



2024:DHC:3860



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

+ **W.P.(C) 6277/2024**

DOON VALLEY INSTITUTE OF EDUCATION Petitioner
Through: Mr. Sanjay Sharawat, and Mr.
Ashok Kumar, Advocates

versus

NATIONAL COUNCIL FOR TEACHER EDUCATION &
ANR. Respondents

Through: Mr. N.K. Bhatnagar, Ms.
Rupali and Ms. Pratishtha Majumdar,
Advocates, for NCTE

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

JUDGMENT (ORAL)

% 10.05.2024

Issue in Controversys

1. The present writ petition challenges the order dated 15 September 2023 by which the recognition earlier granted to the petitioner institution, by the North Regional Committee¹ of the National Council for Teacher Education² for conducting a B.Ed. course with an intake of 300 students was withdrawn by the NRC, as well as order dated 12 April 2024 whereby the appeal preferred against the withdrawal order was dismissed by the Appellate Committee of the NCTE.



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Facts

2. The Doon Valley Trust³ was formed and registered as a society under the Societies Registration Act 1860, on 13 November 2000. The members of the Trust belonged to one family.

3. The Trust purchased approximately 2 acres of land in Karnal, Haryana, for establishing a teacher training educational institution. After putting in place the requisite infrastructure, the Trust submitted an application with the NRC for recognition of the institution under the name Doon Valley Institute of Education, with permission to conduct a B.Ed course with an intake of 100 seats. *Vide* order dated 16 August 2004, the petitioner-institution was granted recognition, with effect from 2004-2005, by the NRC, for conducting a B.Ed. course with an intake of 100 seats.

4. After two years, the petitioner applied to the NRC for permission to increase its intake its intake capacity for its B.Ed. course by an additional 200 seats in the same premises. Permission as sought was granted by the NRC *vide* order dated 29 September 2006, with effect from the academic session 2006-2007. Thus, the number of sanctioned B. Ed seats in the petitioner-institution rose to 300.

5. In 2011, the Trust submitted an application to the District Registrar, Firms and Societies, Karnal, seeking to surrender the

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³ Hereinafter referred to as "the Trust"

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registration held by it under the Societies Registration Act and requesting for a No Objection Certificate for permitting its incorporation as a company under the Companies Act 1956. Permission, as sought, was granted by the Registrar on 15 April 2011. On the basis of the NOC so granted, the Trust was duly incorporated as a private limited company under Section 25 of the Companies Act, 1956 *vide* Certificate of Incorporation dated 18 April 2011. *Vide* letter dated 22 April 2011, the District Registrar cancelled the earlier Registration Certificate dated 13 November 2000.

6. The petitioner, therefore, submits that the change from a society to a private limited company was purely facial, as the same persons continue to remain in charge of the management of the petitioner.

7. This assertion, as contained in the writ petition, has not been controverted in the counter affidavit filed by the respondent.

8. On 21 March 2023, the NRC issued a show cause notice to the petitioner under Section 17(1)⁴ of the National Council for Teacher Education Act 1993 (the NCTE Act). To the extent it is relevant for the present purposes, the show cause notice observed that the change

⁴ 17. **Contravention of provisions of the Act and consequences thereof. –**

(1) Where the Regional Committee is, on its own motion or on any representation received from any person, satisfied that a recognised institution has contravened any of the provisions of this Act, or the rules, regulations, orders made or issued thereunder, or any condition subject to which recognition under sub-section (3) of Section 14 or permission under sub-section (3) of Section 15 was granted, it may withdraw recognition of such recognised institution, for reasons to be recorded in writing:

Provided that no such order against the recognised institution shall be passed unless a reasonable opportunity of making representation against the proposed order has been given to such recognised institution:

Provided further that the order withdrawing or refusing recognition passed by the Regional Committee shall come into force only with effect from the end of the academic session next following the date of communication of such order.

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of the Trust into a private limited company w.e.f. 1 March 2011 was “not at the par with the Regulation of the NCTE”. No specific Regulation, with which the change of the petitioner from a Trust to a private limited company was “not at par”, was cited. Having so observed in the body of the show cause notice, the grounds of the show cause notice, as mentioned therein, merely required the Trust to furnish certain details, which included the application made for incorporation of the Trust into a company under Section 25 of the Companies Act, and the certificate of incorporation of the company. The petitioner was also required to inform about the present status of the Trust.

9. The petitioner challenged the show cause notice dated 21 March 2023 before this Court by way of WP (C) 4854/2023⁵, which was disposed of on 18 April 2023 with a direction to the petitioner to submit a response to the show cause notice within 15 days and a direction to the NRC to take a decision on the show cause notice in accordance with law.

