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

+ **W.P.(C) 7646/2019**

Date of decision: 27.02.2020

TARAKNATH COLLEGE OF EDUCATION Petitioner
Through: Mr. Kunal Chatterji, Advocate.

versus

NATIONAL COUNCIL FOR TEACHER EDUCATION AND
ANR. Respondents
Through: Mr. Mohit Siwach, Advocate for
Mr. Karan Sharma, Advocate.

CORAM:
HON'BLE MR. JUSTICE RAJIV SHAKDHER

RAJIV SHAKDHER, J. (ORAL):

1. Shorn of Verbiage, this writ petition is directed against the order dated 27.03.2019 passed by the Appeal Committee of the NCTE whereby it has confirmed the order dated 29.12.2017 passed by the Eastern Regional Committee (in short "ERC").
2. The record shows that the ERC refused recognition to the petitioner for conducting the D.El.Ed course on the sole ground that there was no compliance of the conditions stipulated in the Letter of Intent (in short "LOI") dated 25.08.2016.
3. The record also shows that a show cause notice dated 28.01.2017 was issued on the ground of non-compliance of the conditions stipulated in the LOI.
4. Concededly, the petitioner had filed a reply dated 10.02.2017

whereby, it requested the ERC to call upon the affiliating body to name external experts so that the selection committee could be constituted for the purpose of approving the faculty.

5. It is not disputed that the petitioner has approached this Court on an earlier occasion.

6. However, at this juncture, the directions issued by the Court, need not detain me as the Appeal Committee has confirmed the order of the ERC only on the ground that when the appeal was filed, the petitioner did not possess an order approving its faculty from the concerned affiliating body.

7. In the impugned order passed by the Appeal Committee, it has been indicated that since the appeal in the ordinary course was required to be filed by 28.2.2018 while the faculty approval was obtained only on 08.08.2018, the appeal, in a sense, was not maintainable.

7.1 According to the Appeal Committee, the petitioner had delayed in complying with the conditions stipulated in the LOI which was issued, as noticed above, on 25.08.2016.

7.2 The Appeal Committee stressed the fact that despite issuance of the show cause notice dated 28.01.2017, the petitioner was unable to comply with the conditions stipulated in the LOI.

7.3 Furthermore, the Appeal Committee has emphasized that the onus for obtaining faculty approval was on the concerned institution and that the petitioner could not have shifted the burden of obtaining the approval to ERC.

8. These facts and events are not in dispute.

9. The issue which, thus, arises for consideration and which was articulated by the counsel for the petitioner is that since the relevant

document i.e. approval obtained by the petitioner was available, the Appeal Committee ought to have considered the matter on merits.

10. In support of his submission, learned counsel for the petitioner relies upon the judgment dated 23.02.2017, passed in W.P. (C) 3231/2016, titled ***Rambha College of Education Vs National Council for Teacher Education & Anr.***

11. Mr. Mohit Siwach, who, appears on behalf of the respondents resists the relief sought for by the petitioner and in this behalf relies upon the orders passed the Appeal Committee as well as the ERC.

12. According to learned counsel, the writ petition could be dismissed.

13. I have heard learned counsel for the parties and perused the record.

14. As noted above, the dates and the events which are essential for the disposal of this writ petition are not in dispute.

15. The core issue clearly is that should the Appeal Committee not have decided the matter on merits given the fact that it had before it the document evidencing that faculty engaged by the petitioner stood approved.

16. In my view, this issue was no longer *res integra*.

17. This Court, in a series of judgments, has ruled that once the relevant material is made available to the concerned regional Committee or the Appeal Committee, *albeit*, in the course of the proceedings it ought to be taken and the matter be disposed of on merits.

18. I had an occasion to consider this aspect in W.P. (C) 13542/2019, titled ***ABC College of Education and Anr. Vs National Council for Teacher Education & Anr.*** The said writ petition was disposed of via judgment dated 20.12.2019.

19. While disposing of the matter, the following observations were made

in the aforementioned judgment:-

“7. Mr. Amitesh Kumar, who appears on behalf of the petitioners, says that this court has, time and again, ruled that the additional material, if presented in the course of hearing of the appeal, it will have to be considered by the Appellate Committee, while rendering a final decision in the matter.

8. For this purpose, Mr. Amitesh Kumar relies upon a series of judgments beginning with the judgment dated 23.02.2017, passed in W.P.(C)No.3231/2016, titled **Rambha College of Education v. National Council for Teacher Education & Anr.** It is not in dispute that this judgment, in fact, reiterated the law on this aspect of the matter, as enunciated by this court in its judgment dated 02.07.2010, passed in W.P.(C)No.4218/2010, titled **Guru Nanak Khalsa College v. NCTE & Anr.**

9. To be noted, the judgment in **Rambha College of Education** was carried in appeal by the NCTE right upto the Supreme Court.

