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13.9.2022
S.D.

W.P.A. 18547 of 2022

**The University of Kalyani & Anr.
Vs.
The National Council for Teacher Education & Anr.**

Mr. Amitava Chaudhuri
Ms. M. Chaudhuri
Mr. Moniruzzaman
Mr. N. Roy

...For the Petitioners.

Mr. Sauvik Nandy

...For NCTE.

Petitioner no. 1 in this case is a University. The University has been running an M.Ed course since 2004. On April 20, 2018, a show-cause notice was issued by the respondent no.1 against the petitioners seeking certain clarifications with regard to the infrastructure and other related issues of the said course.

Thereafter, by the order impugned dated October 5, 2020, the respondents withdrew recognition of the M.Ed. course under Section 17 (1) of the National Council for Teacher Education Act, 1993 from the academic session 2021-22. Assailing the said order dated October 5, 2020, Mr. Amitava Chaudhuri, learned advocate representing the

University submits that the said order has been passed due to non-application of mind by the respondent. The deficiencies as indicated in the show-cause notice dated April 20, 2018 had already been removed by the University which would be apparent from the letter dated January 22, 2019 issued by the respondents. By the said letter, Regional Director of the respondent no.1 intimated the petitioners that in 265th meeting held on 8th-9th January, 2019 it was decided that the institution in question fulfilled all criteria as per the revised recognition order. It is submitted by Mr. Chaudhuri that the respondents withdrew the recognition by a stereotype order without adverting to the facts of the case.

Mr. Nandi, learned advocate representing the National Council for Teacher Education on the other hand submits that the order impugned is appealable under Section 18 of the National Council for Teacher Education Act, 1993. The petitioners will be at liberty to prefer an appeal against the order and if the appeal is preferred, the appellate authority will consider the same in a time bound manner. He further draws the attention of this Court that the appeal has become time barred in view of Rule 10 of the National Council for Teacher Education Rules, 1997.

It has been further pointed out by Mr. Nandy that the said Rules have been amended by a notification dated September 13, 2011 and as per amended rules, an appellant needs to apply online with a fee of Rs.10,000/- with the submission of appeal.

I am of the opinion that the petitioners should exhaust the statutory remedy. Rule 10 of National Council for Teacher Education Rules, 1997 provides that an appeal may be admitted after expiry of 60 days from the date of the order passed under Section 17 of the said Act if the appellant satisfies the Council that he had sufficient cause for not preferring the appeal within 60 days.

Mr. Chaudhuri submits that due to the pandemic situation prevailing all over the country, the appeal could not be preferred within the said period of 60 days.

I am of the view that the petitioners were prevented by the sufficient cause from preferring the appeal within the prescribed time period and as such the delay in preferring the appeal should be condoned.

Accordingly, I do not feel it necessary to direct the petitioners to file an appropriate application for condonation of delay. The delay in preferring this appeal is condoned by this order subject to the condition that the

petitioners will prefer the appeal online along with the requisite fees within a period of two weeks from date. If such appeal is filed by the petitioners, the same shall be disposed of by the appellate authority within four weeks thereafter. The appellate authority will provide an opportunity of hearing to the petitioners, if necessary.

With the aforesaid observations, the writ petition is disposed of.

All parties shall act upon the server copy of this order duly downloaded from the official *website* of this Court.

(Kausik Chanda, J.)