

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **W.P.(C) 11487/2022 & CM APPL. 33950/2022**

Date of Decision: 18.04.2023

IN THE MATTER OF:

SRI SARADA COLLEGE OF EDUCATION FOR WOMEN,
THROUGH ITS SECRETARY,
SRI SARADA, ARIYAKULAM, MAHARAJA NAGAR POST,
TIRUNELVELI DISTRICT, TAMIL NADU-627011
..... PETITIONER

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

Versus

NATIONAL COUNCIL FOR TEACHER EDUCATION,
THROUGH ITS CHAIRPERSON,
G-7, SECTOR-10, DWARKA,
NEAR METRO STATION, DELHI- 110075 RESPONDENT NO. 1

SOUTHERN REGIONAL COMMITTEE,
THROUGH ITS REGIONAL DIRECTOR,
NATIONAL COUNCIL FOR TEACHER EDUCATION,
G-7, SECTOR-10, DWARKA, DELHI- 110075
..... RESPONDENT NO. 2

Through: Ms. Rakshita Goyal, Advocate for 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. This petition is directed against the order dated 14.03.2022 passed by respondent No.2-Southern Regional Committee (hereinafter referred to as 'SRC'), whereby the recognition for the B.Ed. course of the petitioner-institution has been withdrawn. The petitioner also challenged the order dated 12.07.2022 passed by respondent No.1-National Council for Teacher Education (hereinafter referred to as 'NCTE'), whereby, the appeal preferred by the petitioner against the order dated 14.03.2022 has been rejected.
2. The facts of the case would show that the respondent No.2-SRC on 13.07.2006 granted the recognition to the petitioner-institution for the B.Ed. course of one year duration with an annual intake of 100 students for the Academic Session 2006-2007.
3. It is seen that the Regulations known as National Council for Teacher Education (Recognition Norms and Procedure) Regulations, 2014 (in short, 'Regulations of 2014') came into force w.e.f 01.12.2014. The petitioner-institution on 20.01.2015 submitted an affidavit for its willingness to adhere to the provisions of the Regulations of 2014. Accordingly on 13.05.2015, a revised recognition order was issued in favour of the petitioner-institution for the Academic Session 2015-16. On 11.11.2021, a Show Cause Notice under Section 17 of the National Council for Teacher Education Act, 1993 (in short 'Act of 1993') appears to have been issued to the petitioner and other institutions calling upon the petitioner and others, to submit their compliance to the provisions of the Regulations of 2014. On 25.11.2021, the petitioner-

institution submitted its reply. On 28.12.2021, a Final Show Cause Notice was issued to the petitioner by respondent No. 2-SRC. It is seen that the petitioner submitted its reply to the Final Show Cause Notice on 04.01.2022. After considering the reply submitted by the petitioner, the respondent No. 2-SRC in terms of order dated 14.03.2022 has withdrawn the recognition of the petitioner-institution for the Academic Session 2022-23. The petitioner challenged the order dated 14.03.2022 in an appeal, under Section 18 of the Act of 1993 which has also been rejected by the impugned order dated 12.07.2022.

4. Learned counsel appearing on behalf of the petitioner-institution submits that the impugned orders dated 14.03.2022 and 12.07.2022 are illegal and improper. According to her, respondent No.2-SRC did not consider the reply to the Final Show Cause Notice in the right perspective. She, therefore, submits that the order passed by respondent No. 2-SRC, at first place itself, is flawed and violative of the principles of natural justice and fair play. She, however, submits that in any case the deficiencies which were the basis for withdrawing the recognition of petitioner-institution were fulfilled and documents were brought on record before the appellate authority to satisfy that there remains no deficiency in the petitioner-institution. She, therefore, submits that the appellate committee, in terms of the impugned order, without considering the material produced by the petitioner, has rejected the same. She has placed reliance on a decision of this court in the case of **KMG College of Education v. National Council for Teacher Education & Anr.** passed in W.P.(C) 11638/2022 on 12.09.2022 to indicate that if the appellate authority has any doubt with respect to the authenticity of the document, the necessary clarification should have been

asked for, instead of rejecting the document itself on the ground that the seal of the competent authority is in regional language.

5. Learned counsel appearing on behalf of respondent No.1-NCTE opposed the submissions and submitted that the case of the petitioner was rightly considered by the respondent No. 2-SRC and after having noted the fact that the petitioner-institution is deficient in compliance of the provisions of Regulations of 2014, the impugned decision was taken. She submitted that sufficient opportunity was granted to the petitioner-institution to rectify those deficiencies and having satisfied that there existed deficiencies, the decision was taken. She also submitted that the appellate committee has considered the entire material which was made available and has recorded categorical finding that the material do not satisfy as to whether the deficiencies have been fulfilled or not and, therefore, there is no reason for any interference into the order passed by respondent No. 2-SRC. She supports the decision taken by the respondent No.2-SRC and the appellate authority.

