

(2019) 12 DEL CK 0297

In the Delhi High Court

Case No : Civil Writ Petition No. 1672 Of 2019

Rajpati Mata Prasad Shikshak Prasashikhan Mahavidyalaya	APPELLANT
Vs	
National Council For Teacher Education & Anr	RESPONDENT

Date of Decision : 24-12-2019

Acts Referred:

Constitution Of India, 1950 — Article 226
National Council For Teacher. Education (Recognition Norms And Procedure)
Regulations, 2014 — Regulation 7(13)

Citation : (2019) 12 DEL CK 0297

Hon'ble Judges : Rajiv Shakdher, J

Bench : Single Bench

Advocate : Mayank Manish, Ravi Kant, Eklavya Dwivedi, Shivam Singh, Harpreet Sing Gupta

Final Decision : Allowed

Judgement

Rajiv Shakdher, J

1. This writ petition is directed against the order dated 18.12.2015 passed by the Appeal Committee of the National Council for Teacher Education('NCTE'). Via this order the Appeal Committee confirmed, in turn, the order of the Northern Regional Committee ('NRC') dated 20.08.2015. In effect, these orders resulted in refusal of recognition which the petitioner sought for conducting B.Ed course.

2. The singular reason given in the Appeal Committee's order, is that, the petitioner had neither filed a reply to the Letter of Intent dated 27.02.2015 (in short "LOI") nor did it file a reply to the Show Cause Notice bdated 05.06.2015 (in short "SCN") which was issued upon the petitioner's failure to file a reply to the LOI.

3. Pertinently, in the impugned order, the Appeal Committee takes note of the fact that the petitioner had placed before it a copy of the letter dated 06.08.2015 which purportedly was the reply that the petitioner had sent after it was served

with the SCN. In this behalf, the Appeal Committee in the impugned order observes that there was no evidence placed on record that the reply dated 06.08.2015 had been dispatched by the petitioner. Thus, having regard to these aspects, the Appeal Committee rejected the appeal of the petitioner and confirmed the order passed by the NRC. Notably, the Appeal Committee did not deal on merits with what had been stated by the petitioner in its reply dated 06.08.2015. In sum, the petitioner's grievance veers around this aspect of the matter.

Submissions of counsel:

4. Mr. Mayank Manish, who advanced arguments on behalf of the petitioner, sought to explain the delay both in filing the reply to the LOI and SCN and also in approaching this Court. Mr. Manish contended that via the LOI, in effect, what was communicated to the petitioner was the requirement to submit to the NRC, within two months, a list of faculty as approved by the affiliating body.

4.1 According to Mr. Manish, the university with which the petitioner was affiliated at that point in time i.e. the Deen Dayal Upadhyaya Gorakhpur University (in short "DDU"), informed the petitioner vide communication dated 08.04.2015 that its Vice-Chancellor had nominated a subject expert for selection of the Head of Department and Lecturers concerning the B.Ed course. It was submitted that even before the petitioner could submit the list of faculty selected by the subject expert there was a change with regard to the university with which the petitioner had to have affiliation.

4.2 It was contended that Siddhartha University which was established on 17.06.2015 was the University with which the petitioner was required to be affiliated having regard to its territorial jurisdiction.

4.3 It is because of this reason that the petitioner could reply to the SCN only on 06.08.2015.

5. Mr. Manish also contended that even if the NRC had failed to consider the reply dated 06.08.2015 the same could certainly have been considered by the Appeal Committee when the same was presented before it at the hearing held on 27.10.2015. In other words, the argument was that it was well within the power of the Appeal Committee to remand the matter to the NRC and take a decision on merits after taking into account the reply dated 06.08.2015. That this course has been commended by this Court was sought to be brought to fore by relying upon the following judgments of the Division Bench:-

(i) Judgment dated 4.12.2017, passed in LPA No. 771/2017, titled Kamla Devi Sohan Raj Singhvi Jain College of Education vs. National Council for Teacher Education & Anr. [para 12,13,16].

(ii) Judgment dated 4.12.2017, passed in LPA No. 769/2017, titled Mass Education Primary Teachers Training Institute vs. National Council for Teacher Education & Anr. [para 12,13,16].

