

**(2017) 01 DEL CK 0210**

**In the Delhi High Court**

**Case No : 6627 of 2016 & CM No 27161 of 2016**

**CH. S.S.D. COLLEGE? SRI KOMAL SAHU SMARAK SHIKSHAN EVAM  
PRASHIKSHAN SANSTHAN? CHAUDHARY RAGHUNATH SINGH  
MAHAVIDYALAYA Vs NATIONAL COUNCIL FOR TEACHER EDUCATION &  
ANR**

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**Date of Decision : 03-01-2017**

**Acts Referred:**

[Code of Civil Procedure, 1908](#), [Section 151](#)  
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National Council For Teacher Education Act, 1993, Section 14(1), Section 18, Section 15(1), Section 14(3)(b)

**Citation : (2017) 01 DEL CK 0210**

**Hon'ble Judges : V. Kameswar Rao**

**Bench : SINGLE BENCH**

**Advocate : Sanjay Sharawat, Arunima Dwivedi, Ranjan Sharma, Sonali Malhotra**

**Final Decision : Disposed off**

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## **Judgement**

1. As the aforesaid three writ petitions involve an identical issue, the same are being

decided by this common order.

Facts:-

Writ Petition (Civil) No. 6627/2016

2. The challenge in this writ petition is, to the order dated June 09, 2016 passed by the

respondent no.1 National Council for Teacher's Education (for short "NCTE") and October

12, 2015 passed by the Northern Regional Committee (for short "NRC") with a consequential prayer to direct the respondent No.2 to grant a formal recognition to the

petitioner under Clause 7 (16) of the NCTE (Recognition Norms & Procedure) Regulations,

2014 (for short "Regulations of 2014") for B.Ed course from the academic session 2016-

2017.

3. The facts as pleaded by the petitioner are, on November 26, 2012, NCTE published

notice inviting fresh applications from Institutions desirous to seek recognition for various

teacher training courses for the academic session 2013-2014. It is their case, the Trust

sponsoring the petitioner being desirous to start a B.Ed course from 2013-2014 academic

session and having constructed building and created requisite infrastructure submitted an

application to the NRC for B.Ed course on January 4, 2013 by paying a processing fee of

Rs.50,100/- and deposited FDRs for Rs.5 lakhs and Rs.3 lakhs respectively. It is the case of

the petitioner that the Supreme Court vide order dated September 10, 2013 passed in SLP

(c) Nos. 4247-4248/2009 directed the NCTE to frame new Regulations and that all the

pending applications shall also be decided in accordance with the new Regulations. In view

of the order of the Supreme Court, all pending applications including the application of the

petitioner were kept in abeyance by the NCTE. On December 01, 2014, new Regulations

were notified. Pursuant thereto, on December 24, 2014 NCTE issued guidelines for the

purpose of processing all the pending applications, whereby it was stated that all such

applications shall be processed from the stage, they were kept in abeyance in view of the

order dated September 10, 2013 passed by the Supreme Court. As the application of the

petitioner was pending, the same was required to be processed under the new Regulations

and an affidavit was sought by NCTE in a prescribed format to enable the NCTE and NRC

process the application further. An affidavit was submitted on January 13, 2015.

4. It is the case of the petitioner that anticipating a favourable decision from NRC, leading to issuance of Letter of Intent, the petitioner initiated the process of appointing the

faculty. The petitioner constituted a Selection Committee and invited application from

eligible candidates for the post of one (1) Principal and sixteen (16) Professors. After

scrutinizing all the applications and conducting interviews, sixteen (16) candidates for the

post of Professor and one (1) for the post of Principal were selected by the Selection

Committee. It is the case of the petitioner that as per the NCTE Regulations, after appointing the faculty Members, the Institution is required to obtain the approval of the list

of faculty so appointed from its affiliating University i.e Chaudhary Charan Singh

University. The petitioner would submit that on May 19, 2015 the NRC issued LOI under

Clause 7(13) of the Regulations of 2014. After the issuance of LOI, petitioner had to

appoint faculty, after obtaining the approval of the list of faculty from its affiliating University. The petitioner's stand is, the University did not grant approval to the list of

faculty submitted by the petitioner on April 25, 2015. As several months passed by even

after issuance of LOI, the NRC took note of the same and issued a show-cause notice dated

August 17, 2015 to the petitioner calling upon it to submit representation within 30 days.

On September 14, 2015, the University granted approval to the appointments made by the

petitioner in respect of 14 faculty Members including Principal. On October 12, 2015, the

NRC considered the application of the petitioner and on the ground of non-submission of

response to the LOI and the show cause notice, rejected the application.

5. The petitioner's case is that on October 26, 2015, the affiliating University i.e CCS

University granted approval to the appointment made by the petitioner in respect of

remaining three faculty Members. Immediately thereafter, on October 27, 2015, the

petitioner submitted to the NRC the letter received from the University. Till that date, the

refusal order dated October 12, 2015 passed by the NRC was not received by the petitioner.

