

(2014) 11 DEL CK 0221

In the Delhi High Court

Case No : Writ Petition (Civil) Nos. 2889, 7422, 7490, 7491, 7494, 7495, 7516, 7569, 7586, 7587, 7596, 7598, 7829, 7831, 7837, 7846, 7848, 7849/2013, 451, 452, 453, 454, 800, 1284, 1650 and 1651/2014

Divine Mission Society (Regd.)

APPELLANT

Vs

National Council for Teacher Education

RESPONDENT

Date of Decision : 24-11-2014

Acts Referred:

Citation : (2014) 11 DEL CK 0221

Hon'ble Judges : Manmohan, J

Bench : Single Bench

Advocate : Virender Rawat, Sanjay Sharawat and Ratish Kumar, Advocate for the Appellant; Arjun Harkauli, Advocate for the Respondent

Judgement

Manmohan, J.—The present batch of writ petitions has been filed challenging the communication dated 20th March, 2013 issued by respondent No. 1 whereby Regional Committees were directed/instructed to reject and return all applications for recognition of B.Ed and D.El.Ed. courses on the ground that the State of Haryana had given a general negative recommendation.

2. Mr. Sharawat, learned counsel for the petitioners submits that the petitioners have suffered legal injury in two aspects, namely, the authority authorised under the Act has not taken the final decision in the matter and further the application has not been processed in accordance with law. He further submits that NCTE could not have directed the Regional Committees to reject all applications only on the basis of a general negative recommendation made by the State Government and that too without notice to the petitioners.

3. Mr. Sharawat points out that in identical facts, the Madhya Pradesh High Court has allowed writ petitions filed by similar institutes. The judgement of Madhya Pradesh High Court in Shri Virendra Kumar Singh Education Society Vs. State of M.P. & Ors., WP(C) 9097/2012 decided on 14th December, 2012 is reproduced hereinbelow :

"1. Because the controversy involved in this petition, has already been decided by Division Bench of Principal Seat at Jabalpur in the case of Shri Hargovind Laxmi Narayan Samaj Vs. National Council for Teacher Education and Others [Writ Petition No. 9984 of 2012, decided on 17/07/2012] and as the learned Government Advocate has not disputed the aforesaid proposition, hence, with the consent of learned counsel for the parties, the matter is being disposed of finally. The petitioner has challenged the order dated 07-06-2012 (Annexure P/1) . The application of the petitioner in regard to grant permission for Diploma in Elementary Education (in short "D.El. Ed") Course has been rejected vide communication dated 07-06-2012 (Annexure P/1) on the ground that the Government, State of Madhya Pradesh had given negative recommendation for opening of new D. El. Ed. Course. The aforesaid point has been considered by Division Bench of Principal Seat at Jabalpur vide order dated 17-07-2012 in the case of Shri Hargovind Laxmi Narayan Samaj (supra) . The Hon"ble Court has held as under:-

For the aforementioned reasons, the challenge to the validity of the provisions of Regulations 7(2) and (3) of the 2009 Regulations is hereby repelled. However, under Regulation 7(3) the Regional Committee is required to take into consideration the recommendation made by the State Government or the Union Territory administration while disposing of the application for grant of recognition. In the instant case, from perusal of the order dated 12.06.2012 passed by the NCTE we find that the application submitted by the petitioner for grant of recognition to run the Diploma in Elementary Education course is rejected merely on the ground that there is negative recommendation for opening new course of Diploma in Elementary Education. Under the NCTE Act and the Regulations framed therein, the Regional Committee is the competent authority to decide the application. The Committee is required to take into consideration the recommendation of the State Government but the same cannot be the sole ground for rejection of the application by the committee. The Committee is required to apply its mind and to decide the question with regard to grant of approval to run a course by taking into account the recommendation made by the State Government.

In view of the preceding analysis, the order dated 12.06.2012 passed by the Western Regional Committee of the NCTE is hereby quashed. The Committee is directed to send for comments of the State Government as well as Rajya Shiksha Kendra and to decide the application submitted by the petitioner to run the Diploma in Elementary Education course afresh by taking into account the recommendations sent by the State Government and Rajya Shiksha Kendra. The aforesaid exercise shall be completed within a period of one month from today. It is made clear that this Court has not expressed any opinion on the merits of the case.

With the aforesaid directions the writ petition is disposed of.

C.C. as per rules.

