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

Date of Decision: 03rd June, 2021

+ W.P.(C) 5788/2021

SMT MANIBA MAHILA BED
COLLEGE & ANR.

..... Petitioners

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

versus

NATIONAL COUNCIL FOR TEACHER
EDUCATION & ANR.

..... Respondents

Through: Mr. Keshav Pratap Singh,
Advocate

CORAM:

HON'BLE MR. JUSTICE PRATEEK JALAN

J U D G M E N T

PRATEEK JALAN, J. (Oral)

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

CM APPL. 18145/2021 & CM APPL. 18147/2021 (Exemption)

Exemptions allowed, subject to all just exceptions.

The applications stand disposed of.

W.P.(C) 5788/2021 with CM APPL. 18146/2021 (for direction)

1. By this petition under Article 226 of the Constitution, the petitioner assails an order dated 26.09.2019 passed by the Appellate Committee of the National Council for Teacher Education [“NCTE”]. The petitioner also seeks a direction upon the NCTE to issue a revised

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Signing Date: 05.06.2021

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W.P.(C) 5788/2021

Page 1 of 13

recognition order for a second basic unit [50 seats] of its B.Ed. course.

2. The petitioner, a teacher training institute, was originally granted recognition by the Western Regional Committee [“WRC”] of the NCTE on 23.04.2005, for an intake of 100 seats. After the NCTE (Recognition Norms and Procedure) Regulations, 2014 [“2014 Regulations”] came into force, the petitioner and all other existing institutions were required to submit compliance affidavits, following which the NCTE issued revised recognition orders to them.

3. On 24.12.2014, the NCTE issued guidelines to its Regional Committees for processing of pending applications and for existing institutions, alongwith an Explanatory Note. This document has been relied upon in the writ petition, and a copy has been annexed thereto as Annexure P-6. The following provisions of the Explanatory Note are relevant, insofar as the B.Ed. programme of existing institutions is concerned:

“1. The NCTE Regulations, 2014 contemplate enhanced duration of B.Ed., M.Ed. and B.P.Ed. programmes from one to two years. The existing institutions offering these programmes will be given revised Recognition Order if they choose to come under New Regulations. No fresh application is necessary and they will be issued revised order of recognition w.e.f 2015-2016 provided they furnish the affidavit in the prescribed format. A copy of the revised order shall be endorsed to the affiliating university for their information and record.

The existing teacher education institutions, wherever necessary as per the revised Norms and Standards, shall provide additional built up area, create

additional infrastructure, appoint additional staff and furnish additional Reserve Fund per unit per programme by October 31, 2015. However, if the institution is not willing to fulfil the norms prescribed in the New Regulations as mentioned above, its Recognition will automatically become invalid as the old Regulations have already been superceded.

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3. In the new Regulations, the size of one basic unit for B.Ed. has been reduced to 50 from 100. The institutions are eligible to have two basic units of 50 each initially. In order to have two basic units of 50 each, they need to construct additional built up area, appoint additional staff, furnish additional Endowment and Reserve Fund.

The institution shall opt for one or two basic units in the undertaking enclosed with the covering letter. Based on the undertaking, revised recognition order will be issued accordingly. In case the institution opts for two basic units of 50 each, they will be permitted to admit students for two basic units from 2015-2016 onwards, but they shall construct additional built up area, create additional infrastructure and pay additional Endowment and Reserve Fund by October 31, 2015. If they fail to adhere to this condition, the recognition for additional unit will be withdrawn from 2016-17 onwards.

In case the institution does not opt for two basic units and choose to have only one basic unit, they shall admit only 50 students from the academic year 2015-16 onwards.”

(Emphasis supplied.)

4. Pursuant to the aforesaid requirements, the petitioners addressed a communication dated 12.01.2015 to the WRC enclosing therewith

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W.P.(C) 5788/2021

Page 3 of 13

an affidavit of the same date. The said communication reads as follows:-

“ xxxxx xxxxx xxxxx
Subject: For optimization of one basic unit of 50 students
for B.Ed. Programme
Code No: 323133

Respected Sir,

With due respect above cited subject, we **Maniba Mahila B.Ed. College (B.Ed.)** run by Shree Monark Education Trust, At & Po-Vahelal Ta-Dascroi, Di-Ahmedabad-382330, Gujarat running B.Ed. Programme since 2005 with the intake of 100.

Here with we would like to inform you that from academic year 2015-16 onward we are selecting **one basic unit for 50 students** in upcoming academic year. We also attached original affidavit on Rs.100/- Franking in the prescribed format. So please consider our request favourably and take the appropriate steps to expedite the matter.”

(Emphasis from the original.)

