

(2010) 11 AHC CK 0157
In the Allahabad High Court
Case No : Writ C No. 66396 of 2010

Chitra Degree College and Another

APPELLANT

Vs

N.C.T.E. and Another

RESPONDENT

Date of Decision : 11-11-2010

Acts Referred:

National Council for Teacher Education Act, 1993 — Section 18
National Council for Teachers Education (Recognition, Norms and Procedure)
Regulations, 2009 — Regulation 7

Citation : (2010) 11 AHC CK 0157

Hon'ble Judges : Shishir Kumar, J

Bench : Single Bench

Final Decision : Allowed

Judgement

Shishir Kumar, J.—Heard learned Counsel for the parties.

2. Petitioners are aggrieved by the order impugned dated 27.09.2010, passed by Respondent No. 1 and order dated 12.04.2010, passed by Respondent No. 2 (Annexure-9 & 5 to the writ petition), by which appeal as well as the claim of the Petitioners for recognition of the institution has been rejected. It appears that Petitioners are running an educational institution and wanted to start D. El. Ed. course. As provided under the National Council For Teacher Education Act, 1993 and Regulations 2009, there is a statutory obligation / requirement upon the educational institution to get recognition from NCTE, therefore, according to Section 7 of the NCTE Regulation, 2009, the management of the institution moved an application on 31.10.2009 for grant of recognition of the course. According to Regulation 7(1) of the Regulations there is a form which prescribed that if according to Respondents there is any deficiency in the application submitted by the Petitioners' institution, within 60 days from the date of receipt of communication of deficiency, the institution is required to remove the deficiencies communicated to the institution concerned. Petitioners have purchased the land in 2006 and document to that effect has been submitted, but

in spite of the aforesaid fact the claim of the Petitioners has been rejected.

3. As provided u/s 18 of the NCTE Act, Petitioners' institution has filed an appeal before the appellate authority. With the appeal, Petitioners have submitted the documents showing therein the registered sale deed as well as other documents which were indicated by the Respondents regarding certain deficiencies, but in spite of the aforesaid fact instead of allowing the appeal, the appellate authority has rejected the appeal filed by the Petitioners observing therein that it did not submit certified copies of registered land documents and also CLU issued u/s 143 of relevant U.P. Government Act. Further, a finding has been recorded that according to Regulations it was mandatory to submit it with the hard copy of the application. While dismissing the appeal, the appellate authority has noted as under :

AND WHEREAS the Council noted that the Appellant vide their letter dt. 18.02.10 in-compliance with the deficiency letter dt. 22.12.09 of NRC, submitted self attested copies of registered land documents, Khatauni document; a letter dt. 12.06.07 of SDM office mentioning that 5276.872 sq.mt. of land at Arazi No. 453, 454, 456 & 461 was in possession of the institution and college building had been constructed on this land and also building plan approved by Kanpur Development Authority. it however did not submit certified copies of registered land documents, and also CLU issued u/s 143 of relevant U.P. Govt. Act, he rather applied for CLU on 06.03.10. As per regulations 2009, it was mandatory for the Appellant to submit along with the hard copy of the application certified copies of registered land documents and CLU. In view of the above, the Council came to the conclusion that there was no justification in accepting the appeal and that it should be rejected.

AND WHEREAS after perusal of documents, memorandum of appeal, affidavit and after considering oral arguments advanced during hearing, the Council reached the conclusion that there was no ground to accept the appeal and hence it should be rejected. Accordingly, the appeal was rejected and NRC's order dated 12.04.10 was confirmed.

4. Sri Neeraj Tiwari, learned Counsel for the Petitioners submits that the orders passed by the Respondents is liable to be quashed only on the ground that if the opportunity given to the Petitioners has been availed and defects have already been removed then the appellate authority was obliged to take into consideration the fact that now the defects have been removed, therefore, the rejection of the claim of the Petitioners is bad in law. Admittedly, the registered sale deed was placed before the authority concerned when the matter was pending, therefore, that fact should have been considered and order to that effect should have been passed.

5. Petitioners have placed reliance upon judgment of this Court passed in Writ Petition No. 53909 of 2010 and has submitted that this Court, in such circumstances, has taken a view that admittedly the Petitioners had responded

by supplying the requisite documents well within time prescribed under sub-regulation 1 of Regulation 7.

6. On the other hand, Sri R.A. Akhtar, learned Counsel for the Respondents submits that as the forms submitted by the Petitioners was incomplete in terms of sub-regulation (1-A) of Regulation 7, the authority has rightly rejected the request of the Petitioners for recognition and appellate authority has also rightly dismissed their claim.

7. I have considered the issue and submissions of the parties. In the opinion of this Court, Respondent authorities have proceeded on a wrong assumption regarding application of Regulation 7. In fact, it is admitted that authorities before proceeding finally passed an order giving a liberty to the Petitioners for removing the deficiency in terms of sub-regulation 1 of Regulation 7 of the Regulations. Admittedly, the Petitioners have responded regarding the queries made by the Respondents and have submitted the requisite documents well within time as prescribed by the Respondents. Once the authority themselves had invoked the powers under sub regulation 1, then the Respondents should not have summarily and mechanically rejected the claim of the Petitioners. The deficiency has been removed, therefore, authority should have proceeded to consider the claim of the Petitioners for recognition on merits and should not have rejected the claim on a technical ground by order dated 12.04.2010 (Annexure-5 to the writ petition).

8. In view of the aforesaid facts and circumstances, I am of the opinion that once the Petitioners have already submitted the document as required, the orders passed by the Respondents rejecting the claim of the Petitioners cannot be sustained and the writ petition is liable to be allowed by quashing the orders impugned and remanding the matter before the Respondent No. 2 to decide the claim of the Petitioners for recognition on merits on the basis of relevant records by a speaking and reasoned order within a period of two months from the date of production of certified copy of the order.

9. The writ petition is allowed accordingly.

No order as to costs.