

(2014) 05 MP CK 0139

In the Madhya Pradesh High Court

Case No : Writ Petition Nos. 16805, 21586, 21669, 21953/2013, 220, 1571, 1998, 2066, 2067, 2068, 2070, 2071, 2072, 3262, 5985/2014 and 19985/2013 (PIL)

Matushri Ahilya Devi Teachers Education Institute and Others
etc. etc.

APPELLANT

Vs

National Council for Teachers Education and Others etc. etc.

RESPONDENT

Date of Decision : 13-05-2014

Acts Referred:

Constitution of India, 1950 — Article 226

National Council for Teacher Education Act, 1993 — Section 12, 13, 17, 18, 32

Citation : AIR 2014 MP 101 : (2015) 2 MPJR 187 : (2015) 1 MPJR 25 : (2014) 4 MPLJ 9

Hon'ble Judges : A.M. Khanwilkar, C.J;K.K. Trivedi, J

Bench : Division Bench

Advocate : Siddharth Gupta, learned Counsel in W.P. Nos. 16805, 21669, 21856, 21953/2013, 1998, 2067, 2070, 2071, 2072, 3262/2014, for the intervener in W.P. No. 19985/2013 (PIL), Shri Deepak Raghuwanshi, learned Counsel in W.P. No. 220/2014, Shri Manish Mishra, learned Counsel in W.P. No. 1571/2014, Shri Rajmani Singroul, learned Counsel in W.P. No. 2066/2014, Shri Bramhadatt Singh, learned Counsel in W.P. No. 2068/2014, Shri Rajneesh Gupta, learned Counsel in W.P. No. 5985/2014 and Shri Paritosh Gupta, learned Counsel in W.P. No. 19985/2013 (PIL), Advocate for the Appellant; Tapan Kumar Trivedi for Respondents No. 1 and 2-NCTE in W.P. No. 21856, 21669, 21953/2013, 1571, 1998, 2067, 2068, 2070, 2071, 3262/2014, for the Respondent No. 1-NCTE in W.P. No. 2066/2014, for the Respondent No. 2-NCTE in W.P. No. 2072/2014, for the Respondents No. 2 and 3 in W.P. No. 5985/2014, Shri K.K. Singh, learned Counsel for Respondents No. 1 and 2-NCTE in W.P. No. 21856, 21669, 21953/2013, 1571, 1998, 3262/2014, for the Respondents No. 2 and 3 in W.P. No. 5985/2014, Advocate for the Respondent No. 2-NCTE in W.P. No. 19985/2013 (PIL), Shri Prakash Upadhyay, learned Counsel for the Respondent No. 4-NAAC in W.P. No. 21856, 21669, 21953/2013, 1571, 1998, 2072, 3262/2014, for Respondent No. 3 in W.P. No. 2066, 2067, 2068, 2070, 2071/2014, for the Respondent No. 2-NCTE in W.P. No. 19985/2013 (PIL), Shri Subhash Chaturvedi, learned Counsel in W.P. No. 16805/2013, for the Respondent No. 3 in W.P. No. 21953/2013, for the Respondent No. 2 in W.P. No. 220/2014, for the Respondent No. 4 in W.P. No. 5985/2014, for the Respondent No. 9-Barkatullah University, Bhopal in W.P. No. 19985/2013 (PIL), Smt. Shobha

Menon, learned Senior Counsel assisted by Shri C.A. Thomas, Advocate for the Respondent No. 3 in W.P. No. 1571/2014, for the Respondent No. 8 in W.P. No. 19985/2013 (PIL) and Shri Ramesh Sharan Sharma, learned Counsel for the Respondent No. 4. in W.P. Nos. 2067, 2068, 2070, 2071/2014, for the Respondent No. 1 in W.P. No. 2072/2014, Advocate for the Respondent

