



2024:DHC:1362



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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ W.P.(C) 9467/2023 and CM 36153/2023 and 52787/2023
NIRMALA TRAINING COLLEGE Petitioner

Through: Mr. Romy Chacko, Advocate

versus

NATIONAL COUNCIL FOR TEACHER
EDUCATION AND ANR Respondents
Through: Mr. Rahul Madan, Standing
Counsel

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

J U D G M E N T (O R A L)

% **14.02.2024**

1. This writ petition under Article 226 of the Constitution impugned order dated 20 July 2022 passed by the South Regional Committee (SRC) of the National Council for Teacher Education (NCTE) as well as order dated 13 July 2023 passed by the Appellate Authority in the NCTE.

2. The facts are brief.

3. The petitioner college was granted recognition to conduct a B.Ed Course of one year duration with an annual intake of 100 students under Section 14 of the National Council for Teacher Education Act, 1993 (hereinafter referred to as the 'NCTE Act') by the SRC *vide* order dated 23 February 2005.

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4. The recognition so granted continued year to year till 20 July 2022, except for the fact that, in 2015, the annual intake of students was reduced from 100 to 50.

5. Two show cause notices came to be issued to the petitioner under Section 17 of the NCTE Act by the SRC. The first was issued on 21 August 2020, followed by a final show cause notice dated 8 April 2021.

6. Inasmuch the initial show cause notice merged in the final show cause notice. It is worthwhile to reproduce the grounds on which the final show cause notice proposed withdrawal of the recognition granted to the petitioner.

7. Para 6 of the final show cause 8 April 2021 reads thus

“6. AND WHEREAS, the matter was further considered by the SRC in its 397th meeting held on 25th – 26th March ,2021 and the Committee decided as follows:-

"The original files of the Institution alongwith other related documents, NCTE Act, 1993, Regulations Guidelines issued by NCTE from time to time and documents furnished by the institution were carefully considered by the SRC and the following observations were made:-

The Committee considered the reply submitted by the institution on 09.10.2020 in respect to the Show Cause Notice and found the following deficiencies: -

- 1. The institution has submitted a copy of Land documents but the same is not the certified by the competent authority.*
- 2. The Building Plan is not approved by Competent Authority as per building plan submitted by the institute, the total build up area is only 1138.sq. mtr. which is not sufficient as per NCTE Norms.*



Further the following deficiency noted in Building Plan

- i. The size of hall/multipurpose in less as per NCTE Norms.*
 - ii. The Size of classrooms are less as per NCTE Norms.*
 - iii. As per building plan the separate toilet facilities for male and female students for staff and for Person with Disabilities (PWD) are not constructed*
 - iv. Parking area is not mentioned.*
- 3. The institution has submitted photo copy of Land Usage Certificate whereas the institution was directed to submit the notarized one.*
- 4. The institution has submitted NEC in Regional Language. The institution did not submitted notarized English translation.*
- 5. The institution has submitted photocopy of Site Plan but Competent Authority approving the same is not readable.*
- 6. BCC is not in prescribed format and the institution clearly accepted the built up area in BCC and affidavit ass 1138.89 sq.mtr which are less then requirement prescribed under NCTE norms.*
- 7. The institution has submitted Photo Copy of Faculty list but the same is not approved by affiliating body.*
- 8. The amount of FDRs for Endowment and Reserve Fund are less than the requirement laid down under NCTE Norms.*
- 9. In addition to the above, the institution shall be required to submit an Affidavit clearly stating status about land & building and Management (Society/Trust) at the time of recognition and its present status giving following details*
- (i). Details of land & building available at the time of recognition with the Institution.*
 - (it) Details of land & building now available with the Institution.*
 - (iit} Status of Management at the time of recognition and its present status.*

*Therefore, the Committee decided to issue **Final Show Cause Notice** u/s **17 of NCTE Act, 1993** before withdrawal of the recognition on the grounds mentioned above to the institution. The institution is required to submit the documents within 21 days from the date of issue of **Final Show Cause Notice**.*

NOW THEREFORE, the institution is required to submit the representation/compliance accompanied with an affidavit from the authorized representation of the Management. The representation along with an affidavit must reach this office within the time specified at the end.

In case the reply submitted is incomplete or factually incorrect or not received in this office by the date mentioned at the end of this letter, then proceedings under Section 17(1) of the NCTE Act shall be brought to logical conclusion without any further opportunity



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provided in the matter whatsoever.