The same was received in the first week of November, 2015. Being aggrieved by the order

dated October 12, 2015, passed by the NRC, the petitioner filed the statutory appeal before

the NCTE. On June 09, 2016 the NCTE rejected the appeal filed by the petitioner only on

the ground that the petitioner submitted the approval letters dated September 14, 2015 and

October 26, 2015 with the NRC on October 27, 2015 i.e after NRC had passed the refusal

order on October 12, 2015.

6. The respondents have filed a reply wherein, a stand has been taken that after the

inspection of the petitioner Institution was conducted, the Letter of Intent under Clause

7(13) of the Regulations, 2014 dated May 19, 2015 was issued in favour of the petitioner

Institution and as per the Regulations, it is the duty of the petitioner Institution

to appoint

the faculty and get approval of the list of faculty from its affiliating University and submit

the approved list before the NRC to issue formal recognition under Clause 7(16) of

Regulations, 2014. It is also the stand of the respondents that as per condition (II) of LOI

dated May 19, 2015, it is the duty of the petitioner Institution to appoint the staff of faculty

as per the NCTE norms within two months of issuance of the LOI. But the petitioner, even

after passing of three months from May 19, 2015 failed to submit the approved list of

faculty. The respondents issued show cause notice dated August 17, 2015 wherein it was

stated that the petitioner Institution should give clarification why the petitioner Institution

has failed to submit reply to the Letter of Intent and also failed to submit the other requisite

documents. Further, the petitioner Institution was granted 30 days to submit the reply to the

show cause notice.

7. The respondents have, insofar as receipt of letter dated October 12, 2015 is

concerned, has stated that as soon as the meeting is complete, the decision taken in the

meeting is uploaded on the website of the respondents and the same, once uploaded, it is

considered as deemed/informed to the concerned Institution in relation to whom decision

was taken in the meeting. The respondents have also justified the dismissal of the appeal of

the petitioner Institution because of default on the part of the petitioner Institution in failing

to submit reply to the Letter of Intent on time and submitting the approval letters dated

September 14, 2015 and October 26, 2015 to NRC only on October 27, 2015 after passing

of the refusal order on October 12, 2015.

8. Insofar as the plea of discrimination is concerned, the respondents have denied the

same and had submitted that the reference made to orders dated July 4, 2016 and June 9,

2016 are not applicable to the petitioner Institution because in both the cases they had

applied with the application for extension of time whereas, the petitioner had never applied

for extension of time. The respondents have also stated that the judgment relied upon by

the petitioner, as a precedent, is not applicable, inasmuch as, in the said case deficiency was

removed before processing of the case, whereas, in the case of the petitioner Institution, it

has failed to remove the deficiency before the processing for consideration of grant of

formal recognition and the same can be proved from the LOI issued on May 19, 2015 and it

was the duty of the petitioner Institution to submit the approved list of faculty to the NRC to

process the application for grant of formal recognition under Clause 7 (16) of the Regulations, 2014 and the case of the petitioner was considered on September 28, 2015 to

September 30, 2015 for grant of formal recognition but its case was denied due to non-

compliance of the condition given under the Letter of Intent, a communication thereof was

issued on October 12, 2015.

Writ Petition (Civil) No. 7563/2016

9. The challenge in this writ petition is, to the order dated July 04, 2016 passed by the

respondent no.1 National Council for Teacher's Education (for short "NCTE") and

December 18, 2015 passed by the Northern Regional Committee (for short "NRC") with a

consequential prayer to direct the respondent No.2 to grant a formal recognition to the

petitioner under Clause 7 (16) of the NCTE (Recognition Norms & Procedure) Regulations,

2014 for D.EL.Ed course from the academic session 2017-2018.

10. The facts as pleaded by the petitioner are, on November 26, 2012, NCTE published

notice inviting fresh applications from Institutions desirous to seek recognition for various

teacher training courses for the academic session 2013-2014. Accordingly, the Society

sponsoring the petitioner Institution desirous to start a D.EL.Ed course from 2013-2014

academic session and having constructed building and created requisite infrastructure

submitted an application on December 31, 2012 by paying a processing fee of Rs.50,100/-

and deposited FDRs for Rs.5 lakhs and Rs.3 lakhs respectively. On scrutinizing the application, it was noted that certain deficiencies exist in the application and was informed

of the same by the NRC. It is the case of the petitioner that the petitioner did the needful

within the stipulated time. It is also their case that the Supreme Court vide order dated

September 10, 2013 passed in SLP (C) Nos. 4247-4248/2009 inter-alia directed the NCTE

to frame new Regulations and that all the pending applications shall also be decided in

accordance with the new Regulations. In view of the order of the Supreme Court, all

pending applications including the application of the petitioner were kept in abeyance by

the NCTE. The NCTE notified the new Regulations on December 01, 2014. It is

the case

of the petitioner that in anticipation of a favourable decision from NRC, leading to issuance

of Letter of Intent, the petitioner initiated the process of appointing the faculty. The first

step in this direction was to request the affiliating University to nominate the Experts, who

can participate as Members of the Selection Committee. After the experts were nominated,

the Selection Committee was constituted and applications were invited for the post of one

(1) Principal and sixteen (16) Professors. After following the procedure, candidates for the

posts of Professor/Principal were selected by the Selection Committee. The petitioner

accordingly prepared the faculty list and had submitted it with the Board of Examinations,

Allahabad for obtaining its approval. Since, the Board of Examinations, Allahabad did not

grant approval to the list of faculty submitted by the petitioner and several months had

passed even after issuance of the LOI, the NRC took note of the same and issued a show-

cause notice dated October 9, 2015 to the petitioner calling upon it to submit representation

within 30 days thereafter. In response to the said notice issued by the NRC, the petitioner

made compliance of two objections raised by the NRC viz (a) submission of the NOC and

(b) proof of composite Institution vide covering letter dated November 07, 2015.

