
(2020) 02 DEL CK 0613

In the Delhi High Court

Case No : Civil Writ Petition No. 1953 Of 2019

Ideal Teacher Training Academy

APPELLANT

Vs

National Council For Teacher And Anr

RESPONDENT

Date of Decision : 06-02-2020

Acts Referred:

National Council For Teacher Education Act, 1993 — Section 18

Citation : (2020) 02 DEL CK 0613

Hon'ble Judges : Rajiv Shakdher, J

Bench : Single Bench

Advocate : Mayank Manish, Ravi Kant, Arunima Dwivedi, Niharika Rai

Final Decision : Disposed Of

Judgement

RAJIV SHAKDHER, J

Preface:-

1. Via this writ petition, the following substantive reliefs have been claimed:

"i. Issue an appropriate writ[s]/direction[s] or order[s] quashing and setting aside the decision taken by the ERC in its 249th Meeting (Part-2) held on 06-07th February, 2018 and NCTE order dated 05.06.2018 as contained in Annexure P-1 (Colly); and

ii. Issue an appropriate writ[s]/direction[s] or order[s] quashing and setting aside the decision taken by the ERC in its 236th Meeting (Part-3) held on 25-28th March, 2017 wherein Petitioner Second Application bearing ERC APP 201645082 was refused as contained in Annexure P-2, and/or;

iii. Direct the respondents to process the application of the petitioner institution for the B.Ed. (Additional) Intake Course for next academic session; and/or"

2. Notice in this petition was issued on 25.2.2019 when the respondents were represented by Ms. Dwivedi.

2.1 Respondents were granted four (4) weeks to file a counter-affidavit.

2.2 Likewise, the petitioner was granted leave to file a rejoinder thereto, if any, within two weeks thereof.

2.3 Since then, despite several dates of hearing, no counter-affidavit has been filed on behalf of the respondents.

3. Shorn of verbiage, the petitioner before me seeks recognition and/or permission for an additional intake of 50 students qua the B.Ed course.

4. The petitioner, for this purpose, has approached this Court on several occasions and, for one reason or the other, he has been unable to get relief from the respondents.

4.1 The petitioner claims that it has adequate infrastructural facilities and faculty in place and, therefore, it ought to be given permission for an additional intake of 50 students in the B.Ed course.

4.2 Given this assertion, I need not elaborate upon the litigation history as all that one is required to adjudicate upon is: as to whether the petitioner's plea for grant of permission to induct additional 50 students in the B.Ed course ought to be granted?

Background:-

6. To adjudicate upon this issue, the following broad facts are required to be noticed.

6.1 On 14.5.2015, the petitioner had filed an online application along with requisite fee for seeking recognition for commencing the B.Ed course qua academic session 2016-2017.

6.2 Apparently, there was no provision in the format-online application whereby, the applicant could indicate as to whether or not it would want permission for more than one unit.

6.3 Since the respondents had replaced the previous regulations with a fresh set of regulations titled "National Council for Teacher Education (Recognition Norms and Procedure) Regulations, 2014" (hereinafter referred to as "the 2014 Regulations"), the concerned Regional Committee i.e. the Eastern Regional Committee (in short 'ERC') directed the petitioner, pursuant to the decision taken vis-a-vis the petitioner at its 204th meeting held between 15th and 17th February, 2016 to submit a compliance report as to whether it was a composite institution. This compliance report had to be submitted on or before 29.2.2016.

6.4 It is not in dispute that the petitioner did obtain, from the Manipur University, permission for running a course in Bachelor of Social Work qua academic session 2016-2017. According to the petitioner, this information was submitted to the ERC via a communication dated 25.2.2016.

6.5 Despite this communication, the ERC rejected the petitioner's application, which propelled the petitioner to lodge an appeal with the Appeal Committee of the NCTE (hereinafter referred to as "Appeal Committee").

6.6 While the appeal was pending, the petitioner filed a second application for the B.Ed course, albeit, for academic session 2017-18.

6.7 This application was made pursuant to a public notice issued by the NCTE in 2016.

6.8 The Appeal Committee, vide order dated 4.7.2016, allowed the petitioner's appeal and remanded the matter to the ERC with a direction that the petitioner's application should be processed as per the 2014 Regulations.

6.9 Accordingly, the ERC reconsidered the matter and ordered an inspection of the institute run and managed by the petitioner.

7. It is averred that this inspection was carried out on 27.10.2016, at which point in time, the petitioner claims it had already completed the construction of the building over a total land area admeasuring 7320 sq. mts.

7.1 It is, however, averred by the petitioner, at that point in time, it had a built-up area of nearly 2066 sq. mts. which was to be used exclusively for the B.Ed. course.

7.2 It is, therefore, the petitioner's contention that this built-up area as per the 2014 Regulations, even at that juncture, was sufficient for running two units for imparting education in the B.Ed. course.

7.3 Since the inspection team consisting of experts found that the petitioner met with the norms stipulated in the 2014 Regulations, the ERC took a decision, on 1.12.2016, to issue a Letter of Intent (in short 'LOI') to the petitioner.

7.4 It is pertinent to note that the LOI, inter alia, sought petitioner's willingness as to whether it would want to run two units qua the B.Ed. course.

7.5 The record shows that the petitioner not only submitted a compliance report as was sought in the LOI, on 12.1.2017, but also submitted an affidavit setting out its willingness to run two units in respect of the B.Ed. course.