6. I have heard learned counsel for the parties and perused the record.

7. It is to be noted that on 03.08.2022, this court while passing the interim order, has noted the arguments of the petitioner that the documents furnished before the appellate committee of NCTE have not been considered. It is also to be noted that this court has held that any additional material, if presented in the course of deciding an appeal, will have to be considered by the appellate committee of NCTE or the respective regional committee. The reliance was placed on the decision in the case of **Rambha College of Education v. National Council for Teacher Education & Anr.** passed in W.P.(C) 3231/2016 on 23.02.2017, **Guru Nanak Khalsa College v. NCTE & Anr.** passed in W.P.(C) 4218/2010 on 02.07.2010 and **Asha Devi**

Mahavidyala v. National Council for Teacher Education & Anr. passed in W.P.(C) 9744/2020 on 03.12.2020. While recording the submissions made by the petitioner, this court directed that the petitioner would be entitled to participate in the counseling for the Academic Session 2022-23.

8. Learned counsel appearing on behalf of the petitioner submits that for the Academic Session 2022-23, admissions were made by the petitioner-institution. However, if the impugned order is not set aside, the petitioner-institution may not be able to grant admissions for the Academic Session 2023-24.

9. As per the order dated 14.03.2022, the respondent No. 2-SRC noted the following deficiencies:-

“1. The institution did not submit latest approval of faculty issued by the affiliating body. The institution also failed to submit supporting documents in terms of educational qualification of the faculty and experience certificate of the Principal

2. The institute failed in submission of the bank statement of all individual faculty and institution's bank statement duly certified by the concerned bank showing disbursement of salary through bank Account to faculty as required under clause 10 (3) of NCTE Regulation, 2014

3. The institution has submitted a Notarized copy of Building Plan not approved by the competent Authority. Hence, it is approved by Private Engineer

4. The institution has submitted a photocopy of BCC in which Multi-purpose Hall area is not mentioned”.



10. The petitioner in its appeal has explained the deficiencies as under:-

REJECTION DETAILS		
S. No.	Rejection Ground	Explanation
1.	<i>The institution did not submit latest approval of faculty issued by the affiliating body. The institution also failed to submit supporting documents in terms of educational qualification of the faculty and experience certificate of the Principal</i>	<i>Now we are having latest approved faculty list issued by the Registrar tnteu, Chennai. Copy enclosed</i>
2.	<i>The institute failed in submission of the statement bank statement of all individual faculty and institutions bank statement duly account to staff members certified by the concerned bank showing disbursement of salary through concerned bank account to faculty as required under Clause 10(3) of NCTE regulation, 2014.</i>	<i>Now we are having bank statement for disbursement of salary through bank account to staff members duly certified by the concerned Bank. Name of the Bank: Tamilnad Mercantile Bank Ltd, Ariyakulam Branch. Copy enclosed</i>
3.	<i>The institution has submitted a notarized copy of building plan not approved by the competent authority. hence it is approved by private engineer</i>	<i>Now we are having notarized building plan approved by the competent authority. copy enclosed</i>
4.	<i>The institution has submitted a photocopy of bcc in which multi- purpose hall area is not mentioned.</i>	<i>Now we are having bcc in which multipurpose hall area is mentioned copy enclosed</i>

11. It is thus seen that the petitioner in its appeal has tried to explain or offer an explanation against each of the deficiencies. The appellate

committee in paragraph No. 3 has considered the case of the petitioner as under:-

"III. OUTCOME OF THE CASE

Appeal Committee perused the relevant records and the documents submitted by appellant institution. The Appeal Committee noted that the appellant institution was granted recognition for B.Ed. course of one year duration with an annual intake of 100 seats on 13.07.2006 and after promulgation of NCTE Regulations, 2014 giving thereby affidavit for its adherence, a revised provisional recognition order of two years duration with an annual intake of 100 students (two units) was issued on 13.05.2015 with certain conditions to comply within stipulated time period.

The Appeal Committee further noted that the appellant institution was given reasonable opportunities in the shape of first show cause notice and final show cause notice issued on 11.11.2021 and 28.12.2021, respectively to submit its written representations for rectifying the pointed out short comings in the given time period.

