



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD
WRIT PETITION NO.12610 OF 2023**

Sietkari Shikshan Prasarak Mandal's
College of Physical Education,
27, Ashti, Nagar-Beed Road,
Post Ashti, Tq. And Dist. Beed,
Through its Secretary,
Bhimrao S/o. Anandrao Dhonde,
Age 59 Yrs., Occu. Agri,
R/o. Ashti, Tq. Ashti, Dist. Beed.

..Petitioner

Versus

1. The State of Maharashtra,
Through its Principal Secretary,
Social Welfare, Cultural Affairs,
& Sports Department,
Mantralaya, Mumbai-400 032.

2. National Council for Teacher Education (NCTE),
G-7, Sector-10, New Delhi 110075
Through its Regional Director, WRC.

3. State Common Entrance Test Cell,
Maharashtra State, Mumbai.

..Respondents

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Mr. S. S. Thombre, Advocate for the Petitioner.

Mr. V. M. Jaware, AGP for Respondent No.1.

Mr. N. S. Tekale, Advocate for Respondent No.2.

Mr. Wasif Shaikh h/f Mr. M. D. Narwadkar, Advocate for Respondent No.3.

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**CORAM : SMT. VIBHA KANKANWADI AND
S. G. CHAPALGAONKAR, JJ.**

DATED : 04th JANUARY, 2024.

ORDER (Per: S. G. Chapalgaonkar, J.):

1. The petitioner approaches this Court under Article 226 of the Constitution of India thereby impugning the order dated 09.02.2023 passed by respondent no.2 in Appeal filed under Section 18 of the National Council for Teacher Education Act (for short 'N.C.T.E. Act') thereby confirming the order dated 07.09.2017 thereby withdrawing

recognition granted in favour of the petitioner to run B.P.Ed. course from Academic Year 2018-2019 in terms of Section 17(1) of the N.C.T.E. Act.

2. Mr. Thombre, learned Advocate appearing for the petitioner would submit that the petitioner is an Educational Institution registered under Maharashtra Public Trust Act as well as Societies Registration Act, who was granted recognition by the National Council for Teacher Education (N.C.T.E.) to conduct B.P.Ed. course with intake capacity of 100 students per annum under order dated 26.07.1999 and revised provisional recognition was granted on 30.05.2015. On 27.10.2016 the petitioner was served with the show cause notice as to why recognition shall not be withdrawn on the ground that petitioner failed to maintain academic faculty as per norms and FDR required under Clause 10(1) of the N.C.T.E. Regulations 2014. Although petitioner replied the show cause notice, the impugned order dated 07.09.2017 of withdrawal of recognition came to be passed. The petitioner approached the Appellate Authority under Section 18 of the N.C.T.E. Act and submitted copy of a communication dated 29.01.2022 issued by the Dr. Babasaheb Ambedkar Marathwada University approving the faculty of 7 members as well as approval granted in favour of the in-charge Principal. However, Appellate Authority without considering the aforesaid compliance, dismissed the Appeal and maintained the order of withdrawal of recognition. Mr. Thombre would urge that in view of the staff approval by the University, the deficiency has been removed. The petitioner could have been given one opportunity by setting aside impugned order of withdrawal of recognition.

3. The learned Advocate appearing for the respective respondents supported the impugned orders.

4. Having considered submissions advanced and on perusal of the record submitted before this Court it can be gathered that the petitioner-Institution was granted permission to run B.P.Ed. course since 15.10.1993. Thereafter, respondent no.2-National Council for Teacher Education (N.C.T.E.) granted recognition in favour of the petitioner to run B.P.Ed. course with intake capacity of 100 students.

5. The petitioner was served with show cause notice as to why recognition shall not be withdrawn pointing out following deficiencies:-

1. Appointment of required number of faculties with approval of affiliating body not made;
2. The building completion certificate is not provided and;
3. FDR as required under N.C.T.E. Regulations 2014 are not maintained.

The petitioner failed to reply the show cause notice, which resulted into passing of the impugned order dated 06.09.2017. The petitioner approached the Appellate Authority and submitted the staff list of in-charge Principal and faculty members and building completion certificate. The Appellate Authority found that the deficiencies as noticed in the order of the W.R.C. have not been removed and dismissed appeal.

6. Perusal of the record shows that the petitioner during hearing of appeal submitted a copy of communication dated 29.01.2022 issued by Dr. Babasaheb Ambedkar Marathwada University depicting approval granted in favour of 7 staff members. According to the petitioner, the University has approved the appointment of the in-charge Principal. Similarly, the communication dated 07.09.2023 issued by the Dr. Babasaheb Ambedkar Marathwada University shows compliance of the deficiencies. The impugned orders passed by the

Appellate Authority simply records that the appointment of in-charge Principal is not permitted under the Rules. However, no such provision in N.C.T.E. Regulations 2014 is brought to our notice. *Prima facie*, Clause 5 of the norms and standards for Bachelor of Physical Education Programme, nowhere depict prohibition for appointment of in-charge Principal. At this stage, learned Advocate appearing for the petitioner submits that the petitioner has complied with all other requirements and would produce relevant record before the concerned Authority, who may inspect the compliance. In that view of the matter, we find that it would be appropriate in the interest of justice to grant one more opportunity to the petitioner to satisfy the Authorities regarding compliance of the requirements for conducting B.P.Ed. course and direct the Authorities to re-consider continuation of recognition in favour of the petitioner. Resultantly, we pass the following order:

ORDER

- a. Writ Petition is partly allowed.
- b. Impugned order dated 07.09.2017 passed by Western Regional Committee (WRC) of National Council for Teachers Education as well as order dated 09.02.2023 passed by Appellate Authority is hereby quashed and set aside.
- c. The respondent no.2 shall permit the petitioner to submit requisite documents depicting compliance of the norms required to run B.P.Ed. course including appointment of requisite faculties, availability of the FDR and building in tune with the N.C.T.E. Regulations 2014.
- d. After securing the aforesaid compliance, respondent no.2 shall be at liberty to take appropriate decision regarding revival of recognition of petitioner to run B.P.Ed course as permissible under law.

e. Aforesaid directions shall not be construed as automatic revival of recognition withdrawn by impugned order. It shall depend on further orders to be passed by respondent No.2 on reporting compliance by the petitioner institution.

f. Writ Petition stands disposed of in aforesaid terms.

(S. G. CHAPALGAONKAR)
JUDGE

(SMT. VIBHA KANKANWADI)
JUDGE