

(2020) 07 DEL CK 0075

In the Delhi High Court

Case No : Civil Writ Petition No. 3985 Of 2020, Civil Miscellaneous Application No. 14295, 14296 Of 2020

Kamla Nehru Mahila Mahavidyalaya

APPELLANT

Vs

Union Of India & Anr

RESPONDENT

Date of Decision : 08-07-2020

Acts Referred:

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

Citation : (2020) 07 DEL CK 0075

Hon'ble Judges : Prathiba M. Singh, J

Bench : Single Bench

Advocate : Monisha Handa, Vijay Joshi, Arunima Divedi

Final Decision : Allowed

Judgement

Prathiba M. Singh, J

1. This hearing has been held through video conferencing.
2. The Petitioner has filed the present petition seeking quashing of the orders dated 23rd June, 2020 and 11th April, 2020 passed by Respondent no.2 - the Western Regional Committee (hereinafter, 'WRC') of the National Council for Teacher Education (hereinafter, 'NCTE').
3. The case of the Petitioner is that it is running a teachers' training college in Satna, Madhya Pradesh and has been in operation since 1971. It has been running its B.Ed course with an intake of 100 candidates who receive teachers' training, every year.
4. A show-cause notice dated 21st July, 2016 was issued by the WRC of NCTE raising various deficiencies/non-compliance issues. The Petitioner submitted its reply on 23rd August, 2016. On 11th April, 2019, Respondent No.2 passed an order by which the recognition of the Petitioner under

Section 17(1) of the NCTE Act, 1993 for the B.Ed programme was withdrawn. The Petitioner then moved an appeal against the said order before the NCTE.

5. Vide order dated 6th November, 2019 the appeal was allowed and the matter was remanded to the WRC for fresh hearing. Id. counsel Ms.

Monisha Handa, appearing for the Petitioner, submits that the meeting of the WRC was held from 25th to 27th February, 2020 and on 23rd June, 2020,

an order has been received by the Petitioner withdrawing the recognition granted to the Petitioner.

6. The primary grievance of the Petitioner is that the show-cause notice was in respect of eight violations, however, the order which has now been

passed on 23rd June, 2020 is based upon fresh violations which were never put to the Petitioner in the show-cause notice. She submits that in fact the

show-cause notice itself dates back to 2016 and no fresh show-cause notice was issued consisting of these four new allegations, which form the basis

for withdrawal of the Petitioner's recognition.

7. Ms. Arunima Divedi, Id. counsel appearing for Respondent No.2 submits that the show-cause notice raised various issues of non-compliance by the

Petitioner. One such issue was in respect of deficiency in faculty and therefore, the grounds on which the recognition has been withdrawn are

completely justified. She relies upon the show-cause notice, which had asked the institution to submit a letter granting approval for the selection or

appointment of faculty, issued by the affiliating body. She further submits that the Appellate Authority had remanded the matter and the Committee of

Respondent No. 2 had reconsidered the matter in its 313th meeting held from 25th to 27th February, 2020.

8. The original show-cause notice dated 11th April 2019 was issued raising the following deficiencies in documents:

i. The institution has not submitted a letter granting approval for the selection or appointment of faculty, issued by the affiliating body

as per NCTE regulations 2014.

ii. The institution has not submitted any proof of additional built up area.

iii. The institution has not submitted any proof of additional infrastructure.

iv. The institution has not submitted NEC issued by the competent authority.

v. The institution has not submitted land use certificate issued by the competent authority.

vi. The institution has not submitted building plan approved by competent authority mentioning Plot/Khasra Number, total land area and

earmarked area for each course being run in the same premises.

vii The institution has not submitted BCC issued by the competent authority.

viii. The institution has not submitted certified registered land document.â??

After raising the above issues, the operative portion of the order reads as under:

â??Hence, the committee decided to withdraw the recognition under Section 17(1) of the NCTE Act, 1993 for B.Ed. programme with effect

from the end of the academic session next following the date of communication of the said order.â??

9. The above order passed by the WRC of NCTE was appealed before the Appeal Committee of the NCTE. A hearing was held on 17th October

2019 in which various documents were submitted. The said documents were:

â??(i) Letter dated 30/09/2019 issued by Vice Chancellor, Avdesh Partap Singh University, Rewa verifying the list of faculty.

(ii) List of faculty containing the names of Principal and 15 faculty signed by Vice Chancellor.

(iii) Non Encumbrance Certificate dated 12/01/2018.

(iv) Land Use Certificated dated 20/04/2002.

(v) B.C.C.

(vi) Lease deed registered in the year 1965 (certified copy of May, 2019).

(vii) Building Plan.

(viii) Building Completion Certificate.â??

