

College Of Education & Anr vs National Council For Teacher Education ... on 16 December, 2020

Author: Jayant Nath

Bench: Jayant Nath

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* IN THE HIGH COURT OF DELHI AT NEW DELHI
+ W.P.(C) 10473/2020
COLLEGE OF EDUCATION & ANR. Petitioners
Through Mr.Amitesh Kumar, Ms.Priti
Kumari and Ms.Binisa Mohanty,
Adv.
versus

NATIONAL COUNCIL FOR TEACHER
EDUCATION & ANR. Respondents
Through Mr.Tushar Gupta, Adv.

CORAM:
HON'BLE MR. JUSTICE JAYANT NATH
ORDER

% 16.12.2020 This hearing is conducted through Video Conferencing. CM APPL. Nos.33126 & 33128/2020(exemptions) Applications are allowed, subject to all just exceptions. W.P.(C) 10473/2020& CM No.33127/2020

1. Issue notice. Mr.Tushar Gupta, Advocate accepts notice on behalf of Respondents.
2. The Petitioners have filed the present writ petition seeking the following reliefs:-

"a) issue a writ of certiorari or any other suitable writ or order quashing the impugned order dated 27.06.2019 issued by ERC whereby the ERC has withdrawn the recognition of the Petitioner institution for B.ED. course; and/or

b) issue a writ of certiorari or any other suitable writ or order quashing the impugned appeal order dated 26.09.2019 passed by the appellate authority of NCTE; and/or

c) issue a writ of mandamus or any other suitable writ, order or direction directing the Respondents to restore the recognition of Petitioner institution of B.Ed. course with two units (100 seats); and/or..."

3. Mr.Amitesh Kumar, learned counsel appearing for the Petitioners, submits that Eastern Regional Committee (ERC) of National Council for Teacher Education (NCTE) vide its order dated 06.03.1998 granted recognition to Petitioner No.1 institute for conducting B.Ed. course with intake

of 60 seats. After notification of NCTE (Recognition Norms & Procedure) Regulations, 2014 on 01.12.2014, ERC issued revised recognition order on 22.05.2015 for two basic units of 50 students each for B.Ed. course. The said revised recognition order was issued subject to the following conditions:-

"(i) The institution shall create additional facilities that include (a) additional built-up area, (b) additional infrastructure,

(c) additional fund, (d) adhere to staff norms as per Regulations, 2014 and inform Regional Committee with required documents by October 31, 2015.

(ii) The applicant-institution for additional unit will be required to submit the required documents such as land documents, Encumbrance Certificate (EC), Land Use Certificate (LUC) and the Building Plan (BP) in the specified proforma available on the website to the Regional Committee in proof of having provided additional facilities before October 31, 2015. Building Completion Certificate (BCC) may be given along with other documents if available, otherwise it can also be given to the Visiting Team at the time of inspection.

(iii) The Regional Committee shall arrange for verification of documents, inspection of these premises and check adherence to these conditions by 20 Feb, 2016. If it is found by the Regional Committee that the institution fails to comply with these requirements, the institutions shall not be permitted to admit students for the academic year 2016-2017."

4. It is further submitted that pursuant to show cause notice dated 20.04.2018 issued by ERC, the Petitioners submitted the compliance report on 15.05.2018. Thereafter, as the ERC was not satisfied with the said compliance, another show cause notice was issued on 14.12.2018 and reply thereto was submitted on 31.12.2018, alongwith certain documents including approved faculty list of 1+13. As the ERC was still not satisfied with the said reply, another show cause notice dated 21.02.2019 was issued and response thereto was submitted by Petitioners by their letter dated 05.03.2019 alongwith various documents including faculty list comprising 15 members. Thereafter, ERC in its 271st meeting held on 24th - 25th April, 2019 further considered the matter pertaining to B.Ed. course of Petitioner institute and again decided to issue show cause notice. However, before receipt of formal show cause notice dated 16.05.2019, the Petitioners on the basis of minutes of the decision taken by ERC, submitted their reply on 14.05.2019. The Petitioners also submitted additional reply to the ERC on 16.05.2019 alongwith various documents. Thereafter, ERC in its 272nd meeting held on 30th - 31st May & 1st June, 2019 considered the matter pertaining to B.Ed. course of Petitioner institute and decided to withdraw recognition from the academic session 2019-20. However, subsequently the ERC in its 273rd (Emergent) meeting held on 14th June, 2019 decided that the withdrawal of recognition shall be effective from the academic session 2020-21 instead of 2019-20. Accordingly, the ERC in exercise of its powers conferred under Section 17 (1) of NCTE Act, 1993, passed the impugned order dated 27.06.2019 withdrawing recognition of B.Ed. course from the academic session 2020-21. Being aggrieved, the Petitioners filed statutory appeal under Section 18

