

(2012) 04 MP CK 0012

In the Madhya Pradesh High Court

Case No : Writ Petition No. 9500 of 2009 with W.P. No"s. 2796, 2733 and 1816 of 2010

Sunderlal Shrivastava

APPELLANT

Vs

National Council for the Teachers Education

RESPONDENT

Date of Decision : 19-04-2012

Acts Referred:

National Council for Teacher Education Act, 1993 — Section 13, 13(3), 14, 15, 18

Citation : (2012) 4 MPHT 389

Hon'ble Judges : Sushil Harkauli, Acting C.J.;Alok Aradhe, J

Bench : Division Bench

Advocate : Rajendra Tiwari, Mr. Ajay Mishra, Mr. T.K. Khadka and Mr. P. Tripathi, for the Appellant; K.K. Singh, Advocate for the Respondent Nos. 1 and 2, for the Respondent

Judgement

1. The National Council for Teachers Education Act, 1993 has been enacted with the object of ensuring planned and co-ordinated development of teaching education programme in the country. Under the aforesaid Act, the NCTE is an expert body which is under an obligation to maintain the standards of education particularly in relation to teachers' education. Section 13 of the Act provides for inspection. Section 13(3) casts a duty on the Council to communicate its view to the institution with regard to results of the inspection and the Council may after ascertaining the opinion of the institution, recommend to that institution, the action to be taken as a result of such inspection. Section 14 of the Act deals with grant of recognition to the institutions offering courses. Section 18 provides for an appeal to the Council against the order which may be passed u/s 14 or Section 15 of the Act. The NCTE is regulating the standard of institution through Regulations framed from time to time in exercise of powers u/s 32(2) read with Sections 14 and 15 of the NCTE Act. The Council constituted under the Act is an expert body and the Parliament has imposed upon it the duty to maintain the standard of education particularly in relation to teacher education. The Council under the Act is under an obligation to ensure that the institution fulfills the

norms prescribed under the Regulations so that an institution does not produce sub-standard prospective teachers.

2. Although it is well within the realm of the Council to find out whether or not the Council fulfils the norms prescribed under the Regulation. However, while considering the question whether or not the institution fulfils the norms prescribed under the Regulation framed under the Act, the Council is required to have a wholesome approach and to ascertain whether any deficiency found in the institution during the course of inspection or otherwise, would cause any impediment in fulfillment of the object for which the institution has been created, i.e., providing quality education to the perspective teachers. The Council should not adopt a hyper-technical approach while refusing to grant recognition or withdrawing the recognition granted to an institution on mere technical grounds. The inspection note which is prepared by the Council should contain reasons to indicate the precise parameters which are not fulfilled by an institution which are prescribed as per the norms, and what exactly is wanting. Thereafter the Council must consider whether the deficiency is such as would substantially interfere with the ability of the institution to fulfil its purpose. Only if the Council arrives at such conclusion, should notice be issued. Whenever a show-cause notice is issued to an institution for withdrawal of the recognition, it should contain grounds in detail so as to apprise the institution on which grounds the recognition is sought to be withdrawn by the Council. The order passed by the Council as well as by the Appellate Authority should contain reasons and should reflect application of mind while considering the question of either grant of recognition or withdrawal of recognition, in the light of the approach pointed out above.

3. It is well settled in law that a person concerned should be adequately informed about the material against him. See : *Chingleput Bottlers Vs. Majestic Bottling Company*, . It is equally well settled legal proposition that if an order is passed on the ground which is not mentioned in the show-cause notice, the same would tantamount to violation of principles of natural justice. See : *Commissioner of Customs, Mumbai Vs. Toyo Engineering India Limited*, . In *S.N. Mukherjee Vs. Union of India*, the Supreme Court has held that people must have confidence in the judicial or quasi-judicial authorities. While emphasising the need for assigning reasons, it was held that giving of reasons minimizes the chances of arbitrariness and hence, it is an essential requirement of the rule of law. In *The Secretary and Curator, Victoria Memorial Hall Vs. Howrah Ganatantrik Nagrik Samity and Others*, it has been held by the Supreme Court that reason is the heartbeat of every conclusion. Absence of reasons renders the order indefensible/unsustainable particularly when the order is subject to further challenge before a higher forum. It has further been held that recording of reasons is a principle of natural justice. It ensures transparency and fairness in decision making.

