

(2011) 10 MP CK 0081
In the Madhya Pradesh High Court
Case No : Writ Petition No. 6557 of 2011

Indore Mahavidyalaya, Indore

APPELLANT

Vs

National Council for Teachers Education, Delhi and Others

RESPONDENT

Date of Decision : 31-10-2011

Acts Referred:

National Council for Teacher Education Act, 1993 — Section 13, 17(1)

Citation : AIR 2012 MP 54

Hon'ble Judges : Shantanu Kemkar, J;Prakash Shrivastava, J

Bench : Division Bench

Advocate : A.M. Mathur. and Abhinav Dhanodkar, for the Appellant; R.S. Chhabra, Ms. M. Ravindran, Dy. G.A., for the Respondent

Judgement

Prakash Shrivastava, J.—This order will govern the disposal of W.P. Nos. 6557/2011, 6367/2011 & 4691/2011. W.P. No. 6557/2011 is at the instance of the institution i.e. Indore Mahavidyalaya, Indore whereas W.P. Nos. 6367/2011 and 4691/2011 are at the instance of its students. In all these writ petitions the orders relating to the withdrawal of the recognition granted to the Indore Mahavidyalaya are under challenge.

2. The petitioner in W.P. No. 6557/2011 is a college involved in teaching of B.Ed., M.Ed. and D.Ed. courses. It was granted recognition by National Council for Teachers Education (for short "NCTE") for starting B.Ed. course by order dated 11.2.2004 and D.Ed. course by order dated 16.11.2004. Later on, vide order dated 18.12.2008, recognition was also granted for M.Ed. course. The petitioner-Institute was inspected by the inspection team of NCTE on 10.2.2009 which allegedly gave a report in favour of the petitioner and the said report was submitted in the pending W.P. No. 6146/2008 (PIL) before the Principal Seat of the High Court of M.P. at Jabalpur. Vide letter dated 9.9.2009, the Western Region Committee (WRC) sent information to the petitioner for conducting the inspection between 15.9.2009 to 20.9.2009, which was challenged by the petitioner in W.P. No. 6826/2009 and the inspection was not permitted by it. On

28.12.2009 the WRC issued a show cause notice proposing to withdraw the recognition of the petitioner-Institution u/s 17(1) of the National Council for Teachers Education Act, 1993 (for short "NCTE Act") on the grounds specified therein. The W.P. No. 1052/2010 filed by the petitioner challenging show cause notice was disposed of by this Court, vide order dated 3.2.2010, directing the respondent to pass order after hearing the petitioner. The petitioner submitted reply of the show cause notice to WRC on 10.2.2010. The WRC by the impugned order dated 26.2.2010 withdrew the recognition to conduct D.Ed (intake 150), B.Ed. (intake 100) and M.Ed. (intake 25) w.e.f. the end of the next academic session. The said order was initially set aside in appeal by order dated 27.8.2010 and the matter was remitted back to WRC for fresh adjudication. The W.P. No. 11344/2010 challenging the order dated 27.8.2010 was disposed of by the High Court, vide order dated 26.10.2010, by setting aside the order dated 27.8.2010 and directing for fresh adjudication of the appeal. Thereafter the petitioner submitted written submissions in appeal and the order passed by the WRC was confirmed in appeal, vide order dated 13.12.2010. Against the said order the petitioner had approached the Delhi High Court by way of WP (C) No. 3563/2010 and LPA, but same were dismissed with liberty to the petitioner to invoke the jurisdiction of the M.P. High Court. The petitioner then filed the present writ petition challenging the show cause notice dated 9.12.2009 (Annexure P/10), the order passed by WRC dated 26.2.2010 (Annexure P/13) and the Appellate order of the NCTE dated 13.12.2010 (Annexure P/22).

3. The respondents have filed their reply to the writ petition taking the stand that the petitioner does not fulfill the requisite norms relating to the infrastructure facilities specially land, staff and library as required by the NCTE regulations issued from time to time, therefore, after giving an opportunity of hearing, the recognition has rightly been withdrawn. A further stand has been taken that the impugned orders have been passed after complying with the principles of natural justice and following the prescribed procedure.

