



* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **W.P.(C) 10676/2023**

Date of Decision: **22.08.2023**

IN THE MATTER OF:

**SWAMI VIVEKANAND COLLEGE OF EDUCATION
THROUGH SWAMI VIVEKANAND SHIKSHAN PRASARAK
MANDAL [REGD] UDGIR, LATUR, MAHARASHTRA
THROUGH ITS PRINCIPAL DR GOPAL RAMRAO PAWAR
..... PETITIONER**

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

Versus

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

**WESTERN REGIONAL COMMITTEE
NATIONAL COUNCIL FOR TEACHER EDUCATION G- 7,
SECTOR-LO DWARKA, NEW DELHI - 110087 THROUGH ITS
REGIONAL DIRECTOR
..... RESPONDENT NO.2**

Through: Mr.Rahul Madan, Standing Counsel
for NCTE with Mr.Sandeep Singh
Somaria, Advocate.

HON'BLE MR. JUSTICE PURUSHAINDRA KUMAR KAURAV

ORDER

PURUSHAINDRA KUMAR KAURAV, J. (ORAL)

1. This matter was taken up for hearing on 11.08.2023 and notice was directed to be issued to the respondents.
2. The respondents have not filed their reply.
3. The parties are heard for a while and it is observed that in view of the short controversy involved in the matter, the same can be disposed of without filing of the reply. Hence, learned counsel for the parties advanced their submissions.
4. Learned counsel appearing on behalf of the petitioner-institution submits that the impugned decision of issuance of the final show cause notice (hereinafter '*FSCN*') dated 28.07.2023 under Section 17 of the National Council for Teacher Education Act, 1993 (hereinafter '*NCTE Act, 1993*') is *de hors* the provisions of law and the same cannot be construed to be the *FSCN*. He, therefore challenges the same on the ground of it being without jurisdiction.
5. The facts of the case would show that on 27.02.2017, respondent no.2/Western Regional Committee (hereinafter '*WRC*') issued a show cause notice (hereinafter '*SCN*') to the petitioner-institution calling for explanation on two aspects, which reads as under:-

" And, whereas, it has been found from the record that the Institution has not submitted the following documents in compliance or the conditions mentioned in the revised order:

- 1. Staff Profile for the session 2015-16 duly approved by the affiliating body.*

2. Originally notarized Change of Land Use/Non-Encumbrance Certificate/Building Plan and Building Completion Certificate."

6. After issuance of the SCN, WRC, in terms of order dated 10.10.2019 decided to withdraw the recognition of the petitioner-institution under Section 17(1) of the NCTE Act, 1993 on the ground that the petitioner-institution did not submit any reply to the SCN. The concluding part of the withdrawal order dated 10.10.2019 reads as under:-

" AND WHEREAS, the institution has not submitted reply of Show Cause Notice dt. 27.02.2017. The matter was considered by the WRC In its 311th meeting held on 25th-27th, September 2019 and the Committee decided as under:-

"The Show Cause Notice was issued to the institution vide letter dated 27/02/2017. The summary of the case submitted reveals that the institution has not submitted reply of the Show Cause Notice.

Hence, the committee decided to withdraw the recognition under Section 1.7(1.) of the NCTE Act, 1.993 for B.Ed. programme with effect from the end of the academic session next following the date of communication of the said order."

7. The petitioner-institution, thereafter, filed a writ petition being W.P.(C) 4597/2020 and this court, in terms of order dated 28.07.2020 initially granted stay on the said impugned decision dated 10.10.2019 and finally, vide order dated 14.01.2022, the writ petition was disposed of with the following directions:-

"9. For the aforesaid reasons, the impugned order of the WRC dated 10.10.2019 is set aside, and the matter is remanded to the WRC with the following directions:

a. The WRC will serve a copy of the show cause notice dated 27.02.2017 upon the petitioner. The petitioner will be given 15 days' time thereafter to reply to the show cause notice, and the matter will be adjudicated in accordance with law.

b. A copy of the show cause notice will also be forwarded to Mr. Rana to obviate any further controversy as to whether it was duly received by the

petitioner. Mr. Rana states upon instructions, that the petitioner will not insist upon the service of a second show cause notice.

c. Consequent upon setting aside the impugned withdrawal order, the respondents are also directed to issue an order of restoration of recognition in favour of the petitioner within one week from today, and to update the same on their website. The status of the petitioner as a recognized institution will also be conveyed to the concerned State Government and to the petitioner's affiliating university."

8. Thereafter, on 03.01.2023, WRC passed an order of restoration of the recognition of the petitioner-institution. On the same date, WRC furnished a copy of the SCN dated 03.01.2023. The petitioner-institution submitted the reply dated 25.01.2023 to the said SCN and made the following averments:-

" R/Sir,

With reference to above, the show cause notice issued on 3/01/2023 was received on 20-01-2023. Therefore, we hereby submitting the compliance of show cause notice along with an affidavit from the authorized representative of the management. The details of compliances are as follows:

(1) Land documents –

The trust is owned by 5 acre land by way of sale deed in survey No. 184, Jalkot Road, Udgir. Out of 5 acre the plot area of wing A which is allocated for B.Ed college is 3015 Sqmt and build up area is 3500 sqmt. The English translated notarized land documents is enclosed herewith for your kind perusal and marked as ari annexure-I.

