

(2013) 06 DEL CK 0007
In the Delhi High Court
Case No : WP (C) 4165 of 2011

Management Education and Research Institute	APPELLANT
Vs	
National Council for Teachers' Education and Another	RESPONDENT

Date of Decision : 19-06-2013

Acts Referred:

Constitution of India, 1950 — Article 226
Right to Information Act, 2005 — Section 14(3)(a)

Citation : (2013) 06 DEL CK 0007

Hon'ble Judges : G.S. Sistani, J

Bench : Single Bench

Advocate : R.K. Saini, for the Appellant; Amitesh Kumar, for R-1 and R-2, Mr. Arun Birbal, for R-3/DDA, Mr. Mukul Talwar and Mr. S. Mohapatra for GGSIPU/ R-4, for the Respondent

Final Decision : Dismissed

Judgement

G.S. Sistani, J.—The necessary facts to be noticed for disposal of this writ petition and as set out in the writ petition are that the petitioner is a self-financing private institute imparting higher education and is controlled and managed by a society known as "Triveni Educational and Social Welfare Society". The society owns a plot in an institutional area in Janakpuri where a complex has been constructed with a view to use the same to impart higher education technical courses. The society also owns a plot of land admeasuring 1.5 acres in M-Block, Vikaspuri, Delhi which was allotted by the DDA in the year 1963. It is also claimed that on this land also a four storeyed educational complex has been constructed; the ground floor and the first floor are used for running a school under the name and style of Rama Krishna Senior Secondary School; and the remaining two floors i.e. the 2nd and 3rd floor having 1500 sq.ft. covered area has been earmarked for running a B.Ed. course. The petitioner applied to the NCTE for grant of recognition for starting a B.Ed. course of one year duration with an annual intake of 100 students on 7.8.2003 from its Janakpuri Education Complex. Recognition was granted vide order dated 12.11.2003. As per the

petition the committee was satisfied that the institution has the land for setting up the Teacher Educational Institution and in exercise of the powers conferred u/s 14(3)(a) recognition was granted for a duration of one year for 100 students for the academic session 2004-2005 subject to fulfilment of certain conditions before announcement of the session and further the recognition was subject to the condition that the affiliating University shall ensure that the institution has appointed required number of faculty members as per norms of the NCTE.

2. Accordingly, the petitioner applied to the GGSIP University for affiliation and the university vide letter dated 14th May 2004 granted provisional affiliation to the petitioner for running a B.Ed. course for 100 students for the academic session 2004-2005. This affiliation continued for the academic session 2005-2006 as well. Before the commencement of the academic session 2006-2007, the AICTE issued a direction that the higher education institutes cannot run non-technical courses from a complex where the technical courses were being run. Accordingly, the petitioner, on 9.6.2006 requested the respondent No. 1 university to keep the admission for B.Ed. course for the academic session 2006-2007 in abeyance. In line with the directions of the AICTE, the petitioner decided to shift the B.Ed. course from its Janakpuri Educational Complex to the Vikaspuri Educational Complex which belonged to the same society and for the session 2007-2008, the petitioner created all the necessary infrastructure for running the B.Ed. course as per the norms set up by NCTE at its Educational Complex at M-Block, Vikaspuri.

3. On 5.12.2007 the petitioner applied to the NCTE for permission to shift the B.Ed. course to Vikaspuri. A joint inspection was conducted by a team of officials of GNCT of Delhi and GGSIP University on 15.12.2007. The report recommended grant of affiliation to the petitioner subject to fulfilment of certain requirements. Petitioner also received a letter dated 7.4.2008 informing the petitioner that inspection of the premises would be carried out during the period 20th - 30th April 2008. Petitioner was required to submit documents for verification to the inspection team and also make arrangements for videography. The inspection was conducted by the team of NCTE on 11th May 2008. According to the petition, the NCTE sought some clarifications from the petitioner regarding demarcation of the area for running the B.Ed. course from the new building which was given by the petitioner vide letter of 13th August 2008 and upon being satisfied with the explanation, the NCTE in its meeting held on 19th - 21st August 2008 allowed the petitioner to shift the B.Ed. course to Vikaspuri.