11. It is the case of the petitioner that it forgot to seek more time to submit the approved

faculty list. After making inquiry from the office of the NRC, the petitioner got another

letter typed on the same day and requested for time to submit the approved

faculty list. The

said letter was also duly received on November 07, 2015. The NRC considered the application of the petitioner in its meeting held from 9th to 12th December, 2015 and on the

ground of non submission of the documents, it rejected the application vide refusal order

dated December 18, 2015. On February 10, 2016, the Board of Examinations, Allahabad

granted approval to the appointments made by the petitioner. Thereafter, the petitioner

visited the office of the NRC and requested it to grant recognition as the affiliating Authority has granted approval to the staff list on February 10, 2016 and therefore the delay

in submitting the same was not attributable to it.

12. Being aggrieved by the order dated December 18, 2015, the petitioner filed an appeal

before the NCTE on April 19, 2016. Vide order dated July 04, 2016, the NCTE rejected the

appeal of the petitioner on the ground of non submission of the reply to the LOI dated July

15, 2015 and even after issuance of the show cause notice dated October 09, 2015.

13. In the counter-affidavit, the respondents have stated that the petitioner had made an

application under Section 14(1)/15(1) of the NCTE Act for seeking

recognition/permission/additional intake in the name of proposed/existing institution for

D.El.Ed. course in the office of the respondent No.2 on January 7, 2013. Deficiencies were

observed in terms of the provisions of the NCTE Regulations, 2009. The decision taken by

the respondent No.1 regarding the essential documents required to be submitted by the

petitioner as per the provisions of NCTE Regulations, 2009 were communicated to the

petitioner by the respondent No.2 vide letter dated August 2, 2013 with the direction to

submit the reply within 60 days from the date of deficiency letter. The petitioner failed to

submit the reply to the office of the respondent No.2. The case of the petitioner was

considered by the respondent No.2 in its 220th Meeting and as per the decision of the

respondent No.2 as show cause notice dated October 29, 2013 was issued to the petitioner

inter-alia stating that more than one application submitted by the petitioner cannot be

considered at the same time. In terms of order dated September 10, 2013 of the Supreme

Court, all pending applications shall be processed as per New Regulations of NCTE and the

Regulations were notified on December 01, 2014. In terms of the new Regulations of 2014,

the respondent No.2 on scrutiny of the documents submitted by the petitioner, input

received from the Visiting Team Report conducted by the visiting team on May 21, 2015

and videography in its 239th meeting held on 30th June to 1st July, 2015 decided to issue

Letter of Intent dated July 15, 2015 prior to grant of recognition for D.El.Ed course under

clause 7(13) of the NCTE Regulations, 2014 to the petitioner. In terms of the Letter of

Intent, the institution was required to make appointments of qualified faculty/staff as per the

provisions of the NCTE Regulations, 2014. In terms of the LOI, direction was issued to

submit the compliance within two months from the date of issue of the same. In terms of

the Regulations of 2014, the process of appointment of qualified faculty members as per

policy of State Government or University Grant Commission or University was to be

initiated by the institution as per norms laid down by the respondent No.1 within two

months. The petitioner was required to submit the list of faculty, as approved by the

affiliating body, to the Regional Committee, which the petitioner failed to do so. On failure

to comply with the said requirement within two months, a show cause notice was issued on

October 9, 2015 on ground of non-submission of compliance report. The petitioner was

required to submit reply to the show cause notice within 30 days from the date of issue of

the same. The Institution had not submitted the reply of LOI under Clause 7(13) issued on

July 15, 2015 within a stipulated period of two months and also in addition the Institution

was required to submit the documents such as NOC from affiliating body as required under

Clause 5(3) of the NCTE Regulations, 2014; proof/evidence to the effect that it is a

composite institution as per the provisions of the NCTE Regulations, 2014 and in case the

institution was not composite at that time, then it was required to ensure that it became a

composite institution before the academic year 2016-2017 and an affidavit to that effect was

required to be submitted by the institution. The respondent No.2 on December 18, 2015 by

taking into account the reply dated November 7, 2015, passed a detailed and speaking order

wherein it was held that the matter of the petitioner was considered by the NRC and the

Committee decided that the petitioner had not submitted the reply to the Letter of Intent

dated July 15, 2015 within the given period of two months and in pursuant to the said non-

compliance a show cause notice was issued, which required a reply to the same in the next

30 days. But the petitioner had not submitted any of the documents in pursuance of the

Letter of Intent dated July 15, 2015 and in pursuance of the show cause notice dated

October 9, 2015 and therefore, in exercise of the powers vested under Section 14(3)(b) of

the NCTE Act, the respondent No.2 refused the recognition sought by the petitioner.

