Shanti College of Education Vs National Council for Teacher Education and Another

Writ Petition (C) 13220 of 2009 and C.M. No.14394 of 2009

Court: Delhi High Court

Date of Decision: July 8, 2010

Acts Referred:
National Council for Teacher Education Act, 1993 â€" Section 18(4)

Hon'ble Judges: Rajiv Sahai Endlaw, J

Bench: Single Bench

Advocate: Sanjay Sharawat, for the Appellant; Amitesh Kumar, for the Respondent

Final Decision: Allowed

Judgement

Rajiv Sahai Endlaw, J.
The petitioner is aggrieved by the order dated 6th November, 2009 of the Appeal Committee of the National

Council for Teacher Education (NCTE) refusing recognition to the petitioner for M.Ed. course. The petitioner has already been recognized for

B.Ed. course since the year 2007-08 and had applied for recognition for M.Ed. course for the year 2008-09.

2. The Northern Regional Committee (NRC) of the NCTE refused recognition to the petitioner on the following grounds:

a. The land has not been registered in the name of Institution within 90 days as communicated to the Institution.

b. The Multipurpose Hall is small in size.

c. Twenty computers are not enough for B.Ed. and M.Ed. students.

d. The titles in the library are not as per NCTE norms for M.Ed.

3. The Appeal Committee has in the order impugned, merely re-produced the reasons aforesaid given by the NRC and without dealing with the

contentions of the petitioner with respect thereto, recorded their conclusion of finding no ground to accept the appeal.

4. The counsel for the petitioner, with respect to the objection of the land being not registered in the name of the Institution has contended -

i. that the land has been registered in the name of the Society which is running the Institute;

ii. the land was so registered at the time of the petitioner seeking recognition for B.Ed. course also;

iii. the NRC was then satisfied and granted the recognition;

iv. the criteria for ownership of land are the same for B.Ed. and M.Ed. course;

v. the M.Ed. course was also sought to be imparted from the same land by making additions thereto;

vi. that though the NCTE vide its letter dated 13th March, 2009 to the various Regional Committees had prescribed that the land should be in the

name of the Institute and not in the name of the Society/Trust but the same would not be applicable to the petitioner in as much as the application

of the petitioner for recognition for M.Ed. course was already pending on that date;

vii. that the requirement of having title of the land in the name of the Institute is bad- the Institute is merely a name in which the Society is imparting

education - Institute is not a legal entity - it is the Society which is a legal entity capable of owning land;

viii. that in any case, the petitioner, after the order of NRC and during the pendency of appeal had got a sale deed of the land executed and

registered from name of Society to name of Institute and the Appeal Committee has failed to take note of the same.

5. With respect to the objection of the multipurpose hall being small, attention is invited to the Visiting Team Report (VTR) which has reported that

the petitioner has a multipurpose hall of 125.10 sq. mtr. (equivalent to 1346.5 sq. ft.) for the B.Ed. students and of the same size for the M.Ed.

students. Attention is also invited to the Norms and Standards for Master of Education Programme leading to Master of Education (M.Ed.) degree

provided for in the NCTE (Recognition Norms & Procedure) Regulations, 2007 wherein the prescribed requirement for space in each instructional

room is of 10 sq. ft. per student only; it is contended that since recognition for M.Ed. course was sought for 25 seats only, the multipurpose hall

ad-measuring 125.10 sq. mtr. was more than sufficient. It is further contended that neither the NRC nor the Appeal Committee have in their orders

differed nor stated reasons to so differ from the VTR and had no other material before them to reach the conclusion that the multipurpose hall is

small.

6. With respect to the objection of the 20 computers being not enough for B.Ed. as well as M.Ed. students, attention is invited to the conclusion in

the VTR to the effect that the petitioner has the infrastructure for both the courses and which would include the computers.

7. With respect to the objection as to the titles in the library being not as per the NCTE norms for M.Ed., attention is again invited to the VTR as

to the number of books and the additions made for the M.Ed. course. It is further contended that as per the prescribed norms 3000 books for

B.Ed. and 2000 for M.Ed. are prescribed; as per the VTR a total of 5000 books existed in the library of the petitioner.

8. The counsel for the petitioner on the basis of the aforesaid has contended that this Court in these proceedings itself, while setting aside the order

of the Appeal Committee ought to grant recognition to the petitioner.

9. Per contra, the counsel for the respondents has contended that the letter dated 13th March, 2009 (supra) of the NCTE to various Regional

Committees was merely reiterating the Regulations of 2007 requiring the land to be in the name of the Institute. It is further contended that even

though the petitioner before the Appeal Committee had produced a Sale Deed of the land from the Society in the name of the petitioner Institute

but the same was of a date subsequent to the decision of the NRC and thus of no avail. It is further contended that the NRC was not bound by the

VTR and nothing prevented the NRC from disagreeing with the VTR and refusing recognition.

