

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

+ **W.P.(C) 9685/2022 & CM APPL 28837/2022**

Date of Decision: 13.01.2023

IN THE MATTER OF:

SANA COLLEGE OF EDUCATION

..... Petitioner

Through: Ms. Arunima Dwivedi, Ms. Swati
Jhunjhunwala, Ms. Pinky Pawar &
Mr. Aakash Pathak, Advocates.

Versus

NATIONAL COUNCIL FOR TEACHER EDUCATION & ANR.

..... Respondents

Through: Ms. Kartika Sharma & Ms.
Vanshita Gupta, Advocates.

CORAM:

HON'BLE MR. JUSTICE PURUSHAINDRA KUMAR KAURAV

J U D G M E N T

PURUSHAINDRA KUMAR KAURAV, J. (ORAL)

1. This petition is directed against order dated 24.08.2021 passed by respondent No.2/Southern Regional Committee (hereinafter referred as SRC). The petitioner is also aggrieved by the order passed in appeal by the Appellate Authority constituted in terms of Section 18 of the National Council for Teacher's Education Act, 1993 (hereinafter referred as NCTE).

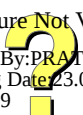
2. The petitioner's case is that, it was granted recognition for conducting B.Ed. course in terms of approval dated 21.12.2005 for the academic session 2005-06. The petitioner, thereafter, continued to impart education with respect to the said course. In the year 2016, there were certain instructions by the SRC of the petitioner Institution. On

08.11.2019, the SRC in its 381st meeting held on 31.10.2019 and 01.11.2019 decided to issue show cause notice to all such institutions who were deficient in compliance of the parameters of NCTE Regulation, 2014.

3. The petitioner Institution on 04.12.2019 submitted its response to the show cause notice and pointed out that the institution is not deficient in compliance of the said Regulations and had explained the circumstances. It appears that SRC in its 389th meeting held on 12/14.10.2020 decided to issue the final show cause notice. The petitioner on the basis of the minutes of the meeting submitted its response on 04.11.2020 to again explain the reasons and to satisfy the show cause notice. On 11/12.08.2021, the SRC in its 401st meeting considered the reply to the final show cause notice and had decided to withdraw the recognition granted to the petitioner Institution.

4. In terms of the order dated 24.08.2021, the recognition of B.Ed. course granted to the petitioner for two years duration with annual intake of 100 students was withdrawn w.e.f. the academic session 2021-22. The petitioner filed an appeal before the Appellate Committee against the said order. During the pendency of the appeal, since counselling for the academic session 2021-22 was to take place, the petitioner filed the writ petition being W.P.(C) 11605/2021 before this court, which was disposed of on 08.11.2021 allowing the petitioner to participate in the ongoing counselling and to admit the students in the academic session 2021-22.

5. It is stated that in accordance with the directions given by this court, the petitioner Institution has granted admission for the academic session 2021-22 and it is an ongoing institution and is fulfilling all



requirements in accordance with the relevant Regulations. Later on, the Appellate Committee *vide* order dated 26.05.2022 passed the final order, whereby, the appeal preferred by the petitioner has been rejected.

6. The learned counsel appearing on behalf of the petitioner while taking this court through the order dated 24.08.2021 pointed out that the deficiencies as were noted, mainly related to minor issue except deficiency No.4, which was with respect to faculty members in terms of NCTE Regulations. She states that not only before the Appellate Committee but even before this court also the petitioner has brought on record the list of the documents to indicate that there arise no deficiency and the teaching faculty has been duly approved by the Karnataka University.

7. The learned counsel appearing for the petitioner has further pointed out from the appellate order dated 26.05.2022 to indicate that the explanation submitted by the petitioner Institution before the Appellate Authority has not been considered in right perspective. She, therefore, stated that when the petitioner Institution has already admitted students in terms of the interim order passed by this court for the academic session 2021-22 and the counselling for the academic session 2022-23 is ongoing. Therefore, it would be in the interest of students and all concerned to re-inspect the petitioner Institution and to assist as to whether the same fulfills all requirements in accordance with the NCTE Regulations or not.

8. Learned counsel appearing for the NCTE however, opposes the prayer and she states that the order passed by this court was only interim in nature and it is the specific case of the NCTE that on the date of

inspection and on the date of passing of the order-in-original, the deficiency do exist. According to her, the subsequent ratification of the deficiency would not entitle the petitioner to claim continuation of recognition order. If at all the petitioner fulfills the requirement, the NCTE is entitled to re-inspect it and then again the recognition will have to be granted from prospective effect. According to her, in no case the earlier withdrawal recognition can continue during the period when there were deficiencies, as noted in the impugned order and in the appellate order. She further states that this court should not interfere into the instant case as admittedly the records indicate that the deficiencies were existing at the time of inspection of the institution.

