



W.P.No.8911 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.04.2023

CORAM
THE HONOURABLE MR.JUSTICE **M.DHANDAPANI**

W.P.No.8911 of 2023
and
W.M.P.No.9050 & 9051 of 2023

Sa-Ya-Gosh College of Education,
Pudumariamman Koil,
Opp. Periyanaahalli,
Dharmapuri & District-636 205,
Rep. by its Secretary, M.Kalpana

...Petitioner

Vs.

1. National Council for Teacher Education,
Rep. by its Secretary,
G-7, Sector-10, Dwarka,
New Delhi-110 075.
2. Deputy Secretary (Appeal),
National Council for Teacher Education,
G-7, Sector-10, Dwarka,
New Delhi-110 075.
3. Regional Director,
Southern Regional Committee-NCTE,
Plot No.G-7, Sector-10,
Dwarka, New Delhi-110 075.
4. The Registrar,
Tamil Nadu Teacher Education University,



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Gangaiamman Kovil Street,
Karapakkam, Chennai-600 097.

...Respondents

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Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus to call for the records relating to the impugned order issued by the 2nd respondent in APPLSRC202114241 dated 11.01.2023 and to quash the same and consequently directing the respondents to pass orders for restoration of recognition of petitioner College and to direct the 4th respondent to grant Continuation of Provisional Affiliation for the academic session 2022-23 along with approval of admission of students for the academic session 2022-23.

For Petitioner : Mr.G.Sankaran, Senior Counsel
for Mr.C.Sivakumar

For Respondents : Mr.R.Thirunavukarasu, for R1 to R3
: Ms.S.Buvaneswari, for R4

ORDER

The petitioner has come up with this Writ petition seeking quashment of the proceedings of the 2nd respondent in respect of the Appeal in APPLSRC202114241 dated 11.01.2023 and for a consequential direction to the respondents to pass orders for restoration of recognition of petitioner College and to direct the 4th respondent to grant Continuation of Provisional Affiliation for the academic session 2022-23 along with approval of admission of students for the academic session 2022-23.



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2. The case of the petitioner is that the petitioner College is a Self Financing Institution established by Sa-Ya-Gosh Educational Trust, Periyanaahalli, which was initially granted recognition for conducting B.Ed., degree course of one year duration with an annual intake of 100 students. Consequently, the respective Affiliating Body, granted affiliation to the petitioner College from the academic session 2006-07 and the petitioner College was granted with Continuation of Provisional Affiliation (CPA) every year. Further, on promulgation of NCTE Regulations, 2014, the petitioner college was granted with revised recognition for conducting B.Ed courses of two years duration with an annual intake of 100 students from the academic session 2015-16. While so, the petitioner college was issued with show cause notice for submission of required documents and details regarding compliance of revised norms. Subsequently, the Southern Regional Committee (in short 'SRC') passed an order dated 16.03.2021, for withdrawal of recognition granted to the petitioner College for want of submission of requisite documents. As against the said impugned order, the petitioner College preferred an Appeal before NCTE under Section 18 of the NCTE Act, however, NCTE vide order dated 12.07.2022, rejected the petitioner's appeal without providing any reasonable opportunity to the



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petitioner college for submission of documents. Therefore, the petitioner

College filed a Writ Petition in W.P(C).No.13842 of 2022, challenging the order of the NCTE dated 12.07.2022 and the Delhi High Court passed an order dated 26.09.2022, setting aside the appellate authority order dated 12.07.2022 and restoring the appeal, with a direction to the appellate authority to pass orders in accordance with law and also stated that the petitioner College is entitled to take benefit of the proviso to Section 17(1) of the NCTE Act, 1993 and thereby, the NCTE, vide order dated 19.10.2022 issued directions to the petitioner College to participate in the counselling for the academic session 2022-23. Thereafter, pursuant to the communication of the respondent University dated 17.10.2022, though the petitioner College paid a sum of Rs.75,529.50/- on 31.10.2022 for grant of affiliation for the academic session 2022-23 and for Continuation of Provisional Affiliation (CPA), the web portal for the College for uploading the details of the students was not opened. Aggrieved by the inaction on the part of the respondent university, the petitioner College filed Writ Petition in W.P.No.6382 of 2023. In the meanwhile, the petitioner College had come to know about the order passed by the NCTE dated 11.01.2023, rejecting the appeal filed by the petitioner, by confirming the withdrawal of

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recognition issued by 3rd respondent, on the ground that, certain deficiencies pointed out by NCTE were not rectified by the petitioner College. Based on the above said order, the 4th respondent declined to grant CPA and open the web portal for the petitioner College. Subsequently, W.P.No.6382 of 2023 was withdrawn with a liberty to file Writ Petition challenging the order of 2nd respondent dated 11.01.2023 as well as to seek the relief for grant of CPS as well as for approval of admission of students by the 4th respondent. Hence, the petitioner has come up with this Writ petition.

3. Learned counsel for the petitioner submitted that, despite the order of the Delhi High Court dated 26.09.2022, the NCTE has rejected the petitioner's appeal, vide order dated 11.01.2023, without providing opportunity of personal hearing to the petitioner college which is not sustainable and on the sole ground, the present impugned order is liable to be set aside. Hence, he prayed for allowing this Writ petition.

4. Learned counsel appearing for the respondents 1 to 3 submitted that, though physical opportunity was not given to the petitioner, due to Covid-19 Pandemic, however, sufficient opportunity was given to the



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petitioner, despite which, the petitioner was not able to submit the necessary documents to show the compliance of new regulations of the NCTE and convince the authority / the deficiencies pointed by the NCTE are rectified.

5. Heard learned counsel on either side and perused the materials available on record.

6. The only issue in the present Writ petition is whether opportunity was given to the petitioner college before deciding the appeal as directed by the Delhi High Court. The learned counsel appearing for the respondents though submitted that opportunity through virtual hearing was given to the petitioner, it is the admitted fact that no opportunity of personal hearing was given, due to Covid-19 Pandemic, due to which, the petitioner was unable to produce the necessary documents to substantiate their contention.

7. A perusal of the documents, particularly the order impugned in this Writ petition reveal that, no opportunity of personal hearing was given to



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the petitioner before rejecting the appeal filed by the petitioner. The above is not only a clear violation of principles of natural justice, but is against the directions issued by the Delhi High Court. The grant of personal opportunity of hearing is only for the purpose of enabling the petitioner to submit the documents which cannot be submitted virtually. Virtual hearing cannot be clothed with character of personal hearing more so when documents determine the outcome of the hearing.

8. Hence, on the sole ground, this Court is inclined to interfere with the order impugned in this Writ petition and accordingly, the order of the 2nd respondent dated 11.01.2023 impugned in this Writ petition is set aside and the matter is remanded to the 1st respondent for fresh consideration. The 1st respondent is directed to consider the appeal filed by the petitioner college and pass appropriate orders in accordance with law within a period of eight weeks from the date of receipt of a copy of this order, after affording an opportunity of personal hearing to the petitioner institution.

9. With the above observations and directions, this Writ Petition



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stands allowed. No costs. Consequently, connected Miscellaneous petitions are closed.

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NCC : Yes / No

Speaking Order : Yes / No

Index : Yes / No

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