

(2017) 09 DEL CK 0102

In the Delhi High Court

Case No : Civil Writ Petition No. 9213 Of 2016

Dr. Rishi Kant Siddharth Mahavidyalaya Seva Sansthan

APPELLANT

Vs

National Council For Teacher Education & Anr

RESPONDENT

Date of Decision : 26-09-2017

Acts Referred:

National Council For Teacher Education (Recognition Norms And Procedure)
Regulations, 2014 — Regulation 8(7)

Citation : (2017) 09 DEL CK 0102

Hon'ble Judges : Indermeet Kaur, J

Bench : Single Bench

Advocate : Mayank Manish, Sonali Malhotra, Amit Sanduja

Final Decision : Dismissed

Judgement

Indermeet Kaur, J

1 Petitioner is aggrieved by the order dated 11.9.2015 passed by the Northern Regional Committee (respondent no.2) which was affirmed on

09.06.2016 by its Appellate Authority, National Council for Teacher Education (respondent no.1).

2 Record shows that on 29.12.2012 the petitioner institute had applied to respondent no.2 seeking recognition for its course of Bachelor of Education

(B.Ed. course) for intake of 100 seats. All relevant documents were submitted to respondent no.2. The Building Completion Certificate (BCC) issued

by its architect was obtained by the petitioner and on 08.01.2015 this BCC document (duly certified by the Village Panchayat) had been handed over

to respondent no.2. Respondent no.2 failed to process the application of the petitioner for some time. Thereafter in its 238th Meeting (between

20.5.2015 to 31.5.2015) it decided to issue a show cause notice to the petitioner.

Petitioner responded to this show cause notice on 19.6.2015. Vide this communication dated 19.6.2015 he dispatched the BCC related documents to the office of respondent no.2. Respondent no.2, however, refused to grant recognition to the petitioner and dismissed his prayer; this was endorsed by respondent no.1. This exercise by the respondents is arbitrary. The order is liable to be set aside.

3 Counter affidavit has been filed. Stand of the respondents is that BCC related documents had never been filed before respondent no.2. There is a time schedule laid down by the respondents during which the documents have to be submitted. It is pointed out that on 16.6.2015 a show cause notice was issued to the petitioner informing the petitioner that the BCC related document certified by the competent Government Authority in the prescribed format has not been submitted. Submission is that the fact of the issuance of the show cause notice on 16.6.2015 asking the petitioner to file the BCC document (duly certified by the competent Government Authority in the prescribed format) is not in dispute. Further submission is that neither any reply to the aforementioned show cause notice was filed by the petitioner and nor was the said document submitted to respondent no.2. Petitioner's submission that he submitted its BCC document on 19.6.2015 is palpably false; he has nothing on record to substantiate this submission. In the absence of the BCC document being before the competent authority, respondent no.2 had no other option but to reject the case of the petitioner. The appeal order passed by respondent no.1 endorsing this fact thus suffers from no infirmity.

4 Rejoinder has been filed affirming the averments made in the petition. It is not disputed that a notice dated 16.6.2015 sent by respondent no.2 had been duly received by the petitioner. This averment of the respondents find mentions in para 8 of the counter affidavit. Corresponding para in the rejoinder admits that this is a matter of record. This being the factual position and the petitioner having failed to substantiate his case that he had filed his BCC document on 19.6.2015 nothing really remains to be answered. This is also for the reason that even as per the petitioner in his purported reply of 19.06.2016 he did not state that he had already filed the BCC document on 08.01.2015; he merely responded by filing the BCC document again.

Before respondent no.1 (Appellate Authority) on 09.06.2016 respondent no.1

had recorded that during the course of hearing before it, a copy of the letter dated 19.6.2015 along with the BCC related document had been placed by the petitioner. It had also been noted that this document was not in the records of the Regional Committee. Petitioner had also failed to show any proof of either a dispatch or receipt of this letter by respondent no.2.

Moreover, this BCC related document was issued by a private architect; date of the inspection of the building or the date of the issuance of the certificate as also the date of its approval by Pradhan of Gram Panchayat was not known.

5 Arguments have been heard. Record perused.

6 On the perusal of the record, the Scrutiny of this BCC related document (Annexure P-2) (which has been filed along with this petition) reveals that

this document has no date of the issuance of the certificate; there is also no date indicating as to when the building of the petitioner was inspected

pursuant to which the building certificate had been granted. Moreover, this document has been prepared by one Saurabh Saxena i.e. a private architect.

