

NATIONAL COUNCIL FOR TEACHER EDUCATION AND ANR.
v.
COMMITTEE OF MANAGEMENT AND ORS.

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MARCH 7, 2006

[S.B. SINHA AND P.P. NAOLEKAR, JJ.]

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Education/Educational institutions:

National Council for Teacher Education Act, 1993—Sections 14 and 32—NCTE (Form of application for recognition, the time limit of submission of application, determination of norms and standards for recognition of teacher education programmes and permission to start new course or training) Regulations, 2002—Appendix 1-B and 1-C—Recognition for B.Ed. Course for a particular academic year—Application for grant of recognition by Institution submitted on the last date—Deficiency found in form on non-furnishing of essential documents rectified, however, refusal to accord recognition—Grant of recognition by High Court—Correctness of—Held: Even if the requirements of the Regulations are directory in nature, substantial compliance thereof was necessary—It was obligatory on part of the institution to file an application complete in all respects—All the requirements were capable of being complied with—Thus, High Court erred in granting recognition, as such set aside.

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First respondent-Institution filed an application before the appellant-National Council for Teacher Education, for grant of recognition for B.Ed. course for academic year 2005-2006 on being granted 'No Objection Certificate' from State Government on 24.12.04. Application was received in its office on 31.12.04, which was the last date for submission of application. First respondent-Institution failed to furnish certain essential documents. Appellant informed the first respondent about the deficiencies on 27.4.05 which were later rectified. However, the appellant refused to accord recognition to the first respondent-Institution for the academic year 2005-2006. Respondent filed a writ petition. High Court held that since the Regulations did not postulate any time limit for filing an application for grant of recognition, it issued direction in favour of first respondent. Hence, the present appeal.

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Appellant- National Council for Teacher Education contended that

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A the High Court erred in holding that the provisions of the said Regulations are directory in nature; that as the cut-off date is fixed for filing such application for grant of recognition for each academic year, no application thereafter could have been entertained nor the first respondent could have shown any indulgence to supply the essential documents more than six months after the cut-off date; that as the appellant-Council is required to consider many applications for grant of recognition for the course and the same being applicable to all the institutions situated throughout the country, the High Court should not have issued the directions in favour of the first respondent-Institution.

C Allowing the appeal, the Court

D HELD: 1.1. Regulations could be framed by the appellant under Sub-section (1) of Section 32 read with Section 14 of the National Council for Teacher Education Act, 1993. The NCTE (Form of application for recognition, the time limit of submission of application, determination of norms and standards for recognition of teacher education programmes and permission to start new course or training) Regulations, 2002', having been validly framed by the Council, were required to be complied with. The Council has a statutory duty to perform. It is an autonomous body. Its jurisdiction extend to the entire territory of India except the State of Jammu and Kashmir and as such, it is indisputably required to process a large number of applications received by it from various institutions situate throughout the country. Six month's time, in view of the statutory scheme, is necessary for processing the papers, inspection of the institution and to take a decision on the basis of report submitted pursuant thereto as to whether the institution in question, having regard to Entry 66 of List II of the Seventh Schedule of the Constitution of India, has the requisite infrastructural facilities for imparting education to the teachers. The infrastructural facilities required to be provided must be commensurate with the requirements stated in the said form itself. [1072-D-H; 1073-D]

G 1.2. There cannot be any doubt or dispute that even if the provisions of the Regulations are directory in nature, substantial compliance thereof was necessary. It is no ground that such an application could not be filed by the first respondent before 31.12.04 as it received the NOC issued by the State Government. Thus, there is absolutely no reason as to why the delay in filing the application should be condoned only because the application has been filed seven days after the receipt of NOC. In view of

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the provisions of the Act and the Regulations, it was obligatory on the part of the first respondent to file an application, which was complete in all respects. It does not lie in the mouth of the applicant to state that despite requirements of law it would not comply with the same. It is not a case where the requirements were not capable of being complied with.

[1073-A-B-C; 1075-A-B]

1.3. The first respondent was required to show that it has a legal and valid title in respect of the land on which the building in question was required to be constructed. Reliance placed on Note (1) of Appendix 1-B to submit that as the appellant was enjoined with a duty to inform the institution in regard to respective applicants about the deficiencies in the application, it cannot be said that the document of title was essential in nature, is of no importance as the same could be taken recourse to by the Council before the expiry of the cut-off date, provided the application for grant of recognition was filed on such a date which could have provided the Council to scrutinise the same within a reasonable time. It was also required to furnish the copy of the building plan approved by the competent authority. The copy of the registered Deed of Lease was furnished for the first time by the first respondent on 9.6.2005. Similarly, complete information as to whether the building plan had been sanctioned or not was furnished only on the said date, therefore, the judgment of High Court cannot be sustained. [1073-C-F]

Krishnasamy Reddiar Educational Trust v. Member Secretary, National Council for Teacher Education & Anr., [2005] 4 SCC 89, relied on.

