
(2009) 09 DEL CK 0044

In the Delhi High Court

Case No : Writ Petition (C.) No. 8290 of 2008

Dr. Rajalakshmi Educational Trust

APPELLANT

Vs

The Member Secretary, National Council for Teacher
Education and Another

RESPONDENT

Date of Decision : 14-09-2009

Acts Referred:

Citation : (2009) 09 DEL CK 0044

Hon'ble Judges : Anil Kumar, J

Bench : Single Bench

Advocate : S. Nanda Kumar, for the Appellant; V.K. Rao, for the Respondent

Final Decision : Allowed

Judgement

Anil Kumar, J.—The petitioner seeks quashing of order dated 11th January, 2008 passed by Southern Regional Committee of National Council for Teacher Education and order dated 14th October, 2008 passed by NCTE rejecting the application of the petitioner for grant of recognition for B.Ed. course.

2. The petitioner contended that the land measuring 5.11 acres was taken on lease from Dr. Rajalakshmi for running the college of education (B.Ed.). The petitioner submitted an application to National Council of Teacher Education (Southern Region) for grant of recognition for new B.Ed. programme having capacity of 200 students for the proposed academic year 2006-2007. Along with that application the petitioner submitted a copy of the lease deed, building plans prepared by the licensed surveyor, structural stability certificate, building completion certificate etc.

3. According to the petitioner pursuant to the application of the petitioner, an inspection was carried out by the Committee constituted by Southern Regional Committee of National Council of Teacher Education.

4. The petitioner, thereafter, received a notice dated 24th October, 2007 from the respondents stipulating that on consideration of the report submitted by the

inspection team and other documents furnished by the petitioner, the petitioner institution prima facie does not fulfill the requirement, the norms and standards laid down by NCTE in accordance with the provisions of NCTE Act, 1993. The grounds for not conforming the requirement for grant of recognition as stipulated in the show cause notice are as under:

?The built up space not adequate for both existing and proposed course for existing institute and proposed course.

? The structure of the building is not depicted.

? The furniture not suitable for B.Ed. course.

? The institution has to clarify whether B.Ed. course is already running in the same building.

5. The petitioner was given an opportunity to make a representation before the Regional Committee, so that the explanation may be given by the petitioner for the grounds taken by the respondent and a proper order could be passed on the application of the petitioner. The petitioner was also directed to submit documentary proof duly certified by the competent authority in respect of the alleged deficiencies.

6. In reply to the show cause notice petitioner sent a reply dated 22nd November, 2007 categorically stipulating that no existing course is running in the same institute and the built up space for B.Ed. course is 17544 square feet, which is more than adequate in accordance with the requirement of the respondents. It was also brought to the notice of the respondents that the copy of the plan, structure of the building depicting on the plan had already been filed. The petitioner also categorically communicated that the furniture of the building has been replaced with new furniture, copies of the bills, photos and CD for documentary evidence were also sent to the respondents. It was also contended that the petitioner is not running any other B.Ed. course in the same building. The petitioner categorically sent an affidavit deposing about these facts duly notarized along with the reply dated 22nd November, 2007.

7. Though the petitioner had sent a reply clarifying that there were no deficiencies and the respondents had not even perceived the basis facts correctly, however, by order dated 11th January, 2008 the recognition was denied and the application of the petitioner for grant of recognition was rejected on the following grounds:

? The built up space is not adequate for B.Ed. course.

? The building is not suitable for running the B.Ed. College.

? The furniture not suitable and inadequate for B.Ed. course.

8. That the petitioner being aggrieved by the order passed by the respondents rejecting the application of the petitioner for grant of recognition without

considering the documents and the explanation provided by the petitioner, filed an appeal before the appellate authority. In the appeal, it was contended inter alia that the visiting team of the respondent No. 1 verified and had seen the infrastructure and institutional facility. It was contended that the B.Ed. course is to be run in a separate building which was constructed purely for the purpose of college and the construction pucca built up area of 17544 square feet. The petitioner also clarified that at the time the application was filed for the recognition of B.Ed. course for the Sessions 2006- 2007, the buildings were under construction and after construction 17544 square feet area is available, according to the approved building plan. The petitioner also contended that the respondent has passed the order mechanically contending that furniture is not suitable and inadequate for B.Ed. course despite petitioner submitting the bills of 65 sets of table and chairs each worth of Rs. 3550/-. The petitioner had spent a total amount of Rs. 2,30,750/- on the new furniture. The petitioner also categorically contended that the petitioner had purchased another 100 chairs and other furniture for an amount of Rs. 45,000/-. The grievance was also made regarding non-consideration of the building plan and the building constructed by the petitioner which was adequate for running the B.Ed. college. The petitioner had also sent a compact disc recording various facilities of the college.