4. We have begun with the aforesaid prefatory note as learned Counsel for the petitioners submitted that inspections are carried out by the Western Regional Committee in a cavalier manner and there is a practice of issuing show-cause

notices for withdrawal of the recognition on vague or hyper-technical grounds, which lack in the proper approach. The orders passed by the W.R.C. as well as the Appellate Authority u/s 18 of the Act are cryptic in nature.

5. In this batch of writ petitions, since common question of law is involved, therefore, they were heard analogously and are being decided by this order. In the instant writ petitions, the petitioners have inter alia challenged the validity of the orders passed by the Western Regional Committee (for short "WRC") by which recognition granted to the petitioners to impart education in Bachelor of Education (B.Ed.) course has been withdrawn as well as the orders passed by the Appellate Authority by which orders of withdrawal of recognition passed by the WRC, has been affirmed.

6. In the light of the scheme of the Act as well as the approach which is required to be adopted by the Council while dealing with the question of either grant of recognition or withdrawal of recognition, we may deal with the rival contentions raised at the bar.

7. Learned Counsel for the petitioners have submitted that the recognition "which has been granted to the petitioner/institutions have been withdrawn on the grounds which have not been mentioned in the show-cause notice. Thus, the action of withdrawal of recognition has been taken in violation of principles of natural justice. It has further been urged by learned Counsel for the petitioners that the orders passed by the Council as well as the Appellate Authority are mechanical, cryptic in nature and reflect non-application of mind. The stand which was taken by the petitioners either before the Council or before the Appellate Authority has not been considered by the Council as well as by the Appellate Authority in the proper perspective with the proper approach.

8. On the other hand, learned Counsel for the respondents submitted that the inspection of the institution in question was carried out in pursuance of the directions issued by this Court in a Public Interest Litigation namely W.P. No. 6146/2008, Subhash Rahangdale Vs. NCTE and others, decided on 13-3-2009. The aforesaid order has been upheld by the Supreme Court in the case of Adarsh Shiksha Mahavidyalaya and Others Vs. Subhash Rahangdale and Others, . In the inspection, it was found out that the petitioners do not fulfil the norms laid down in the Regulation. Accordingly, the show-cause notices were issued and thereafter the orders were passed by the Council for withdrawal of the recognition, which has been upheld in appeal. It is further submitted that Council is an expert body and due weightage should be given to the conclusions which are arrived at by an expert body. Learned Counsel for the respondents in support of his submission has placed reliance on a decision of Supreme Court in the case of Union of India (UOI) and Others Vs. Shah Goverdhan L. Kabra Teachers College,

9. We have considered the submissions made on both sides and have perused the show-cause notices as well as the orders of withdrawal passed by the

Western Regional Committee as well as by the Appellate Authority u/s 18 of the Act. We find that in all the cases, the show-cause notices are vague, and the orders of withdrawal of recognition have been passed on the grounds which have not been mentioned in the show-cause notices. The orders passed by the Western Regional Committee as well as by the appeal committee u/s 18 of the Act are cryptic and laconic and suffer from vice of non-application of mind, and also lack of proper approach. Thus, the orders have not only been passed in violation of principles of natural justice, but are also vitiated on account of improper approach to the matters.

10. For the aforementioned reasons, the orders passed by the Western Regional Committee as well as the appeal committee are hereby quashed. The cases of the petitioners with regard to withdrawal of recognition are remitted to the Western Regional Committee. The Western Regional Committee shall examine the cases of each of the petitioners separately and thereafter shall ascertain whether the institution fulfills the criteria laid down in the Regulations, and whether the deficiency is of a nature as to substantially impede the institution from fulfilling its objectives. Needless to state that Western Regional Committee shall record reasons for arriving at the conclusion whether or not institutions in question fulfill the criteria and how the deficiency is of a nature as to substantially impede the institution from fulfilling its objectives. Only thereafter, the Western Regional Committee may issue show-cause notices to the petitioners containing sufficient particulars with regard to the grounds on which the recognition is sought to be withdrawn. The petitioners shall be given reasonable time to submit the reply to the show-cause notices. Thereafter, the reply furnished by the petitioners shall be considered by the Western Regional Committee and after affording an opportunity of hearing to the petitioners, a speaking order shall be passed in the light of observations which have been made by us in this order. With the aforesaid directions, the writ petitions are disposed of.

C.C. as per rules.