1.3. The submission that the Institutions similarly situated were recognised cannot be accepted. No such plea was raised before the High Court. A document has been filed by way of additional document without obtaining the leave of this Court. Appellant was not given an opportunity to respond thereto. In any event, the concept of Article 14 carries a positive concept. Only because some illegalities had been committed by the Council in respect of another institution, the same may not by itself be a ground for perpetrating the illegality. [1074-F-G]

CIVIL APPELLATE JURISDICTION : Civil Appeal No. 1546 of 2006.

From the Final Judgment and Order dated 30.9.2005 of the Uttaranchal High Court in Writ Petition No. 843/2005 (M/S).

A Raju Ramachandran, V.K. Rao, Saurabh Suman Sinha, Usman Ali Khan and Ms. Madhu Sikri for the Appellants.

Uday U. Lalit, H.S. Parihar and Kuldeep Parihar for the Respondents.

The Judgment of the Court was delivered by

B S.B. SINHA, J. Leave granted.

C The first respondent herein is an institution which imparts teachers' education. The appellant is a statutory body. It was created under the National Council for Teacher Education Act, 1993 ('the Act', for short). The Act was enacted with a view to achieve a planned and coordinated development of the teacher education system throughout the country, regulate and provide maintenance of norms and standards in the teacher education system and for matters connected therewith. The appellant-Council was constituted in terms of Section 3 of the said Act.

D Sub-Section 1 of Section 14 of the Act reads as under:

E "14.(1) Every institution offering or intending to offer a course or training in teacher education on or after the appointed day, may, for grant of recognition under this Act, make an application to the Regional Committee concerned in such form and in such manner as may be determined by regulations:

F Provided that an institution offering a course or training in teacher education immediately before the appointed day, shall be entitled to continue such course or training for a period of six months, if it has made an application for recognition within the said period and until the disposal of the application by the Regional Committee."

G The Regulations making power by the Council has been provided for in Section 32 of the Act. The Regulations made in terms thereof were not to be inconsistent with the provisions of the said Act and generally, to carry out the provisions thereof. Without prejudice to the generality of the said provisions, in particular, in terms of sub-Section (2) of Section 32 the Regulations may provide for all or any of the matters enumerated therein; Clause (e) whereof reads as under:

H "(e) the form and the manner in which an application for recognition is to be submitted under sub-section (1) of section 14;"

Pursuant to or in furtherance of the said power, the Council framed

Regulations known as 'The NCTE (Form of application for recognition, the time limit of submission of application, determination of norms and standards for recognition of teacher education programmes and permission to start new course or training) Regulations, 2002.' A

Appendix 1-B of the said Regulations provides for a list of essential documents which are required to be annexed with an application for grant of recognition including permission for additional intake, some of which are: B

“(ii) “No Objection Certificate” from the State Govt./UT Administration (in original).

(iii) Copies of valid land documents along with a “Land Title Certificate” by a local practising lawyer (As per the format at Appendix 1-C). C

(iv) Copy of Approved Building plan.”

Appendix 1-C mentioned in column (iii) of Appendix 1-B prescribes a proforma in which an advocate is required to give a Title Certificate. D

The first respondent herein, in terms of the provisions of the said Act and the Regulations framed thereunder, applied for grant of “No Objection Certificate” (NOC) before the State of Uttaranchal. The NOC was granted on or about 24th December, 2004. An application thereafter was made by the first respondent for grant of recognition for B.Ed. course in respect of the academic year 2005-2006 before the appellants, which was admittedly received in its office on 31st December, 2004. In terms of the prescribed proforma for filing such application, the following particulars of ‘necessary infrastructure’ were required to be furnished. The particulars of the infrastructures required to be furnished by the appellants are as under: E

“3.1 Please indicate if land is available in the name of the Institution, either on ownership or on long-term lease basis. Land is available in the name of the institution on long-term lease basis. A copy of lease deed is attached. F

3.2 If the course is proposed to be started in a building already constructed, following details/documents may be furnished. G

(a) approved building plan with the details of area floor/room wise.

(b) total plinth area H

- A (c) completion certificate from the local authority.
- 3.3 If a building is yet to be constructed, the following details/documents should be furnished.
- (a) Site plan: Site plan map attached
- B (b) approved building plan with details of area floor/room wise:
Map attached.
- (c) date of commencement of construction: 8.11.2004"

C The appellant, upon scrutiny of the said application, by its letter dated 27.4.2005, pointed out to the Principal of the first respondent-Institution that the following essential documents had not been annexed thereto:

- D "2. Legally valid land documents the Lease Deed submitted by the institution is not registered. The institution/society is required to submit the registered lease deed in favour of society/institution for a period of minimum 30 years.
3. Copy of the building plan approved by the competent authority. The building plan submitted by the institute is not approved by the competent authority."