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

10. The order dated 24.08.2021 records the following deficiencies:-

“AND WHEREAS, the SRC in its 401st meeting held on 11th-12th August, 2021 considered the matter and decided as under:-

“The original files of the Institution alongwith other related documents, NCTE Act, 1993, Regulations Guidelines issued by NCTE from time to time and documents furnished by the institution were carefully considered by the SRC and the following observations were made:-

The institution was issued a Final Show Cause Notice (FSCN). The institution has submitted its reply on 04.11.2020. The Committee observed the reply submitted by the institution and found the following deficiencies.

1. The institute submitted a certificate dt. 27.10.2020 issued by the Managing Trustee of the Managing Trust of the

College which mentions that the 03rd Floor is under construction and the corporation does not issue part completion certificate.

2. *FDR of Rs.4 lakhs has been matured.*

3. *Part of Land (Plot No. 366/15) is mortgaged to SBI, Hubballi.*

4. *Six faculty are not qualified with NET as required under NCTE Regulations, hence the faculty strength and qualification did not found as stipulated under NCTE Regulations.*

5. *The Website of the institute is not updated with the information prescribed under para 8(6), 8(14) and 10(3) of NCTE Regulations, 2014.*

Hence, the Committee decided to withdraw the recognition granted to Sana College of Education, Shantiniketan, Bhairidevarakoppa, P.B. Road, Hubli, Dharwad District, Karnataka-580025 for conducting B.Ed. programme with effect from the academic session i.e. 2021-2022 onwards under clause 17(1) of NCTE Act, 1993 on the grounds mentioned above”.

11. The order in appeal dated 26.05.2022 records three deficiencies, which are reproduced as under:-

“a) *The Building Completion Certificate of entire building issued by the Govt. Competent Authority not submitted as the part BCC is not allowed. As per NCTE Regulation, 2014 building should be complete in all respects.*

b) *Latest NEC not submitted. The submitted NEC was upto 28.11.2019 and the part of Land has been mortgaged to SBI Hubballi. No dues Certificate from the concerned Bank was required to submit.*

c) *Some of the faculty is not qualified as required under NCTE Regulation, 2014 and amendments etc”.*

12. While considering the deficiencies as has been noted by the Appellate Committee, it would be seen that the first deficiency relates to complete Building Completion Certificate issued by the Government Competent Authority. It is not the case of the Inspection Committee or the reason assigned in the impugned order or in the appellate order that there exists no building at all. The second deficiency as noted in the appellate order is with respect to latest Non-Encumbrance Certificate. The deficiency would further go to show that there was Certificate of Non-Encumbrance but the same was valid only upto 28.11.2019. This further records that the part of the land has been mortgaged to SBI, Hubballi and ‘no dues certificate’ has not been produced from the concerned Bank. The next deficiency is related to some of the faculty.

13. The appellate order nowhere indicates as to which are the faculties not available in the petitioner Institution in accordance with the NCTE Regulations, 2014. This court is conscious of the fact that the regulatory bodies, those who are assigned responsibility to maintain standard in the field of education, should be given free hand to maintain standard and the court normally should not interfere into the decisions taken by the expert bodies. However, taking into consideration the fact that the petitioner specifically pointed out that all the deficiencies, as has been pointed out in the appellate order, have been fulfilled, the case in hand deserves consideration. The relevant paragraph (G) of the grounds of the petition is reproduced as under :-

“G. Because the Petitioner as on date have all the documents including Building Completion Certificate,

Building Permission Approval, Encumbrance Certificate, duly approved Faculty List by Registrar Karnataka University, Dharwad.

Copies of the Building Completion Certificate, Building Permission Approval, Encumbrance Certificate, duly approved Faculty List by Registrar Karnataka University, Dharwad are annexed herewith as and marked as ANNEXURE – P10 (colly).”

13. It is also to be seen that in terms of the interim order, the petitioner Institution has already admitted the students for the academic session 2021-22. This court under the facts of the present case, is inclined to set aside the impugned order and the appellate order with liberty to the SRC to re-inspect the petitioner Institution and to pass a fresh order. If petitioner Institution fulfills all requirements in accordance with the applicable NCTE Regulations, needless to state that the appropriate order in that respect can be issued. If the petitioner Institution is still lacking with the requirement, as stipulated under the applicable Regulations, an appropriate decision in that respect shall also be taken after giving opportunity of hearing to the petitioner Institution.

14. The petition stands disposed of alongwith pending application in the aforesaid terms.

15. *Dasti.*

(PURUSHAINDRA KUMAR KAURAV)
JUDGE

JANUARY 13, 2023

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