2. In this view of the matter, petition of the petitioner is allowed. The impugned order Annexure P/1 dated 07-06-2012 and the decision of the Western Regional Committee in its 162nd meeting held on 10th May, 2012 in regard to the petitioner, are hereby quashed. The Committee is directed to send for comments of the State Government as well as Rajya Shiksha Kendra and to decide the application submitted by the petitioner to run D.El.Ed. Course afresh by taking into account the recommendations sent by the State Government and Rajya Shiksha Kendra. The aforesaid exercise shall be completed within a period of one month from today. It is made clear that this Court has not expressed any opinion on the merits of the case.

3. With the aforesaid directions, the writ petition is disposed of. C. C. as per rules."

4. He also draws this Court's attention to a similar judgment and order passed by the Punjab and Haryana High Court in Sunshine International College of Education and others vs. The National Council for Teachers Education and others, WP(C) 16473/2013 decided on 6th August, 2014. The said order is also reproduced hereunder :

"1. The petitioners have sought for the recognition of the Teachers Training Institutes was responded to the public notice issued by the National Council for Teachers Education (NCTE) within the time prescribed. The Regulations stipulate a manner of consideration of applications and provides for a State role for its recommendation. The Regulations also contemplate the situations when the State does not give the objection and when the Regional Committees established by NCTE will undertake the task of inspection and taking a decision with reference to starting of a Teachers Training College.

2. Before the arguments got fully underway, the counsel appearing on behalf of the NCTE has drawn my attention to the orders passed by the Supreme Court in the case titled Rashtasant T.M.S. & S.B.V.M.C.A. VID and others Versus Gangadar Nilkant Shende and others on 10.9.2013, where the Supreme Court has adverted to the Commission appointed by the court with former Chief Justice of India Justice J.S. Verma to make his recommendations and that order brings out the fact that the recommendations have been received and the Supreme Court has granted time to notify the new Regulations by 30.11.2013. This date has been extended by the subsequent order passed on 3.7.2014 upto 30.11.2014. The Supreme Court has stated in its order dated 10.9.2013 that the persons desirous of establishing Teachers Education Colleges/Institutes shall make a fresh application in accordance with the new Regulation and all the pending applications shall also be decided in accordance with the new Regulations. It would, therefore, be only appropriate that the applications filed by the petitioners in all these writ petition, which ought to be taken as pending, shall be considered in the light of the Regulations that is framed.

3. Learned counsel for the petitioners states that even in the last two years, after

initial public notice issued by the NCTE, approval has been granted by the NCTE itself to some new colleges. In my view, the grant already issued cannot be a ground for consideration of the petitioners' cases in the light of the direction of the Supreme Court in the case, referred to above. I will not, therefore, give any direction for recognition to be issued till Regulations are framed and the petitioners' cases shall be considered only under such new Regulation. No further directions are necessary.

4. The writ petitions are disposed of with the above observations. It is hereby clarified that the applications which are said to have been filed by the petitioners and rejected in view of the State objection subsequently that no new private training institutes shall be opened, shall no longer be used against the petitioners and their claims will be considered on their own merits when new Regulations are made in 2014."

5. Mr. Harkauli, learned counsel for the respondents states that the Supreme Court in SLP No. 4247-4248/2009 vide order dated 10th September, 2013 has directed that all pending applications have to be decided in accordance with new regulations, which the respondent-NCTE is yet to notify.

6. This Court is of the view that after filing of an application, an institution is legally entitled to have it processed by the statutorily designated authority strictly in accordance with the statutorily prescribed procedure. The input of the State Government as a stake holder under the current rules is certainly relevant but it cannot be accepted as "gospel truth" and that too, without giving an opportunity of hearing to the petitioners.

7. Keeping in view the aforesaid as well as the judgment/orders of the Madhya Pradesh and Punjab & Haryana High Courts as well as the order dated 10th September, 2013 passed by Supreme Court in SLP No. 4247-4248/2009, present writ petitions are disposed of with a direction that the petitioners shall apply afresh in accordance with new regulations if required and the same shall be considered by the NCTE/NRC for the year 2015-16 in accordance with new regulations which are to be notified in compliance with the directions of the Supreme Court. If any deficiency is found, the same shall be communicated to the petitioners, who shall remove the deficiency within the given time. In case, the deficiencies are removed within the given time, the application shall be processed in accordance with Rules and Regulations. If the deficiencies are not removed, the applications shall stand rejected. With the aforesaid observations, the present batch of writ petitions is disposed of but without any order as to costs.