



\$~83 to 89

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

+ W.P.(C) 893/2023 and CM APPL. 3464/2023

AAKASH COLLEGE OF EDUCATION Petitioner

Versus

NATIONAL COUNCIL FOR TEACHER EDUCATION &
ANR. Respondents

With

W.P.(C) 894/2023 and CM APPL.3465/2023

W.P.(C) 1278/2023 and CM APPL.4881/2023

W.P.(C) 1493/2023 and CM APPL.5573/2023

W.P.(C) 1535/2023 and CM APPL.5821/2023

W.P.(C) 1608/2023 and CM APPL.6104/2023

W.P.(C) 8683/2023 and CM APPL. 32874/2023

For petitioner: Mr. Sanjay Sharawat and Mr. Ashok Kumar, Advs.
Mr. Abhishek Singh and Mr. Karan Chaudhary, Advs. in
Item Nos.86 to 88.

For Respondents: Mrs. Mrinalini Sen, Standing Counsel along with Ms.
Gayatri Virmani and Ms. Shivangi Bhasin, Advs. for
NCTE.
Mr. N. K. Bhatnagar, along with Ms. Pratishtha
Majumdar, Advs. for NCTE.

CORAM:

HON'BLE MR. JUSTICE PURUSHAINDRA KUMAR KAURAV

ORDER

% **29.11.2024**

1. Heard learned counsel appearing for the petitioner-institutions and
Mrs. Mrinalini Sen, learned standing counsel with Ms. Gayatri Virmani
appearing for the respondents.



2. Learned counsel appearing for the petitioners asserts that the impugned decision to issue show cause notice i based on non-existent grounds and surmises. According to them, the minutes of the 389th Emergent Meeting dated 27.12.2022 of Northern Regional Committee [‘NRC’], National Council of Teacher Education [‘NCTE’] states that the recognition to the petitioners-institutions was given in Appendix 13 after the omission of Appendix 13 but prior to the decision of the 54th General Body Meeting of NCTE dated 27.04.2022.

3. Learned counsel, then, explains various reasons for impugning the decisions taken by the NCTE in the meeting dated 27.12.2022, which is as follows:-

- i. The petitioners were granted recognition *vide* letters issued in the month of October-November, 2021. As of October-November, 2021, Appendix 13 validly existed and no formal decision as on the date of the grant of recognition was taken to omit the said Appendix 13.
- ii. If at all any decision is taken to omit Appendix 13, the same must be prospective in nature. The decision taken in the 54th General Body Meeting of NCTE itself recognizes the fact that the already existing institutions shall continue to impart the relevant courses and their courses shall not be discontinued.
- iii. Non-grant of fresh recognition after 27.10.2021 shall not entitle the respondents to withdraw the recognition which was granted prior to the said decision.
- iv. There was no mandatory direction either in the writ proceedings or in contempt petitions before this Court to necessarily issue the letter of recognition, therefore, the assertions made by the respondents in their



minutes that the recognition was granted pursuant to compliance of the contempt cases is factually incorrect. Even if the assertion is accepted to be correct, in such scenario, without the permission of the Court, no adverse decision could have been taken.

- v. Under Section 17 of the NCTE Act, 1993 the NCTE is only empowered to issue the notice in case of violation of any of the conditions stipulated under the Act or the Regulations.
4. Learned counsel, therefore, submits that the impugned decision is without jurisdiction and the same deserves to be set aside in the interest of justice.
5. Learned counsel appearing for the respondents vehemently opposes the submissions and submits that these writ petitions are not maintainable since they have been filed only against the decision to issue the show cause notice. She, further submits that the petitions are premature and the petitioners should file their reply once the notices are issued to them. Learned counsel also justified the decision to issue show cause notice on various grounds, as can be seen from their counter affidavit.
6. I have considered the submissions made by learned counsel appearing for the parties and have perused the record.
7. One of the writ petitions i.e. W.P.(C) 893/2023 was taken up for hearing on 24.01.2023 and the Court, while considering the submissions made by the petitioners, issued notices to the respondents and subject to hearing the respondents, the operation of the impugned minutes of the meeting/decision was stayed.
8. It is thus seen, as on date, on the basis of minutes of the meeting dated 27.12.2022, no formal show cause notices have been issued by the



respondents. Generally, writ petitions against the decision to issue show cause notice are not entertained unless the decision itself is evidently shown to be without jurisdiction. However, under the facts of the present case, the submissions are not solely rested on the decision being *sans* jurisdiction but the same is being assailed on the anvil of it being arbitrary as well. In any case, the petitioners shall have full opportunity to submit a detailed reply including challenging the impugned decision on the ground of it being without jurisdiction.

9. The Court, therefore, is of the considered opinion that the petitioners need to submit a detailed reply to the respondents explaining all reasons as to why the show cause notices ought not to have been issued to them and why no action can be taken against the petitioners.

10. Needless to state, if such a reply is submitted by the petitioners, there is no doubt that the same shall be considered appropriately by the respondents. The respondents, however, are directed to deal with the reply proposed to be submitted by the petitioners with utmost objectivity.

11. Since the Court has already passed an interim order dated 24.01.2023 and the matters remain pending for almost two years, the interest of justice would be better served if the interim order is made absolute awaiting the decision to be taken by the respondents, pursuant to the show cause notice and the reply to be submitted by the petitioners.

12. The instant petitions stand disposed of, along with pending applications, with the following directions:

- i. The decision dated 27.12.2022, shall, itself be considered to be the show cause notice.
- ii. The petitioners are directed to submit a detailed reply within a period



of three weeks from the date of passing of this order, along with all necessary documents.

- iii. The respondents, thereafter, to consider their reply and to take a final decision with due expedition. If the decision is adverse to the petitioners, the same shall not be given effect for a period of 45 days therefrom.
13. All rights and contentions are left open.

PURUSHAINDR KUMAR KAURAV, J
NOVEMBER 29, 2024/p