9. The National Council for Teacher Education, however, dismissed the appeal by order dated 14th October, 2008 on the ground that the Committee noted that the built up area with the institution in the application is 4490 square feet, whereas the building plan submitted indicate an area of 9144 square feet in three floors in respect of a house and another building plans submitted was in respect of office building and therefore the building was not suitable and adequate for running the B.Ed. course. Relying on the inspection report, it was also contended that the multipurpose hall available with the institution has only 1375 square feet as against 1500 square feet as per the NCTE norms.

10. The petitioner has impugned the appellate order inter alia on the ground that the respondents have failed to consider details given in the representation and the documents filed on behalf of the petitioners and even their own inspection report. It was contended that as per the regulation the requirement of built up area is 1500 sq.mtrs or 16,100 square feet whereas the petitioner owns 17544 square feet and the multipurpose hall as per the requirement is more than sufficient and adequate to run the educational institution. It was also contended that the respondents have not considered the details and documents given by the petitioner in reply to the notice dated 24th October, 2007. The plea of the petitioner is that the area as given in the application was when the building was not complete. The inspection committee had noted the constructed building and had given the area available with the petitioner which has been conveniently ignored by the respondents. The petitioner also contended that the respondents have passed the order dismissing the appeal mechanically and completely ignoring the inspection report.

11. According to the petitioner, the orders have been passed contrary to the alleged reasons given in the show cause notice and the respondents cannot justify their action on the basis of the reasons disclosed later on.

12. The petition is contested by the respondents contending inter alia that the petitioner does not meet the requirements norms and standards as laid down under the NCTE Regulation and reiterated the grounds taken in the order dated 11th January, 2008 passed by the Regional Director. Reliance was also placed on the report of the committee allegedly stipulating that the application for recognition though stipulates an area of 4490 square feet and another building having an area of 9144 square feet whereas the inspecting team has found the multi-purpose hall area as 1376 square feet as against the requirement of 1500 square feet. An additional affidavit dated 13th March, 2009 was filed by the Regional Director, deposing that from the inspection report, it was clear that the construction was not complete and flooring of building and fixation of doors etc. was not carried out at the time of inspection.

13. The counsel for the parties were heard and the petition, counter affidavit, additional affidavit, rejoinder and the documents have been perused. This is not disputed that an inspection was carried out pursuant to the application of the petitioner for recognition on 30th August, 2007. The copy of the inspection report had not been given to the petitioner nor filed along with the reply filed on behalf of the respondent. The original record of the petitioner was produced by the respondent which also has the original inspection report with MIS Code: APSO 4657 dated 30th August, 2007.

14. It is pertinent to note that the inspection was carried out pursuant to amount of Rs. 40,000/- paid by the petitioner. Despite the fact that the show cause notice regarding non-compliance was issued to the petitioner and subsequent orders have been passed by the respondents on the basis of the inspection report, neither the copy was given nor it had been filed in the court. Perusal of the report rather reflects that the show cause notice and the order passed are not in consonance with the observations made by the Inspecting Committee. Under the overall assessment of the institution, Inspecting Committee has observed as under:

The proposed Dr. Rajalakshmi College of education is proposed to function from its own building with an area of 17544 square feet. The building flooring and fixation of doors is yet to be completed. They said complete the building within fortnight. The ground floor is marked for B.Ed. course and rooms are marked as per NCTE norms with sufficient accommodation and are spacious.

The institutional and infrastructural facilities are observed and found non-teaching staff are appointed and Teaching staffs are only identified.

There are 4 class rooms (each 550 sq.ft.) and are adequate for 50 students to accommodate comfortably. The hall (1375 sq.ft.) can accommodate 125 students. Each rooms measuring 1420 sq.ft. and the apparatus in multiple sets

and are adequate. E.T. labs is with T.V., V.C.P., OHP, Projector, CD ROMs, computer lab has 10 computer and 3 are old. It is adequate for B.Ed. course. The library with 3000 books and 565 are reference books, has 05 journals and 5 sets of encyclopedias. The seating capacity of the library is 50, furniture are adequate but cannot arrange it properly as ground flooring is yet complete. Library books are adequate. Management kept FDs for 3 lakhs and 5 lakhs. The management quite sound and can invest more for the infrastructural and institutional development. So it is felt that proposed B.Ed. course may given the grant of recognition.