(2) The Encumbrance Certificate (EC)-

The Encumbrance Certificate of the land is enclosed and marked as an annexure-II,

(3) The land use certificate(LUC)-

The land use certificate issued by sub-divisional magistrate, Udgir is enclosed and marked as annexure-III,

(4) Approved Building Plan-

The approved building plan is enclosed and marked as annexure-IV.

(5) Building construction (order) permission letter-

The Building construction permission letter and its corrigendum is enclosed and marked as annexure-V.

(6) Building Construction Certificate-

The Building Completion Certificate is enclosed and marked as annexure-VI.

(7) Staff Profile-

The staff profile for the session 2015-16 duly approved by affiliating body is enclosed and marked as annexure-VII

(8) The affidavit from the authorized representative of the management-

The affidavit from the authorised representative of the management stating the submission of compliances is enclosed and marked as annexure- VIII.

Kindly accept the above compliances of show cause notice and oblige."

[Emphasis supplied]

9. After submission of the reply, WRC decided to issue the FSCN on 28.07.2023, mainly on the ground that the petitioner-institution had to submit the latest faculty list, duly approved by the concerned affiliating body within a period of 7 days from the date of issuance of the FSCN.

10. Paragraph no.9 of the FSCN dated 28.07.2023 reads as under:-

"9. AND WHEREAS, the matter was considered in the 389th meeting of WRC held on 17th & 18th July, 2023 and the Committee has decided the followings-

"The original file of the institution alongwith other related documents was carefully examined in the light of the carefully examined in the light of the NCTE Act, 1993, Regulations and Guidelines issued by NCTE from time to times and the Committee decided as under:

The final show cause notice be issued to the institution under section 17 of NCTE Act, 1993 on the following grounds:

The institution has not submitted latest list of faculty. Therefore, the latest faculty duly approved by the concerned affiliating body alongwith the approval letter issued by the affiliating body is required to be submitted by the institution within 7 days from the date of issue of show cause notice under section 17 of NCTE Act, 1993."

11. It is noticed that the FSCN was served to the petitioner-institution on the ground that it has not submitted the latest faculty list, duly approved by the concerned affiliating body, whereas, the earlier SCN which was served upon the petitioner-institution pursuant to the directions passed by this court, was only with respect to the faculty list of the Academic Year 2015-2016.

The petitioner-institution had already submitted the list of faculty which were approved in the Academic Year 2015-2016 and the decision for grant of recognition had to be necessarily taken with respect to that.

12. Once an SCN was already served upon the petitioner-institution which was duly replied to, the respondents were obligated to take that case to its logical end. Naturally, the final decision had to be confined to the extent of deficiencies or the context under which the SCN was given. In the present case, if the deficiency was with regard to the faculty list of the Academic Year 2015-2016, the respondents should have premised their decision based on that ground.

13. If the impugned FSCN is perused carefully, the same indicates that at no point of time previous to the FSCN, the petitioner-institution was called upon to submit the latest faculty list duly approved by the concerned affiliating body. It is thus, seen that the so called FSCN cannot be construed to be the FSCN unless an SCN on the same ground was also issued earlier to the petitioner-institution.

14. Admittedly, no SCN was issued earlier to the petitioner-institution and the impugned is the sole SCN which has been termed to be the FSCN, calling upon the petitioner-institution to submit fresh information with respect to the latest faculty.

15. No doubt, the petitioner-institution is under an obligation to furnish the relevant information as and when the petitioner-institution is called upon by the concerned Regional Committee or NCTE. However, the same has to be within the four corners of law. Terming the impugned order as an FSCN without giving any prior opportunity of hearing to the petitioner-institution to rectify the new deficiency, is a violation of the principles of natural justice.

16. It is thus, seen that the impugned communication dated 28.07.2023 cannot be termed to be the FSCN. The same however, is directed to be treated to be a communication to the petitioner-institution calling upon the petitioner-institution to furnish the requisite information, as mentioned therein.

17. At this stage, learned counsel for the petitioner-institution submits that immediately after receipt of the impugned communication, the petitioner-institution has taken appropriate steps to seek approval from the affiliating body. The petitioner-institution is, therefore, awaiting the approval by the affiliating body.

18. It is further submitted that the affiliating body is likely to take some time to approve the list. In view of the fact that the petitioner-institution is running B.Ed. course since 2005, therefore, sufficient time for furnishing the list of approved faculty is sought to be granted to the petitioner-institution.

19. Having considered the aforesaid submissions, this court finds it appropriate to extend the time for furnishing the relevant information in terms of communication dated 28.07.2023, for a period of 60 days from today.

20. Accordingly, the instant petition stands disposed of.

PURUSHAINDRA KUMAR KAURAV, J

AUGUST 22, 2023/MJ/rg