

* IN THE HIGH COURT OF DELHI AT NEW DELHI

Reserved on: 14th October, 2022.

Pronounced on: 2nd November, 2022.

+ W.P.(C) 9212/2022 & CM APPL. 43713/2022

SRI SRINIVASA COLLEGE OF EDUCATION Petitioner

Through: Mr. Mayank Manish and Mr. Ravi Kant, Advocates.

versus

NATIONAL COUNCIL FOR TEACHER EDUCATION AND ANR

..... Respondents

Through: Mr. Govind Manoharan, Mr. Nakul Rajan and Ms. Shivalika Rudrabatla, Advocates.

CORAM:

HON'BLE MR. JUSTICE SANJEEV NARULA

J U D G M E N T

SANJEEV NARULA, J.:

1. Petitioner impugns, (i) order dated 08th March, 2021 of Respondent No. 2-Southern Regional Committee [**“SRC”**] withdrawing recognition to Petitioner-institute [*hereinafter “**withdrawal order**”*] and, (ii) order dated 18th April, 2022 of Appellate Committee of Respondent No. 1-National Council for Teacher Education [**“NCTE”**] confirming the withdrawal order [*hereinafter “**appeal order**”*] [collectively, referred to as **“impugned orders”**].

2. Facts: -

2.1 Petitioner-institute was granted recognition by SRC *vide* order dated 10th May, 2007 for conducting B.Ed. course of one year duration with

an annual intake of 100 students from academic session 2006-07.

- 2.2 On promulgation of NCTE (Recognition Norms and Procedure) Regulations, 2014 [*hereinafter* “**NCTE Regulations, 2014**”], Petitioner-institute submitted an affidavit dated 22nd January, 2015 for adherence to provisions of said regulations *qua* two units in B.Ed. course. Consequently, a Revised Provisional Recognition Order [*hereinafter* “**RPRO**”] dated 19th May, 2015 was issued to Petitioner-institute for 100 seats – two basic units of 50 students from academic session 2015-16.
- 2.3 Subsequently, *vide* letter 30th October, 2015 to SRC, Petitioner-institute sought to reduce the intake from 100 to 50 students (2 units to 1 unit) for B.Ed. course. The sanctioned strength of 50 students was granted by affiliating university *vide* communication dated 15th February, 2016 for academic session 2016-17 and thereafter, Petitioner-institute again requested SRC for reduction of intake *vide* letter dated 17th December, 2016.
- 2.4 Petitioner-institute also sought permission for change of management on 28th February, 2017. The afore-noted request was rejected *vide* letter dated 1st March, 2017 and request for reduction of intake for B.Ed. course was conditionally accepted by SRC. Further, *vide* said communication, Petitioner-institute was directed to submit latest approved faculty list for issue of fresh recognition order, in view of changed faculty norms, as per NCTE Regulations, 2014.
- 2.5 On 16th May, 2017, Petitioner-institute applied to affiliating university requesting for approval of faculty. In the above background, on 13th November, 2019, SRC issued first show cause notice [“**First SCN**”]

to Petitioner-institute for not submitting the requisite documents in response to RPRO, with an opportunity to submit a reply within 21 days.

- 2.6 Petitioner-institute responded to First SCN *vide* letter dated 21st December, 2019.
- 2.7 Pursuant to Petitioner-institute's request, affiliating university on 14th June, 2020, duly approved the faculty list.
- 2.8 In the meantime, SRC issued a final show cause notice on 8th January, 2021 [***Final SCN***] on the ground that Petitioner-institute had not submitted any representation/ compliance in response to SRC's letter dated 1st March, 2017. This was replied to by Petitioner-institute on 1st February, 2021 enclosing therewith afore-said approved faculty list, for issuance of fresh recognition order.
- 2.9 Thereafter, withdrawal order was issued by SRC on ground of failure to submit requisite documents as per Final SCN, which was confirmed by the Appellate Committee.
3. Mr. Mayank Manish, counsel for Petitioner-institute, argued that the impugned orders are liable to be set aside as approved faculty list dated 14th June, 2020 which was submitted by Petitioner-institute in response to Final SCN has not been taken into consideration by SRC as well as the Appellate Committee. The same ought to be considered in view of settled legal position relating to consideration of subsequent developments/ additional documents.
4. *Per contra*, Mr. Govind Manoharan, counsel for Respondents, has strongly contended that Petitioner-institute was functioning in violation of NCTE Regulations, 2014 and therefore, impugned orders are correct in law.

