

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **W.P.(C) 3717/2023**

Date of Decision: **17.08.2023**

IN THE MATTERS OF:

LATE SHRI DNYANESHWARJI MENGHARE SHIKSHAN
MAHAVIDYALAYA, BEING RUN
AND MANAGED LATE SHRI LAXAMANJI
MOTGHARE CHARITABLE TRUST, AT
POST TAH. DESIGANJ (WADSA), DIST.
GANCHIROLI –441207, MAHARASHTRA
THROUGH ITS PRESIDENT

..... PETITIONER

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

Versus

NATIONAL COUNCIL FOR TEACHER EDUCATION
EDUCATION,
G-7, SECTOR-10, DWARKA LANDMARK – NEAR METRO
STATION, NEW DELHI – 110075,
THROUGH ITS MEMBER SECRETARY

.....RESPONDENT NO.1

WESTERN REGIONAL COMMITTEE,
NATIONAL COUNCIL FOR TEACHER
EDUCATION, G-7 SECTOR – 10
DWARAKA NEW DELHI- 110075,
THROUGH ITS REGIONAL DIRECTOR

.....RESPONDENT NO.2

Through: Mr. Rahul Madan, Standing Counsel
with Mr. Upendra Singh Rajput,
Advocates.

HON'BLE MR. JUSTICE PURUSHAINDRA KUMAR KAURAV

ORDER

PURUSHAINDRA KUMAR KAURAV, J. (ORAL)

1. The petitioner-institution in the instant case seeks to challenge the order dated 28.08.2021, withdrawing the recognition for B.Ed. course passed by respondent no.2/Western Regional Committee (*hereinafter referred to as 'WRC'*) and the order of rejection dated 11.01.2023 passed by the appeal committee of respondent no.1/ National Council for Teacher Education (*hereinafter referred to as 'NCTE'*), thereby affirming the withdrawal order.
2. The facts of the case would show that the petitioner-institution was initially granted recognition in terms of the order dated 24.07.2007 by the NCTE with an annual intake of 100. After promulgation of the NCTE (Recognition Norms and Procedure) Regulations, 2014 (*hereinafter referred to as 'Regulations, 2014'*) the petitioner-institution had submitted its willingness to adhere to the said Regulations and accordingly, the revised provisional recognition was issued in its favour.
3. After issuance of the show cause notice as required under the provisions of the Regulations, 2014, the case of the petitioner-institution was considered by the WRC in its 339th meeting held on 28.07.2021-30.07.2021. It was noted therein, that the petitioner-institution had requested for 3-4 years' time to complete the construction of its permanent

building after the grant of recognition and since the petitioner-institution did not shift to its own building within three years of recognition; hence, its request for further extension of time was rejected and the decision for the withdrawal was taken by the WRC.

4. The petitioner-institution challenged the said order in appeal under Section 18 of the NCTE Act, 1993 and the appeal committee in terms of the order dated 11.01.2023, rejected the same on identical grounds.

5. Learned counsel for the petitioner-institution submits that the institution is set up on a private leasehold land. According to him, there is no requirement of shifting of the petitioner-institution to any other location. While placing reliance on the NCTE (Recognition Norms & Procedure) Regulations, 2005 (*hereinafter referred to as 'Regulations, 2005'*), he submits that the petitioner-institution is only required to possess land either on ownership basis or on lease for a period of not less than 30 years, free from all encumbrances. He, therefore, submits that, Regulations, 2005 are applicable in the present case and the petitioner-institution meets the aforesaid criteria.

6. He further submits that by way of an amendment in the Regulations, 2005 through the NCTE (Recognition Norms and Procedure) Amendment Regulations, 2006 (*hereinafter referred to as 'Amendment Regulations, 2006'*), Appendix 7 of the Regulations, 2005 came to be replaced by Appendix 1. He then submits that there is no requirement under Appendix 1 for shifting of the premises. It is submitted that as per the applicable regulations, the petitioner-institution fulfils all other necessary requirements and, therefore, the impugned decision has been taken on the erroneous premise that the petitioner-institution was obligated to shift its

location.

7. Learned counsel appearing on behalf of the NCTE opposes the submissions and he submits that the petitioner-institution itself had filed an affidavit, undertaking therein that the institution in question would be shifting to its permanent location within a period of three years from grant of recognition.