(iii) Judgement dated 9.8.2017, passed in LPA No. 535/2017, titled National Council for Teacher Education & Anr. vs. Rambha College of Education [para 6,7,8,9].

6. Insofar as the delay in approaching the Court is concerned, Mr. Mayank Manish stated that the Siddhartha University approved the faculty of the petitioner only on 13.11.2018 after several attempts in that behalf had been made between November, 2015 and September, 2018. In this behalf, Mr. Manish relied upon letters dated 12.11.2015, 18.02.2016, 20.06.2016, 05.12.2016, 18.04.2017, 20.11.2017, 12.03.2018 and 22.09.2018.

7. On the other hand, Mr. Eklavya Dwivedi resisted the writ petition on the following grounds:-

(i) The instant petition under Article 226 was not maintainable as there was no error, perversity or illegality either in the order passed by the Appeal Committee or in the order passed by the NRC.

(ii) There was no evidence to show that the letter dated 06.08.2015 had been filed with the NRC.

(iii) There being no breach of principles of natural justice or violation of any statutory rule or legal principle, no interference was called for with the impugned orders.

(iv) The Court should desist from interfering in academic matters and should be reluctant in substituting its views with those propounded by expert bodies such as the NCTE and/or NRC.

(v) The petition was hopelessly delayed and, therefore, should be rejected on the ground of laches at the very threshold. The petitioner had no vested right to seek recognition and, at best, the petitioner could file a fresh application for being accorded recognition.

7.1 In support of his submissions, Mr. Dwivedi relied upon the following judgments:-

(i) Rajekhar Gogoai v. State of Assam and Ors., (2001) 6 SCC 46 [para 11].

(ii) Pesara Pushpamala Reddy v. G. Veera Swamy and Ors., (2011) 4 SCC 306 [para 28].

(iii) Adarsh Shiksha Mahavidyalaya v. Subhash Rahangdale, (2012) 2 SCC 425 [para 88].

Analysis and Reasons:

8. I have heard the learned counsel for the parties and perused the record.

9. As noted hereinabove, the central point which arises for consideration in the instant case, in my view, is whether the Appeal Committee adopted the right

course in refusing to consider the developments which had taken place after DDU had commenced the process of approving the petitioner's faculty.

9.1 These developments, albeit, broadly, were referred to in the petitioner's letter dated 06.08.2015. Although the petitioner had submitted before the Appeal Committee at the hearing held on 27.10.2015 that the letter dated 06.08.2015 was submitted to the NRC, it was unable to furnish any evidence of having dispatched the letter.

9.2 Notwithstanding the absence of evidence of dispatch of letter dated 06.08.2015, the Appeal Committee, to my mind, should have taken into account the events which followed the issuance of the LOI.

9.3 As noted above, the LOI was issued on 27.02.2015. The petitioner was given two months to seek approval concerning its faculty from the affiliating body. The body to which the petitioner was affiliated at that point in time was DDU. DDU had commenced the process of granting approval by appointing a subject expert. This aspect comes to fore upon perusal of communication dated 08.04.2015 addressed by DDU to the petitioner.

9.4 Pertinently, the process of approval of faculty by DDU started well before the expiry of period of two months given in the LOI. However, before this process could be completed, on account of change in territorial jurisdiction (an assertion which is not contested by the respondents) the petitioner stood affiliated to Siddhartha University.

9.5 The petitioner has placed its correspondence on record which demonstrates that it has been diligently chasing Siddhartha University to grant approval to its faculty. The letters placed on record in this behalf span between November, 2015 and September, 2018 i.e. a period which falls both within the time when the matter was being deliberated upon by the Appeal Committee and thereafter. Given these circumstances, the Appeal Committee could have adopted a more wholesome approach and remanded the matter to the NRC for being considered on merits.

10. A mechanical approach to such matters, in my opinion, not only increases litigation but also results in wastage of private and national resources. The reason I say so is that in the paragraph 2 of the LOI the following prefatory observations have been made

"....2. The NRC, NCTE on the basis of the Scrutiny of the documents submitted by the institution, input received from the Visiting Team, the Report and videography in its 233rd Meeting (1st Sitting) held on 18 February 2015 (Part-I) observed that the above institution has adequate financial resources, accommodation, library and laboratory as prescribed in the norms and standards and that it fulfills all such other conditions relating to infrastructural and instructional facilities required for proper functioning of the institution for a teacher education course and decided to issue Letter of Intent under clause

7(13) of the NCTE Regulations, 2014...."

