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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

Reserved on: 10.02.2022

Date of decision: 03.03.2022

+ **W.P.(C) 2047/2022**

SHEKHAWATI SHIKSHAK PARSIKSHAN SANSTHAN

..... Petitioner

versus

NATIONAL COUNCIL FOR TEACHER EDUCATION & ANR.

..... Respondents

with W.P.(C) 988/2021, W.P.(C) 992/2021, W.P.(C) 995/2021,
W.P.(C)996/2021, W.P.(C) 1012/2021, W.P.(C) 1031/2021,
W.P.(C)1039/2021, W.P.(C) 1040/2021, W.P.(C) 1047/2021,
W.P.(C)1203/2021, W.P.(C) 1205/2021, W.P.(C) 1212/2021,
W.P.(C)1232/2021, W.P.(C) 1327/2021, W.P.(C) 1519/2021,
W.P.(C)1676/2021, W.P.(C) 1758/2021, W.P.(C) 1764/2021,
W.P.(C)1918/2021, W.P.(C) 2022/2021, W.P.(C) 2177/2021,
W.P.(C)2656/2021, W.P.(C) 2657/2021, W.P.(C) 2663/2021,
W.P.(C)2678/2021, W.P.(C) 2829/2021, W.P.(C) 3047/2021,
W.P.(C)3050/2021, W.P.(C) 3051/2021, W.P.(C) 3052/2021,
W.P.(C)3053/2021, W.P.(C) 3054/2021, W.P.(C) 3056/2021,
W.P.(C)3057/2021, W.P.(C) 3073/2021, W.P.(C) 3100/2021,
W.P.(C)3101/2021, W.P.(C) 3169/2021, W.P.(C) 3335/2021,
W.P.(C)3342/2021, W.P.(C) 3346/2021, W.P.(C) 3363/2021,
W.P.(C)3364/2021, W.P.(C) 3474/2021, W.P.(C) 3475/2021,
W.P.(C)3478/2021, W.P.(C) 3547/2021, W.P.(C) 3562/2021,
W.P.(C)3552/2021, W.P.(C) 3553/2021, W.P.(C) 3569/2021,
W.P.(C)3570/2021, W.P.(C) 3572/2021, W.P.(C) 3575/2021,
W.P.(C)3627/2021, W.P.(C) 3637/2021, W.P.(C) 3664/2021,
W.P.(C)3674/2021, W.P.(C) 3775/2021, W.P.(C) 3905/2021,
W.P.(C)4510/2021, W.P.(C) 4511/2021, W.P.(C) 4586/2021,
W.P.(C)4595/2021, W.P.(C) 4606/2021, W.P.(C) 4856/2021,
W.P.(C)4857/2021, W.P.(C) 4874/2021, W.P.(C) 4875/2021,
W.P.(C)5031/2021, W.P.(C) 5032/2021, W.P.(C) 5034/2021,
W.P.(C)5086/2021, W.P.(C) 5092/2021, W.P.(C) 5131/2021,
W.P.(C)5148/2021, W.P.(C) 5402/2021, W.P.(C) 5411/2021,



W.P.(C)5545/2021, W.P.(C) 5835/2021, W.P.(C) 6681/2021,
W.P.(C)6698/2021, W.P.(C) 6951/2021, W.P.(C) 7805/2021,
W.P.(C)8839/2021, W.P.(C) 9752/2021, W.P.(C) 9900/2021,
W.P.(C)10057/2021, W.P.(C) 10058/2021, W.P.(C) 11268/2021,
W.P.(C) 11488/2021, W.P.(C) 12797/2021, W.P.(C) 14252/2021,
W.P.(C) 14717/2021, W.P.(C)140/2022, W.P.(C) 153/2022,
W.P.(C)289/2022 & W.P.(C) 2365/2022

Appearances: -

For the petitioners: -

Mr. Mayank Manish & Mr. Ravi Kant, Advs. in W.P.(C) Nos. 1203/2021, 1205/2021, 1212/2021, 1232/2021, 1519/2021, 676/2021, 1918/2021, 3073/2021, 3100/2021, 3335/2021, 3342/2021, 3346/2021, 3363/2021, 3364/2021, 3474/2021, 3478/2021, 5545/2021, 7805/2021 & 2365/2022

Mr. Kunal Jaiman, Advs. in W.P.(C) Nos. 1327/2021, 4606/2021, 5034/2021, 5148/2021 & 9752/2021

Mr. R.K. Ruhil & Mr. Sumit Bishnoi, Advs. in W.P.(C) Nos. 1758/2021 & 1764/2021

Mr. Amitesh Kumar, Mr. Binisa Mohanty & Ms. Priti Kumari, Advs. in W.P.(C) Nos. 2427/2021, 988/2021, 992/2021, 995/2021, 996/2021, 1012/2021, 1031/2021, 1039/2021, 1040/2021, 1047/2021, 2022/2021, 2177/2021, 2656/2021, 2657/2021, 2663/2021, 2829/2021, 3101/2021, 3169/2021, 3547/2021, 3562/2021, 3570/2021, 3572/2021, 3575/2021, 3627/2021, 3637/2021, 3905/2021, 5031/2021, 5032/2021, 5086/2021, 5092/2021, 5402/2021, 5411/2021, 6681/2021, 6698/2021, 6951/2021, 8839/2021, 9900/2021, 10057/2021, 10058/2021, 12797/2021, 14717/2021, 2497/2022 & 2589/2022.

Mr. Sanjay Sharawat & Mr. Divyank Rana, Advs. in W.P.(C) Nos. 2047/2022, 3050/2021, 3051/2021, 3052/2021, 3053/2021, 3054/2021, 3056/2021, 3057/2021, 3552/2021, 3553/2021, 3569/2021, 3664/2021, 3674/2021, 4510/2021, 4511/2021, 4586/2021, 4595/2021, 4856/2021, 4857/2021, 4874/2021, 4875/2021, 5131/2021, 5835/2021, 11268/2021, 11488/2021, 140/2022, 153/2022 & 289/2022.

