

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
NAGPUR BENCH, NAGPUR.**

WRIT PETITION NO. 4757/2021

1. Gopal Education Society, Nagpur through its Secretary Rakesh Mukundrao Pannase, aged 50 years, having its office at Bhartiya Krushi Vidyalaya, Geeta Nagar, Zingabai Takli, Nagpur.
2. Bhartiya Shikshan Mahavidyalaya, Gopal Education Society, Nagpur through its Principal Dr.Kiran Deepak Urade, aged 52 years, Plot No.157, Khasara No.129-130, Bhamti, Pannase Nagar, Nagpur.

PETITIONERS

-VERSUS-

1. National Council for Teacher Education, Western Regional Committee, through its Regional Director, G-7, Sector-10, Dwarka, New Delhi 110 075.
2. National Council for Teacher Education, New Delhi, through its Member Secretary, G-7, Sector-10, Dwarka, New Delhi – 110 075.
3. Director of Higher Education, State of Maharashtra, Central Building, Pune-411001.

RESPONDENTS

Shri B.G. Kulkarni, counsel for the petitioners.
Shri R.M. Sharma, counsel for the respondent nos.1 and 2.
Ms S.S. Jachak, Assistant Government Pleader for the respondent no.3.

CORAM : A. S. CHANDURKAR AND URMILA JOSHI-PHALKE, JJ.

DATE : SEPTEMBER 30, 2022.

JUDGMENT (PER : A.S. CHANDURKAR, J.)

RULE. Rule made returnable forthwith. Learned counsel Shri R.M. Sharma waives notice of hearing for the respondent nos.1 and 2 and Learned Assistant Government Pleader Ms S.S. Jachak waives notice of hearing for the respondent no.3.

Heard the learned counsel for the parties.

2. The petitioner no.1-Society is running the petitioner no.2-College of Education wherein B.Ed. course is being conducted. The said College is duly recognized by the National Council for Teacher Education. It appears that on 10.12.2020 the recognition granted to the petitioner no.2-College came to be withdrawn by the Regional Director, Western Regional Committee under the provisions of Section 17(1) of the National Council for Teacher Education Act, 1993 (for short, 'the Act of 1993'). Being aggrieved the petitioners preferred an appeal under Section 18 of the Act of 1993. The Appellate Authority on 12.03.2021 found that there was no proper notice to the petitioner and hence re-consideration of the matter was necessary. After allowing the appeal, the Regional Committee was directed to issue a fresh show cause notice to the petitioners and take action thereafter. The Regional Director however on 21.08.2021 passed a fresh order after remand by observing that the petitioners did not file any reply as directed and hence the initial order dated 10.12.2020 was being restored. Being aggrieved the petitioners have challenged the said order.

3. The only ground of challenge raised on behalf of the petitioners to the impugned order is that the same has been passed without issuing the show cause notice despite being so directed by the Appellate Authority. It was necessary for the respondent no.2 to have considered the matter after

issuing notice to the petitioners and thereafter considering their reply. Since the show cause notice was not re-issued there was no question of filing any reply thereto. The impugned order therefore has been passed in breach of directions issued by the Appellate Authority as well as without hearing the petitioners. On this count the same was liable to be set aside.

4. The learned counsel for the respondent nos.1 and 2 supported the impugned order and urged that the petitioners were aware that notice was required to be replied and despite that they failed to submit their reply to the same. After considering the material on record the Regional Committee proceeded to withdraw the recognition. In addition the learned counsel invited attention to the interim directions issued by this Court on 25.11.2021 while issuing notice. The admissions that were permitted to be made in 2021-22 were subject to final outcome of the writ petition with due information being given to the candidates. However, on instructions it is submitted that the re-issued show cause notice could not be found in the regulatory file of the respondent no.1.

5. On hearing the learned counsel for the parties it is clear that by the order dated 12.03.2021 the Appellate Authority had remanded the proceedings to the Regional Committee. While doing so the show cause

notice was directed to be re-issued and thereafter the matter was to be decided. Admittedly, such show cause notice has not been re-issued. Hence it cannot be said that there was any failure on the part of the petitioners in not submitting their reply. In absence of such show cause notice the Regional Committee could not have proceeded to withdraw the recognition. Thus on the short ground that the recognition has been withdrawn without due opportunity to the petitioners the impugned order is liable to be set aside.

6. Accordingly, the following order is passed:-

- I) The order dated 28.08.2021 passed by the respondent no.1 is set aside.
- II) The respondents are directed to proceed in the matter in terms of the directions issued by the Appellate Authority on 12.03.2021 by re-issuing the show cause notice to the petitioners.
- III) After seeking reply from the petitioners, the respondent no.1 shall consider the matter in accordance with law and take a decision in terms of the Act of 1993.
- IV) Insofar as the admissions being made by the petitioners for the present academic session, 2022-23 it is made clear that these admissions would be subject to final outcome of the proceedings that have been initiated under the Act of 1993.
- V) The petitioners shall inform all concerned students that the admissions have been made subject to the aforesaid rider.

- VI) By clarifying that the respondents shall decide the proceedings on its own merits in accordance with law without being influenced by any observation made in this order, the writ petition is disposed of in aforesaid terms. Rule accordingly. No costs.

(URMILA JOSHI-PHALKE, J.)

(A.S. CHANDURKAR, J.)

APTE