

# Shri Vaishnav College Of Education vs National Council For Teacher Education ... on 8 April, 2021

**Author: Prateek Jalan**

**Bench: Prateek Jalan**

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\* IN THE HIGH COURT OF DELHI AT NEW DELHI

+ W.P.(C) 4382/2021

SHRI VAISHNAV COLLEGE OF EDUCATION ..... Petitioner

Through: Mr. Mayank Manish, Advocate

with Mr. Ravi Kant, Advocate

versus

NATIONAL COUNCIL FOR TEACHER

EDUCATION AND ANR

..... Respondents

Through: Mr. Akshay Chandra, Standing

Counsel with Mr. Keshav Pratap

Singh, Advocate

CORAM:

HON'BLE MR. JUSTICE PRATEEK JALAN

ORDER

% 08.04.2021 The proceedings in the matter have been conducted through hybrid mode [physical and virtual mode].

1. Issue notice. Mr. Akshay Chandra, learned Standing Counsel, accepts notice for the respondents. The petition is taken up for disposal with the consent of learned counsel for the parties.

2. The petitioner was granted recognition for its B.Ed. course on 27.06.2005. A revised recognition order was issued on 25.05.2015, after notification of the NCTE Regulations, 2014. The Western Regional Committee ["WRC"] of the National Council for Teacher Education ["NCTE"] at a meeting held on 23-26.07.2019, decided to withdraw the petitioner's recognition as it had failed to submit a reply to the show cause notice dated 15.02.2017. The petitioner filed W.P.(C)12536/2019 before this Court contending that the show cause notice has not been received by it. This Court, by an order dated 27.11.2019, set aside the decision of the WRC and directed fresh service of the show cause notice. Pursuant to the order of remand, the WRC undertook fresh proceedings and ultimately withdrew the recognition once again by an order dated 01.09.2020. This order was also challenged before this Court in W.P.(C) 6731/2020. By an order dated 13.10.2020, the Court relegated the petitioner to its remedy of appeal and directed that in the meantime, the petitioner would be permitted to run the course for the present academic session based on the students already admitted.

3. By an order dated 28.01.2021, the Appellate Committee has held as follows:-

"WHEREAS the appeal of Shri Vaishnav College of Education, Nirawali, Barua, Gwalior, Madhya Pradesh dated 27/10/2020 is against the Order No. th WRC/APW01665/223293/15 /{M.P.}/2020/209429 to 209436 dated 01.09.2020 of the Western Regional Committee, withdrawing recognition for conducting of B.Ed. Course on the grounds that "this is a RPRO case and same was remanded back through Court with a direction to call the petitioner for personal hearing. The personal hearing of the institution was held on 25th February 2020, wherein it was decided that the representative of the institution will submit the required documents today itself. The WRC noted that the institution has not submitted any documents to WRC in response to the decision taken by WRC in its 313th meeting, hence, the WRC decided that the withdrawal order issued by WRC vide dated 1st August 2019 stands.

AND WHEREAS Sh. M.P.S. Kushwaha, Secretary, Shri Vaishnav College of Education, Nirawali, Barua, Gwalior, Madhya Pradesh presented online the case of the appellant institution on 18/01/2021. In the appeal and during personal presentation it was submitted that the institution has submitted document on dated 25/02/2020 and Secretary attended the Meeting. The appellant, in a letter dt. 17/01/2021 sent through e-mail, stating that they had submitted the entire documents to the WRC, enclosed a set of documents related to land and building and staff profile. In this letter the appellant submitted that they are enclosing a receipt dt. 25/02/2020 given by the WRC in proof of submission of the documents, but no such receipt has been received with their letter dt. 17/01/2021.

AND WHEREAS the Committee noted that the relevant issue is submission of documents by the appellant in pursuance of the hearing held in the WRC on 25/02/2020 in compliance with the directions of the Hon'ble High Court of Delhi dt. 27/11/2019 in W.P.(C) 12536/2019, while the WRC says that no documents were submitted by the appellant after the personal hearing, the appellant is claiming that he had submitted and also obtained a receipt, though he has not furnished a copy of that receipt.

AND WHEREAS the Committee, noting the claims and counter claims and taking into account the fact that the Hon'ble High Court of Delhi passed orders on two occasions, concluded that the matter deserved to be remanded to the WRC with a direction to consider the relevant documents to be sent to them by the appellant and take further action as per the NCTE Regulation, 2014. The appellant is directed to forward to the WRC all the documents sent for appeal with their letter dt. 17/01/2021 with originals thereof, wherever necessary, within 15 days of receipt of orders on the appeal.

