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**(2012) 04 BOM CK 0150**  
**In the Bombay High Court**  
**Case No : Writ Petition No. 619 of 2012**

Anmol Shikshan Prasarak Mandal's and Martendsheth Sonar  
DEd. College

APPELLANT

Vs

State of Maharashtra and Others

RESPONDENT

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**Date of Decision : 23-04-2012**

**Acts Referred:**

National Council for Teachers Education Regulations, 2009 — Regulation 12

**Citation :** (2012) 4 ALLMR 676 : (2012) 114 BOMLR 1485

**Hon'ble Judges :** S.S. Shinde, J;A.M. Khanwilkar, J

**Bench :** Division Bench

**Advocate :** Sandeep Waghmare, for the Appellant; Nitin Deshpande, AGP, for the Respondent Nos. 1 and 2 Mr. Uday Warunjikar for Resp. No. 3, for the Respondent

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## Judgement

A.M. Khanwilkar, J.—By this petition, it is prayed that direction be issued to Respondent No. 1 to forthwith grant approval to the petitioner's D.Ed. College in the light of recognition granted by NCTE dated 22.9.2011. It is not in dispute that the State Government finally granted approval to the petitioner's institution on 7.3.2012, during the pendency of this petition. However, the petitioner could not start the college and admit the students for the academic year 2011-2012 as the petitioner was not in a position to ensure fulfillment of 200 teaching days attendance of its students. The petitioner, however, asserted that similarly placed colleges have been allowed to start by the State for academic year 2011-2012 and admit students to the course even though they are not in a position to fulfil the requirement of 200 teaching days attendance. The petitioner therefore contended that the petitioner being similarly placed college should be permitted to start its college and admit students for academic year 2011-2012. According to the Petitioner, the deficiency of non-fulfilment of 200 teaching days" attendance can be exempted by NCTE in exercise of powers under Regulation 12 of the NCTE Regulations 2009. On a bare perusal of Regulation 12, we had our own doubts about the competence of NCTE to relax or exempt individual colleges

from complying the said requirement. To reassure ourselves, we called upon NCTE to place on record its stand on the interpretation of Regulation 12. In response, communication issued under the signature of Research Officer, NCTE dated 9.4.2012, has been placed on record which is addressed to the Regional Director, Western Committee, NCTE. The same reads thus:

National Council for Teacher Education

(A STATUTORY BODY OF THE GOVERNMENT OF INDIA)

By Email/Post

No. F. 64-50/2012/NCTE/legal 9th April 2012

To

The Regional Director, Western Regional Committee, National Council for Teacher Education, Manas Bhawan, Shyamla Hills Bhopal-462002

Subject: Writ Petition No. 405/2012 and others filed by Anmol Shikshan Prasarak Mandal, Martendsheth Sonar D.Ed. College and ors. Vs. State of MS and Ors. Before the Hon'ble High Court of Bombay at Bombay ... reg.

Sir,

I am directed to refer to your office letter dated 28.03.2012 alongwith a letter of counsel dated 09.03.2012 and a copy of interim court order dated 09.03.2012. In this connection, the Regulation 12 of NCTE Regulations 2009 is very much clear that the same will be invoked on the recommendations of the State Government or UT Administration concerned, or in cases of removal of any hardship caused in adhering to the provisions in these Regulations, keeping in view the circumstances peculiar to the said State or UT, it shall be open to the Chairperson, NCTE for reasons to be recorded in writing, to relax any of the provisions of these Regulations, in respect of any class or category of institutions (emphasis supplied), in the concerned State or UT, to such an extent and subject to such conditions, as may be specified in the order allowing relaxation.

2. Duration of Teacher Education courses specified under the Regulations are from the view point of maintaining quality and ensuring that the curriculum is transacted over the specified time period. Any curtailment of the duration would impact the quality of the course which would not be in the interest of teacher preparation. Accordingly relaxation of the nature proposed in individual cases would not all under the ambit of Regulation 12 of the extant Regulations.

3. You may accordingly apprise the legal counsel about the Regulation 12 of the NCTE, Regulations 2009 and to defend the interest of the Council. The matter was earlier fixed for hearing on 03.04.2012.

Yours faithfully, (Dr.S.K. Chauhan) Research Officer

2. From the stand taken by NCTE, it is obvious that no relaxation can be given by

NCTE in exercise of powers under Regulation 12 on case to case basis - institution wise - but it can do so to redress the problem in respect of any "class or category of institutions" in the concerned State or Union Territory. As a result, the petitioner cannot be permitted to start the college or admit the students to the course which inevitably would prejudice the interests of those students.

3. Accordingly, the petition is disposed of on accepting the stand of the NCTE as well as the State Government that recognition and approval granted to the petitioner D.Ed. College will come into effect from the academic year 2012-2013 and the petitioner college would be free to admit students from the said academic year. The learned AGP, on instructions, states that the name of the petitioner institution will be included in the list of colleges allowed to participate in Central Examination Test conducted by the State Government from the academic year 2012-2013. That statement is accepted.

4. As regards other D.Ed. colleges in the State of Maharashtra, which have been permitted to admit students belatedly after commencement of academic year 2011-2012, they would not be in a position to fulfil the requirement of 200 teaching days" attendance. We hope and trust that the State Government, in particular, Respondent No. 2 will forthwith take remedial measures in respect of such colleges keeping in mind the stand taken by the NCTE in the aforesaid communication. For, the students admitted in the said colleges will not be eligible to appear for the examination due to non-attendance for 200 teaching days during academic year 2011-2012. Petition is disposed of on the above terms.