It is expected that your reply shall reach this office through Courier/Registered AD/ Speed Post only. NCTE does not expect applicants to personally visit the RC Office for any reason whatsoever.”

8. It is clear, from a reading of the show cause notice dated 8 April 2021 that the grounds on which withdrawal of the recognition granted to the petitioner was proposed were

- (i) failure to have the land documents relating to the petitioner-institution certified by the Competent Authority;
- (ii) non approval, by the Competent Authority of the building plan;
- (iii) insufficiency of the built up area of the petitioner-institution;
- (iv) failure to submit a notarized copy of the land usage certificate;
- (v) failure to submit a notarized English translation of the Non Encumbrance Certificate (NEC);
- (vi) submission of an unreadable copy of the site plan, as approved by the Competent Authority;
- (vii) insufficiency of the built up area of the petitioner-institution as per the building completion certificate (BCC) submitted by the petitioner;
- (viii) non approval of the faculty appointed by the petitioner by the Affiliating Body; and
- (ix) insufficiency of the FDRs submitted by the petitioner for endowment and reserve fund as per NCTE norms.

9. The petitioner was additionally required to submit an affidavit clearly setting out the status of its land and buildings and management

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at the time of recognition and at the time of issuance of the show cause notice.

10. Apropos the faculty of the petitioner-institution, therefore, clearly, the only objection in the show cause notice dated 8 April 2021 was that the faculty was not approved by the affiliating body. Neither was there any objection that the faculty was insufficient, nor was there any objection that the faculty was unqualified.

11. Mr. Madan, learned counsel for the Respondents, seeks to submit in this regard that the faculty list did not mention the qualifications of the faculty and that, therefore, the issue of whether the faculty was qualified or unqualified could not be raised in the show cause notice.

12. Mr. Romy Chacko, learned counsel for the petitioner points out that alongwith its reply dated 22 March 2022 of the aforesaid final show cause notice dated 8 April 2021, the petitioner had submitted its faculty list duly approved by the affiliating body. This faculty list reflects the names of seven faculty members, but does not contain the name of the principal:

“STAFF PROFILE (To be approved by the competent Authority of the Affiliating Body)

Name of the Institution : NIRMALA TRAINING COLLEGE, THALACODE, MULANTHURUTHY

Programme: Secondary Teacher Education Programme (B.Ed)

Address of the Institution: THALACODE, MULANTHURUTHY, ERNAKULAM DIST.

S.No.	Name of Designation	Date of Birth	Bachelor Degree/Post graduate Degree	Subject	Qualification			
					Division/% of Marks	Name of the Programme B.Ed/M.Ed/Any other	Methodology/ Specialisation	Divison/% of marks

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2.	JOMY JOY	31 May 1982	B.Sc M.Sc	Physical Science	B.Sc-67% M.Sc 70%	B.Ed M.Ed	Physical Science	B.Ed – 61% M.Ed-61%
3.	SANDHYA ZACHARIAS	16 May 1982	BA Economics MA Economics	Economics	BA – 61.5% MA 68.1%	B.Ed M.Ed	Nil	B.Ed – 62.7% M.Ed-63.7%
4.	SHUI K.J.	10 January 1982	B.Sc (Botany) M.Sc(Botany)	Botany	B.Sc- 79.5% M.Sc- 77.23%	B.Ed M.Ed	Natural Science	B.Ed-77.75% M.Ed-Grade 8.33(A)
5.	ANUPAMA I.K.	3 March 1986	BA English MA English	English language and Literature	BA - 53.63% MA 55.2%	B.Ed M.Ed	English	B.Ed-Grade (A) M.Ed-Grade (B+)
6.	ANCY K. AIJAS	25 May 1986	B.Sc Mathematics M.Sc Mathematics	Mathematics	B.SC -83% M.Sc-72%	B.Ed M.Ed	Mathematics Education	B.Ed-77% M.Ed 82%
7.	BILHA MATHEW	5 Jan 1987	B.Sc Botany M.Sc Botany	Botany	B.Sc 89.6% M.Sc- 80.18%	B.Ed M.Ed	Natural Science Education	B.Ed 3.72 A Grade M.Ed 3.41 B+ Grade
8.	DR. GEORGE K JOSEPH	10 May 1961	BA – Malayalam MA – Malayalam	Malayalam Language & Literate	BA 50.25% MA 55.57%	B.Ed M.Phil Ph.D.	Malayalam	B.Ed – 50.7%

13. The list also reflects the qualifications of the various faculty.

14. The show cause notice came to be adjudicated by the SRC by order dated 20 July 2022, which constitutes the first impugned order in this writ petition. The said order withdrew the recognition granted B.Ed course of the petitioner on the ground that the petitioner had not filed its reply to the final show cause notice dated 8 April 2021 alongwith the requisite documents and had also not filed its Performance Appraisal Report (PAR).

