



W.P.No.29933 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.11.2022

CORAM :

THE HONOURABLE MR.JUSTICE R.SURESH KUMAR

W.P.No.29933 of 2022 and
W.M.P.No.29331 of 2022

Adhiyamaan College of Education,
Rep. By its Secretary, K.Suresh Babu,
Dr. MGR Nagar, Hosur,
Krishnagiri – 635 109.

... Petitioner

Vs

1.National Council for Teacher Education
Rep. By the Deputy Secretary (Appeal)/
Appellate Authority, G-7, Sector 10,
Dwaraka, New Delhi – 110 075.

2.National Council for Teacher Education,
Rep. By its Regional Director,
Southern Regional Committee,
G-7, Sector – 10, Dwaraka,
New Delhi – 110 075.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorari calling for the records relating to the order of the first respondent dated 09.08.2021 in File No.89-120/E-181337/2021, Appeal/17th Meeting 2021 APPLSRC 202113945 and the consequential order of the 1st respondent dated 19.10.2022 and quash the same.



W.P.No.29933 of 2022

For Petitioner : Mr.K.Selvaraj

For Respondents : Mr.R.Thirunavukkarasu
Standing Counsel

ORDER

The prayer sought for in this writ petition is for a Writ of Certiorari calling for the records relating to the order of the 1st respondent dated 09.08.2021 in File No.89-120/E-181337/2021, Appeal/17th Meeting 2021 APPLSRC 202113945 and the consequential order of the 1st respondent dated 19.10.2022 and quash the same.

2. The petitioner is a College of Education duly recognised by the National Council for Teacher Education, Southern Regional Committee (in short 'NCTE-SRC') by order dated 16.07.2005.

3. The petitioner institution accordingly had been running the B.Ed. course for all these years. While that being so, for certain alleged deficiencies, the NCTE-SRC withdrawn the recognition enjoyed by the petitioner by orders dated 21.01.2020.



W.P.No.29933 of 2022

4. Challenging the said order, the petitioner preferred appeal under

Section 18 of the NCTE Act to the 1st respondent i.e. National Council for Teacher Education Act (in short 'NCTE Act') who is the Appellate Authority. The said appeal was disposed by order dated 15.09.2020 during the covid-19 pandemic period through online.

5. Since in the said order dated 15.09.2020 which was made during the covid period, before making it, no hearing could be made as the petitioner could not make a visit to New Delhi to appear before the Appellate Authority by producing the documents, without getting a chance of producing those documents to satisfy the Appellate Authority since the petitioner was suffered with the said order of rejection dated 15.09.2020, he filed further appeal by way of review and that was, according to the petitioner, not considered. Therefore, the said appeal filed by the petitioner dated 19.08.2021 was directed to be considered on merits and to pass orders by the orders of this Court in the writ petition which was moved by the petitioner in W.P.No.26069 of 2022 dated 10.10.2022.



W.P.No.29933 of 2022

6. Pursuant to the said order passed by this Court, now yet another order has been passed on 19.10.2022 where the 1st respondent NCTE has stated that since the order of withdrawal dated 21.01.2022 has already been appealed where the appeal was decided and rejected on 15.09.2020 against which he filed appeal further on 19.02.2021 that was also rejected on 19.08.2021 and once again now since the petitioner wants the appeal to be decided and a direction also was given by this Court, in that regard the NCTE by stating the reason that, again and again appeal cannot be filed once the Appellate Authority decided the issue and passed an order already and accordingly they rejected the plea of the petitioner once again by order dated 19.10.2022 which is impugned herein.

7. Mr.K.Selvaraj, learned counsel appearing for the petitioner has submitted that, insofar as the order dated 19.08.2021 is concerned, that is also passed without hearing the petitioner and the same also has not been communicated to the petitioner. That is the reason why the petitioner was made to file a writ petition seeking for a writ of mandamus that was in fact ordered by the Court, by order dated 10.10.2022, pursuant to which now they passed the present order which is impugned herein where they have



W.P.No.29933 of 2022

disclosed that already on 19.08.2021 orders have been passed.

WEB COPY

8. The learned counsel for the petitioner would also submit that, even in the order dated 19.08.2021 the 1st respondent has given the very same reason that again and again appeal has been filed by the petitioner against the order of withdrawal given by the Regional Committee therefore on that ground alone that rejection order dated 19.08.2021 was passed. Very same reason now has been given in the present order dated 19.10.2022.

9. He would also submit that, however the fact remains that insofar as the opportunity of being heard to the petitioner to establish or substantiate the contention of the petitioner institution that the deficiencies pointed out by the NCTE-SRC have already been rectified in respect of land and buildings as well as the infrastructure, for which documents are available with the petitioner and in order to produce those documents such an opportunity should have been given and in both occasions while passing orders on 19.08.2021 and 19.10.2022 such opportunity was not given except giving reason “again and again the petitioner has made appeal”.

10. In this context, the learned counsel appearing for the petitioner



W.P.No.29933 of 2022

would submit that, the original rejection order made in the appeal on 15.09.2020 was passed during the covid-19 period, therefore absolutely there was no scope for the petitioner to go to Delhi and appear before the 1st respondent office. Therefore, on all the three occasions without giving such an opportunity of being heard to the petitioner enabling the petitioner to substantiate its contention by producing the documents since orders have been passed, none of these orders will stand in the legal scrutiny including the present order dated 19.10.2022. Hence a direction by way of mandamus may be given to the respondent to re-hear the matter by giving an opportunity of hearing to the petitioner so that the petitioner can produce all these documents to the respondents to the satisfaction of them and based on which orders can be passed on merits, he contended.

