

**IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA.**

**C.W.P. No. : 1449 of 2010.**

**Decided on: 31.05.2010.**

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**Mehar Ram Ditta Memorial Physical Education College.**

**...Petitioner.**

**-Versus-**

**Regional Director, National Council for Teacher Education.**

**...Respondent.**

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**Coram:**

***The Hon'ble Mr. Justice Kurian Joseph, Chief Justice.***

***The Hon'ble Mr. Justice Rajiv Sharma, Judge.***

*Whether approved for reporting?<sup>1</sup> Yes.*

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**For the petitioner. : Ms. Suman Thakur, Advocate.**

**For the respondent : Mr. Sandeep Sharma, Assistant  
Solicitor General of India.**

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**Justice Kurian Joseph, C.J. (Oral) :**

Whether an institution recognized by the National Council for Teacher Education in terms of the Regulations framed in the year, 2005, can be denied sanction for a course, on the ground that the institution does not satisfy the requirements in terms of the Regulations, framed in the year, 2009?. This short question is to be tackled in this case.

**2.** Petitioner is an educational society, registered under the Societies Registration Act, 1860. The institution has been duly recognized by the National Council for Teacher Education and it has been running the degree course of a Bachelor of Physical Education since, 2007. That recognition was given in

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<sup>1</sup> *Whether the reporters of the local papers may be allowed to see the judgment?*

terms of the N.C.T.E. Regulations framed in the year 2005. It is seen that the petitioner applied for starting a new Teacher Training Course/a Training Course of Bachelor of Physical Education as per Annexure P-3, application. The same has been turned down as per Annexure P-6, communication, dated 21<sup>st</sup> February, 2010, stating that the institution does not satisfy the requirements in terms of 2009 Regulations. Thus, aggrieved, writ petition is filed.

**3.** Clause 8.7(i) of N.C.T.E. Regulations, 2009 reads as follows:

“No institutions shall be granted recognition under these Regulations unless the institution or society sponsoring the institution is in possession of required land on the date of application. Land free from all encumbrances could be either on ownership basis or on lease from Government or Government institution for a period of not less than 30 years. In cases where under relevant State or Union Territory laws the maximum permissible lease period is less than 30 years, the State Government or Union Territory Administration law shall prevail. However, no building shall be taken on lease for running any teacher training course.”

**4.** It is clear from the provision, as quoted above, that the N.C.T.E. will not grant recognition to any institution, unless an institution or society sponsoring the institution, is in possession of the required land on the date of application. As far as the possession of land is concerned, it is further clarified that, land should be free from all encumbrances and the same could be either on ownership basis or on lease from Government or Government institution for a period not less than 30 years. It

is also further clarified that no building, as such, should be taken on lease for running any teacher training course.

**5.** As far as the petitioner is concerned, it is seen that it had taken 25 *Kanals* and 15 *Marlas* of land on lease for a period of 99 years as per Annexure P-7, lease deed, executed on 22.02.2007. On furnishing security of the said property to the Financial Corporation, loan to the tune of Rs.50/- lacs was raised and a building has been constructed in the property by the petitioner, and it is in that building, the Bachelor of Physical Education course is being conducted.

**6.** It is also to be seen that the Regulation speaks only of recognition of an institution and not sanctioning of a course. It is also to be seen that the petitioner has constructed its own building. Once the institution has already been granted recognition in terms of the Regulations which existed at the time of recognition, the N.C.T.E. cannot insist for compliance with the Regulations framed thereafter, while an application for a new course is considered. The Regulations extracted above, applies only for recognition of the institution and not for sanctioning of a course. Even otherwise, the petitioner having satisfied all the conditions for recognition of institution as per the then existing Regulations and the N.C.T.E. having recognized the institution, the N.C.T.E. cannot refuse to sanction a new course, on the ground that the institution does not satisfy the requirements in terms of the 2009 Regulations, in case the institution is otherwise eligible. 2009 Regulations would govern the case of institutions for recognition after 2009. It cannot retrospectively apply to an institution, like the petitioner, which had already

been recognized in terms of 2005 Regulations. Therefore, in case the petitioner otherwise satisfies the requirements for the teacher training course in B.P. Ed., the application cannot be rejected on the only ground of the institution not satisfying the conditions regarding the possession of land as per 2009 Regulations.

**7.** Annexure P-6, dated 21<sup>st</sup> February, 2010 is hence quashed, with a direction to the N.C.T.E. to process the application filed by the petitioner for sanctioning the teacher training course/B.P. Ed., in accordance with law, in the light of the observations contained in the judgment. The needful shall be done within a period of one month from the date of production of the copy of the judgment.

The petition stands disposed of, so also the pending application(s), if any.

**(Justice Kurian Joseph),  
Chief Justice.**

**(Justice Rajiv Sharma)  
Judge.**

31<sup>st</sup> May, 2010.  
(bhupender)