10. The petitioner submitted its reply to the show cause notice on 8 May 2023.

11. It is not necessary to refer to the said reply, as, after the reply was submitted, the NRC, in its 401st meeting held on 27 June 2023, decided to issue a second show cause notice to the petitioner under Section 17 of the NCTE Act.

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12. A copy of the minutes of the meeting of the 401st of the NRC held on 27 June 2023, insofar as they deal with the petitioner at serial no. 17 thereof, may be reproduced thus:

“17. Doon Valley Institute of Education, outside Jundla Gate, Karnal Haryana 132001 File No. HR-183, B.Ed. + HR-409, Course - B.Ed.

The original file of the institution along with other related documents, NCTE Act, 1993, Regulations and Guidelines issued by NCTE from time to time were carefully considered by NRG and the Committee observed following:

1. The recognition was granted to the institution namely Doon Valley Institute of Education, Out Site Jundla Gate, Kamal , Haryana run by Doon Valley Trust for B.Ed. course of one year duration with an annual intake of 100 students vide order dated 16/08/2004 and additional intake of one year duration with an annual intake of 200 students vide order dated 29/9/2006 and revised order was issued to the institution of two year duration with an annual intake of six basic unit 50 each (300 students)

2. The matter was considered in light of W.P.(C) No. 1679/2023 by NRC in its 395th meeting held on 2nd & 3rd March 2023 and the committee decided to issue SCN to the institution on the following grounds:

1. The Doon valley trust is required to send original application seeking recognition along with name of the institution, place, intake mentioned in the original application.

2. The Doon Valley Trust is to submit certified copy of Registered deed of trust along with names of the trustees and their present position.

3. The Doon valley trust is required to submit the place permitted to run the institution along with intake.

4. The Doon Valley Trust is required to submit the affiliation letter issued to it.

5. The Doon Valley Trust is required to submit

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⁵ Doon Valley Institute of Education v. N.C.T.E. & anr
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the application made for incorporation of trust into company under section 25 of the Companies Act, 1956.

6. The Doon Valley Trust is required to submit the certificate of incorporation along with names of its directors and name of the institution run by the company Doon Valley Trust.

7. The Doon valley trust is required to tell the present status of the earlier Trust namely Doon Valley Trust.

8. The Doon Valley Trust is required to submit the compromise deed dated 13.11.2018 executed between it's directors.

9. The Doon Valley Trust is required to submit the details of website maintained by the institution.

3. Accordingly, SCN was issued to the institution on 21/03/2023. The institution has submitted reply on 8/5/2023. The matter was considered by NRC and the committee observed the following:

- The institution has not submitted original application seeking recognition along with name of the institution, place, and intake mentioned in the original application.
- In reply to point no. 5 of the SCN the Doon Valley Trust on 18/4/2011 has submitted an application for seeking incorporation as a company under section 25 of the Companies Act, 1956.
- In reply to point no. 6 the Doon Valley Trust has submitted the certificate of incorporation as well as the name of the Director of the said company.
- It is observed that the Doon Valley Trust which was earlier at the time of recognition registered under the societies registration Act has now been incorporated as a company under companies Act, 1956 which is not permissible under the NCTE Regulations.

Hence, the NRC decided that Second Show Cause Notice Under Section 17 of the NCTE Act, 1993 be issue to the institution to submit the reply within 7 days from the date of issue of Show Cause Notice.”

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13. The petitioner re-approached this Court by way of WP (C) 9752/2023⁶, challenging the above decision, taken by the NRC in its 401st meeting, to issue a show cause notice to the petitioner under Section 17 of the NCTE Act.

14. A coordinate Bench of this Court, by order dated 8 August 2023, initially observed that, as the challenge was only to the minutes of the NCTE meeting recommending issuance of a show cause notice, the court was not inclined to entertain the writ petition. Nonetheless, the court accepted the petitioner's contention that Deficiency No. 1 stated in the list of deficiencies in the minutes of the 401st meeting as extracted in para 13 *supra* was without jurisdiction and set it aside. Qua the remaining deficiencies, this Court granted liberty to the petitioner to file a reply, in the event a show cause notice was issued to the petitioner.

15. No further show cause notice was issued to the petitioner; nonetheless, the petitioner submitted a response to the deficiencies indicated in the minutes of the 401st meeting of the NRC, *vide* communication dated 21 August 2023. The reply was brief, and merely urged two points. The first was that a company incorporated under the Companies Act was also entitled to run a teacher training institute. The second was that it was the Doon Valley Trust, earlier registered as a Society, which was now registered as a not-for-profit



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company under Section 25 of the Companies Act. There was, therefore, no change in management of the petitioner.