For respondents:

Mr. Jai Sahai Endlaw, Mr. Subhoday Banerjee, Mr. Ashutosh Rana & Mr. Ashish Kumar, Advs. in W.P.(C) Nos. 2047/2022, 988/2021, 992/2021, 995/2021, 1012/2021, 1047/2021, 1203/2021, 1205/2021, 1327/2021, 1519/2021, 1758/2021, 2022/2021, 2177/2021, 2656/2021, 2657/2021, 2663/2021, 2678/2021, 2829/2021, 3047/2021, 3050/2021, 3051/2021, 3052/2021, 3053/2021, 3054/2021, 3056/2021, 3057/2021,



3073/2021, 3100/2021, 3101/2021, 3169/2021, 3335/2021, 3342/2021, 3346/2021, 3363/2021, 3364/2021, 3475/2021, 3547/2021, 3562/2021, 3552/2021, 3553/2021, 3569/2021, 3664/2021, 3674/2021, 3775/2021, 3905/2021, 4510/2021, 4511/2021, 4586/2021, 4595/2021, 4606/2021, 4856/2021, 4857/2021, 4874/2021, 4875/2021, 5031/2021, 5032/2021, 5034/2021, 5086/2021, 5092/2021, 5148/2021, 5402/2021, 5545/2021, 5835/2021, 6681/2021, 6698/2021, 6951/2021, 7805/2021, 8839/2021, 9900/2021, 10057/2021, 10058/2021, 11268/2021, 11488/2021, 14252/2021, 140/2022, 153/2022, 289/2022 & 2365/2022.

Mr. Shivam Singh, Standing Counsel, NCTE with Mr. Jaideep Khanna & Mr. Hamza Tariq, Advs. in W.P.(C) Nos. 1212/2021, 1232/2021, 1676/2021, 1918/2021, 3342/2021, 3346/2021, 3474/2021 & 3478/2021. Ms. Aakanksha Kaul, Mr. Manek Singh, Mr. Pranav Gupta & Mr. Aman Sahani, Advs. in W.P.(C) 14717/2021.

CORAM:

HON'BLE MS. JUSTICE REKHA PALLI

REKHA PALLI, J

JUDGMENT

1. The present batch of petitions preferred under Article 226 of the Constitution of India assails the respondents' decision to return the applications submitted by the petitioner institutes in the year 2008-09 seeking grant of recognition for conducting teacher training courses, without considering the same on merits. It is the petitioners' case that these applications were invited by the respondent no.1 through a public notice, but were returned unactioned, on account of a subsequent ban imposed by the government of Rajasthan on opening of new educational institutes.

Brief factual matrix

2. On 02.10.2008, the respondent no.1/The National Council for Teacher Education (hereinafter referred to as 'NCTE'), a statutory authority responsible for the regulation and maintenance of norms and standards in the



teacher education system, issued a public notice inviting applications for recognition of various teacher training courses, including B.Ed from different states across the country, including the State of Rajasthan. The petitioners being desirous of conducting various courses at their respective educational institutes, submitted their applications along with all the necessary documents and the requisite fees.

3. After the applications were submitted, the Government of Rajasthan vide its letter dated 17.11.2008, recommended to the respondent no.1, not to grant permission for commencement of any new B.Ed/STC/Shiksha Shastri course in the State of Rajasthan for the academic session 2009-10 (hereinafter be referred to as the 'state ban'). Based on this communication, the respondent no.1, vide its letter dated 19.11.2008, directed the respondent no.2/Northern Regional Committee (hereinafter referred to as 'the regional committee') to return all applications.

4. Acting on this directive from the respondent no.1, the regional committee/respondent no.2, in its 134th meeting held from 20th-22th November, 2008, decided not to consider any applications for these courses from institutes in Rajasthan for the academic year 2009-10. Consequently, it decided to return all these applications, without processing them on merits.

5. Being aggrieved, some educational institutions preferred writ petitions before the High Court of Rajasthan, assailing the respondents' decision to return the applications on the basis of a subsequent state ban. This batch of petitions was allowed by the High Court on 07.01.2009 with a direction to the respondents to take a final decision whether to process these applications or not, by considering all relevant factors. In issuing these directions, the Court relied on the decision in '*State of Maharashtra vs. Sant Dyaneshwar Shikshan Shastra Mahavidyalaya & Ors,*' (2006) 9 SCC 1, wherein the



Apex Court had upheld the decision of the Bombay High Court permitting opening of new educational institutions in Maharashtra, on the basis of the recognition granted by the NCTE, despite objections from the state government.

6. In compliance with the decision of the High Court of Rajasthan dated 07.01.2009, the respondent no.1 considered the issue afresh and vide its communication dated 27.01.2009, informed the regional committees about its decision not to grant recognition for B.Ed/STC/Shiksha Shastri Courses to any institute in the state of Rajasthan for the academic year 2009-10.

7. This decision of the respondent no.1 was once again assailed before the High Court of Rajasthan by way of a number of petitions, wherein the Court vide its judgment dated 13.08.2009 in '*Sampat STC Mahavidyalya vs State of Rajasthan & Ors.*' (2009) SCC OnLine Raj 5627, while declining to interfere with its decision dated 27.01.2009, directed the respondent no. 1 to take a fresh decision for grant of recognition for the next academic session of 2010-11, to the petitioners therein. Even though this decision was assailed by way of an intra Court appeal in '*Dau Baba IT College & Ors. vs. State of Rajasthan & Ors.*' (2010) SCC OnLine Raj 4550, the Division Bench, after noticing that the NCTE was not aggrieved by the directions issued by the learned Single Judge for a fresh consideration for the next academic session 2010-11, vide its judgement on 23.12.2010 reiterated those directions qua the petitioners therein. However, since by then the academic session 2010-11 was almost over, the respondent no.1 was now directed to process those applications for grant of recognition for the next academic session, i.e., 2011-12.

8. At this stage, it may also be noted that during the period when the appeal in *Dau Baba (supra)* was pending before the High Court, the



respondent no.1, vide its letter dated 01.10.2009, directed the respondent no.2 to process for recognition those applications where inspection had been conducted and show cause notices issued before 31.08.2009. Consequently, it was directed that all other pending applications, other than those covered by this clarification, be returned.