Against the said order, the petitioner preferred an appeal under Section 18 of the NCTE Act.

The Appellate Authority after consideration of all the contentions of the petitioner, rejected

the appeal of the appellant on the ground of non submission of reply to the LOI dated July

15, 2015 and after issuance of show cause notice dated October 9, 2015 and confirmed the

order dated December 18, 2015.

14. It is the case of the respondents that the petitioner is guilty of forging, manipulating

communication dated November 7, 2015 addressed to the respondent No.2 wherein the

petitioner has requested two months time be given for submitting recommendation of

affiliating body. According to the respondents, no such communication exists in their

record. It is the stand of the respondents that the petitioner is trying to shift the lapses on

Board of Examinations, Allahabad. It is also their contention that the Board of Examinations, Allahabad is a necessary party.

15. No rejoinder to the counter-affidavit has been filed by the petitioner.

Writ Petition (Civil) No. 7981/2016

16. The challenge in this writ petition is to the order dated August 08, 2016 passed by the

respondent No.1 and to the order dated October 13, 2015 passed by the respondent No.2,

wherein the respondents have conveyed their refusal to the recognition sought by the

petitioner-Institution for D.El.Ed course and the appeal thereof has been dismissed by the

Appellate Authority. A consequential relief has also been sought for directing the respondent No.2 to grant formal recognition to the petitioner under the NCTE Regulations,

2014 for D.El.Ed course for the academic session 2017-2018.

17. The facts in the writ petition are more or less similar, inasmuch as the National

Council for Teacher Education, on November 26, 2012 issued public notice inviting fresh

applications from Institutions desirous of seeking recognition for various teacher training

courses for academic session 2013-14. It is the case of the petitioner that the petitioner

constructed building and created infrastructure and accordingly submitted an application

with the NRC for D.El.Ed course on December 31, 2012. The NRC scrutinized the application of the petitioner and pointed out certain deficiencies requiring the petitioner to

cure the same. The petitioner's stand is that it cured the deficiencies.

18. The petitioner, in its writ petition has given reference to the SLP decided by the

Supreme Court. It also gave reference to the Regulations having been framed and notified

by the NCTE on December 01, 2014. It is stated that NRC conducted inspection of the

petitioner Institution and pursuant thereto, LOI was issued on March 20, 2015. In terms of

the LOI, the petitioner had to appoint the faculty and after obtaining approval of

the list of

faculty from its affiliating University, it had to submit the said list with NRC to enable the

NRC to issue a formal recognition under Clause 7(16) of the NCTE Regulations, 2014.

The petitioner accordingly prepared the faculty list and submitted with the Board of

Examinations, Allahabad for obtaining its approval.

19. It is the case of the petitioner that petitioner has initiated appointment of faculty

Members well in advance in anticipation of grant of LOI by the NRC. After appointment of

the faculty Members, the list of faculty so appointed had already been sent to the affiliating

body for its approval. It is the case of the petitioner that it had visited the Board of

Examinations, Allahabad several times requesting it to grant its approval to the list of

faculty Members appointed by the Institution. Repeated requests were made in this case

because the NRC had already issued LOI and therefore in compliance of the same, the

petitioner was required to submit the approved list of faculty with NRC. Since the Board of

Examinations, Allahabad did not grant approval to the list of faculty list submitted by the

petitioner and several months had passed by even after issuance of the LOI, the NRC took

note of the same and issued a show cause notice dated August 14, 2015 to the petitioner

calling upon it to submit representation within 30 days. The said show cause notice was

never received by the petitioner, and as such the petitioner could not submit reply to the

same to the NRC. It is averred that NRC considered the application of the

petitioner in its

243rd meeting held from 28th to 30th September, 2015 and on the ground of non submission

of the documents and reply to show cause notice, it rejected the application vide refusal

order dated October 13, 2015. It is stated that on November 6, 2015, the Board of

Examinations, Allahabad granted approval to the appointments made by the petitioner.

20. Being aggrieved by the order dated October 13, 2015 passed by the NRC, the petitioner filed a statutory appeal before the NCTE on December 11, 2015. The said

appeal was rejected by the NCTE vide order dated August 8, 2016 on the ground of non

submission of reply to the LOI dated March 20, 2015 and even after issuance of show cause

notice dated August 14, 2015. It is the case of the petitioner that the said show cause notice

was never received by the petitioner.

21. A brief affidavit has been filed by the respondents wherein, they have referred to the

order dated October 13, 2015 issued by respondent No.2 refusing the recognition to the

petitioner Institution as the petitioner had not submitted the documents as required in the

LOI issued under Clause 7(13) of the Regulations of 2014 and show cause notice issued in

that regard. They have also referred to the appeal filed by the petitioner and the rejection of

the same vide order dated August 8, 2016.

Submissions:-

Writ Petition (Civil) No. 6627/2016

22. Mr. Sanjay Sharawat, learned counsel for the petitioner would submit that the LOI

was issued to the petitioner on May 19, 2015. He states that in the LOI, the respondent

No.2 had stated that a compliance report/reply along with all necessary documents

accompanied with an affidavit in support of the points mentioned therein was required to be

submitted within two months of issue of the LOI, failing which appropriate action will be

taken as deem fit. According to him, a show cause notice was issued on August 17, 2015.