4. Learned counsel appearing for the petitioner submitted that the petitioner-Institution was granted recognition and permission for B.Ed. & D.Ed. course in the year 2004 and since then the petitioner-Institution is operating, therefore, at this stage the recognition cannot be withdrawn on the ground of non fulfillment of the norms prescribed in the regulations. Referring to Clause 8(13) of Regulation, 2009 he submitted that by virtue of this clause neither the conditions of regulation 2007 will apply nor the petitioner is required to comply with the conditions of earlier regulations. Referring to the judgment of the Gujarat High Court in the matter of Pranj Taluka Education Society v. National Council for Teacher, Regional Director reported in AIR 2010 (NOC) 965 (GUJ). he submitted that the regulations are mere guidelines, they are not mandatory in character and their strict compliance is not necessary. He further submitted that the impugned show cause notice was vague and that in the inspection report dated 10.2.2009 no deficiency was found, therefore, there was no justification for fresh inspection. He has also submitted that the Section 13 of the NCTE Act has not

been complied with and that the show cause notice was in respect of the non-compliance of the conditions of Regulations of 2007, whereas the impugned orders were passed on the basis of the norms prescribed in Regulations of 2009.

5. Learned counsel appearing for the respondents supporting the impugned orders submitted that in spite of the repeated opportunities, the petitioner had not removed the deficiencies which were pointed out and that the recognition cannot be continued in favour of the petitioner since it does not fulfill the requisite norms relating to the infrastructure facilities such as land, staff, library etc. as required by regulations issued from time to time. He further submitted that the conduct of the petitioner itself disentitles it for any relief in the writ jurisdiction and that the impugned orders have been passed after complying with the principles of natural justice and following due procedure prescribed.

6. We have heard the learned counsel for the parties at length and minutely perused the record of the case.

7. Section 17(1) of the NCTE Act gives power to the Regional Committee to withdraw the recognition by recording reasons, if it is satisfied that the recognized institution had contravened any of the provisions of the Act or the rules, regulations, orders made or issued thereunder or any condition subject to which the recognition was granted.

8. The petitioner was issued the show cause notice dated 9.12.2009 (Annexure P/ 10) for withdrawal of the recognition u/s 17(1) of the NCTE Act for contravening Clause 8(13) and clause 8(11) of the NCTE Regulation, 2007 and also for contravening clause 5.1.1, 4.1.i.b and 5.2.2 of Appendix 7 of the NCTE Regulations, 2007. The WRC and NCTE have found that the petitioner-Institute does not fulfill these norms prescribed in Regulation of 2007.

9. The first deficiency which has been noted by the WRC as well as the NCTE is that the petitioner-Institute does not fulfill the norm relating to land and constructed area. The petitioner-Institute was initially granted recognition for B.Ed. and D.Ed. course on 11.2.2004 and 16.11.2004 respectively, when NCTE (form of application for recognition, the time limit of submission of application. determination of norms and standards for recognition of teachers" education programme and permission to start new course or training) Regulations 2002 (for short "Regulations of 2002") were in force having following norms for land and construction : 7. Infrastructural Facilities :

a) There shall be provision for adequate number of classrooms, hall, laboratory space for conducting instructional activities for approved intake of 100 students, separate rooms for the principal, faculty members, office for the administrative staff and a store. The size of instructional spaces shall not be less than 10 sq. ft. per student.

b) There shall be a library equipped with text and reference books related to the prescribed courses of study, educational Encyclopedia, year books, electronic

publications (CD-ROMs) and journals on teacher education.

c) There shall be games facilities with a playground. Alternatively, the playground available with the attached school/college may be utilised and where there is scarcity of space as in metropolitan towns/hilly regions, facilities for yoga, indoor games may be provided.

d) To provide these facilities, the Management/Institutions shall, at the time of making application, have in its possession adequate land/land and building on ownership basis free from all encumbrances. Govt. land acquired on long-term lease as per the law of concerned State/UT will also be considered valid for the purpose. Pending construction of permanent building in the above land, the institution may provide these facilities in suitable temporary premises up to a maximum period of 3 years, before expiry of which the institution should shift to its permanent building.