(emphasis is mine)

10.1 The aforesaid observations demonstrate that the petitioner had invested at that point in time resources in the form of manpower, infrastructure, and finance which could have been put to good use to achieve the object with which the petitioner was set up in the first place, provided it was able to engage faculty which had the approval of the affiliating body.

11. Thus, all that which was left for the petitioner to do to gain recognition and to commence the B.Ed course was to submit the order of approval issued by the affiliating university. The fact that petitioner's affiliating university had changed was an aspect which had been brought to the notice of the NRC by the petitioner while seeking extension of time. The Appeal Committee failed to appreciate this aspect of the matter and in almost a mechanical manner rejected the request made in that behalf by the petitioner even though a copy of the letter dated 06.08.2015 was placed before it. In my view, such an approach cannot be countenanced; the Division Bench in a similar circumstance has adopted the same approach. As a matter of fact, even the Appeal Committee vide order dated 18.02.2019 in the matter of S.K.S.College of Education has followed the same modality.

12. The argument of Mr. Dwivedi that there has been a delay in filing a reply to the LOI fails to take into account that the process of seeking approval of DDU commenced on 08.04.2015 and due to the affiliating body being changed to Siddhartha University the reply could not be filed in time.

Mr. Dwivedi's argument that the SCN was issued to which reply was not filed within thirty days also failed to take into account the petitioner's stance that it had filed a reply on 06.08.2015 which could not be, in my view, characterised as inordinate delay.

12.1 Even if one were to assume that the reply dated 06.08.2015 had not reached the NRC, given the fact that it was available with the Appeal Committee at the hearing held on 27.10.2015 the delay could have been condoned and the matter could have been remanded to NRC for consideration on merits. The timeline given for appointment of faculty under Regulation 7(13) of the NCTE Regulations, 2014 dated 28.11.2014 can, to my mind, apply only for a particular academic session in which recognition, if granted, is to operate.

12.2 Therefore, given the fact that there was a delay in approval of the faculty because of affiliating university having changed would not necessarily lead to the rejection of the application made for recognition of the concerned course but would only entail that the recognition granted would become operable only in the academic session which, immediately, follows the approval.

13. The other argument of Mr. Dwivedi that the petitioner had approached this Court after much delay is also untenable. As noted above, the petitioner had

been following up the matter with the Siddhartha University, if not earlier, between November, 2015 and September, 2018. To my mind, a broad explanation has been given for the delay in approaching the Court. The petitioner does not need to explain each and every day's delay as long as the Court is satisfied that the delay in approaching the court was neither intentional nor mala fide.[See Collector, Land Acquisition Anantnag and Another vs. Mst. Katiji and others, (1987) 2 SCC 107]

13.1 The petitioner approached the court in February 2019 after it obtained the approval from the Siddhartha University on 13.11.2018. Mr. Dwivedi's contention that this court should desist from interfering with orders passed by expert bodies in areas relating to their domain though correct needs to be hemmed in with a caveat that the Courts can and have in the past issued writs where it found that the expert bodies had not adopted a fair and robust approach in dealing with matters which were placed before them for consideration. The courts do not ordinarily concern themselves with decision but they do interfere where the decision process is unfair and unjust. This is one such case. The Appeal Committee ought to have examined the petitioner's response qua the delay in responding to the LOI and SCN, having regard to the fact that the petitioner had already invested a huge amount of time and money in setting up an educational institution.

Decision:

14. Thus, for the foregoing reasons the writ petition is allowed. Accordingly, the impugned orders are set aside and the matter is remanded to the NRC to decide the case on merits. The NRC will take into account the approval granted, on 13.11.2018, by the Siddhartha University while rendering a decision in the matter. The NRC will also, if necessary, order a fresh inspection of the petitioner institute given the fact that a couple of years have elapsed between the issuance of LOI and the grant of approval by the affiliating university i.e. the Siddhartha University.

15. There shall, however, be no order as to costs.