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

+ W.P.(C) 5217/2020

BALAJI B ED COLLEGE

..... Petitioner

Through

Mr.Amitesh Kumar, Ms.Priti Kumari
and Ms.Binisha Mohanty, Advs.

versus

NATIONAL COUNCIL FOR TEACHER
EDUCATION & ANR.

..... Respondents

Through

Ms.Arunima Dwivedi, Standing
Counsel.

CORAM:

HON'BLE MR. JUSTICE JAYANT NATH

ORDER

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13.08.2020

This hearing is conducted through video conferencing.

CM APPL. Nos.18822 & 18824/2020(exemptions)

Applications are allowed, subject to all just exceptions.

W.P.(C) 5217/2020 & CM APPL. No.18823/2020

1. This writ petition is filed seeking appropriate directions to direct the National Council for Teacher Education (*hereinafter referred to as the 'NCTE'*) to decide the appeal submitted by the petitioner under section 18 of the NCTE Act, 1993 and to stay the operation of the withdrawal order dated 04.09.2019 during pendency of the final decision of the statutory appeal as the appellate authority does not have powers to pass interim orders.

2. It is the case of the petitioner that it is an old existing recognized teacher training institution granted recognition on 10.07.2009 for conducting B.Ed. course with annual intake of 100 students. On 10.05.2013/13.01.2014, WRC issued a show cause notice claiming certain deficiencies. A revised

recognition order was issued to the petitioner on 27.05.2015. Thereafter, another show cause notice was issued on 21.12.2016 to the petitioner institution for the B.Ed. course. It is the case of the petitioner that a reply was duly filed with the respondents, however, on 19.08.2019, WRC decided to withdraw the recognition of the petitioner institution with effect from the end of the academic session next following the date of communication of the said order. The aforesaid order was challenged by the petitioner before this court by filing writ petition being W.P.(C) 3354/2020. The writ petition was disposed of on 05.06.2020 permitting the petitioner to file an appeal before the appellate authority under section 18 of the NCTE Act, 1993.

3. Learned counsel for the petitioner states that the necessary appeal has been filed but has not yet been heard. He further urges that the petitioner is in need of an urgent order as the counselling for the next academic session has started. Further though the impugned withdrawal order dated 04.09.2019 is effective only from the end of the academic year 2020-21, the petitioner is not being allowed to join counselling in this academic year. He also points out that the only ground on which the impugned order was passed was that there is alleged few days delay in filing of the reply to the show cause notice.

4. Learned counsel for the respondents states that the appellate authority is likely to pass an order shortly in the month of September, 2020. She further points out that there is a delay on the part of the petitioner in taking appropriate steps to challenge the impugned order.

5. I cannot help noticing that the show cause notice was issued by the respondents on 21.12.2016. It is the case of the petitioner that they have filed a reply to the show cause notice on 26.12.2016.

6. A perusal of the impugned withdrawal order dated 04.09.2019 shows that it notes that the reply to the show cause notice was received on 27.01.2017 and was placed in the meeting of the WRC on 19th -21st August, 2019. The impugned order further concludes that the reply was not submitted within the stipulated time of 30 days. It also notes that the staff profile has not been submitted, the building completion certificate, and building plan have not been submitted in original.

7. As far as the delay in filing of the reply to the show cause notice is concerned, it is manifest that the show cause notice was issued on 21.12.2016. There is a dispute on the date the reply was sent but the impugned withdrawal order admits that the reply was received on 27.01.2017. The matter was taken up more than 2 years later on 19th -21st August, 2019 by the WRC. There can be no justification for the WRC to have itself had taken two years to consider the matter and to disallow the reply on the alleged delay of a few days. In my opinion, there was no reason for the WRC to have not considered the reply, which was allegedly few days late, especially when the hearing took place the reply was on record.

8. Learned counsel for the petitioner has also pointed out that as per the show cause notice, the petitioner was to submit the notarised copies of the building completion certificate which has been duly submitted. He also states that the original staff profile has been duly submitted.

9. In my opinion, keeping into account the fact that the petitioner institution is an old recognized teacher training institution and is carrying out B.Ed. course, the petitioner has made out a *prima facie* case. It would be in the interest of justice that till the appellate authority decides the appeal filed by the petitioner, the impugned withdrawal order dated

04.09.2019 be stayed.

10. Accordingly, the said withdrawal order dated 04.09.2019 is stayed till disposal of the appeal by the appellate authority. The petitioner will be entitled to all consequential benefits of the present stay order. The respondents will take appropriate steps in this regard forthwith.

11. Nothing further survives in this petition. The petition is accordingly disposed of. All pending applications, if any, are also disposed of.

JAYANT NATH, J.

AUGUST 13, 2020/v