

(2011) 02 DEL CK 0044

In the Delhi High Court

Case No : Writ Petition (C) 8403 of 2010

Maa Buddha National Mahavidyalaya

APPELLANT

Vs

National Council for Teacher Education and Another

RESPONDENT

Date of Decision : 03-02-2011

Acts Referred:

Citation : (2011) 02 DEL CK 0044

Hon'ble Judges : Rajiv Sahai Endlaw, J

Bench : Single Bench

Advocate : Sanjay Sharawat, for the Appellant; Amitesh Kumar, for the Respondent

Final Decision : Allowed

Judgement

Rajiv Sahai Endlaw, J.—The petition impugns the order dated 15th September, 2010 of the Appeal Committee of the National Council for Teacher Education (NCTE) dismissing the appeal of the Petitioner against the order dated 8th May, 2010 of the Northern Regional Committee (NRC) closing the file of the application of the Petitioner for recognition for D. El. Ed. course. The matter had come before this Court on 22nd December, 2010 when the counsel for the Petitioner had contended that the controversy in the present matter is covered by the judgment dated 1st November, 2010 of this Bench in titled ESS College of Education v. NCTE. W.P. (C) No. 6227/2010 The counsel for the NCTE had then sought time to take instructions. Opportunity was also given to file counter affidavit. No counter affidavit has been filed. The counsel for the Respondents has however argued in opposition to the petition.

2. It is the contention of the counsel for the Respondents that this Court in ESS College of Education (supra) has traced two sources of appeal, firstly through the route of Regulation 7(1) of the National Council for Teacher Education (Recognition Norms & Procedure) Regulations, 2009 and secondly through the route of Section 14(3) of the National Council for Teacher Education Act, 1993. He contends that since Section 14(3) of the Act provides for grant of

recognition on satisfaction not only as to financial resources, accommodation, library, qualified staff, laboratory etc. but also that the applicant fulfills such other conditions required for proper sanctioning of the institutions for a course or training in teacher education and further since Regulation 7(1) has also been framed in this regard only, the order of rejection under Regulation 7(1) is an order u/s 14(4) only and cannot be treated separately. Though I am of the opinion that no different view has been taken in ESS ESS College of Education but even if the contention of the counsel for the Respondents were to be accepted, I have enquired from the counsel for the Respondents as to what difference the same would make as far as the judgment in ESS ESS College of Education is concerned. No impact on the argument has been disclosed.

3. Per contra, the counsel for the Petitioner has contended that the Regulations have been amended on 25th November, 2010 and which amendment is in consonance with view taken in ESS ESS College of Education.

4. The application of the Petitioner for recognition was rejected for the reasons:

(1) that the same was not accompanied with the certified copies of the land documents and the certified copies of the land documents submitted subsequently showed the certification to be of a date after the date of submission of the application. The counsel for the Petitioner however clarifies that the registration of the land documents is of a date prior to the date of submission of the application;

(2) the copy of the CLU submitted along with the application was not notarized and the copy submitted subsequently was notarized on a date after the date of submission of the application. The counsel for the Petitioner clarifies that the CLU is of a date prior to the application.

Though the NRC had given a third reason also for rejection, but the Appeal Committee was satisfied with respect to the same and upheld the rejection on aforesaid two grounds only.

5. The question which arises is whether the rejection without giving an opportunity under Regulation 7(1) to make up the deficiency / omission could have been made.

6. It has been held in ESS ESS College of Education that with respect to such deficiencies, an opportunity in terms of Regulation 7(1) has to be given. The same has admittedly not been given.

7. Accordingly, the petition succeeds. The orders of the NRC and the Appeal Committee impugned in this petition are set aside. The matter is remanded to the NRC to consider the application of the Petitioner in accordance with law and in accordance with the judgment in ESS ESS College of Education. Since the academic year for which the application was made has already been lost, the NRC is requested to consider the matter expeditiously.

The petition is disposed of. No order as to costs.

Dasti under signature of Court Master.