8. According to the learned counsel for the NCTE, the petitioner-institution has admittedly failed to shift the institution and, therefore, at this stage, the petitioner-institution cannot be permitted to make any challenge which is contrary to its own undertaking. He, therefore, prays that the impugned decision of the WRC and the order passed by the appeal committee are strictly in accordance with law and the same do not call for any interference.

9. I have heard the submissions made by the learned counsel appearing on behalf of the parties and perused the record.

10. The order passed by the WRC dated 28.08.2021 records the following reasons for withdrawal of the recognition of the petitioner-institution:

“There is a RPRO case and same was remanded back by the Appellate Authority.

The WRC noted that the institution has requested to give 3-4 years time limit to complete the construction of the permanent building.

The WRC decided that as per provisions of NCTE Regulations, the institution was to shift to its own building within 3 years of recognition i.e. on or before 30th July 2010, hence, the request of the institution is not acceptable.

In view of the above, the Committee decided that the decision for withdrawal taken by WRC in its 322nd meeting stands in respect of B.Ed course.”

11. The appeal committee, reiterates the same ground that was taken in the order in original; which reads as under:

“(i) The case of the Institution was placed before the WRC in its 339 Meeting held on 28-30 July 2021, whereby it is informed that the institution requested to 3 - 4 years time limit to complete the construction of permanent building. This clearly shows that still the institution has not shifted to its own building and institution has also not explained this position in the Appeal.

The Appeal Committee also noted that after promulgation of the NCTE Regulations, 2014 viz a viz willingness for adherence of NCTE Regulations, 2014 by the institution, a Revised Provisional Recognition Order (RPRO) indicating the requirement to be adhered to as per provisions of the NCTE Regulations, 2014 was Issued to the institution. The same is still not adhered by the institution as on date.

The Appeal Committee also noted that this leads to the violation of the provisions of the NCTE Regulations, 2014, as despite the ample opportunity given to the institution by way of SCN & FSCN, the Institution has not complied the terms & conditions imposed in RPRO even after lapse of more than 7 years.

Hence, the Appeal Committee is of the view that the appellant institution is still lacking on the above grounds. The Appeal Committee concluded that the WRC was Justified in withdrawing the recognition and decided that the Instant appeal deserves to be rejected and therefore, the impugned withdrawal order dated 28.08.2021 issued by WRC is confirmed.”

12. It is thus seen that the sole reason for withdrawal of the recognition of the petitioner-institution is non-completion of the construction of its permanent building.
13. The submissions made by the petitioner-institution with regard to the fact that the petitioner-institution does not require shifting, have not been dealt with specifically, either by the WRC or by the appeal committee.
14. Since the petitioner-institution was first granted recognition in the year 2007, it is seen that the applicable Regulations are Regulations, 2005. As per the Regulations, 2005, once the institution is already set up and meets the requirements of the extant Regulations on its leasehold land, the institution is not required to be shifted.
15. If the Regulations, 2005 are perused, Clause 8(v) indicates that no

institution shall be granted recognition under these Regulations unless it in possession of the required land on the date of application. The land free from all encumbrances could be either on ownership basis or on lease for a period of not less than 30 years. Clause 8(v) reads as under:

"8. Conditions for grant of recognition

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(5) No institution shall be granted recognition under these regulations unless it is in possession of required land on the date of application. The land free from all encumbrances could be either on ownership basis or on lease for a period of not less than 30 years. In cases where under relevant State/UT laws the maximum permissible lease period is less than 30 years, the State Government/UT Administration law shall prevail."

16. It is further, seen that Appendix 7 to the Regulations, 2005: *Norms and Standards For Secondary Teacher Education Programme (B.Ed)* laid down the requirement for shifting of temporary premises of a recognised institution to its permanent premises within three years from the date of recognition. However, Appendix 7 has been substituted by Appendix 1 to the Amendment Regulations, 2006, which does not mandate any such shifting.

17. The substituted Appendix 1 of the Amendment Regulations, 2006 would indicate that the institutions are required to maintain certain facilities and infrastructure mentioned in Clause 5 thereto which reads as under:

"5.0 Facilities

5.1 Infrastructure

5.1.1 The institution must have at least 2500 sq. mts, land whereupon built-in area consisting of classrooms etc. shall not be less than 1500 sq. mts. Space in each instructional room shall be 10 sq ft. per student.

