



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED 28.09.2022

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THE HONOURABLE MRS.JUSTICE V.BHAVANI SUBBAROYAN

W.P(MD)No.22749 of 2022
and
W.M.P(MD)No.16893 of 2022

M/s.Jenny's College of Education,
represented by its Principal,
Dr.S.Rama Prabha,
No.2/67, Ramjee Nagar,
Manigandam Road,
Tiruchirappalli – 620 009.

..Petitioner

Vs

1.The National Council for Teacher Education,
represented by its Deputy Secretary(Appeal),
G-7, Sector 10 Dwarka,
Delhi – 11075.

2.The National Council for Teacher Education(SRC),
represented by its Regional Director,
G-7. Sector-10,Dwarka,
Delhi – 11075.

..Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus calling for the records relating to the impugned order passed by the first respondent in its proceedings in File No.89-23/E-236430/2022 Appeal/6th Meeting, 2022 APPLSRC202114033, dated 13.09.2022 confirming the order passed by the second respondent in its proceedings F.SRO/NCTE/APS08048/BEd/TN/395th/2021/124760, dated 10.3.2021 and to quash the same as illegal and arbitrary and consequently to direct the second respondent to renew the recognition of the Petitioner for conducting B.Ed programme for 2 year duration with an annual intake of



100 students (2 units) forthwith.

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For Petitioner : Mr. B. Saravanan

For Respondents: Mr. Su. Srinivasan
1 and 2 Standing Counsel

ORDER

This Writ Petition has been filed seeking issuance of a Writ of Certiorarified Mandamus calling for the records relating to the impugned order passed by the first respondent in its proceedings in File No. 89-23/E-236430/2022 Appeal/6th Meeting, 2022 APPLSRC202114033, dated 13.09.2022, confirming the order passed by the second respondent in its proceedings F.SRO/NCTE/APS08048/BEd/TN/395th/2021/124760, dated 10.3.2021 and to quash the same as illegal and arbitrary and consequently to direct the second respondent to renew the recognition of the Petitioner for conducting B.Ed programme for 2 year duration with an annual intake of 100 students (2 units) forthwith.

2. Mr. Su. Srinivasan, learned Standing Counsel takes notice for the respondents 1 and 2. By consent of both parties, the Writ Petition is taken up for final disposal at the admission stage itself.

3. The case of the Petitioner is that the Petitioner is a Teacher Education College recognized by the second respondent by its proceedings in F.SRO/NCTE/B.Ed/2006-2207/12111, dated 26.09.2007 to



impart secondary B.Ed course of one year duration with an annual intake of 100 students. The second respondent had granted recognition to the Petitioner to conduct B.Ed programme of two years duration with an annual intake of 100 students for 2 basic units of 50 students each, from the academic session 2015-2016. In the year 2020, the second respondent had issued a show-cause notice by proceedings in F.No.SRC/NCTE/APSO8048/SCN/BEd/TMN/2020/120347, dated 3.11.2020 to submit certain particulars to the second respondent pursuant to the decisions taken in its 388th meeting held on 14-15 September 2020 to ensure that all the recognized institutions are conforming to the norms and standards set by NCTE Regulations, 2014. The Second respondent(SRC) had issued a show-cause notice under Section 17 of the NCTE Act, 1993 to all the recognized institutions to submit all the requisite documents coupled with the latest approved staff list from the concerned affiliating bodies. Accordingly, by show-cause notice, dated 3.11.2020 issued by the second respondent, the Petitioner was directed to submit certain particulars like certified copy of land documents, Land User Certificate issued by the competent authority, Copy of the Non Encumbrance Certificate (attested), building plan and site plan/survey No. mentioned in the land documents in one location along with land area and built up area and also the Building Completion Certificate and the staff list duly approved by the Registrar of the affiliating body as per the prescribed format and the institution has to submit Form-A issued by the