15. The petitioner appealed against the aforesaid order dated 20 July 2022 to the Appellate Authority.

16. The appeal was dismissed by the Appellate Authority by order dated 11 January 2023. The outcome of the case is recorded in the order dated 11 January 2023, thus:

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““OUTCOME OF THE CASE

Appeal Committee perused the relevant records and the documents submitted by appellant institution. Appeal Committee noted that the appellant institution was granted recognition for B.Ed. Course with an annual intake of 100 students vide order dated 23.02.2005. Thereafter, on promulgation of NCTE Regulations, 2014 the institution has submitted affidavit dt. 19.01.2015 for its willingness for adherence of provisions of new Regulations. A revised provisional recognition order was issued to the institution on dt. 15.05.2015 for conducting B. Ed. course of two years duration with an annual intake of 100 (Two unit) from the academic session 2015-16. The recognition of the institution for B.Ed. programme was withdrawn by the SRC vide order dated 20.07.2022.

The Committee noted that the institution has not submitted/filled the PAR, which is mandatory in terms of NCTE, Regulations, 2014. The Hon'ble Supreme Court vide order dated 25.04.2022 in Misc -App No 701/2022 in SLP(C) No. 5479/2022 has decided as under: -

“While dismissing the petition challenging the impugned interim order dated 25.02.2022, we had taken note of the fact that the High Court had provided for compliance by 31.03.2022; and only because the petitions before us came for consideration on 01.04.2022, we extended time for compliance by the next day, i.e., 02.04.2022. That additional and excessive indulgence cannot be allowed to be utilized for further enlargement of time on any special ground like slowing down of server. In fact, compliance ought to have been made much earlier.

The applications for impleadment and for granting further time stand rejected.....”

In view of the above direction given by Hon'ble Supreme Court, the institution shall not be exempted for non-filing the Performance Appraisal Report (PAR). It leading to violation of mandatory direction of the NCTE as well as the direction of the Hon'ble Supreme Court. Hence the Appeal Committee decided to reject the instant Appeal of the applicant institution.”

17. The Appellate Authority, therefore, dismissed the petitioner's appeal on the sole ground that it had not filed the PAR. The petitioner challenged the order dated 11 January 2023 of the Appellate Authority before this Court by way of WP (C) 2476/2023. It was specifically



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submitted to this Court that the petitioner had filed a reply to the show cause notice, but that reply was not considered while passing the withdrawal order dated 20 July 2022. It was further contended that the Appellate Authority had passed the order dated 11 January 2023 on a ground which was not proposed in the show cause notice issued to the petitioner.

18. Besides, it was also pointed out that the requirement of submission of the PAR had been held to be illegal by the judgment of a Division Bench of this Court in *Association of NCTE Approved Colleges Trust v. NCTE*¹.

19. This Court noted, in its order dated 25 May 2023 that the only ground on which the order dated 11 January 2023 of the Appellate Authority for rejecting the petitioner's appeal was that the petitioner had not submitted the PAR. Inasmuch as submission of the PAR had been held not to be mandatory by the judgment of the Division Bench of this Court in *Association of NCTE Approved Colleges Trust*. W.P.(C) 2476/2023 was allowed and the appeal of the petitioner was remanded to the Appellate Authority to be considered on merits in accordance with law.

20. Mr. Romy Chacko, submits that, before the Appellate Authority, the petitioner once again furnished the list of its faculty, this time including the Principal. He also relies on Regulation 5.1 of the National Council for Teachers Education (Recognition, Norms and



Procedure) Regulations, 2014 (hereinafter referred to as 'the 2014 Regulations') which reads thus :

“5. Staff

5.1 Academic Faculty

For an intake of two basic units of 50 students each, that is total students strength of 200, there shall 16 full-time faculty members.