16. On 15 September 2023, the NRC withdrew the recognition granted to the petitioner for running its B.Ed. programme. The withdrawal order makes no reference to the reply dated 21 August 2023 submitted by the petitioner. Para 3 of the withdrawal order, which may be said to contain its reasons, if at all, may be reproduced as under:

“3. Accordingly, SCN was issued to the institution on 21.03.2023. The institution has submitted reply on 08.05.2023. The matter was considered by NRC and the Committee observed the following:

- The institution has not submitted original application seeking recognition along with name of the institution, place and intake mentioned in the original application.
- In reply to point no.5 of the SCN the Doon Valley Trust on 18.04.2011 has submitted an application for seeking incorporation as a company under section 25 of the Companies Act, 1956.
- In reply to point no.6 the Doon Valley Trust has submitted the certificate of incorporation as well as the name of the Director of the said company.
- It is observed that the Doon Valley Trust which was earlier at the time of recognition registered under the societies registration Act has now been incorporated as a company under companies Act, 1956 which is not permissible under the NCTE Regulations.

AND WHEREAS, the matter was placed before the NRC in its 401st meeting held on 04th & 05th September 2023. The original file of the institution along with the related documents, NCTE Act, 1995, Regulations and Guidelines issued by NCTE from time to time were carefully considered by NRC and the committee observed following:

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As per decision of NRC in its 401st meeting Final SCN was issued to the institution on 26/07/2023. The institution has submitted reply of Final SCN vide letter dated 26.08.2023. The matter considered in NRC and the committee observed the following:

- The Doon Valley Institution of Education, outside Jundla Gate, Kamal, Haryana running under the trust namely Doon Valley Trust was granted recognition by NRC vide order dated :29/09/2006.
- The submission of reply by Doon Valley Trust clearly implies that the trust of the institution has been changed as company under section 25 of the companies Act,1956.
- It is clear that the Doon Valley Trust which was earlier at the time of recognition registered under the societies registration Act., has now been incorporated as a company under Companies Act.1956 which is not permissible under the NCTE Regulations 2014.

In view of the above observations the committee decided to withdraw the recognition granted to Doon Valley Institute of Education, Outside Jundla Gate, Karnal, Haryana -132 001 for B.Ed. and B.Ed. additional intake under section 17 of the NCTE Act., 1993 from the academic session 2024-2025.

Now THEREFORE. in exercise of powers vested u/s 17(1) of the NCTE Act. 1993, the Northern Regional Committee now hereby withdraws recognition granted to institution viz. Doon Valley Institute of Education, Outside Jundla Gate, Kamal - 132001, Haryana for B.Ed. course (HR-183) with an annual intake of 100 and B.Ed course with additional intake of 200 (HR-409) running under Trust namely Doon Valley Trust, Outside Jundla Gate, Kamal, Haryana-132 001 from the academic Session 2023-2024.”

17. Thus, the sole ground on which the petitioner’s recognition was withdrawn was that “the Doon Valley Trust which was earlier at the time of recognition registered under the Societies Registration Act, has now been incorporated as a company under the Companies Act 1956, which is not permissible under the NCTE Regulations 2014”.

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Again, there is no reference to the specific Regulation in the NCTE

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Regulations 2014⁷, which proscribed the incorporation of the Trust which was running the petitioner institution into a company.

18. The petitioner challenged the withdrawal order by means of a third writ petition being WP (C) 12715/2023⁸. The said writ petition was disposed of by a coordinate Bench of this Court by order dated 26 September 2023 with liberty to the petitioner to prefer a statutory appeal against the withdrawal order, under Section 18(1)⁹ of the NCTE Act. However, in the facts of the case, this Court deemed it appropriate to keep the withdrawal order dated 15 September 2023 in abeyance till the appeal was decided by the Appellate Committee.

19. The petitioner, thereupon, filed a statutory appeal before the Appellate Committee of the NCTE on 3 October 2023.

20. The said appeal has come to be dismissed by the Appellate Committee by order dated 12 April 2024. The portion of the said order under head “outcome of the case” which contains the reasoning of the Appellate Committee, reads thus:

“OUTCOME OF THE CASE

The Appeal Committee in its 5th Meeting, 2024 held online on 27th March 2024 perused the relevant records and the documents submitted by the appellant institution in the Appeal Report, documents on record.

The Appeal Committee noted that the appellant institution was granted recognition for B.Ed. Course with an annual intake of

⁷ Hereinafter referred to as “the 2014 Regulations”

⁸ **Doon Valley Institute Education v. N.C.T.E. & anr**

⁹ 18. Appeals. –

(1) Any person aggrieved by an order made under Section 14 or Section 15 or Section 17 of the Act may prefer an appeal to the Council within such period as may be prescribed.



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100 vide order dated 16.08.2004 from the academic session 2004-2005 and for additional intake in the existing B.Ed. programme with annual intake of 300 (100+200) students vide order dated 29.09.2006. A revised provisional recognition order was issued to the institution on dt. 13.08.2015 for conducting B.Ed. programme of two years duration with an annual intake of 300 for six basic units of 50 students from the academic session 2015-2016. The recognition of the institution for B.Ed. programme was withdrawn by the NRC vide order dated 15.09.2023.

