

Mayur College vs National Council For Teacher Education ... on 18 December, 2020

Author: Jayant Nath

Bench: Jayant Nath

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* IN THE HIGH COURT OF DELHI AT NEW DELHI

+ W.P.(C) 10709/2020

MAYUR COLLEGE

..... Petitioner

Through Mr.Sanjay Sharawat, Adv.

versus

NATIONAL COUNCIL FOR TEACHER

EDUCATION & ANR.

..... Respondents

Through Ms.Kartika Sharma, Adv.

CORAM:

HON'BLE MR. JUSTICE JAYANT NATH

ORDER

% 18.12.2020 This hearing is conducted through video conferencing.

1. This writ petition is filed by the petitioner seeking to quash the orders dated 16.03.2017 and 25.04.2017 both passed by respondent No.2/WRC.

2. The case of the petitioner is that it submitted an application with NRC on 30.05.2016 seeking recognition for conducting B.A.B.Ed./B.Sc.B.Ed. courses from academic session 2017-18. After various processes, the petitioner received three communications, two on 16.03.2017 rejecting the application of the petitioner and the third one on 25.04.2017. It has been alleged that the application of the petitioner has been dismissed three times on three different grounds.

3. It is the case of the petitioner that after receiving aforesaid three orders, the petitioner visited the office of respondent No.2/NRC and enquired as to why three different orders have been passed in the same application. The Regional Director realised its mistake and asked the petitioner to submit documents in response to the deficiencies allegedly pointed out in the show cause notice. Thereafter the petitioner received no response. In the meantime, the NCTE decided to shift the jurisdiction of Rajasthan from NRC to WRC and formal notification in this regard was issued by NCTE on 27.01.2020. Till then nothing has been done by WRC. Hence this writ petition.

4. A perusal of the rejection order dated 16.03.2017 shows that in the first order it is stated that Non-Encumbrance Certificate was not received within the stipulated time. In the second communication, it is stated that deficiencies are still persisting with the Society Bye-Laws. In the

third communication dated 25.04.2017, it is stated that as per NCTE Regulations, 2014, land should be registered in favour of the society/institution on the date of making online application for registration. In the present case, institution made an online application for registration on 30.05.2016 whereas the land was purchased and got registered only on 24.01.2017.

5. It is clear that three separate rejection orders have been passed on three different grounds on the basis of which the petitioner's single application has been rejected.

6. I have heard learned counsel for the parties.

7. Learned counsel for the petitioner relies upon the judgment of the Supreme Court in the case of *Vetindia Pharmaceuticals Ltd. v. State of Uttar Pradesh & Anr.*, Civil Appeal No.3647/2020 to contend that in the present case no prejudice is caused to the respondents by the so called delay done by the petitioner and at best it was the petitioner who had suffered having invested large amounts in creating infrastructure and has not been able to take any admission in the college.

8. Learned counsel for the respondents has strongly urged that the respondent is over burdened with such false and frivolous applications and the petition should be dismissed.

9. In this regard, reference may be had to the judgment of the Supreme Court in the case *Vetindia Pharmaceuticals Ltd. v. State of Uttar Pradesh & Anr.*(supra) where the Supreme Court held as follows:

"14. That brings us to the question of delay. There is no doubt that the High Court in its discretionary jurisdiction may decline to exercise the discretionary writ jurisdiction on ground of delay in approaching the court. But it is only a rule of discretion by exercise of self-restraint evolved by the court in exercise of the discretionary equitable jurisdiction and not a mandatory requirement that every delayed petition must be dismissed on the ground of delay. The Limitation Act *stricto sensu* does not apply to the writ jurisdiction. The discretion vested in the court under Article 226 of the Constitution therefore has to be a judicious exercise of the discretion after considering all pros and cons of the matter, including the nature of the dispute, the explanation for the delay, whether any third-party rights have intervened etc. The jurisdiction under Article 226 being equitable in nature, questions of proportionality in considering whether the impugned order merits interference or not in exercise of the discretionary jurisdiction will also arise. This Court in *Basanti Prasad vs. Bihar School Examination Board and others*, (2009) 6 SCC 791, after referring to *Moon Mills Ltd. vs. Industrial Court*, AIR 1967 SC 1450, *Maharashtra SRTC vs. Balwant Regular Motor Service*, AIR 1969 SC 329 and *State of M.P. and Others vs. Nandlal Jaiswal and others*, (1986) 4 sec 566, held that if the delay is properly explained and no third party rights are being affected, the writ court under Article 226 of the Constitution may condone the delay, holding as follows:

"18. In the normal course, we would not have taken exception to the order passed by the High Court. They are justified in saying that a delinquent employee should not be permitted to revive the stale claim and the High Court in exercise of its discretion would not ordinarily assist the tardy and indolent person. This is the traditional view and is well supported by a plethora of decisions of this Court. This Court also has taken the view that there is no inviolable rule, that, whenever there is delay the Court must refuse to entertain a petition. This Court has stated that the writ court in exercise of its extraordinary jurisdiction under Article 226 of the Constitution may condone the delay in filing the petition, if the delay is satisfactorily explained.""

10. It is a matter of fact that no prejudice is caused to the respondents in this case by the delay in filing this writ petition except for the burden of having to process a stale application. The respondents can be compensated for the same by imposing costs. The application of the petitioner is allowed subject to payment of costs of Rs.50,000/- to NCTE. Needful be done within one week.

11. Subject to the above, the impugned orders dated 16.03.2017 and 25.04.2017 are hereby quashed. The matter is remanded back to WRC to consider the case of the petitioner afresh as per law.

12. WRC is requested to expeditiously process the case of the petitioner.

13. Nothing further survives in this petition. The petition is disposed of with the above direction.

JAYANT NATH, J.

DECEMBER 18, 2020/v