The distribution of faculty across different curricular areas shall be as under:

1. Principal/HoD	One
2. Perspectives in Education	Four
3. Pedagogy subjects (Maths, Science, Social Science, Language)	Eight
4. Health and Physical Education	One
5. Fine Arts	One
6. Performing Arts (Music/Dance/Theatre)	One

Note:

(i) The faculty positions listed under different subject categories may teach course(s) in the Teacher Education.

Programme across curricular areas specified, and can cater to both foundation and pedagogy course(s). If the students' strength for two years is one hundred (with one basic unit) only, the number of faculty shall be reduced to 8.

(ii) Faculty can be utilised for teaching in flexible manner so as to optimize academic expertise available.

21. Mr. Chacko submits that, therefore, the Principal was also a faculty member. Even otherwise, on plain common sense, the Principal of the petitioner-institution would ordinarily be entitled to be treated as a faculty member.

22. Though Mr. Madan, learned counsel for the Respondent, interjects at this stage to submit that the second faculty list including the Principal was merely a typed list with the photographs of the



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faculty members, and did not bear any approval or signature of any authority including the affiliating Authority. This submission does not merit acceptance for two reasons. The first is that the list has been taken from the official website of the petitioner-institution, as is clear from the list as filed with the present writ petition. The faculty list as is reflected on the official website of the petitioner-institution cannot be equated with a plain typed faculty list. Secondly, the faculty list which was duly certified and bearing the approval of the affiliating institution, was already filed with the reply to the show cause notice, and the only addition to the said list, in the second list, which was filed before the Appellate Authority was that the Principal was also included.

23. The *de novo* proceedings culminated in the passing of a second appellate order dated 13 July 2023, which has approved the withdrawal of the recognition of the petitioner on two grounds, contained in the following paragraphs from the order :

“The Appeal Committee in its 7th Meeting, 2023 held on 03.07.2023 considered the documents submitted alongwith the Appeal Report as compliance of grounds of withdrawal order and observed that the appeal of the institution is still deficient on the following points: -

(i) The institution has submitted faculty list for 7 members, which is not sufficient as per provisions of the NCTE Regulations, 2014. As per provision of 5.1 of Appendix 4 of the NCTE Regulations, 2014, the number of faculty shall be 8 for one basic unit.

(ii) Moreover, in accordance with the Registrar of affiliating University, Mahatma Gandhi University, Kottayam, 2 faculty namely, Mr. Bilha Matheu and Dr. George K. Joseph are not qualified as per NCTE Regulation, 2014.

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Hence, the Appeal Committee is of the view that the appellant institution is still lacking on the above grounds. The Appeal Committee concluded that the SRC was justified in withdrawing the recognition and decided that the instant appeal deserves to be rejected and therefore, the impugned withdrawal order dated 20.07.2022 issued by SRC is confirmed.”

24. Thus, the Appellate Authority, in its *de novo* order, has upheld the withdrawal of the petitioner’s recognition only on the ground that it had seven faculty members instead of eight and that two of the faculty namely Mr. Bilha Mathew and Dr. George K. Joseph did not have the requisite qualification as per the 2014 Regulations.

25. Aggrieved by the aforesaid order, the petitioner has approached this Court by means of the present writ petition.

26. Pleadings in the writ petition have been completed and I have heard Mr. Romy Chacko, learned counsel for the petitioner and Mr. Rahul Madan, learned counsel for the NCTE at length.

27. Mr. Madan submits that the order dated 20 July 2022 was never received by the SRC or the NCTE. He also points out that this objection was specifically taken by the NCTE even before this court when it passed the order dated 25 May 2023.

28. The reading of the order dated 25 May 2023 discloses that while the petitioner contended that it had indeed submitted the reply to the Show Cause Notice dated 20 July 2022, the respondent contended that it had never received the reply. The manner in which this



contention was recorded by the respondent, as recorded in para 5 of the order is however, interesting. Para 5 may be reproduced thus:

“5. Learned counsel appearing on behalf of respondent no.1-NCTE, however, opposes the submissions made on behalf of the petitioner institution and she states that the instant writ petition is devoid of any merit and the same deserves to be dismissed for various reasons. According to her, it is not only one reason of non submission of PAR but the show cause notices contains various other reasons as to why the recognition of the petitioner-institution deserves to be withdrawn. She also submits that the replies to the show cause notices were never received by the SRC. In addition, she also states that even assuming that reply is received and is considered to be on record, the same would not satisfy the deficiencies pointed out in the show cause notice. According to her, a perusal of reply to the show cause notice would indicate that that the petitioner-institution had assured the submission of the relevant documents as and when it is in the possession of those documents. She further states that it was incumbent upon the petitioner-institution to furnish all relevant documents in response to the show cause notice. She tries to indicate that even at the time of submission of the reply, the petitioner-institution was not in possession of all necessary documents.”