4. The respondent No. 1 university forwarded a letter dated 5.2.2009 wherein it was stated that the University conducted an inquiry for considering the petitioner's application for grant of affiliation and after constituting a committee of experts, in the minutes of the meeting of the committee held on 28th June 2009 resolved that the petitioner institute cannot be recommended for affiliation. Denying the affiliation to the petitioner institute the following reasons were given:-

(a) The approval was granted by NCTE is subject to the NOC by the State Government and State Government has categorically rejected their case.

(b) As per guidelines of the Board of Affiliation this Institute does not have the requisite area of 2.5 acres of land. It was felt essential by the Board of Affiliation of GGSIPU to maintain academic standards.

5. A formal rejection letter dated 13.2.2009 was also issued. The aforesaid communication was challenged by the petitioner by filing a writ petition being WP(C) No. 7131/2009. In the order of 25th November 2009, it was directed that NCTE shall re-inspect the premises and file a report in the Court. As per the writ petition, the inspection was carried out on 3.12.2009 and members of the team observed that the second and third floors had an area of 1581 sq.m. and which could exclusively be used for running a B.Ed. course, institute also had a playground for games and sports on sharing basis with the school which was in accordance with the NCTE norms and the only computer laboratory available was being shared with the school. Petitioner was thereafter shocked to receive a show-cause notice on 15.1.2010 pointing out six deficiencies. Petitioner was directed to show-cause as to why recognition granted on 18.11.2002 for conducting B.Ed. course be not withdrawn in view of the deficiencies. The deficiencies pointed out read as under:-

1. As per NCTE norms for B.Ed., the Institution must have at least 2500 sq.m. land where upon the built up area consisting of Classrooms, etc. shall not be less than 1500 sq.m. space. The Institute does not have exclusive required land of 2500 sq.m. for running the B.Ed. course.

2. As per norms for B.Ed., the land is not in the name of Institution.

3. The DDA allotted the land in the name of society for running Middle School but not B.Ed. programme.

4. The built up area of multipurpose hall is 1142 sq.ft. which is less than the required area of 1500 sq.ft.

5. Computer lab, Physics lab, Chemistry lab, etc. are shared with school which is against the B.Ed. Norms.

6. As per NCTE norms for B.Ed. there should be 1000 titles in the library but only 675 titles are available.

6. A reply to show-cause notice was submitted on 24.2.2010. Petitioner explained that deficiencies did not exist and further many institutes were running in Delhi with the same so-called deficiencies and petitioner alleged discrimination at the hands of the respondent. Dissatisfied with the reply received, the Northern Regional Committee, vide its order dated 25th May 2010, withdrew the recognition granted to the petitioner for the academic session 2010-2011 on the following grounds:-

1) That deficiency related to the requirement of Land still exists.

- 2) Land is still not in the name of the Institution.
- 3) As per record, DDA allotted land for running school but not B.Ed. programme.
- 4) As per the submitted reply, the Computer lab and science lab are being shared with the School.

7. Aggrieved by the aforesaid order, the petitioner filed an appeal to the National Council for Technical Education (NCTE) on 28th June 2010. A personal hearing was granted on 19th August 2010. Since no order was pronounced, writ petition being WP(C) No. 1537/2011 was filed seeking a direction to the NCTE to dispose of the appeal. Granting four weeks' time, the Court directed the NCTE to dispose of the appeal of the petitioner. On 25th April 2011, the NCTE dismissed the appeal filed by the petitioner which has led to the filing of the present writ petition.

8. Mr. Saini, counsel for the petitioner submits that the impugned order dated 25th April 2011 is illegal, arbitrary, discriminatory and unjust as it is based on invalid and untenable grounds. Mr. Saini also contends that while the case of the petitioner has been rejected other institutes in Delhi have been permitted to carry out the B.Ed. course under similar conditions and having the same shortcomings i.e. all the institutes in Delhi to which recognition for conducting B.Ed. course has been granted by the respondents are running their course from the building constructed on the land allotted for the purpose of running a school by the DDA and the B.Ed. course is run from the same building along with school. Mr. Saini has also drawn the attention of the Court to two lists filed containing the names of such institutions.

