

GAHC010005862023



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THE GAUHATI HIGH COURT
(HIGH COURT OF ASSAM, NAGALAND, MIZORAM AND ARUNACHAL PRADESH)

Case No. : WP(C)/228/2023

MEHTAB JAMAL B.ED COLLEGE OF TEACHER EDUCATION
REPRESENTED BY ITS MANAGING TRUSTEE OF HOLY HOME
EDUCATIONAL TRUST MR. SURUZ ZAMAL, AGED ABOUT 66 YEARS, S/O
LATE ABDUL HAMID, R/O VILL-BONBAHAR, P.O. AND P.S.-BARPETA, DIST-
BARPETA, ASSAM, PIN-781352

VERSUS

THE UNION OF INDIA AND 3 ORS
REPRESENTED BY THE SECRETARY, GOVT. OF INDIA, MINISTRY OF
HUMAN RESOURCE DEVELOPMENT, SHASTRI BHAWAN, NEW DELHI, PIN-
110001

2:NATIONAL COUNCIL FOR TEACHER EDUCATION
REPRESENTED BY ITS CHAIRMAN
G-7
SECTOR-10
DWARKA
LANDMARK NEAR METRO STATION
DELHI
PIN-110075

3:THE DEPUTY SECRETARY (APPEAL)
NATIONAL COUNCIL FOR TEACHER EDUCATION
G-7
SECTOR-10
DWARKA
LANDMARK-NEAR METRO STATION
DELHI-110075

4:THE REGIONAL DIRECTOR
EASTERN REGIONAL COMMITTEE (NCTE)
G-7

SECTOR-10
DWARKA
LANDMARK-NEAR METRO STATION
DELHI-11007

Advocate for the Petitioner : MR. B J GHOSH, ANACLATAS AHMED

Advocate for the Respondent : SC, N C T E, C.G.C.

BEFORE
HON'BLE MR. JUSTICE LANUSUNGKUM JAMIR
ORDER

26.09.2024

Heard Mr. B.J. Ghosh, learned counsel for the petitioner as well as Mr. H. Gupta, learned CGC, for respondent No.1 and Mr. I. Alom, learned Standing Counsel, NCTE, for respondent Nos.2 to 4.

2. The petitioner is aggrieved by the impugned order dated 19.10.2022 issued by the Deputy Secretary (Appeal), National Council for Teachers Education (NCTE, in short) on the ground that the appeal filed by the petitioner was disposed of by only considering the decision of the General Body meeting of the NCTE held on 14.07.2022 particularly with reference to Agenda No.5 and not on the grounds made in the appeal petition.

3. It is the case of the petitioner that the application filed by the petitioner seeking recommendation for imparting B. Ed programme was rejected by an order dated 02.01.2018 on 10 (ten) different grounds. However, the Appellate Authority disposed of the Appeal filed by the petitioner without taking into consideration the reasons why the application of the petitioner was rejected on the said 10 (ten) different grounds.

4. The petitioner filed an application seeking recommendation for imparting B. Ed programme through the institution, namely, Mehtab Jamal B. Ed College, Bonbahar, Barpeta in terms of the NCTE Act, 1993. However, the said application was rejected by an order dated 02.01.2018 issued by the Regional Director on the ground that the show-cause notice issued to the petitioner on 14.02.2017 on 10 (ten) different grounds was not replied by the institution within the stipulated period. Accordingly, the Committee refused recognition of applied B. Ed programme under Section 14(3)(b) of the NCTE Act, 1993.

5. Against the said rejection order dated 02.01.2018, the petitioner filed an Appeal under Section 18 of the NCTE Act, 1993 on 08.03.2021. The said Appeal filed by the petitioner was rejected by order dated 04.10.2021 on the ground that there was delay in filing the appeal.

6. Being aggrieved with the order dated 04.10.2021, the petitioner filed a writ petition before this Court being WP(C) No.6612/2021, which was disposed of by order dated 31.08.2022 with the following directions:-

“On perusal of the impugned order dated 04.10.2021 passed by the appellate authority it is noticed that the petitioner had preferred an appeal on 08.03.2021 against the order of rejection dated 02.01.2018 passed by the Regional Director. Thus the appeal filed by the petitioner is beyond the statutory period prescribed under the Act, namely; 60 days from the order of rejection passed by the authority. On perusal of the appeal report (Annexure-16) to the writ petition it is noticed that the petitioner had explained the reasons for delay in preferring the appeal before the appellate authority was due to the delay made by the Gauhati University in issuing permission/affiliation for degree course which is mandatory requirement under the NCTE Act. Having noticed the explanations provided in the appeal report that one of the reasons for delay in not preferring the appeal within the stipulated period was the delay caused by the Gauhati University in providing permission/affiliation for degree Course to the

petitioner's institution and also taking into account the explanation provided by the petitioner that in the intervening period there was outbreak of Covid-19 Pandemic which also contributed to the petitioner from not preferring the appeal before the appellate authority under the NCTE Act within the stipulated time; I am of the considered view that since the appeal filed by the petitioner has been rejected by the appellate authority solely on the ground of delay in preferring the appeal, ends of justice would be met if the respondent appellate authority under the NCTE Act is directed to consider the appeal filed by the petitioner and dispose it of on its own merit in accordance with law.