9. Soon thereafter, the respondent no.1, on 06.10.2009, partially modified its letter dated 01.10.2009 by clarifying that the applications for the academic year 2009-10, which had been received on or before 31.10.2008, but had been returned to the institutions, would now be processed on merits for the next academic session 2010-11. This was on the premise that these applications having been received on or before 31.10.2008 were made in terms of the NCTE Regulations, 2014 (hereinafter referred to as 'NCTE Regulations'), required to be processed before 31.08.2009 but had been wrongly returned and therefore, could now be considered only for the next academic session 2010-11; since the applications were not processed for granting recognition for the academic session 2009-10, within the stipulated time, the respondent no.1 was directed to consider the aforesaid applications for the academic session 2010-11 on merits.

10. The respondents again considered the issue regarding the rejection of applications on account of the state ban, and on 31.08.2010, directed the regional committees to process all the pending applications of the eligible institutions on merits, without considering the ban imposed by the state government. It may be noted that even the regional committee/respondent no.2, in its 238th meeting held from 20-31st May, 2015 took a decision to process the applications received for the academic session 2015-16, by ignoring the negative recommendations of the state government, which had been received after applications for recognition of courses had already been



invited. The respondent no.1 categorically observed that the state governments were expected to issue policy changes well in advance, and no-mid way policy changes imposing a state ban would be considered. A similar decision to process all the applications without considering the subsequent ban imposed by the state government was reiterated by the respondent no.2 in its meetings held on 20.11.2017 and 19.12.2017.

11. However, despite the aforesaid decisions taken by the respondents, a number of applications were still rejected on the basis of negative recommendations made by the state Governments in 2012-2013, for opening of new educational institutes in Rajasthan and Haryana. These rejections were assailed before this Court, by way of a number of writ petitions which were allowed from time to time, by taking into account the respondents' own decision to process all applications received before the imposition of the state ban. However, in October 2018, one of these petitions came to be rejected by a learned Single Judge of this Court in ***Saraswati Deep College of Education vs. NCTE and Ors., (2019) SCC Online Del 10857***, by accepting the respondents' plea that even a subsequent state ban would be a ground for returning the applications. A challenge to this decision was negated by the Division Bench. However, the Apex Court vide its order dated 29.07.2019 set aside the decisions, both of the learned Single Judge as also of the Division Bench, by observing that the rejection of the applications on the basis of a ban on setting up of new educational institutes fell foul of its earlier decisions, dated 06.08.2018 in ***W.P.(C) No. 564/2018 'Kanya Gurukul College of Education vs. NCTE and Ors.'*** and 10.09.2018 in ***W.P.(C) 966/2018 'Gyan Deep College of Education vs. NCTE and Ors.'*** The respondents were accordingly directed to process the applications of the appellants therein on merits.



12. During this period, once again, when the matter was pending before the Apex Court in *Saraswati Deep (supra)*, some more educational institutes in the states of Haryana and Rajasthan, whose applications had also been rejected on account of a subsequent ban imposed by the state government, approached this Court. These petitions came to be allowed by this Court in two batches, the first being, *Sir Chhotu Ram Jat College of Education vs. NCTE and Ors.*, 2019 SCC Online Del 10857, and the other being *W.P(C) 7921/2018, Maharana Pratap Manav Vikas Samiti & Anr. vs. NCTE and Ors.* The batch pertaining to *Maharana Pratap (supra)* also contained petitions relating to those institutions who had, like the petitioner in the present case, applied for recognition for the academic session 2008-09.

13. Following the decision of the Apex Court in '*Saraswati Deep College of Education vs. NCTE and Ors. (supra)*', this Court vide its judgment dated 18.10.2019, allowed the batch of petitions in *Sir Chhotu Ram (supra)*. The respondents were accordingly directed to consider the applications submitted by the petitioners without taking into account the subsequent ban imposed by the state government. It may be noted that the Court, while allowing this batch of petitions, directed that the said decision would be treated as an order *in rem*, and the concerned regional committees were specifically directed to consider on merits, the applications of all those institutes that were similarly situated and had filed their respective applications before the imposition of the state ban. Based on this decision, the other batch of similar petitions, i.e., *Maharana Pratap (supra)* was also allowed on 20.11.2019, which, as noted hereinabove, included a number of cases pertaining to the academic year 2008-09.

14. However, despite the directions issued to the regional committees by this Court in *Sir Chhotu Ram(supra)* to consider applications of all similarly



placed institutions, the respondents still did not consider the applications of the petitioners, compelling them to approach this Court by way of the present petition.

Submissions of the petitioners

15. In support of the petitions, Mr. Amitesh Kumar and Mr. Sanjay Sharawat, learned counsel for the petitioners, at the outset submit that, the petitioners' case is squarely covered not only by the decision of the Apex Court in *Saraswati Deep College (supra)*, but also by the decision of this Court in *Sir Chhotu Ram (supra)*. They submit that the judgement in *Sir Chhotu Ram (supra)* was declared as a judgment *in rem*, with the Court specifically directing the respondents to consider on merits, all applications which had been rejected on account of a subsequent ban imposed by the state government. They therefore, urge that the Court was clearly of the opinion that all applications submitted prior to the ban coming into force ought to be processed on merits, and not merely those which had been rejected on the basis of the ban imposed by the State Government in 2012, as is sought to be contended by the respondents. Moreover, in *Maharana Pratap(supra)* the Court by following the decision in *Sir Chhotu Ram(supra)*, had allowed a batch of petitions, which included cases relating to the ban imposed by the Government of Rajasthan in 2008. He therefore, contends that the respondents cannot now urge that the judgment in *Sir Chhotu Ram(supra)* was applicable only to the ban imposed in 2012, and not to the cases pertaining to the state ban of 2008.

16. He further submits that even though, the respondent no.1 itself has issued repeated directions to the respondent no.2 for processing of applications on merits without taking into account the state ban, the petitioners' cases have not been considered, compelling them to approach this



Court. By drawing my attention to the communications dated 31.08.2010 and 20.11.2017 issued by the respondent no.1, he submits that a categorical direction was issued to the regional committees to process on merits, all the applications received before the imposition of the state ban. He therefore, contends that it was incumbent upon the respondent no.2 to process the applications of the petitioner which had been admittedly received before the imposition of the ban by the Govt. of Rajasthan on 17.11.2008. The respondent no.2 has not only failed to act in accordance with the repeated directions issued by respondent no.1 from 2010 onwards, but has also failed to comply with the decisions of this Court. He therefore, contends that the writ petitions deserve to be allowed on the basis of directions issued in ***Sir Chhotu Ram (supra)*** itself.

