

Om College Of Education vs National Council For Teacher Education ... on 25 February, 2020

Author: Rajiv Shakdher

Bench: Rajiv Shakdher

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* IN THE HIGH COURT OF DELHI AT NEW DELHI

+ W.P.(C) 2126/2020

OM COLLEGE OF EDUCATION

..... Petitioner

Through Mr. Sanjay Sharawat, Mr. Divyank
Rana, Mr. Abhishek Dhankar and Mr.
Ashok Kumar, Advs.

versus

NATIONAL COUNCIL FOR TEACHER EDUCATION AND ORS.

..... Respondents

Through Ms. Arunima Dwivedi, Standing
Counsel with Mrs. Ankita, Advs. for
NCTE.

CORAM:

HON'BLE MR. JUSTICE RAJIV SHAKDHER

ORDER

% 25.02.2020

1. Issue notice. Ms. Dwivedi accepts notice on behalf of respondents/NCTE.

2. With the consent of counsel for parties, the writ petition is taken up for final disposal at this juncture itself due to a limited grievance being raised by the petitioner and the directions I propose to pass.

3. The record shows that the petitioner had applied for grant of recognition qua B.Ed. course concerning academic session 2009- 2010.

4. This application was preferred by the petitioner on 19.3.2008. The application preferred by the petitioner, was however, rejected by the Northern Regional Committee (in short 'NRC') on account of ban imposed by the State Government of Rajasthan on setting up new teacher training institutions.

5. The petitioner assailed the decision of the NRC via a writ petition, albeit, before the High Court of Rajasthan.

6. The High Court of Rajasthan vide order dated 22.3.2018, passed in W.P.(C) No.4206/2018, directed the NRC to reconsider the application of the petitioner.

7. Accordingly, the NRC considered the petitioner's application and conducted an inspection, in and about, December 2018.

8. It is the petitioner's case that while the application was pending consideration with the NRC, the NCTE, vide letter dated 18.12.2018 directed the NRC to apply the provisions of National Council for Teacher Education (Recognition Norms and Procedure) Regulations, 2014 (in short '2014 Regulations').

9. The NRC, having regard to NCTE's letter dated 18.12.2018, considered the petitioner's application and, thereafter, issued a show cause notice dated 1.3.2019 (in short "SCN") to the petitioner.

10. Via the said notice, the petitioner was called to show cause as to why its application should not be rejected on account of failure to produce the following:

(i) NOC of the affiliating body?

(ii) Proofs or evidence which would establish that it was a composite institution in terms of Regulation 2(b) of the 2014 Regulations.

(iii) Notarized copy of the change of land uses certificate issued by the competent authority.

11. The record shows that the petitioner filed a reply to the aforementioned SCN which was received in the NRC's office on 22.3.2019.

12. Apparently, the reply preferred by the petitioner along with other institutions which were similarly circumstanced was considered by the NRC in its 310th meeting held between 20.11.2019 and 22.11.2019.

13. A perusal of the minutes of this meeting which are marked as annexure P-4 and are appended at pages 24 to 30 of the paper book shows that a common decision was taken vis-a-vis matters which were listed at Serial Nos.49 to 77.

13.1 A close perusal of the minutes would show that there was no reference to specific deficiencies, if any, pertaining to the institutions whose cases were dealt with by the NRC.

14. However, insofar as the petitioner is concerned, NRC issued a formal refusal order dated 3.2.2020, wherein, after recording the backdrop of the case, the following deficiencies were pointed out in paragraph 4 of the said order:

"....4. Further, a number of deficiencies as mentioned below were also noted in this case and hence permission cannot be granted by NRC for starting the B.Ed. course.

1. Land in r/o Plot No.1147/1325 measuring 0.05H has been registered on 28.03.2018.

2. The institution has given copy of State Govt. of Rajasthan order dated 06.10.2016 that CLU for less than one-acre Land is not required if the Land is used for institutional purpose.

3. The institution has not submitted any proof/ evidence to prove that it is composite institution as per clause 2(b) of NCTE Regulations, 2014.

4. Certificate from the relevant department of the government certifying that the society is not for profit/Charitable Trust/Society/Company is not submitted.

5. A copy of Mutation Certificate issued by the competent authority is not submitted.

6. Site Plan showing the location of the building as per the land & revenue records of the concerned authority not submitted.

7. Building Safety Certificate issued by the competent authority not submitted.

8. Fire Safety Certificate issued by the competent authority not submitted.

9. A certificate to the effect that the institutional campus, building furniture is disabled friendly as per the persons with disability (PWD) and of the Government of India not submitted."

14.1 A perusal of the aforesaid extract would show that the deficiencies pointed out by the NRC in its refusal order dated 3.2.2020 were beyond what was put to the petitioner via the SCN.

15. Mr. Sharawat, who appears on behalf of the petitioner, says that this flaw in NRC's refusal order dated 3.2.2020 alone is sufficient to require reexamination of the matter by the NRC.

16. Ms. Dwivedi, who appears on behalf of the respondents, cannot but accept that the refusal order dated 3.2.2020, passed by the NRC , has adverted to deficiencies which did not form part of the SCN.

17. I may also indicate that it is Mr. Sharawat's contention that had the NRC put forth the deficiencies to the petitioner which are contained in its refusal order dated 3.2.2020, the petitioner would have been in a position to place before it the correct facts and the judgments of this Court which had bearing on the matter including the judgment dated 18.10.2019, passed in a batch of matters, the lead petition being W.P.(C) No.8820/2019, titled Sir Chhotu Ram Jat College of Education vs. National Council for Teacher Education & Anr.

18. Having heard the learned counsel for the parties and perused the record, I am of the view that the submissions advanced on behalf of the petitioner that the refusal order dated 3.2.2020, passed by the NRC, is not sustainable in law and that the communication dated 18.12.2018 issued by NCTE cannot sustain in view of the judgment of this Court dated 11.12.2019, passed in W.P.(C) No.13089/2019, titled R.C. Education Society and Anr. vs. NCTE and Anr.

19. The NRC has, undoubtedly, in passing the refusal order dated 3.2.2020 gone beyond the SCN and thereby infringed the principles of natural justice. Insofar as the communication dated 18.12.2018 is concerned, it stands quashed by judgment in R.C. Education Society case.

20. Thus, having regard to the foregoing, the writ petition is disposed of with the following directions:

(i) The refusal order dated 3.2.2020 passed by the NRC is set aside.

(ii) Likewise, the communication dated 18.12.2018 passed by NCTE is also set aside.

(iii) The matter is remanded to the concerned regional committee i.e. NRC/Western Regional Committee (WRC) for reexamining the matter.

(iv) The concerned regional committee i.e. NRC/WRC, while reexamining the matter, will, take into account the judgments of this Court passed in Sir Chhotu Ram case as well as R.C. Education Society.

21. Needless to add, the NRC will complete the aforesaid exercise with due expedition bearing in mind that the cut off date fixed for academic session 2020-2021, which is, 3.3.2020.

22. Dasti under signatures of the Court Master.

RAJIV SHAKDHER, J FEBRUARY 25, 2020 rb