5. The affidavit accompanying the said covering letter was in terms of the proforma attached to the guidelines. It reads as follows:-

“I Hasmukhbharathi Goswami Son of Mohanbharathi Goswami resident of Ahmedabad, Gujarat, India and Managing Trustee of **Maniba Mahila B.Ed. College, At & Po-Vahelal, Ta-Dascroi Di-Ahmedabad- 382330, Gujarat, India** certify that I have been authorized by the Management of the above mentioned institution to give this Affidavit on behalf of the institution, which at present offers B.Ed. course of One Year duration (File Code No. APW00501/323133) with an annual intake of 100. It is further certified that the Management has studied the National Council for Teacher Education (Recognition Norms and Procedure) Regulations, 2014 carefully and

has understood their implications for the existing Teacher Education Institutions offering NCTE recognized Teacher education Programme(s). (two basic units of 50 students each)

2. *Further, I have been authorized by the Management to state that the institution shall fulfill the revised Norms relating to infrastructure, instructional facilities, enhanced amount of Endowment and Reserve Funds, Number and qualifications 'of Teaching Staff, Curriculum and implementation Strategies, in view of the change in duration/ intake of the programme(s) offered in the institution within the time limit allowed by NCTE."*

(Emphasis supplied.)

6. By a further communication dated 18.03.2015, the petitioner stated as follows:-

"Subject: Intimation regarding option for one basic unit of 50 students (50+50) for B.Ed. Course under the jurisdiction of WRC, NCTE, Bhopal

Ref.: NCTE Code No. 323133

Respected Sir,

In pursuance of the notice currently hosted on your website, we would like to inform your good self that we have already informed you about our option for one basic unit of 50 students each (i.e. 50+50) for our B.Ed. course and also submitted and affidavit dated 12th January, 2015, duly executed, on a stamp paper Rs.100/- as per prescribed format, to this effect, vide our letter No.2014-15/16 dated 12th January, 2015 (copies enclosed for ready reference)"

(Emphasis supplied.)

7. Upon receipt of the aforesaid affidavit and covering letter, the WRC issued a revised recognition order dated 31.05.2015 to the petitioner for one unit of 50 students. (Although the aforesaid recognition was withdrawn by an order dated 02.01.2018, it was subsequently restored pursuant to an order of the Appellate Committee, and is not the subject matter of these proceedings.)

8. The grievance of the petitioners concerns the failure of the respondents to grant recognition for the second unit. The petitioners assailed this by way of an appeal under Section 18 of the NCTE Act, 1993 which culminated in the impugned order of the Appellate Committee dated 26.09.2019. The relevant parts of the aforesaid order are reproduced below:

“AND WHEREAS Sh. Has Mukh M. Goswami, Managing Trustee and Sh. D.P. Negi, Advisor, Smt. Maniba Mahila B.Ed. College, Vahelal, Naroda, Dascroi, Ahmedabad, Gujarat dated presented the case of the appellant institution on 28/06/2019. In the appeal and during personal presentation it was submitted that in terms of provisions contained in NCTE Regulations, 2014, our institution had submitted to WRC, NCTE, through oversight and due to typographical error, an option for one basic unit of 50 students instead of two basic units (i.e. 100 students) for conducting B.Ed. Programme of two years duration vide our letter no. 2014/15-16/24 dated 12.01.2015. We already had an annual approved intake of 100 students for B.Ed. programme since inception of our institution in 2005 and as a matter of fact we wished to opt for two basic units of 50 students each for the said programme and not only one unit. On receipt of revised recognition order no.

WRC/APW00501/323133/2015/142365 dated 31.05.2015 from WRC, NCTE granting us annual intake of 50 students (one basic unit) from the academic session 2015-16, we realized the mistake/slippage on our part in not opting for two basic units each of 50 students. In the circumstances, we had submitted the representation vide our letter no. 2015-16/01 dated 30.06.2015 addressed to the Regional Director, WRC, NCTE praying to grant us annual intake of two basic units of 50 students each instead of one basic unit of 50 students and arrange to issue a fresh revised recognition order to that effect. Subsequent to submission of the above mentioned representation, we have submitted various reminders to the Regional Director, WRC, NCTE vide our letters no. SMET/SMMBC/NCTE/2016-17/17 dated 13.01.2016, SMME/NCTE/2017-18/78 dated 13.07.2017, SMET/SMMBC/NCTE/2018-19/05 dated 25.07.2018, SMET/SMMBC/WRC-NCTE/2018-19/11 dated 08.10.2018 and SMET/SMMBC/WRC-NCTE/2018-19/23 dated 11.04.2019. However, in spite of repeated reminders and also telephonic requests, we have not so far received any response. Hence, we are submitting this appeal with a prayer to grant us annual intake of two basic units each of 50 students. As stated hereinbefore, our institution had an annual intake of 100 students (two basic units of 50 students each) since its inception in 2005 and wished to opt for two basic units of 50 students each even after the implementation of NCTE Regulations, 2014. We have sufficient land and created necessary academic/physical infrastructure and facilities for running the B.Ed. programme with annual intake of 100 students even before applying for obtaining the initial recognition from WRC, NCTE in 2005. We have

appointed adequate academic (teaching) faculty members, administrative and professional non-teaching and supporting staff in terms of the provisions of NCTE Regulations, 2014 as amended from time to time and fulfil, norms, standards and all requisite conditions for the same.