Final Decision : Disposed Off

Judgement

K.K. Trivedi, J.—This judgment will also govern the disposal of Writ Petition No. 16805/2013, Writ Petition No. 21669/2013, Writ Petition No. 21953/2013, Writ Petition No. 220/2014, Writ Petition No. 1571/2014, Writ Petition No. 1998/2014, Writ Petition No. 2066/2014, Writ Petition No. 2067/2014, Writ Petition No. 2068/2014, Writ Petition No. 2070/2014, Writ Petition No. 2071/2014, Writ Petition No. 2072/2014, Writ Petition No. 3262/2014, Writ Petition No. 5984/2014 and Writ Petition No. 19985/2013. As the common question is involved including the interpretation of Sub-clause (5) of Regulation 8 of National Council for Teacher Education Regulations, 2009 (hereinafter referred to as the NCTC Regulation 2009 for brevity), for the convenience facts are taken from this petition only.

2. The present petition under Article 226 of the Constitution of India is directed seeking the following reliefs:-

(a) This Hon"ble Court be pleased to issue appropriate writ/order/direction including a writ of certiorari setting aside and quashing the impugned communications dated 30.10.2013 and 12.09.2013 of the WRC, NCTE.

(b) This Hon"ble Court be pleased to issue appropriate writ/order/direction including a writ of mandamus directing the respondent university for conducting the examination of students of the petitioners institution having studied in the M.Ed. courses for the session 2012-13.

(c) The Hon"ble Court be pleased to issue appropriate writ/order/direction including a writ of mandamus directing the respondent NAAC for issuing the necessary accreditation certificates within a time bound period to the petitioners, if so found fit as per their norms and standards.

(d) Any other order or direction deemed just and proper in the facts and circumstances of the case may also be passed with costs.

3. To summarise the facts in all other cases also, it would be necessary to give certain brief statements of claim made in different writ petitions :

(i) Writ Petition No. 16805/2013 was filed by I.E.S. College of Education against the University seeking a writ of mandamus directing the respondent university to conduct the examination of 35 students studying in M.Ed. courses for the session 2012-13, within time bound period. It was contended that the said institution

was duly recognized by the National Council for Teacher Education (hereinafter referred to as the NCTE for short) and on the strength of such a recognition, students were admitted in the College, they have completed their course but their examinations were not allowed to be conducted. Therefore, the writ petition was required to be filed. During pendency of the said writ petition, since, in respect of various colleges, in terms of the provisions of Regulation 8(5) of NCTE Regulations 2009, such recognition was cancelled, the name of the institution was removed from the register of the recognized institution by the NCTE (Western Regional Committee), different writ petitions were filed challenging the said orders on various counts.

(ii) A Public Interest Litigation, being W.P. No. 19985/2013 was filed by one R.K. Khare, against several universities as also Union of India, National Assessment & Accreditation Council, NCTE, the State Government, seeking a command that the said authorities be directed not to conduct the examination of those students who were admitted in the institutions which were not fulfilling the conditions prescribed in Regulation 8(5) of NCTE Regulations 2009. Another relief was claimed that the examination of such students if conducted, their results may not be declared. The said Public Interest Litigation was also heard together with these writ petitions.

(iii) All other writ petitions are also against the order of cancellation of recognition of the concerned institutions, which were earlier granted recognition by the NCTE and, therefore, all those writ petitions were heard analogously in this group of cases.

4. Now advertent to the question involved in the present petition, the contention of the petitioners is that in terms of the Regulations which were in vogue at the time when the institutions were established, the applications were made by the petitioners and they were granted recognition by the NCTE and, thus, they were legitimately running their institutions. However, on coming into force of NCTE Regulations 2009, because, for the first time, a certificate in specified grade became necessary for grant of recognition, the NCTE without granting them any opportunity of hearing, without conducting any enquiry whatsoever, simply issued the orders cancelling their recognition. At no point of time, the institutions were informed about obtaining the certificate from the National Assessment and Accreditation Council (hereinafter referred to as the NAAC for brevity) nor they were given sufficient time for obtaining such certificate. Because of the prescription of a cut off date in the said Regulation, the institutions were de-recognized. It is also contended that the said certificate from NAAC would be necessary only for those institutions, which are seeking enhancement of intake capacity. The requests were made to the NAAC for making inspection and granting such certificate by the concerned institutions intending to enhance the intake capacity, however, that did not warrant derecognition of the entire college. Since the NAAC is an autonomous body under the folds of University Grants Commission, merely because of non-production of such a certificate, the

institutions were not liable to be derecognized. It is contended that action could be taken against the institutions only after conducting an enquiry u/s 17 of the National Council for Teacher Education Act, 1993 (hereinafter referred to as the Act of 1993).