7 Regulation 8 (7) of the Regulations of the National Council for Teacher Education (made pursuant to a statutory legislation i.e. the National Council for Teacher Education Act, 1993) are relevant. Regulation 8 deals with the conditions for grant of recognition. Regulation 8 (7) reads as under:

8. Conditions for grant of recognition- (1)

(2)

(7) At the time of inspection, the building of the institution shall be completed in the form of a permanent structure on the land possessed by

the institution, equipped with all necessary amenities and fulfilling all such requirements as prescribed in the norms and standards. The

applicant institution shall produce the original completion certificate issued by the competent Authority, approved building plan in proof of

the completion of building and built up area and other documents to the visiting team for verification. No temporary structure or asbestos

roofing shall be allowed in the institution, even if it is in addition to the prescribed built up area.

8 This regulation mandates that at the time of inspection the building of the institute should be complete as per the requirement, norms and standards;

the institute should produce his original completion certificate issued by a competent authority along with the approved building plan for the purposes of verification.

9 The petitioner institute had been inspected on 14.5.2015. It is not the case of the petitioner that the BCC related document was not available at that

time; his case all along being that he had given this document firstly on 08.01.2015 and thereafter again alongwith his reply dated 19.06.2015 to the

show cause notice (issued by respondent no.2) the petitioner had submitted the building completion certificate to respondent no.2. He admittedly has

no proof of substantiating this submission. This was in spite of opportunity afforded to him both by respondent no.2 and respondent no.1. Respondent

no.1 in the course of hearing had noted that a letter dated 19.6.2015 has been shown to respondent no. 2 (alongwith the BCC document) but this letter

of the BCC document were not a part of the file of the respondent no.2 (NRC). It was correctly held that this document had not been filed before the

Regional Committee.

10 That apart the lacunae in the document were many. There was admittedly no date mentioned in the document. It bore a stamp of 08.01.2015 which

was a stamp of Uttar Pradesh (first page of the document) and as rightly pointed out by the learned counsel for respondents this document becomes

suspect for the reason that if this document was stamped on 08.01.2015 in the State of Uttar Pradesh, then how the petitioner had submitted this

document on the same day i.e. 08.01.2015 to the Regional Committee (respondent no.2) at Rajasthan is not explained. This query has been put to the

learned counsel for petitioner for which he has no answer. It is also strange that a private architect (Saurabh Saxena) having prepared this certificate

had not thought it fit to give the date under his signatures. In the first part of the document the architect had certified that he had personally visited the

land and building as mentioned in the statement below; he again failed to mention the date. The stamp of the purported Gram Panchayat on the last

page of the document is that of a Pradhan of Kashiram Nagar, which place does not appear to be either the Tehsil/Taluka or the City of the

petitioner's institute and this appears to be clear from the order dated

11.9.2015 wherein the details of this institute have been mentioned.

11 In the context of the defence of the time schedule, the Apex Court had an occasion to consider this issue in the case of Maa Vaishno Devi Mahila

Mahavidyala Vs. State of Uttar Pradesh and Ors. reported as (2013) 2 SCC 617 and the observation of the Apex Court in this regard would be

relevant; the same reads as under:

81. Lastly, the question which is required to be discussed in light of the facts of the present cases is adherence to the Schedule. Once the

relevant Schedules have been prescribed under the Regulations or under the Judge made law, none, whosoever it be, is entitled to carve out

exceptions to the prescribed Schedule. Adherence to the Schedule is the essence of granting admission in a fair and transparent manner as

well as to maintain the standards of education. The purpose of providing a time schedule is to ensure that all concerned authorities act

within the stipulated time. Where, on the one hand, it places an obligation upon the authorities to act according to the Schedule, there it also

provides complete clarity to other stakeholders as to when their application would either be accepted and/or rejected and what will be the

time duration for it to be processed at different quarters. It also gives clear understanding to the students for whose benefit the entire

process is set up as to when their examinations would be held, when results would be declared and when they are expected to take

admission to different colleges in order of merit obtained by them in the entrance examinations or other processes for the purposes of

subject and college preference.

82. We are constrained to reiterate with emphasis at our command that the prescribed schedules under the Regulations and the judgments

must be strictly adhered to without exceptions. None in the hierarchy of the State Government, University, NCTE or any other authority or

body involved in this process can breach the Schedule for any direct or indirect reason. Anybody who is found to be defaulting in this

behalf is bound to render himself or herself liable for initiation of proceedings under the provisions of the Contempt of Courts Act, 1971 as

well as for a disciplinary action in accordance with the orders of the Court.â??

12 The building completion certificate not having seen the light of the day before

the respondent no.2 or respondent no.1, which even otherwise (on its scrutiny) suffers from various defects; the impugned orders do not suffer from any infirmity.

13 Petition dismissed.