9. It is the case of the petitioner that the issue as to whether a B.Ed. course can be allowed to be run from a premises where a school is also running was raised with the Chief Minister of Delhi and vide order dated 27th June 2007, the Principal Secretary to the Chief Minister informed the Director (Higher Education), Government of NCT Delhi that after discussion with the DDA it was agreed that the restriction did not apply to B.Ed. course and the Director (Higher Education) should therefore issue NOC for running B.Ed. course from the school premises provided the same has been approved by the NCTE.

10. In these circumstances, counsel for the petitioner submits that the impugned order is illegal, arbitrary and discriminatory and liable to be quashed.

11. A short affidavit has been filed by the GGSIP University. It is contended by Mr. Talwar, counsel appearing for the University, that recognition granted by respondent No. 1 in the year 2003 was withdrawn by the University, essentially upon receipt of the inspection report pursuant to an inspection conducted by a committee formed as per the directions given by this Court in WP(C) No. 7131/2009. The inspection committee comprised of representatives of NCTE, representatives of GGSIP University and representatives of NCT of Delhi. In the report the Government of NCT Delhi pointed out that the recognition granted was

contrary to the norms laid down by the NCTE as well as the policy of the GNCT of Delhi which requires that if an institute intends to start a B.Ed. course from an institute from where a school has already been run then the said institute should have a minimum area of 2.5 acres. Another ground for withdrawal of the recognition was that the petitioner institute does not conform to the policy of the GNCT of Delhi.

12. Mr. Birbal, counsel appearing for DDA submits that on 10th March 1998 the petitioner society was allotted, on perpetual leasehold basis, a plot of land ad-measuring 6,000 sq.m. for running a middle school. In the year 2002, the society was granted permission for running Teachers' Training course in the said school. However, the said permission was suspended on 1st March 2002. Although, despite the order of suspension of permission, the society continued to run the B.Ed. course from the premises of the school. Vide letter of 4th April 2005, the society was called upon to discontinue with immediate effect the running of Teachers' Training course failing which action would be initiated as per the terms of the perpetual lease executed while allotting the land.

13. Counsel for the DDA further submits that as per the Master Plan for Delhi 2021 (MPD-2021) structural courses such as B.Ed. course, leading directly to a degree/diploma are not permitted to run on land allotted for running a school. Mr. Birbal further submits that DDA has issued notices to other such institutions to stop running B.Ed. courses from land allotted for running a school and thus it is contended that as a uniform policy the DDA does not permit running of a B.Ed. course in the area earmarked for running of a school. In response to the submission made by counsel for petitioner with regard to the stand taken by the DDA in its letter of 16th July 2007 and in the Joint Meeting held on 27th June 2007, Mr. Birbal has clarified that in case an incorrect answer is given by the Deputy Director (IL of DDA) in his capacity as CPIO the same cannot bind the DDA in case the stand taken is against the very policy of DDA and especially in view of the provisions contained in the Master Plan for Delhi. With regard to the meeting held on 27th June 2007, it is clarified that although a meeting was held and a stand was taken, however, no resolution was passed by the DDA nor any policy was framed neither there is any amendment to the MPD-2021 allowing B.Ed. courses in areas meant for school has been carried out and further any view expressed in the meeting cannot be contrary to the provisions of the MPD-2021.

14. Mr. Kumar, counsel appearing for respondents No. 1 and 2 submits that as per the land documents in favour of the petitioner which were submitted to respondents No. 1 and 2, the allotment was made by the DDA to Triveni Educational and Social Welfare Society for construction of a Middle School. Clause 5 of the said document makes it clear that the society was to use the land for running a middle school only failing which the land along with the structure raised thereon would be resumed by the Government/DDA. It is submitted that besides the above deficiency various other deficiencies were pointed out by the