5. The respondents have filed their return supporting their action only on the strength of the Regulations and stating that since the NAAC is a statutory authority, its assessment of an institution is necessary for the purposes of grant of recognition as is prescribed in the NCTE Regulations 2009, therefore, unless the said conditions are fulfilled by the petitioners, their recognition was rightly withdrawn. It is contended that in similar circumstances, this Court has refused to entertain a writ petition. The respondents have also made an application being I.A. No. 1315/2014, praying that the writ petition is not maintainable in view of the fact that an appeal is provided u/s 18 of the Act of 1993, against the order impugned in the writ petition, which appeal has not been preferred by the petitioners and, therefore, the writ petition is not to be entertained. To buttress these submissions, the respondents No. 1 and 2 have relied on a decision of the Division Bench of this Court in Writ Petition No. 4467/2013 (Rajeev Gandhi College Vs. State of M.P. and others) stating that this Court has dismissed the writ petition with liberty to file such an appeal, vide order dated 20.1.2014. It is contended that since the petition is totally misconceived, the same is liable to be dismissed.

6. The petitioners have filed I.A. No. 4068/2014, seeking disposal of the writ petition in terms of the orders passed by this Court in somewhat similar circumstances in the writ petitions filed at Indore Bench. It is contended in the said application that Writ Petition No. 10922/2013 has been decided on 14.2.2014 saying that since the opportunity of hearing was not granted, the order of de-recognition deserved to be quashed with liberty to the NCTE to take fresh proceedings and to pass fresh orders after affording an opportunity of hearing to the institutions like petitioners. At the time of hearing, we have been apprised by learned counsel for the petitioners about the order passed in Writ Petition No. 12062/2013 (Acharya Vidya Sagar Technical Education Society Vs. Union of India and others) and identical matters decided on 5.4.2014. It is pointed out that taking note of the fact that no opportunity of hearing was granted to the institutions like petitioners before cancellation of their recognition, such an act of the NCTE was in gross violation of principles of natural justice, therefore, the petitions were allowed and the impugned orders passed in those writ petitions were quashed with liberty granted to the NCTE to proceed afresh in accordance with law.

7. We have heard learned counsel for the parties at length and perused the record.

8. First of all, we have to examine whether the recognition granted to the petitioners for the purposes of establishing the institution as also for the purposes of enhancement in the intake capacity could be withdrawn merely

because of not fulfilling conditions enumerated in the NCTE Regulations 2009. For the purposes of interpretation, it would be necessary to give brief facts about the Regulations of the NCTE. In exercise of power under sub-section (2) of Section 32 of the Act of 1993, the Regulations were made by the NCTE and notified in the Gazette of India (Extraordinary) on 31.8.2009. The head note of this Regulation itself declares that the National Council for Teacher Education (Recognition, Norms and Procedure) Regulations 2007 are superseded. The repeal of Regulations as is given in Regulation 13 also prescribes the repeal of 2007 Regulations and the notification previously issued. However, it is categorically prescribed that the repeal of Regulations shall not effect previous operation of any Regulation so repealed or anything duly done thereunder. It is nobody's case that the recognition was granted to the petitioners after coming into force of NCTE Regulations 2009. It is also not the case of respondents that the enhanced intake capacity was allowed to the petitioners after coming into force of the 2009 Regulations. Therefore, we have to examine the field of operation of Regulation 8 of Regulations 2009 and more particularly sub-clause (5) of the said Regulations, which has been made applicable in the present case. For the purposes of convenience, the relevant provisions of the Regulation 8 of Regulations 2009 are quoted hereunder:-

8. Conditions for grant of recognition:-

(1) An institution must fulfil all the prescribed conditions pertaining to norms and standards as prescribed by the National Council for Teacher Education for conducting the course or training in teacher education. These norms, inter alia, cover conditions relating to financial resources, accommodation, library, laboratory, other physical infrastructure, qualified staff including teaching and non-teaching personnel, etc.

