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

Date of Decision: 18th December, 2020

+ **LPA 395/2020**

MOTHER TERESA COLLEGE FOR GIRLS Appellant

Through: Mr.Mayank Manish & Mr.Ravi
Kant, Advocates

versus

NATIONAL COUNCIL FOR TEACHER

EDUCATION AND ORS Respondents

Through: Mr.Tushar Gupta & Mr.Sumit
Mishra, Advocates for R-2.

CORAM:

HON'BLE THE CHIEF JUSTICE

HON'BLE MR. JUSTICE PRATEEK JALAN

J U D G M E N T

D.N.PATEL, Chief Justice (Oral)

The proceedings in the matter have been conducted through video conferencing.

CM APPL. 33664/2020 (exemption)

Exemption allowed, subject to all just exceptions.

The application is disposed of.

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1. Being aggrieved and feeling dissatisfied by the judgment and order of the learned Single Judge dated 23.11.2020 (at Annexure P-1 to the memo of this LPA) passed in W.P.(C) 9231/2020, the original petitioner has preferred the present Letters Patent Appeal.

2. Having heard learned counsel for both the sides and looking to

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the facts and circumstances of the case, it appears that in terms of Section 4(1) of National Council for Teacher Education Act, 1993 (“NCTE Act, 1993”), Mother Teresa Parmarth Shikshan Sansthan, Kishangarh Renwal, Jaipur, Rajasthan-303603 had applied for the grant of recognition to Mother Teresa College for Girls, Kishangarh Renwal, Jaipur, Rajasthan-303603 for B.A. B.Ed./B.Sc. B.Ed. – four year undergraduate course programme. This application was preferred before Northern Regional Committee, NCTE on 14.06.2016.

3. It further appears from the facts of the case that a Show Cause Notice dated 02.03.2017 was issued to the appellant (original petitioner). It appears that reply to Show Cause Notice was not filed within time limit prescribed by the respondents. It further appears that Northern Regional Committee, NCTE decided the Show Cause Notice *vide* its order dated 27.04.2017 (order at Annexure P-5 to the memo of this LPA). It has been observed in this order dated 27.04.2017 by the Northern Regional Committee NCTE as under:

“Whereas in terms of section 4 (1) of the NCTE Act, 1993, Mother Teresa Parmarth Shikhsan Sansthan, Kishangarh Renwal Kishangarh Renwal, Jaipur, Rajasthan-303603 has applied for grant of recognition to Mother Teresa College for Girls, Kishangarh Renwal, Jaipur Rajasthan -303603 for B.A. B.Ed. / B.Sc. B.Ed. – 4 year integrated course programme dated on 14.06.2016 under section 14 (1) of NCTE Act, 1993 and received hard copy of the application in the Northern Regional Committee NCTE and hardcopy received dated.

And whereas, Northern Regional Committee in its NRC meeting has considered the reply to the SCN dated

27.04.2017 and has decided that deficiencies still persisted as under:

“Reply of SCN issued by NRC to the institution has not been received within stipulated time. Hence the committee decided that the application is rejected and recognition / permission is refused u/s 14/15 (3) (b) of NCTE Act, 1993. FDRs, if any, be returned to the institution.”

And whereas, under the above grounds the committee decided as per NCTE Regulations 2014, to reject the application of the institution for recognition of B.A. B.Ed./B.Sc.B.Ed.– 4 years integrated / course programme is hereby rejected.”

4. **After receiving the aforesaid order, no action was taken by this appellant for a long period.** Thereafter, a writ petition (being S.B. Civil Writ Petition No. 13478/2019) was filed by the appellant before the Hon’ble Rajasthan High Court. The said writ petition was dismissed by the Hon’ble Rajasthan High Court *vide* order dated 14.08.2019 in view of the statutory remedy available to this appellant under Section 18 of the NCTE Act, 1993. The appeal was preferred by this appellant under Section 18 of the NCTE Act, 1993 only on 24.08.2019. The Appeal Committee, NCTE, in its order dated 25.10.2019, dismissed the appeal on merits as well as on the ground that no cogent reason has been given for the delay in filing of the appeal. For the ready reference, the relevant part of the order of the Appeal Committee of NCTE, dated 25.10.2019 reads as under:

“xxxx xxx xxx

AND WHEREAS Appeal Committee noted that as per Section 18 of NCTE Act and extant appeal rules appellant, if not satisfied with the impugned order, can prefer appeal within a period of 60 days from the date of issue of impugned order. The delay in preferring appeal is condonable provided the appellant suitably and satisfactorily explains the reasons leading to the delay, Appeal Committee noted that appellant in its appeal memoranda and forwarding letter has not stated any reason for the delay which is more than 27 months after allowing legally admissible time of 60 days for preferring appeal.

