

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

+ **W.P.(C) 1963/2023**

Date of Decision: 17.04.2023

IN THE MATTER OF:

**KIRTI COLLEGE OF EDUCATION
THROUGH SAPAT RISHI EDUCATION & CHARITABLE
SOCIETY [REGD]
VPO ANAYAT, GOHANA, SONEPAT
HARYANA
THROUGH ITS SECRETARY SH. KIRAN JANGRA
....PETITIONER**

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

Versus

**NATIONAL COUNCIL FOR TEACHER EDUCATION
G-7, SECTOR-10
DWARKA, NEW DELHI-110087
THROUGH ITS CHAIRMANRESPONDENT NO.1**

**NORTHERN REGIONAL COMMITTEE
NATIONAL COUNCIL FOR TEACHER EDUCATION
G- 7, SECTOR- 10
DWARKA, NEW DELHI- 110087
THROUGH ITS REGIONAL DIRECTORRESPONDENT NO.2**

Through: Mr.Rahul Madan, Standing Counsel
for NCTE.

HON'BLE MR. JUSTICE PURUSHAINDRA KUMAR KAURAV

J U D G M E N T

PURUSHAINDRA KUMAR KAURAV, J. (ORAL)

1. The matter is taken up today as 14.04.2023 was declared a holiday.
2. The petitioner in the instant petition seeks for quashment of the decision dated 20th and 23rd January 2023 taken in the 390th meeting of respondent No.2-Northern Regional Committee (in short 'NRC'). The petitioner also prays for directions to respondent No.2-NRC to decide the application of the petitioner-institution dated 13.09.2022 for shifting of its premises from '*VPO Anayat, Tehsil Gohana, Distt. Sonapat, Haryana*' to '*VPO Brahmanwas, Tehsil & Distt. Rohtak, Haryana*'.
3. Learned counsel appearing on behalf of the petitioner states that the impugned minutes of the meeting dated 20th and 23rd January, 2023 are contrary to various directions of this court in earlier rounds of litigations. He states that the concerned Regional Committee, while considering the prayer for shifting of the petitioner-institution, required various documents and took a decision to issue a Show Cause Notice (in short, 'SCN') under Section 17 of the National Council of Teacher Education Act, 1993 (in short 'the Act of 1993'). According to him, the stage of invoking Section 17 of the Act of 1993 has not yet arrived and such a drastic measure could not have been invoked under the facts of the present case. According to him, before invoking the provision under Section 17, the respondent No.2-NRC should have directed the petitioner to submit the relevant information and if the petitioner-institution fails to satisfy the queries, only then Section 17 of the Act of 1993 could have been invoked. He further states that, on one hand, the documents are being required and on the other the provisions of Section 17 of the Act of 1993 are being invoked which ultimately will result in cancellation of the recognition granted in the year 2007.

4. Learned counsel appearing on behalf of the respondent No.1-NCTE states that the decision taken by NCTE is strictly in accordance with law. According to him, as per the revised regulations, the institutions were required to submit their compliances and if the petitioner-institution has failed to carry out the necessary compliances, no fault can be found in invocation of Section 17 of the Act of 1993. He, therefore, states that since no final decision has been taken and only certain compliances have been asked to be submitted to the NRC, therefore, at this stage no interference is called for.

5. I have heard learned counsel appearing on behalf of the parties and perused the record.

6. It is to be noted that there were already directions given by this court in W.P.(C) 16673/2022 dated 13.12.2022 to consider the application of the petitioner-institution for shifting. It is to be further noted that this court on 16.01.2023, in the petition bearing W.P.(C) 82/2023, while considering the decision dated 21.11.2022, passed by the RC has noted that the decision dated 21.11.2022 was illegal and improper and accordingly, the same was set aside. The NRC was granted liberty to issue a letter pointing out the deficiencies, if any, in the petitioner-institution. It was also directed that after considering the reply/explanation, respondent No.1-NCTE was to proceed in considering the application for shifting of the location of the petitioner-institution.

7. Paragraph No.6 of order dated 16.01.2023 reads as under:-

"6. In view of the aforesaid, the present petition stands disposed of with following directions:-

(i) the decision dated 21.12.2022 (388th meeting) is hereby set aside;

(ii) the NRC is at liberty to issue letter pointing out deficiencies if any, in the petitioner- institution;
(iii) the petitioner- institution is at liberty to file its reply/ explanation thereto.
(iv) depending upon the reply, the NRC would proceed to consider the application for shifting of the location of the petitioner/ institution as was directed by this Court in W.P.(C) No.16673/2022 by order dated 13.12.2022 or to issue show cause notice."

8. It is thus seen that while setting aside the earlier decision dated 21.12.2022, what was intended was to issue the notice to the petitioner if at all the respondent No.2-NCR had noted any deficiency. In the instant case, the decision taken purportedly in pursuance of the directions given by this court dated 23.01.2023, nowhere indicates that the petitioner-institute was given any notice of deficiency. It is thus seen that the decision taken by the respondent No-2-NRC in terms of its minutes of the meeting dated 20th and 23rd January 2023 are in dereliction of the directions given by this court.

9. This court is of the considered opinion that under the facts of the present case, invocation of power under Section 17 of the Act of 1993, is not warranted as no communication in terms of the direction dated 16.01.2023 passed by this court was issued to the petitioners. There are two aspects which have been incorrectly clubbed together by the RC. One is with respect to the present location of the institution and second is with respect to the new location. If the RC finds that on account of any reason, shifting is not permissible, the RC should have called upon the petitioner to explain the said position and should have taken up the shifting application to its logical end. Then only the question of issuance of notice

under Section 17 of the Act of 1993 would arise with respect to the existing location. Therefore, the minutes of the meeting dated 20th and 23rd January 2023 to the extent of taking a decision of issuance of notice under Section 17 of the Act of 1993 are hereby set aside.

10. The following directions are issued:-

- (i) The decision dated 20th and 23rd January 2023 be treated to be communication to the petitioner-institution, only for the purposes of deciding its shifting application dated 13.09.2022, calling upon the petitioner to submit the explanation with respect to the deficiencies pointed out therein.
- (ii) The petitioner-institution is granted four weeks' time to do the needful in pursuance to the communication dated 20th and 23rd January 2023.
- (iii) Respondent No.2-NRC is directed to consider the explanation of the petitioner-institution with respect to shifting of the institution to a new location. If respondent No.1-NCTE finds that for any reason, shifting cannot be permitted, respondent No.2-NRC is at liberty to pass a reasoned order to that effect.
- (iv) It is also directed that if the NRC rejects the request of shifting, then only the NRC can decide whether notice under Section 17 of the Act of 1993, is required to be issued to the petitioner with respect to its existing location and to act accordingly.

11. Accordingly, the instant petition stands disposed of.

PURUSHAINDR KUMAR KAURAV, J

APRIL 17, 2023/MJ