10. The 2002 Regulation required the institution to be in possession of land/ land and building on ownership basis free from all encumbrances or government land acquired on long term lease.

11. The application (Annexure R-1/5) for grant of recognition for B.Ed. course was submitted by the petitioner on 31.12.2002 mentioning therein that the petitioner had two acres of land available in the name of the institution on ownership/long term lease basis. It was also stated in the application that the construction of the college building will be started and will be completed within one year and that the applied course will be conducted in the existing building of the college for a period of one year or session. The petitioner along with the application had filed an unregistered agreement to purchase land admeasuring 4836 sq. ft. and 4280 sq. ft. On the strength of the said representation, the recognition was granted to the petitioner for B.Ed. course (intake 100) of one year from the academic session 2003-2004, vide order dated 11.2.2004, subject to the condition that the institution will shift to its own premises within three years from the date of recognition. The said condition has been repeated in the subsequent recognition orders dated 16.11.2004 for academic session 2004-2005 etc. but the petitioner did not comply with that condition and did not fulfill the norm of possessing adequate land/land and building on ownership basis.

12. The Regulations of 2005 came into force w.e.f. 13.1.2006 in which the requirement of land and building was as under :

5.1.1 :

The institution must have at least 2500 sq.mts. land whereupon built-in area consisting of classrooms etc. shall not be less than 1500 sq.mts. space in each instructional room shall be 10 sq. ft. per student.

The petitioner-Institute did not comply with the above norm also inasmuch as the Institute does not have 2500 sq.mts. of land.

13. The Regulations of 2007 came into force w.e.f. 10.12.2007 having following land and building requirement :

5.1.1 :

The institution must have at least 1500 sq.mts. land whereupon built-up area consisting of classrooms etc. shall not be less than 1000 sq.mts. space in each instructional room shall be 10 sq. ft. per student.

Built up area for running other courses in combination with D.Ed. programme shall be as under:

Only D.Ed. - 1000 Sq.mts.

B.Ed. plus D.Ed. - 2500 Sq.mts.

B.Ed. plus D.Ed. and M.Ed. - 3000 Sq.mts.

14. The clause 5.1.1 makes it mandatory for the institution to have at least 1500 sq.mts. land, whereupon built-up area consisting of classroom etc. should not be less than the prescribed limit having space in each instructional room to be 10 sq. ft. per student. For B.Ed. plus D.Ed. and M.Ed. course the built-up area required is 3000 sq.mts.

15. It is worth noting that though the petitioner in its applications for recognition submitted in 2002 and 2003, had declared that two acres of land is available with the institution and it will complete the construction of the college building within one year but even after six years when the present matter is taken up, the petitioner has failed to point out that it is owner or in possession of any piece of land or any building has been constructed by it. The petitioner is silent as to what happen to the agreement to purchase the land which was enclosed along with the application for recognition, which creates a doubt on the bona fides of the petitioner. The said agreement itself was unregistered, unnotarised and on Rs. 100/-stamp paper. The petitioner had applied for starting the D.Ed. course on 31.12.2003, in that application also it was stated that the two acres of land is available and the construction of the college building will be completed within one year. The NCTE (Recognition, Norms and Procedure) Regulation, 2005 came into force w.e.f. 13.1.2006 and Clause 8(11) of these Regulations required the existing institution to comply with the revised norms by not later than the commencement of the next academic session. Similar was the position in 2007. All these regulations issued from time to time require the petitioner to have the requisite area of land and specified constructed area on that land but the petitioner does not fulfill this norm. The record indicates that the petitioner had obtained the recognition at the initial stage by misrepresenting that two acres of land is available with it and it is going to start the construction on the said land within one year, whereas no such land is available with the petitioner leave aside the question of starting construction.

16. In the case of the petitioner the Western Region Committee has rightly

recorded that the temporary permission was granted to the petitioner for B.Ed., D.Ed. and M.Ed. courses at different point of time and the institution was supposed to shift to its own/ permanent premises within a year of grant of recognition for each course as per the commitment of the institution. It has also been found that the petitioner did not fulfill its commitment. It has been found that the petitioner at no point of time had taken any land on lease. The build-up area which the petitioner was having in different floors in a building was inadequate and even the lease deeds for those areas were found to be defective. The counsel for the petitioner before this Court has also failed to point out any material showing that the petitioner is in possession of any land as per the requirement of the NCTE Regulations.