The Appeal Committee noted that the matter was taken up by the Appellate Committee in its 13th Meeting, 2023 held on 19.10.2023 and further taken up in its 14th Meeting, 2023 held on 04.11.2023 but the Appellant Institution did not appear online to present its case before Appellate Authority and as such the Appeal Committee as per extant appeal rules decided to grant 2nd & 3rd/final opportunities respectively to the Appellant Institution to present its case before Appellate Authority.

The instant matter was again placed before the Appeal Committee in its 15th Meeting, 2023 held on 05.12.2023, 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 certificate of Doon valley Trust under Society Registration Act, 1860.
- (ii) A copy of approval of Registrar Firms & Societies for conversion of Society to Non-profit Section 25 Company.
- (iii) A copy of Resolution of Board of Doon Valley Trust.
- (iv) A copy of Certificate of Incorporation of Doon Valley Trust.
- (v) A copy of Approval of Government of India under Section 25 of the Companies Act, 1956.
- (vi) A copy of Resolution of Board of Directors of Doon Valley Trust.

Appeal Committee noted that applicant institution did not seek prior approval of NRC, NCTE which has finally resulted in conducting of B.Ed. programme by an institution managed by a

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Company which was never an applicant in this case. The Appeal Committee also observed that contrary to NCTE Act, Rules and Regulations framed thereunder the institution has suo moto without taking permission from the NRC. NCTE, has changed its management, and as per the written policy issued by the NCTE Hqr. vide letter dated 08.12.2016 and 23.12.2016, the change of management/society/trust is not permissible.

The Appeal Committee further noted that the institution in its Appeal Report contended that in the year 2011, the same Members of the Society got incorporated as a company by obtaining NOC from the Registrar, Societies and after following the due process of law the Doon Valley Trust has been representing itself before the NRC under the sponsorship of the company. The Appellant institution also contended that there is no prohibition or impediment under the NCTE Act, Regulations to carry out such change which does not impact the character of functioning of the institution in any manner whatsoever.

Therefore, the Appeal Committee decided to refer the matter to the NCTE, Hqrs. (Regulation Division) for obtaining the requisite clarification on the aforesaid matter and accordingly, the matter was kept in abeyance till the information was received from the NCTE, Hqrs. (Regulation Division).

The instant matter again placed before the Appeal Committee in its 5th Meeting, 2024 held on 27.03.2024. The Appeal Committee observed that the Doon Valley Trust which was earlier at the time of recognition registered under the Society's Registration Act., has now been incorporated as a company under Companies Act, 1956 which is not permissible under the NCTE Regulations, 2014 and directions issued by the NCTE from time to time.

In view of above, Appeal Committee concluded that the NRC was justified in withdrawing the recognition and decided that the instant appeal deserves to be rejected and therefore, the impugned withdrawal order dated 15.09.2023 issued by NRC is confirmed.

IV. DECISION:-

After perusal of the Appeal Report, documents on record, Appeal Committee of the Council concluded that the NRC was justified in withdrawing the recognition and decided that the instant appeal deserves to be rejected and therefore, the impugned withdrawal order dated 15.09.2023 issued by NRC is confirmed.

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

Resultantly, the Appellate Committee rejected the petitioner’s appeal and upheld the withdrawal order dated 15 September 2023.

21. It would be seen, from the afore-extracted passages in the impugned appellate order dated 12 April 2024, that reliance has been placed, by the Appellate Committee, on a policy decision letter dated 26 December 2016. This letter was an internal communication from the NCTE to its Southern Regional Committee (SRC) with the subject marked “clarification with regard to change of management-reg”. The letter reads thus:

“National Council for Teacher Education
(A Statutory Body of the Government of India)
By E-mail. Hand/ Speed Post

Dated: 26.12.2016

F.No. 49-3/2016/ NCTE/N & S

To

The Regional Director,
Southern Regional Director
National Council for Teacher Education
Jana Bharathi Campus Road, Bangalore- 560072

Sub: Clarification with regard to Change of Management-reg.

I am directed to refer to yours letter No. RD/SRC-2016-17/90537 dated 9th December 2014 on the subject mentioned above and to say that, Para 12 of the guideline dated 24.12.2014 issued by NCTE Hqr. is related to the request, received for change in the name of Institution. Fee in such cases be charged only if an inspection is required to be conducted (at the existing rate of Rs. 1.50 Lakhs).

