
(2010) 11 AHC CK 0263
In the Allahabad High Court
Case No : Writ C No. 66080 of 2010

Shri Mahavir Singh Bahuuddesiya Mahavidyalaya	APPELLANT
Vs	
N.C.T.E. and Others	RESPONDENT

Date of Decision : 10-11-2010

Acts Referred:

Citation : (2010) 11 AHC CK 0263

Hon'ble Judges : Shishir Kumar, J

Bench : Single Bench

Final Decision : Allowed

Judgement

Shishir Kumar, J.—Heard learned Counsel for Petitioner and Sri R.A. Akhtar, learned Counsel appearing for Respondents and learned Standing Counsel.

2. Petitioner is aggrieved by the order impugned dated 15/17.5.2010 as well as the Appellate Order dated 28.9.2010 by which Petitioners' application for recognition to run BTC course has been rejected.

3. The facts arising out of writ petition are that Petitioner is running an education institution, applied for recognition of BTC training course to Respondents. According to Petitioner, all relevant documents have been submitted by Petitioner before the Regional Director, National Council for Teachers Education, Jaipur. A letter was issued regarding indication of certain deficiencies. Petitioner submitted all relevant documents removing deficiencies as indicated by Respondents but by order dated 15/17.5.2010, Council has rejected the application filed by Petitioner and FDR deposit by Petitioner has been returned.

4. Petitioner aggrieved by aforesaid order, filed an appeal u/s 18(1) of the Act. Appeal filed by Petitioner has also been rejected on a very hyper-technical ground mentioning therein that registered land document is not certified as well as CLU certificate of land used has not been notarized. Petitioner submits that registered sale deed as well as documents were submitted with the application and document to that effect has also been submitted regarding CLU but

competent authority as well as the Appellate Authority has rejected appeal filed by Petitioner on these technical grounds. According to Petitioner, Petitioner has annexed the document showing therein that formality according to the norms made by Respondents has been fulfilled. While dismissing the appeal, the appellate authority has noted as under:

AND WHEREAS the Council noted that in response to the deficiency letter of NRC dated 21.02.2010, the Appellant Inter-alia submitted on 22.04.2010, a certified copy of land document obtained in Jan, 2010 and a copy of CLU issued on 17.03.2010. According to the provisions of the NCTE Regulations, 2009 inter-alia a certified copy of the registered land document and a notarized copy of the CLU issued by the competent authority have to be submitted with the application. Since these requirements have not been fulfilled by the Appellant, the Council came to the conclusion that the appeal deserved to be rejected and the order of NRC confirmed.

AND WHEREAS after perusal of documents, memorandum of appeal, affidavit, and after considering oral arguments advanced during hearing, the Council reached the conclusion that there was no ground to accept the appeal and that it should be rejected. Accordingly, the appeal was rejected and the NRC's order dated 17.05.2010 was confirmed.

5. Sri Y.K. Srivastava, learned Counsel appearing for the Petitioners submits that the orders passed by the Respondents is liable to be quashed only on the ground that if the opportunity given to the Petitioner has been availed and defects have already been removed then the appellate authority was obliged to take into consideration the fact that now the defects have been removed, therefore, the rejection of the claim of the Petitioners is bad in law. Admittedly, the registered sale deed was placed before the authority concerned when the matter was pending, therefore, that fact should have been considered and order to that effect should have been passed.

6. Petitioner has placed reliance upon judgment of this Court passed in W.P. No. 53909 of 2010 and has submitted that this Court, in such circumstances, has taken a view that admittedly the Petitioners has responded by supplying the requisite documents well within time prescribed under Sub-Regulation 1 of Regulation 7.

7. On the other hand, Sri R.A. Akhtar, learned Counsel appearing or NCTE submitted that as deficiencies indicated after submission of application filed by Petitioner has not been made good according to the guidelines and the norms, therefore, there was no option except to reject the application filed by Petitioner.

8. I have considered the issue and submissions of the parties. In the opinion of this Court, Respondent authorities have proceeded on a wrong assumption regarding application of Regulation 7. In fact, it is admitted that authorities before proceeding finally passed an order giving a liberty to the Petitioner for removing the deficiency in terms of sub-regulation 1 of Regulation 7 of the

Regulations. Admittedly the Petitioner has responded regarding the queries made by the Respondents and have submitted the requisite documents well within time as prescribed by the Respondents. Once the authority themselves had invoked the powers under sub regulation1, then the Respondents should not have summarily and mechanically rejected the claim of the Petitioner. The deficiency has been removed, therefore, the authority should have proceeded to consider the claim of Petitioner for recognition on merits and should not have rejected the claim on a technical ground.

9. In view of the aforesaid facts and circumstances, I am of the opinion that once the Petitioner has already submitted the document as required, the orders passed by the Respondents rejecting the claim of the Petitioner cannot be sustained and the writ petition is liable to be allowed by quashing the orders impugned and remanding the mater before the Respondent No. 1 to decide the claim of Petitioner for recognition on merits on the basis of relevant records.

10. Writ petition is allowed. The orders dated 15/17.5.2010 (Annexure 4 to writ petition) as well as the Order dated 28.9.2010 (Annexure 7 to writ petition) are hereby quashed and matter is remanded back to Respondent No. 1 to pass appropriate orders after affording opportunity to Petitioner on the basis of relevnat record within a period of six weeks by reasoned and speaking order from the date of production of certified copy of this order.