

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

1019 WRIT PETITION NO.8444 OF 2021

**KARMAVEER SHIKSHAN PRASARA MANDAL
THROUGH ITS SECRETARY
VERSUS
NATIONAL COUNCIL FOR TEACHER EDUCATION THROUGH ITS
MEMBER SECRETARY AND OTHERS**

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Advocate for Petitioner: Mr. Bora Satyajit S.
Advocate for Respondents No. 1&2:
Mr. Amol S. Gandhi
AGP for Respondent No. 3: Mr. A. R. Kale
Advocate for Respondent No. 5: Mr. S. G. Karlekar
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**CORAM: S. V. GANGAPURWALA &
R. N. LADDHA, JJ.**

DATE: 07th OCTOBER, 2021

PER COURT:

1. The petitioner society was granted recognition for running B.Ed. College at village Raimoha in rented premises with annual intake of 100 students on 23.04.2005. On or about 30.09.2020 show cause notice was issued by respondent no. 2 seeking explanation as to why college is not shifted to the premises owned by the society. Reply was solicited within 30 days.

2. It is the contention of the petitioner that the show cause notice was received by the petitioner on 04.11.2020 and on 20.12.2020 respondent no. 2 passed an order withdrawing recognition. The petitioner filed an appeal. The appeal is dismissed.

3. Mr. Bora, learned Advocate for the petitioner submits that one of the condition granting recognition to the petitioner was that within a period of 3 years the petitioner institution should shift to its permanent building. The petitioner shifted to its permanent building in the year-2008 and since then is operating from the building owned by the petitioner. The show cause notice issued by respondent no. 2 was to enquire whether the petitioner has shifted under its own premises. The reply was solicited within 30 days. The petitioner received the show cause notice after lapse of 30 days and the order of cancelling the recognition was passed. In the appeal filed by the petitioner, the Appellate Authority did not consider the case of the petitioner that as per

rules prevailing then no permission was required to shift to it's own premises. The premises owned by the petitioner is at the same village Raimoha where the petitioner is granted permission to start B.Ed. College in rented premises.

4. Mr. Gandhi, learned Advocate for the respondents submits that the petitioner did not seek permission of the respondents while shifting to it's own premises. The learned Advocate relies on the Regulations of 2014, more particularly, Sub-clause 9 of Clause 8 of the said Regulations wherein permission is required before shifting.

5. We have considered the submissions canvassed by the learned Advocates for the parties.

6. The petitioner is granted recognition for running B.Ed. College under order dated 23.04.2005. Clause 7(d) of the Regulations namely NCTE (Form of application for recognition, the time limit for submission of application, determination of norms and standards for

recognition of teacher education programmes and permission to start new course or training) Regulations, 20002 prescribes that to provide the facilities the management / institution shall at the time of making application, have in its possession adequate land / land and building on ownership basis free from all encumbrances. Pending construction of permanent building in the above land, the institution may provide these facilities in suitable temporary premises up to a maximum period of 3 years, before expiry of which the institution should shift to it's permanent building. The Regulations of 2002 mandate that the institution granted recognition and running in rented premises have to shift to it's permanent building before the expiry of the period of 3 years. The petitioner claims to have shifted to the premises in the year-2008 owned by it.

7. It appears that the show cause notice issued to the petitioner on 30.09.2020 was received after the lapse of 30 days. The petitioner could not file reply to the said show cause notice. Under

the show cause notice it was suggested that the petitioner has not yet applied for shifting of the institution and the condition was given that within a period of 3 years the petitioner shall shift to the premises owned by it. Without say of the petitioner the recognition was cancelled. The appeal filed is dismissed.

8. The Regulations operating in the year-2002 would apply. When the institution was required to shift within 3 years from the date of recognition as per the Regulations of the year-2002 the petitioner was duty bound to shift to the premises owned by it before the year-2008. The Regulations-2014 would not apply if the petitioner has shifted to the own building prior to the implementation of the Regulations-2014 and was mandatorily required to shift as per the Regulations-2002. The said aspect, it appears, has not been considered by the authorities.

9. It also appears that opportunity to file reply to the show cause notice was also not

available to the petitioner as the show cause notice was received after the stipulated period.

10. In the light of above, the impugned order passed by the appellate authority and the order of cancelling the recognition is quashed and set aside.

11. The petitioner shall file reply to the show cause notice within a period of 15 days from today. Respondent no. 2 shall consider the reply filed by the petitioner and take decision afresh.

12. Writ Petition accordingly stands disposed of.
No costs.

[R. N. LADDHA, J.]

[S. V. GANGAPURWALA, J.]

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