AND WHEREAS after perusal of the Memoranda of appeal, affidavit, documents on record and oral arguments advanced during the online submission, Appeal

Committee concluded to remand back the case to WRC with a direction to consider the relevant documents to be sent to them by the appellant and take further action as per the NCTE Regulation, 2014. The appellant is directed to forward to the WRC all the documents sent for appeal with their letter dt. 17/01/2021, with originals thereof, wherever necessary, within 15 days of receipt of orders on the appeal.

NOW THEREFORE, the Council hereby remands back the case of Shri Vaishnav College of Education, Nirawali, Barua, Gwalior, Madhya Pradesh to the WRC, NCTE, for necessary action as indicated above."

(Emphasis supplied.)

4. The petitioner has approached this Court for an order recording that by reason of the remand order dated 28.01.2021, the withdrawal order dated 01.09.2020 issued by the WRC stands quashed and for a direction upon the respondents to restore the recognised status of the petitioner.

5. Mr. Mayank Manish, learned counsel for the petitioner, relies upon several judgments and orders of this Court to similar effect. By an order dated 08.05.2019 in W.P. (C) 4959/2019 [HICT Shiksha Mahavidyalaya, vs. National Council for Teacher Education & Anr.] the Court held as follows:-

"1. By order dated 11th March, 2019, the Appellate Committee in the National Council for Teachers Education (hereinafter referred to as "the NCTE"), remanded the case of the petitioner - which was earlier decided against it by withdrawal order, dated 25th September, 2018, passed by the Western Regional Committee (WRC) - for a reconsideration.

2. The only grievance of the petitioner, in this writ petition, is that while doing so, the Appellate Committee did not quash the withdrawal order dated 25th September, 2018, passed by the WRC.

3. It is axiomatic, in law, that quashing of the order in appeal has necessarily to precede remand of the matter to the original authority.

4. In view thereof, I deem it appropriate to dispose of this writ petition, at this stage itself, by clarifying that the order dated 11th March, 2019, passed by the Appellate Committee in the NCTE, would be treated as quashing the withdrawal order dated 25th September, 2018 of the WRC, and, consequently, remanding the matter to the WRC for a reconsideration.

5. It is also clarified that, should the petitioner be aggrieved by the decision to be taken by the WRC, consequent to the remand of the matter to it, by the Appellate Committee, its right to agitate, in accordance with law, would always be reserved."

6. The aforesaid order in HICT Shiksha Mahavidyalaya has been followed in several cases, including inter alia an order dated 10.07.2019 in W.P.(C) 7365/2019 [Anjuman College of Education vs. National Council for Teacher Education & Anr.]

7. Mr. Chandra submits that pursuant to the remand order dated 28.01.2021, the WRC has issued a show cause notice dated 07.04.2021 to the petitioner. However, it is the admitted position that the proceedings pursuant to the said show cause notice are yet to take place and no fresh withdrawal order has yet been passed.

8. In the facts and circumstances aforesaid, I am of the view that during the pendency of the matter before the WRC after remand by the Appellate Committee, the status of the petitioner as a recognised institution cannot be disturbed. The earlier withdrawal order is no longer in effect, having been challenged before the Appellate Committee and culminated in the order of remand. As held in HICT Shiksha Mahavidyalaya, it is axiomatic that on an order of remand, the order of the original authority stands quashed.

9. The present writ petition is, therefore, disposed of by clarifying that the impugned withdrawal order dated 01.09.2020 stands quashed by reason of the order of the Appellate Committee dated 28.01.2021. The respondents are directed to restore the status of the petitioner as a recognised institution and make necessary modifications on their website, as well as communicate the revised status of the petitioner to the authorities of the State of Madhya Pradesh and the affiliating university.

10. This order will not come in the way of any further action taken by the WRC in terms of the show cause notice issued by it. The final status of the petitioner will be dependent upon the conclusion of the pending proceedings.

11. I find that the Appellate Committee of the NCTE in several cases passes orders of remand to the Regional Committees without clarifying the status of the original orders passed by the Regional Committees, which were challenged before it. This has led to several petitions before this Court, in which the Court has to issue clarifications of the nature given in HICT Shiksha Mahavidyalaya. The Appellate Committee of the NCTE is directed to ensure that, whenever an order of remand is passed, the status of the impugned order is clearly spelt out so that the institution is not compelled to approach the Court in this manner.

12. A copy of this order be placed before the Chairperson and the Member Secretary of the NCTE for necessary compliance.

PRATEEK JALAN, J APRIL 8, 2021/'j'