However, in view of lack of any specific provision in the regulations, about change in the Management, no request need to be considered where a Society(trust/Company intends to handover a recognized Teacher Education institution to any other

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Society/Trust/Company as it would amount to commercialization of teacher education. The guideline dated 24th December 2014, may be treated as modified accordingly, in view of above clarification”

Yours faithfully,
Sd/- Illegible
(Dr. Prabhu Kumar Yadav)
Under Secretary (Regulation)”

22. Aggrieved by the withdrawal order dated 15 September 2023 and the appellate order dated 12 April 2024, the petitioner has instituted the present writ petition before this Court, seeking issuance of a writ of certiorari, quashing orders dated 15 September 2023 and 12 April 2024 and a writ of mandamus, directing the NRC to restore the recognition granted to the petitioner, and indicate its status, on the website of the NCTE, as a recognised institution.

23. As the issue in controversy was short, while issuing notice on 3 May 2024, I had, with consent of learned Counsel for both sides, directed that the matter be listed for disposal.

24. I have, thereafter, heard Mr. Sanjay Sharawat, learned Counsel for the petitioner and Mr. N.K. Bhatnagar, learned Counsel for the respondent, at considerable length.

Rival submissions

Submissions of Mr. Sharawat

25. Mr. Sharawat submits that the impugned order is in the teeth of

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Section 17(1) of the NCTE Act, which allows withdrawal of recognition granted to an institution only in the event of contravention of any provision of the NCTE Act, or the rules, regulations or orders made or issued in the NCTE Act, or of any condition subject to which recognition had been granted to the institution under Section 14(3)¹⁰ of the NCTE Act. He submits that there is no provision in the NCTE Act or in the rules, regulations, or any order or guidelines issued under the NCTE Act, or in the conditions subject to which recognition was granted to the petitioner, proscribing change of the management of the petitioner institution from a registered society to a company.

26. Mr. Sharawat submits that a reading of the impugned appellate order dated 12 April 2024 would disclose that the entire reliance of the respondent is on the internal communication dated 26 December 2016 from the NCTE to the SRC. Such an internal communication, he submits, is neither a rule, nor a regulation, nor an order made or issued under the NCTE Act, or the rules or regulations issued thereunder. It cannot, therefore, constitute a basis to withdraw the recognition granted to the petitioner.

27. Mr. Sharawat submits that, moreover, this is not a case in which

¹⁰ (3) On receipt of an application by the Regional Committee from any institution under sub-section (1), and after obtaining from the institution concerned such other particulars as it may consider necessary, it shall,—

- (a) if it is satisfied that such institution has adequate financial resources, accommodation, library, qualified staff, laboratory and that it fulfils such other conditions required for proper functioning of the institution for a course or training in teacher education, as may be determined by regulations, pass an order granting recognition to such institution, subject to such conditions as may be determined by regulations; or

- (b) if it is of the opinion that such institution does not fulfil the requirements laid down in sub-clause (a), pass an order refusing recognition to such institution for reasons to be recorded in writing:

Provided that before passing an order under sub-clause (b), the Regional Committee shall provide a reasonable opportunity to the concerned institution for making a written representation.

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the entity to whom recognition was granted was changed. The Doon Valley Trust was earlier registered as a society under the Societies Registration Act, and was thereafter registered as a not-for-profit private limited company under Section 25 of the Companies Act. There was no change in management. The same persons, who were in management of the petitioner when it was registered as a Trust, continued to remain in management of the petitioner when it was subsequently incorporated as a company. He submits that, inasmuch as an institution which is managed by a company is also entitled to apply for recognition under Regulation 4(d)¹¹ of the 2014 Regulations, the decision to withdraw the recognition of the petitioner, solely on the ground that the Doon Valley Trust was now being managed by an incorporated company, was completely unjustified.

28. Mr. Sharawat further submits that the NCTE Regulations were initially framed in 1996 and, thereafter, replaced by fresh Regulations in 2002, 2005, 2007, 2009 and 2014. Of all these, it was only in the NCTE Regulations 2007¹² that there was, in Regulation 8 titled “Conditions for grant of Recognition”, clause (11), which required prior approval of the Regional Committee to be taken in the case of change of management/society/trust etc. Regulation 8(11) of the 2007 Regulations, which so provided, read thus:

“(11) In case of change of premises, prior approval of the Regional Committee concerned shall be necessary, which could be accorded after due inspection of the institution at the new site. The

¹¹ **4. Eligibility.**— The following categories of institutions are eligible for consideration of their applications under these regulations, namely:—

(d) self financed educational institutions established and operated by ‘not for profit’ societies and trusts registered under the appropriate laws or a company incorporated under the Companies Act, 2013 (18 of 2013).