He emphasised that Petitioner-institute is bound to mandatorily fulfil all norms which include, *inter alia*, conditions relating to qualified staff including teaching and non-teaching personnel as applicable to B.Ed. course within an annual intake of 100 students. Petitioner-institute continued to function in violation of prescribed academic faculty for two basic units of 50 students each. As per Clause 5 of Appendix-IV, “Norms and Standards for bachelor of education programme leading to the Bachelor of Education (B.Ed.) Degree” to NCTE Regulations, 2014, “*for an intake of two basic units of 50 students each, that is total students strength of 200, there shall be 16 full time faculty members*”. Whereas, as per Petitioner-institute’s own document, it had been functioning with academic faculty short of prescribed legal requirements, inasmuch as only 11 faculty had been appointed, as acknowledged in reply dated 21st December, 2019 to First SCN. Since Petitioner-institute violated provisions of NCTE Act, 1993, and rules and regulations framed thereunder, SRC rightly withdrew the recognition. He further argued that conditional acceptance of a request does not vest an indefeasible right to Petitioner-institute. On this issue, he elaborated that conditional acceptance conveyed to Petitioner-institute *vide* letter dated 1st March, 2017 was with a condition to submit the latest approved faculty list in view of changed faculty norms as per NCTE Regulations, 2014. Petitioner-institute was bound to comply with the same within a reasonable time and obtain a fresh recognition order for the reduced intake. No such compliance was done. Petitioner *suo moto* deviated from the conditions on which recognition was granted and then sought revival of their abandoned application for reduction of intake, in the face of show cause notice(s) issued in pursuance of RPRO.

5. The Court has considered the afore-noted submissions. SRC *vide* letter dated 1st March, 2017 [Annexure P-11] has accepted the request for reduction of intake from 100 to 50 seats. Petitioner-institute was required to submit the latest approved faculty list, and for this purpose, Petitioner-institute applied to the affiliating university on 16th May, 2017. This request was duly approved and granted by affiliating university only on 14th June, 2020 which was then submitted to SRC on 1st February, 2021, in reply to Final SCN. While issuing withdrawal order, SRC did not take the faculty list dated 14th June, 2020, into consideration and proceeded to withdraw the recognition on the ground of non-compliance of show cause notice dated 1st March, 2017. Appellate Committee/ NCTE also failed to consider the fact Petitioner-institute had submitted its response in compliance of said show-cause notice on 1st February, 2021, enclosing therewith the latest approved faculty list. This becomes evident from reading the operative portion of appeal order of Appellate Committee, which reads as under:

“III. OUTCOME OF THE CASE

Appeal Committee perused the relevant records and the documents submitted by appellant institution. Appeal Committee noted that the Hon'ble Supreme Court of India in Civil Original Jurisdiction Miscellaneous Application No. 665 of 2021 in SMW(C) No. 3 of 2020 vide Order dated 23.09.2021 directed as under:

“In computing the period of limitation for any suit, appeal, application or proceeding, the period from 15.03.2020 till 02.10.2021 shall stand excluded. Consequently, the balance period of limitation remaining as on 15.03.2021, if any, shall become available with effect from 03.10.2021. In cases where the limitation would have expired during the period between 15.03.2020 till 02.10.2021, notwithstanding the actual balance period of limitation remaining, all persons shall have a limitation period of 90 days from 03.10.2021. In the event the actual balance period of limitation remaining, with effect from 03.10.2021, is greater than 90 days, that longer period shall apply. The period from 15.03.2020 till

02.10.2021 shall also stand excluded in computing the periods prescribed under Sections 23 (4) and 29A of the Arbitration and Conciliation Act, 1996, Section 12A of the Commercial Courts Act, 2015 and provisos (b) and (c) of Section 138 of the Negotiable Instruments Act, 1881 and any other laws, which prescribe period(s) of limitation for instituting proceedings, outer limits (within which the court or tribunal can condone delay) and termination of proceedings. The Government of India shall amend the guidelines for containment zones, to state. "Regulated movement will be allowed for medical emergencies, provision of essential goods and services, and other necessary functions, such as, time bound applications, including for legal purposes, and educational and job-related requirements."

