

(2019) 05 RAJ CK 0220
In the Rajasthan High Court
Case No : Civil Writ Petition No. 35 Of 2019

Adarsh Indian Public School Shiksha Samiti	APPELLANT
Vs	
National Council For Teacher Education And Ors	RESPONDENT

Date of Decision : 28-05-2019

Acts Referred:

National Council for Teacher Education Act, 1993 — Section 14(1)

Citation : (2019) 05 RAJ CK 0220

Hon'ble Judges : Dr. Pushpendra Singh Bhati, J

Bench : Single Bench

Advocate : CS Kotwani, Gajendra Singh, Namrata Gupta

Final Decision : Disposed Off

Judgement

1. Learned counsel for the petitioner submits that the matter is squarely covered by the order passed by this Court in S.B. Civil Writ Petition No.2270/2019 (Times S.T.C. College vs. National Council For Teacher Education & Anr.) decided on 27.3.2019, which reads as follows :-

"1. Heard learned counsel for the parties. Perused the material available on record.

2.1. The petitioner institution is an educational institution which is run by a registered society. National Council for Teacher Education, New Delhi is created under the provisions of the National Council for Teacher Education Act, 1993 (for short, 'the Act of 1993'). The regulations, norms and procedure are fixed under the provisions of the National Council for Teacher Education (Recognition, Norms and Procedure) Regulations, 2014 (for short, the Regulations of 2014'), which have been amended from time to time. These Regulations are applicable to the matters relating to the Teacher Training Programmes.

2.2. The respondent no.2 in the year 2012 invited applications from the institutions situated the States of North India (including State of Rajasthan) desiring to run the teacher education courses. As the petitioner was fulfilling the

mandatory requirements as per the Act of 1993 and was fully eligible to run the Diploma in Elementary Education (D.El.Ed./B.S.T.C.) course applied through online mode for the academic session 2013-14 under the provisions of Section 14(1) of the Act of 1993.

2.3. The respondent no.2 in its 214 meeting considered the matter of the petitioner along with other matters and decided that the recommendations of State of Rajasthan to now allow setting up of D.El.Ed. Institutions in the State of Rajasthan be accepted and the application so received be returned to the respective institutions. As such, the respondent vide letter dated 18.6.2013 returned the application of the petitioner purely on the basis of the aforesaid recommendations.

2.4. The decision taken by the State of Rajasthan in the year 2009 that no BSTC/ D.El.Ed./B.Ed. course would be permitted was reviewed by the State of Rajasthan on 12.8.2016 and certain districts were granted NOC to run such course.

2.5. The petitioner thereafter filed a writ petition no.23106/2018 at Jaipur Bench of this Court in which the matter was relegated to the appellate authority. The appellate authority by its order dated 31.12.2018 proceeded to confirm the refusal order dated 18.6.2013 without considering the fulfillment of the requisite qualification of the petitioner.

3.1. Learned counsel for the petitioner submits that the impugned order passed by the appellate authority is solely on the basis of judgment rendered by the Delhi High Court in the case of Saraswati Deep College of Education vs. National Council for Teacher Education & Anr. (LPA 619/2018) decided on 31.10.2018 whereby the Delhi High Court confirmed the decision of NCTE of returning the application in furtherance of State Ban. Learned counsel for the petitioner submits that since the appellate authority was seized of the fact that the State of Rajasthan is no more having ban on opening new institutions in view of the order dated 12.8.2016, the petitioner should have been considered independent of the judgment of Delhi High Court in Saraswati Deep's case (supra) which was relating to State of Haryana, the relevant portion whereof reads as follows :-

"7. From the above, it is clear that many seats in Teacher Education Institutes remained unfilled. In such a scenario, no further recognition can be granted to the Institutes. There is no justification to allow the mushrooming of Institutes conducting Teacher Education courses. The NCTE is within its competence to consider the decision of the State of Haryana not to allow setting up of new B.Ed Institutions in the State. In fact, the Regional Committee of the NCTE declined to grant recognition vide order dated 3rd July, 2013. The last para of which reads as under:

"In view of the above judgment of the Hon'ble Supreme Court and the decision taken by the NCTE Committee, the NRC decided that the recommendations of the State of Govt. of Haryana, i.e., not to allow setting up of new B.Ed.

institutions in the State be accepted and the applications so received be returned to the respective institutions. Also the application fees be refunded to the applicants."

8. The aforesaid reveals that the decision of the State of Haryana is a necessary input for the NCTE to return the applications received from the institutes.

9. We find the impugned order of the learned Single Judge is proper and justified and the same does not require any interference. Accordingly, the appeal is dismissed."