10. This Court has already in Guru Nanak Khalsa College v. National Council for Teacher Education, W.P.(C) No. 4218/2010 decided on 2nd

July, 2010 held that the Appeal Committee of NCTE while dealing with the appeals against the orders of the Regional Committees is to take into

consideration the subsequent events, if any, and to allow or refuse the appeal taking note of the subsequent events if undisputed and if the

subsequent events pleaded are such which require any further investigation which can be carried out only by the Regional Committees, then to

remand the matter to the Regional Committees to consider afresh in light of the subsequent events.

11. In the present case, notwithstanding the contention of the counsel for the petitioner that the requirement of the land being in the name of the

Institute is bad, the fact remains that the Sale Deed of the land has since been executed in the name of the Institute. The Appeal Committee has

however failed to take note of the said subsequent event. Prima facie the said subsequent event does not appear to be such which would require

any further investigation by the NRC. Thus the order of the Appeal Committee with respect to the said objection cannot be sustained and is liable

to be set aside.

12. A disturbing feature is found in most of the orders of the Regional Committee and the Appeal Committee of NCTE. They do not give reasons

for accepting or rejecting the contentions of the applicants or for disagreeing with or rejecting the Visiting Team Reports or on other aspects. The

decisions, particularly of Regional Committees are in bullet points. Though the said decisions are not expected to be in the form of decisions of the

courts but nevertheless being subject to appeal or judicial review of the court ought to convey to persons affected therefrom the reasons which

prevailed for the outcome. Section 18(4), NCTE Act provides that before disallowing an appeal, the appellant shall be given a reasonable

opportunity to represent it case. The principle of natural justice of giving an opportunity of being heard is not to be an empty or abstract exercise.

Giving of an opportunity of hearing has a corresponding obligation to deal with the representations and to give reasons for the decision. An

opportunity of hearing/representation would be meaningless and its purpose would be frustrated, if the authority giving the hearing does not

consider the representations of the concerned or does not give any reasons for agreeing or disagreeing with the same.

13. A decision does not necessarily mean the conclusion, it embraces within its fold the reasons which form the basis for arriving at the conclusion.

(See Mukhtiar Singh and another Vs. State of Punjab,)

14. NRC prior to considering the case of the petitioner for recognition had appointed a visiting team and the report whereof was before the NRC.

Though in the minutes of the 148th meeting held from 28th to 30th August, 2009 in which the decision was taken, it is recorded that the report has

been considered but NRC has not recorded any reasons whatsoever for disagreeing with the report of the visiting team. The visiting team in the

present case had in its report given the factum of the existence of multipurpose hall as well as its size. It is not understandable as to why the NRC

as well as the Appeal Committee of the NCTE have held the multipurpose hall to be small. Similarly, though it has been said that the 20 computers

are not enough for B.Ed. and M.Ed. students but neither any norm/regulation as to the requirement in this regard is shown nor any reason has been

stated in the orders as to why the same are not enough particularly, when the report of the visiting team is otherwise. Similarly, when the prescribed

number of books was found existing in the library by the visiting team, it is not understandable why the same formed a reason for refusal. It may be

noticed that the reason given is of the titles in the library being not as per NCTE norms but save for the number of books, there does not appear to

be any mention in the report of the titles also. There does not appear to be any basis in the orders for the NRC and the Appeal Committee to

disagree with the visiting teamÃ¯Â¿Â½s report.

15. The orders thus cannot be sustained.

16. I am however, not in agreement with the counsel for the petitioner that in the circumstances aforesaid, this Court should grant recognition. May

be in a particular case where the reasons are stated and are found to be erroneous and capable of interference, this Court can interfere. However

in the case of the present nature where there are no reasons and it is not known as to what prevailed with the minds of the experts in denying

recognition, it is best to remand the matter to the said experts for considering the matter afresh and for decision with reasons.

17. The counsel for the petitioner has expressed apprehension and has stated that the Appeal Committee may remand the matter to the Regional

Committees and which would further delay his application for recognition already pending for the last three academic sessions and the petitioner is

suffering because having prepared the infrastructure, is being denied means to utilize the same. Though prima facie in view of what is noted

hereinabove, it does not appear that a remand may be necessary by the Appeal Committee but nevertheless no restrictions can be placed on the

exercise of powers by the Appeal Committee. However even if the Appeal Committee is of the opinion that the matter is required to be remanded

to the NRC, it would be required to give reasons as to why in the face of the aforesaid records/facts any further inquiry by NRC is required.

18. In these circumstances, the petition is allowed. The order of the Appeal Committee of NCTE is set aside. NCTE is directed to decide the

appeal in accordance with the directions hereinabove on or about 31st August, 2010.