

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No. 17887 of 2019

**Jagannath Institute of SPL
Education**

....

Petitioner

Mr. G.N. Mishra, Advocate

-Versus -

Rehabilitation Council of India

....

Opposite Party

Mr. A. Mohanty, Advocate

CORAM:

JUSTICE SASHIKANTA MISHRA

ORDER

26.07.2022

Order No.

16.

1. This matter is taken up through hybrid mode.
2. Heard learned counsel for the parties.
3. The petitioner is an institution imparting special education, i.e., Diploma in Education- Special Education (VI). It is a School for blind, deaf and dumb students. The concerned authority, i.e., Rehabilitation Council of India (opposite party) granted approval to the petitioner institution for the above course for two years, i.e., 2016-17 and 2017-19. Application of the institution for renewal of recognition for the session 2019-20 was turned down. It is stated that the recognition for the subsequent years has been granted and in fact the same has been granted till 2024-25. Only the period 2019-20 remains without recognition.
4. The petitioner approached this Court in W.P.(C) No. 14224 of 2019, which was disposed of by order dated 16.08.2019. This court directed as follows:

“Heard Mr. G.N. Mishra, learned counsel for the petitioner.

The petitioner has filed this writ petition seeking

for direction to the opposite party to grant extension of approval/temporary approval in terms of its manual.

In course of hearing, learned counsel appearing for the petitioner states that highlighting the grievance, the petitioner has made representation to the opposite party vide Annexure-4 and direction may be given to consider the same within a stipulated time.

In view of the aforesaid limited grievance of the petitioner, without expressing any opinion on the merits of the case, this Court disposes of this writ petition directing the opposite party to take a decision on the representation stated to have been filed by the petitioner under Annexure-4 and pass appropriate order in accordance with law within a period of one month from the date of production of certified copy this order.

Issue urgent certified copy as per Rules.”

Pursuant to such order, the opposite party, vide order dated 18.09.2019 enclosed as Annexure-9 to the writ petition, passed a speaking order again rejecting the request of the institution for grant of approval for the session 2019-2020 on the ground that it has scored less than the prescribed marks in two essential parameters, i.e. Resource Room and Library Resources.

5. In course of hearing, Mr. G.N. Mishra, learned counsel for the petitioner has drawn attention of this Court to Manual on Assessment of Training Institution (enclosed as Annexure-11), whereunder a discretionary power has been conferred on the Council/Chair Person in case of rejection. It is mentioned therein that in case of any rejection, on reasonable ground, the Chairperson of the Council may award up to 5 more marks on the overall score. However, the minimum requirement in each essential parameter shall remain unchanged. Referring to the above clause in the Manual, Mr. Mishra submits that the same has not been invoked in case of the petitioner institution. As per the enquiry report submitted by the experts, the petitioner institution

has fared well so as to be awarded with high marks on all parameters and there has been a shortfall of a few marks only which could be taken care of by exercising the power of discretion.

6. Since power of discretion is to be exercised by the concerned authority at the first instance, looking at the facts of the case including the inquiry report of the experts, it would be proper to afford an opportunity to the petitioner to approach the concerned authority by submitting a representation highlighting all necessary and relevant facts for consideration of the appropriate authority.

7. Mr. A. Mohanty, learned counsel appearing for opposite party submits that the decision of the authority was based on proper appreciation of the relevant facts and materials as also the finding of the experts and therefore, there is no need to reopen the issue again.

8. In response, Mr. Mishra submits that the future of the students who had appeared in the examination at the relevant time would be jeopardized as, despite passing in the said examination they have not been issued with necessary certificates.

9. Having regard to the submissions as above as also keeping in mind the interest of the students, who have already appeared in the examination in the academic session, 2019-20, the writ petition is disposed of granting liberty to the petitioner institution to submit a fresh representation to the opposite party within a period of two weeks. In the event such representation is filed, the opposite party shall consider the same in accordance with law as also with reference to the discretionary power conferred by the

Manual on Assessment of Training Institution and pass a lawful order within a period of two weeks hence.

It is needless to mention that if the petitioner institution so desires, the opposite party shall grant an opportunity of hearing to it. In case a decision is taken in favour of the petitioner institution, necessary consequential action shall be taken by the appropriate authorities as early as possible preferably, within a month thereafter. While disposing of the representation, the authority shall also consider if the CRR number could be issued.

10. The writ petition is accordingly disposed of.

11. Issue urgent certified copy as per rules.

(Sashikanta Mishra)
Judge

A.K. Rana

