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

**Date of Decision: 20<sup>th</sup> July, 2022**

+ **W.P.(C) 3069/2022**

**AIREEN INSTITUTION OF EDUCATION** ..... Petitioner

Through: Mr. Sanjay Sharawat, Mr. Divyank Rana and Mr. Ashok Kumar, Advocates.

versus

**NATIONAL COUNCIL FOR TEACHER EDUCATION & ANR.**

..... Respondents

Through: Mr. Govind Manoharan, Advocate.

**CORAM:**

**HON'BLE MR. JUSTICE SANJEEV NARULA**

**JUDGMENT**

**SANJEEV NARULA, J. (Oral):**

1. The present writ petition is directed against the decision of Respondent No. 2 – Western Regional Committee (“WRC”) taken at its 322<sup>nd</sup> meeting held from 23<sup>rd</sup> to 24<sup>th</sup> November, 2020 whereby the recognition granted to Petitioner-institute for B.Ed. course has been withdrawn.

2. At the outset, it is noticed that Petitioner-institute has not preferred an appeal against the said order. Mr. Sanjay Sharawat, counsel for Petitioner-institute, submits that this Court has, in cases such as the present petition, where no show-cause notice has been issued, routinely and consistently



entertained such petitions. He places reliance on order dated 20<sup>th</sup> November, 2019 passed by this Court in *Vivek Vardhini College of Education for Women v. National Council for Teacher Education & Anr.* [W.P. (C) 11271/2019].

3. In the above circumstances, the Court has proceeded to hear the matter.

#### BRIEF FACTS

4. Briefly stated, Petitioner submitted an application seeking recognition with WRC in the year 2004. Pursuant to an inspection conducted by WRC, recognition was granted to Petitioner-institute for running the said course with an intake of 100 students on 14<sup>th</sup> February, 2005. Thereafter, on 1<sup>st</sup> December, 2014, the National Council for Teacher Education (Recognition Norms and Procedure) Regulations came into force requiring revised recognition orders to be issued to all the existing institutions. Consequent thereto, on 29<sup>th</sup> October, 2015, Petitioner filed an application with the WRC for shifting of premises to a self-owned property along with the requisite fee. The said application was not processed, constraining the Petitioner-institute to continue functioning in the old premises taken on lease.

5. In its 316<sup>th</sup> meeting held on 27<sup>th</sup> and 28<sup>th</sup> August, 2020, the WRC decided to issue show cause notices to all institutions falling within its jurisdiction which were granted recognition in temporary rented premises on the basis of earlier Regulations of 2002 and had not yet shifted to their own building within three years from the date of grant of recognition; or had yet not applied for shifting to own premises.

6. Pursuant to the said decision, a show-cause notice was issued on 29<sup>th</sup>



September, 2020, which Petitioner-institute contends was never received by it. In the 322<sup>nd</sup> meeting held on 23<sup>rd</sup> / 24<sup>th</sup> November, 2020, as no reply to the said show-cause notice was received by WRC, a decision was taken *qua* the Petitioner, which reads as follows:

| <i>SL. No.</i> | <i>FILE/ CODE NO.</i> | <i>NAME AND ADDRESS OF THE INSTITUTION</i>                                                  | <i>COURSE</i> | <i>DECISION OF WRC</i>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |
|----------------|-----------------------|---------------------------------------------------------------------------------------------|---------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 77.            | 123150                | AIREEN INSTITUTION OF EDUCATION, 3-LULLA ARCADE, OPP BHANU SAGAR, KALAYAN WEST, Maharashtra | B.ED          | <p>The original file of the Institution along-with other related documents were carefully considered and examined by WRC in the light of NCTE Act, 1993, Regulations and Guidelines issued by NCTE from time to time and the following observation was made that:</p> <ol style="list-style-type: none"> <li>1. Recognition was granted to the institution on 14.02.2005 on rented premises with a condition that to shift the institution in its own premises within a period of three years from the date of issue of recognition order.</li> <li>2. The institution has not shifted the institution in its own premises till date.</li> <li>3. Accordingly, Show Cause</li> </ol> |



|  |  |  |  |                                                                                                                                                                                                                                                                                                                                                                |
|--|--|--|--|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
|  |  |  |  | <p>Notice was issued to the institution on 20.09.2020.</p> <p>4. The institution has not submitted the reply of the Show Cause notice till date.</p> <p>In view of above, the Committee decided that the recognition of B.Ed programme of the institution be <b>WITHDRAWN</b> under Section 17 (3) of the NCTE Act from the next academic session 2021-22.</p> |
|--|--|--|--|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|

Consequently, a withdrawal order was issued by the WRC on 10<sup>th</sup> December, 2020 [*hereinafter*, “**withdrawal order**”].

#### CONTENTIONS OF THE PARTIES

##### On behalf of the Petitioner-institute

7. In the above background, Mr. Sharawat impugns the decision to withdraw on the following grounds:

7.1. The decision taken in 316<sup>th</sup> meeting is completely erroneous and arbitrary as WRC did not consider any specific case, but took an omnibus decision without reference to any particular institution.

7.2. Without prejudice to the foregoing, the Petitioner-institute’s case does not fall foul of any regulations. The reasoning behind the decision to issue a show-cause notice taken in the 316<sup>th</sup> meeting is not applicable to Petitioner-institute as an application for shifting of premises to a self-owned property



was already made by it, and was pending adjudication before the WRC.

7.3. The show-cause notice dated 29<sup>th</sup> September, 2020 was never received by Petitioner-institute. The impugned decision to withdraw recognition of the Petitioner-institute is violative of the principles of natural justice in as much as no opportunity for hearing was given to it to present its case.

