
(2017) 09 DEL CK 0095

In the Delhi High Court

Case No : Civil Writ Petition No. 9878 Of 2016

MASS Education Primary Teachers Training Institute

APPELLANT

Vs

National Council For Teacher Education And Anr

RESPONDENT

Date of Decision : 26-09-2017

Acts Referred:

National Council For Teacher Education (Recognition Norms And Procedure)
Regulations, 2014 — Regulation 8(7)

Citation : (2017) 09 DEL CK 0095

Hon'ble Judges : Indermeet Kaur, J

Bench : Single Bench

Advocate : MayankManish, Arunima Dwivedi

Final Decision : Dismissed

Judgement

Indermeet Kaur, J

1 Petitioner is aggrieved by the order dated 02.5.2016 passed by the Eastern Regional Committee (respondent no.2) which was affirmed on 02.9.2016

by its Appellate Authority, National Council for Teacher Education (respondent no.1).

2 Petitioner is an educational institution situated in West Bengal (India). It had been granted recognition for running diploma in elementary education

(D.El.Ed.) course by respondent no.2 in the year 2009. Record shows that on 29.5.2015 the petitioner institute had applied (online) to respondent no.2

seeking recognition for its course of Bachelor of Education (B.Ed. course) along with the requisite documents and processing fee. Respondent no.2

failed to process the application of the petitioner for some time and on 08.02.2016 intimated the petitioner for the expert team inspection which

inspection of the petitioner institution was accordingly conducted. Respondent

No. 2 in its 211th meeting (between 14.04.2016 to 16.04.2016)

considered the visit team report and accordingly decided to issue a show cause notice to the petitioner.

3 Petitioner after seeing the minutes of the meeting on the NCTE website, without waiting for the show cause notice, submitted the Building

Completion Certificate (BCC) related documents approved by the Gram Panchayat to respondent no. 2 on 19.04.2016. Respondent No. 2, however,

in its meeting (between 24.05.2016 to 25.04.2016) refused to grant recognition to the petitioner and dismissed his prayer. BCC related document

approved by the government engineer was obtained by the petitioner on 01.05.2016 and the same was submitted to respondent no. 2 on 02.05.2016.

Thereafter, the petitioner filed an appeal before respondent no. 1, which was rejected and the order of respondent no. 2 (dated 02.05.2017) was

confirmed. This exercise by the respondents is arbitrary. The order is liable to be set aside.

4 Counter affidavit has been filed. It is pointed out that respondent no. 2 in its 211th meeting (between 14.04.2016 to 16.04.2016) observed that show

cause notice be issued to petitioner on the ground that BCC related documents were not signed by the government engineer. On 19.04.2016 petitioner

in response to the show cause notice submitted the BCC related documents which were approved by the Gram Panchayat. Respondent No. 2 vide its

letter dated 02.05.2016 refused recognition of the petitioner institution on the ground that the BCC related documents were not signed by the

government engineer. It is further pointed out that petitioner submitted the BCC document approved and signed by the government engineer (obtained

by him on 01.05.2016) to respondent no. 2 on the same date i.e. 02.05.2016 as that of the refusal order; however by then respondent no. 2 had already

taken its decision and had refused recognition of the petitioner institution. Learned counsel for the respondents submits that the BCC related

documents duly approved by the government engineer were not filed by the petitioner within the prescribed period of time. There is a time schedule

laid down by the respondents during which the documents have to be submitted and since the requisite documents were forwarded by the petitioner

after issuance of the refusal order, respondent no. 1 (the appellate authority) rejected the appeal filed by the petitioner and endorsed the order of

respondent no. 2.

