

(2018) 01 PAT CK 0104

In the Patna High Court

Case No : Civil Writ Jurisdiction Case No. 10533 Of 2017

Satyanam Satguru B. Ed. College

APPELLANT

Vs

National Council For Teacher Education And Ors

RESPONDENT

Date of Decision : 05-01-2018

Acts Referred:

National Council For Teacher Education (Recognition Norms And Procedure)
Regulations, 2014 — Regulation 4, 5, 5(3), 5(4), 5(5), 5(6), 7, 7(2), 7(2)(b)
National Council For Teacher Education Act, 1993 — Section 32(2)

Citation : (2018) 2 PLJR 233

Hon'ble Judges : Chakradhari Sharan Singh, J

Bench : Single Bench

Advocate : Arun Kumar, Sunil Kumar Singh

Final Decision : Allowed

Judgement

1. Heard learned Counsel for the petitioner and learned Counsel appearing on behalf of the National Council for Teacher Education.
2. The petitioner is aggrieved by an order, dated 28.12.2016, issued by the Regional Director of Eastern Regional Committee (ERC) of National Council for Teacher Education (NCTE), whereby application of the petitioner institution for recognition of Bachelor of Education course and Diploma in Elementary Course Programme has been refused.
3. The petitioner had preferred appeal against the said order, dated 28.12.2016, which also came to be rejected by the National Council for Teacher Education by an order, dated 29.05.2017, issued under the signature of the Member Secretary of the National Council for Teacher Education. The said appellate order, dated 29.05.2017, is also being assailed in the present writ application.
4. Briefly narrated the facts of the case are that one Maya Sevak Education Trust has established an educational institution in the district of Muzaffarpur for imparting B.Ed. and D.L.Ed. Courses. An online application was made before the

Eastern Regional Committee of the National Council for Teacher Education for grant of recognition.

5. The National Council for Teacher Education has framed regulations, viz. National Council for Teacher Education (Recognition Norms and Procedure) Regulation, 2014, laying down the recognition norms and procedure in exercise of power under sub-Section (2) of Section 32 National Council for Teacher Education Act, 1993, in supersession of the National Council for Teacher Education (Recognition Norms and Procedure) Regulations, 2009. Regulation 5 of the said Regulation prescribes the manner of making application and the time limit. It requires, inter alia, that an institution eligible under Regulation 4, desirous of running teachers education programme may apply to the concerned Regional Committee for recognition in prescribed application form along with processing fee and requisites documents. Sub-Regulation (3) of Regulation 5 requires that the application are to be submitted online electronically along with the processing fee and scanned copies of the required documents, such as, no objection certificate, issued by the concerned affiliating body. Sub-Regulation (4) of Regulation 5 requires that while submitting the application online, a copy of registered land document issued by the competent authority indicating that the Society or Institution, applying for the programme, possesses land on the date of the application, shall be attached along with the application. Sub-Regulation (5) of Regulation 5 of the Regulations prescribes that duly completed application in all respect may be submitted to the Regional Committee concerned between 1st March to 31st May of the preceding year for the academic sessions for which the recognition is sought. Sub-Regulation (6) of Regulation

5 requires that all application received within time shall be processed for the next academic session and final decision, either of grant of recognition granted or refusal, shall be communicated to the applicant on or before third day of March of the succeeding year.

6. This is an admitted fact that under certain orders passed by the Supreme Court, last date of submission of online application was extended to 30th June.

7. Before I address the controversy involved in this case, I must point out on the basis of what has been laid down in Regulation 5 of the Regulations that the said provisions do not provide for submission of print out of the applications made online.

8. Regulation 7 of the Regulations lays down the procedure for processing the applications. It prescribes that in case an application is not complete or requisite documents are not attached with the application, the application shall be treated incomplete and rejected, and application fee paid shall be forfeited.

9. This is not the case of the National Council for Teacher Education that the application submitted online by the petitioner was incomplete. Sub-Regulation (2) of Regulation 7 of the Regulations, however, prescribes that failure to submit print out of the application made online along with the land documents, as

required under Sub-Regulation (4) of Regulation 5 of the Regulations within fifteen days of submission of online application, shall result into summary rejection of the application. The last date for submission of the print out of the application made online and land documents was subsequently extended by the National Council for Teacher Education to 15th July, 2016, which is not in dispute. This is also an admitted fact that the petitioner submitted the print out of application made online and land documents on 25th July, 2016. This is the only reason why, invoking provisions under Sub-Regulation (2) (b) of Regulation 7, the petitioner's application has been rejected by the impugned order.