11. On the other hand, Mr.R.Thirunavukkarasu, learned Standing Counsel appearing for the respondents on instructions would submit that, as has been stated in the order impugned, originally the appeal was disposed on 15.09.2020 again further appeal was filed which is not permissible under the provisions of the NCTE Act therefore on 19.08.2021 by citing the said reason alone that appeal also was rejected. Unmindful of the same, once



W.P.No.29933 of 2022

again he wanted to consider the appeal, therefore he approached the Court of law and got a direction, pursuant to which, again it has been considered and the earlier orders passed by the Appellate Authority was noticed, therefore the present order stating the said reason has been passed, therefore it is not the fresh rejection order passed by the 1st respondent, this only reiterated what has been already passed by the NCTE and therefore absolutely there has been no ground for the petitioner to challenge the present order dated 19.10.2022.

12. The learned Standing Counsel appearing for the respondents would also submit that, in case this Court ultimately come to the conclusion that a further hearing should be given to the petitioner to verify the documents which they wanted to produce before the Appellate Authority, it takes minimum possible time which according to the learned Standing Counsel for the respondents is 12 weeks. Therefore, assuming that, if any direction is given by this Court to reconsider the issue by giving an opportunity of being heard for production of documents, such a time limit may be permitted to the respondents, he contended.

13. I have considered the said rival submissions made by the learned



W.P.No.29933 of 2022

counsel appearing for the parties and have perused the materials placed before this Court.

14. As has been rightly pointed out by the learned counsel for the petitioner, the first order dated 15.09.2020 was passed during the covid pandemic period through online, therefore on that occasion there could be no chance for the petitioner to produce the documents. Therefore, it necessitated the petitioner to file a fresh petition by way of appeal sometime in February 2021 and that appeal since was pending according to the petitioner, he moved a writ petition before this Court and obtained an order from this Court by order dated 10.10.2022. Pursuant to the said order only the present communication dated 19.10.2022 has been issued by the 1st respondent stating that, already an order has been passed on 19.08.2021.

15. If we perused the 19.08.2021 order as well as the present order dated 19.10.2022, in both the orders the only reason cited by the 1st respondent for rejecting the plea of the petitioner is that, the petitioner has repeatedly made appeal, despite the appeal having been considered and was rejected by order dated 15.09.2020.

16. The 15.09.2020 order, in the considered opinion of this Court, is



W.P.No.29933 of 2022

not a proper order within the meaning of Section 18 of the NCTE Act with rules and regulations made under the Act. Reason being that, during the pandemic period there was absolutely no chance for the petitioner to approach the 1st respondent for a physical hearing and therefore the 1st respondent definitely would not have a chance of perusing the documents of the petitioner to substantiate the contention of the petitioner that the deficiencies pointed out by the NCTE-SRC having been fulfilled they have placed the matters before the Appellate Authority.

17. Thereafter, on two occasions, the issue was rejected not on merits but only on the ground that repeated appeal has been filed. Therefore it has become clear that, in none of these three occasions the petitioner has been given an opportunity of being heard by permitting the petitioner to produce the documents. In the first time it is due to covid-19 and in the second and third time for the reasons best known to the 1st respondent it has not given such an opportunity. Therefore, this Court feels that, all these orders would not stand in the legal scrutiny as it violates the fundamental principle of natural justice. Therefore, this Court has no hesitation to hold that the petitioner is entitled to have a proper appeal remedy before the 1st



W.P.No.29933 of 2022

respondent within the meaning of Section 18 of the NCTE Act by getting a personal hearing, then only he will be in a position to place all the records to the 1st respondent for perusal.

18. In that view of the matter, this Court is inclined to dispose of this writ petition with the following orders:

That the impugned communication is hereby set aside.

The matter is remitted back to the 1st respondent for reconsideration. While making this reconsideration, the 1st respondent shall issue a communication to the petitioner fixing the date of personal hearing and on the date of hearing the petitioner without fail should appear before the 1st respondent with relevant documents. On production of such documents, after perusal of the same, the issue can be decided by the 1st respondent on merits and in accordance with law and order to that effect shall be passed within a period six weeks from the date of receipt of a copy of this order.

19. With these directions, this Writ Petition is ordered accordingly.



W.P.No.29933 of 2022

No costs. However, there shall be no order as to costs. Consequently,
connected miscellaneous petition is closed.

24.11.2022

Index : Yes / No

Speaking Order : Yes / No

Sgl

To

1.The Deputy Secretary (Appeal)/
Appellate Authority,
National Council for Teacher Education
G-7, Sector 10,
Dwaraka, New Delhi – 110 075.

2.The Regional Director,
National Council for Teacher Education,
Southern Regional Committee,
G-7, Sector – 10, Dwaraka,
New Delhi – 110 075.



WEB COPY



W.P.No.29933 of 2022

R. SURESH KUMAR, J.

Sgl

W.P.No.29933 of 2022

24.11.2022