respective Bank Manager towards creation of FDR of Rs.7 lakh and 5 lakhs totalling to Rs.12 lakh towards endowment fund and Reserve Fund into joint account for a duration of five years along with a copy of the FDRS. The Petitioner submitted representation on 19.11.2020 informing the second respondent that the Petitioner had forwarded all the required documents. The second respondent issued final show-cause notice, dated 22.1.2021 reiterating what was required in the first show-cause notice, dated 3.11.2020 and the Petitioner by representation, dated 25.1.2021 submitted a reply that the required particulars were furnished to the second respondent. In the meanwhile, the second respondent passed an order by proceedings, dated 10.3.2021 stating that the recognition of the petitioner for conducting B.Ed course was withdrawn with effect from the academic year 2021-2022. The reasons assigned are :

1. The institution has submitted certified copy of the land documents.
2. The institution has not submitted the site plan.
3. The institution is required to submit a Form A issued by the respective Bank Manager.
4. The institution has submitted approving latest faculty list signed by the Registrar, Tamil nadu Teachers Education University, total faculty approved: 1 Principal + 13 Lecturers vide dated 12.7.2017.
5. The Institution has not appointed one perspective of education, 1 Pedagogy subjects and 2 Performing Arts



6.The Institution has not submitted latest faculty list duly approved the competent authority.

4.The second respondent did not issue any notice to the Petitioner regarding the withdrawal of recognition and immediately, the Petitioner filed an appeal before the first respondent on 11.5.2021. He also filed W.P.No.4052 of 2022 before the Principal Bench of this Court seeking issuance of a Writ of Mandamus to direct the first respondent herein to dispose of the appeal filed by the Petitioner and the same was disposed of on 23.2.2022. In the meanwhile, by notice, dated 16.3.2022, the first respondent directed the Petitioner college to furnish the particulars of authorized employee who will present the case before the appellate committee on or before 23.02.2022. The Petitioner furnished the name of the Administrative Officer Mr.G.Hariharan Subramanian to represent the case and the order was pronounced on 18.4.2022 by the first respondent rejecting the appeal filed by the Petitioner on the ground that the appeal could not be entertained on the ground of delay in submission of the hard copy of the appeal. The said order was challenged before the High Court of Delhi in W.P(C)No.10761 of 2022 and the said Court pleased to pass an order setting aside the order, dated 18.4.2022 passed by the first respondent and the matter was remitted back to the first respondent with a direction to decide the same in accordance with law and the Petitioner was permitted to file all the supporting documents before the first



respondent within a period of one week and the appellate authority was directed to decide the issue on merits. In the above said case, the Petitioner has furnished the relevant documents such as :

- 1.Certified copies of the land documents.
- 2.Building Plan approval issued by the Kallikudi Panchayat
- 3.Land Used Certificate issued by the Revenue Divisional Officer.
- 4.Building Completion Certificate issued by the Executive Engineer, Public Works Department.
- 5.Form-A
- 6.Site Plan issued by the Government approved Panel Engineer.
- 7.Website of the Petitioner
- 8.Encumbrance Certificate
- 9.Staff list
- 10.Affidavit.

5.Based on the same, an enquiry was conducted in appeal on 2.9.2022. Subsequently, the first respondent has passed the impugned order in its proceedings in File No. 89-23/E-236430/2022 Appeal/6th Meeting, 2022 APPLSDRC202114033, dated 13.09.2022, thereby, the appeal filed by the Petitioner was rejected confirming the order passed by the second respondent, dated 10.3.2021 on the singular ground that the staff list submitted by the Petitioner was duly approved by the



Registrar, Tamil Nadu Teacher Education University, however, the faculty appointed by the Petitioner is not having the NET(National Eligibility Test) qualification as per NCTE norms. Hence the Appeal Committee has noted that the SRC was justified in withdrawing the recognition of the Petitioner on the ground of the aforementioned deficiencies. The Petitioner now challenges the same on the ground that it is in violation of principles of natural justice and contrary to the provisions of the NCTE(Recognition norm and Procedure) Regulations, 2014 and hence, the same is liable to be set aside.

