

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

Judgment reserved on: 11.11.2022

% **Judgment delivered on: 22.11.2022**

+ **LPA 376/2021 & CM APPLs. 36044/2021 & 36046/2021**

NATIONAL COUNCIL FOR TEACHER EDUCATION AND ANR

..... Appellants

Through: Mr. Jai Sahai Endlaw, Mr. Subhoday
Banerjee, Mr. Ashish Kumar,
Advocates

versus

SAVITA DEVI MAHAVIDYALAYA AND ANR Respondents

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

**CORAM:
HON'BLE THE CHIEF JUSTICE
HON'BLE MR. JUSTICE SUBRAMONIUM PRASAD**

J U D G M E N T

SATISH CHANDRA SHARMA, C.J.

1. The Present Letters Patent Appeal (LPA) arises out of an order dated 22.09.2021, passed by the learned Single Judge in W.P.(C.) No. 10708/2021 ("impugned order").

2. The facts of the case reveal that the Respondent Institute, i.e. Savita Devi Mahavidyalaya had filed a writ petition before the learned Single Judge being aggrieved by a decision of the Appellant dated 07.12.2020. Vide this decision, the Northern Regional Committee (NRC), National Council for Teacher Education (NCTE) had taken a decision regarding withdrawal of recognition in respect of B.Ed courses offered by the Respondent College. By way of the Writ Petition filed, it was prayed that the decision for withdrawal of recognition against the Respondent Institute should be made applicable only w.e.f. the end of the academic year 2021-22, and the institution be permitted to admit students in spite of there being a decision for withdrawal of recognition.

3. The undisputed facts of the case reveal that the NRC on 16.09.2004 had granted recognition to the Respondent for conducting B.Ed. courses with an annual intake of 100 students and thereafter, the affiliating university had granted affiliation to the Respondent College in December, 2007 for conducting B.Ed. courses. Vide a decision of the NRC in December, 2007 recognition was also granted for additional intake of 100 students, meaning thereby, the total intake of B.E.d. students in respect of the Respondent institute was increased 200.

4. The NRC then issued a revised recognition to the Respondent vide an Order dated 20.05.2015 for conducting B.Ed. programmes of a two year duration with an annual intake of 200 seats (existing 100 + additional 100= 200) from the academic session 2015-16.

5. On 09.10.2020, the Regional Director NRC issued a show cause notice to the Respondent institute keeping in line with Section 17(1) of NCTE Act, 1993. A reply to the same was submitted by the Respondent institute on 11.11.2020.

6. The NRC in its 322nd (Virtual) Meeting held on 07.12.2020 took a decision regarding withdrawal of recognition for B.Ed. courses offered at the Respondent institute. Subsequent to the meeting, an Order was passed by the NRC on 03.03.2021 withdrawing the recognition of the Respondent institute and the same was communicated to the concerned affiliated University. In these circumstances, the Respondent preferred an appeal before the Appellate Authority on 18.09.2021 and thereafter filed W.P.(C.) No. 10708/2021 before this Court praying for the following reliefs:

“a) issue a writ of mandamus or any other suitable writ or order directing the NCTE to decide the statutory appeal submitted by the petitioner before the Appellate Authority under Section 18 of National Council for Teacher Education Act, 1993 at the earliest within a time bound manner; and/or

b) issue a writ of mandamus or any other suitable writ or order or direction staying the operation of the decision taken by NRC in its 322nd (Virtual) Meeting held on 07th December, 2020; and/or

c) issue a writ of mandamus or any other suitable writ or order directing that the decision of withdrawal of recognition shall come into force only w.e.f. the end of the present academic session 2021-22; and/or

d) issue a writ of mandamus or any other suitable writ or order or direction to the respondents to display the name of petitioner institution in the list/category of recognised institutions for conducting B.Ed. course (200 seats) on their website and to

inform the affiliating university and the Department of Higher Education, Government of Uttar Pradesh regarding recognized status of petitioner institution enabling inclusion and participation in the ongoing counselling & admission process for admission in B.Ed. course for the present academic year 2021-22; and/or

e) pass any such other orders/directions as this Hon'ble Court deems fit and proper in the facts and circumstances of the case.
”

7. The learned Single Judge has allowed the writ petition by an order dated 22.09.2021. The order dated 22.09.2021, passed by the learned Single Judge reads as under:

“The proceedings in the matter have been conducted through video conferencing.