10. Counter affidavit has been filed on behalf of the National Council for Teacher Education. The facts are not, at all, in dispute.

11. Learned Counsel appearing on behalf of the petitioner has relied on a Division Bench decision of Madhya Pradesh High Court, in case of Maa Kailadevi Institute, Gwalior v. The National Council for Teacher Education and Another (Writ Petition (WP) 2931 of 2014), dated 25.06.2014, in which case, there had been certain delay in filing the print out and hard copy by the institute seeking recognition. The Division Bench of the Madhya Pradesh High court, while condoning the delay, set aside summary rejection of the application for recognition by the said order, dated 25.06.2014. The order, which has been produced before this Court, reads thus:-

"The petitioner has filed this petition against the order dated 10-01-2014 (Annexure P-1) and the order dated 10-08- 2013 (Annexure P-2).

By the aforesaid order (Annexure P-2), application submitted by the petitioner online in regard to grant of recognition to conduct B.Ed. Course has been summarily rejected on the ground that there was delay in dispatch of hard copy. As per the regulation, hard copy was to be dispatched within seven days from the date of submission of online application, however, there was delay of one day.

Looking to the facts of the case, in our opinion, delay could be condoned. Hence, delay in dispatching hard copy is hereby condoned. Hon'ble the Supreme Court in Special leave to Appeal (Civil) Nos. 4247- 4248/2009 [Rashtrasant T.M.S. & S.B.V.M.C.A. VID. and Ors Vs. Gangadar Nilkant Shende & Ors.] has observed that pending applications shall be considered by NCTE in accordance with the new regulations, copy of which has been filed along-with this petition as Annexure R-3. The application of the petitioner may also be considered in accordance with the new regulations on merit in accordance with law. The order dated 10-01- 2014 (Annexure P-1) and the order dated 10- 08-2013 (Annexure P-2) are set aside.

Petition is disposed of accordingly. No order as to costs."

12. Relying on the said Division Bench decision of the Madhya Pradesh High Court, in subsequent order passed by the Rajasthan High Court, in case of Jai Bhawani Education Degree v. National Council for Teacher Education and Another

(S. B. Civil Writ Petition No. 4769 of 2017), dated 06.04.2017, the Court condoned the delay of two days in submission of hard copy of the online application for recognition.

13. Learned Counsel for the petitioner has submitted that there was bona fide reason which prevented the petitioner from submitting the hard copy of the application within time and hard copy was, in fact, submitted though within twenty five days of submission of online application. He submits that such delay is inconsequential for the purpose of considering petitioner's case for grant of recognition. He contends that the matter of recognition, now, may be considered for the next academic sessions because of lapse of time, and if the impugned order is interfered with, the National Council for Teacher Education may consider the said application for the subsequent academic sessions.

14. Mr. Sunil Kumar Singh, learned Counsel appearing on behalf of the National Council for Teacher Education, on the other hand, has pressed Clause (b) of sub-Regulation (2) of Regulation 7 of the Regulations and submitted that the National Council for Teacher Education did not have any option but to summarily reject the petitioner's application for recognition. According to him, neither the order passed by the Eastern Regional Committee nor the order of the appellate authority can be faulted with in view of the clear provision under Clause (b) of sub- Regulation (2) of Regulation 7 of the Regulations.

15. This is not in dispute that the online application was filed by the petitioner within time. The regulation requires submission of hard copy of the application and land documents etc. within fifteen days from the date of online application. This is also not in dispute that the National Council for Teacher Education itself relaxed the said requirement by fixing 15.07.2016 as the last date for submission of hard copy for all institution irrespective of the respective dates of filing of their online application. This is evident that the said date of submission of hard copy was extended to 15.07.2016, in the background of the last date of submission of online application having been extended to 31.06.2016, under the orders of the Supreme Court.

16. Be that as it may, considering the facts and circumstances and the Division Bench decision rendered in the case of Maa Kailadevi Institute (*supra*), I am of the view that ten days' delay in submission of the print out and hard copy of the application and the land documents etc. deserves to be condoned. The same is condoned accordingly.

17. Consequently, the impugned orders, dated 28.12.2017 and 29.05.2017, are hereby set aside. The application of the petitioner, which is pending with the Eastern Regional Committee of the National Council for Teacher Education shall, now, be required to be considered for the subsequent sessions 2018-19, if the same is, otherwise, not impermissible.

18. This application is allowed with the observation, as above.