



2024:DHC:4719



\$~36

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

+ **W.P.(C) 76/2024, CM APPL. 293/2024 and 294/2024**

SHIMLA COLLEGE OF EDUCATION Petitioner

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

versus

**NATIONAL COUNCIL FOR TEACHER
EDUCATION & ANR.** Respondents

Through: Mr. Anuj Kapoor, Adv. for
Respondent 1
Mr. Utkarsh Singh for Mr. Santosh K.
Tripathi, Standing Counsel for DoE

**CORAM:
HON'BLE MR. JUSTICE C.HARI SHANKAR**

JUDGMENT (ORAL)

% **30.05.2024**

1. At the outset, learned counsel for the respondents submits that the respondents have no objection to the FDR of ₹ 25 lakhs, deposited by the petitioner, being returned to it. Accordingly, the respondent is directed to return to the petitioner, the FDR of ₹25 lakhs along with interest which may have accrued thereon, within four weeks.

2. In so far as the main appeal is concerned, the issue in controversy is extremely limited. By order dated 16 August 2023, passed by the Northern Regional Committee (NRC) of the National Council for Teacher Education (NCTE), recognition granted to the petitioner for 100 students in B.Ed. course, 100 students in D.El.Ed.



2024:DHC:4719



course and 50 students in M.Ed. course, for conducting B.Ed., D.El.Ed. and M.Ed. courses by the NRC of the NCTE was withdrawn under Section 17 of the National Council for Teacher Education Act, 1993 (hereinafter referred to as “NCTE Act, 1993”) with effect from the academic session 2024-2025.

3. The petitioner appealed against the said order to the Appellate Committee of the NCTE. By order dated 19 December 2023, the Appellate Committee has observed thus:

“The Appeal Committee noted that the instant matter was again taken up by the Appellate Committee in its 13th Meeting, 2023 held on 19.10.2023 whereby the Appeal Committee decided to grant (3rd/Final) Opportunity to the institution to submit certain clarification.

The Appeal Committee noted that the Appellant Institution in addition to the explanation mentioned in appeal report submitted the following documents with a claim to have rectified the shortcomings pointed out in the impugned withdrawal order: -

- (i) A copy of faculty list for B.Ed. programme approved by Asst. Registrar (Acad.), H.P. University, Shimla as per provisions of NCTE Regulation, 2014 etc.
- (ii) A copy of report dated 08.11.2023 of the Tehsildar stating that Shimla College of Education is the owner in possession of land.
- (iii) A copy of land documents alongwith Building Completion Certificate, Building Safety Certificate & Building Plan.
- (iv) A copy of screen shot of website showing uploading the requisite documents on the website of the institution.

The Appeal Committee also noted the observation of the NRC viz a viz the explanation given by the Appellant institution regarding Building Safety Certificate. The Appellant institution contended that during the inspection it has been observed by the concerned Engineer that the said building visually seems to be safe and sound and the building is fit for occupancy from the year 2023-28 during normal conditions. On the basis of



2024:DHC:4719



observation of the NRC and Appellant institution, the Appeal Committee is of the view that NRC to conduct inspection of the institution under Section 13 of the NCTE Act, 1993 in consonance with Inspection Division of NCTE (HQ) to verify the infrastructural and instructional facilities available with the institution.

The Appeal Committee noted that the institution has submitted documents with respect to points mentioned in the Withdrawal Order dated 16.08.2023 and keeping in view, the Hon'ble High Court of Delhi Judgment dated 23.02.2017 passed in W.P.(C). no. 3231/2016 titled "Rambha College of Education V/s NCTE" wherein the Hon'ble Court has directed the Appeal Committee to take into consideration the subsequent documents of the Appellant while disposing of the Appeal has to be taken on record.

The Appeal Committee noted that the document submitted in appeal *vis a vis* the grounds mentioned in the order of withdrawal, require to be verified by the Northern Regional Committee and decision taken accordingly. The NRC, NCTE is further directed to conduct inspection of the institution under Section 13 of the NCTE Act, 1993 in consonance with Inspection Division of NCTE (HQ) to verify the infrastructural and instructional facilities available with the institution and further to verify the documents submitted from the concerned issuing authority.

Appeal Committee noted that the Hon'ble High Court of Delhi *vide* order dated 08.04.2021, passed in W.P. (C) 4382/2021 has observed as follows: -

"Appellate Committee of NCTE, is directed to ensure that, whenever an order of remand is passed, the status of the impugned is clearly spelt out so that the institution is not compelled to approach the Court in this manner."

Appeal Committee noted that the Hon'ble High Court of Delhi *vide* order dated 30.07.2021, passed in W.P. (C) 7260/2021 has observed as follows: -

"Although the Appellate Committee of the NCTE would be well advised to expressly quash the original order of the concerned Regional Committee while remanding the matter, the position in law is that the order automatically stands quashed. The institution is, therefore, entitled to the benefits of recognition until a fresh withdrawal order is



2024:DHC:4719



passed.”