5 Rejoinder has been filed affirming the averments made in the petition. It is not disputed that a show cause notice was issued by respondent no. 2 in

its meeting (between 14.04.2016 to 16.04.2016) on the ground that building plan building completion certificate was not signed by any government

engineer. This averment of the respondent finds mention in para 2(e) of the counter affidavit. Corresponding para in the rejoinder admits that this is a

matter of record. Learned counsel for the petitioner submits that the petitioner had already submitted the BCC related documents signed by an

engineer and approved by gram panchayat on 19.04.2016 to respondent no. 2, however his application stood rejected on 02.05.2016 by respondent

no.2 for the reason that the petitioner had failed to submit the said documents duly signed by a government engineer within the scheduled period. The

same had also been endorsed by respondent no. 1 (appellate authority) while dismissing the appeal filed by the petitioner. Learned counsel for the

petitioner further submits that the NCTE Regulations 2014 nowhere provide that the BCC related documents should be signed by the government

engineer and thus the impugned orders are liable to be set aside.

6 Arguments have been heard. Record perused.

7 Perusal of the records shows that subsequent to an application made by the petitioner to respondent no. 2 seeking grant of recognition for B.Ed

course, an inspection of the petitioner institute was carried out on 19.03.2016 to verify infrastructural and instructional facilities provided by the

institutions and also the essential documents as per NCTE Regulation. Respondent no. 2 in its 211th meeting (between 14.04.2016 to 16.04.2016)

issued show cause notice to petitioner institute as to why recognition to the institution be not refused on the point that "building plan and building

completion certificate is not signed by any government engineer." Petitioner had submitted representation dated 19.04.2016 on the basis of

proceedings uploaded on respondent no. 2 website. Respondent no. 2 in its emergent meeting (between 24.04.2016 to 25.04.2016) considered and

examined petitioner's application along with the documents submitted and refused permission for recognition (B.Ed course) vide order dated

02.05.2016 to petitioner institution for the reason that the BCC related documents were not signed by a government engineer. The petitioner thereafter

for the first time on 02.05.2016 i.e. on the same date as that of the refusal order, submitted the requisite BCC related documents duly approved by

Government Assistant Engineer to respondent no. 2. Since the requisite document was forwarded by the petitioner after the issuance of the refusal

order, respondent no. 1 noting the same in its order dated 02.09.2016 rejected the appeal filed by the petitioner and affirmed the order of respondent

no. 2.

8 It is against these orders dated 02.05.2016 and 02.09.2016 that the petitioner has approached this court. Before going into the merits of the case, it is

relevant to discuss the Regulations of National Council for Teacher Education (made pursuant to a statutory legislation i.e. the National Council for

Teacher Education Act, 1993). Regulation 8(7) of the aforementioned Regulations deals with the conditions for grant of recognition and is relevant.

Regulation 8(7) reads as under:

â??8. Conditions for grant of recognition-

(7) At the time of inspection, the building of the institution shall be completed in the form of a permanent structure on the land possessed by

the institution, equipped with all necessary amenities and fulfilling all such requirements as prescribed in the norms and standards. The

applicant institution shall produce the original completion certificate issued by the competent Authority, approved building plan in proof of

the completion of building and built up area and other documents to the visiting team for verification. No temporary structure or asbestos

roofing shall be allowed in the institution, even if it is in addition to the prescribed built up area.â??

9 This regulation mandates that at the time of inspection the building of the institution should be complete as per the requirement, norms and standards;

the institution should produce original completion certificate issued by a competent authority along with the approved building plan for the purposes of verification.

10 The petitioner institute had been inspected on 19.03.2016; pursuant to which a deficiency with respect to the BCC document not being signed by a

government engineer was noted by respondent no. 2 in its show cause notice. Petitioner was given an opportunity to remove this deficiency. Vide his