Inspecting Committee. Counsel submits that it is a well settled principle of law that the Courts should leave the decisions of academic matters to experts who are more familiar with the problems they face than the courts generally can be. Mr. Kumar submits that the Supreme Court while following its earlier decision of the Constitution Bench in *The University of Mysore and Another Vs. C.D. Govinda Rao and Another*, has held in *Tariq Islam Vs. Aligarh Muslim University and Others*, that "normally it is wise and safe for the Courts to leave the decision of academic matters to experts who are more familiar with the problems they face than the courts generally are". A similar view has been expressed in several decisions of the Hon'ble Supreme Court in the matters of *Dr. Uma Kant Vs. Dr. Bhika Lal Jain and others*, (para 9), *Bhushan Uttam Khare Vs. The Dean, B.J. Medical College and others*, (para 8), *Rajendra Prasad Mathur Ors. Vs. Karnataka University and Another*, (para 7) : 1986 Supp. SCC 740 (para 7), *P.M. Bhargava and Others Vs. University Grants Commission and Another*, (para 13), *Chairman, J and K State Board of Education Vs. Feyaz Ahmed Malik and Others*, , *Varanasaya Sanskrit Vishwavidyalaya and Another Vs. Dr. Rajkishore Tripathi and Another*, (para 12), *Medical Council of India Vs. Sarang and Others*, (para 6), *Bhagwan Singh and Another Vs. State of Punjab and Others*, .

15. Counsel also submits that it is a well settled principle of law that the finding of fact arrived at by the expert body on the basis of their on the spot assessment cannot be interfered under writ jurisdiction under Article 226 of the Constitution of India particularly when the issue involves disputed questions of facts pertaining to the availability or non-availability of physical and academic infrastructure in the institution.

16. I have heard the learned counsel for the parties and considered their rival submissions.

17. It is the case of the petitioner that in the year 2003 the petitioner institute had applied to the NCTE for grant of recognition for the B.Ed. course. The course was to be conducted from the premises at Janakpuri. After the recognition was granted, in the year 2006, the petitioner learnt that the AICTE had directed that higher education institute should not run non-technical courses from a complex from where they are running technical courses. On 9.6.2006 the petitioner requested respondent No. 1 to keep the admission for B.Ed. course for the year 2006-2007 in abeyance. Consequently, the affiliation was also discontinued. Petitioner shifted from Janakpuri to Vikaspuri and thereafter sought affiliation which has been declined. Petitioner has challenged the order dated 24.11.2011 passed in appeal. In the show cause notice dated 15.1.2010 six deficiencies were pointed out, as reproduced in para 6 a foregoing. By the order dated 25.5.2010 the recognition granted in favour of the petitioner was withdrawn. One of the main grounds was that the DDA allotted the land in the name of society for running Middle School but not B.Ed. programme. The appeal was dismissed mainly on the following grounds:-

Even though the petitioner contended (as recorded in the Hon'ble High Court's

order dated 09.03.2011) that the lease has been granted by the DDA for educational purpose and the judgment of High Court holding that the land can be used for all educational purposes has already been cited in the hearing before the Council, the petitioner has not furnished a copy of the said lease or a copy of the judgment of the Hon''ble Court to the NCTE at the time of hearing before the Council on 19.08.2010 or while forwarding the Hon''ble High Court's order dated 09.3.2011.

Despite the efforts made by the NCTE a clear picture has not emerged till date on this ground. On the other hand as per the order of allotment of land of 6000 sq.m. for the school the land has to be divided equally for construction of school building and for play ground, leaving absolutely no exclusively land of 2500 sq.m. for B.Ed. programme as per NCTE Regulations.

All the four grounds on which NRC withdrew recognition are valid and justified and, therefore, the appeal deserved to be rejected and the order of the NRC confirmed.

18. The main thrust of argument of learned counsel for the petitioner is that the petitioner institute is being discriminated against as other institutions are running their course from the building constructed on the land allotted for the purpose of running a school by the DDA and the B.Ed. course is run from the same building along with school. Mr. Saini has drawn the attention of the Court to the report of the Visiting/Inspection Team to show that the report clearly spells out that the building is being shared with the school but the second and third floors are exclusively being used for running the B.Ed. course. Relevant portion of the report where such an endorsement has been made reads as under:-

Second and third floors measuring 1581 (one thousand five hundred eighty one) square metres (as given in the approved completion plan checked and verified) are exclusively being used for running B.Ed. course.

