
(2012) 04 MP CK 0160

In the Madhya Pradesh High Court

Case No : Writ Petition No. 12783 of 2009

Indira Priyadarshini

APPELLANT

Vs

NCTE

RESPONDENT

Date of Decision : 19-04-2012

Acts Referred:

National Council for Teacher Education Act, 1993 — Section 13, 13(3), 14, 14(3), 14(3)(b)

Citation : (2012) 4 MPHT 315

Hon'ble Judges : Sushil Harkauli, Acting C.J.; Alok Aradhe, J

Bench : Division Bench

Advocate : Ajay Mishra and Mr. Mukesh Sahu, for the Appellant; K.K. Singh and Mr. V. Mishra, for the Respondent

Judgement

1. The petitioner institution is being run by the society registered under the M.P. Society Registrarian Adhiniyam, 1973, which imparts education in B.Ed. Course. The petitioner submitted an application for grant of recognition to the Western Regional Committee to run B.Ed. course. The recognition u/s 14(3) of the National Council for Teacher Education Act, 1993 (in short "the Act") to run the B.Ed. course was granted on 5-6-2007 with intake capacity for 100 students.

It is the case of the petitioner that the petitioner acquired 7.83 acres of land for B.Ed. College having built up area 3000 square metres. The University also granted affiliation to the petitioner to run the B.Ed. course vide order dated 16-10-2007. The petitioner thereafter was served a show-cause notice u/s 17 of the Act on the basis of the report of the Visiting Committee vide order dated 28-2-2009 by which the petitioner was asked to show cause as to why the recognition granted to it be not withdrawn. The show-cause notice was issued inter alia on the grounds that the institution is running a large number of courses including B.Ed., D.Ed., B.P.Ed. and M.P.Ed.; the B.Ed. course is in the same complex with total earmarked space for B.Ed. course is only 2856 square feet which is inadequate as per NCTE norms 2007; the principal was not available at

the time of inspection; and that staff appointed is not as per NCTE norms.

2. The petitioner submitted a reply to the aforesaid show-cause notice in which inter alia it was pointed out that the fact that the petitioner was running several courses in the same institution can never be a ground for withdrawal of the recognition because all the recognitions were granted by the Western Regional Committee. It was further stated that the petitioner has total built up area of 3000 square metres in which all the recognised courses were accommodated as per Clause 7 of the NCTE Regulations of the year 2007. It was further pointed out that mere non-availability of the principal at the time of inspection cannot be a ground for withdrawal of the recognition. However, the respondent No. 2 in purported exercise of Section 14(3)(b) of the Act vide order dated 2-4-2009 withdrew the recognition on the ground that the land area is inadequate for conducting many courses of teacher education and built up area is not adequate. It was further stated that head of the department is not having sufficient teaching experience at B.Ed. level as per NCTE norms. Being aggrieved by the aforesaid order, the petitioner preferred an appeal u/s 18 of the Act, which was rejected vide order dated 18-8-2009. In the aforesaid factual backdrop, the petitioner has approached this Court.

3. Learned Senior Counsel for the petitioner submitted that as the show-cause notice dated 28-2-2009 by which the deficiencies were pointed out was vague and the deficiencies, which were not pointed out in the show cause were made basis for withdrawal of the recognition. The action of the respondents in withdrawing the recognition granted to the petitioner institution is violative of Section 13 of the Act as recommendatory action ought to have been suggested to the institution prior to the withdrawal of the recognition. It was further submitted that the petitioner has 3200 square feet built up area, which is in accordance with the norms laid down by the Regulations. In support of his submissions, learned Senior Counsel has placed reliance on the decisions of the Supreme Court in B.D. Gupta Vs. State of Haryana, Joseph Vilangandan Vs. The Executive Engineer, (PwD), Ernakulam and Others, (1). Nasir Ahmad Vs. Assistant Custodian General, Evacuee Property, Uttar Pradesh, Lucknow and Another, Shri Anand Sugar Mills Vs. State of Uttar Pradesh and Others, , Rajendran and Another Vs. State Asstt. Commr. of Police Law and Order,

4. On the other hand, learned Counsel for the respondents submitted that the built up area for B.Ed. course is 2856 square feet, which is inadequate as per norms. It is further submitted that the petitioner institution had not appointed the staff as per the norms of the NCTE and, therefore, the action for withdrawal was taken. It was also urged that the language labs and ET labs were not available and Science and Psychology labs were in very poor conditions.