The Appeal Committee noted that the impugned withdrawal order came into operation due to not furnishing the required documents substantiating the removal of deficiencies to continue the granted recognition. The Appeal Committee noted that the submitted copy of building plan in the Appeal alongwith Memoranda of Appeal is not approved by the Competent Authority. The seal of the approving authority is in regional language. Secondly, the building completion certificate showing the area of multipurpose hall approved by the Govt. Competent Authority is not submitted. Further, the supporting documents of educational qualifications of the submitted faculty and experience certificate of the Principal is not submitted in the appeal.

Noting the submission and verbal arguments advanced during hearing by the appellant, the Appeal Committee observes that the appellant institution is still deficient on the above grounds.

In these circumstances, the Appeal Committee concluded that the SRC was justified in withdrawing recognition & the appellant and therefore the instant appeal deserved to be rejected and impugned withdrawal order is confirmed."

12. It is thus, seen that the first reason noted by the appellate committee is with respect to non-approval of the building plan by the competent authority. It also states that the seal of the approving authority is in regional language. The petitioner in its explanation at Serial No. 3 of appeal memo submits that the petitioner is submitting a notarized building plan approved by the competent authority. Copy of the building plan approved by the competent authority was brought on record. A copy thereto has also been filed along with the present writ petition. It is thus seen that the finding recorded by the appellate committee that the building plan is not approved by the competent authority is perverse. So far as the seal of the approving authority in regional language is concerned, the petitioner does not have any control over the aforesaid aspect. The NCTE being a regional committee must consider such an aspect and may take assistance, if required, from the official translator, if any. Alternatively, it may also call upon the concerned institution to submit the official translation of seal. However, merely because the seal is in the regional language, it cannot be made the basis for the regional committee to ignore the document which is otherwise, issued by the competent authority, in accordance with law. This court in para 7 of the petition being W.P.(C) 11638/2022 has observed as under:-

“7. Insofar as the seal of the authority certifying the Building Plan is concerned, the Court finds merit in the submission of Ms. Dwivedi, that instead of outright rejecting the said plan, the Appellate Authority ought to have sought clarification. In case of any reservations regarding veracity of the documents the appropriate course for the Appellate Authority should have been to seek a clarification or response from the institute. In fact, the appellate order records that: “it may not be ascertained whether the said authority is competent to approve the building plan or not”. This only expresses doubt in the mind of Appellate Authority which cannot be a basis to reject the appeal.”

13. The second reason assigned by the appellate committee is that the building completion certificate does not show the area of multipurpose hall as approved by the Government/competent authority. As far as this finding is concerned, the institution in its appeal memo, has taken a categorical stand that the petitioner is having a building completion certificate showing the area of multipurpose hall and the document in that respect have also been enclosed. It is thus seen that even the second reason given by the appellate committee suffers from non-application of mind.

14. The last reason given by the appellate committee is with respect to the non-submission of the supporting document of educational qualification of the faculty and experience certificate of the Principal. From the appeal memo and the explanation submitted thereto, it is seen that the petitioner has given the latest approved list issued by the Registrar of the concerned University and a copy thereto was enclosed along with the explanation. The appellate committee has not adverted to the fact as to why the list approved by the Registrar cannot be considered to be sufficient compliance with respect to the said deficiency. The appellate committee has also not stated as to what is the educational qualification required and which of the faculties, if any, are in deficit of educational qualification.

15. For all the aforesaid reasons, it can be concluded that the findings given by the appellate committee are unacceptable and the appellate committee has failed to consider the documents submitted by the petitioner. It is also to be noted that the petitioner-institution has brought on record the relevant document along with the instant writ petition and according to the learned counsel for the petitioner all those documents were furnished before the appellate committee which have not been taken note of.

16. In view of the aforesaid discussion, this court has no hesitation in setting aside the orders dated 14.03.2022 and 12.07.2022 passed by respondent No.2-SRC and the appellate committee respectively and to remit the matter back to the concerned SRC for its fresh consideration.

17. The respondent No.2-SRC shall be at liberty to issue a fresh Show Cause Notice to the petitioner. The petitioner-institution would be at liberty to file its reply along with all necessary documentary evidence to satisfy its compliance with the provisions of the applicable Act and regulations. The petitioner-institution should be given due opportunity of hearing. Depending upon the response that would be submitted by the petitioner-institution, the concerned SRC would be at liberty to take a final decision, in accordance with law and after considering the material on record.

18. Needless to state that once the order dated 14.03.2022 and the appellate order dated 12.07.2022 are set aside, the consequential order of restoration of recognition shall be passed by the concerned regional committee within 15 days from today. The petitioner- institution is treated to be a recognised institution till such order, is passed by the concerned regional committee, as per Section 17 of the Act of 1993.

19. With the aforesaid observations, the petition stands disposed of along with pending application.

PURUSHAINDR KUMAR KAURAV, J

APRIL 18, 2023

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