17. While denying the respondents' plea that the issue regarding the non-processing of the applications submitted in the year 2008 had already attained finality in ***Sampat STC (supra)***, Mr.Kumar submits that this plea overlooks the directions issued by the Court in para 30 of the said decision, wherein the Court, while declining to interfere with the decision to return the application at that stage, had directed the respondents to consider the same for the next academic year 2010-11. This direction was reiterated by the Division Bench of the Rajasthan of High Court in ***Dau Baba (supra)***, which once again directed the respondents to process the applications for the next academic session of 2011-12. Moreover, this Court has, after the decision of the High Court of Rajasthan in ***Sampat STC (supra)***, allowed a number of writ petitions pertaining to same year, many of them without any objection from the respondents. He, therefore, contends that the respondents' plea that the petitioners' claim for consideration of their applications for the next academic



session already stands finally rejected in *Sampat STC (supra)*, is wholly misconceived.

18. Mr. Sharawat, learned counsel for the petitioners, submits that despite the decision in *Sampat STC(supra)*, not only have similar petitions been subsequently allowed both by the Apex Court and by this Court, but also by the High Court of Rajasthan in 2018. In support of his plea, he draws my attention to the order passed by the High Court of Rajasthan in '*Murli Singh Yadav Parikshan Sansthan vs. NCTE &Ors.*' (2018) SCC Online Raj 300, wherein the respondents were, as recently as in 2018, directed to consider the application, pertaining to the year 2008, of a similarly placed institute. He, therefore, contends that the respondents' plea that the issue regarding the return of the applications in 2009 cannot be examined at this stage, is wholly misplaced.

19. Mr. Amitesh Kumar and Mr. Sharawat then submit that the respondents' refusal to process the applications on account of any purported delay overlooks the fact that as per the directions issued by this Court in *Sir Chhotu Ram (supra)*, respondents were obliged to consider all the applications on merits and cannot be permitted to urge that the applications should not be considered on account of delay. The respondents themselves having failed to act in accordance with the directions *in rem* issued in *Sir Chhotu Ram (supra)* issued in November, 2019, cannot now claim that the petitioners are guilty of any delay or laches.

20. They contend that once the issue remained under active consideration, not only of the respondents themselves, but also before this Court as also the High Court of Rajasthan, the mere fact that the present petitions were filed in the year 2020-21 would not amount to any laches or acquiescence on the part of the petitioners. Moreover, the petitioners are seeking recognition only for



the next academic session, and not for the year 2009-10, for which the applications were initially submitted by them after creation of the necessary infrastructure by utilising their own resources. They therefore, pray that the writ petitions be allowed and the respondents be directed to expeditiously consider the petitioners' application for recognition for the next academic session.

Submissions of the respondents

21. *Per contra*, Mr. Jai Sahai Endlaw, learned counsel for the respondents vehemently opposes the petition on the ground of delay and laches. He submits that the petitioners having approached this Court after 12 years of the return of their applications, are guilty of gross delay and laches and, therefore, contends that the petitions are liable to be rejected on this ground alone. Once the applications of the petitioners seeking grant of recognition had been rejected way back in 2009, their failure to approach this Court for 12 long years clearly shows that they had acquiesced to the decision of the respondent to not grant them recognition. By relying on the decision of the Apex Court in *State of Uttar Pradesh & Ors. vs. Arvind Kumar Srivastava & Ors.* (2015) 1 SCC 347, he submits that the petitioners having not been diligent in approaching the Court in time, are not entitled to any relief at this belated stage.

22. Mr. Endlaw next submits that even otherwise, the respondents' decision dated 27.01.2009 to return the applications received in 2008, on account of the subsequent ban imposed by the government of Rajasthan, already stands approved by the High Court of Rajasthan in *Sampat STC (supra)* and *Dau Baba (supra)*, which decisions have attained finality. Moreover, the direction of the Division Bench in *Dau Baba (supra)* for consideration of their



applications for the next academic session was specifically confined to the parties before the Court and therefore, the present petitioners cannot now claim that their applications should, at par with the petitioner in the said case, be also now considered for the next academic session. He, therefore, contends that the petitioners not having assailed the respondents' decision dated 27.01.2009, cannot now urge that the said order was erroneous in any way, or pray that their applications returned in 2009 should now be considered on merits.

23. Mr.Endlaw further submits that the decision in ***Sir Chhotu Ram(supra)***, on which heavy reliance has been placed by the petitioners, is not applicable to the facts of the present case as the said judgement dealt with a situation where the applications for recognition pertaining to the year 2012 were returned on account of the state ban imposed in 2012-13. However, in the present case, the applications which were submitted in the year 2008 were returned in the year 2009 itself, and therefore, the petitioners' claim that their applications ought to be considered on account of the directions issued in ***Sir Chhotu Ram(supra)*** is wholly misconceived. Furthermore, the respondents have considered all the applications pertaining to the year 2012 and have, accordingly, complied with all the directions issued by the Court in ***Sir Chhotu Ram (supra)*** and therefore, prays that the writ petitions be dismissed.

Findings and analysis

24. From the rival submissions of the parties, what emerges is that they are basically *ad idem* on the aspect that every application for recognition of a course received prior to a negative recommendation from the State Government has to be considered on its own merits and cannot be returned unacted on account of a subsequent state ban.



25. The petitioners have therefore, urged that once it is an admitted position that the applications in each of these cases were received by the NCTE before the issuance of the ban by the Government of Rajasthan on opening of new institutions for the B.Ed/STC/Shiksha Shastri Courses in the state, they are entitled to have their applications processed as per the NCTE regulations. *Per contra*, the respondents have opposed the petitions on the ground of delay and laches, and have urged that their decision to return all these applications on 27.01.2009 pursuant to the ban imposed by the government of Rajasthan on 17.11.2008 has attained finality, as a challenge thereto stood rejected by the High Court of Rajasthan on 13.08.2009 by the learned Single Judge as also by the Division Bench in 2010.