29. It is clear that the submission of the NCTE before this Court that the order dated 20 July 2022 as advanced before this Court on 25 May 2023 was half-hearted, at best. The NCTE, after raising the objection, went on to submit that:

- (i) even if the replies were assumed to be received and on record, the deficiencies in the petitioner’s institution remained uncured.
- (ii) A perusal of the reply to the Show Cause Notice indicated that the petitioner had assured submission of the relevant documents as and when it came in possession thereof.
- (iii) *“even at the time of submission of the reply”* the petitioner institution was not in possession of all necessary documents. Clearly, therefore, no categorical assertion, to the effect that the petitioner had not submitted its order dated 20 July 2022 was forthcoming from the NCTE before this Court on 25 May 2023.



30. That apart, having considered the submissions of both sides, this Court, remanded the matter in the following terms:

“10. It is thus seen that the notice requiring institutions to file PAR has been held to be unsustainable and the same is set aside by this court. Therefore, the non-submission of PAR cannot be the reason to non-suit the petitioner-institution. It is for this reason the order passed by the Appellate Authority deserves to be set aside. Accordingly, the same is set aside.

11. As a consequence, the appeal of the petitioner-institution before the Appellate Authority stands restored and the same is required to be considered on merits in accordance with law.

12. Needless to state that this court has not dealt with other submissions made by learned counsel appearing on behalf of the parties on merit.

13. It would be open for the Appellate Authority to consider the same and pass appropriate orders in accordance with law.

14. The Appellate Authority is directed to decide the appeal restored in view of the aforesaid directions within a period of 30 days from the date of receipt of copy of this order.”

31. The matter was, therefore, remanded for reconsideration *on merits* in accordance with law. The remand was specifically to be as per the directions contained in paras 10 to 13 of the order.

32. This order was never carried in appeal by the NCTE and the order was complied with, to the extent that the Appellate Authority reconsidered the appeal and passed a fresh order which is under challenge in the present matter. In that view of the matter, in my considered opinion, it is too late in the day, for Mr. Madan to revitalize the argument to resuscitate the submission that the reply dated 22 March 2022 was never received by the SRC.



33. Having so contended, significantly, learned counsel for respondent contended that even if it were to be assumed that the reply was received and on record, nonetheless the deficiencies in the Show Cause Notice continued to remain uncured.

34. Apropos the two grounds on which the Appellate Authority, in the impugned order dated 13 July 2023, upheld the decision to withdraw the petitioner's recognition, Mr. Chacko submits that the first ground was legally unsound as the Appellate Authority failed to take into consideration the Principal of the Petitioner college as one of its faculty members. He submits that if the Principal was also included, the petitioner-institution would have the requisite eight faculty.

35. However, apropos the second ground of rejection, which was that two of the faculty of the petitioner, namely Mr. Bilha Mathew and Dr. George K. Joseph have the requisite qualifications, Mr. Chacko submits that the objection was correct but that, after the impugned order was passed by the Appellate Authority on 13 July 2023, the petitioner has, in August 2023 itself, recruited two faculty, namely Ms. Theres Brigith Antomy and Sruthimol A.R., who possessed the requisite qualifications, and have been approved by the affiliating University.

36. In these circumstances, Mr. Chacko prays that the Appellate Authority may be directed to reconsider the appellant's appeal.



37. Mr. Madan has staunchly opposed the request and cites, in support of his opposition, the order passed by the Division Bench of this Court on 13 January 2023 in LPA 27/2023 (*NCTE v. Holy Child B.Ed College*) which stayed the operation of the judgment dated 23 July 2022, passed by a learned Single Judge of this Court in WP(C) 1043/2022 (*Holy Child B.Ed College v. NCTE*).