5. We have considered the submissions made on both sides. The National Council for Teacher Education Act, 1993 has been enacted with the object of ensuring Planned and Co-ordinated Development of Teaching Education Programme in the country. Under the aforesaid Act, the NCTE is an expert body, which is under an

obligation to maintain the standards of education particularly in relation to teachers' education. Section 13 of the Act provides for inspection. Section 13(3) casts a duty on the Council to communicate its view to the institution with regard to results of the inspection and the Council may after ascertaining the opinion of the institution, recommend to that institution, the action to be taken as a result of such inspection. Section 14 of the Act deals with grant of recognition to the institutions offering courses. Section 18 provides for an appeal to the Council against the order, which may be passed u/s 14 or Section 15 of the Act. The NCTE is regulating the standard of institution through Regulations framed from time to time in exercise of powers u/s 32(2) read with Sections 14 and 15 of the NCTE Act.

6. The Council constituted under the Act is an expert body and the Parliament has imposed upon it the duty to maintain the standard of education particularly in relation to teacher education. The Council under the Act is under an obligation to ensure that the institution fulfills the norms prescribed under the Regulations so that an institution does not produce sub-standard prospective teachers. It is well within the realm of the Council to find out whether or not the Council fulfills the norms prescribed under the Regulation. However, while considering the question whether or not the institution fulfills the norms prescribed under the Regulation framed under the Act, the Council is required to have a wholesome approach and to ascertain whether any deficiency found out in the institution during the course of inspection, would cause any impediment in fulfillment of the object for which the institution has been created, i.e., providing quality education to the prospective teachers. The Council should not adopt a hyper-technical approach while refusing to grant or withdraw the recognition granted to an institution on mere technical grounds. The Inspection Note which is prepared by the Council should contain reasons to indicate as to the parameters which are not fulfilled by an institution, which are prescribed as per the norms. Whenever, a show-cause notice is issued to an institution for withdrawal of the recognition, it should contain grounds in detail so as to apprise the institution on which grounds the recognition is sought to be withdrawn by the Council. The order passed by the Council as well as by the Appellate Authority should contain reasons and should reflect application of mind while considering the question of either grant of recognition or withdrawal of recognition.

7. It is well settled in law that a person concerned should be adequately informed about the material against him. See : *Chingleput Bottlers Vs. Majestic Bottling Company*, . It is equally well settled legal proposition that if an order is passed on the ground which is not mentioned in the show-cause notice, the same would tantamount to violation of principles of natural justice. See : *Commissioner of Customs, Mumbai Vs. Toyo Engineering India Limited*, . In *S.N. Mukherjee Vs. Union of India*, , the Supreme Court has held that people must have confidence in the judicial or quasi-judicial authorities. While emphasising the need for assigning reasons, it was held that giving of reasons minimizes the chances of arbitrariness and hence, it is an essential requirement of the rule of law. In *The*

Secretary and Curator, Victoria Memorial Hall Vs. Howrah Ganatantrik Nagrik Samity and Others, it has been held by the Supreme Court that reason is the heart-beat of every conclusion. Absence of reasons renders the order indefensible/unsustainable particularly when the order is subject to further challenge before a higher forum. It has further been held that recording of reasons is a principle of natural justice. It ensures transparency and fairness in decision making.

8. In the light of aforesaid well settled legal position we have perused the show-cause notice and the order of withdrawal passed by the WRC as well as by the Appellate Authority u/s 18 of the Act. We find that the order of withdrawal of recognition has been passed on the grounds, which have not been mentioned in the show-cause notice. The orders passed by the Council as well as by the Appeal Committee u/s 18 of the Act are cryptic and laconic and suffer from vice of non-application of mind. Thus, the orders have been passed in violation of principles of natural justice.

9. For the aforementioned reasons, the orders passed by the Western Regional Committee as well as the Appeal Committee are hereby quashed. The case of the petitioner with regard to withdrawal of recognition is remitted to the Western Regional Committee. The WRC shall examine the case of each of the petitioner and thereafter shall ascertain whether the institution fulfills the criteria laid down in the Regulations. Needless to state, that WRC shall record reasons for arriving at the conclusion whether or not institution in question fulfils the criteria and thereafter. WRC may issue show-cause notice to the petitioner containing sufficient particulars with regard to the grounds on which the recognition is sought to be withdrawn. The petitioner shall be given reasonable time to submit the reply to the show-cause notice. Thereafter, the reply furnished by the petitioner shall be considered by the WRC and after affording an opportunity of hearing to the petitioner, a speaking order shall be passed in the light of observations which have been made by us in this order. With the aforesaid directions, the writ petition is disposed of.

C.C. as per rules.