CM APPL. 33059/2021 (for exemption)

Exemption allowed, subject to all just exceptions. This application stands disposed of.

W.P.(C) 10708/2021 & CM APPL. 33060/2021 (for stay)

1. Issue notice. Mr. Ashutosh Rana, learned counsel, accepts notice on behalf of the respondents. The petition is taken up for disposal with the consent of learned counsel for the parties.

2. The petitioner-institution was recognised by the Northern Regional Committee [“NRC”] of the National Council for Teacher Education [“NCTE”] for establishment of B.Ed. course on 16.09.2004. On 07.12.2020, the NRC took a decision to withdraw the recognition. The operative portion of the decision of the NRC reads as follows:-

“Hence, NRC decided to withdraw the recognition of B.Ed. & its Additional Intake and M.Ed. courses under Section 17 of the NCTE Act, 1993 from the end of the academic session next following the date

of communication of withdrawal order i.e. 2021-2022. A detailed withdrawal order be issued to the institution for respective courses.”

3. The petitioner has already approached the Appellate Committee of the NCTE against the aforesaid decision under Section 18 of the NCTE Act, 1993 [“the Act”]. However, the grievance with which it has come to this Court is that it is not being permitted to participate in the counselling or admit students for the session 2021-22.

4. Ms. Binisa Mohanty, learned counsel for the petitioners, points out that under the second proviso to Section 17(1) of the Act, the order of withdrawal would take effect only from the end of the academic session next following the date of communication of the order. She submits that no formal withdrawal order has yet been communicated to the petitioner, although the affiliating University has been informed of the withdrawal order dated 03.03.2021.

5. Be that as it may, it is evident that the decision of the NRC was made only at its meeting on 07.12.2020. As such, Mr. Rana does not dispute that the order would take effect only from the end of the academic session 2021-22. 6. The writ petition is, therefore, disposed of with the clarification that the impugned order of the NRC will not affect the entitlement of the petitioner to participate in counselling and admit students for the year 2021-22. The NCTE is directed to reflect the status of the petitioner as a recognised institution on its website and to communicate the same to the petitioner’s affiliating University and the concerned State Government, within one week from today. 7. The Appellate Committee of the NCTE is also requested to dispose of the petitioner’s appeal as expeditiously as possible and practicable.

8. The petition alongwith pending application stands disposed of in these terms.”

8. The Appellants NCTE and NRC have preferred the present LPA. Learned Counsel appearing for the Appellants has vehemently argued before this Court that the order passed by the learned Single Judge is bad in law as the learned Single Judge, in spite of the fact that the institution does not have the concerned recognition, has held that the institution shall be entitled to admit the students for the year 2021-22. Further, the Appellant has also been directed to reflect the status of the Respondent Institute as a recognised institution on its website and to communicate the same to the affiliating University and State Government.

9. Learned Counsel appearing for the Appellants has vehemently argued before this Court that once the Respondent Institution has been de-recognised as far back as 07.12.2020, unless and until this decision itself is set aside, the question of granting premium to an institute which is de-recognised does not arise and the order passed by the learned Single Judge to the extent that it has directed the Appellants to reflect the status of the institute as a recognised one is bad in law. Thus, it deserves to be set aside. The Appellants have also taken a ground in this Appeal that the Respondent institute before the learned Single Judge made an incorrect statement, stating that they did not receive a copy of the withdrawal order dated 03.03.2021. It was submitted that a copy of the withdrawal order was indeed sent to the institute and necessary proof of dispatching the same has been brought on record. It has also been argued that the Appellants have taken action against the Respondent Institute strictly in accordance with law and the learned Single Judge fell in error, in clarifying that the order of withdrawal will be effective only from the end of academic year 2021-22.

