

(2020) 01 DEL CK 0511

In the Delhi High Court

Case No : Civil Writ Petition No. 10930 Of 2019

Amrit Kunwar Mahavidyalaya

APPELLANT

Vs

National Council For Teacher Education And Anr

RESPONDENT

Date of Decision : 21-01-2020

Acts Referred:

National Council for Teacher Education (Recognition, Norms and Procedure)
Regulations, 2014 — Regulation 7(11)

Citation : (2020) 01 DEL CK 0511

Hon'ble Judges : Rajiv Shakdher, J

Bench : Single Bench

Advocate : Mayank Manish, Ravi Kant, Shivam Singh, Jaideep Khanna, Udian Sharma, Harpreet Singh Gupta

Final Decision : Disposed Of

Judgement

Rajiv Shakdher, J

1. The substantive prayers made in the writ petition are as follows :

"(a) Issue a Writ of Mandamus or any other appropriate Writ, Order or Directions for Extending the date of the submissions of the online application pursuant to the public notice dated 20.05.2019 seeking recognition for the ITEP course; and/or

(b) Issue a Writ of Mandamus or any other appropriate Writ, Order or Directions for NCTE to process the application of the institution seeking recognition for the ITEP course on the basis of the Hard Copy of documents and payment to be submitted with the Respondent No.02."

2. The notice in this petition was issued on 15.10.2019 when the respondents were represented by Ms. Arunima Dwivedi.

2.1 On that date, learned counsel for the petitioner i.e. Mr. Mayank Manish had placed before me an order dated 30.09.2019 passed in a batch of writ petitions.

The lead matter in the said batch was W.P.(C)No.9433/2019, titled : L.R.L. Shikshan Evam Samajik Sewa Samiti & Anr. v. National Council for Teacher Education & Anr.

3. Thus, while granting four weeks to the respondents to file a counter affidavit in the matter, I had also, inter alia, indicated that the order dated 30.09.2019 passed in the batch referred to above, will apply mutatis mutandis to the captioned matter as well.

3.1 To be noted, on that date, the aforementioned writ petition was listed along with other writ petitions i.e. W.P.(C)Nos.10931/2019, 10932/2019 and 10933/2019.

3.2 Since then, the respondents have filed a counter affidavit in the captioned matter, though, the compliance of order dated 30.09.2019 has not taken place.

4. I may also note that on 08.01.2020, the captioned writ petition was listed on my board along with another batch when at request of Ms. Dwivedi, the captioned petition was kept apart for hearing today i.e. 22.01.2020. However, what is important is that in the other matters which were listed before me on 08.01.2020, a detailed order was passed wherein the operative directions contained in the earlier order dated 30.09.2019 were noticed.

5. After noting the operative directions contained in the order dated 30.09.2019, I had also observed that the respondents had not complied with the directions contained therein.

5.1 Therefore, it becomes necessary to extract hereafter the relevant parts of the order dated 08.01.2020 :

"1 It is the contention of Mr. Amitesh Kumar that for one reason or the other, the respondents are not complying with the directions issued by this Court on 30.09.2019.

2 To be noted, pursuant to the last order i.e. order dated 18.12.2019, an affidavit has been filed on behalf of the respondents. Via this affidavit, the matters have been classified into four categories.

3 I have examined the affidavit and the chart appended thereto. The affidavit does not adhere to the operative directions issued by this Court on 30.09.2019. The operative directions are contained in paragraphs 12 to 12.4 of the order dated 30.09.2019.

4 For the sake of convenience, the said directions are extracted hereafter:

"12. Given these facts and figures and also the fact that there is, perhaps, scope for accepting the fee beyond 31 July 2019 albeit with late payment charges, NCTE will consider the applications filed by the aforementioned petitioners as well.

12.1 The applications will be examined from the point of view of meeting the

eligibility criteria.

12.2 The information concerning applications which meet the eligibility criteria will be placed before the Court on the next date of hearing.

12.3 In case the only impediment in processing of application(s) qua the aforementioned programme is delay in the payment fee or refund of fee which was paid to NCTE that aspect will also be brought to fore.

12.4 In the event, NCTE finds difficulty in downloading the documents (even though I am informed by Mr. Kumar, Regional Director, NRC that since the password is available it would be possible to obtain soft copies), it would be at liberty to seek hard copies of the applications and missing documents, if any, from the petitioners."

5 It was put to Ms. Dwivedi as to why the directions issued on 30.09.2019 had not been complied with. Ms. Dwivedi says that the sum and substance of what is stated in the affidavit dated 06.01.2020 filed on behalf of the respondents is that except for the two writ petitions i.e. W.P.(C) No.12626/2019 and W.P. (C) No.10930/2019, all other applications filed by the petitioners who are before the Court will be processed in accordance with the extant provisions of law.

6 It is Ms. Dwivedi's contention that, therefore, except for the aforementioned two writ petitions i.e. W.P.(C) No.12626/2019 and W.P. (C) No.10930/2019, this Court can dispose of all the writ petitions with the direction that the applications of other petitioners would be processed, and if, there are any deficiencies, either with regard to documents or payment of fee, the same shall be communicated via a written notice, and upon the deficiency being cured, the applications will be accepted subject to verification of the aspects adverted to in the documents.