23. After receipt of the show cause notice, the affiliating University i.e Chaudhary Charan Singh University, Meerut has approved the faculty vide letter dated September 14,

2015. Regrettably, the NRC has, on the ground that the petitioner has not submitted

compliance/documents as required in the Letter of Intent and also show cause notice issued

to the petitioner-Institution, refused to grant recognition. He would also state that the

approval of three other Teachers was also granted by the CCS University, Meerut. He also

states, that vide letter dated October 27, 2015, duly received in the NRC on the same date,

the petitioner-Institution has written to the NRC wherein they have annexed the affidavit,

which is in the nature of an undertaking that the Institution shall comply the composite

Institution as per the NCTE norms before the commencement of the session of 2016-17 and

the fact that CCS University, Meerut has no objection for affiliation of B.Ed course since

the University had appointed experts for faculty selection and has also issued faculty

approval letter. He states, even otherwise, assuming these documents were submitted after

the refusal order dated October 12, 2015 but the same were in place and were filed along

with appeal filed by the petitioner-Institution on December 8, 2015. According to him, the

Appellate Authority has not taken into consideration the said documents and have summarily rejected the appeal on the ground that NRC was justified in refusing the recognition.

24. On the other hand, Ms. Arunima Dwivedi, learned counsel appearing for the respondents would reiterate the stand taken by the respondents in their counter-affidavit.

According to her, the Institution has miserably failed to comply with the requirements of the

LOI by submitting the documents within the prescribed time limit. According to her, the

Institution has failed to submit reply to the show cause notice as well. On failure on the part

of the petitioner to submit the documents and reply to the show cause notice, the refusal

order was rightly passed. She also justifies the rejection of the appeal by the Appellate

Authority.

Writ Petition (Civil) No. 7563/2016

25. Similar, are the submissions of Mr. Sharawat in this writ petition. According to him,

LOI was issued on July 15, 2015. He states after the receipt of the same, steps were taken

to convene a Selection Committee for appointment of the faculty. He also states, after the

appointment of faculty Members, the Institution was to obtain approval of the affiliating

body i.e Board of Examinations, Allahabad. The petitioner had prepared the faculty list and

submitted to the Board of Examinations, Allahabad for its approval. Unfortunately, the

Board of Examinations, Allahabad did not grant the approval for several months. In the

meantime, the NRC had issued show cause notice dated October 09, 2015 calling upon it to

submit representation within 30 days. He states, that in response to the show cause notice

issued by NRC, the petitioner made compliance of two objections raised by NRC vis (a)

submission of NOC; and (b) proof of composite Institution vide covering letter dated

November 7, 2015. Unfortunately, the petitioner in the said letter had forgot to seek some

more time to submit the approved faculty list and accordingly got typed another letter dated

November 7, 2015, which was duly received in the NRC. He states, that the refusal order

dated December 18, 2015 by the NRC is totally illegal in view of the aforesaid facts. He

states, even otherwise, on February 10, 2016, the Board of Examinations, Allahabad had

granted approval to the appointments made by the petitioner and immediately thereafter, the

petitioner's representative visited the office of the NRC and requested it to grant recognition

as the affiliating body has granted approval to the staff list on February 10, 2016 and the

delay is not attributable to the petitioner. He also states that on April 19, 2016, appeal was

filed before the NCTE, which rejected the appeal without considering the fact that the

petitioner-Institution has complied with all the requirements of submission of NOC; proof

of composite Institution; the approval of the faculty by the examining body and there was

no occasion for the Appellate Authority to reject the appeal summarily only on the ground

that before the refusal order, the petitioner- Institution has failed to comply with the

conditions of the LOI and failed to reply to the show cause notice.

26. On the other hand, Ms. Sonali Malhotra, learned counsel for the respondents would

vehemently argue that the petitioner has not come to the Court with clean hands and has

fabricated the documents in support of its case. It is her submission that the letter dated

November 7, 2015, as filed by the petitioner at page 31 is not in the records of the

respondents. No such letter was received by the respondents. The said letter was created as

an afterthought to project as if the petitioner had sought grant of at least two months time to

submit the approval letter from the examining body. She states, that it is a case where the

petitioner has never sought extension of time for submitting the letter of approval from the

examining body. She would also state, that it is a case where the petitioner-Institution has

failed to submit the documents in terms of the LOI and also failed to submit reply to the

show cause notice. She would justify the refusal order as well as appellate order. She seeks

the dismissal of the writ petition.

Writ Petition (Civil) No. 7981/2016

27. Mr. Sanjay Sharawat, made similar submissions in this case as well. Additionally, he

states that the show cause notice dated August 14, 2015 was never received by the

petitioner and could not be replied to and the refusal of the recognition conveyed vide order

dated October 13, 2015 is illegal, without complying the principles of natural justice. That

apart, he would state that after Board of Examinations, Allahabad granted the approval to

the appointments made on November 6, 2015 filed an appeal on December 11, 2015,

wherein the petitioner has taken the above stand, and during the appeal, the letter of the post

office was produced wherein, it was stated, during the period no letter was received by the

College. He states, the appeal was mechanically rejected overlooking the fact that the

petitioner has got the approval from the affiliating body with regard to faculty.