17. Learned counsel appearing for the petitioner referring to Clause 8(13) of the Regulation 2009, submitted that by virtue of the said clause the norms relating to the availability of land contained in Regulations of 2002, 2005, 2007 or any other regulation will not apply to the petitioner and the said clause completely exonerate the petitioner for complying with any such norm. Such a submission of the counsel for the petitioner cannot be accepted since a bare reading of Clause 8(13) of the Regulation 2009 makes it clear that the said clause does not provide any such complete exemption from complying the norm relating to land.

Clause 8(13) of the Regulation 2009 reads as under :

8(13). Whenever there are changes in the norms and standards for a course or training programme in teacher education, the institution shall comply with the requirements laid down in the revised norms and standards immediately but not later than one year from the date of effect of the revised norms. However, "the revised land area related to norms shall not be applicable to the existing institutions if the same is not possible. But the required built up area shall have to be increased by them to conform to the revised norms". However, such institutions not having land area as per the revised norms, shall not be allowed to expand by way of additional courses of additional intake.

18. The Regulation 2009 contains the revised norm relating to the land and required the institution running D.E.C.Ed. plus B.Ed. plus M.Ed. course to have land area of 3500 sq.mts. and built up area of 3000 sq.mts. and clause 8(13) only exempt the existing institution to comply with the revised norms relating to the land if same is not possible, but the said clause does not exempt the existing institution to comply with the land norms which were provided in the regulation in force prior to 2009. Thus, it is not open to the petitioner to submit that it is not required to comply with the norms prescribed relating to land and building in the Regulations of 2002, 2005 or 2007.

19. The second deficiency which has been found by the WRC and NCTE is in respect of qualified staff. The Regulation of 2007 provide following qualification for Principal and Lecturer :

4.1.i.b -- Qualifications

(i) Principal

(a) Academic and professional qualification will be as prescribed for the post of lecturer; and

(b) 5 years" experience of teaching in an elementary teacher education institution.

(ii) Lecturer

M.Ed.

OR

M.A. (Education) with either B.Ed. or B.EI.Ed. with 55% marks.

OR

Masters degree in any subject with either D.Ed. or B.EI.Ed. with 55% marks.

Note : Candidates having B.Ed degree of two years duration shall be given special weightage.

20. The WRC as well as NCTE have found that the petitioner did not have the adequate qualified staff as per the norms contained in the Regulation 2007. The principal did not possess requisite qualification and he was only acting principal. The eligibility of 4 lecturers in post graduate subject could not be ascertained since their graduate subject was not mentioned. There was no professor and reader in the selected faculty of M.Ed. course and the details about the qualification of the 11 selected lecturers were not disclosed to the inspecting team for verifying their eligibility as per the regulation. It has been found that the appointment of faculty was not in conformity with the relevant norms/ standards of regulation. In respect of the aforesaid deficiencies nothing has been pointed out to show that the conclusions, which have been arrived at by the WRC as confirmed by NCTE, were either erroneous or perverse.

21. The third deficiency noted by the WRC and NCTE is that the petitioner-Institute failed to satisfy the norm relating to library. The WRC as well as NCTE have found that during the personal hearing the petitioner did not produce the original accession register and bills to verify the availability of 11265 books said to have been available with the petitioner. Only the first and last page of the register of the books of each course was filed, therefore, there was nothing before the WRC to ascertain the availability of the requisite books. Along with the writ petition also the petitioner has not filed any material to show that the 11265 books are available in the library of the petitioner for different courses.

22. Learned counsel appearing for the petitioner has further placed reliance upon the judgment of the Gujarat High Court in the matter of Pranij Taluka Education Society (supra) and submitted that the strict compliance of the regulations is not required.