5.1.2. There shall be provision for not less than two classrooms, one multipurpose hall, three laboratories for conducting instructional

activities for approved intake of 100 students, seminar/tutorial rooms, resource room for the education of handicapped, separate rooms for the Principal, for the faculty members, for the office and the administrative staff and a store. In every instructional room like classrooms, laboratories, library etc. space shall not be less than 10 sq.ft. per student. One classroom shall comfortably accommodate 50 student teachers. The Multi-purpose Hall shall have a seating capacity for 150 persons. For additional intake proportional increase in the number of classrooms, tutorial rooms, etc.

5.1.3 There shall be games facilities with a playground. Alternatively, the playground available with the attached school/college may be utilized and where there is scarcity of space as in the metropolitan towns/hilly regions, facilities for yoga, small court and indoor games may be provided.

5.1.4 Safeguard against fire hazard be provided in all parts of the building.

5.1.5 The institution campus, buildings, furniture etc. should be barrier free.

F.2. Instructional

(a) The institution shall have easy access to sufficient number of recognized secondary schools within reasonable distance for field work and practice teaching related activities of the student teachers. A list of such schools shall be prepared. It is desirable that the institution has an attached school under its control.

(b) There shall be a library-cum-reading room with seating capacity for at least 25% students equipped with minimum 3000 titles including text and reference books relevant to the course of study, educational encyclopedias, yearbooks, electronic publications (CD Roms) and minimum five journals of teacher education and subscription to five others in related disciplines. The library holdings shall be augmented with addition of 200 titles annually. The library shall have photocopying facility and computer with internet facility for the use of faculty and student- teachers.

c) There shall be a science laboratory. The laboratory shall have multiple sets of science apparatus required to perform and demonstrate the experiments prescribed in the syllabus for secondary/senior secondary classes. Chemicals, etc, should be provided in the required quantity.

(d) There shall be a Psychology Laboratory with apparatus for simple experiments related to educational psychology.. (e) There shall be hardware and software facilities for language learning.

(e) *There shall be Educational Technology facilities with hardware and software including computers, TV, Camera*

(g) *The ICT equipment like ROT (Received Only Terminal), etc. shall be desirable.*

SIT (Satellite Interlinking Terminal)

(h) *There shall be fully furnished work experience room.*

5.3. Amenities

5.3.1 *Functional and appropriate furniture for the purpose in required number shall be provided for instructional and other purposes.*

5.3.2 *The institution shall provide common rooms separately for male/female staff/students*

5.3.3 *Safe drinking water be provided in the institution.*

5.3.4 *Sufficient number of toilets, separate for Male and Female, shall be made available to staff and students* 5.3.5 *Arrangement shall be made for a canteen, telephone facility and parking of vehicles.*

5.3.6 *Effective arrangements shall be made for regular cleaning of the campus, water and toilet facilities. Necessary repairs and replenishment of furniture and other equipments.”*

18. It is thus seen that the case of the petitioner-institution is required to be reconsidered as per the Regulations, 2005 and the substituted Appendix. The WRC needs to examine as to whether the petitioner-institution has already set up a building meeting the criteria laid down in Appendix 1 and in accordance with the extant Regulations; either on its own land or on private leasehold land. If the petitioner-institution has sufficient infrastructure, in that case, the petitioner-institution may not be required to shift to any other place.

19. In view of the aforesaid, the impugned orders dated 28.08.2021 and 11.01.2023 are set aside. The matter is remitted back to the WRC for fresh consideration in view of the extant Regulations and the observations made hereinabove.

20. The following directions are, therefore, issued:

- (i) The consequential order of the restoration of the recognition be issued within two weeks from the date of receipt of copy of the order passed today.
 - (ii) Let the same be also sent to all concerned including the petitioner-institution.
 - (iii) The petitioner-institution be permitted to participate in the counselling for the academic year 2023-24.
 - (iv) The same shall remain subject to further decision to be taken by the WRC.
21. The WRC would be at liberty to undertake a fresh inspection, if so necessitated.
22. The WRC, while considering the case of the petitioner-institution, is at liberty to examine the applicability of all other Regulations.
23. With the aforesaid directions, the petition stands disposed of.

PURUSHAINDRA KUMAR KAURAV, J

AUGUST 17, 2023
p/rg