26. Thus, evidently the respondents' opposition to these petitions is on two counts, the first being on the ground of delay on the part of the petitioners in approaching this Court; the second being that their decision dated 27.01.2009 to return the applications, on account of the state ban, has already been upheld by the High Court of Rajasthan, which decision has attained finality.

27. In the light of this limited opposition by the respondents, I need not delve into the aspect as to whether every application received by the respondents, a statutory authority for granting recognition for running teacher training courses, is required to be considered on merits, if received prior to the imposition of a state ban. This question in my view, already stands decided in favour of the petitioners by the Apex Court in *Saraswati Deep (supra)*, which decision was followed by this Court in *Sir Chhotu Ram (supra)*. The respondents have therefore, rightly not urged anything to the contrary. Therefore, only two issues arise for my consideration in the present case. The first being as to whether, in light of the decision of the High Court of Rajasthan rejecting the challenge to the order dated 27.01.2009, the



petitioners are barred from praying that their applications should be considered for the next academic session 2021-22. The second being whether, the petitions are liable to be dismissed on account of the delay on the part of the petitioners in approaching this Court.

28. As the answer to the first issue hinges on the decision of the High Court of Rajasthan in **Sampat STC(supra)**, it may be apposite to note the relevant extracts of this decision of the learned Single Judge, which reads as under-

“30. In view of the discussion made above, I do not find any substance in this bunch of the writ petitions so preferred by the petitioner institutions, hence, all the writ petitions are liable to be dismissed and accordingly dismissed with no order as to costs. It is, however, observed that respondent-NCTE will take fresh decision for grant of recognition to petitioner institutions for the year 2010-2011 if they find that institution should be given recognition in the State of Rajasthan, then subject to fulfilment of conditions of the provision of law petitioner institutions may be given priority for grant of recognition.”

29. The directions issued by the learned Single Judge in **Sampat STC (supra)** were approved by the Division Bench in **Dau Baba IT (supra)** but since the next academic session was also over by that time, the Division Bench directed the respondents to consider the applications submitted by the petitioners therein for the subsequent academic session 2011-12. The relevant extracts of the directions as contained in para 12 of the decision of the Division Bench, read as under:-

“12. The NCTE is not aggrieved by aforesaid part of order and it has been decided to process pending cases for grant of recognition. Hence, in view of the order of Single Bench, the cases of the Appellants-institutions are to be treated as pending and they are required to be decided on merits in terms of the order passed by the Single Bench of this Court, which has not



been appealed against to by the NCTE/NRC. We are of the view that in the matter of grant of recognition, the pending cases cannot be distinguished merely on the basis of the stage they reached under the regulations.

It is for the respondents to consider the pending cases and such pending cases of petitioners have to be treated on priority as per order of Single Bench and at least on the same footing. We hold so in view of the order passed by the Single Bench and also in view of the decision taken in 166th Meeting held by the NRC on 9.9.2010. We are not impressed by this submission that only those cases were required to be considered, where the stage of regulation 7(9) or 7(11) had reached. The pending applications of Appellants cannot be left out in view of order of Single Bench.

However, on merits, it is for the concerned committee to take considered decision in the interest of education considering how many institutions are to be allowed at a particular place and whether the basic infrastructure is possessed by the institution alongwith requisite faculty. These are the aspects which are to be taken into consideration on objective basis by the concerned Regional Committee. Only thereafter, decision has to be taken for the academic session 2011-12.

In these cases, applications for recognition have to be treated as pending, particularly in view of the order passed by Single Bench of this Court, we have issued the aforesaid direction. This direction is confined to the consideration of petitioners' cases. It is also agreed to that the necessary formalities which may be necessitated, will be complied with in terms of rules and on fulfilment of the formalities by the institutions and decision shall be taken by the concerned Regional Committee on or before 15.6.2010 for recognition for session 2011-12."

30. I find that the learned counsel for the respondents has not been able to deny that both the learned Single Judge, and the Division Bench, of the High Court of Rajasthan, while upholding the respondents' decision dated 27.01.2009, had directed that the applications of the petitioners therein be considered afresh for the next academic session. He has however, urged that



these directions for consideration of the applications for the next academic session were specifically confined to the petitioners, who were parties before the High Court of Rajasthan and cannot, therefore, be extended to the petitioners in this batch of petitions. This plea undoubtedly, appears to be attractive on the first blush, but when the same is considered in the light of the subsequent decisions taken by the respondents themselves, both, before and after the decisions in *Sampat STC (supra)* and *Dau Baba (supra)* of the High Court, it has to necessarily fail. Before I delve further on this aspect, I may note the respondents' own decisions on this aspect, which are contained in its communication dated 31.08.2010, and the minutes of its meeting held on 28.05.2015 and on 20.11.2017. A reference may first be made to the communication dated 31.08.2010, which reads as under: -

“F.No.48-6/2010/PT-III/NCTE(N&S)/ August 31, 2010

<i>The Regional Director, Eastern Regional Committee. National Council for Teacher Education, E-15, Neelkhant Nagar, Nayapalli, Bhubaneshwar - 751012, Orissa</i>	<i>The Regional Director Western Regional Committee National Council for Teacher Education Manas Bhawan ,Shyamla Hills Near AIR, Bhopal-462002, Madhya Pradesh</i>
<i>The Regional Director, Northern Regional Committee, National Council for Teacher Education, A-46. Shanti Path, Tilak Nagar, Jaipur-302004.</i>	<i>The Regional Director, Southern Regional Committee . National Council for Teacher Education 1st Floor, CSD Building. HMT Post, Jalahalli Bangalore - 560031.</i>



Subject: Issue of recognition orders under section 7(11) or 7(9) of the NCTE Regulations, in cases where issuing of such order was held up in view of the earlier ban imposed in 2009.