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AND WHEREAS *the Committee noted that the appellant admitted that at the time of grant of revised recognition under the NCTE Regulations, 2014, they did not opt for two units (100 intake) by mistake. The Committee noted that the appellant, in their affidavit dt. 12/01/2015, clearly mentioned that from the academic year 2015-16 onwards they are selecting 'one basic unit for 50 students'; these words in quotation having been underlined by the appellant. The WRC took further action as per the option of the appellant and issued the revised recognition for one unit as far back as 31/05/2015. Even this order underwent withdrawal subsequently and it was only after appeal, it was restored on 11/07/2018.*

AND WHEREAS *in view of the above position, the Committee concluded that there is no justification to consider the appeal at this stage and therefore, it deserved to be rejected. The appellant is free to apply for additional intake as and when applications are invited by the Council.*

AND WHEREAS *after perusal of the Memoranda of Appeal, affidavit, documents on record and oral arguments advanced, the Committee concluded that there is no justification to consider the appeal at this stage and therefore, it deserved to be rejected. The appellant is free*

to apply for additional intake as and when applications are invited by the Council.”

(Emphasis supplied.)

9. Having heard Mr. Amitesh Kumar, learned counsel for the petitioner and Mr. Keshav Pratap Singh, learned counsel for the respondents, appearing on advance notice, I am of the view that the present case calls for no interference under Article 226 of the Constitution.

10. The guidelines issued by the NCTE pursuant to the 2014 Regulations, clearly provided a choice to existing institutions to decide whether they wish to come under the new Regulations, and required them to submit an affidavit in the prescribed format, if they were so inclined. Clause 3 of the Explanatory Note extracted above makes it clear that an institution which had an intake of 100 seats initially, was given the option of continuing with 100 seats [two units under the revised Regulations] or reducing the intake to 50 seats [one unit under the revised Regulations]. In the event the institution wished to continue with an intake of 100 students, the 2014 Regulations required significant upgradation of infrastructure. The clause therefore provided the option to the institution to opt for one or two basic units in the undertaking enclosed with the covering letter. It is clearly stated that, in the event the institution does not opt for two basic units and chooses to have only one basic unit, it shall admit only 50 students from the academic year 2015-16 onwards.

11. The petitioners’ letter dated 12.01.2015, under cover of which the affidavit was sent in the prescribed format, stated expressly and

unambiguously that the petitioner opted for one basic unit of 50 students. These words are in bold and underlined in the aforesaid letter. The petitioner's assertion before the Appellate Committee and before this Court that this was an inadvertent typographical error, is unacceptable.

12. Mr. Kumar seeks to rely upon the accompanying affidavit and the subsequent letter dated 18.03.2015, which referred to two units. The accompanying affidavit referred to “*(two basic units of 50 students each)*” in parentheses at the end of the first paragraph. The affidavit does not clearly state, in so many words, that the petitioners have opted for two units of 50 students each for the future. At best, it creates an ambiguity which was easily resolved by reference to the covering letter.

13. Similarly, the subsequent communication of the petitioners dated 18.03.2015, relied upon by Mr. Kumar, is ambiguous. While the petitioners referred to “*one basic unit of 50 students*”, it also adds, in parentheses, “*(50+50)*”. The aforesaid communication was prior to the revised recognition order having been issued. It does not refer to any typographical error in the original communication dated 12.01.2015, but reiterates the intimation regarding the option for one basic unit of 50 students. Again, at the very highest, the petitioners created an ambiguity about their option. The contention of Mr. Kumar with regard to this letter is also belied by the categorical statement in the appeal filed by the petitioners (quoted in the impugned order of the Appellate Committee) that they realised the mistake only *after* the revised recognition order dated 31.05.2015 from the WRC.

14. The petitioners are not entitled to benefit from confusion of their own creation. The covering letter dated 12.01.2015 was unambiguous and unequivocal in indicating the petitioners' option for one basic unit of 50 students. The contention that this was by reason of a "typographical error" is disingenuous – the words are in bold and underlined. The option was also reiterated in the subsequent letter dated 18.03.2015. The affidavit dated 12.01.2015 and letter dated 18.03.2015 were, at best, ambiguous. As stated above, the petitioners' contention regarding their import is falsified by reference to the appeal filed by them, wherein they maintain that they realised their "mistake" only upon receipt of the revised recognition order dated 31.05.2015. The contrary argument raised now is an afterthought, and is rejected.

