

\$~40 (2021 Cause List)

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

Date of Decision 24th August, 2021

+ W.P.(C) 8894/2021

GPS INSTITUTE OF EDUCATION Petitioner

**Through: Mr. Sanjay Sharawat,
Advocate.**

versus

**NATIONAL COUNCIL FOR TEACHER
EDUCATION & ANR. Respondents**

Through: Ms. Kartika Sharma, 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.

1. Issue notice. Ms. Kartika Sharma, learned counsel, accepts notice on behalf of the respondents. The petition is taken up for disposal with the consent of learned counsel for the parties.

2. The petitioner applied to the Northern Regional Committee ["NRC"] of the National Council for Teacher Education ["NCTE"] for recognition of its D.El.Ed. course on 30.12.2012. The petitioner's application was rejected on the ground of a ban imposed by the State of Rajasthan on setting up of new institutes. The petitioner challenged the aforesaid rejection by way of a writ petition before the Rajasthan High Court, being S.B. Civil Writ Petition No. 3598/2018. The High

Signature Not Verified

Digitally Signed By:SHITU

NAGPAL

Signing Date:25.08.2021

19:12:59

W.P.(C) 8894/2021

Page 1 of 8

Court, by an order dated 14.03.2018, disposed of a batch of writ petitions, including the one filed by the petitioner. It directed the respondents to reconsider the petitioner's application.

3. In the meanwhile, the NCTE Regulations, 2014 ["2014 Regulations"] were notified which *inter alia* introduced the requirement of a No Objection Certificate ["NOC"] from the affiliating body and a requirement that the institution must be a composite institution.

4. With respect to the petitioner's application, the NRC issued a show cause notice dated 28.02.2019, on the ground of non-submission of the NOC and proof of the institution being a composite institution. In the said show cause notice, reference was also made to a communication dated 18.12.2018 from the NCTE headquarters.

5. The petitioner submitted a reply dated 22.03.2019 stating that the NOC from the affiliating body had been submitted on 26.02.2019 and that the requirement of a composite institution was introduced only by the 2014 Regulations, whereas the petitioner's application, having been made on 30.12.2012, would be governed by the NCTE Regulations, 2009 ["2009 Regulations"].

6. A final show cause notice dated 10.12.2020 was issued to the petitioner by the Western Regional Committee of the NCTE ["WRC"] [to whom jurisdiction over institutions in the State of Rajasthan had been transferred in the meantime]. In the aforesaid notice, the ground regarding the petitioner-institution not being a composite institution was reiterated and the petitioner was asked to file a reply.

7. The petitioner, in its reply dated 08.01.2021, reiterated its contention regarding inapplicability of the 2014 Regulations.

8. The immediate grievance ventilated in the present writ petition is regarding a decision taken in a meeting of the WRC on 07-09.07.2021 wherein the WRC has decided as follows:-

“The original file of the Institution along-with other related documents were carefully considered and examined by WRC in the light of NCTE Act, 1993, Regulations and Guidelines issued by NCTE from time to time and the following observation were made:-

- 1. The institution is not a composite institution as per clause 2 (b) of NCTE Regulations 2014.*
- 2. The reply to show cause notice submitted by the institution is not acceptable.*

In view of the above, the Committee decided that application of the institution be refused u/s 14 (3) (b) of the NCTE Act for D.El.Ed programme.”

9. Mr. Sanjay Sharawat, learned counsel for the petitioner, submits that the view taken by the WRC with regard to the requirement of a composite institution is directly contrary to the position taken in proceedings before the Division Bench of this Court, as recorded in an order dated 21.02.2018 passed in W.P.(C) 1573/2018 [*Bhai Surender Kumar Memorial College of Education vs. National Council for Teacher Education and Anr.*]. That writ petition was directed against an order of the NRC dated 30.12.2015 wherein one of the grounds related to the institution not being a composite institution. The order of the Division Bench dated 21.02.2018 has been placed on record,

wherein the following stand of the NCTE has been noticed and orders were passed on that basis:-

“4. It is submitted by Ms. Monika Arora, standing counsel for respondent Nos. 1 and 2 that, in view of the fact, that the application was filed before the amendment was effected, the respondents shall undertake a re-scrutiny of the application of the petitioner's premised on the regulations which were vogue prior to 2014 and on the date when the applications were filed.

5. In view thereof, the impugned order dated 30th December, 2015 is hereby set aside and quashed. The respondents shall ensure that the scrutiny of the petitioner's application shall be undertaken in terms of the statement made on behalf of the respondents before us today. The scrutiny shall be undertaken and the order passed thereby shall be positively communicated on or before 3rd March, 2018 which will be the last day for consideration of such application. The writ petition is allowed in the above terms.”

