

(2004) 11 PAT CK 0005
In the Patna High Court
Case No : C.W.J.C. No. 11353 of 2000

Wali Ahmed and Others

APPELLANT

Vs

L.N. Mithila University and Others

RESPONDENT

Date of Decision : 08-11-2004

Acts Referred:

National Council for Teacher Education Act, 1993 — Section 17(1)

Citation : AIR 2005 Patna 93 : (2005) 1 PLJR 270

Hon'ble Judges : V.N. Sinha, J

Bench : Single Bench

Judgement

V.N. Sinha, J.—Heard Sri Ahsanuddin Amanullah, learned counsel for the petitioners, Sri S. N. Pathak, learned Standing Counsel for the National Council for Teachers Education and Sri Ramakant Sharma, learned counsel for the L. N. Mithila University.

2. Petitioners have assailed the order dated 31-3-2000, passed by the Regional Director of the National Council for the Teachers Education, Annexure-10, whereunder the council has withdrawn the provisional recognition granted to the petitioner-institution, vide order dated 23/24-2-1999, as according to the Regional Director, the said provisional recognition was obtained fraudulently and through mis-representation.

3. Learned counsel for the petitioners, assailing the impugned order, submitted that the same was passed without giving him any opportunity of being heard or making any representation as is required under proviso to Sub-section (1) of Section 17 of the NCTE Act, 1993 which empowers the National Council for the Teachers Education to withdraw any recognition or approval after hearing the institution in question. In this connection he also relied on the representation of the institution submitted to the Regional Director of the National Council for Teachers Education dated 12-4-2000, as contained in Annexure-11. Counsel for the petitioners further submitted that as the impugned order was passed contrary to the provisions of law, the students of the institution who studied in

the said institution during the period for which provisional recognition was granted, should not be allowed to suffer. He further submitted that the examination, pursuant to the notification of the L. N. Mithila University dated 12-10-2004 is to commence shortly as 10-11 -2004 has been notified as the last date for acceptance of fee and forms with fine and the students of the institution should be allowed to appear in the ensuing examination and direction be issued to the University to accept the fee and forms of the students of the petitioners-institution and they be admitted in the examination as present examination is being held after a span of four years and it is not known when the next examination will be held.

4. As the, National Council for Teachers Education has passed the impugned order dated 31 -3-2000 without giving any opportunity of being heard to the petitioners-in-stitution, as such, the said order, in my opinion, is directly in teeth of provisions contained in proviso to sub-section (1) of Section 17 of the NCTE Act, 1993 and is required to be set aside. I, accordingly, set aside the said order with direction to the petitioner to appear before the Regional Director of the National Council for Teachers Education, Bhubneshwar on 1st December, 2004 along with a copy of this order, whereafter the Regional Director and the appropriate authority of the National Council for Teachers Education shall issue notice to the petitioners enumerating the grounds on which they propose to withdraw the recognition already granted to the petitioners-institution. The notice should be served on the petitioners within one week from 1-12-2004, whereafter the petitioners shall file their show cause reply to the said notice within another three weeks and thereafter the appropriate authority of the National Council for Teachers Education shall pass a reasoned order, after due enquiry and opportunity of personal hearing to the Secretary of the petitioners-institution, within three months.

5. Meanwhile, the students of the institution for the Sessions 1997-98, 1998-99 and 1999-2000 shall be allowed to submit their fee and forms with fine on or before 30-11-2004 and to appear in the subsequent examination, provided the University had continued recognition of the petitioners-institution for the Sessions 1997-98 and 1998-99 as it appears from the letter of the Eastern Regional Committee, National Council for Teachers Education dated 27-10-1998, Annexure-3. The result of the students shall, however, be published only in the event the petitioner-institution is able to satisfy the University about the valid recognition for the Sessions 1997-98, 1998-99 and the National Council for Teachers Education for the Sessions 1999-2000.

6. In the event, the order passed by the University and the National Council for Teachers Education is contrary to the interest of the petitioner-institution, they shall be at liberty to move this Court in writ jurisdiction for appropriate relief.

7. This disposes of the writ application. No costs.

8. Let the counsel for the University inform the University about this order

telephonically.