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* IN THE HIGH COURT OF DELHI AT NEW DELHI

Date of Decision: 10.03.2021

+ W.P.(C) 3180/2021

MODERN COLLEGE

..... Petitioner

Through: Mr. Mayank Manish, Advocate
with Mr. Ravi Kant, Advocate

versus

NATIONAL COUNCIL FOR TEACHER
EDUCATION AND ANR

..... Respondents

Through: Mr. Jai Sahai Endlaw and Mr.
Subhoday Banerjee, Advocates.

CORAM:

HON'BLE MR. JUSTICE PRATEEK JALAN

PRATEEK JALAN, J. (ORAL)

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

1. The petitioner has approached this Court against a decision dated 02.05.2017 taken by the Northern Regional Committee ["NRC"] of National Council for Teacher Education ["NCTE"], by which the petitioner was granted recognition for one unit for the D.El.Ed. course. According to the petitioner, it had the necessary infrastructure for two units, which had been approved by the Inspection Committee of the NCTE. The petitioner has also assailed an order dated 15.05.2019, by which the Appellate Committee of the NCTE rejected its appeal

against the aforesaid order dated 02.05.2017.

2. The petitioner's application for recognition was made sometime in the year 2015, pursuant to which a letter of intent dated 08.07.2016 was issued to it. Neither the application nor the letter of intent clearly stated the number of units for which the application was made. Mr. Mayank Manish, learned counsel for the petitioner, submits that, at the relevant time, an applicant was not required to disclose this information in the application, and the assessment of infrastructure for the required number of units was undertaken at the stage of inspection. Be that as it may, it is clear from the impugned recognition order dated 02.05.2017 that the petitioner was ultimately granted recognition only for one unit.

3. Mr. Manish has drawn my attention to three letters – dated 05.06.2017, 20.07.2017 and 12.12.2018 – by which the petitioner requested the NRC to rectify its order, and grant recognition for two units. According to Mr. Manish, the aforesaid communications elicited no response, following which the petitioner filed an appeal under Section 18 of the NCTE Act, 1993 [“the Act”] before the Appellate Committee on 15.01.2019. The petitioner's appeal has been rejected by the Appellate Committee vide the second impugned order dated 15.05.2019 on the ground of delay.

4. Although Section 18 of the Act read with Rule 10 of the NCTE Rules, 1997 [“the Rules”], provides for a limitation period of 60 days within which an appeal can be filed, subject to condonation of delay by the Appellate Committee for sufficient cause, the Appellate Committee found that the petitioner's appeal had been filed with a

delay of approximately 20 months. The justification of the petitioner centered around the fact that the Chairman of the society which had established the petitioner's institution ["the Society"] suffered a road accident. In support of its contentions, the petitioner has filed a doctors' report dated 23.08.2017 [at page 65 of the writ petition] and an undated medical certificate of a different doctor, which certifies that the petitioner was on bedrest from August, 2017 to November, 2018.

5. This explanation has not found favour with the Appellate Committee, which has observed in its order as follows: -

“AND WHEREAS Appeal Committee noted that appeal preferred by appellant is delayed by more than a year and 8 months for which appellant has submitted a medical certificate dated 04/12/2018. The medical certificate dated 04/12/2018 is from a private medical practitioner without having registration number. Medical Certificate from a general physician for 15 months without any supporting evidence of medical tests and prescriptions is not found to be acceptable by the Appeal Committee. Appeal Committee, therefore, decided not to accept the appeal which is delayed by more than 18 months and appellant had almost 90 days to appeal against the impugned order before he met with an accident in August, 2017 as stated in the Medical Certificate.”

6. Mr. Jai Sahai Endlaw, learned counsel appearing for the respondents on advance notice, submits that the explanation for the delay has rightly been rejected by the Appellate Committee. He further submits, relying upon the decision of this Court in *Shri Vinayak College vs. National Council for Teacher Education & Anr.*

[W.P.(C)1238/2021, decided on 02.02.2021], that the petitioner's contention that one person alone was responsible for the affairs of the institution cannot be justified.

7. Having regard to the facts and circumstances of the case, I am of the view that the petitioner has not made out any ground for interference with the impugned order of the Appellate Committee, for the following reasons:

- (a) It may first be noted that the accident in question occurred on 23.08.2017, after the period of limitation for filing of the appeal under Section 18 of the Act (read with Rule 10 of the Rules) had already expired.
- (b) The medical documentation produced by the petitioner, as noted in the order of the Appellate Committee, and the documentation produced with the writ petition, are wholly inadequate to support a contention of sufficient cause for a delay of approximately 15 months. The petitioner has placed on record the doctor's noting from the casualty department dated 23.08.2017, and the medicolegal examination form. No evidence of hospitalization has been produced. Although several rather gruesome photographs have been annexed to the writ petition, they do not take the matter much further with regard to the period of hospitalization and justification for the delay.
- (c) Even assuming the contentions of the petitioner to be correct with regard to the incapacity of the Chairman of the Society, I am of the view that a society which runs (or intends to

establish) an educational institution cannot be dependent upon one person alone for the proper conduct of its affairs. Any educational institution must have sufficient administrative leadership to be capable of carrying on its responsibilities, even in the unforeseen absence of its principal officer. Mr. Endlaw is justified in placing reliance on the following observations of this Court in *Shri Vinayak College (supra)*:

“11. Firstly, in the case of a society which is desirous of establishing an institution of this nature, it is difficult to appreciate that only one office-bearer would have authority or knowledge over all matters. As the facts of the present case show, it is, at the very least, an imprudence for which the petitioner alone is responsible.

12. Further, the undisputed facts show that even after the Secretary of the Society was discharged from the hospital on 23.07.2018, a period of one year lapsed before the appeal was filed. Mr. Sharawat seeks to explain this delay of one year on the ground that the Secretary was still in poor health and could not follow up on the matter. As stated above, particularly in a situation when the Secretary has suffered an unfortunate accident of such seriousness and was incapacitated for a very prolonged period, the Society ought to have made alternative arrangements for its interests to be protected and followed up. It must be borne in mind that the Society claimed to have the necessary wherewithal to establish and administer an educational institution. That is no small enterprise, and could not conceivably have been undertaken by a one-man show.

13. In these circumstances, I do not find any infirmity in the Appellate Committee coming to the conclusion that the petitioner had not demonstrated “sufficient cause” for condonation of delay, as required by the provisos to Section 18(2) of the Act and Rule 10 of the Rules.”

8. An additional ground to decline interference under Article 226 of the Constitution in the present case is the gross delay in approaching this Court. The order of the Appellate Committee was passed on 15.05.2019, and the present writ petition was only filed on 08.03.2021. It is difficult to imagine that a party aggrieved by the rejection of its appeal on the ground of delay would compound its own problems by such tardiness in approaching the writ Court for relief. The impugned order of the Appellate Committee having been passed in May 2019, the petitioner had more than sufficient time to approach the Court, even prior to the Covid-19 pandemic. The Division Bench of this Court, in *Mother Teresa College for Girls vs. National Council for Teacher Education & Ors.* [LPA 395/2020, decided on 18.12.2020] – a decision to which I was a party – has *inter alia* held that delay in approaching the Court in these matters is sufficient ground for rejection of the writ petition. These observations of the Division Bench are equally applicable to the present case.

9. In the aforesaid facts and circumstances, the petitioner has not made out a ground for relief in the present writ petition, which is dismissed.

PRATEEK JALAN, J

MARCH 10, 2021

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