23. The NCTE Act has been enacted with a view to achieve the object of planned and co-ordinated development for the teacher education system throughout the country and for regulation and proper maintenance of norms and standards in the teacher education system, and for matters connected therewith. The Supreme Court from time to time has repeatedly observed about imparting proper teachers' training and the requirement of having high standard of infrastructure and facilities in the teachers' training institute. The Supreme Court has emphasized the need for properly organized and adequately equipped teachers' training institute. In the matter of N.M. Nageshwaramma and Others Vs. State of Andhra Pradesh and Another, the Supreme Court observed that:

3.....The teachers' training institutes are meant to teach children of impressionable age and we cannot let loose on the innocent and unwary children, teachers who have not received proper and adequate training. True they will be required to pass the examination but that may not be enough. Training for a certain minimum period in a properly organised and equipped training institute is probably essential before a teacher may be duly launched.

24. The Supreme Court in the matter of State of Maharashtra Vs. Vikas Sahebrao Roundale and others, held that:

12....For equipping such trainee students in a school or a college, all facilities and equipments are absolutely necessary and institutions bereft thereof have no place to exist nor entitled to recognition. In that behalf compliance with the statutory requirements is insisted upon. Slackening the standard and judicial fiat to control the mode of education and examining system are detrimental to the efficient management of the education.

25. In the matter of L. Muthukumar and Another Vs. The State of Tamil Nadu and Others, it was held that :

14....before teachers are allowed to teach innocent children, they must receive appropriate and adequate training in a recognised training institute satisfying the prescribed norms, otherwise the standard of education and careers of children will be jeopardised."

26. A similar view was expressed by the Supreme Court in the matter of St. John's Teacher Training Institute (for Women), Madurai, Vs. State of Tamil Nadu and others, etc. etc.,

9. The High Court rightly emphasised the need for maintaining very high standards of education, sports, administration and maintenance of the Teachers Training Institutes. These institutions are established with the avowed object of training teachers and educationists who have to shoulder the responsibility of moulding the nation.....

27. Thus the need to have the properly equipped teachers' training institute with all the necessary infrastructural facilities cannot be marginalised and keeping in view the aforesaid need, the regulations have been framed by the NCTE from

time to time prescribing the norms and standards required to be complied with by the teachers' training institutes.

28. The norms relating to the infrastructure facilities such as land, building, staff and library are directly connected with the quality and standard of education in the institution, therefore, they must be complied with by the concerned institution. Norms have been set by the NCTE in the regulations published from time to time with the object of maintaining the standard of education in the respective courses and to extend adequate facilities to the students, therefore, keeping in view the said objects, the arguments of the counsel for the petitioner cannot be accepted that these norms are only directory and need not be complied with. The said issue has been concluded by the Supreme Court in the matter of National Council for Teacher Education and Others Vs. Shri Shyam Shiksha Prashikshan Sansthan and Others etc. etc., by holding that regulations framed for grant of recognition under NCTE Act are mandatory and an institute is not entitled to recognition unless it fulfils the conditions specified in various clauses of the regulation.

29. We have gone through the judgment of the Gujarat High Court in the matter of Pranij Taluka Education Society (supra) relied upon by the petitioner and noticed that the said judgment was passed in the peculiar facts of that case. Even the Gujarat High Court has taken the view that the institution must fulfill norms regarding infrastructural facilities related to land and building as prevailing at the time when the recognition was granted, and that the educational institutions and trusts running such institutions must confirm to the norm set by NCTE and such confirmation must be before recognition is granted, and that with respect to the norms and in particular with those which have a direct bearing on the standard of education, there should be no compromise made. Even in that case the Gujarat High Court had directed the petitioners to remove all defects and comply with all the norms of NCTE as applicable to the concerned institution as interpreted and explained in the said judgment.

30. Counsel for the petitioner has further raised an issue that the show cause notice dated 9.12.2009 was vague and not specific. We have perused the show cause notice dated 9.12.2009 (Annexure P/10) and have noticed that the show cause notice pin-pointedly mentions about the contravention of different clauses of the NCTE Regulation 2007 and Appendix 7 of the said regulation. On the perusal of the show cause notice, we do not find any substance in the argument of counsel for the petitioner that the show cause notice is vague.

