

R C Education Society & Anr vs Dr Vineet Joshi Ias Chairperson ... on 7 April, 2021

Author: Najmi Waziri

Bench: Najmi Waziri

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* IN THE HIGH COURT OF DELHI AT NEW DELHI

+ CONT.CAS(C) 421/2020

R C EDUCATION SOCIETY & ANR.

.....Petition

Through: Mr Amitesh Kumar, Advocate.

versus

DR VINEET JOSHI IAS CHAIRPERSON NATIONAL COUNCIL

FOR TEACHER EDUCATION & ORS.

..... Re

Through: Ms. Kartika Sharma and Mr. Ud

Sharma, Advocates.

CORAM:

HON'BLE MR. JUSTICE NAJMI WAZIRI

ORDER

% 07.04.2021 The hearing has been conducted through hybrid mode (physical and virtual hearing).

1. On 26.02.2021, the order of 22.02.2021 was modified, and notice of contempt was issued to R-4/Dr. Rammurti Meena, Regional Director, Northern Regional Committee, National Council for Teacher Education ('NCTE'), who was supposed to reply to the said notice of contempt. The reply by way of an affidavit to the contempt notice was filed on 01.03.2021. The petitioner's case was rejected by a decision dated 27.02.2021 for the following reasons:

"...

That the NRC/Respondent again considered the application of the Petitioner Institution in its 325th Meeting and decided to issue a Show Cause Notice and accordingly a SCN dated 22.01.2021 was issued to the Petitioner institution. That the Petitioner submitted its reply to the SCN dated 22.01.2021 vide its letters dated. 22.02.2021 & 24.02.2021. The Respondent considered the reply submitted by the Petitioner Institution in its 330th Virtual meeting held on 27th February, 2021 and on perusal of the aforesaid replies submitted by the Petitioner it was found that following essential documents are still required from the Petitioner Institution in accordance with the NCTE Regulations, 2014:

(i) The approved faculty list submitted by the Institution is not as per norms as prescribed in the NCTE Regulations, 2014.

(ii) Experience certificate of the Principal was not provided.

(iii) Affidavits of appointed faculties on Rs. 10/-stamp paper were not furnished.

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

Hence, the NRC/Respondent decided to reject the application of the Petitioner Institution and recognition/permission is refused to conduct B.Ed, course under section 14/15(3)(b) of the NOTE Act, 1993.

6. That the Hon'ble High Court vide its order dated 11.12.2019 decided WP(C) 13089 of 2019 with directions to the Respondents to consider the application of the Petitioner institution within 12 weeks from the receipt of the aforesaid order. It is pertinent to mention here that due to the prevailing pandemic situation the Govt. of India announced nation wide lockdown. It is further submitted that the unlock 1st face started from the month of June, 2020 and the Respondent again considered the Petitioner's Application in its 316th meeting held from 28th to 31st August, 2020. The Application of the Petitioner was again considered and finally decided by the Respondent in its 330th Meeting held on 27th February, 2021.

7. That the Respondents have duly complied with the orders passed by the Hon'ble Court by considering the application of the Petitioner and deciding it on merits after providing enough opportunities to the Petitioner for submitting its reply/documents.

8. It is pertinent to mention here that the delay caused in taking final decision on the Petitioner application was neither intentional nor deliberate and the Respondent herein admits an unconditional apology for the same.

..."

2. The learned counsel for the petitioner submits that the reasons for non-grant of recognition are frivolous and were never communicated to the petitioner any time earlier. He further submits that as regards point number (iv) as quoted herein above, the same is redundant and cannot be raised in view of this Court's decision in W.P.(C) No.13089/2019. Furthermore, the said grounds could not be a reason for non-grant of recognition in terms of Regulation 7(13) of the NCTE (Recognition Norms and Procedure) Regulations, 2014, as quoted hereinabove. The said Regulation clearly states that a 'Show Cause Notice ('SCN') may be issued only on non-compliance of the terms of Regulation 7 (13) and not for any other reason'. The immediately following sentence casts an administrative duty upon the NCTE, that in case of any deficiency discovered at this stage i.e. at the stage of consideration of grant of recognition, which should have been pointed out earlier, then a reference is to be made to the NCTE Headquarters along with names of erring officials. Therefore, if in the present case the said so-called errors were discovered by the Northern Regional Committee, NCTE, then it should have intimated the same to the NCTE Headquarters, and the names of the erring officials should have been communicated accordingly. Instead there is absolute silence in this

regard. The latter sentence of the said Regulation, is more in the nature of a corrective administrative measure to be taken against an official, and it does not in any way give latitude to the NCTE regarding the already imposed embargo against enlarging the scope of examination or query for issuing an SCN for any other reason.