19. With regard to the deficiencies pertaining to the laboratory, while placing reliance on the same report it is stated that the visiting team had noticed that 4 laboratories are available and only one Information Technology laboratory is being shared. It is thus contended that the visiting team has given a positive report in favour of the petitioner and no deficiencies have been pointed out. It has also been strenuously argued that the petitioner has given a list of recognized institutions in which land is allotted for a school but the respondents have permitted them to carry out B.Ed. course. A list of 10 such institutes has been filed by the petitioner.

20. Mr. Birbal, counsel for DDA, has clarified that out of 10 institutes mentioned in this list, institutes at serial No. 1 and 4 as also institutes at serial No. 3 and 7 are the same. Institutes at serial No. 8 to 10 stand closed and action has been taken with respect to institutes at serial No. 2, 3 and 5. He submits that with regard to the subsequent list filed, appropriate action in accordance with law shall be taken. He also submits that in response to an RTI query raised by the

petitioner as to whether any permission has been accorded by DDA for running of such courses in the schools/lal doras, the DDA has answered in the negative. Copy of this reply has also been placed on record.

21. It would be useful to reproduce Clause 3.2 of the Master Plan for Delhi 2021, which reads as under:-

Coaching centres/vocational training centres would be permissible in school classes after school hours with (a) prior approval of Competent Authority in the case of schools run by GNCTD or local body and (b) with prior intimation to lessor and payment of fee to be prescribed in the case of schools run privately on leased land. Structured courses leading directly to degree/diploma shall however not be permitted.

22. It would also be useful to reproduce clause 5 of the lease executed in favour of the petitioner by DDA which reads as under:-

5. The committee/society shall use the land for running a middle school only failing which the land along with the structure raised thereon will be resumed by the Govt./DDA.

23. Mr. Saini, learned counsel for the petitioner has contended that the impugned order is liable to be quashed firstly on the ground that it is the policy of the DDA to permit running of a B.Ed course from the land allotted for running of a school. Counsel has further contended that this is evident from the fact that in the meeting the Vice-Chairman had taken such a stand and consequently the DDA has allowed similarly situated institutes to run B.Ed programme from the land allotted for running a school.

24. The submission of Mr. Saini, learned counsel for the petitioner, is without any force on the ground that the list, sought to be relied upon by Mr. Saini, to show that the DDA permitted similarly situated persons for running a B.Ed course in the land earmarked for running a school has been satisfactorily explained, while Mr. Birbal, learned counsel for the DDA, has brought to the attention of the Court that the list of ten institutes does not reflect a true and correct picture for the reason that out of the ten institutes, institutes at Serial Nos. 1 and 4, 3 and 7 are the same, institutes at Serial Nos. 8 to 10 stand closed, and further the DDA has stated on an affidavit that with respect to the institutes mentioned at Serial Nos. 2, 3 and 5 appropriate action in accordance with law has been taken. Thus, it cannot be said that the DDA has allowed the institutes to function on the land allotted for running a school.

25. The submission of learned counsel for the petitioner is also not acceptable for the reason that Clause 5 of the lease executed in favour of the petitioner makes it abundantly clear that in case the land is not used for running a middle school the structure thereon would be resumed by the DDA.

26. There is also no force in the submission made by learned counsel for the petitioner that in response to a query raised under Right to Information Act and

also the communication dated 27.6.2007 the Principal Secretary to the Chief Minister informed the Director, High Education, that after discussion with the DDA it was agreed that such a restriction did not apply to B.Ed course for the reason that an individual cannot bind a public body more so when such a decision is against the very terms of the Master Plan. In view of clause 5 of the lease executed between the petitioner and the DDA wherein land was granted to the petitioner for running a middle school only, taking into consideration the stand of the DDA that they have not allotted any other institutions to run a B.Ed. course on the land allotted for running a school and further the statement that suitable action would be initiated against all such persons, who have violated the terms of the lease, and also taking into consideration clause 3.2 of the Master Plan for Delhi 2021, there is no infirmity either in the show cause notice dated 15.1.2010 or in the order of 25.5.2010 by which recognition granted to the petitioner was withdrawn. Accordingly, the writ petition is without any merit and the same is dismissed.