7 Ms. Dwivedi also says that those applications which are facially in order and are accompanied by requisite payments i.e. there are no deficiencies, they shall also be processed in accordance with the extant provisions of law subject to verification of credentials.

xxx xxx xxx

10 Accordingly, based on the statement made by Ms. Dwivedi, all writ petitions on my board except the following writ petitions i.e. W.P. (C) No.9229/2019, W.P. (C) No.8889/2019 & W.P. (C) No.10930/2019 are disposed of. In respect of these writ petitions i.e. those which are disposed of, as indicated by Ms. Dwivedi, the applications preferred by the concerned petitioners shall be processed. The deficiency, if any, found qua documents or submission of fee, will be notified to the concerned petitioner(s) separately. This exercise will be completed within two weeks from today. The petitioner(s) will cure the deficiency within one week from the date of receipt of the notice."

6. Thus, shorn of unnecessary details, the only grievance the petitioner has is that since the application filed by the petitioner for being granted permission to

offer a four year Integrated Teacher Education Programme (ITEP) could not be uploaded before the cut-off date (i.e. 31.07.2019) on account of a technical glitch, it stood rejected.

7. The petitioner claims that for uploading the application on the web-portal of NCTE, i.e. respondent no.1, one was required to undertake 15 steps.

8. It is the assertion of the petitioner that it successfully completed 13 steps and that the 14th step which concerned payment of fee, though undertaken, did not lead to fruition in view of the technical glitch, adverted to hereinabove.

9. The petitioner claims that while the necessary documents were uploaded, the application could not be uploaded as payment link did not open.

10. The respondents, on the other hand, contend that the cut-off date cannot be extended. The relevant regulations framed in this behalf do not give respondents the leeway to relax the rigour.

10.1 In this behalf, Mr. Shivam Singh, who appears on behalf of the respondents, has drawn my attention to Regulation 7(11) of the National Council for Teacher Education (Recognition, Norms and Procedure) Regulations, 2014 (in short "2014 Regulations").

10.2 The aforesaid regulation reads as follows :

"11. In the matter of grant of recognition, the Regional Committees shall strictly act within the ambit of the Act, the regulations made thereunder including the norms and standards for various teacher education programmes, and shall not make any relaxation thereto."

11. Having heard learned counsel for the parties, as indicated hereinabove, the refusal by the respondents to process the petitioner's application for the four year ITEP is pivoted on the fact that the payment was not credited to the respondents' designated account before 31.07.2019. 11.1 On the other hand, learned counsel for the petitioner, as noted above, has taken a stand that this happened on account of a technical glitch.

12. The respondents have not been able to place before me any material to demonstrate that the say of the petitioner, in this behalf, is false and/or inaccurate.

12.1 The petitioner has filed an affidavit in support of its plea. Concededly, the petitioner completed successfully the 13 steps out of the 15 steps prescribed for the said purpose. Therefore, in my view, if the test of preponderance of probabilities is applied, one would have to believe the version put-forth by the petitioner, which is, that it did attempt to make the payment and that it was not successful on account of a technical glitch.

13. The argument advanced by Mr. Shivam Singh that Regulation 7(11) of the 2014 Regulations does not permit the respondents to relax the rigour of the

regulations, to my mind, cannot apply to the instant case.

13.1 This is not a case where the petitioner has come to court saying that for whatever reason it did not attempt to make the payment before the cut-off date. This is a case where the petitioner claims that it did attempt to make the payment before the cut-off date but the same was not successful purely on account of a technical glitch.

13.2 By way of a precedent, if one is needed, I have before me an order of the Supreme Court in D.L.S. Shiksha Mahavidhyalay v. National Council for Teacher Education (NCTE), (2018) 12 SCC 55. The relevant part of the said order is extracted hereafter :

"2. Since the defect was purely of technical nature and that too beyond the control of the petitioner inasmuch as earlier list was approved by the Registrar of the affiliating body and it is the Registrar who failed to get the signatures on each page and that defect having been revised, we direct the NCTE to issue recognition certificate if any formality shall be complied with by the petitioner for this purpose. Once the recognition is granted the matter shall be taken up by the university for affiliation forthwith."

14. Thus, given the foregoing, I am inclined to direct the respondents to process the petitioner's application, albeit, as per the extant provisions of law upon payment of fee, being made in the mode prescribed by the respondents.

15. The petitioner will furnish hard copy of the application (and, if asked, hard copies of the documents as well will be handed over) to the respondents within 10 days of receipt of copy of the order passed today.

16. The petitioner will also submit payment particulars within the same timeframe to the respondents. The respondents will, thereafter, process the applications and, wherever necessary, point out the deficiencies, if any, in the application/documents submitted by the petitioner and accord reasonable time to cure the same.

17. Needless to add, the respondents will be at liberty to carry out verification of the assertions made in the application and the documents appended thereto.

18. The captioned writ petition is disposed of in the aforesaid terms.