7.4. The WRC did not issue a second show-cause notice to Petitioner-institute which is mandatory before passing a final order under Section 17 of the National Council for Teacher Education Act, 1993 (“NCTE Act”) in terms of standard operative procedure (“SOP”). The authorities created by the legislature under a statute must strictly act within the four corners of the statute and exercise their statutory powers in terms thereof.

*On behalf of the Respondents*

8. *Per contra*, Mr. Govind Manoharan, counsel for Respondents, makes the following submissions:

8.1. Petitioner-institute is guilty of concealment of material facts and a false statement has been made before the Court that an application for shifting of premises was made to the WRC. In fact, the said application, annexed as Annexure-P-3 with the petition, does not pertain to Petitioner-institute at all as is evident from the official letterhead on which the application was presented. The same mentions the name of institution as “Irene Institution of Education” whereas the proforma application, recognition order dated 31<sup>st</sup> May, 2015, show-cause notice dated 29<sup>th</sup> September, 2020 as well as the withdrawal order mention the name “Aireen Institute of Education”. These are two separate institutions; it cannot



therefore be said that a valid application for shifting of premises was made.

8.2. The contention of Petitioner-institute that no show-cause notice was issued is also falsified by the records of the Respondents. The dispatch report annexed as Annexure R-5 with the counter affidavit of Respondents, clearly mentions a despatch number *i.e.* 210289 which can be correlated to the number mentioned on the show-cause notice.

8.3. At the time of taking the decision for withdrawal, the WRC specifically looked into the record pertaining to the Petitioner-institute and thereafter came to a factual finding that no application for shifting had been filed by Petitioner-institute. The Petitioner-institute was in violation of the original conditions of its recognition, and cannot be allowed to continue as an institute.

8.4. There exists an efficacious alternative remedy for preferring an appeal under Section 18 of the NCTE Act before the Appellate Committee, and thus the Court should not entertain the present petition.

8.5. The requirement for issuing second-show cause notice is merely directory in nature and not mandatory as reasonable opportunity had been given to the Petitioner under Section 17 of the NCTE Act.

#### ANALYSIS

9. Having considered the afore-noted contentions, in the opinion of the Court, the present petition deserves to be allowed for the reasons stated hereinafter.

10. The application for shifting of premises dated 29<sup>th</sup> October, 2015, *prima facie* has an endorsement by WRC dated 30<sup>th</sup> October, 2015. Although the said application is on a letter head of “Irene Institute of



Education”, however, in the body of the letter, the name of the Petitioner-institute is specifically mentioned as “Aireen Institute of Education”. That apart, it also makes a mention of a letter no. WRC/APW00816/123150/2015/143338. The number 123150, as Mr. Sharawat points out, is unique to the Petitioner-institute. In the circumstances, there cannot be any ambiguity that the application dated 29<sup>th</sup> October, 2015 pertained to Petitioner-institute.

11. If that be the position, the next question that arises for consideration is whether indeed the ground for issuance of the show-cause notice dated 29<sup>th</sup> September, 2020 is sustainable in law. On this aspect, two observations are required to be made. Firstly, the decision taken in the 316<sup>th</sup> meeting is indeed without reference to any particular institute. It is a general decision taken by the WRC for issuance of show-cause notices to all institutes who do not fulfil the criteria mentioned therein. At the same time, in the said meeting, the WRC also observed as under:

*“Further, the WRC also decided that the applications of the institutions who have applied for shifting of premises be examined by office at the earliest and placed before WRC for consideration and decision.”*

12. The above-extracted decision required the office to consider all the applications, and then submit a report to the WRC to take a final view thereon. No other decisions apart from the final one for withdrawal, has been shown where WRC has independently examined and determined that the Petitioner-institute had not applied for shifting of the premises. There is thus, no specific finding by the WRC *qua* the Petitioner prior to the issuance of the show-cause notice dated 29<sup>th</sup> September, 2020.



13. Further as regards the controversy regrading service of the show-cause notice dated 29<sup>th</sup> September, 2020, the Court would lean in favour of Petitioner-institute. Service of show-cause notice is a vital communication for an institute as it affords an opportunity to them to put forth their stand *qua* the alleged deficiencies, failing which adverse consequences are bound to follow. This opportunity is thus, crucial for the institutes whose recognition and operation are at stake. To prove the service, Respondents have relied upon a dispatch report, but failed to annex any proof of dispatch therewith. The show-cause notice dated 29<sup>th</sup> September, 2020 mentions the mode of dispatch as “*by Speed Post/ Regd. Post*” but no speed post receipt or tracking report has been brought on record which can convince the Court that a show-notice was indeed served on Petitioner-institute.

14. In light of the above, the Court is inclined to allow the present petition and accordingly, the decision taken by WRC *qua* Petitioner-institute in the 322<sup>nd</sup> meeting held from 23<sup>rd</sup> to 24<sup>th</sup> November, 2020, and the withdrawal order, is set aside. The WRC shall now issue an order of restoration of recognition and reflect the status of Petitioner-institute as a recognised institution for B.Ed. course and send a written communication in this regard to the affiliating university of Petitioner-institute and to the Department of Higher Education, Government of Maharashtra with instructions that the Petitioner-institute is entitled to take part in counselling and admit students for all academic sessions within a period of two weeks from today.

15. It is clarified that this order shall not preclude Respondents from issuing a fresh show-cause notice to Petitioner-institute as per their discretion. It is further clarified that the Court has not expressed any opinion on the contentions advanced by the parties *qua* the issuance of a second



show-cause notice as Petitioner-institute is entitled to succeed on other grounds. The Court has not delved into the merits of the case and views expressed herein are only for the purpose of deciding the present petition.

16. With the above directions the present petition is disposed of.

**SANJEEV NARULA, J**

**JULY 20, 2022**

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