E In response to the said letter, the first respondent, by its letter dated 9.6.2005 submitted:

- (1) lease deed purported to be in compliance of the said letter dated 27.4.2005 duly registered with the competent authority; and
- F (2) copy of the building plan approved by the competent authority.

As the appellant, despite receipt of the said letter refused to accord recognition to the first respondent-Institution for the academic year 2005-2006, the respondent herein filed a writ petition before the Uttaranchal High Court praying, *inter alia*, for the following reliefs:

- G "(i) Issue a writ, order or direction in the nature of certiorari quashing the order dated 27.06.2005 passed by respondent no.1.
- (ii) Issue a writ, order or direction in the nature of mandamus directing the respondent no.1 and 2 to grant recognition to start B.Ed. Course for the Session 2005-2006 to the petitioners' institution."

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The learned Single Judge of the High Court, holding that the Regulations made under Section 32 of the Act did not postulate any time limit for filing an application for grant of recognition, directed: **A**

“The learned counsel for the petitioners stated at bar that counselling for B.Ed. will start after 15th October, therefore, there is still time to consider for grant of recognition before the new admission starts for the session 2005-06. Since the application of the petitioners has not been rejected, considering the public interest to be served by the institution if the recognition is granted, it is provided that the Regional Committee may consider for grant of recognition to the petitioner-Institution before the session starts, as the deficiencies have already been removed after fulfilling the entire formalities as provided under Sections 14 & 15 of the National Council for Teacher Education Act, 1993.” **B**

Mr. Raju Ramachandran, learned senior counsel appearing on behalf of the appellants would submit that the High Court committed a manifest error in arriving at a conclusion that the provisions of the said Regulations are directory in nature. As the cut-off date is fixed for filing such application for grant of recognition for each academic year, it was urged that no application thereafter could have been entertained nor the first respondent could have shown any indulgence to supply the essential documents more than six months after the cut-off date. It was argued that as the appellant-Council is required to consider many applications for grant of recognition for the afore-mentioned course and the same being applicable to all the institutions situated throughout the country, the High Court should not have issued the directions in favour of the first respondent-Institution. **C**

Mr. Uday U. Lalit, learned senior counsel appearing on behalf of the respondents, on the other hand, would submit that the said Act having been enacted in terms of Entry 66 in List II of the Seventh Schedule of the Constitution of India, the institutions seeking recognition are required to spend a huge sum for providing minimum infrastructure and the ‘No Objection Certificates’ was granted by the State only when it satisfied itself as regard fulfilment of the said requirement in every respect. According to the learned counsel, it was well nigh impossible for the first respondent to submit an application in the prescribed form before 31st December, 2004 as the NOC was issued by the State only on 24.12.2004. Drawing our attention to Note (1) appended to Appendix 1-B, learned counsel urged that as the appellant **D**

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A was enjoined with a duty to inform the institution in regard to respective applicants about the deficiencies in the application, it cannot be said that the document of title was essential in nature. It was submitted that the first respondent has substantially complied with the requirements of law as lawyer's certificate, as prescribed in Appendix 1-C had been annexed with the first application. Mr. Lalit furthermore submitted that a copy of the building plan

B could not have been treated to be an essential document as the building in question is not situate within an urban area and the same falls within the jurisdiction of a Panchayat and thus, no sanction of the building plan was required in respect whereof the necessary certificate has already been filed. Institutions similarly situated, it was also argued, having been granted

C recognition, there is no reason as to why the impugned judgment could not be given effect to, argued the learned counsel.

Before advertng to the rival contentions as noticed hereinbefore, we may place on record that Mr. Lalit did not support the judgment of the High Court as regard the reasons assigned therein.

D Regulations could be framed by the appellant under Sub-section (1) of Section 32 read with Section 14 thereof. Section 14, as noticed hereinbefore, itself provides that the applications are required to be filed in such form and in such a manner as was determined by the Regulations. The Regulations

E could have thus also been framed in terms of Sub-section (1) of Section 14 of the Act. We have, however, noticed hereinbefore that Clause (e) of Sub-section (2) of Section 32 specifically refers to Section 14 of the Act for the purpose of laying down the form and manner in which the applications for recognition are required to be submitted. The High Court was, therefore, entirely wrong in arriving at the conclusion that the Council had no such

F power. The Regulations, having been validly framed, indisputably, were required to be complied with. The Council has a statutory duty to perform. It is an autonomous body. Its jurisdiction extend to the entire territory of India except the State of Jammu and Kashmir and in that view of the matter, it is indisputably required to process a large number of applications received by it from various institutions situate throughout the country. Six month's

G time, in view of the statutory scheme, is necessary for processing the papers, inspection of the institution and to take a decision on the basis of report submitted pursuant thereto as to whether the institution in question, having regard to Entry 66 of List II of the Seventh Schedule of the Constitution of India, has the requisite infrastructural facilities for imparting education to the

H teachers.