The Appellate Committee noted the fact that the institution was recognised for B.Ed course since 1998. After perusing the documents and the

grievances contained in the show cause notice as also the order of the WRC, the Committee concluded that the Regional Committee ought to be very

specific as to the details of infrastructure required to be submitted. It permitted the Petitioner to submit all the documents to the WRCâ??s Regional

Committee and remanded the case for `revisiting the matterâ?? on receipt of the required documents.

10. Thereafter the matter has been again considered by the Regional Committee. The minutes of the 313th meeting of the

WRC's Regional Committee merely records that the matter was remanded back by the Appellate Authority. However, four fresh grounds are

noted which have been made the basis for withdrawal of the recognition. The grounds, on which the recognition has been withdrawn, are as under:

â??(i) The faculty appointed at Sl.No.6, 8, 11 are not qualified as they do not have required 55% marks in PG as per NCTE Norms.

(ii) Land of the institution is on Private lease.

(iii) Building Completion Certificate (BCC) is not in the name of institution.

(iv) FDR of Rs.5.00 and Rs.7.00 lakhs not submitted.â??

The above Minutes were followed by the impugned order dated 23rd June 2020, by which the order of withdrawal of recognition is confirmed.

11. Ms. Handa, Id. counsel has placed on record the fixed deposit receipts dated 2nd March 2015 and 25th November 2016 for Rs. 5 lakhs and Rs. 7

lakhs to show that the grounds taken by the Committee are completely unjustified. She also relies upon the Building Completion Certificate dated 20th

December 2018 and photographs of the buildings to show that the Petitioner has adequate infrastructure. She has also submitted that the issue with

respect to having a private lease is irrelevant because their lease is a long lease and extends till 2035.

12. A perusal of the record shows that the new grounds contained in the 313th Meeting dated 25th to 27th February 2020 and reflected in the

order dated 23rd June, 2020 were not specifically a part of the show-cause notice which was given to the Petitioner, earlier in 2016. In any event, the

said grounds were also not put to the Petitioner, for the Petitioner to be able to respond and satisfy the authorities in respect of its compliance thereof.

Neither the Minutes nor the final impugned order consider the documents which the Appellate Authority had directed the Petitioner to file. They are

completely fresh grounds.

13. The Petitioner college has been operating and imparting study of the B.Ed. course since 1971. The sudden withdrawal of recognition would have a

huge negative impact on the students who are studying in the college, and would also adversely affect their future careers. The manner in which the

Regional Committee of the WRC conducted the 313th Meeting clearly shows

complete non-compliance of basic principles of natural justice. First, the said Minutes do not consider the documents filed by the Petitioner. Secondly, the Minutes record fresh grounds for withdrawal of recognition. Thirdly, the said fresh grounds are not put to the Petitioner and no opportunity has been given for explaining the same. The NCTE and its Regional Councils play an important role and they thus ought to discharge their functions keeping in mind not merely the compliances to be undertaken by colleges but also the interest of the students. Once fresh grounds were being cited for withdrawal of recognition, the institution ought to have been given an opportunity to explain or clarify. The new grounds raised in fact show complete non-application of mind as the lease document for 70 years and the building completion certificate were already placed even before the Appellate Committee. The FDRs also existed and merely calling upon the Petitioner to furnish the same would have satisfied this condition. The recognition given to an institution being withdrawn has severe consequences for the institution, for the students/candidates and the society as a whole. Such a decision for withdrawal ought to be taken after considering all the material and after seeking a response from the institution " which was admittedly not done. In fact the Appellate Committee gave a hearing to the Petitioner and permitted it to file the documents. The reasons cited also appear to be clearly explainable, considering the submissions being made by the Ld. Counsel for the Petitioner and the pleadings on record. This Court is of the opinion that the four grounds, which have been taken by the Committee to withdraw the recognition, would have to be put to the Petitioner, so that the Petitioner can respond and satisfy the Committee in respect of its compliance thereof.

14. Accordingly, the withdrawal of recognition as per the minutes of 313th meeting qua the Petitioner, communicated vide the impugned order dated 23rd June 2020, is set aside. The Petitioner shall now deal with the four grounds mentioned in the impugned order and submit a comprehensive response to the Committee in respect of the same. The Petitioner is also permitted to file any documents which it wishes to rely upon. The Committee shall, in view of the past history of this case, afford a hearing to the Petitioner, through its representative/s, and thereafter pass a reasoned order in this regard. Compliance as per the Regulations would, however, have to be adhered

to by the Petitioner and the Petitioner is permitted to satisfy the Committee that it has complied with all the applicable Regulations.

15. With these observations, the petition is allowed in the above terms and all pending applications are disposed of.