AND WHEREAS Appeal Committee on scrutiny of the relevant regulatory file could not locate any reply to the SCN dated 02/03/2017. From the documents enclosed with the application dated 14/06/2016, Appeal Committee also could not locate the documents such as (i) Change of Land Use Certificate (CLU) and (ii) Non Encumbrance Certificate. The building plan was found to be approved by the local Civic Authority and it contained the name of proposed institution and the course applied for.

AND WHEREAS Appeal Committee concludes that whenever a Show Cause Notice is issued it is incumbent on the applicant institution to have submitted a suitable reply to Regional Committee in a time bound manner. The appellant had failed to respond suitably to the S.C.N. dated 02/03/2017 and also prefer timely appeal against the impugned order dated 27/04/2017. Appeal Committee, therefore, decided to confirm the impugned refusal order dated 27/04/2017.

AND WHEREAS after perusal of the memorandum of appeal, affidavit, the documents available on records and considering the oral arguments

advanced during the hearing, the Committee concluded that the NRC was justified in refusing recognition and therefore, the appeal deserved to be rejected and the order of the NRC is confirmed.

NOW THEREFORE, the Council hereby confirms the Order appealed against.”

5. In view of the aforesaid order, the appeal preferred by this appellant before the Appeal Committee of NCTE was dismissed against which a writ petition was preferred before this Court after passing of more than one year thereafter, i.e. on 18.11.2020. Thus, even after the order of the Appeal Committee of NCTE, much time has been consumed by this appellant in preferring the writ petition. The same has now been dismissed by the learned Single Judge *vide* judgment and order dated 23.11.2020 (Annexure P-1 to the memo of this LPA) on the ground of delay and laches.

6. Learned counsel for the appellant submitted that, even if there was a delay in filing the reply to the Show Cause Notice by this appellant, the reply should have been appreciated by the concerned respondent-authorities. We are not in agreement with the contentions raised by the appellant mainly for the reason that the appellant was required to remove the deficiencies raised within a time bound schedule prior to grant of permission for conducting the course in question. If the Show Cause Notice is not answered within the time bound schedule without any justification, the respondents cannot be faulted for not considering it. Moreover, there is also a delay on the part of the appellant in preferring the appeal before the Appeal Committee. The Regional Committee of NCTE had passed an order

on 27.04.2017 and the appeal was preferred after two years in 2019 before the Appeal Committee, NCTE. The Appeal Committee decided the appeal on 25.10.2019 and thereafter the writ petition was preferred before this Court after passing of one year i.e. on 18.11.2020.

7. Thus, it appears that there is gross delay on the part of this appellant (original petitioner) in preferring the appeal before the Appeal Committee of NCTE as well as in filing the writ petition. Moreover, the reply to the Show Cause Notice was also not filed within the stipulated time by this appellant.

8. These aspects have been properly appreciated by the learned Single Judge while deciding W.P.(C) 9321/2020 *vide* judgment and order dated 23.11.2020. We are in full agreement with the reasons given by the learned Single Judge in the impugned order.

9. In **U.P. Power Corporation Ltd. v. Ram Gopal, 2020 SCC Online SC 101**, the Hon'ble Supreme Court has held thus:

“16. Whilst it is true that limitation does not strictly apply to proceedings under Articles 32 or 226 of the Constitution of India, nevertheless, such rights cannot be enforced after an unreasonable lapse of time. Consideration of unexplained delays and inordinate laches would always be relevant in writ actions, and writ courts naturally ought to be reluctant in exercising their discretionary jurisdiction to protect those who have slept over wrongs and allowed illegalities to fester. Fence-sitters cannot be allowed to barge into courts and cry for their rights at their convenience, and vigilant citizens ought not to be treated alike with mere opportunists. On multiple occasions, it has been restated that there are implicit limitations of time within which writ remedies can be enforced. In **SS Balu v. State of Kerala**, this Court observed thus:

“17. It is also well-settled principle of law that “delay defeats equity”. ...It is now a trite law that where the writ petitioner approaches the High Court after a long delay, reliefs prayed for may be denied to them on the ground of delay and laches irrespective of the fact that they are similarly situated to the other candidates who obtain the benefit of the judgment.”

(emphasis supplied)

10. Looking to this aspect of the matter, and judicial pronouncement, no error has been committed by the learned Single Judge while deciding W.P.(C) 9231/2020 vide judgment and order dated 23.11.2020.

11. Respondents are always allowing fresh application to be filed in the prescribed manner, within the stipulated time, after complying all the requirements in terms of the NCTE Act, 1993. In case this appellant moves the application afresh for B.A. B.Ed./B.Sc. B.Ed. – four year undergraduate course programme for the new session, the same shall be considered by the concerned respondent authority in accordance with law.

12. Hence, there is no substance in this LPA and the same is hereby dismissed.

CHIEF JUSTICE

PRATEEK JALAN, J

DECEMBER 18, 2020/ ‘hkaur’