3. The petitioner's case was not considered within the time scheduled prescribed by the Supreme Court in Weltech College Education and Another v. State of U.P. Civil Appeal No.9078/2012, wherein it has directed as under:

"...4. The NCTE was give some time to work out the internal schedule and submit the same before this Court and, accordingly, the NCTE has furnished the following revised schedule for processing applications for recognition.

Sl. No.	Processes	Schedule Proposed by NCTE
1.	Submission of the 1st April to 30th April of the applications calendar year immediately preceding the calendar year in which the relevant academic year commence	
2.	Communication of Within 30 days from the date of deficiencies in terms receipt of the application. of Regulation 7.1	
3.	Removal of such Within 45 days from the date of deficiencies by the receipt of the communication applicant	
4.	Forwarding the Within 30 days from the date of application to State receipt of the application Government/UT for its recommendations/ comments in terms of Regulation 7.2	
5.	Reminder letter to Within 7 days from the date of the State expiry of the period of 30 days Government/UT for of the earlier letter. its recommendations / commence	
6.	Recommendations of Within 30 days from the date of the State issue of 1st letter or within 15 Government days from the date of receipt of the reminder.	
7.	Intimation Within 45 days from the date of regarding inspection removal of deficiencies which by the Regional includes the time taken to Committee to the process the reply regarding Applicant under deficiencies, consideration by Regulation 7 (4) Regional Committee (RC) and to contact/intimate, the visiting team members and institution.	
8.	Report by the Within 35 days from the date of Inspection intimation which includes Committee under notice period of institution, Regulation 7(5) conduct of inspection and submission of the visiting team report.	

9. Scrutiny of Visiting Within 35 days from the date of Team Report (VTR) receipt of the Visiting Team Report which includes the process of Scrutiny of the Visiting Team Report and consideration by the RC

10. Issuance of LOI Within 5 days from the date of under Regulation 7 consideration by the RC.

11. Time to comply with Within 2 months from the date the certain of communication of LOI conditions in terms of Regulations 7(10) and 7(11)

12. Issuance of formal By 3rd March of each year order of recognition under Regulation 7

5. The NCTE has been conferred with the statutory power under Section 32 of the NCTE Act, 1993 (for short "the Act") generally to make regulations, not inconsistent with the provisions of the Act and Rules made thereunder to carry out the provisions of the Act and by such regulations in particular, provide for the form and the manner in which an application for recognition is to be submitted under sub- section (1) of Section 14 of the Act.

4. The petitioner had filed its application for recognition in 2012. It was returned by the respondents in 2013. The same was impugned before this Court. In terms of order of this Court dated 18.04.2018; the NRC of the NCTE, was directed to render a fresh decision in the matter. The same was to be disposed-off by a reasoned order within 12 weeks from 18.04.2018. On 13.09.2018, NCTE issued a Letter of Intent ('LOI'). It required the applicant/petitioner to submit inter-alia, particulars of the staff members, i.e. of the staff duly approved by the University/ affiliating Body in a prescribed format available on the NRC/NCTE website. The letter was responded to by the petitioner, by way a letter dated 05.02.2019 (Annexure-P-6 to the petition). However, the Court would note, that the complete list of the staff is not annexed to the said response. The learned counsel for the petitioner states that filing of the same was not deemed necessary because there is an acknowledgment by a subsequent SCN dated 28.11.2019, which does not mention or reiterate the requirement of the earlier sought 'list of staff members'. Let the petitioner bring on record such list which was supplied to the NCTE on or before the next date.

5. List on 28.04.2021.

NAJMI WAZIRI, J APRIL 07, 2021/rd