



* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
 + **W.P.(C) 15031/2022 and CM APPL. 46413/2022**

Date of Decision: **08.08.2023**

IN THE MATTERS OF:

**PPG COLLEGE OF EDUCATION FOR WOMEN,
 THROUGH ITS PRINCIPAL,
 9/1, KEERANATHAM ROAD, SARAVANAMPATTI POST,
 COIMBATORE-641035, TAMIL NAIDUPETITIONER**

Through: Ms. Arunima Dwivedi, Ms. Swati
 Jhunjhunwala, Mr. Pankaj Panwar,
 Mr. Aakash Pathak, Advocates.

Versus

**SOUTHERN REGIONAL COMMITTEE,
 THROUGH ITS REGIONAL DIRECTOR,
 NATIONAL COUNCIL FOR TEACHER EDUCATION,
 G-7, SECTOR-10, DWARKA, DELHI 110075 RESPONDENT**

Through: Mr. Govind Manoharan and Ms.
 Diksha Tiwari, Advocates.

HON'BLE MR. JUSTICE PURUSHAINDR KUMAR KAURAV

ORDER

PURUSHAINDR KUMAR KAURAV, J. (ORAL)

1. The petitioner-institution has filed the instant writ petition against the order dated 22/23.08.2022 passed by the respondent-Southern Regional Committee (*hereinafter referred to as "SRC"*) in its 413th Meeting, whereby, the request of the petitioner-institution for grant of an additional unit of 50 students was rejected by the respondent-SRC.

2. The petitioner, therefore, prays for issuing direction to the respondent-SRC to reconsider its case and restore the recognition for the additional one unit (50 seats) for conducting B.Ed. course.

3. The facts of the present writ petition indicate that in terms of the order dated 01.03.2005, respondent-SRC granted recognition to the petitioner-institution for conducting B.Ed. course of one-year duration with an annual intake of 100 students for the academic session 2005-2006. On 20.01.2015, the petitioner-institution submitted an affidavit for annual intake of two basic units of 50 each in view of promulgation of regulations known as the National Council for Teacher Education (Recognition Norms and Procedure) Regulations, 2014 (*hereinafter as 'Regulations, 2014'*).

4. Accordingly, a revised recognition order came to be issued in favour of the petitioner institution for an annual intake of 100 students for running B.Ed. course from the academic session 2015-16.

5. It appears that on the request of the petitioner-institution dated 22.12.2016, respondent-SRC reduced the intake capacity of the petitioner-institution from 100 students (two basic units) to 50 students (one basic unit).

6. The petitioner-institution thereafter, appears to have made a representation on 10.04.2018 seeking permission for increasing the number of basic units to two with 50 students each. Subsequently, a common show cause notice was issued by the respondent-SRC to all the institutions including the petitioner, which was duly replied by the petitioner-institution. In terms of the decision dated 5/6.07/2022, the respondent-SRC decided to issue continuation order to the petitioner-institution for two basic units of (100) students for B.Ed. program.

7. The decision dated 5/6.07.2022 came to be substituted by another decision dated 22/23.08.2022, wherein, the grant of two basic units was substituted by one basic unit of 50 students. The respondent-SRC *vide* order dated 02.08.2022 had already informed the petitioner that the petitioner is only entitled for continuation of one basic unit (50 students). The petitioner, therefore, has filed the instant petition.

8. Learned counsel appearing on behalf of the petitioner submits that the decision of respondent-SRC is illegal and improper and the same is without any application of mind. According to her, once the concerned SRC, in terms of the minutes of the meeting dated 5/6.07.2022, decided to issue the continuation order to the petitioner for B.Ed. programme for two basic units of 100 students, there was no reason to recall the said minutes of the meeting. She, therefore, states that without recording any reason in the subsequent minutes of the meeting, the decision of grant of two basic units has been substituted by the one basic unit.

9. Learned counsel also submits that the respondent-SRC had considered other cases for issuance of additional intake on the basis of the representation. She has placed reliance on a decision dated 03.06.2022 (*Annexure P-10*) passed by the respondent-SRC with respect to an institution, namely, Sree Narayana Training College, Nedunganda, Kerala to submit that on an application submitted by the said institution, the intake capacity was restored to its original capacity. She, therefore, submits that the petitioner is also entitled for similar treatment.