(2) In the first instance, an institution shall be considered for grant of recognition of only one course for the basic unit as prescribed in the norms and standards for the particular teacher education programme.

(3) An institution can apply for one basic unit only for an additional course or for an additional unit of the existing recognized course after completion of three academic sessions of the respective course, for which the institution shall submit application before the cut off date prescribed for submission of applications in the year succeeding the completion of three academic sessions. Maximum intake capacity of an institution taking into consideration of all courses, along with additional intake, in any case, shall not exceed 300.

(4) An institution shall be permitted to apply for new course of Master of Education and Master of Physical Education and enhancement of intake in Bachelor of Education, Bachelor of Physical Education, Master of Education and Master of Physical Education Programme, after it has been accredited by the National Assessment and Accreditation Council (NAAC) with at least a letter Grade B developed by NAAC.

(5) An institution that has been granted additional intake in Bachelor of Education and Bachelor of Physical Education teacher training courses after promulgation of the Regulations, 2005 i.e. the 13th day of January 2006 shall have to get itself accredited by National Assessment and Accreditation Council (NAAC), with a Letter Grade B under the new grading system developed by NAAC, on or before the 1st day of April, 2010 failing which the additional intake granted shall stand withdrawn with effect from the academic session 2010-2011. Similarly, all institutions having a Master of Education and Master of Physical Education courses shall have to get NAAC Accreditation with at least a Letter Grade B on or before the 1st day of April, 2012, failing which Master of Education or Master of Physical Education recognition granted to the institutions shall stand withdrawn with effect from the academic session 2012-2013.

(6) All the applications for Master of Education or Master of Physical Education courses and additional intake in Master of Education or Master of Physical Education received on or before the date of coming into force of these Regulations, shall be considered as per the provisions of the National Council for Teacher Education [Recognition Norms and Procedure] Regulations, 2007 dated 10th December, 2007. However, the provisions of sub-regulation (5) shall also be applicable to them.

9. A bare reading of sub-clause (5) of Regulation 8 of Regulations 2009, will make it clear that it has two parts. The first part prescribes, in case of an institution which has been granted additional intake in Bachelor of Education and Bachelor of Physical Education teacher training courses after promulgation of the Regulations, 2005 i.e. the 13th day of January 2006 shall have to get itself accredited by National Assessment and Accreditation Council (NAAC), with a Letter Grade B under a new grading system developed by NAAC, on or before the 1st day of April, 2010. The second part is applicable only for an institution having a Master of Education and Master of Physical Education courses, which have to obtain NAAC Accreditation with at least a Letter Grade-B on or before the 1st day of April 2012. This makes it amply clear that the requirement of NAAC Accreditation Letter is in respect of "additional intake" only for Bachelor of Education and Bachelor of Physical Education. Whereas, for the institution imparting the Master of Education and Master of Physical Education courses, they are required to obtain NAAC Accreditation letter for conducting that course.

10. Therefore, if an institution which has already been registered and recognized by the NCTE only for the purposes of running the college for Bachelor of Education and Bachelor of Physical Education courses and have not obtained the sanction for additional intake after the specified date, they are not to be subjected to the condition of obtaining a certificate of accreditation from the NAAC. That requirement will become necessary only in cases where the institution has applied for "additional intake" after 13th January, 2006. Failure to do so, at best, would result in withdrawal of recognition of the institution to the extent of "additional intake" capacity and not impact the original intake capacity

for which it had obtained recognition prior to 13th January, 2006.