of NCTE Act, 1993, before Appellate Authority of NCTE and the Appellate Authority vide its impugned order dated 26.09.2019 rejected the appeal and confirmed the withdrawal order.

5. It has been submitted by the counsel appearing for the Petitioners that the entire issue pertains to compliance in respect of 2nd basic unit (50 seats) out of total 100 seats of B.Ed. course and so far as the 1st basic unit of 50 seats is concerned, there is no deficiency whatsoever. It is further submitted that as per Clause 5.1 and 6.1 of Appendix-4 of NCTE Regulations, 2014, only 8 approved faculty and 1500 sq. mtr. built up area is required for conducting one basic unit (50 seats) of B.Ed. course and neither the ERC nor the appellate authority has found any deficiency in respect of one unit (50 seats) of B.Ed. course. In the circumstances, it is submitted that in the event, Respondents were not satisfied with the compliance shown by Petitioners for two basic units (100 seats) of B.Ed. course then, the Respondents could have considered reducing the intake of Petitioner institution from two basic units (100 seats) to one basic unit (50 seats) of B.Ed. course and the recognition should have been continued accordingly.

6. It is also submitted by the counsel for the Petitioners that in terms of Clause 4(ii) & (iii) of the revised recognition order dated 22.05.2015, the Petitioners were required to submit compliance only in relation to the 2nd unit (50 seats) out of total 100 seats of B.Ed. course and in order to verify the said compliance and documents, it was incumbent upon the NCTE to cause inspection of the institution under Section 13 of the NCTE Act, 1993. Additionally, the counsel for the Petitioners also relies upon the Judgment of Supreme Court of India in the matter of "National Council for Teacher Education & Anr. Vs. Vaishnav Institute of Technology & Management [(2012) 5 SCC 139]" and he has drawn my attention to paras 24 to 28 and 35 which are extracted below:-

"24. What is clear from the provisions of the 1993 Act is that post-recognition, an institution acquires a different position. On recognition by the Regional Committee under Section 14 and on affiliation being granted by the examining body, once the recognised institution starts functioning, the interest of teachers, employees and the students intervene. In order to ensure that the recognised institutions function in accordance with the 1993 Act, the 1997 Rules, Regulations and the conditions of recognition and, at the same time, the functioning of such recognised institutions is not disturbed unnecessarily, the provision for inspection and follow-up action pursuant thereto has been made in Section 13.

25. By Section 13, as a matter of law, it is intended that the Council ascertains whether the recognised institutions are functioning in accordance with the provisions of the 1993 Act or not. For that purpose, it empowers the Council to cause inspection of any such institution to be made by such persons as it may direct, and in such manner as may be prescribed. The Council may authorise the Regional Committee to carry out its function of inspection. But such inspection has to be made as prescribed in Rule 8 to find out whether such recognised institution is or is not functioning in accordance with the provisions of the 1993 Act.

26. In the 1997 Rules framed by the Central Government, Rule 8 deals with the inspection and sub-rule (6) provides that the inspection team shall ascertain as to whether the recognised institution is functioning in accordance with the provisions of the 1993 Act and the Rules and Regulations made thereunder.

27. On the inspection being completed as provided in sub-sections (1) and (2) of Section 13 of the 1993 Act read with Rule 8 of the 1997 Rules, the Council is required to communicate to the institution concerned its views with regard to the outcome of the inspection and, if deficiencies are found, to recommend to such institution to make up the deficiencies. The whole idea is that the Council as a parent body keeps an eye over the recognised institutions that they function in accordance with the 1993 Act and the Rules and the Regulations and Orders made or issued thereunder and, if any recognised institution is found wanting in its functioning, it is given an opportunity to rectify the deficiencies.