10. In addition to the aforesaid submission, learned counsel appearing on behalf of the petitioner also states that as of now, the National Council for Teacher Education (*hereinafter as 'NCTE'*) is not considering the fresh

applications for enhancement of the intake capacity and, therefore, even if the petitioner has to file the application, the same would not be accepted by the NCTE. In any case, she submits that her case is not for additional intake capacity, rather the same is only for restoration of the original intake capacity.

11. Learned counsel appearing on behalf of the NCTE opposes the submissions and states that the Regulations, 2014 would require the concerned institution to file an appropriate application in accordance with Regulation 3 of the said Regulations, 2014. According to him, under first proviso of Regulation 5, an institution which intends to shift its premises for additional intake or for additional programme, requires to submit an application in the prescribed format along with the processing fee and requisite documents.

12. He, therefore, submits that in the instant case, in the absence of there being any application in the prescribed format, there was no reason to consider the case of the petitioner for restoration of the earlier intake. According to him, there exists no provision for restoration of intake capacity, rather all the cases will have to be considered strictly in accordance with Regulation 5 i.e., for enhancement of additional intake.

13. Learned counsel for the respondent, therefore, submits that once the intake was reduced on the application submitted by the petitioner, and thereafter, if the petitioner intends to enhance the same, it will have to be dealt with only in accordance with Regulation 5 of regulation 2014 and by no other means.

14. Learned counsel also submits that the minutes of the meeting which took place on 5/6.07.2022 were substituted by another minutes of the

meeting dated 22/23.08.2022. Also, communication *via* continuation order dated 02.08.2022 came to be issued by the respondent-SRC which remains unchallenged by the petitioner. He, therefore, submits that once the minutes are culminated into a formal order and unless the formal order is set aside, the petitioner cannot be granted any relief. He has also placed reliance on a decision of this court in W.P.(C) 77/2023 namely, ***Amba K.P.S.B.P. College of Education v. National Council for Teacher Education & Anr.*** and other connected matter dated 10.01.2023 and states that the petitioners in those cases were also seeking directions for enhancement of their intake and they were granted liberty to file application in accordance with the extant regulations, as and when the portal for accepting the application is open by the NCTE. He has also placed reliance on the decision of the High Court of Kerala in the case of ***Oriental College of Teacher Education v. Regional Director, National Council for Teacher Education***¹ to buttress his submissions.

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

16. A perusal of the Regulations, 2014 would indicate that Regulation 5 provides for the manner of making application and the time limit. For the sake of clarity, Regulation 5 of Regulations, 2014 is reproduced as under:

“5. Manner of making application and time limit.-(1)An institution eligible under regulation 4, desirous of running a teacher education programme may apply to the concerned Regional Committee for recognition in the prescribed application form along with processing fee and requisite documents:

¹ 2020 SCC OnLine Ker 4037

Provided that an institution may make simultaneous applications for shifting of premises or additional intake, or additional teacher education programmes as the case may be:

(1) Provided further that an existing institution may make an application for closure or discontinuation of one or several teacher education programmes recognised by the Council.

(2) The application form may be downloaded from the website of the Council, namely, www.ncte-india.org and different forms may be downloaded for programmes offered through open and distance learning.

(3) The application shall be submitted online electronically along with the processing fee and scanned copies of required documents such as no objection certificate issued by the concerned affiliating body. While submitting the application, it has to be ensured that the application is duly signed by the applicant on every page, including digital signature at appropriate place at the end of the application.

(4) While submitting the application online a copy of the registered land document issued by the competent authority, indicating that the society or institution applying for the programme possesses land on the date of application, shall be attached along with the application.

(5) Duly completed application in all respects may be submitted to the Regional Committee concerned between 1st March to 31 May of the preceding year from the academic session for which recognition is sought

Provided that the aforesaid period shall not be applicable for submission of application to innovative programmes of teacher education.”

17. It is, thus, seen that an institution, which intends to file an application for shifting of premises or additional intake or additional teacher education programme, has to make an application in the prescribed format along with the processing fee and requisite documents.

18. In the instant case, the petitioner appears to have submitted an application for enhancement of the intake capacity presumably on the ground that the petitioner was earlier running its institution with the intake capacity of 100 seats. Needless to state that once the recognition for 100 intake

capacity was reduced to 50 seats, for all practical purposes, the petitioner stood with 50 intake capacity. If the petitioner intends to again restore its recognition for 100 students, the same will have to be done in the manner prescribed under Regulation 5 of Regulations, 2014.