38. He submits that, once the Appellate Authority had passed an order, the appellate authority had been rendered *functus officio* and that this Court did not possess the jurisdiction to remand the matter for reconsideration even if the infirmities found to exist by the Appellate Authority were subsequently cured. He also submits that the Affiliating University ought not to have approved the induction of the two newly recruited faculty when the recognition granted to the petitioner already stood withdrawn and the withdrawal was approved in appeal by the Appellate Authority.

39. These submissions however, are in my opinion not supported by the order dated 13 January 2023, passed by the Division Bench in LPA 27/2023.

40. As already noted, the LPA was directed against order dated 23 September 2022 in WP 1043/2022.

41. There is vital distinction between a direction which was passed by the learned Single Judge in the order dated 23 September 2022 remanding the matter to Eastern Regional Committee (ERC) for



reconsideration, and the prayer of Mr. Chacko, which is to remit to matter to the Appellate Authority for a reconsideration. This Court, in my considered opinion, is well within its powers under Article 226 of the Constitution of India to remand the matter to the Appellate Authority for reconsideration, if it finds that the supervening circumstances justify such an order of remand. Such an order is entirely different from an order which directs remand of the matter to the Regional Committee for reconsideration. The order of the Regional Committee merges in the order of the Appellate Authority and therefore, the Court could not possibly, remand the matter to the Regional Committee for a *de novo* consideration. That in my considered opinion is the most significant difference between the position as it existed in the decision in *Holy Child B.Ed College* (in LPA 27/2023) and the position as it exists in the present case.

42. It is true that W.P. (C) 1043/2022 was also directed against an order dated 10 March 2021 passed by the Appellate Authority in NCTE, rejecting the appeal filed by the petitioner, in that case against the withdrawal of the recognition granted to the petitioner for running its B.Ed course. It is also true that the submission of the petitioner before this Court in W.P. (C) 1043/2022 was that, subsequent to the passing of the order dated 10 March 2021 by the Appellate Authority, the petitioner had in that case recruited the necessary faculty and made up the deficit.

43. There, however, the similarity between these two cases ceases. The fundamental point of difference between the two cases – which,



in my view, is why the reliance by Mr. Madan, on the order dated 13 January 2023 passed by the Division Bench in LPA 27/2023 cannot be treated as well placed – is that the learned Single Judge, considering the submission made by the petitioner before him, *accepted the prayer of the petitioner to remand the matter to the ERC to examine the duly produced faculty list, conduct an inspection and take a decision for the prospective session*. The Division Bench, in its order dated 13 January 2023, observed in this regard, thus:

“2. Learned Counsel for the Petitioner has argued that the affiliation of the college in question was cancelled. The appeal filed in this regard has been dismissed.

3. However, in this writ petition, a list of approved teachers was brought to the notice of the learned Single Judge. The learned Single Judge has directed the NCTE to consider the case of the Respondent No.1 afresh. It is submitted that *such type of reconsideration* is impermissible under the statutory scheme of the NCTE Act. He has been able to make out a *prima facie* case for grant of interim relief.

4. Resultantly, the operation of the impugned order shall remain stayed till the next date of hearing.

(Emphasis Supplied)

44. Mr. Chacko is correct in his submission that the order dated 13 January 2023 of the Division Bench would not act as an impediment to the Court, in the present case, directing the Appellate Authority of the NCTE to have a fresh look at the matter in view of the contentions advanced by him.

45. Mr. Madan, submits, *per contra*, that, if the prayer of Mr. Chacko were to be allowed, it would result in a situation where, several years after an appellate order was passed upholding



withdrawal of recognition on the ground of insufficient faculty, the institute concerned could recruit the faculty and seek a reconsideration of the matter.

46. Law knows no absolutes. The Court has, in deciding on the order to be passed in a particular case, to keep in mind the facts before it. This is not a case in which the petitioner is, several years after passing of the impugned order dated 13 July 2023 of the Appellate Authority seeking to make up the deficit in faculty and urging the Court to direct a reconsideration. This is a case in which the Appellate Authority had upheld the order of withdrawal of recognition of the petitioner on two grounds alone. The first ground was that the petitioner had only 7 instead of 8 faculty which were required to run a B.Ed course with an intake of 50 students. Mr. Chacko has pointed out that the petitioner had 7 faculty members apart from the Principal and that the list of faculty submitted by the petitioner in response to the Show Cause Notice indicates that it is correct. I am also in agreement with Mr. Chacko that the Principal is also entitled to be treated as a faculty member, especially in view of Regulation 5.1 of the 2014 Regulations.