Common submissions of Mr. Sanjay Sharawat in all the Writ Petitions

28. Mr. Sharawat would rely upon the judgment in the case of R.D. College of Education v. National Council for Teacher Education and ors W.P.(C) No. 23771/2016

decided on July 4, 2016, wherein on similar facts, the High Court of Judicature at Allahabad has held that nothing prevented the NCTE while exercising appellate powers

from considering the subsequent events i.e the events taken place in the intervening period

between the date of decision of Regional Committee and the Appellate Authority. If

deficiency has been duly removed to the satisfaction of the NCTE, it should be considered

by the Appellate Authority and it was open to the NCTE to remand back the matter to the

Regional Committee for consideration.

29. Similarly, he would rely upon the judgment of this Court in the case of Guru Nanak

Khalsa College vs. NCTE and Anr. W.P.(C) No. 4218/2010 decided on July 2, 2010, in

support of his similar submission that the Appellate Authority having noted that the

deficiency has been rectified, should have remanded the matter back to the concerned NRC

for a fresh decision. He would state that the order dated July 4, 2016 of the High Court of

Judicature at Allahabad has been accepted by the NCTE inasmuch as the Appellate

Authority of the NCTE has considered the appeal in terms of the directions of the Court and

noting that the Institution has finally obtained approval of the affiliating body of the

teaching staff selected, had remanded the matter back to the NRC for fresh consideration.

Mr.Sharawat would rely on an order dated July 4, 2016, passed by the Appellate Authority

in the case of Janhit Mahavidyalay Gomti Nagar Jaunpur, to contend in the said case

Appellate Authority noting (1) the request of the Institution for grant of more time for

complying the requirement of teaching staff; (2) process of approval under consideration of

the University; (3) University has since approved the teaching staff has accepted the appeal

and remanded the matter to Regional Committee for fresh consideration.

30. He would also rely upon the judgment of the Supreme Court reported as (2013) 2

SCC 617 Maa Vaishno Devi Mahila Mahavidyalaya vs. State of Uttar Pradesh and others

to contend, the schedule of applying for recognition upto 3rd March of a particular year

would be relevant for that academic year and since the petitioners were pursuing their case

for grant of recognition for the year 2016-2017 and could not apply for the recognition of

the respective courses for the year 2017-18, the plea of non submission of the application

cannot be taken against the petitioners and the applications which are the subject matter of

the writ petitions should be considered as the applications for the year 2017-18 and

recognition be granted for those academic years.

31. During the course of the submission, Mr. Sharawat would contend that in one of the

writ petition being W.P.(C) No. 6627/2016 even though the petitioner has sought grant of

formal recognition for the year 2016-2017 (in other two writ petitions for the year 2017-18),

but he would press the consideration of the petitioner's application for recognition for the

academic session 2017-18, as prayed for in the other two writ petitions being W.P. (C) Nos.

7563/2016 and 7981/2016. He would rely upon the order of the Supreme Court in the case

of Infant Jesus College of Education vs. National Council for Teacher Education and

Anr., Writ Petition (Civil) No. 398/2016 decided on July 19, 201, to contend, the applications of the petitioners be considered for the academic year 2017-18.

32. On the other hand, the learned counsel for the respondents in all the writ petitions,

would vehemently oppose the said submission made by Mr. Sharawat on the ground that

none of the Institutions can get recognition for the year 2016-17 as the academic year has

commenced. Even for 2017-18, they would state that in the absence of any application,

more particularly when the fixed deposits have been returned back to the Institutions, which

in effect means that no applications are pending, the case of the petitioners cannot be

considered for recognition for the year 2017-18. Ms. Sonali Malhotra has relied upon the

judgment in the case of Sunrise Education Society Chanakya Shiksha Mahavidyalaya

Keolari Distt Seoni vs. National Council of Teachers Educations Writ Petition

No.10504/2016 decided on October 5, 2016 by the Jabalpur High Court and also on the

judgment of this Court in the case of Divine Mission Society (Regd.) v. National Council

for Teacher Education & Ors W.P.(C) No. 2889/2013 and connected writ petitions decided on November 24, 2014 of this Court.

Findings:-

Writ Petition (Civil) No. 6627/2016

33. Having heard the learned counsel for the parties, it is not disputed by Mr. Sharawat

that pursuant to receipt of the LOI, the petitioner-Institution had not submitted the

documents/reply to the NRC, even though the same was required to be submitted within

two months/30 days. The stipulation in the LOI is very clear. The same reads as under:-

"The compliance report/reply along with all necessary documents accompanied with an affidavit in support of the reply on the above points should be submitted within two months of issue of this letter, failing which appropriate action will be taken as deem fit and proper".

