

R C Education Society & Anr vs Dr Vineet Joshi Ias Chairperson ... on 22 February, 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.

.....Petitioners

Through: Mr. Amitesh Kumar, Ms. Priti
Kumari, Ms. Binisa Mohanty,
Advocates.

versus

DR VINEET JOSHI IAS CHAIRPERSON NATIONAL COUNCIL
FOR TEACHER EDUCATION & ORS.

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Through: Mr. Karan Sharma and Mr. Moh
Siwach, Advs. for NCTE.
Mr. Jai Sahai Endlaw, Mr.
Banerjee and Mr. Ashutosh
Advs.

CORAM:

HON'BLE MR. JUSTICE NAJMI WAZIRI

ORDER

% 22.02.2021 The hearing was conducted through physical court.

1. The Show-Cause Notice ('SCN') has been issued by the respondents on identical grounds on which it was earlier quashed by this Court, vide order dated 11.12.2019 passed in W.P.(C) No.13089/2019 ("R.C Education Society and Anr. v. National Council For Teacher Education And Anr.) The said order reads as under:

"..2. Issue notice.

3. Ms. Arunima Dwivedi accepts notice for the respondents.

4. The substantive prayers made in the writ petition read as follows:

"(a) issue a writ of certiorari or any other suitable writ or order quashing and setting aside the letter dated 18.12.2018 of NCTE; and /or

(b) issue a writ of certiorari or any other suitable writ or order quashing and setting aside the impugned Show Cause Notice dated 12.07. 2019 issued by NRG to petitioners;

(c) issue a writ of mandamus or any other suitable writ, order or direction directing the respondents to process the petitioner's application for grant of recognition of B.Ed. course from the stage after issuance of letter of intent under clause 7 (13) of NCTE Regulations, 2014.

5. According to Mr. Amitesh Kumar, who appears for the petitioners, there are three aspects, which are articulated in paragraph 2 of the said show cause notice:

(a) First, the NOC of the affiliated body has not been submitted

(b) Second, the institution i.e petitioner no. 2 has not submitted any proof/evidence that it is a composite institution as per Clause 2(b) of the National Council for Teacher Education (Regulation Norms and Procedure) Regulations, 2014 (in short "2014 Regulations")

(c) Third, as per the earlier decision Commission (NRC) of the NCTE, in other cases, a letter be sent to the State Government of Haryana as to the ban imposed qua B.Ed. course.

6. Mr. Amitesh Kumar says that insofar as the first two aspects are concerned the same are covered by the judgment dated 6.1.2019, passed in a batch of writ petitions, the lead case being W.P.(C) No.8328/2019, titled Saraswati Deep College of Education vs. National Council for Teacher Education and Anr. 6.1 As regards, the third aspect, Mr. Amitesh Kumar says that the same is covered by yet another judgment dated 18.10.2019, passed in a batch of writ petitions, the lead case being W.P.(C) No.8820/2019, titled Sir Chhotu Ram Jat College of Education vs. National Council for Teacher Education & Anr.

7. Furthermore, insofar as the third aspect is concerned, Mr. Amitesh Kumar relies upon an inter partes order dated 18.4.2018, passed in W.P.(C) No.3204/2018, titled R.C. Education Society and Anr. vs. NCTE & Anr. 8. Ms. Dwivedi does not dispute the fact that the aforementioned judgments hold the field.

9. In these circumstances, the impugned communication and impugned show cause notice are set aside. The matter is remitted to the NRC to render a fresh decision bearing in the matter. The NRC while rendering its decision will bear in mind the ratio of the aforementioned judgments.

10. The captioned writ petition is, accordingly, disposed of in the aforesaid terms.

11. A copy of this order be given dasti to the learned counsel for the parties under signature of the Court Master.

..".

2. In its affidavit dated 04.11.2020 the respondents state that, as per the NCTE Show Cause Notice ('SCN') to the petitioner, the latter has inter alia, not submitted the following documents:

(i) The evidence to prove that it was a composite institution as per NCTE Regulations.

(ii) The NOC of the Affiliated Body.

3. The aforesaid issues have already been addressed in para 5(a) and 5(b) of the aforesaid order dated 11.12.2019 and it stands duly adjudicate in W.P.(C) No.8328/2019. Therefore, the earlier SCN raising the said shortcomings was set aside.

4. That being the position, there is no occasion for the respondents to issue a fresh notice on the same issue. The previous orders is ex facie not being honoured by the respondents.

5. A Letter of Intent was issued to the petitioner on 13.09.2018. It listed no shortcoming or anomaly in the petitioner's application. The petitioner contends that therefore, the only thing required was for the appointment of teachers. It is contended that as a consequence of the LOI and compliance of all requirements, recognition to the petitioner, ought to have been issued a long time ago.

6. The learned counsel for the petitioner submits that in terms of the Regulation 7(13) of the NCTE (Recognition Norms and Procedure) Regulations, 2014, the NCTE cannot issue any SCN/Query beyond the terms of the LOI. The relevant portion of the SOP reads as under:

"m) After issue of LOI [7 (13) of NCTE Regulations], any SCN may be issued only on non-compliance of terms of Regulation 7(13), and not for any other reason. In case any deficiency is discovered at this stage, which should have been pointed out earlier, then a reference must be made to NCTE-HQrs with name of erring official."

7. In other words, the LOI, is a document which clearly communicates and signifies that the institution has been found to be in order and only that portion which is mentioned in the LOI needs to be complied with before its recognition.

8. Therefore, the issuance of SCN as mentioned in the aforesaid affidavit of NCTE is ex facie beyond the terms of the Regulations and in breach this Court's directions in W.P.(C) No.8328/2019 as relied upon in W.P.(C) No.13089/2019. The latter order had set aside the impugned communication and SCN. The case had been remitted to the NRC to take a fresh decision in the matter and while doing so, to bear in mind the ratio of the judgments cited in the aforesaid order, Interestingly, the respondents affidavit makes no reference to the aforesaid judgments.

9. Clearly the respondents are in breach of this Court's orders and prima facie in contempt of court.

10. The court is informed that the main compliance is to be done by R-2. Therefore, issue notice only to R-2 as to why contempt proceedings be not initiated against him. Notice is accepted by the learned counsel for the respondents. Reply of R-2 be filed in two weeks.

11.Let an affidavit be filed by R-1 as to what action has been initiated by the respondents against persons who may have been found were accountable for the non-compliance.

12.In the interim, the respondents shall pay costs of Rs.30,000/- to the petitioners for these proceedings.

13.Renotify on 02.03.2021.

14.A copy of this order be given dasti to the learned counsel for the parties under the signature of the Court Master.

15.The order be uploaded on the website forthwith.

NAJMI WAZIRI, J FEBRUARY 22, 2021/rd