31. A further issue has been raised that the Western Region Committee had carried out the inspection on 10.2.2009 and no deficiency was noticed in the said inspection, therefore, the subsequent inspection and show cause notice and the orders passed thereupon cannot be sustained. The categorical stand of the respondents is that the earlier inspection was not proper, therefore, a need for the fresh inspection was felt. Section 17(1) of the NCTE Act gives power to the Regional Committee to satisfy itself about the contravention of the provisions of

the Act, rules, regulations etc. on its own motion or on any representation received from any person. The power of Regional Committee to inspect the petitioner-Institution is not in dispute, therefore, subsequent inspection cannot be faulted solely on the ground that earlier an inspection was done. The petitioner has failed to point out before this Court any error in the conclusions drawn by the WRC in the impugned order on the basis of the subsequent inspection, therefore, the stand of the petitioner that the earlier inspection was conclusive cannot be accepted.

32. Counsel for the petitioner has further submitted that the impugned orders are based upon the norms prescribed under the NCTE Regulation 2009, whereas the show cause notice was in respect of the contravention of the provisions contained in NCTE Regulation 2007. Such a submission is also without any basis as the impugned order indicates that the WRC and NCTE in substance have examined the contravention of the norms of Regulation 2007. The incidental reference to the Regulation of 2009 will not make the order defective. Even otherwise the petitioner has failed to point out before this Court that the petitioner fulfils the norms relating to the land, constructed area, staff and library, as provided in the Regulation of 2007.

33. A submission has also been made that the impugned orders are beyond the show cause notice but we do not find any substance in the said submission since the show cause notice was in respect of the contravention of different clauses of Regulations of 2007 relating to the land, building, library, staff etc. and on these very issues the impugned orders have been passed.

34. On the perusal of the record of the case, we have also found that the impugned orders have been passed after complying with the principles of natural justice. The petitioner was not only issued the show cause notice but was also given an opportunity of personal hearing. The judicial review is of the decision making process, in which no flaw has been found.

35. Learned counsel for the respondents has also drawn the attention of this Court towards the conduct of the petitioner by pointing out that on 9.9.2009 a notice was given to the petitioner by the WRC for carrying out the inspection by the visiting team of the WRC between 15.9.2009 to 20.9.2009 and when inspection team visited the institute on 16.9.2009, it was not allowed the inspection on the ground that the W.P. No. 6826/2009 was filed before the High Court. He has also pointed out that the said writ petition was filed only on 15.9.2009 and it was withdrawn on 17.9.2009, which indicates that the said writ petition was filed with the sole intention to avoid the inspection of the institute.

36. In view of the aforesaid analysis, we are of the considered opinion that the WRC as well as NCTE have not committed any error in reaching to the conclusion that the petitioner-Institute does not fulfill the requisite norms prescribed in the NCTE Regulation of 2007 and the earlier regulations. The conclusions which have been recorded in the impugned orders of the WRC dated 26.2.2010 and NCTE

dated 13.12.2010 do not suffer from any error. Since the petitioner does not fulfill the norms and standards as prescribed in the NCTE Regulations, therefore, the recognition has rightly been withdrawn. Thus we do not find any substance in the W.P. No. 6557/2011 filed by the petitioner-Institute.

37. So far as the W.P. No. 4691/2011 and W.P. No. 6367/2011 filed at the instance of the students are concerned, it is noticed that by the interim order dated 13.6.2011 and 24.8.2011 the writ petitioners were permitted to appear in the final examination. In W.P. No. 6367/2011 it was directed that the result of the examination will not be declared without the leave of the Court, and in W.P. No. 4691/2011 it was directed that the results will be subject to the result of the writ petition. Therefore, keeping in view the entire circumstances of the case, it is directed that if the petitioners in W.P. No. 6367/2011 and 4691/2011 have already appeared in the final examination, the concerned authority will declare their results and if they have successfully completed the course, the impugned orders will not affect the validity of their results.

38. The writ petitions are accordingly disposed of. Original order be kept in W.P. No. 6557/2011 and a copy whereof be placed in the record of W.P. Nos. 6367/2011 and 4691/2011.