

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

Sr. No.269

Date of Decision : May 16, 2022

Civil Writ Petition No.10760 of 2020 (O&M)

Malout Educational Society

...Petitioner

Versus

State of Punjab and others

...Respondents

2.

Civil Writ Petition No.11024 of 2020

Gaurav Bharti Shiksha Sansthan

...Petitioner

Versus

State of Punjab and others

...Respondents

CORAM: HON'BLE MR. JUSTICE SUDHIR MITTAL

Present: Ms. Alisha Arora, Advocate,
for the petitioner (in CWP-10760-2020).

Mr. Gaurav Sharma, Advocate,
for the petitioner (in CWP-11024-2020).

Ms. Rukhsaar Dhindsa, AAG, Punjab,
for respondents No.1 & 4 (in both petitions).

Mr. Sandeep Jasuja, Advocate,
for respondents No.2 & 3 (in CWP-10760-2020).

Mr. Aman Kashyap, Advocate,
for respondents No.2 & 3 (in CWP-11024-2020).

Ms. Alka Chatrath, Advocate,
for respondent No.5 (in CWP-10760-2020).

Mr. Anmol Partap Singh Mann, Advocate,
for respondent No.5 (in CWP-11024-2020).

SUDHIR MITTAL, J. (ORAL)

This judgment shall dispose of CWP No.10760 of 2020 and
CWP No.11024-2020 as common questions of fact and law arise therein.

For ease of passing of order, facts are being extracted from CWP No.10760 of 2020.

2. The petitioner intends to set up a B.Ed. college in Malout. Accordingly, it applied for recognition by NCTE-respondent No.2 whereupon recognition was granted by it on 02.05.2016. For grant of No Objection Certificate from the State of Punjab, an application was made to respondent No.4 whereupon inspection was conducted on 06.09.2016 but NOC was refused vide order dated 20.03.2020 on the ground that less land than prescribed by the State Government was available. According to respondent No.4, the requirement of land in respect of B.Ed. colleges to be opened within Municipal Council areas was minimum 3 acres whereas the petitioner possessed only 01 acre of land. Aggrieved, the petitioner filed CWP No.21505 of 2019 which was dismissed as withdrawn vide order dated 03.09.2019 as the counsel for the petitioner had stated that an application for grant of permission would be submitted before the competent authority. An application was accordingly made vide a legal notice and the same was rejected vide order dated 20.03.2020 which is impugned in the present writ petition.

3. A perusal of the order aforementioned shows that the reason for rejection of No Objection Certificate is possession of less land than that prescribed by the State Government.

4. Learned counsel for the petitioner submits that National Council for Teachers Education (Recognition Norms & Procedure)

(Amendment) Regulations 2006 (hereinafter referred to as the 2006 Regulations) provide that a B.Ed. college is required to have minimum of 2500 sq. mtrs. only. The said provision would prevail over the requirement laid down by the State Government and thus, the order of rejection deserves to be set aside. Reliance is placed upon judgment dated 16.10.2008 passed in CWP No.15479 of 2008 titled as '***Hans Raj Memorial Trust vs. State of Punjab and others***'.

5. Learned State counsel supports the order dated 20.03.2020 passed by respondent No.4.

6. In ***Hans Raj Memorial Trust (Supra)***, Division Bench of this Court has held that NCTE (Recognition Norms & Procedure) Regulations 2005 as well as the NCTE (Recognition Norms & Procedure) Regulations 2007 do not provide for a minimum requirement of land. The requirement of land is laid down in the 2006 Regulations which state that minimum 2500 sq. mtrs. of land should be available and the built up area should not be less than 1500 sq. mtrs. Accordingly, it has been held that guidelines issued pursuant to regulations framed in the year 2002 have become redundant and the State Government has no authority to prescribe any minimum requirement of land.

7. In the instant case, the petitioner possesses 01 acre of land which is much more than the stipulated requirement of 2500 sq. mtrs. and thus, the rejection of the NOC by the State Government is illegal.

8. The writ petition is accordingly allowed and order dated 20.03.2020 passed by respondent No.4 is quashed. Respondent No.4 is

directed to reconsider the issuance of a No Objection Certificate within four weeks from the date of receipt of a certified copy of this order.

9. Pending miscellaneous application, if any, stands disposed of.

May 16, 2021
Ankur

(SUDHIR MITTAL)
JUDGE

Whether speaking/reasoned	Yes
Whether Reportable	Yes