Accordingly, while setting aside the impugned order dated 04.10.2021 (Annexure-18) passed by the Deputy Secretary under Section 18 of NCTE Act, 1993 the appellate authority is hereby directed to consider the appeal filed by the petitioner on its own merit in accordance with law as expeditiously as possible preferably within a period of 2 (two) months from the date of receipt of certified copy of this order along with a copy of the writ petition which shall be submitted by the petitioner before the appellate authority within a period of 2 (two) weeks from today. While disposing of the appeal filed by the petitioner, the petitioner shall also be given an opportunity of hearing.

With the aforesaid direction this writ petition is disposed of."

7. Consequent thereto, the Appellate Authority in the NCTE took up the Appeal filed by the petitioner and heard the matter on 07.10.2022 and 08.10.2022. Thereafter, an order dated 19.10.2022 was passed by the Deputy Secretary (Appeal), NCTE whereby the appeal filed by the writ petitioner was again rejected.

8. Being aggrieved, the petitioner is again before this Court by way of the present writ petition.

9. The authorities in the NCTE have filed counter affidavit and is represented by Mr. Alom, learned Standing Counsel.

10. It is the submission of learned Standing Counsel, NCTE, that in the 55th General Body meeting of the NCTE held on 14.07.2022, the General Body adopted a resolution against Agenda No.15 and the same reads as under:-

“In light of the above, the Council of members unanimously decided the following:

I. At present, there are several institutions which have been recognized by the Regional Committees of NCTE wherein courses/programme, other than diploma level courses are running. An Expert Committee be constituted to devise the modalities for conversion of these recognized institutions into multidisciplinary institutions in line with NEP, 2020.

II. The applications pending before the Regional Committees of NCTE shall not be processed further. Hence, all such pending applications before RCs at any stage of processing be returned along with the processing fee to the concerned institution(s).

III. In the cases where the applications are being processed/reopened as per the directions of the Hon'ble Court(s), the concerned Regional Committee shall file a review/appeal before the Hon'ble Court(s) along with stay application against the order passed by the Hon'ble Court(s) for processing of application(s) in view of the decision of the Council as taken in II above.”

11. It is also submitted that the General Body with regard to Agenda No.8 also resolved as under:-

“In light of the above, the Council of members unanimously decided the following:

This was deliberated upon by the Council and it was unanimously decided that the portal for inviting fresh applications should not be opened till the formulation of revised Norms/Curriculum aligned with NEP 2020.

It was discussed that the cases in appeals in all of the matters in Agenda Items 2 & 5 should be taken up by the respective Regional Committees and appropriate action should be ensured in such matters. Meanwhile, legal opinion will be sought for bunching of appeals in the said issues by NCTE.”

12. He, therefore, submits that the Appellate Authority while considering the Appeal filed by the petitioner disposed of the same by taking into consideration the resolution passed by the 55th General Body Meeting with regard to Agenda No.5. Therefore, there is nothing wrong in the order dated 19.10.2022 by which the Appeal filed by the petitioner was rejected.

13. On a perusal of the impugned order dated 19.10.2022 passed by the Appellate Authority, it is noticed that the Appellate Authority considered only the resolution taken by the 55th General Body Meeting with regard to Agenda No.5 and, thereafter, rejected the appeal filed by the petitioner. However, what is to be noted is that the Appeal filed by the petitioner was against the order dated 02.01.2018 by which the application made by the petitioner for grant of recognition for conduct of B. Ed programme online was rejected on the basis of the show-cause notice issued on 14.02.2017 on 10 (ten) different grounds. Admittedly, the Appellate Authority did not consider the grounds taken by the petitioner in the Appeal filed by them. Therefore, without expressing any opinion on the merit of the case, the matter is remanded back to the Appellate Authority/respondent No.3 to re-consider the appeal filed by the petitioner by taking into consideration the reasons for which the application of the petitioner was rejected by the order dated 02.01.2018. Let such re-consideration of the appeal be made within a period of four weeks from the date of receipt of a certified copy of this Court's order. While disposing of the appeal, the Appellate Authority shall also give an opportunity of hearing to the petitioner.

14. The order dated 19.10.2022 passed by the Deputy Secretary (Appeal), NCTE, is, accordingly, set aside and quashed.

15. With the above observations and directions, the writ petition is disposed of.

JUDGE

Comparing Assistant