34. The aforesaid requirement was a pre-requisite before a formal recognition could be

considered under Clause 7(16) of the Regulations of 2014. Even, no reply to the show

cause notice dated August 17, 2015 was given by the petitioner, which resulted in the

passing of refusal order dated October 12, 2015. It may be a different issue that vide letter

dated September 14, 2015, the petitioner may have received the approval with respect to the

14 faculty. It appears that the same was not communicated to the NRC before the issuance

of refusal order dated October 12, 2015. Even the approval of the faculty vide

letter dated

September 14, 2015 by the affiliating University was incomplete as three more faculty were

approved by the affiliating University on October 26, 2015 i.e after the refusal order. The

petitioner Institution for the first time has submitted the reply with regard to the points

raised in the show cause notice only on October 27, 2015, wherein they have stated as

under:-

"Reply

1. As per the requirement of composite course as per Regulations, 2014 we have approached to affiliating University CCS University for B.A degree course. Proposal is under process.

2. The institution shall comply the Composite Institution as per NCTE norms before the commencement of the Session 2016-17. An affidavit regarding compliance is attached as per annexure-I.

3. University has no objection for affiliation of B.Ed. course since University has appointed expert for the faculty selection and further approval. CCA University, Meerut after selection by the committee has issued faculty approval letter attached as per annexure-II."

35. I may state here, it is not the case of the petitioner that the show cause notice dated

August 17, 2015 was not received by it before the refusal order dated October 12, 2015.

The refusal order cannot be faulted. No doubt, when the appeal was filed on December 8,

2015, the approval from the affiliating University was in place, so also reply dated October

27, 2015. The Appellate Authority while rejecting the appeal on June 9, 2016 has stated as

under:-

"AND WHEREAS the Committee noted that the NRC issued a Letter of Intent (LOI) to the appellant institution on 19.5.2015. As the appellant did not respond to the LOI within two months of its issue, NRC issued a show cause notice on 17.8.2015. As the appellant did not respond to the show cause notice also

within 30 days of its issue, NRC in their meeting held on 28-30

September, 2015 decided to refuse recognition and issued the order of refusal on 12.10.2015. The Committee noted that while the appellant was corresponding with the university for approval of the teaching staff, he did not send any communication in response to the LOI or show cause notice, even by way of endorsement of his communication to the university. It is only after they obtained university's approval for the teaching staff through the university's letters dt. 14.9.2015 and 28.10.2015 that they wrote to the NRC on 27.10.2015. By that time NRC had issued the refusal order."

36. No doubt, the Appellate Authority has only considered the legality of the refusal

order on the basis of the facts as were existing before the Regional Committee. But this

Court in Gurunanak Khalsa College (supra) has held that appeal is a continuation of the

original proceeding and the appellate Court is always entitled to while deciding the appeal

take into account subsequent events. In other words, if the deficiencies whereof, the

application for recognition was rejected/declined, have been removed/remedied the order of

the lower authority, the Regional Committee can be set aside. On similar lines is the

judgment of Allahabad High Court in RD College of Education (supra) which judgment I

have been told has been implemented and the appellate authority on reconsideration has

remanded the matter back to the Regional Committee vide its order dated September 26,

2016.

37. There is one aspect which need consideration, is whether the plea of Mr.Sharawat

that the application of the petitioner as on date cannot be considered for the academic

session 2016-17 and need to be considered for the academic session 2017-18 is justified.

According to him, the last date of filing the application for 2017-18 was May 30, 2016 and

as the petitioner's appeal was still pending consideration on the said date having been

rejected only on June 9, 2016, there was no occasion for the petitioner to file an application

for the year 2017-18 is appealing. Mr. Sharawat's submission that the Appellate Authority

in the case of Janhit Mahavidyalay Gomti Nagar, Jaunpur wherein this Court has allowed

the appeal and remanded the matter to NRC on the grounds that (1) the institute had sought

time to comply with the requirements of teaching staff (2) the process of approval was

under consideration of the University and (3) the University has since approved the faculty

has set aside the order of Regional Committee refusing the recognition and remanded the

matter to Regional Committee for reconsideration is also appealing. At the same time, the

submission of the learned counsel for the respondents based on the judgment of the Jabalpur

High Court in Sunrise Education Society Chanakya Shiksha Mahavidyalaya Keolari Distt

Seoni (supra) cannot be overlooked. In the said judgment, the High Court has held as

under:-

"We are also of the considered opinion that the prayer of the learned counsel for the petitioner that the application filed by the petitioner in the year 2015 should be treated as the application for processing the case of the year 2017-18 cannot be accepted. Regulations 5 and 7 of the Regulation of 2014 necessarily requires the person applying for recognition to state the factual aspects and to comply with the mandatory infrastructural requirements prescribed under law as on the date of filing the application and these facts have to be specifically and clearly mentioned in the application and therefore in case the petitioner wishes to apply for recognition for

the year 2017-18, he is required to make a fresh application giving the said

details in the application for recognition which should be filed before the cutoff date i.e. 30th of May, 2016 which date in the instant case has already lapsed. In the circumstances, the prayer made by the learned counsel for the petitioner that the application should be treated as an application seeking recognition for the 2017-18 session is also rejected." 38. At the same time, Mr.Sharawat has relied upon the orders passed by the Supreme

Court in Infant Jesus College of Education (supra) and connected petitions wherein the

Supreme Court has by noting that NCTE has granted recognition for the academic year

2017-18 rejected the prayer of the petitioner for recognition for the academic year 2016-17.