¹² Hereinafter referred to as “the 2007 Regulations”



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change can be permitted to a site which, if applied initially, could have qualified for establishment of an institution as per prescribed norms of NCTE. The change shall be displayed on website thereafter. The application for change of premises shall be accompanied by a demand draft of Rs. 40,000/- of a Nationalized Bank drawn in favour of the Member Secretary, NCTE and payable at the city where the Regional Committee is located. *Similar procedure would be applicable in case of change of management/society/trust etc. excluding change of Management Committee as per registered by-laws of the management/society/trust.*

29. This stipulation, submits Mr. Sharawat, did not figure in any Regulations prior to the 2007 Regulations and was also absent in the subsequent 2009 and 2014 Regulations. He, therefore, submits that the respondent could not seek to invoke a condition which was contained only in the 2007 Regulations and was consciously omitted from the subsequent Regulations of 2009 and 2014 as a ground to withdraw the petitioner's recognition.

30. Mr. Sanjay Sharawat also points out that, while the show cause notice and the withdrawal order issued to the petitioner only referred to conversion of the body managing the petitioner institution from a registered society to a private limited company as being violative of the NCTE Regulations, it was for the first time, in the Appellate Order dated 12 April 2024, that it was alleged that there was a change in the management of the petitioner.

31. Mr. Sharawat also seeks to place reliance on the judgment of the High Court of Kerala in *Hindi Prachara Kendra College of Teacher Education v. NCTE*¹³, specifically para 3 thereof.

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¹³ Judgment dated 24 July 2023 in WP (C) 11427/2022

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32. For all the aforesaid reasons, Mr. Sharawat submits that the decision to withdraw the petitioner's recognition, as well as its approval by the Appellate Committee, cannot sustain in law and are required to be set aside and the petitioner's recognition restored.

Submissions of Mr. N K Bhatnagar

33. Responding to the submissions of Mr. Sharawat, Mr. N.K. Bhatnagar, learned Counsel for the respondent, submits that matters are not as simple as Mr. Sharawat would like them to appear. He submits that a company and a registered society are separate juristic entities. As such, he submits that this is not mere case of change of management but a case where the entity to whom recognition was granted by the NRC for running a B.Ed course was no longer running the said course which was now been run by an entirely new entity. The private limited company which was now managing and running the petitioner institution, he submits, was not the entity to whom recognition was granted by the respondent. As such, he submits that there is no error in the decision to withdraw recognition.

34. Mr. Bhatnagar, however, is unable to draw my attention to any provision in the NCTE Act, or in any rule or regulations framed or any order or guideline issued thereunder, or in the conditions subject to which the petitioner had been granted recognition, which prohibited the petitioner from changing its constitution from a registered society to a private limited company. He, nonetheless, submits that, inasmuch

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the entity to whom recognition had been granted by the NRC, the question of continuing recognition could not in any case arise.

Submissions of Mr. Sharawat in rejoinder

35. Responding, in rejoinder, to the submissions of Mr. Bhatnagar, Mr. Sharawat submits that the argument of Mr. Bhatnagar is predicated on a fundamentally incorrect factual and legal premise. He submits that the recognition was granted *to the petitioner institution*, and not to the body which was controlling or managing its affairs. Under the NCTE Act, as well as the rules and regulations framed thereunder, he submits that recognition is always granted to an institution, subject to the condition that the institution is under the control and management of one of the categories of a body envisaged by Regulation 4 of the 2014 Regulations. These regulations, he once again reiterates, permit the institution, seeking recognition, to be managed either by a trust or by a company. As such, he submits that the objection of the respondent is really superfluous, as there is no change in the management of the petitioner and a trust as well as company are both eligible to run the teacher education institution, for the institution to be entitled for recognition under the NCTE Act.

Analysis

36. After hearing learned Counsel for both sides and going through the material on record, I am of the opinion that the decision to withdraw the petitioner's recognition as well as dismissal of the appeal preferred against the said decision are both unsustainable in

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law for a variety of reasons:

(i) The power to withdraw recognition is circumscribed by Section 17 of the NCTE Act. Section 17(1) permits withdrawal of recognition only in the event of the specified contraventions, by the institution to which recognition was granted. Recognition can be withdrawn if the institution contravenes any provisions of the NCTE Act, or of rules, regulations or orders made or issued under the NCTE Act or any condition subject to which recognition was granted.

(ii) Mr. Bhatnagar is unable to draw attention to any provision in the NCTE Act or in the rules, regulations or orders issued thereunder, or in the order dated 16 August 2004 whereby the petitioner was granted recognition, which proscribes the change of the Trust which was managing the petitioner from a Trust to a public limited company.

(iii) Indeed, such a provision *did exist* in Regulation 8(11) of the 2007 Regulations. The 2007 Regulations have, however, outlived their welcome, and stand superseded by, first, the 2009 Regulations and, thereafter, the 2014 Regulations, neither of which contains any such provision. This single fact by itself is sufficient to invalidate the impugned decision to withdraw the petitioner's recognition, as it is based on a provision which was in existence in 2007, but has not survived 2009 and is now archaic.