28. Derecognition or withdrawal of recognition of a recognised institution is a drastic measure. It results in dislocating the students, teachers and the staff. That is why, the Council has been empowered under Section 13 to have a constant vigil on the functioning of a recognised institution. On the recommendation of the Council after inspection, if a recognised institution does not rectify the deficiencies and continues to function in contravention of the provisions of the 1993 Act or the Rules or the Regulations, the Regional Committee under Section 17 has full power to proceed for withdrawal of recognition in accordance with the procedure prescribed therein.

35. In what we have discussed above, in our considered view, interest of justice shall be subserved if the Council causes inspection of all the institutions concerned in these appeals-- which approached the Madhya Pradesh High Court and the Delhi High Court--being made as provided in Section 13 of the 1993 Act within six weeks from today. The Council shall communicate to the institutions concerned the result of such inspection and call upon the institutions to make up the deficiencies, if found during such inspection, as early as may be possible. With regard to the institutions where no deficiencies are found in the course of inspection or the institutions which make up the deficiencies brought to their notice as a result of inspection, the Regional Committee shall issue appropriate order withdrawing order of derecognition. In respect of the institutions which do not make up the deficiencies within the time granted by the Council, the order of withdrawal of recognition by the Regional Committee shall stand."

7. It has been further submitted that finally the affiliating University has approved the requisite faculty for 100 seats on 08.10.2020 and at present the Petitioner institution fulfills all the requisites including the built-up area for conducting two basic units (100 seats) of B.Ed. course.

8. On the other hand, learned counsel for the Respondents has opposed the present petition stating that it is not mandatory for the NCTE to carry out inspection of the institution. He has further

contended that Petitioners have approached this Hon'ble Court belatedly as the appellate authority passed the order on 26.09.2019.

9. Having considered the rival contentions advanced on behalf of parties, in my opinion, there is merit in the plea raised by the Petitioners that while considering compliance submitted by the institution, the Respondents ought to have examined as to whether the Petitioners fulfils the requisite norms & standards for conducting the B.Ed. course for either one basic unit (50 seats) or two basic units (100 seats) particularly when, Appendix-4 of NCTE Regulations, 2014 prescribes 16 approved faculty alongwith 2000 sq.mtr. built up area for 100 seats and only 8 approved faculty alongwith 1500 sq. mtr. built up area for 50 seats. A perusal of impugned orders shows that both ERC & the Appellate Authority have not considered the aforesaid aspect of the matter while passing the impugned orders. Further, in view of the decision of Supreme Court in the matter of National Council for Teacher Education & Anr. Vs. Vaishnav Institute of Technology & Management and also the stipulations made in para 4 (ii) & (iii) of revised order dated 22.05.2015, NCTE, under Section 13 of the Act could have inspected the institute to verify the compliances shown by the Petitioner institution.

10. Further, it has been held by the Supreme Court in the aforesaid Judgment of Vaishnav Institute of Technology & Management that "post recognition, an institution acquires a different position. On recognition by the Regional Committee under Section 14 and on affiliation being granted by the examining body, once the recognized institution starts functioning, the interest of teachers, employees and the students intervene". It has further been held that "de-recognition or withdrawal of recognition of a recognized institution is a drastic measure. It results in dislocating the students, teachers and the staff. That is why, the council has been empowered under Section 13 to have a constant vigil on the functioning of a recognized institution. On the recommendation of the council after inspection, if a recognized institution does not rectify the deficiencies and continues to function in contravention of the provisions of the 1993 Act or the Rules or the Regulations, Regional Committee under Section 17 has full power to proceed for withdrawal of recognition in accordance with the procedure prescribed therein".

11. Accordingly, I allow the present writ petition and quash the order of the Appeal Committee dated 26.09.2019 and remand the matter back to the Appeal Committee to consider the matter afresh. The appeal committee shall consider all the compliances made by the Petitioner institute and if considered necessary, the appeal committee may cause inspection of the institution under Section 13 of the Act. If the Appeal Committee concludes that the institute fulfils the requirement for either one basic unit (50 seats) or two basic units (100 seats), it will accordingly allow to Petitioners to admit students for the present academic year 2020-21. The Appeal Committee shall consider and decide the matter as expeditiously as possible and will dispose off the appeal preferably within four weeks from today.

12. The petition stands disposed of. Pending applications also stand disposed of.

JAYANT NATH, J.

DECEMBER 16, 2020/v