11. Reverting to the institutions engaged in imparting Master of Education and Master of Physical Education Courses, the question would be if this was not the condition prescribed earlier, could it be made applicable to those institutions which were running such courses. The scheme of recognition is based on academic session-wise. It is not that once the recognition is granted, the same will remain operative for posterity and no further action in that respect would be necessary on the part of the NCTE. In fact, for every academic session, the institutions are required to make application for grant of recognition by the NCTE and only after that grant, the universities are obliged to conduct the examination of students of the said institution, as the affiliation of the College or institution by the university is depending on such a recognition granted by the NCTE. Therefore, every such institution imparting Master course is obliged to fulfil the provisions of the new Regulations made by the NCTE. It is not that for the first time such a condition has been introduced in the Regulations only at the time when the recognition was sought by the institutions like petitioners in the year 2012-13. Even when the recognition was sought by the institutions like petitioners after coming into force of these Regulations of 2009, they were aware of the fact that they have to obtain Accreditation Certificate from the NAAC and for that a cut off date was prescribed differently, for the additional intake capacity of the Bachelor courses the said cut off date was 1st of April, 2010 and for the Post Graduation courses, the cut off date was 1st of April, 2012. Therefore, attempt should have been made by the institutions like petitioners conducting Master courses, immediately after coming into force of 2009 Regulations, for obtaining such certificates from NAAC.

12. From the documents available on record, it is seen that the petitioners (institutions) were making application yearly for grant of such recognition and the said recognition was renewed on every such occasion upto the academic year 2011-12. These documents also indicate that the petitioners have made the applications pursuance to the Regulations of 2009. They were aware of the fact that Accreditation from the NAAC would be necessary. The very object of establishing the NAAC is clear from the Scheme of constituting NAAC. The NAAC has been established by the University Grants Commission in 1994 in pursuance to the recommendation made by the National Policy of Education 1986 and the Programme of Action, 1992 which lay special emphasis on evaluating the quality of higher education in India. The prime mandate of NAAC, as envisaged in its Memorandum of Association, is to assess and accredit institutions of higher learning, universities and colleges or one or more of their units, i.e. departments, institutions, programs etc. The NAAC is highly qualified group of persons constituting the Executive committee including the Educational Administrator, Policy Makers and senior academicians from a cross-section of system of higher education. Under the new methodology introduced by NAAC with effect from 1.4.2007, the higher education institutions are assessed and accredited by a two step approach. In the first step, the institution is required to seek "Institutional

Eligibility for Quality Assessment and the second step is the assessment and accreditation of the institute under the grades "A", "B", "C" and "D". The NAAC has identified seven criterias i.e. (i) Curricular aspects, (ii) Teaching-learning and evaluation, (iii) Research, Consultancy and extension, (iv) Infrastructure and learning resources, (v) Student support and progression, (vi) Governance and leadership and (vii) Innovative practices as the basis for its assessment procedure. From this, it is clear that in NCTE Regulations 2009, provisions were made, with a view to compel obtaining accreditation of such institutions which are normally granted recognition by the NCTE. We find that this was also essential because though the NCTE established at central level, it has its regional offices and the recognition process is done by the regional offices. Mushrooming of institutions for imparting higher education has caused a serious damage to the standard of higher education. For the limited resources, it has however not been possible for the NCTE or the Regional Council to inspect the institutions which were already recognised. Further, in this State, the NCTE has completely failed to discharge its functions through the Regional Council. Inasmuch as, no inspections have been done in cases of several institutions by the NCTE (Western Regional Council) in accordance with the provisions of Section 13 of the Act of 1993, which reads thus:-

13. (1). For the purposes of ascertaining whether the recognised institutions are functioning in accordance with the provisions of this Act, the Council may cause inspection of any such institution, to be made by such persons as it may direct, and in such manner as may be prescribed.

(2) The Council shall communicate to the institution the date on which inspection under sub-section (1) is to be made and the institution shall be entitled to be associated with the inspection in such manner as may be prescribed.

(3) The Council shall communicate to the said institution, its views in regard to the results of any such inspection and may, after ascertaining the opinion of that institution, recommend to that institution the action to be taken as a result of such inspection.

(4) All communications to the institution under this section shall be made to the executive authority thereof, and the executive authority of the institution shall report to the Council the action, if any, which is proposed to be taken for the purposes of implementing any such recommendation as is referred to in sub-section (3).