Sir,

'I am directed to refer to the subject mentioned. above and to say that the matter regarding issue of recognition order under clause 7(9) or 7(11) of NCTE Regulations to the institutions which were found eligible for grant of recognition orders on merit 'but where orders could not be issued due to the ban imposed by NCTE on 26th July. 2009 has been considered by the Council and it is clarified that such pending orders now be issued. This is due to the consideration that the present ban is only on fresh receipt of application for the academic session 2011-12 and therefore the old pending cases are to be disposed on merit without any reference to the ban.'

31. A reference may also be made to the minutes of the 238th Meeting of the respondent no.2/Northern Regional Committee held from 20.08.2015-31.08.2015. The relevant extracts thereof read as under-

*The matter regarding processing of applications from the State of Haryana for grant of recognition / permission for the academic session 2015-16 was considered by the Northern Regional Committee. **The Committee decided that the letter dated 04.05.2015 sent by Director Secondary Education, Haryana, Panchkula, has been received very late and several cases from Haryana have already been dealt with on the basis of letter received on 16.01.2015. This letter should therefore be ignored. Every Government is expected to decide its policy in advance for the following academic years as it creates discrimination if the policy changes take place frequently. Based on this letter, the processing of pending applications for 2015-16 cannot be stopped midway.** The State Govt. should have communicated its decision well in time and only once for a particular year.*

In view of this, the Committee decided that all the applications from the State of Haryana for D.El.Ed. course be processed as per the earlier letter dated 06.01.2015. The Committee also



decided that the applications submitted by the institutions with court order only and pertaining to D.El.Ed. course be processed. The same line of action should be taken for other states which should be advised that their policy for a particular year should be conveyed to the NRC well in advance. Any policy change midway will not be considered. (emphasis supplied)

32. I may now refer to the minutes of the meeting of respondent no.1 held on 20.11.2017. The relevant extracts whereof read as under:

"Whereas the appeal of G.R. College of Education, Namaul, Mahendragarh, Haryana dated 25/10/2016 is against the Order No. NRC/ NCTE/ NRCAPP- 6992/ 255U1 Meeting/ 2016/ 156922 dated 30/08/2016 of the Northern Regional Committee, refusing recognition for conducting D.El.Ed. course on the grounds that "The reply of the applicant institution to show cause notice of the NRC dt. 08/06/2016 was considered by the NRC and the Committee decided to refuse recognition as the Govt. of Haryana vide its order dt. 23/02/2016 has banned any fresh opening/recognition/increase intake of any D.El.Ed. course In the State of Haryana for the academic session 2017-18.

XXXX

AND WHEREAS Appeal Committee is also of the view that when recommendations of the State Government under Clause 7 (4), (5) & (6) of the NCTE Regulations. 2014 are sought by the Regional Committee, the State Government should assess the institution on individual merit basis and wherever it is not in favour of recognition, shall provide detailed reasons and grounds with necessary statistics. Appeal Committee noted that when the appellant applied in 2012, there was no ban by the State Government.

Further the Appeal Committees of the view that the blanket general ban imposed by the State Government can be taken into account by NCTE only before issuing any notification inviting applications for teacher education courses in a particular State for the prospective academic year(s).

Once applications are invited, the Regional Committee has no right to reject it on grounds of ban imposed subsequently by the



State Government. Moreover, in the above case, the appellant was required to pay the processing fee afresh under the new Regulations. While reprocessing the application, the Regional Committee is free to ensure that the Norms and Standards as prescribed in 2014 Regulations for the teacher education programme applied for are complied with by the appellant before grant of recognition.”

(emphasis supplied)

33. A reference may finally be made to the minutes of the 278th meeting of the respondent no.2/the Northern Regional Committee held from 19.12.2017 to 20.12.2017, wherein while dealing with the case of a similarly placed institute, i.e. Royal Institute of Science and Management, the respondent no.2 noted the decision of the respondent no.1 that the state ban could be taken into account only if the same was imposed prior to issuing any notification inviting applications for teacher education courses in a state for the prospective academic year. It was also emphasised that, once applications were invited, the regional committee had no right to reject the same on the ground of a subsequent state ban. The relevant extract of the minutes of the meeting read as under:

31	NRCAPP-8734	Royal Institute or Science And Management. Plot No.- 67114. 17, 13/2. Village-Wazirpur, Post office - Wazirpur, Tehsili Taluka-Gurgaon, Town/City-	D.El.Ed.	The original file of the Institution alongwith other related documents, NCTE Act, 1993, Regulations and Guidelines issue by NCTE from time to time, were carefully considered by NRC and following observation was made: In compliance of the Order of the Appeal Committee, NRC issued letter to the Government of
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		Gurgaon, Dbt.- Gurgaon, Haryana -122505.		Haryana on 26.09.2017, followed by two reminders dated 02.11.2017 and 28.11.2017 to provide decision of Government of Haryana with regard to ban on opening of new D.El.Ed. Colleges for the Academic Session 2018-19. However, the State Government did not respond so far. NRC further noted that the Appeal Committee in its various Orders in tiles bearing No. NRCAPP-6992, 6881, 7024, 6603 and 5290 made the following observations: -. <i>AND WHEREAS Appeal committee is also of tile view that When recommendations of tile State Government under Clause 7(4), (5) & (6) of tire NCTE Regulations. 2014 are Sought by the Regional Committee, the State Government should assess tile institution on individual merit basis and wherever it is noting in favour of recognition, shall provide details reasons and grounds with necessary statistics. Appeal Committee noted that when the appellant applied in 2012, there was no ban by the State Government. <u>Further, the Appeal Committee is of the view that the blanket general ban imposed by the State Government can be taken into account by NCTE only before issuing any notification inviting applications for teacher education courses in a particular State for the prospective academic year(s). Once applications are invited, the</u></i>
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			<u>Regional Committee has no right to reject it on grounds of ban imposed subsequently by the State Government.</u> Moreover, in the above case, the appellant was required to pay the processing fee afresh under the new Regulations. While reprocessing the application, the Regional Committee is free to ensure that the Norms and Standards as prescribed in 2014 Regulations for the teacher education programme applied for are complied with by the appellant before grant of recognition. Since this case also falls under the same category, the NRC decide that VT be constituted in order to ascertain and scrutinize the essential documents such as land documents, building plan, CLU, BCC, Non- Encumbrance Certificate and all required documents in original and verify its authenticity with reference to NCTE Regulations, 2014 and mention the status/ position of these documents. In addition, the VT shall verify the infrastructure and instructional facilities created by the institution so as to assess preparedness of the institution as per provisions of the NCTE Regulations, 2014.
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34. From the aforesaid, it clearly emerges that the respondent no.1 has been consistently taking a stand that all applications received prior to the issuance of a subsequent state ban are required to be considered on merits and, in case, the institute meets the criteria laid down in the NCTE regulations, recognition ought to be granted to the institute. It is now time to



refer to the decisions both of the Apex Court, and of this Court, on this aspect.