10. The Supreme Court vide order dated 25.01.2018, passed in SLP No.42238/2017, titled **National Council for Teacher Education & Anr. v. Rambha College of Education** dismissed the same.

11. In support of his plea, as noticed above, Mr. Amitesh Kumar has cited the following judgments as well :

(i) Judgment dated 9.8.2017, passed in LPA 535/2017, titled **National Council for Teacher Education & Anr. v. Rambha College of Education.**

(ii) Judgment dated 5.9.2017, passed in W.P.(C) 10290/2016, titled **Ganpati College of Higher Education v. National Council for Teacher Education & Anr.**

(iii) Judgment dated 20.9.2017, passed in W.P.(C) 1594/2017, titled **The Kavery College of Education v. National Council for Teacher Education & Anr.**

(iv) Judgment dated 20.12.2017, passed in W.P.(C) 6447/2017, titled **Tathagat Teacher Training College v. National Council for Teacher Education & Anr.**

(v) Judgment dated 31.1.2018, passed in W.P.(C) 2152/2017, tilted **Vedmati Bhabnath Chaudhary College of Education v. National Council for Teacher Education & Anr.**

(vi) Judgment dated 9.2.2018, passed in W.P.(C) 493/2018, tilted **Kabiguru College of Education v. National Council for Teacher Education & Anr.**

(vii) Judgment dated 12.2.2018, passed in W.P.(C) 638/2018, tilted **Educational Culture Society (Regd.) v. National Council for Teacher Education & Anr.**

(viii) Judgment dated 21.2.2018, passed in W.P.(C) 10446/2017, tilted **Shri Pramod Ji Mahila Mahavidyalaya v. National Council for Teacher Education & Anr.**

(ix) Judgment dated 23.2.2018, passed in W.P.(C) 1733/2018, tilted **Jai Mata Dulhami Tribhuwan Mahavidyalaya v. National Council for Teacher Education & Anr.**

(x) Judgment dated 9.3.2018, passed in W.P.(C) 2170/2018, tilted **K.D. College of Education v. National Council for Teacher Education & Anr.**

(xi) Judgment dated 27.4.2018, passed in W.P.(C) 4365/2018, tilted **H.L. Girls Degree College v. National Council for Teacher Education & Anr.**

(xii) Judgment dated 3.4.2019, passed in W.P.(C) 10356/2016, tilted **Shri Umiya Kanya Mahavidyalaya & Anr. v. National Council for Teacher Education & Anr.**

12. Ms. Dwivedi cannot but agree that the position of law, as it stands today, is that, which is articulated in the aforementioned judgments.

13. Having regard to the aforesaid, the impugned order is set aside.

14. The matter is remanded to the ERC. The ERC will take into account the subsequent development, in particular, the document marked as Annexure P-17 and appended on page 163 of the paper book.

15. Before I conclude, I must indicate my concern, which is that, despite repeated judgments of this court, the NCTE does not appear to have taken into account the elucidation

of law by this court.

*16. Despite this court reiterating the principle in **Rambha College of Education** case, the Appellate Committee and, at times, even the Regional Committees seem to be ignoring the position of law, as has been enunciated by the court.*

17. This is one of the reasons why there is a docket explosion. Besides this, not following the law by superior courts, in my view, prima facie, amounts to a contempt. Uncertainty and inconsistency does not augur well for the rule of law.

18. I would implore the Appellate Committee to examine the aforementioned judgments and, then, issue directions.”

20. Having regard to the aforesaid position of law, the impugned order of both the ERC as well as the Appeal Committee are set aside.

21. The matter is remitted to the ERC for a fresh decision.

22. The ERC while taking the decision will take into account the document evidencing the approval of faculty, placed by the petitioner, before the Appeal Committee.

23. The ERC will also accord personal hearing to the authorised representative of the petitioner.

24. For this purpose, the ERC will issue a notice in writing indicating the date and time of the hearing.

25. After hearing the authorised representative of the petitioner, the ERC will pass a speaking order; a copy of which will be furnished to the petitioner.

26. Needless to add, in case, the petitioner is aggrieved by the order passed by the ERC, it will have liberty to assail the same, *albeit*, as per law.

27. The ERC will endeavour to hear the matter at the earliest.

28. The writ petition is disposed of in the aforesaid terms.

RAJIV SHAKDHER, J

FEBRUARY 27, 2020/c