This inspection is necessary in terms of the provisions of Section 12 of the Act of 1993 where the function of the NCTE itself is prescribed. The powers bestowed on the NCTE are coupled with duty, as is enumerated in Section 12 of the Act of 1993 to have a watch on every institution which has been granted recognition by it to ascertain whether the guidelines for compliance framed by the NCTE are followed by the recognised institutions or not. For the said purposes, it would be necessary to advert to the duties of the Council as is enumerated in Section 12,

which reads thus:-

12. It shall be the duty of the Council to take all such steps as it may think fit for ensuring planned and co-ordinated development of teacher education and for the determination and maintenance of standards for teacher education and for the purposes of performing its functions under this Act, the Council may-

(a) undertake surveys and studies relating to various aspects of teacher education and publish the result thereof;

(b) make recommendations to the Central and State Governments, Universities, University Grants Commission and recognised institutions in the matter of preparation of suitable plans and programmes in the field of teacher education;

(c) co-ordinate and monitor teacher education and its development in the country;

(d) lay down guidelines in respect of minimum qualifications for a person to be employed as a teacher in schools or in recognised institutions;

(e) lay down norms for any specified category of courses or trainings in teacher education, including the minimum eligibility criteria for admission thereof, and the method of selection of candidates, duration of the course, course contents and mode of curriculum;

(f) lay down guidelines for compliance by recognised institutions, for starting new courses or training, and for providing physical and instructional facilities, staffing pattern and staff qualifications;

(g) lay down standards in respect of examinations leading to teacher education qualifications, criteria for admission to such examinations and schemes of courses or training;

(h) lay down guidelines regarding tuition fees and other fees chargeable by recognised institutions;

(i) promote and conduct innovation and research in various areas of teacher education and disseminate the results thereof;

(j) examine and review periodically the implementation of the norms, guidelines and standards laid down by the Council, and to suitably advise the recognised institutions;

(k) evolve suitable performance appraisal systems, norms and mechanisms for enforcing accountability on recognised institutions;

(l) formulate schemes for various levels of teacher education and identify recognised institutions and set up new institutions for teacher development programmes;

(m) take all necessary steps to prevent commercialisation of teacher education;

and

(n) perform such other functions as may be entrusted to it by the Central Government.

Therefore, in our considered opinion, if no inspection is done as is prescribed u/s 13 of the Act of 1993, it is a complete failure on the part of the NCTE to discharge its statutory duties.

13. Now coming to the fact whether in exercise of power the recognition of the petitioners could be cancelled by the respondent NCTE or not, the power prescribed u/s 17 of the Act of 1993 is required to be seen. Notably, such a power is to be exercised by the NCTE on its own motion or on any representation received. Such a power could be exercised on its own motion if after conducting inspection as prescribed u/s 13 of the Act of 1993, the NCTE comes to the conclusion that any recognized institution has not fulfilled the conditions prescribed for grant of recognition. In that case, institutions are to be informed about such shortcomings. Time is required to be granted to those institutions to make good the shortcomings and then in case of failure on its own motion, the NCTE can take the action against the institution for cancellation of its recognition. In case of a complaint received, an enquiry is required to be conducted; and in that case an opportunity of hearing is required to be granted. In both the cases, opportunity of hearing, by way of pointing out the deficiencies after inspection or on receipt of a complaint, would be necessary, and that being so, the specific provision is made for granting of an opportunity of hearing to make representation against the proposed order, to the recognised institution. Thus, merely because the petitioner(s) institution(s) have not obtained an Accreditation certificate from the NAAC, without conducting any inspection, without issuing any show cause notice to the institution, the NCTE was not justified in cancelling the recognition of the petitioners. The Regulations of 2009, in particular Regulation 8(5), does not contain an express deeming provision of automatic withdrawal of recognition which has been otherwise validly granted. Thus, it is only an enabling provision empowering the Council to withdraw recognition of the given institution by following procedure prescribed for withdrawal of recognition.