10. It has been vehemently argued before this Court that the Respondent Institute cannot be permitted to participate in the counselling process and admit the students for the academic year 2021-22, as it would result in ambiguity, especially in light of the fact that the college would run for a period of at least two years from the date of withdrawal of the recognition order, thereby rendering the second proviso to Section 17 of the NCTE Act, 1993 nugatory.

11. The Appellants have further raised a ground stating that the intent and object of Section 17 is to ensure that the students who are already admitted in the college while it had recognition, are able to complete their academic year. By no stretch of imagination do the statutory provisions contained under Section 17 entitle a college to give fresh admissions to students in respect of fresh courses in the absence of recognition. Therefore, the reasoning assigned by the learned Single Judge is contrary to the statutory provisions and the order, is bad in law.

12. The Appellants have further raised a ground stating that the impugned order is contrary to the statutory provisions governing the field and an institute which has been de-recognised cannot be permitted to admit students.

13. The learned Counsel appearing for the Respondent institute has vehemently argued before this Court that Second proviso to Section 17 specifically provides that the order of withdrawing refusing recognition passed by the NRC shall come into force only with effect from the end of the academic session next following the date of communication of such

order and, therefore, the institution is entitled to admit the students for the academic session 2021-22 even though the institute does not have recognition, as the same was cancelled on 07.12.2020.

14. This Court has heard learned Counsels for the parties and perused the material on record. The undisputed facts of the case make it very clear that the institution in question was served with a show cause notice dated 09.10.2020, issued by the Regional Director, directing the institute to show cause as to why recognition granted to it should not be withdrawn, keeping in view Section 17 of the NCTE Act, 1993. The Institution submitted a reply and the Regional Committee in its meeting held on 07.12.2020 took a conscious decision for withdrawal of recognition. The Institution has submitted a statutory appeal in light of the same and the same is pending.

15. The sole question before this Court is whether the institution is entitled to admit fresh students in respect of the academic year 2021-22, especially in the light of the fact that recognition was withdrawn on 07.12.2020.

16. At this juncture, it would be useful to read the statutory provisions governing the field as contained under Section 17 of the NCTE Act, 1993. The same read as under:

“17. Contravention of provisions of the Act and consequences thereof.—

(1) Where the Regional Committee is, on its own motion or on any representation received from any person, satisfied that a recognised institution has contravened any of the provisions of this Act, or the rules, regulations orders made or issued thereunder, or any condition subject to which recognition under sub-section (3) of section 14 or

permission under sub-section (3) of section 15 was granted, it may withdraw recognition of such recognised institution, for reasons to be recorded in writing: Provided that no such order against the recognised institution shall be passed unless a reasonable opportunity of making representation against the proposed order has been given to such recognised institution: Provided further that the order withdrawing or refusing recognition passed by the Regional Committee shall come into force only with effect from the end of the academic session next following the date of communication of such order.

(2) A copy of every order passed by the Regional Committee under sub-section (1),—

(a) shall be communicated to the recognised institution concerned and a copy thereof shall also be forwarded simultaneously to the University or the examining body to which such institution was affiliated for cancelling affiliation; and

(b) shall be published in the Official Gazette for general information.

(3) Once the recognition of a recognised institution is withdrawn under sub-section (1), such institution shall discontinue the course or training in teacher education, and the concerned University or the examining body shall cancel affiliation of the institution in accordance with the order passed under sub-section (1), with effect from the end of the academic session next following the date of communication of the said order.

(4) If an institution offers any course or training in teacher education after the coming into force of the order withdrawing recognition under sub-section (1), or where an institution offering a course or training in teacher education immediately before the appointed day fails or neglects to obtain recognition or permission under this Act, the qualification in teacher education obtained pursuant to such course or training or after undertaking a course or training in such institution, shall not be treated as a valid qualification for purposes of employment under the Central Government, any State Government or University, or in any school, college or other educational body aided by the Central Government or any State Government.”

