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

+ W.P.(C) 13802/2019

BABA GAJJAN DAS BALIKA MAHAVIDYALAYA AND

ANR.

..... Petitioners

Through: Mr. Amitesh Kumar with Ms. Binisa
Mohanty and Ms. Priti Kumari,
Advocates.

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

ORDER

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27.02.2020

1. This writ petition is directed against the communication dated 03.06.2019 issued by the Northern Regional Committee (in short "NRC").

2. Via this communication, the NRC has responded to petitioner no. 1's communication dated 18.04.2019 whereby a request was made that its application for being granted recognition qua M.Ed course *vis-a-vis* academic session 2017-2018 be considered.

3. In the impugned communication, the NRC has taken a decision that it did not receive the said application, which, according to the petitioner bore ID No. 9573/2016.

4. Thus, in effect, the NRC's position was that there was no case made out for considering the application as the same had not been received.

5. Being aggrieved, the petitioner approached this Court by way of the instant petition.

6. The petition was listed before the Court on 24.12.2019 when notice was issued.

6.1 On that date, respondents were represented by Ms. Arunima Dwivedi, Advocate.

6.2 Ms. Dwivedi was specifically asked to return with instructions as to whether or not the petitioner's online application as also the hard copy of the said application which the petitioner claimed it had filed with the NRC had been received by it.

6.3 In the proceedings on that date, a specific reference was made to the fact that it was the petitioner's case that the hard copy of the application had been sent by it via speed post to NCTE.

6.4 Furthermore, it was made clear on that date that, in case, instructions were received to resist the petition, counter-affidavit will be filed before the next date of hearing.

6.5 In this backdrop, the matter was posted for hearing on 26.02.2020.

7. Since the matter required further consideration, it was listed today i.e. 27.02.2020.

8. The respondents, despite an opportunity being granted in that behalf, have not filed a counter-affidavit in the matter.

9. Therefore, the assertions made in the writ petition would have to be accepted as there is no refutation of the same and given the fact that they are supported by an affidavit.

10. Thus, there are two crucial aspects that one would have to take into account in order to reach a conclusion as to whether the petitioner has made out a case for consideration of its application qua M.Ed course.

11. The petitioner has placed on record the online application dated 30.05.2016 which it had filed with the NCTE. This document is annexed as Annexure-P6 and appended on page 101 of the paperbook.

12. A bare perusal of this document would show that the online application was filed on 30.05.2016 with the respondent no. 1/NCTE.

13. Besides this, the petitioner has also placed on record, a letter dated 08.06.2016 which, according to the petitioner, is a letter along with which, it enclosed a hard copy of its application and the accompanying documents.

13.1 Notably, this letter, on the face of it, discloses that it is accompanied by enclosures.

13.2 Pertinently, the letter also carries an imprint of the speed post receipt which is indicative of the fact that the hard copy of the application and other enclosures were dispatched on the same date i.e. 08.06.2016.

14. Thus, to ascertain the truth of these contentions, I had asked Ms. Dwivedi, who, appeared on behalf of the respondents on the first date to respond as to whether or not, there was a dispute regarding the assertions made by the petitioner qua uploading of the online application and the despatch of the hard copy of the said application along with documents.

15. As noticed above, the respondents have chosen not to file a counter-affidavit in the matter despite opportunity being given in that behalf.

16. Given this position, to my mind, there is no reason why the respondents should not be called upon to consider the application of the petitioner concerning the M.Ed course.

17. Mr. Mohit Siwach, who, appears on behalf of the respondents says, *albeit*, across the bar that the hard copy has not been received and, therefore, the mere uploading of the online application will not serve any purpose.

18. In support of the plea, Mr. Siwach relied upon Regulation 7(2)(b) of the National Council for Teacher Education (Recognition Norms and Procedure), 2014 (in short “2014 Regulations”);

“7(2) The application shall be summarily rejected under one or more of the following circumstance:-

(b) failure to submit print out of the application 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”

19. A careful perusal of the aforesaid regulation would show that the petitioner was required to “**submit**” the hardcopy of the online

application within 15 days of submission of the online application.

20. An online application can only be submitted via the internet.

21. The question which arises is that if a hard copy is dispatched via post, as in this case, within 15 days period from the date of uploading the online application, would such an applicant have discharged its burden as per provisions of Regulation 7(2)(b).

22. I had an occasion to deal with a similar issue in a recent judgment in the matter of *Shaheed Pramod Technical Education And Development Trust And Anr. vs National Council for Teacher Education and Anr.*

23. This matter was numbered as W.P. (C) 1916/2020 and was disposed of via judgment dated 19.02.2020.

24. The view taken was that the expression “submit” 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.

25. It was held 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) of the 2014 Regulations.

26. In my view, a similar situation obtains in the present case and therefore, there is no good reason as to why the respondents should not be directed to consider the petitioner’s application qua the M.Ed course.

27. Thus, for the foregoing reasons, I am inclined to allow the prayer made in the captioned petition.
28. Accordingly, the impugned letter dated 03.06.2019 is set aside.
29. The respondents are directed to consider the application of the petitioner concerning the M.Ed course.
30. It is also made clear that if, for any reason, the respondents are unable to locate the petitioner's application, they would be at liberty to call upon the petitioner to submit a duplicate copy of the same via whichever mode found convenient.
31. Respondents will also be at liberty to seek documents, if any, required to process the petitioner's application.
32. Needless to add, the respondents will process the petitioner's application within a reasonable time.
33. The writ petition is disposed of in the aforesaid terms.

RAJIV SHAKDHER, J

FEBRUARY 27, 2020

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