15. The action of the respondents cannot, in these circumstances be characterised as unreasonable or arbitrary, calling for the intervention of this Court by the petitioner under Article 226 of the Constitution. The reasons given by the Appellate Committee in the impugned order dated 26.09.2019 are thus in order and do not call for interference.

16. Mr. Kumar makes a grievance that, before the Appellate Committee, the petitioners had stated that several representations had been submitted to the WRC which had elicited no response. According to Mr. Kumar, the Appellate Committee ought to have dealt with this aspect of the matter also. In my view, this submission is also misconceived. The Appellate Committee examined the petitioners' case on merits, and there was no occasion to give any direction as to the representations submitted by them. The Appellate Committee has rightly held that the petitioners can apply for an

additional unit when such applications are invited by the NCTE.

17. Mr. Kumar relies upon an order passed by a co-ordinate bench of this Court dated 24.12.2020 in W.P.(C) 11103/2020 [*Shree Swaminarayan B Ed College & Anr. vs. National Council for Teacher Education & Anr.*]. It appears from the order that the petitioner therein had also sought issuance of a revised recognition order for the remaining one basic unit of the B.Ed. course, under the 2014 Regulations. The contention of the petitioner was recorded to the effect that the revised recognition order had been issued for one unit, inadvertently referring to the affidavit of the institution in the said case, although in the affidavits filed by the petitioner therein, the petitioner had stated about its intake of 100 seats. It appears that the revised recognition order had been issued erroneously for 50 seats referring to the very same affidavits. It is in these circumstances that the Court directed the respondents to issue a revised recognition order for the remaining one unit. This order is clearly distinguishable in the present case, in view of my finding above that the petitioners herein had clearly opted for only one unit of 50 students. No such finding has been returned in the order cited by Mr. Kumar.

18. In a case where the institution had exercised its option, in clear and unequivocal terms, I am of the view that no relief can be granted to it under Article 226 of the Constitution, even if it attempted subsequently to muddy the waters by certain ambiguous assertions.

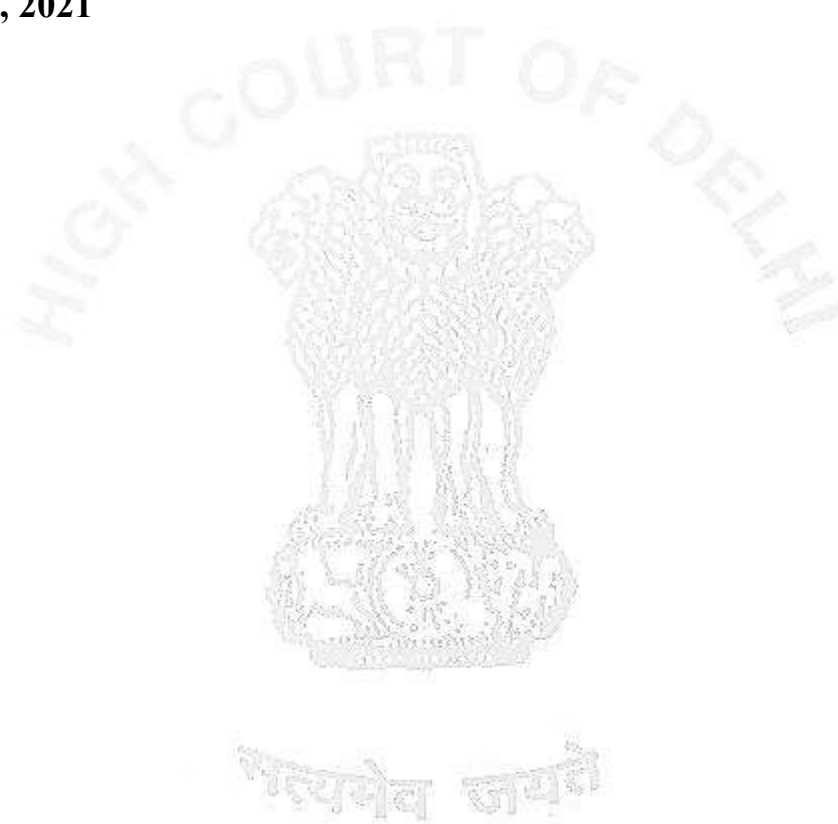
19. The petition is, therefore, entirely unmerited and is dismissed with costs of Rs. 30,000/- to be deposited by the petitioner with the Delhi High Court Legal Services Committee [UCO Bank, Delhi High

Court, Shershah Road, New Delhi; Account No.: 15530110008386; IFS Code: UCBA0001553], within two weeks from today. A copy of this order be communicated by the Registry to the Secretary, Delhi High Court Legal Services Committee.

PRATEEK JALAN, J.

JUNE 3, 2021

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W.P.(C) 5788/2021

Page 13 of 13