19. There is no provision pointed out by the learned counsel appearing on behalf of the petitioner to indicate that the NCTE can accept any application for restoring the earlier intake capacity. For whatever reason, if the intake capacity is once reduced, the same can only be enhanced, as per the procedure laid down under the relevant regulations. It is, thus, seen that in the absence of there being any specific regulation permitting the same, no *mandamus* can be issued.

20. It is a settled position of law that if any thing is expressly provided in the provisions of a statute, all other considerations shall become irrelevant if the said provisions do not suffer from any ambiguity. The said principle emanates from the legal maxim '*expressio unius est exclusio alterius*' which implies that the express mention of one thing excludes the other thing. In the instant case, the Regulations, 2014 explicitly provide the mechanism in which an application for an additional intake shall be made by an applicant. In the presence of such regulations, this court does not find any cogent reason to interfere in the decision taken by the respondent-NRC.

21. So far as the order relied upon by the learned counsel appearing on behalf of the petitioner relating to the institution situated in Kerala is concerned, a perusal of the said order dated 03.06.2022 would indicate that the Government of Kerala took a policy decision to allow institutions to conduct their courses with only one basic unit. It is for the aforesaid reason that the NCTE reduced the intake capacity to 50 students (one basic unit).

The order would further indicate that the Government of Kerala took another policy decision on 16.01.2016 permitting the college to take two basic units and accordingly, the earlier intake capacity was restored.

22. It is, thus, seen that there does not exist any indefeasible legitimate expectation in the favour of the petitioner to be treated in a certain manner by the administrative authority. The Hon'ble Supreme Court while discussing the principle of legitimate expectation in the case of *Union of India v. Hindustan Development Corpn*², has held as under:

*28. Time is a three-fold present: the present as we experience it, the past as a present memory and future as a present expectation. **For legal purposes, the expectation cannot be the same as anticipation. It is different from a wish, a desire or a hope nor can it amount to a claim or demand on the ground of a right. However earnest and sincere a wish, a desire or a hope may be and however confidently one may look to them to be fulfilled, they by themselves cannot amount to an assertable expectation and a mere disappointment does not attract legal consequences.** A pious hope even leading to a moral obligation cannot amount to a legitimate expectation. The legitimacy of an expectation can be inferred only if it is founded on the sanction of law or custom or an established procedure followed in regular and natural sequence. Again, it is distinguishable from a genuine expectation. Such expectation should be justifiably legitimate and protectable. **Every such legitimate expectation does not by itself fructify into a right and therefore it does not amount to a right in the conventional sense.***

[Emphasis supplied]

23. A similar view was taken by the Hon'ble Supreme Court in the case of *Kerala State Beverages (M&M) Corpn. Ltd. v. P.P. Suresh*³, wherein it was held:

***19. An expectation entertained by a person may not be found to be legitimate due to the existence of some countervailing consideration of policy or law.** Administrative policies may change with changing circumstances, including changes in the political complexion of*

² (1993) 3 SCC 499

³ (2019) 9 SCC 710

Governments. The liberty to make such changes is something that is inherent in our constitutional form of Government.

20. The decision-makers' freedom to change the policy in public interest cannot be fettered by applying the principle of substantive legitimate expectation. So long as the Government does not act in an arbitrary or in an unreasonable manner, the change in policy does not call for interference by judicial review on the ground of a legitimate expectation of an individual or a group of individuals being defeated.

[Emphasis supplied]

24. It is clear from the facts of the present case that the request of the petitioner for grant of an additional basic unit of B.Ed. course was duly considered by the respondent-SRC. It was subsequently rejected only on the ground that the manner in which the request was made by the petitioner was not in conformity with the statutory obligations, which has to be followed in any case. Therefore, it cannot be said that the decision of the respondent-SRC is fraught with procedural impropriety which would create an assertable right in favour of the petitioner to warrant a judicial review on the ground of legitimate expectations.

25. The case of the petitioner cannot be said to stand on an equal footing with the case of Sree Narayana Training College, Nedunganda, Kerala. Once the NCTE has taken a decision on the basis of the existing regulations, the same cannot be interfered with unless the same is shown to be arbitrary or in violation of any provisions of law.

26. In view of the aforesaid, this court does not find any substance in the instant writ petition. The same is accordingly, dismissed along with all pending application.

PURUSHAINDRA KUMAR KAURAV, J

AUGUST 08, 2023/p/ss