17. This Court has carefully gone through the aforesaid statutory provisions and is of the considered opinion that the interpretation put forth

by the Respondent Institution is erroneous. A complete reading of Section 17 makes it very clear that the second proviso to Section 17(1) of the NCTE Act is a safeguard provided in respect of students already admitted in the college and by no stretch of imagination can it be construed to intend for fresh students to be admitted in a college which has been de-recognised by the NCTE. If such an interpretation is accepted, it will amount to granting premium to such de-recognised colleges and by no stretch of imagination a college which is de-recognised can be permitted to admit the students for the next academic year. In fact, the students which are already studying in the college are being permitted on account of Section 17, to continue their studies.

18. A similar controversy arose in the case of ***Geeta College of Education v. National Council for Teachers Education and others***, (2013 SCC OnLine P&H 17209). The relevant extract of the judgment passed by the Punjab & Haryana High Court reads as under:

“I have heard learned counsel for the petitioner in detail and perused the record.

When the order in CWP No. 14874 of 2013 was passed, the petitioner had only challenged the order dated 4.2.2013 which has been now upheld in appeal which was dismissed on 25.7.2013. It has no connection with the said writ petition because in that case the issue raised by the petitioner was that the order of withdrawal of recognition is not applicable from the academic the Session 2014-16 but from the Session 2013-2015. Interim order was passed in that writ petition in terms of the order passed in CWP No. 14874 of 2013. However, in the present case while allowing the writ petition of the students bearing CWP No. 16436 of 2009 on 17.9.2010, this Court had passed the following directions:-

“(i) Respondent no. 4 will refund Rs. 5000/- charged from each students in excess of the prescribed fee for the year 2009-2010 or any other period by account payee cheques/bankdrafts within a period of one month, if not already paid;

(ii) The affiliating University or NCTE shall initiate action against respondent no. 4-College for violation of the regulations and notification dated 23.6.2009, in accordance with the rules after affording opportunity of being heard to respondent no. 4-College;

(iii) Since it is not possible to calculate the interest on the amount illegally recovered from the students, the College will compensate the students by additional amount of Rs. 1000/- per student in addition to Rs. 5000/- to be refunded. This amount shall also be paid through account payee cheques/drafts to each student within a period of one month.”

This order has become final between the parties and the directions No. (i) and (iii) have also been complied with.

Insofar as direction No. (ii) is concerned that was for the affiliating University or the NCTE to initiate action against the College for violation of the Regulations and Notification dated 23.6.2009, in accordance with the Rules. The NCTE has taken action of de-recognition in terms of Section 17 of the Act as well as with regard to affiliation, which reads as under:-

“17. CONTRAVENTION OF PROVISIONS OF THE ACT AND CONSEQUENCES THEREOF

(1) Where the Regional Committee is, on its own motion or on any representation received from any person, satisfied that a recognised institution has contravened any of the provisions of this Act, or the rules, regulations, orders made or issued thereunder, or any condition subject to which

recognition under sub-section (3) of section 14 or permission under subsection (3) of section 15 was granted, it may withdraw recognition of such recognised institution, for reasons to be recorded in writing:

Provided that no such order against the recognised institution shall be passed unless a reasonable opportunity of making representation against the proposed order has been given to such recognised institution:

Provided further that the order withdrawing or refusing recognition passed by the Regional Committee shall come into force only with effect from the end of the academic session next following the date of communication of such order.

(2) A copy of every order passed by the Regional Committee under sub-section (1),-

(a) shall be communicated to the recognised institution concerned and a copy thereof shall also be forwarded simultaneously to the University or the examining body to which such institution was affiliated for cancelling affiliation; and

(b) shall be published in the Official Gazette for general information.

(3) Once the recognition of a recognised institution is withdrawn under subsection (1), such institution shall discontinue the course or training in teacher education, and the concerned University or the examining body shall cancel affiliation of the institution in accordance with the order passed under sub-section (1), with effect from the end of the academic session next following the date of communication of the said order.

