

B.D Memorial Kalyan Sansthan vs National Council For Teacher Education ... on 5 November, 2020

Author: Jayant Nath

Bench: Jayant Nath

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* IN THE HIGH COURT OF DELHI AT NEW DELHI
+ W.P.(C) 8673/2020 & CM APPL. 27968/2020
B.D MEMORIAL KALYAN SANSTHAN Petitioner
Through Mr.Sanjay Sharawat, Adv.

Versus

NATIONAL COUNCIL FOR TEACHER
EDUCATION & ANR. Respondents
Through Mr.Jais Sahai Endlaw, Adv.

CORAM:
HON'BLE MR. JUSTICE JAYANT NATH

ORDER

% 05.11.2020 This hearing is conducted through video conferencing.

1. This writ petition is filed by the petitioner to quash the decision taken by respondent No.2 in its 316th meetings held on 27-28.08.2020 and 04.09.2020 as the same is without jurisdiction and ultra virus of section 17 of the NCTE Act, 1993.

2. The case of the petitioner is that it was granted recognition for B.Ed course with an intake of 100 seats from 16.09.2008. Subsequently, pursuant to the directions of the Supreme Court, NCTE framed new regulations in 2014. In compliance of the new regulations certain guidelines etc. were issued to the petitioner. It is stated that the petitioner has submitted its compliance with the guidelines and submitted the required documents and opted for two units with an intake of 50 seats each. NRC issued a fresh recognition order on 13.04.2015.

3. It is the case of the petitioner that the petitioner on 29.02.2016 submitted all the required documents with covering letter dated 29.02.2016.

4. On 27.01.2020, NCTE transferred the jurisdiction of Rajasthan from NRC to WRC. The application of the petitioner hence now is to be processed by WRC.

5. On 27.08.2020, WRC took a decision to issue a show cause notice to all institutions which have not submitted compliance of the revised recognition order. On 01.10.2020, based on the above

decision of WRC, a show cause notice under section 17 of the NCTE Act was issued to large number of institutions as per the list enclosed therewith. Hence, the present writ petition.

6. I have heard the learned counsel for the parties. As the issue is small and there is no final order passed by the respondents, it would be in the interest of justice to dispose of the writ petition at this stage itself.

7. It is a matter of fact that the matter is at initial show cause stage only.

8. Learned counsel for the petitioner has vehemently urged as follows:

i) He has pleaded that the decision of WRC dated 27.08.2020 is entirely erroneous, illegal and contrary to the provisions of section 17 of the NCTE Act. Further he has strongly urged that essentially the decision of WRC dated 27.08.2020 and the show cause notice dated 01.10.2020 are only asking for documents from the petitioner. Instead of asking for the documents the letter has been labelled as a show cause notice under section 17 of the NCTE Act.

ii) It has been urged that a perusal of section 17 of the NCTE Act would show that the said provision is attracted when the regional committee is satisfied that a recognised institution is contravening any of the provisions of the Act, rules, regulations, orders etc. It is pleaded that in the decision of WRC dated 27.08.2020 and show cause notice dated 01.10.2020 there is absolutely no reference to any alleged contravention by the petitioner of any of the provisions of the Act, rules, regulations or orders made.

iii) He further submits that they have no objection to submit the documents though they had already submitted all of them. However, the grievance is that this will be treated by the respondents as a show cause notice under section 17 of the NCTE Act and penal orders may be passed without further opportunity to the petitioner, which would cause grave prejudice to the petitioner.

9. Learned counsel for the respondents however, states that this is a mere show cause notice and this court should not interfere with the show cause notice as no penal orders have been passed against the petitioner. He also states that the plea of the petitioner that they have submitted the complete set of documents is a disputed contention. No such documents have been attached with the present petition.

10. Section 17 of the NCTE Act, 1993 reads as follows:

"17. CONTRAVENTION OF PROVISIONS OF 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."

11. Hence the regional committee has to pass an order, on its own motion or on any representation received from any person on being satisfied that a recognised institution has contravened any of the provisions of the Act, rules, regulations, orders made or issued thereunder etc. Once it is satisfied, it may withdraw the recognition for reasons to be recorded in writing after giving a reasonable opportunity to the institution of making representation against the proposed order.

12. A perusal of the decision taken by WRC dated 27.08.2020 would show that it is a general order, which reads as follows:

Sl File No. Name & Address Decision May be read as No. of the Institution taken in 315th meeting

63. CONSIDERATION The WRC considered OF CASES the entire issue in WHERE REVISED detail and noted that RECOGNITION the State of Rajasthan ORDERS WERE has come under the ISSUED TO THE purview of WRC vide INSTITUTIONS Gazette notification th FOR B.ED, B.P.ED dated 28 January AND M.ED 2020.

COURSE IN THE STATE OF The Revised RAJASTHAN recognition orders were issued to the institutions for B.ED, B.P.Ed. and M.Ed course (s) by NRC after promulgations of NCTE Regulations 2014 but not submitted compliance as on date to the conditions :mentioned/ stipulated in the Revised Recognition order issued by NRC-NCTE.

The WRC decided that Show Cause Notice u/s 17 of the NCTE .Act, 1993 be issued to all such .institutions of Rajasthan which were issued Revised Recognition orders with a direction to submit compliance to the conditions mentioned/ stipulated fn the Revised Recognition order issued by NRC-NCTE.

13. Hence, WRC has decided to issue show cause notice under section 17 of the NCTE Act to all institutions of Rajasthan which were issued revised recognition order with the directions to submit compliance of the conditions mentioned.

14. Similarly, a perusal of the show cause notice dated 01.10.2020 also shows that it is merely seeking documents from the petitioner.

15. There is no finding recorded prima facie or otherwise by WRC in its decision dated 27.08.2020 or in show cause notice dated 01.10.2020 that the recognized institutions/petitioner have contravened any provisions of the Act, rules, regulations or orders made etc. There is no proposal to withdraw the recognition on any grounds whatsoever. To that extent, there is merit in the submission of the petitioner that the said action by WRC dated 27.08.2020 and subsequent show cause notice dated 01.10.2020 is not a notice in compliance of section 17 of the NCTE Act.

16. In any case, there can be no dispute that WRC/NCTE is within its rights to ask for documents from the petitioner. Given this fact, let the petitioner file a response to the aforesaid show cause notice dated 01.10.2020 within two weeks. WRC may thereafter examine the said response as per law. In case, any deficiency or defects etc. are found in the reply filed by the petitioner, WRC is free to take steps as per law after first issuing appropriate show cause notice as per law granting adequate opportunity to the petitioner to respond to the alleged deficiency or defects, which WRC may have noticed.

17. At this stage, Mr.Sanjay Sharawat, learned counsel for the petitioner points out that under the Standard Operating Procedure adopted by NCTE before any order is passed under section 17 of the Act, normally two show cause notices are issued to recognised institutions i.e. in case the concerned committee is not satisfied with the reply to the first show cause notice, a second opportunity is granted to the petitioner by issue of another show cause notice.

18. In case, in compliance of the order of this court the concerned committee decides to issue show cause notice, the same be treated as the first show cause notice.

19. Nothing further survives in this petition. The petition is disposed of.

JAYANT NATH, J.

NOVEMBER 5, 2020/v