh Kumar, who appears on behalf of the petitioners, says that the petitioners are flummoxed as to which is the competent authority that is required to approve the building plan.

15. Mr. Amitesh Kumar says that the petitioners had submitted a building plan which was approved by the Municipal Committee, Pataudi (Gurgaon).

16. Mr. Amitesh Kumar says that, though, a copy of the aforesaid building plan was not filed with the instant writ petition, which ought to have been filed, the copy of the same would be available in the record of the Appeal Committee in view of the reference to the same in the impugned order passed by the Appeal Committee.

17. Mr. Amitesh Kumar says that the original building plan is available (a copy of which he has shown me in court) and that he could place the same before the Appeal Committee.

18. Insofar as the other objection is concerned, which is, that the non-encumbrance certificate and the land use certificate were not verifiable as the originals of these documents were not produced, Mr. Amitesh Kumar says that the petitioners have in their possession the originals and had they been asked for, the same could have been submitted.

19. On the other hand, learned counsel for the respondents relies upon the order of the Appeal Committee to resist the objection.

20. Having heard learned counsel for the parties, I am of the view that the matter needs to be reexamined by the Appeal Committee.

21. Accordingly, the captioned writ petition is disposed of with the following directions :

(i) The impugned orders passed by the NRC and the Appeal Committee are set aside.

(ii) The Appeal Committee will re-hear the appeal.

(iii) A written notice in that behalf fixing the date and time will be served on the petitioners.

(iv) The petitioners will carry to the hearing the originals of the building plan, non-encumbrance certificate and the land use certificate.

(v) In case, the Appeal Committee requires the petitioners to have the building plan approved by a competent authority other than the Municipal Committee, Pataudi (Gurgaon), the notice will indicate the competent authority from which the petitioners should have the building plan approved.

(v) (a) The petitioners will, accordingly, carry the originals of the same to the hearing as well.

(v)(b) In such an eventuality, the Appeal Committee will give sufficient time to the petitioners so that the building plan approved by the concerned authority, indicated in the notice, is produced in original before the Appeal Committee.

RAJIV SHAKDHER, J

FEBRUARY 10, 2020

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