10. Mr. Sharawat also submits that the NCTE's instructions dated 18.12.2018, referred to in the first show cause notice issued to the petitioner, have been quashed by an order of this Court dated 25.02.2020 in W.P.(C) 2126/2020 [*Om College of Education vs. National Council for Teacher Education and Ors.*].

11. Mr. Sharawat has drawn my attention to the guidelines issued by the NCTE pursuant to the notification of the 2014 Regulations. The guidelines dated 24.12.2014 *inter alia* provided that existing teacher education institutions will be permitted to function as standalone institutions but shall move towards becoming composite institutions preferably by 2016-17. In a communication dated 06.02.2015, the NCTE also decided as follows:-

Sl.No	Clarification sought by the NRC	Clarification given by the NCTE Hqrs.
	xxxx	xxxx
3.	<i>As the regulations, 2014 provides for recognition in composite institution, how the applications pending in the NRC will be processed further/</i>	<i>The institutions whose applications were pending with the Regional offices before 01.12.2014(the date of notification of Regulations 2014), shall be considered for recognition as stand alone institutions but while issuing formal order, there shall be a condition in the order that they shall move gradually to become a composite institution but not later than 2016-17.</i>

12. Mr. Sharawat has additionally referred to several orders of the Appellate Committee of the NCTE which have taken a similar view, including an order dated 27.02.2018 in the case of Chandrawati Gurukul Girls T.T. College, Vamanpura, Ludhawai, Sewar, Rajasthan, wherein the ground with regard to a composite institution was considered and the matter remanded to the concerned regional committee as the application of the institution had been made prior to the notification of the 2014 Regulations.

13. Mr. Sharawat lastly submits that the order passed by the WRC is entirely unreasoned as the contentions taken in the replies to the show cause notice have not been considered by the WRC at all.

Signature Not Verified

Digitally Signed By:SHITU

NAGPAL

Signing Date:25.08.2021

19:12:59

W.P.(C) 8894/2021

Page 5 of 8

14. Ms. Sharma raises a preliminary objection to the effect that the decision of the WRC is appealable under Section 18 of the NCTE Act, 1993 before the Appellate Committee of the NCTE.

15. Mr. Sharawat resists the preliminary objection by reference to an order of a Coordinate Bench of this Court dated 12.04.2018 in W.P.(C) 3423/2018 [*Jeevan Jyoti Institute of Education vs. National Council for Teacher Education & Anr.*]. In the said order, the writ petition has been entertained by this Court, challenging the order of the concerned regional committee, following the decision of the Division Bench dated 21.02.2018 referred to hereinabove. The specific objection of the NCTE with regard to the alternative appellate remedy available to the petitioner was rejected by this Court on the ground that the matter stands covered by the stand taken by the respondents themselves before the Division Bench. Although Ms. Sharma correctly points out that the Court in the aforesaid order was also mindful of the fact that the appeal of the petitioner therein would be barred by time, from a reading of the order, that does not appear to be the only ground, or even the principal ground, upon which the writ was issued.

16. Having regard to the aforesaid order dated 12.04.2018, I do not consider it appropriate to dismiss the present writ petition on the ground of availability of the appellate remedy.

17. On the principal issue raised in the petition also, with regard to the requirement that the applicant should be a composite institution, the order of this Court dated 12.04.2018 is directly in favour of the petitioner. The Division Bench, as extracted above, has accepted the

respondents' submission that applications which were pending on the date of notification of the 2014 Regulations would be considered in accordance with the 2009 Regulations. The judgment of the Division Bench has been followed by the Coordinate Bench in the aforesaid order and in several other orders which have been placed on record by Mr. Sharawat.

18. In view of the aforesaid position, the impugned decision of the WRC has to be set aside and the matter remanded to the WRC for further consideration, without applying the rigours of the 2014 Regulations.

19. Mr. Sharawat's submission that the order passed by the WRC is unreasoned is also merited. The replies filed by the petitioner to the two show cause notices, took the categorical stand that it was not required to be a composite institution, as its application was filed prior to the 2014 Regulations coming into force. The impugned decision taken by the WRC rejects the contention without any discussion or reasoning. The rules of natural justice require reasons to be expressed, howsoever briefly, even in an administrative decision. This demonstrates an application of mind to the contentions raised before the authority. The statement of a conclusion is not equivalent to the expression of reasons. The impugned decision of the WRC falls woefully short of the minimum expected of an administrative institution.

20. For the aforesaid reasons, the writ petition succeeds. The impugned decision dated 07-09.07.2021 is set aside and the WRC is directed to reconsider the petitioner's application in accordance with

law, without recourse to the conditions introduced by the 2014 Regulations. There will be no order as to costs.

PRATEEK JALAN, J.

AUGUST 24, 2021

'pv'



Signature Not Verified

Digitally Signed By: SHITU

NAGPAL

Signing Date: 25.08.2021

19:12:59

W.P.(C) 8894/2021

Page 8 of 8