14. It is contended by learned counsel for the NAAC that the NAAC has limited resources and it is quite difficult for it to conduct inspection of hundreds of institutions spread all over the country. It is contended that several institutions have applied in terms of the new norms made by the NAAC and their applications are in queue. Therefore, it would not be possible for the NAAC to conduct inspection of all such institutions in a time bound manner and to grant Accreditation certificate as is required under the law for the purposes of grant or non-grant of recognition by the NCTE or for that matter withdrawal of recognition already granted due to not achieving the benchmark grading. Our attention is drawn to the provisions of the Regulations where power to relax is prescribed under Regulation 12 of NCTE Regulations 2009. It is contended by learned counsel for the petitioners in turn that in case the NAAC is not in a position to

inspect the institutions of petitioners and to grant them Accreditation certificate, and if otherwise the institutions were granted recognition upto the academic session 2011-12, it would be proper to grant relaxation in obtaining such Accreditation certificate from the NAAC till such time the inspection of the petitioners institutions is done by the NAAC and Accreditation certificates are issued. It is contended that since admission of the students has already been done, those students have completed their course of studies, if at this stage, the recognition of the petitioners institutions is withdrawn or cancelled, the future of those students would be jeopardised. In these circumstances, it is submitted that till the institutions are inspected by the NAAC and Accreditation certificates are issued to them, they may be allowed to continue the course of studies of students and the university be commanded to conduct the examination of those students.

15. We have given our considered thought to these submissions. On one hand, it is clear that in terms of the Regulations framed in the year 2009, a cut off date is prescribed. As per the terms and conditions of NAAC for conducting any inspection, the institutions which have been granted recognition in the year 2009 itself, would not be completing the norms for the purposes of obtaining an Accreditation certificate from the NAAC and in that case they would not be entitled to make an application for grant of recognition to the NCTE. Further, indisputably, NAAC is not in a position to inspect all the institutions for the purpose of issuing Accreditation certificate, much less before the cut off date specified in the Regulations. Moreover, the recognized institutions are more than willing to comply with all the directions to be given by the Competent Authority for ensuring imparting of quality education. Thus, prescription of such a condition with a cut off date would be asking the concerned institutions to do something which is impossible for them and completely beyond their control. Rather, the failure should be attributed to Authorities in discharging its statutory duty. That would certainly warrant an exercise of discretion on case to case basis to grant/continue recognition in exercise of power under Regulation 12 of NCTE Regulations 2009, by the competent authority. We say so because the validity of the provisions of Clause (5) of Regulation 8, has been upheld by the Apex Court in *Swami Vivekanand College of Education and Others Vs. Union of India (UOI) and Others*, . The provision is thus held to be intra vires, but since it is creating undue hardships because of failure of the Authorities themselves, in our considered opinion the power of relaxation ought to be exercised by the Competent Authority on case to case basis. At this stage, it would also be necessary to hold that before passing the orders impugned, opportunity of hearing should have been given to the petitioners and having failed to do so, the action of the respondents cannot be upheld.

16. Resultantly, we allow the Writ Petition No. 16805/2013, Writ Petition No. 21669/2013, Writ Petition No. 21953/2013, Writ Petition No. 220/2014, Writ Petition No. 1571/2014, Writ Petition No. 1998/2014, Writ Petition No. 2066/2014, Writ Petition No. 2067/2014, Writ Petition No. 2068/2014, Writ

Petition No. 2070/2014, Writ Petition No. 2071/2014, Writ Petition No. 2072/2014, Writ Petition No. 3262/2014 and Writ Petition No. 5984/2014 and quash the order of respondents with liberty to them to initiate proceedings afresh against the petitioners after granting them an opportunity of hearing and to pass fresh orders. In case the petitioners make an application for grant of relaxation in terms of Regulation 12 of NCTE Regulations 2009, in any of the conditions prescribed under Clause (5) of Regulation 8 of the said Regulations, it would be necessary for the respondents to examine the same and to pass orders on the said application on case to case basis on its own merits.

17. As a result of this order, Writ Petition No. 19985/2013 stands disposed of. In the facts and circumstances of the case, there shall be no order as to costs.