representation dated 19.04.2016; he again submitted the BCC document. A

scrutiny of the said BCC related document reveals that this document was issued by one Santi Ranjan Mondal, a private engineer and approved by the gram panchayat. It was again not a document signed by any government engineer as was required by respondent no. 2 in terms of the show cause notice issued to the petitioner. Thereafter upon examination of representation dated 19.04.2016 by respondent no. 2 in its meeting held between 24th to 25 April 2016, the application of petitioner for recognition was refused vide order dated 02.05.2016. This court notes that the petitioner had been afforded ample opportunity to rectify the defect which stood as a hurdle in perfecting his application for grant. The respondent no. 2 had already taken a decision qua the petitioner's application (refusing to grant recognition) in its meeting after examining the representation and documents forwarded to it by the petitioner; this decision was recorded in terms of an order by the committee on 02.05.2017. However, the petitioner being well aware of the lacuna existing in his BCC related documents already submitted to respondent no. 2, chose to file the requisite documents duly signed by a government assistant engineer, Niranjana Kutty only on 02.05.2016 i.e. after the scheduled period of time; on the same date as that of the refusal order. This document is dated 01.05.2016. Thus, it is only on 01.05.2016 that the petitioner had procured for the first time the BCC document signed by the competent authority being the government engineer.

11 In light of the aforementioned discussion, it is evident that the essential intent of Regulation 8 (7) of the NCTE Regulations being that the requisite documents have to be issued by the competent authority and shall have to be produced at the time of inspection has not been complied with; the document issued by government assistant engineer being obtained by the petitioner only on 01.05.2016 i.e., much after the respondent no. 2 committee had inspected the petitioner's institute which was on 19.03.2016.

12 This court further notes that the contention of the petitioner that the NCTE Regulations 2014 nowhere provide that the BCC related documents should be signed by the government engineer is also one without merit. The petitioner was well aware of the fact that it was the government engineer and not the private engineer who was the competent authority to issue the BCC related documents and the same being emphasized upon in the show cause notice as well. Petitioner had been responding without any demur or

protest; he has also submitted the requisite BCC documents duly signed by a government assistant engineer to respondent no. 2 which however could not be acceded to on account of the delay in forwarding the same i.e. after issuance of the refusal order dated 02.05.2016.

13 In the context of the defence of the time schedule, the Apex Court had an occasion to consider this issue in the case of Maa Vaishno Devi Mahila

Mahavidyala Vs. State of Uttar Pradesh and Ors. reported as (2013) 2 SCC 617 and the observation of the Apex Court in this regard would be

relevant; the same reads as under:

81. Lastly, the question which is required to be discussed in light of the facts of the present cases is adherence to the Schedule. Once the

relevant Schedules have been prescribed under the Regulations or under the Judge made law, none, whosoever it be, is entitled to carve out

exceptions to the prescribed Schedule. Adherence to the Schedule is the essence of granting admission in a fair and transparent manner as

well as to maintain the standards of education. The purpose of providing a time schedule is to ensure that all concerned authorities act

within the stipulated time. Where, on the one hand, it places an obligation upon the authorities to act according to the Schedule, there it also

provides complete clarity to other stakeholders as to when their application would either be accepted and/or rejected and what will be the

time duration for it to be processed at different quarters. It also gives clear understanding to the students for whose benefit the entire

process is set up as to when their examinations would be held, when results would be declared and when they are expected to take

admission to different colleges in order of merit obtained by them in the entrance examinations or other processes for the purposes of

subject and college preference.

82. We are constrained to reiterate with emphasis at our command that the prescribed schedules under the Regulations and the judgments

must be strictly adhered to without exceptions. None in the hierarchy of the State Government, University, NCTE or any other authority or

body involved in this process can breach the Schedule for any direct or indirect reason. Anybody who is found to be defaulting in this

behalf is bound to render himself or herself liable for initiation of proceedings

under the provisions of the Contempt of Courts Act, 1971 as well as for a disciplinary action in accordance with the orders of the Court.â??

14 In light of the above, the order of respondent no. 1 dated 02.09.2016 rejecting the appeal filed by petitioner and affirming the order dated

02.05.2016 of respondent no. 2 suffers from no infirmity.

15. Petition dismissed.