For the afore-mentioned purpose, it is not necessary for us to determine the question as to whether the provisions of the Regulations are imperative in character or not. There cannot, however, be any doubt or dispute that even if they are directory in nature, substantial compliance thereof was necessary. It is no ground that such an application could not be filed by the first respondent before 31st December, 2004 as it received the NOC issued by the State Government. In view of the provisions of the Act and the Regulations, it was obligatory on the part of the first respondent to file an application, which was complete in all respects. It does not lie in the mouth of the applicant to state that despite requirements of law it would not comply with the same. It is not a case where the requirements were not capable of being complied with. The first respondent was required to show that it has a legal and valid title in respect of the land on which the building in question was required to be constructed. It was also required to furnish the copy of the building plan approved by the competent authority. We have noticed hereinbefore that the application form itself provides for as to what infrastructural facilities are necessary for running the institution. The infrastructural facilities required to be provided must be commensurate with the requirements stated in the said form itself. One of them is to state the number of different rooms and their respective sizes thereof available in the proposed institution. So far as the title over the land in question is concerned, it was stated by the respondent that the land is available in the name of institution on a long-term basis. It is not disputed that copy of the registered Deed of Lease was furnished for the first time by the first respondent on 9.6.2005. Similarly, complete information as to whether the building plan had been sanctioned or not was furnished only on the said date. We are, therefore, of the opinion that the impugned judgment cannot be sustained.

We may notice that a Division Bench of this Court in *Krishnasamy Reddiar Educational Trust v. Member Secretary, National Council for Teacher Education & Anr.*, reported in [2005] 4 SCC 89, opined that :

“It was submitted that in the present matters, all the appellants were applying for the first time and as such they were required to follow the Regulations in force, operative and applicable to fresh applications. In such cases, Notes (1) and (2) of Appendix 1-B (list of essential documents) will apply. Notes (1) and (2) read thus:

“(1) If the application is found incomplete i.e. with all the essential documents, the institution may be asked to make good deficiencies

A in the application on or before the last date prescribed in the Regulations.

- (2) In the event when deficiencies in an application get removed only after the last date, the application of the institution shall be carried forward by the Regional Committee for consideration for the subsequent academic year i.e. for the course that would be offered one year later.”

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In our view, the respondents are right in submitting that there was delay on the part of the appellants. In all the three cases, applications were submitted without NOC from the State Government. It has come on record that NOC was applied for belatedly. The State Government could not be blamed for not taking a decision on the applications of the appellants as under Regulation 6 as amended in 2003, it was required to dispose of such applications within six months of the last date of receipt of applications. Even prior to the amended Regulation 6, it was expected to take decision within “reasonable time” (four months) as held in *St. Johns Teachers Training Institute*. As the appellants applied for NOC in the last week of October 2003, they cannot make complaint that the State Government delayed the matter. Admittedly, NOCs were submitted to the respondent after the last date of application. If in the above facts and circumstances, recognition has been granted by the respondent on 28-10-2004 by imposing a condition that it would be operative from academic year 2005-2006, it cannot be said that the respondent had acted illegally, arbitrarily or otherwise unreasonably.”

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Submission of Mr. Lalit that the Institutions similarly situated were recognised cannot be accepted for more than one reason. No such plea was raised before the High Court. Before us a document has been filed by way of additional document without obtaining the leave of this Court. The appellant had not, thus, been given an opportunity to respond thereto. In any event, the concept of Article 14 carries a positive concept. Only because some illegalities had been committed by the Council in respect of another institution, the same may not by itself be a ground for perpetrating the illegality.

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Reliance placed on Note (1) of Appendix 1-B by Mr. Lalit is again of no importance as the same could be taken recourse to by the Council before the expiry of the cut-off date, provided the application for grant of recognition was filed on such a date which could have provided the Council to scrutinise

the same within a reasonable time. A grant of NOC by the State is a condition precedent for filing such an application as was observed in *Krishnasamy Reddiar Educational Trust* (supra). There is, thus, absolutely no reason as to why the delay in filing the application should be condoned only because the application has been filed seven days after the receipt of the NOC. A

Before parting with this case, we may place on record that it is categorically stated before us by Mr. Raju Ramachandran that the Council carried forward the application of the Institution for consideration of the subsequent academic year. An inspection has already been carried out and the eligibility of the first respondent to obtain such recognition shall be determined within a period of eight weeks from date. We place on record the afore-mentioned submissions of the learned senior counsel appearing on behalf of the appellant. B C

For the foregoing reasons, the impugned judgment is set aside. The appeal is allowed.

No costs. D

N.J.

Appeal allowed.