15. The show cause notice is on the ground that built up space is not adequate for both existing and proposed course, for existing institute and proposed course; the structure of the building is not depicted, furniture is not suitable for B.Ed. course. This is not the case of the petitioner that they are running another institution and has sought recognition for the course of B.Ed. The inspection committee did not report that the petitioner is running any other course from the premises. From the original file of the petitioner produced by the respondents it is apparent that there is nothing to show on the record that any other course was already run by the petitioners. In the circumstances, how the show cause notice and order of the Regional Director stipulated that the space is not adequate for both existing and proposed course for existing institute and proposed course. This is either on account of utter callousness on the part of regional director or perhaps a deliberate attempt to deny recognition. This appears to be deliberate as the copy of the inspection report was not given to the petitioner nor filed in this Court, till the entire file of the petitioner was produced and perused by this Court.

16. Apparently, none of the objections taken in show cause notice contending that the petitioner does not comply with the requirement of recognitions are in consonance with the observations of the inspection committee. There does not appear to be any fact on the record on the basis of which the inference as drawn by the respondent for giving a show cause notice dated 24th October, 2007 could be drawn and the petitioner could be asked to even show cause.

17. Despite the details given by the petitioner in reply dated 22nd November, 2007 to show cause notice that the space is 17544 sq.ft. and submitted the building plans, the respondent in the most mechanical manner again ignored their own report and the documents filed by the petitioner and passed the order dated 11th January, 2008. The ground that the petitioner does not have adequate space for B.Ed. course and building is not suitable for running the B.Ed. course and furniture is not suitable is not born out from the record of the respondent about grant of recognition of the petitioner. Though the observations and finding of the Inspecting Committee may not be binding on the respondent, however, there should be some other material on the record to draw the inference as had been drawn. There is no other material on the original record nor the learned Counsel for the respondents have been able to show, on the

basis of which reasons given in the order dated 11th January, 2008 could be drawn. Apparently, in a most mechanical manner and more with a view to just decline the grant of recognition, the order has been passed contrary to their own record by the respondents.

18. This is not confined to the order passed by the Regional Director even in the appeal despite the facts disclosed by the petitioner supported by the documents, yet another stand was taken in the order passed by the National Council for Teacher Education dated 14th October, 2008 that the built up area in the application was 4490 sq.ft. and of other building of 9144 sq.ft. The Inspection Committee has observed that the area is 17544 sq.ft. and the building is to be completed within two weeks from 30th August, 2007. The inspection committee in its report did not indicate anywhere that the area is 4490 sq.ft. and 9144 sq.ft. Apparently, the appeal was decided ignoring all the relevant documents and with a view to reject the application for grant of recognition somehow. The reasons given in the appellate order are also not justifiable in the facts and circumstances and on the basis of the record of the respondents. The report of the inspection Committee is that multipurpose hall is adequate whereas the respondents have held that this is not adequate. The norms produced by the respondents also do not justify their own inferences. In any case, reasons given in show cause notice are not in consonance with the reasons on the basis of which Regional Director rejected the application and the reasons for rejection relied on by the respondent/National Council for Teacher Education. When the respondents as statutory body had asked the petitioner to show cause for declining recognition on certain grounds, the recognition could not be denied later on the grounds other than what were stipulated in the show cause notice. The Apex Court in case of Mohinder Singh Gill (supra) in para 8 at page 417 had held as under:

8. The second equally relevant matter is that when a statutory functionary makes an order based on certain grounds, its validity must be judged by the reasons so mentioned and cannot be supplemented by fresh reasons in the shape of affidavit or otherwise. Otherwise, an order bad in the beginning may, by the time it comes to court on account of a challenge, get validated by additional grounds later brought out. We may here draw attention to the observations of Bose, J. in *Gordhandas Bhanji* AIR 1952 SC 16:

Public orders, publicly made, in exercise of a statutory authority cannot be construed in the light of explanations subsequently given by the officer making the order of what he meant, or of what was in his mind, or what he intended to do. Public orders made by public authorities are meant to have public effect and are intended to affect the acting's and conduct of those to whom they are addressed and must be construed objectively with reference to the language used in the order itself.

Denial of recognition on the grounds which were not stated in the show cause notice e.g. as whether the hall was adequate or not, will also be denial of

principle of natural justice as the petitioner was not given adequate opportunity to represent or show regarding adequacy of hall.

19. In the facts and circumstances, this Court just does not find any justification for the respondents to reject the application of the petitioner for grant of recognition for B.Ed. course to the petitioner. The orders passed by the respondents are contrary to their own record and are not sustainable and there are no grounds for rejecting the application for grant of recognition.

20. For the foregoing reasons, the writ petition is allowed. The order dated 11th January, 2008 passed by the Southern Regional Committee and order dated 14th October, 2008 passed by NCTE rejecting application of the petitioner for grant of recognition for B.Ed course are set aside. The respondents are directed to grant recognition to the petitioner for the B.Ed course forthwith. Considering the facts and circumstances, the respondents are also liable to pay a cost of Rs. 30,000/- to the petitioner.