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(iv) Interestingly, even under the 2007 Regulations, a change of management/society/trust was not *ipso facto* prohibited. All that was required was that, before doing so, prior approval of the Regional Committee had to be taken. That requirement, too, did not survive, come 2009.

(v) It is also well settled that, where the statute requires a particular act to be done in a particular manner, that act has to be done only in that manner or not done at all, or all other modes of doing that act being necessarily forbidden¹⁴. The circumstances in which recognition may be withdrawn being specifically statutorily envisaged in Section 17(1), withdrawal of recognition can only be in those circumstances, and in none else. The fact that there is no provision in the NCTE Act, rules, regulation or in any order made or issued under the NCTE Act and that there was no proscription against change of management of the petitioner in the order dated 16 August 2004 and 29 September 2006 by which it was granted recognition and recognition was extended, proscribing the change of management from a society to company, itself renders the decision to withdraw the recognition of the petitioner institution *ultra vires* Section 17 of the NCTE Act.

(vi) Mr. Bhatnagar, however, sought to modulate his submission to contend that the recognition that was granted by



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the NRC was not to the petitioner at all but to a different entity. He submits that a society and a limited company are separate juristic entities, different and distinct from their members of directors. They have their own independent juristic existence. Effectively, therefore, by changing the management of the petitioner from a society to a company, the very entity to whom recognition had been granted had ceased to exist and the petitioner was under the control of a new entity. The recognition granted to the petitioner was, therefore, he submits, rightly withdrawn.

(vii) Even on facts, this contention does not merit acceptance. Para 3 of the order dated 15 September 2023, whereby the petitioner's recognition was withdrawn, reads thus:

“3. Accordingly, SCN was issued to the institution on 21.03.2023. The institution has submitted reply on 08.05.2023. The matter was considered b NRC and the Committee observed the following:

- The institution has not submitted original application seeking recognition along with name of the institution, place and intake mentioned in the original application.
- In reply to point no.5 of the SCN the Doon Valley Trust on 18.04.2011 has submitted an application for seeking incorporation as a company under section 25 of the Companies Act, 1956.
- In reply to point no.6 the Doon Valley Trust has submitted the certificate of incorporation as well as the name of the Director of the said company.
- *It is observed that the Doon Valley Trust which was earlier at the time of recognition registered under the societies registration Act has now been incorporated as a company under companies Act.,*

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1956 which is not permissible under the NCTE Regulations.

AND WHEREAS, the matter was placed before the NRC in its 401st meeting held on 04th & 05th September 2023. The original file of the institution along with the related documents. NCTE Act, 1995, Regulations and Guidelines issued by NCTE from time to time were carefully considered by NRC and the committee observed following:

As per decision of NRC in its 401st meeting Final SCN was issued to the institution on 26/07/2023. The institution has submitted reply of Final SCN vide letter dated 26.08.2023. The matter considered in NRC and the committee observed the following:

- The Doon Valley Institution of Education, outside Jundla Gate, Kamal, Haryana running under the trust namely Doon Valley Trust was granted recognition by NRC vide order dated :29/09/2006.
- The submission of reply by Doon Valley Trust clearly implies that the trust of the institution has been changed as company under section 25 of the companies Act,1956.
- *It is clear that the Doon Valley Trust which was earlier at the time of recognition registered under the societies registration Act., has now been incorporated as a company under Companies Act.1956 which is not permissible under the NCTE Regulations 2014.*

In view of the above observations the committee decided to withdraw the recognition granted to Doon Valley Institute of Education, Outside Jundla Gate, Karnal, Haryana -132 001 for B.Ed. and B.Ed. additional intake under section 17 of the NCTE Act., 1993 from the academic session 2024-2025.

Now THEREFORE. in exercise of powers vested u/s 17(1) of the NCTE Act. 1993, the Northern Regional Committee now hereby withdraws recognition granted to institution viz. Doon Valley Institute of Education, Outside Jundla Gate, Kamal - 132001, Haryana for B.Ed. course (HR-183) with an annual intake of 100 and B.Ed course with additional intake of 200 (HR-409) running under Trust namely Doon Valley Trust, Outside Jundla Gate, Kamal, Haryana-132 001 from the academic Session 2023-2024."

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A reading of para 3 reveals that, both in the show cause notice as well as in withdrawal order, the specific allegation was that “*the Doon Valley Trust which was earlier at the time of recognition registered under the Societies Registration Act, has now been incorporated as a company under the Companies Act 1956 which is not permissible under the NCTE Regulations*”. Mr. Bhatnagar’s contention that recognition had been granted to Peter to run the petitioner-institution, but that it was now being run by Paul is, therefore, clearly erroneous. Recognition was granted, neither to Peter nor to Paul, but *to the petitioner-institution*. The show cause notice clearly recognises that it was the Doon Valley Trust to which recognition had been granted and it was the Doon Valley Trust which had later been incorporated as a company. As such, the allegation was that the trust which was in control of the affairs of the petitioner had later been incorporated as a company and not that the entity to which recognition had been granted had left and, in its place, another entity was running the petitioner-institution. This argument, therefore, travels beyond the allegations both in the show cause notice and the withdrawal order and cannot, therefore, be sustained.