In view of the afore-mentioned extracts of the court orders, the impugned withdrawal order dated 16.08.2023 (B.Ed. programme) is set-aside as the Appellate Committee has decided to remand back the case to NRC for revisiting the matter.

Noting the submission and verbal arguments advanced during the hearing, Appeal Committee decided to remand back the case in respect of B.Ed. programme to the NRC, NCTE with the direction to conduct inspection of the institution under Section 13 of the NCTE Act, 1993 in consonance with Inspection Division of NCTE (HQ) to verify the infrastructural and instructional facilities available with the institution. The Appellant is directed to forward to the NRC the documents submitted in appeal within 15 days from the receipt of order of the Appeal to take further necessary action as per the NCTE Regulation, 2014, guidelines and amendments issued from time to time in terms of direction given herein above.

IV. DECISION: -

After perusal of the Appeal Report, documents on record and oral arguments advanced during the online hearing, Appeal Committee of the Council concluded to remand back the case in respect of B.Ed. programme to NRC with a direction to conduct inspection of the institution under Section 13 of the NCTE Act, 1993 in consonance with Inspection Division of NCTE (HQ) to verify the infrastructural and instructional facilities available with the institution. The Appellant Institution is directed to forward to the NRC the documents submitted in appeal within 15 days from the receipt of order of the Appeal to take further necessary action as per the NCTE Regulation, 2014, guidelines and amendments issued from time to time in terms of direction given herein above.

The above decision is being communicated on behalf of the Appeal Committee.

Sd/-
Deputy Secretary (Appeal)”

4. The grievance of the petitioner is that the aforesaid order would have to apply not just to the B.Ed. programme conducted by the petitioner but to all the three programmes, recognition in respect of



2024:DHC:4719



which was withdrawn by order dated 16 August 2023 of the NRC.

5. Though Mr. Anuj Kapur, learned counsel for NCTE, sought to point out, from the title of the appeal filed by the petitioner before the Appellate Committee, that the appeal was limited to the B.Ed. course and that therefore the Appellate Committee could not be faulted for having passed the order restricted to the B.Ed. course, it is seen that the prayer in the appeal specifically sought setting aside of the order of withdrawal of the petitioner's recognition in respect of all three courses. It goes without saying that it is the prayer in the appeal which would predominate, rather than a mention in the title of the appeal. The appeal has, therefore, to be treated as extending to all the three courses, recognition of which was withdrawn by the order dated 16 August 2023.

6. In so far as the Appellate Committee's order dated 19 December 2023 is concerned, the extracts from the said order reproduced in para 3 *supra* reveal that the Appellate Committee decided to remand the matter for a fresh consideration following a fresh inspection. Following this decision, the Appellate Committee relied on order dated 30 July 2021 passed by this Court in W.P.(C) 7260/2021 (*Arihant College & Anr. v. N.C.T.E.*) wherein this Court has observed that, where the Appellate Committee decides to remand the matter, the order under challenge automatically stands quashed and that the Institution concerned would be entitled to the benefits of recognition till a fresh withdrawal order is passed.



2024 : DHC : 4719



7. Following this, the Appellate Committee has set aside the order of withdrawal but has restricted its decision to the B.Ed. Course conducted by the petitioner.

8. It is obvious that the decision of the Appellate Committee would necessarily have to extend to all the three courses in respect of which recognition was withdrawn and cannot be restricted to the B.Ed. course. The principle in the order dated 30 July 2021 passed by this Court in W.P.(C) 7260/2021 that where the matter is remanded by the Appellate Committee for a fresh consideration, the petitioner would be entitled to restoration of recognition pending the outcome of the fresh consideration, would have to extend to all the courses conducted by the petitioner.

9. In that view of the matter, the impugned order dated 19 December 2023 of the Appellate Committee is modified to the extent that recognition of the petitioner stands restored in respect of all the three courses i.e. B.Ed., D.El.Ed. and M.Ed. Needless to say, however, this restoration would be subject to the outcome of the fresh inspection and fresh consideration as directed by the Appellate Committee in its order dated 19 December 2023.

10. The respondent is also directed to take steps to reflect the status of the petitioner on its website as a recognized institute in respect of all the three courses as above and to issue fresh restoration orders for all the three courses and appropriately intimate the Affiliating Body, subject to the outcome of the fresh inspection as per direction of the



2024:DHC:4719



Appellate Committee. The restoration order would be issued within a period of two weeks from today.

11. The writ petition is allowed in the aforesaid terms.

C.HARI SHANKAR, J

MAY 30, 2024

yg

Click here to check corrigendum, if any