3.2. Learned counsel for the petitioner also relied upon the judgment rendered by a Coordinate Bench of this Court at Jaipur Bench in a bunch of writ petitions led by S.B. Civil Writ Petition No.1222/2019 (Om Sai Girls Teacher Training College vs. National Council for Teacher Education and Anr.) decided on 1.3.2019, which reads as follows :-

"Stand of the respondents under paragraph 9 admits the fact that cases of the institutions, like the petitioner, in the backdrop of the show cause notice contemplated in the 295th Meeting of NRC; are being considered by the NRC itself.

In view of the above, the respondents are directed to consider the case of the petitioner-institute as well in accordance with law. Claim of the petitioner-institute shall not be declined only in the backdrop of the adjudication made by Delhi High Court, with reference to Education Institutions of State of Haryana which has no application to the factual matrix to the case of the petitioner.

The respondents-NCTE/NRC would do the needful to consider the case of the petitioner-Institute, in the ongoing process that is in progress w.e.f. 1st March, 2019 to 3rd March, 2019.

With the observations and directions, as indicated above, the writ applications stand disposed off.

A copy of this order be placed in each of the file."

3.3. Learned counsel for the petitioner thus submits that the appellate authority should have applied its mind in the present perspective as the permission should have been granted only for the future session and not past sessions.

4. Learned counsel for the respondents opposes the submissions made on behalf of the petitioner. The respondents have filed a detailed reply and submitted that to prohibit the mushrooming of institutes conducting teacher education courses, the ban has been imposed and fresh admissions are not being granted in accordance with the previous judgments of High Courts including the judgment rendered by Delhi High Court in Saraswati Deep's case (supra). However, neither in the reply there is any whisper nor the learned counsel for the respondents submits as to how today the State of Rajasthan does not need such institutes and whether there was no fresh recommendation of the State of Rajasthan to

permit opening of such institutes. Learned counsel for the respondents when asked by this Court has not been able to satisfy as to why the State of Rajasthan is being governed by the same parameters as that of State of Haryana even without having a categoric stand of the State of Rajasthan, which has been reviewed while granting NOC to the institutes on 12.8.2016.

5. After hearing the learned counsel for the parties and after perusing the material available on record, this Court is of the opinion that though the respondents have a right to monitor and evaluate the applications for recognition of teacher education programmes but the same has to be done as per the recommendations of State of Rajasthan after looking to the demand and supply ratio. The stand taken by the State of Rajasthan in the year 2012-2013 cannot be come a ground for rejection particularly, when the same has been reviewed on 12.8.2016. Since the reply filed by the respondents as well as the order dated 31.12.2018 do not speak the consideration of the stand of the State of Rajasthan, therefore, prima-facie the order seems to be lacking the perspective from the prevailing conditions of State of Rajasthan. This Court is aware that any retrospective permission cannot be granted and should not be granted and, therefore, the applications should have been treated for prospective consideration by the appellate authority while taking into consideration the stand of the State and keeping the balance between the demand and supply of teacher education programmes. The impugned order dated 31.12.2018 does not induce confidence as it has not taken into consideration the current position while deciding the issue. Mere following of the High Court's order that monitoring is to be done cannot apply in the present case as the requirement of this date was to be taken into account particularly when the ban earlier imposed was reviewed and the State of Rajasthan has given NOC thereafter.

6. At this juncture, it was pointed out by the counsel for the respondent NCTE that the decision regarding the requirement of colleges and the teacher student ratio and the present status of seats available vis-a-vis the requirement can be adjudged only with the help of the State of Rajasthan. Thus, learned AAG Mr.Manish Vyas who was also called by this Court to assist in this matter, is directed to ensure through the Secretary, Higher Education Department and Secretary, Primary Education Department, the categoric stand of the State of Rajasthan regarding the requirement of such institutes vis-a-vis the demand supply ratio and submit the same to the NCTE within a period of thirty days from the date of receipt of certified copy of this order. Such stand shall be taken by the State of Rajasthan while keeping into careful consideration of Saraswati Deep's judgment (supra) and other precedent law.

7. The present writ petition is accordingly allowed. The impugned order dated 31.12.2018 is quashed and set aside. The claim of the petitioner shall be decided afresh and the respondents shall decide the same as per their eligibility conditions in terms of the Act of 1993 and the Regulations of 2014 and so also, the precedent law. The stand of the State of Rajasthan shall also be kept into

consideration.

8. The present order shall not prejudice the case of either of the parties on merits.

9. Stay Petition no.2205/2019 also stand disposed of accordingly."

2. Learned counsel for the respondents is not in a position to dispute the same.

3. In view of above, this writ petition is disposed of in terms of the order passed by this Court in S.B. Civil Writ Petition No.2270/2019 (Times S.T.C. College vs. National Council For Teacher Education & Anr.) decided on 27.3.2019. The claim of the petitioner shall be decided afresh and the respondents shall decide the same as per their eligibility conditions in terms of the Act of 1993 and the Regulations of 2014 and so also, the precedent law. The stand of the State of Rajasthan shall also be kept into consideration.

4. Stay Petition no.21/2019 also stands disposed of accordingly.