(4) If an institution offers any course or training in teacher education after the coming into force of the order withdrawing recognition under subsection (1) or where an institution offering a course or training in teacher education immediately before the appointed day fails or neglects to obtain recognition or permission under this Act, the qualification in teacher education obtained pursuant to such course or training or after undertaking a course or training in such institution, shall not be treated as a valid qualification for purposes of employment under the Central Government, any State Government or University, or in any school, college or other educational body aided by the Central Government or any State Government.”

According to the aforesaid provision, As per Section 17(1) of the Act, in case where recognised institution has contravened any of the provisions of this Act or the Rules, Regulations, orders made or issued thereunder, the NCTE can withdraw recognition of such recognised institution and there is no provision for any other form of punishment which can be imposed.

Thus, in these circumstances, it cannot be imagined that the NCTE has been harsh with the petitioner and could have imposed any other punishment because no such privilege has been given to the NCTE under the Act except to take action of withdrawing the recognition in case of contravention of any Rules etc.

Consequently, I do not find any merit in the present writ petition and the same is hereby dismissed.”

19. The aforesaid judgment delivered by the Punjab & Haryana High Court makes it very clear that in the case of an institution before the Punjab & Haryana High Court against which an order was passed on 04.12.2013,

de-recognising the institute, the Petitioner college therein had made a prayer for the order of de-recognition to take effect only from the academic year 2014-16. Further, to hold that the decision of withdrawal of recognition w.e.f. academic session 2013-15 contrary to the provision of the Act, especially Section 17 of the NCTE Act, 1993. The petition was dismissed upholding the order of withdrawal of recognition dated 04.12.2013 and it was held that the same shall be applicable w.e.f. the academic session 2013-15, not from the next academic session i.e. 2014-16. A Special Leave Petition i.e. SLP (Civil) No(s). 28819/2013 was preferred before the Hon'ble Supreme Court in the matter and the Hon'ble Supreme Court in the aforesaid SLP has passed the following order on 12.09.2013:

“Heard Mr. Ashok K. Mahajan, learned counsel for the petitioner.

Taken on record.

The order dated 4.2.2013 passed by the National Council for Teachers Education withdrawing the recognition granted to the petitioner college clearly states that the withdrawal order shall come into effect from the end of the academic session next following the date of communication of that order. The withdrawal of recognition, thus, shall be effective from the academic session 2014. As a matter of fact, this has been noted in the impugned order as well. The apprehension of the petitioner that withdrawal of recognition has come into force from the academic session 2013 is misconceived and misplaced. Since the withdrawal of recognition shall come into force from the academic session 2014, this necessarily implies that the petitioner shall not induct fresh students in the Ist year from the academic session 2013 lest their second order may be put in jeopardy. Special Leave Petition is dismissed with above observations.”

20. The aforesaid order makes it very clear that the order dated 04.02.2013 passed by the NCTE therein, withdrawing the recognition of the institute was upheld. It was also held that the institution will not be entitled to admit the students in the academic session 2013. The order passed by the Hon'ble Supreme Court makes it very clear that Section 17 only provides a safeguard to the students studying in the college and no fresh lease of life to admit the students can be granted as argued before the learned Single Judge.

21. In light of the aforesaid judgment passed by the Supreme Court, the Order passed by the learned Single Judge to the extent that the learned Single Judge has directed the NCTE to reflect the status of the Respondent University as a recognised institution and permit the institution to admit students for the academic year 2021-22, is hereby set aside. The Appellate Committee of NCTE is requested to dispose of the appeal as expeditiously as possible if the same has not been done so far.

22. In the light of the aforesaid, the LPA stands disposed of. No order as to costs.

(SATISH CHANDRA SHARMA)
CHIEF JUSTICE

(SUBRAMONIUM PRASAD)
JUDGE

NOVEMBER 22, 2022

N.Khanna