47. However, as the list of faculty, including the Principal was never placed before the Appellate Authority, the Appellate Authority would be required to consider whether the decision *qua* the Objection 1 was required to be revisited taking into account the Principal also as a faculty of the petitioner.



48. The second and only other objection of the Appellate Authority is that two of the faculty did not possess the requisite qualifications. Mr. Chacko points out that within a month of the passing of the impugned order of the Appellate Authority, the petitioner had recruited two additional faculty members, who had the requisite qualifications. This is not, therefore, a case in which the petitioner has slept over the order of the Appellate Authority and is seeking to revitalize matters after a span of years. The petitioner, within a month of the order of the Appellate Authority, took remedial steps to ensure that the requisite faculty members were inducted by it.

49. Besides, lack of faculty members is a curable defect and the petitioner has *prima facie* subject to the decision of the Appellate Authority taken in that regard, cured the defect.

50. In that view of the matter, and keeping in mind the fact that a teachers' training institution is an important body which involves considerable expense and efforts to maintain and continue, and also keeping in mind the fact that the petitioner is a body which has recognition since 2005, I am of the opinion that in the interests of justice, the prayer of Mr. Chacko to direct the Appellate Authority to have a fresh look at the matter, keeping in mind the present faculty list duly approved by the affiliating body, would eminently subserve the interests of justice.

51. I may note that, in the present case, the objection regarding the faculty being insufficient and not having the requisite qualifications



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was taken for the first time by the Appellate Authority in the impugned Order dated 13 July 2023. The faculty list had been submitted with the reply to the Show Cause Notice. Nonetheless, the Order dated 20 July 2022 passed by the SRC, withdrawing the recognition granted to the petitioners, takes no stock of the faculty list and does not object to the faculty being unqualified or insufficient. No such objection was contained even in the first appellate order dated 11 January 2023 passed by the Appellate Authority, which upheld withdrawal of the petitioner's recognition only on the ground that it had failed to submit the PAR.

52. The proviso to Section 17(1) of the NCTE Act specifically prescribes passing of withdrawal of recognition of an institution “unless a reasonable opportunity of making representation *against the proposed order* has been given to such recognized institution.” The imperative of this proviso is clear. The ground on which recognition is proposed to be withdrawn is specifically to be put to the concerned institution before withdrawing recognition. If the Appellate Authority came to the conclusion on the basis of the faculty list which was filed by the petitioner in reply to the Show Cause Notice itself – that the faculty was insufficient or not necessarily qualified, the NCTE was required to give an opportunity to the petitioner to represent, citing this a ground to propose upholding of withdrawal of the recognition of the petitioner.

53. The Appellate Authority therefore, acted in violation of the proviso to Section 17(1) by rejecting the petitioner's appeal on two

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grounds, neither of which were part either of the Show Cause Notice dated 21 August 2020 or the withdrawal order dated 20 July 2022, or even the first appellate order dated 11 January 2023.

54. As Mr. Chacko, however, fairly suggested, instead of proceeding on a technical ground, this matter may be decided by directing the Appellate Authority to reconsider the appeal filed by the petitioner keeping in view the present position of the petitioner's faculty, as reflected in the petitioner's duly approved and duly affiliated faculty list. This, in my view, would eminently subserve the interests of justice.

Conclusion

55. In view of the aforesaid, the impugned order dated 13 July 2023 passed by the Appellate Authority is quashed and set aside. The Appellate Authority is directed to pass a fresh order at its next sitting, on which occasion the petitioner shall also be granted an opportunity of hearing. The petitioner would place on record before the NCTE, its duly approved faculty list, affiliated by the affiliating body/University, within five days from today, which shall be duly placed before the Appellate Authority for consideration.

56. The Appellate Authority is directed to take a *de novo* decision on the petitioner's appeal within a week of hearing and communicate the decision to the petitioner. Needless to say, the rights of the



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petitioner, should it be aggrieved by the *de novo* decision, shall remain reserved.

57. This writ petition is allowed to the above extent with no orders as to costs.

C.HARI SHANKAR, J

FEBRUARY 14, 2024

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Click here to check corrigendum, if any

Signature Not Verified

Digitally Signed
By: AJIT KUMAR
Signing
Date: 21.02.2024 22:54

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