In other words, despite request for 2016-17, the recognition was granted by NCTE for the

academic year 2017-18.

39. Further, the Appellate Authority while implementing the order of Allahabad High

Court in RD College of Education (supra) remanded the matter to NRC for fresh consideration vide order dated September 26, 2016. It is not known what orders have been

passed.

40. In the facts, this Court is of the view the fact, that when the Appellate Authority had

decided the appeal, the decision of the affiliating University approving the faculty was in

place, and the Appellate Authority should have taken into consideration the said aspect

which deciding the appeal. Having not done that, one of the impugned order dated June 9,

2016 of the Appellate Authority need to be set aside. It is ordered accordingly. The matter

is remanded back to the Appellate Authority to consider the case of the petitioner for

recognition based on the petitioner's letter dated October 27, 2015, whereby the petitioner

has enclosed the letters of the affiliating University, approving the faculty and

also the plea

of the petitioner that its case be considered for 2017-18 and the submissions made by the

counsel for the parties during the hearing in these petitions, as noted above and pass

appropriate orders in accordance with law. The writ petition is disposed of.

W.P.(C) No. 7563/2016

41. Similarly, in WP(C) No.7563/2016, the LOI was issued on July 15, 2015. The LOI

stipulated, the Institution to submit the approved list of faculty by the University/affiliating

body. It was made clear that the compliance of the requirements stated in the LOI need to

be made before a formal recognition under Clause 7 (16) of the Regulations of 2014 can be

granted. The petitioner failed to submit the approval of the affiliating University/examining

body. The show cause notice dated October 9, 2015 was issued to the petitioner calling

upon it to submit representation within 30 days. Even assuming that two objections, with

regard to the submission of NOC; proof of composite Institution were removed by the

petitioner Institution, in the absence of any approval from the examining body, the formal

recognition could not have been granted. In the meantime, the NRC had considered the

application of the petitioner between 9th to 12th December, 2015 and rejected the

application, vide refusal order dated December 18, 2015. The same cannot be faulted. The

Board of Examinations, Allahabad had granted its approval after more than one and a half

months i.e on February 10, 2016. The petitioners submitted its appeal on April 19, 2016

along with approval order dated February 10, 2016. The appellate authority rejected the

same with the following observations on July 4, 2016:-

"AND WHEREAS Appeal Committee taking note that the appellant institution has not submitted reply/compliance of the LOI dated 15.7.2015 even after the issue of a S.C.N. dated 9.10.2015 by submitting faculty list approved by the affiliating body, decided to confirm the refusal order dated 18.12.2015 issued by NRC." 42. In this case also, when the appellate authority had considered the appeal, the order of

approval dated February 10, 2016 was in place. But the same was not considered by the

appellate authority while rejecting the appeal of the petitioner. For parity of reasons like in

WP(C) No.6627/2016, I set aside the order of the Appellate Authority dated July 4, 2016

and remand the matter to the appellate authority to consider the case of the petitioner for

recognition based on the approval dated February 10, 2016 of the Board of Examinations,

Allahabad and also the plea of the petitioner that its case be considered for 2017-18 and the

submissions made by the counsel for the parties during the hearing in these petitions as

noted above and pass appropriate orders in accordance with law. The writ petition is

disposed of.

WP(C) No.7981/2016

43. In this writ petition, it is noted from the above the LOI was issued to the petitioner on

March 20, 2015. Pursuant to the show cause note, the Regional Committee refused the

recognition vide order dated October 13, 2015 on the grounds of non submission of the

documents and reply to show cause notice. The plea of the petitioner that it has not

received the show cause notice is proved by the letter of the post office dated

February 18,

2016, which has an endorsement "No letter has been received during this period in the

name of Chaudhary Raghunath Singh Mahavidyalaya". If that be so, the ground, the NRC

file does not indicate that the show cause notice dated August 14, 2015 was returned

undelivered, is unsustainable. That apart, on November 6, 2015, the Board of Examinations,

Allahabad granted approval to the appointments made by the petitioner. The appeal filed by

the petitioner on December 11, 2015 was rejected on August 8, 2016 by the Appellate

Authority by holding that Regional Committee was justified in refusing recognition. For

parity of reasons like in WP(C) No.6627/2016, the order dated August 8, 2016 of the

Appellate Authority need to be set aside. Ordered accordingly. The matter is remanded

back to the Appellate Authority to consider the appeal of the petitioner keeping in view the

fact, show cause notice dated August 14, 2015 was not received by the petitioner and that

on November 6, 2015, the Board of Examinations, Allahabad granted approval to the

appointments made by the petitioner and also the plea of the petitioner that its case be

considered for 2017-18 and also the submissions made by the counsel for the parties as

noted above and pass appropriate orders in accordance with law. The writ petition is

disposed of.

44. Having disposed of all the three writ petitions, their shall be no order of costs.

CM. No. 27161/2016 in W.P.(C) 6627/2016 (under Section 151 CPC)

Dismissed as infructuous.