(viii) That apart, there is also substance in Mr. Sharawat’s contention, predicated on Sections 14(1)¹⁵ and 17 of the NCTE

¹⁵ 14. **Recognition of institutions offering course or training in teacher education. –**

(1) Every institution offering or intending to offer a course or training in teacher education on or after the appointed day, may, for grant of recognition under this Act, make an application to the Regional Committee concerned in such form and in such manner as may be determined by regulations:



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Act read with Regulation 4 of the 2014 Regulations. Section 14 (1) of the NCTE Act envisages grant of recognition to “every very institution offering or intending to offer a course or training in teacher education”. Section 17(1) envisages withdrawal of recognition in the event of the “recognised institution” contravening any of the provisions of the act, the rules, regulations etc. What is envisaged by the Act is, therefore, grant of recognition *to an institution* and withdrawal of the recognition in the event of *the institution* committing one or more contraventions contemplated by Section 17(1).

(ix) Any ambiguity on this score vanishes when one refers to Regulation 4 of the 2014 Regulations. The provision makes it clear that there is a distinction between the institute to whom recognition is granted, and the body or authority which is controlling the institution. Regulation 4 enumerates the categories of institutions that are eligible for consideration of application for recognition. These are instructions established by or under the authority of Central or State Government or the Union Territory administration, institutions financed by the Central or State Government or Union Territory administration, Universities and self-financed educational institutions established

Provided that an institution offering a course or training in teacher education immediately before the appointed day, shall be entitled to continue such course or training for a period of six months, if it has made an application for recognition within the said period and until the disposal of the application by the Regional Committee.

Provided further that such institutions, as may be specified by the Central Government by notification in the Official Gazette, which—

- (i) are funded by the Central Government or the State Government or the Union territory Administration;
- (ii) have offered a course or training in teacher education on or after the appointed day till the academic year 2017-2018; and
- (iii) fulfil the conditions specified under clause (a) of sub-section (3),

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and operated by non-profit societies *and trust registered under the appropriate laws or a company incorporated under the Companies Act*. As Mr. Sharawat submits, therefore, a trust as well as a company is both entitled to seek recognition of the institution which they are managing. It is the institution which is entitled to seek recognition and it is the institution which is granted recognition. Clauses (a) to (d) of Regulation 4 of 2014 Regulations set out the nature of the managerial control which is to be exercised over such institutions in order for them to be entitled and eligible to seek recognition.

(x) There is therefore, a statutory recognised distinction between the institution, and the body which is controlling or managing the institution. At the highest, all that can be alleged is that there was a change in the juristic status of the body which was managing the petitioner institution. The institution remains the same.

(xi) Further, it is not in dispute that the very same persons who were managing the institution as a society, themselves formed a company; indeed, this is impliedly acknowledged even in the allegation in the show cause notice and the withdrawal order reproduced *supra*. Once, therefore, it was only a formal change in managerial control, and both a trust and a company are entitled to manage an institution for it to be eligible for recognition under Sections 14 and 17 of the NCTE Act read with Regulation 4 of the 2014 Regulations, the mere fact that the

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shall be deemed to have been recognised by the Regional Committee.

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society may have been incorporated as a company cannot, in my opinion, constitute a legitimate basis to withdraw the recognition of the petitioner institution within the ambit of Section 17 of the NCTE Act, especially in the absence of any provision proscribing such change in the status of the Trust managing the petitioner-institution.

37. In that view of the matter, the sole ground on which the withdrawal of the petitioner recognition was upheld by the Appellate Committee of the NCTE does not survive. The decisions to withdraw the petitioner's recognition, as well as the endorsement thereof by the Appellate Committee are, therefore, required to be set aside.

Conclusion

38. Accordingly, the impugned order dated 15 September 2023 withdrawing the recognition of the petitioner institution and the order dated 12 April 2024 whereby the said withdrawal has been upheld in appeal by the Appellate Committee are quashed and set aside.

39. The petitioner's recognition shall stand restored.

40. The Respondent NCTE is therefore, directed

- (i) to issue a formal order of restoring the recognition of the petitioner institution,
- (ii) correct the status of the petitioner institution on its website and

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(iii) inform the affiliating body of the petitioner regarding the decision taken today, within a period of two weeks.

41. The writ petition stands allowed in the aforesaid terms with no order as to costs.

C. HARI SHANKAR, J.

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Click here to check corrigendum, if any

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