35. I may first note the decision of the Apex Court in **Saraswati Deep(supra)** relied upon by the learned counsel for the petitioners. In the said decision, the Supreme Court, while setting aside this Court's decisions rejecting a claim for consideration of an application, which had been returned unacted on account of a subsequent state ban, directed the respondent to dispose of the application on merits. The said order reads as under-

“Having heard learned counsel for the parties, we are of the view that the impugned orders passed by the High Court dismissing the appellant's case on the basis of a ban on setting up new Colleges falls foul of our earlier orders dated 96.98.2918 in W.P.(C)No. 564 of 2918 and 19.99.2918 in W.P. (C)No. 966 of 2918. As a result, these impugned orders stand set aside. The appellant's application that is pending before the authorities may now be disposed of on merits. The appeals stand disposed of.”

36. At this juncture, a reference to the decision of this Court in **Sir Chhotu Ram (supra)** is essential. The relevant observations and directions, as contained in paras 12 to 17 thereof, read as under: -

*“12. As observed above, the issue which arises for consideration in the present proceedings was squarely placed for adjudication before a Single Judge and Division Bench of this Court in **Saraswati Deep College of Education vs. National Council for Teacher Education &Anr.** Both the Single Judge as well as the Division Bench while declining relief to the petitioner/appellant relied upon the judgment dated 18.7.2018, passed in **Maa Vaishno Devi Mahila Mahavidyalaya**, however, despite this situation obtaining the Supreme Court in **Saraswati Deep College of Education** case set aside both the orders i.e. the order of the Single Judge and the order passed by the Division Bench.*



13 I have already extracted the order of the Supreme Court passed in **Saraswati Deep College of Education** case. I am of the opinion that the judgement of the Supreme Court in the aforementioned matter covers the issue raised in the captioned writ petitions. Insofar as this Court is concerned, it is bound by the order of the Supreme Court in **Saraswati Deep College of Education vs. National Council for Teacher Education &Anr.**

14 Thus, for foregoing reasons, the captioned writ petitions will have to be allowed. The concerned Regional Committees will reconsider the applications of the petitioners in the captioned matters without being burdened by the fact that various State Governments have imposed a ban on setting up of new institutions and granting recognition to new courses.

15. Needless to add, the applications will be considered by the NCTE on their own their merit as expeditiously as possible, though, not later than twelve (12) weeks from the date of receipt of a copy of the order.

16. The petitioners will render all assistance so that the timeline fixed by the Court is adhered to.

17. Since this is an order in rem, the concerned Regional Committees will consider on merit the applications of even those who are similarly circumstanced and have filed their respective applications before the ban kicked-in as per the extant provisions of law."

(emphasis supplied)

37. This decision in **Sir Chhotu Ram(supra)** was followed in **Maharana Pratap(supra)**, which batch of petitions also included a number of institutes who, like the present petitioners, had applied for recognition pursuant to the public notice dated 02.10.2008 issued by respondent no.1. Their applications had, also like those of the present petitioners, been returned without being processed on merits, on account of the ban imposed by the Government of Rajasthan on 17.11.2008. The directions issued by the Court in **Maharana Pratap (supra)** read as under-



“1. It is common ground that the issue which arises in these matters is covered by the judgment of this Court dated 18.10.2019, passed in W.P.(C) NO.8820/20 19, titled *Sir Chhotu Ram Jat College of Education Vs. National Council for Teacher Education & Anr.*

2. Accordingly, the captioned writ petitions are allowed. The directions contained in *Sir Chhotu Ram Jat College of Education'* case will apply *mutatis mutandis* to these matters as well.”

38. Thus, the position that emerges is that the High Court of Rajasthan in 2009, while declining to interfere with the respondents' decision not to process the applications at that stage on account of the state ban, simultaneously issued a direction to consider the applications of the petitioners therein, for the next academic session. It is an undisputed position that the applications of the petitioners before the High Court of Rajasthan were ultimately processed on merits, though not for the year 2009-10 but for the subsequent academic sessions 2010-11 and 2011-12.

39. The respondents have however refused to consider the petitioners' applications by urging that the direction of the High Court of Rajasthan for consideration of those applications for the next academic sessions, was confined only to the petitioners before it. In my view, this stand of the respondents, besides being discriminatory and arbitrary, is in the teeth of its own communications and minutes of the 278th meeting, as noted hereinabove, wherein a categorical decision was taken to process all those applications which were received prior to the ban imposed by the state government. The respondents have also, without any basis, tried to contend that the decision in *Sir Chhotu Ram(supra)* was intended to apply only those cases where applications had been returned on account of the state ban imposed in 2012. I am unable to find anything to this effect in the said decision. On the other hand, I find that the Court while declaring the decision to be *in rem*,



specifically directed the regional committees to process on merit the applications of all those who were similarly circumstanced, and had filed their respective applications before the imposition of the state ban. The Court did not in any manner curtail the relief only to those cases where the applications had been rejected on account of the state ban imposed in 2012. Moreover, following the decision in *Sir Chhotu Ram (supra)* a batch of petitions was allowed on 20.11.2019 in *Maharana Pratap (supra)*. The respondents have not denied that pursuant to the decision in *Maharana Pratap (supra)*, a number of applications which had been returned pursuant to the decision dated 27.01.2009, on account of the ban imposed by the government of Rajasthan, in the year 2008, have now been processed on merits for the academic session 2019-2020.