6. According to the Petitioner, the National Eligibility Test qualification was not required for appointment of the teacher under NCTE Regulation 2009 and 2014. By NCTE(Recognition norms and Procedure) (Amendment) Regulations 2017, a clause was introduced in appendix -4, in para 5,2 © (ii) and the extract of the same is reproduced hereunder:

“(a)after C (ii) and between “Desirable “the following note inserted namely:

Note: “Besides fulfilling the above qualification the candidate shall have clear the National Eligibility Test (NET)” conducted by the University Grants Commission, provided candidates, who are or have been awarded Ph.D degree in education in accordance with the University Grants Commission.



(Minimum standard and procedure for Award of PH.D Degree) Regulation

2009, shall be exempted from the requirement of the clearing of NET for appointment as Assistant Professor or equivalent possession in University or College or Institution.

7.The clause 13 of the NCTE Regulations, 2014 provides that the institution concerned shall be informed thorough a letter of intent, regarding the decision for grant of recognition or permission subject to the appointment of qualified faculty members before the commencement of the academic session. The fact remains that there are 16 faculty members with respect to B.Ed course programme working in the petitioner college and they were appointed prior to the year 2017. Out of the same, 8 members are not with NET qualification and the remaining members are qualified with NET. Therefore the question of NET qualification for the faculty members appointed prior to 2017 does not arise. The deficiency allegedly suffered by the Petitioner is few of the faculty members of the Petitioner college are not qualified with NET. In all fairness, the first respondent ought to have pointed out to the Petitioner the singular deficiency, enabling the Petitioner to rectify the same or to argue on the point of want of NET qualification to the members of the faculty. Prior to 2017 amendment without NET qualification their appointments were made and the fate of the said teachers would be cleared by the authorities and that the order impugned herein is passed



without any opportunity being granted and without pointing the singular deficiency and prayed for allowing the Writ Petition.

8.The learned counsel for the respondents would submit that only after considering the same, after 2017 amendment, all the teachers to be appointed only with the qualification of NET or they have to clear the NET qualification. In the impugned order it is stated that:

"Noting the submissions and oral arguments advanced during the hearing by the Appellant institution on 2.9.2022, observed that the staff list provided by the institution was duly approved by the Registrar, Tamil Teacher Education University, however, the faculty appointed by the institution are not having the NET qualification as per NCTE norms. The Appeal Committee noted that SRC was justified in withdrawing recognition of the appellant institution on grounds of the aforesaid deficiencies and the appellant institution has failed to rectify the deficiencies."

9.As per the submission made by the learned counsel for the Petitioner that only a few teachers who are appointed prior to 2017 are not having the NET qualification and they are willing to rectify the same by appointing fresh candidates as faculty members and this is a rectifiable deficiency and this Court may show indulgence in the matter. As stated, the appellate authority has not pin-pointed any other deficiency except



the fact that few of the faculty members are not having the NET qualification as they are pointed earlier to the amendment made in the year 2014 and the same deficiency can be considered by this Court.

10. Accordingly, this directs the second respondent to grant three months time (ie., on or before 31.12.2022) to the Petitioner institution to appoint fresh faculty members with NET qualification in the place of old teachers and thereafter, the Petitioner is directed to submit application/ revision before the first respondent regarding recognition of the Petitioner institution, who in-turn is directed to consider the same and pass appropriate orders regarding recognition of the Petitioner College, on merits and in accordance with law, on or before 28.2.2023.

11. With these directions, the writ Petition stands disposed of. No costs. Consequently, connected Miscellaneous Petition is closed.

28.09.2022

Index : Yes/No

Internet: Yes/No

vsn

To

1. The Deputy Secretary (Appeal)

<https://www.mhc.tn.gov.in/judis>
National Council for Teacher Education,



G-7, Sector 10 Dwarka,
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2. The Regional Director,
National Council for Teacher Education(SRC),
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V.BHAVANI SUBBAROYAN,J

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ORDER MADE IN

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