7.6 Despite this, the ERC, on 7.3.2017, granted recognition to the petitioner only for one basic unit.

7.7 Though the petitioner was, quite obviously, aggrieved with the state of affairs, it, perhaps, hoped that its second application which was pending consideration with the ERC would result in success.

7.8 This hope of the petitioner was dashed as the ERC in its 236th meeting held between 25.3.2017 and 28.3.2017 refused to process the petitioner's second application.

7.9 In the interregnum, the petitioner had approached this Court by way of a writ petition (i.e. W.P.(C) No.712/2018) whereby it challenged the order of the ERC dated 7.3.2017 which had been confirmed by the Appeal Committee vide its order dated 21.8.2017.

8. The grievance which was articulated by the petitioner in the aforementioned writ petition was that, while it had sought permission for two units to run the B.Ed. course, it had been granted permission only qua one unit.

8.1 Consequently, this Court vide order dated 24.1.2018 remanded the matter to the ERC for a fresh consideration. It was, inter alia, directed by this Court that the writ petition should be treated as a representation and, after considering the same, a speaking reasoned order should be passed within a period of six weeks.

8.2 This led the ERC to reconsider the matter and pass the order dated 14.2.2018. The ERC, vide this order, rejected the petitioner's request for running a second unit, mainly, on the ground that the Building Completion Certificate (BCC) which had originally been filed by the petitioner disclosed that it had a built-up area of 1530 sq. mts., whereas the minimum area which was required for running two units was 2000 sq. mts.

8.3 Thus, in effect, the ERC confirmed its earlier decision of 7.3.2017 whereby recognition was given to the petitioner to run only one unit.

8.4 The petitioner assailed this decision of the ERC by preferring an appeal under Section 18 of the National Council for Teacher Education Act, 1993 (in short 'the Act').

8.5 The Appeal Committee vide order dated 5.6.2018 confirmed the order of the ERC dated 14.2.2018.

8.6 In a nutshell, the Appeal Committee went by the BCC submitted by the petitioner which adverted to the fact that the built-up area, at the relevant point in time, available with the petitioner, was 1530 sq. mts.

9. As is apparent from the prayers extracted hereinabove, the petitioner has not only assailed the decision of the ERC, but also the decision of the Appeal Committee dated 5.6.2018 whereby the ERC's decision was sustained.

9.1 It would be relevant to note, at this stage, that the order of the ERC dated 14.2.2018 was taken in ERC's 249th meeting held between 6.2.2018 and 7.2.2018.

9.2 Therefore, while there is no reference to the order dated 14.2.2018, there is a reference to the decision taken by the ERC in its 249th meeting which preceded the issuance of a formal order dated 14.2.2018.

9.3 Furthermore, the petitioner has also assailed [in prayer clause ii], the decision taken by the ERC in its 236th meeting held between 25.3.2017 and 28.3.2017 whereby its second application was refused.

10. There is no dispute that there is, available on record, a BCC which is appended on page 112 of the paper book and is marked as annexure P-17.

10.1 This BCC which is different from the BCC that was filed with the NCTE when the first online application was uploaded by the petitioner alludes to the fact that the total land area available with the petitioner is 7320 sq. mts. and the total built-up area on the subject site is 3100 sq. mts.

10.2 Furthermore, this information is given against serial No.14 of the format BCC.

10.3 It is also relevant to note that against serial No.15 of the very same BCC, it is indicated that the total built-up area earmarked for teacher training programme is 3100 sq. mts.

10.4 Apparently, there is no reference to the course to which this area is dedicated.

10.5 Mr. Manish draws my attention to the information given against serial No.12 which adverts to B.Ed. course.

10.6 The record points in the direction that the aforementioned BCC was available with the Appeal Committee.

10.7 However, the Appeal Committee has taken no cognizance of the same and proceeded to pass the order dated 5.6.2018.

11. As noted, at the outset, no counter-affidavit has been filed on behalf of the respondents.

11.1 Therefore, quite frankly, the assertions made in the writ petition need to be accepted as they are supported by an affidavit.

11.2 Ms. Dwivedi, though, based on the record seeks to resist the petition and, in support of her arguments, relied upon the impugned orders passed by the ERC and the Appeal Committee.

12. Having heard the learned counsel for the parties and perused the record, I am of the view that although the Appeal Committee had the relevant material before it, it chose not to deal with it, thus affecting the right of the petitioners to be considered for grant of permission to run the second unit.

Conclusions:-

13. Therefore, in my opinion, the matter requires reexamination. Consequently, the impugned decision of the ERC as well as the impugned order dated 14.2.2018 is set aside.

12.1 Likewise, the order of the Appeal Committee dated 05.6.2018 is set aside.

13. The matter is remanded to the ERC for a fresh consideration as to whether or not the petitioner should be granted permission for running a second unit qua

the B.Ed course for academic session 2020.

14. While taking a decision in the matter, ERC will, inter alia, consider the BCC, which is appended on page 112 of the paper book and is marked as annexure P-17.

14.1 If necessary, the ERC will be free to carry out a fresh inspection before taking a final decision in the matter.

15. Needless to add, the ERC will carry out the aforesaid exercise as expeditiously as possible, though not later than ten days from the date of receipt of a copy of this order.

16. The writ petition is disposed of in the aforesaid terms.