2. On the directions of Hon'ble Supreme Court of India, Appeal Committee decided to admit the appeal which is otherwise a delayed one. Appeal Committee noted that faculty list submitted by appellant institution was countersigned by affiliating body on 14.06.2020 and FDRs were also renewed in June, 2020. The impugned order of withdrawal dated 08.03.2021 was on ground of non-submission of reply of Final Show Cause Notice (FSCN) dated 08.01.2021. Appeal Committee noted that the averments made by appellant that it already having made a request for reduction in intake of B.Ed. course, the reply sent in response to earlier Show Cause Notice dated 13.11.2019 was satisfactory.

3. Appeal Committee noted that impugned order of withdrawal dated 08.03.2021 does not mention consideration of any request made by appellant institution with regard to reduction of intake from 100 seats to 50 seats. The intake sanctioned to appellant remains 100 till an official communication is issued by SRC. Appellant institution was therefore required to comply with the quantitative requirement of academic faculty and infrastructural facilities for 100 seats.

4. Appeal Committee noted that appellant institution has failed to submit faculty list corresponding to the allotted intake approved by affiliating body. Appeal Committee, therefore, decided to confirm the impugned order of withdrawal dated 08.03.2021."

[Emphasis Supplied]

6. From the above, it emerges that SRC passed withdrawal order without taking into consideration the approved faculty list dated 14th June, 2020 which the Petitioner-institute was required to submit, as directed by SRC per letter dated 1st March, 2017 and First SCN. This renders both impugned

orders unsustainable. Respondent's objections as noted above are therefore unmerited. Granting of opportunity to comply with the requirement under the Final SCN would be rendered meaningless if the compliance is ignored. Further, it is a settled position in law on the subject that if any subsequent development has taken place or additional material(s)/ document(s) is presented, the respective regional committee/Appellate Committee is bound to take it into account.¹ Both, SRC and Appellate Committee, ought to have delved into the question of compliance, and should have passed orders after considering the stand of Petitioner-institute. Respondents cannot deprive Petitioner-institute of recognition by taking the plea of institute being non-compliant. As regards delay in complying with SRC's letter dated 1st March, 2017, it is noted that Petitioner-institute had submitted a request to affiliating university immediately on 16th May, 2017; however, the affiliating university took time and granted approval of faculty list only on 14th June, 2020. The delay on part of affiliating university is not attributable to Petitioner-institute and cannot be a ground to deprive Petitioner-institute to take benefit of said approval of reduction of intake, granted by SRC. It is also noted that NCTE also took its own time in issuing the First SCN alleging non-compliance, followed by Final SCN nearly more than three years after issuance of SRC's letter dated 1st March, 2017.

7. In view of the above, the petition is allowed and following directions are issued:

7.1 Impugned orders, viz. withdrawal order dated 8th March, 2021 and appeal order dated 18th April, 2022, are set-aside.

¹ *Asha Devi Mahavidyalaya v. National Council for Teacher Education & Anr.*, W.P. (C) 9744/2020 dated 3rd December, 2020.

- 7.2 SRC shall now examine the afore-noted faculty list dated 14th June, 2020 and thereafter, pass an appropriate order in accordance with law, as expeditiously as possible, but not later than three months from today.
- 7.3. Respondents are directed to update status of Petitioner-institute, and send an intimation in respect thereof to affiliating university of Petitioner-institute as well as to concerned State Department of Higher Education to enable them to participate in counselling and admission process for academic session 2022-23, within a period of one week from today.
8. With the above directions, the present petition, along with pending application(s), is disposed of.

SANJEEV NARULA, J

NOVEMBER 02, 2022

as