40. The petitioners are similarly placed as the petitioners in *Maharana Pratap (supra)* and their applications were also admittedly returned pursuant to the same state ban imposed in 2008. I, therefore, do not find any merit in the respondents' plea that, on account of the earlier decisions in *Sampat STC (supra)* and *Dau Baba (supra)*, the applications pertaining to the state ban imposed by the government of Rajasthan, cannot be now considered for the next academic session.

41. Now, I may deal with the second issue as to whether the present petitions are liable to be dismissed on the ground of delay. Even though, the petitioners have approached this Court after almost 10 years from the date of submitting their applications, the fact remains that this Court in *Sir Chhotu Ram (supra)*, after considering all the relevant factors, including the decision of the Apex Court in *Saraswati Deep (supra)* with the intention to bring under the umbrella, all similarly placed institutes, had directed that its decision be treated as an order *in rem*. In fact, specific directions, in this



regard were issued to the regional committees for consideration of all similarly placed applications which had been rejected on account of a subsequent state ban. This direction, which was issued in November, 2019, has admittedly not been followed qua the petitioners on the specious ground that the said decision was applicable only to the cases relating to the ban imposed in 2012. This plea of the respondents, as already held hereinabove, is meritless as the decision in *Sir Chotu Ram (supra)* was in no way confined to any particular state ban, and were therefore, directed to be considered *in rem* for all applications which had been returned on account of a subsequent state ban.

42. Though learned counsel for the respondents, has by referring to the decision in *Arvind Kumar Srivastava (supra)* sought to urge, that the Apex Court has held that persons who do not challenge an unlawful action in time, are deemed to have acquiesced to the same. He has therefore, contended that the petitioners having not assailed the action of return of their applications in 2009, ought to be presumed to have acquiesced to the same, and are therefore, precluded from seeking consideration of their application at this belated stage. A perusal of this decision shows that, the cases relating to orders passed *in rem* are to be treated in a different category. I am therefore, of the view that this decision instead of forwarding the case of the respondents, supports the petitioners' case, as the petitioners are relying on the directions issued *in rem* in *Sir Chhotu Ram (supra)*. It may be apposite to refer to para 22 of *Arvind Kumar (supra)*, wherein the Apex Court, while culling out the principles which should be applied while dealing with the cases where there is a delay in approaching the Courts, held as under-



“22. The legal principles which emerge from the reading of the aforesaid judgments, cited both by the appellants as well as the respondents, can be summed up as under

22.1 The normal rule is that when a particular set of employees is given relief by the court, all other identically situated persons need to be treated alike by extending that benefit. Not doing so would amount to discrimination and would be violative of Article 14 of the Constitution of India. This principle needs to be applied in service matters more emphatically as the service jurisprudence evolved by this Court from time-to-time postulates that all similarly situated persons should be treated similarly. Therefore, the normal rule would be that merely because other similarly situated persons did not approach the Court earlier, they are not to be treated differently.

22.2 However, this principle is subject to well-recognised exceptions in the form of laches and delays as well as acquiescence. Those persons who did not challenge the wrongful action in their cases and acquiesced into the same and woke up after long delay only because of the reason that their counterparts who had approached the court earlier in time succeeded in their efforts, then such employees cannot claim that the benefit of the judgment rendered in the case of similarly situated persons be extended to them. They would be treated as fence-sitters and laches and delays, and/or the acquiescence, would be a valid ground to dismiss their claim.

22.3 However, this exception may not apply in those cases where the judgment pronounced by the court was judgment in rem with intention to give benefit to all similarly situated persons, whether they approached the court or not. With such a pronouncement the obligation is cast upon the authorities to itself extend the benefit thereof to all similarly situated persons.

Such a situation can occur when the subject-matter of the decision touches upon the policy matters, like scheme of regularisation and the like (see K.C. Sharma v. Union of India [K.C. Sharma v. Union of India, (1997) 6 SCC 721: 1998 SCC (L&S) 226]). On the other hand, if the judgment of the court was in personam holding that benefit of the said judgment shall accrue to the parties before the court and such an intention is stated expressly in the judgment or it can be impliedly found out from the tenor and language of the judgment, those who want to



get the benefit of the said judgment extended to them shall have to satisfy that their petition does not suffer from either laches and delays or acquiescence.”

43. In the present case, it is undisputed that in ***Sir Chhotu Ram(supra)***, directions were issued for treating the said judgment to be *in rem*, with specific directions to the Regional Committees to process all applications which had been rejected on account of the subsequent state ban. Thus, when the petitioners are relying on the directions *in rem* issued in ***Sir Chhotu Ram(supra)*** for processing of all pending applications on merits, the present case would squarely fall within the ambit of the observations of the Apex Court in para 22.3 of ***Arvind Kumar Srivastava (supra)***. In fact, once such directions were issued, it was incumbent on the respondents to consider all the applications which were not processed on account of the subsequent state ban. The respondents, having failed in their duty to do so, have in fact, acted in breach of the obligations imposed on them by this Court in ***Sir Chhotu Ram (supra)*** and cannot, therefore be permitted to urge that the petitions should be dismissed on the ground of delay. Moreover, the petitioners, who had already created the basic infrastructure way back in the year 2009-10, are seeking recognition only from the next academic session and not from any earlier year. Thus, even on this count, the respondents’ objection to the petitions on the ground of delay deserves to be rejected. The petitioners, in my considered view, are entitled to consideration of their applications by the respondents on merits, at the earliest.

44. This Court can also not lose sight of the fact that all the petitioners had submitted their applications only pursuant to the notices issued by the respondents inviting applications for grant of recognition to conduct B.Ed/STC/Shiksha Shastri Courses, and would therefore have spent huge



amounts for creation of the necessary infrastructure. In a country like ours, where we are still striving to achieve the goal of 100% literacy, in my view, it would be against public interest to allow such infrastructure to be wasted. Moreover, the consideration of the petitioners' applications for the next academic session will not in any manner cause any prejudice to any party; and on the other hand, will only help in increasing the availability of recognised educational institutes to the citizens. I am therefore, of the view, that looked at from any angle, the petitions deserve to be allowed.

45. The writ petitions are, accordingly, allowed. The respondents are directed to process all the pending applications of the petitioners on merits as per the laid down procedure within a period of four months from today.

(REKHA PALLI)
JUDGE

MARCH 3, 2022

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