

Balaji Bed College vs National Council For Teacher Education ... on 7 April, 2021

Author: Prateek Jalan

Bench: Prateek Jalan

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* IN THE HIGH COURT OF DELHI AT NEW DELHI

+ W.P.(C) 4292/2021
BALAJI BED COLLEGE

..... Petitioner

Through: Mr. Amitesh Kumar, Advocate.

versus

NATIONAL COUNCIL FOR TEACHER
EDUCATION & ANR.

..... Respondent

Through: Ms. Kartika Sharma, Advocate.

CORAM:

HON'BLE MR. JUSTICE PRATEEK JALAN

ORDER

% 07.04.2021 The proceedings in the matter have been conducted through hybrid mode [physical and virtual mode].

CM APPLs. 13050/2021 and 13051/2021 (for exemptions) Exemptions allowed, subject to all just exceptions. These applications stand disposed of.

W.P.(C) 4292/2021 & CM APPL. 13052/2021 (stay)

1. Issue notice. Ms. Kartika Sharma, learned counsel, accepts notice for the respondents. With the consent of learned counsel for the parties, the petition is taken up for disposal.

2. The petitioner was granted recognition for establishment of its B.Ed. course in July, 2009. It was, at that time, affiliated to Rani Durgavati Vishwavidyalaya. Pursuant to the enactment of the National Council for Teacher Education (Recognition Norms and Procedure) Regulations, 2014, the petitioner was issued a revised recognition order dated 27.05.2015. The respondents thereafter issued a show cause notice dated 21.12.2016, alleging non-compliance with the conditions contained in the revised recognition order. Dissatisfied with the response of the petitioner, the Western Regional Committee ["WRC"] of the National Council for Teacher Education ["NCTE"] withdrew the petitioner's recognition by an order dated 04.09.2019.

3. The petitioner approached this Court against the withdrawal order, by way of W.P.(C) 3354/2020. By an order dated 05.06.2020, this Court relegated the petitioner to its remedy of statutory appeal under Section 18 of the NCTE Act, 1993 ["the Act"]. By an order dated 13.08.2020

passed in a subsequent writ petition, being W.P.(C) 5217/2020, the Court stayed the withdrawal order dated 04.09.2019 until disposal of the appeal by the Appellate Committee of the NCTE.

4. The petitioner's appeal was ultimately disposed of by the Appellate Committee vide order dated 19.11.2020. The relevant observations of the Appellate Committee were as follows: -

" AND WHEREAS appellant with its appeal memoranda has submitted copy of the list of faculty approved by Registrar, Rani Durgawati Vishwavidyalya, Jabalpur and other land related documents. Appellant on the day of appeal hearing also submitted copies of bank statement as evidence of having remitted salary into the bank accounts of faculty.

AND WHEREAS Appeal Committee decided that appellant institution is required to submit original list of faculty approved by affiliating University and originally notarized copies of C.L.U. Building Completion Certificate, Non Encumbrance Certificate, FDRs and Bank statements to WRC within 15 days of the issue of appeal order. Appeal Committee further decided to remand back the case to WRC for revisiting the matter after getting the required documents from the appellant institution.

AND WHEREAS after perusal of the Memoranda of Appeal, affidavit, documents on record and oral arguments advanced during the hearing, Appeal Committee concluded to remand back the case to WRC for revisiting the matter after getting the required documents from the appellant institution.

NOW THEREFORE, the
back the case of Balaji B.Ed.
Prasad Sahu, Balaghat Road,
Pradesh to the WRC, NCTE,
indicated above."

Council hereby reman
College, C/o Sh. Amb
Barghat, Seoni, Madh
for necessary action

5. Although the order has not been annexed with the writ petition, Mr. Amitesh Kumar, learned counsel for the petitioner, states that the petitioner had filed a third writ petition, being W.P.(C) 10018/2020, after the order of the Appellate Committee dated 19.11.2020. This Court disposed of the said writ petition by an order dated 08.12.2020, recording that, in view of the remand, the original order of the WRC dated 04.09.2019, stood quashed.

6. After the order of the Appellate Committee, the petitioner claims to have filed all the relevant documents with the WRC under cover of a letter dated 02.12.2020. The WRC, in a meeting on 17-19.02.2021, however, observed as follows: -

"The original file of the Institution along-with other related documents were carefully considered and examined by WRC in the light of NCTE Act, 1993, Regulations and

Guidelines issued by NCTE from time to time and the following observation was made that:

1. The institution is required to submit latest Staff list duly approved by the Registrar of the concerned affiliating body clearly indicating the seal and signature of the Registrar along with faculty approval letter issued by the concerned affiliating body.

In view of the above, the Committee decided that last opportunity be given to the institution to reply within 30 days u/s 14 of the NCTE Act for B.Ed. programme."

7. Pursuant to the aforesaid decision, the WRC has purported to issue a "final show cause notice" under Section 17 of the Act to the petitioner.

8. In the show cause notice, however, the Under Secretary of the WRC has misquoted the minutes of the meeting of the WRC, and transposed Section 17 in the place of Section 14 of the Act. Even if there was an error in the provision referred to in the minutes of the meeting of the WRC, that could have been corrected only by the WRC itself, and not by misquoting the minutes in the show cause notice.

9. Be that as it may, Mr. Amitesh Kumar, learned counsel for the petitioner, submits that the show cause notice issued by the WRC is in excess of the order of the Appellate Committee dated 19.11.2020, inasmuch as the WRC is now asking for the latest approved faculty list, whereas the Appellate Committee required the petitioner to submit the original approved faculty list. I am of the view that this submission is untenable. The Appellate Committee's order quoted above required the petitioner to submit the original faculty list and various other documents, and remanded the case to the WRC to revisit the matter thereafter. The order of the Appellate Committee did not preclude the WRC, upon reconsideration, to require any other material or information to be submitted by the petitioner. The original faculty list was admittedly the list approved in 2015-16, and the WRC was well within its power to require a current list of staff to be submitted.

10. Mr. Kumar however submits that there has been no change in the faculty, and the affiliating university of the petitioner has changed in the interregnum due to the enactment of the Madhya Pradesh Universities (Amendment) Act, 2019. He submits that the process of approval by the new affiliating university will take an inordinately long time.

11. In view of the fact that the matter is, at the moment, at the stage where the WRC has only called for information from the petitioner, the interference of this Court under Article 226 of the Constitution is not called for. It is open to the petitioner to make its submissions with regard to the faculty list approved in 2015-16 before the WRC, and for the WRC to reconsider that aspect.

12. It is made clear that the communication dated 11.03.2021, although styled as "final show cause notice", is in effect to be treated as a direction to submit information, and the WRC will be obliged to commence the process for withdrawal under Section 17 of the Act afresh in the event it is not satisfied with the response and information submitted by the petitioner herein.

13. The writ petition is disposed of with these directions.

PRATEEK JALAN, J APRIL 7, 2021 'vp'/s