

10

**IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT  
JODHPUR**

**:ORDER:**

**SHRI SHIVA AADARSH SHIKSHAN  
PRASHIKSHAN & SHODH SANSTHAN  
VS.  
NATIONAL COUNCIL FOR TEACHERS  
EDUCATION & ORS.  
S.B. CIVIL WRIT PETITION NO.2062/2009**

..

Date of Order ::

29<sup>th</sup> July 2011.

PRESENT

**HON'BLE MR. JUSTICE DINESH MAHESHWARI**

Mr. M.S. Singhvi, Senior Advocate with  
Mr. Akhilesh Rajpurohit, for the petitioner.  
Mr. Kuldeep Mathur, for the respondents.

&lt;&gt;&lt;&gt;&lt;&gt;

**BY THE COURT:**

The petitioner-society, registered under the Rajasthan Societies Registration Act, 1958 with the objects, inter alia, of imparting education, obtained a piece of land admeasuring 4 bighas at village Barani Khurd, Tehsil Bhopalgarh, District Jodhpur. After acquiring the land, the petitioner took a decision to establish an educational institution for conducting the course of the Bachelor's Degree in Education ('B.Ed') and to establish another institution for conducting the course of School Teacher's Certificate ('STC') and is alleged to have constructed two buildings on the land acquired by it in the year 2007. According to the petitioner, the intent has been to provide the persons residing in rural areas an opportunity to undertake such courses of B.Ed. and STC.

The dispute in this writ petition relates to recognition for B.Ed. course as sought by the petitioner-society. From the facts as available on record, it is not in dispute that on 24.12.2007, the petitioner submitted an application to the Regional Director of the respondent-National Council for Teachers Education ('NCTE') for conducting B.Ed. course after depositing the requisite fees. On the other hand, the petitioner-society also submitted an application seeking grant of recognition for conducting STC course to the said Regional Director, NCTE, Jaipur on 31.12.2007. The other details regarding processing of the applications is not as such relevant for the present purpose. The fact of the matter had been that after processing, the two applications as made by the petitioner-society were placed for consideration in the 131<sup>st</sup> meeting of the National Regional Committee ('NRC') of NCTE with the file for B.Ed. course bearing number 1627 and that for STC course bearing number 1772. In its first sitting dated 9-11.08.2008, the NRC granted permission for STC course to the petitioner-society but then, the application in relation to the permission for B.Ed. course was not decided in this meeting. This application for B.Ed. course was further deferred in the next sitting dated 21.08.2008; and was not decided even in the third sitting of the said 131<sup>st</sup> meeting on 29-31.08.2008 for the alleged reason that the file had been called by the headquarters. This application for B.Ed. course was eventually taken up for consideration in the next meeting i.e., 132<sup>nd</sup>

meeting of NRC as held on 11-14.09.2008 when the decision was taken to treat this matter as closed for recognition of STC course having already been granted and as per the respondent NCTE, in the first instance, an institution is considered for grant of recognition only for one course; and an institution could only apply for one basic unit of additional course from subsequent academic session.

It appears that the petitioner, being aggrieved of denial of permission for B.Ed. course preferred a writ petition (CWP No.7777/2008) that was disposed of by this Court on 27.09.2008 with the following order:-

“Heard learned counsel for the petitioner.

The application for recognition of petitioner is pending consideration with the respondent No.2. However, the said authority is directed to decide the application of petitioner for the purpose of recognition within a period of one month from the date of receipt of certified copy of this order.

Accordingly, this writ petition is disposed of.”

The directions in the said order dated 27.09.2008 having not been complied with, a contempt petition (CCP No.353/2008) was also moved. The respondent NCTE ultimately considered the petitioner's application for B.Ed. course as directed and confirmed the decision as taken on 11-14.09.2008, of treating the application as closed, and communicated the same in its order dated 20.01.2009 that has led to this writ petition. In the order dated 20.01.2009, the respondent-NCTE referred to the background facts as follows:

“2. (i) However, the application made by the Petitioner-Institution for B.Ed. Course could not be decided in the

131<sup>st</sup> Meeting of NRC held on 9<sup>th</sup> - 11<sup>th</sup> August, 2008 for want of time. In 02<sup>nd</sup> Sitting of 131<sup>st</sup> meeting of NRC held on 21<sup>st</sup> August, 08, the matter was again deferred for the next meeting. In 3<sup>rd</sup> sitting of 131<sup>st</sup> meeting of NRC held on 29-31<sup>st</sup> August, 2008, the above file could not be again decided as the relevant file was called by the NCTE HQs and the matter was deferred till the final receipt from the NCTE HQs.

(ii). Thereafter, the NRC considered the matter of recognition for the B.Ed. Course in its 132<sup>nd</sup> meeting held on 11<sup>th</sup> -14<sup>th</sup> September, 2008. Since, the said institution was already granted recognition for STC Course from academic session 2008-2009, the Committee decided to close the file pertaining to B.Ed. programme of this institution. The same decision was uploaded in the website of NRC-NCTE for official documents. This decision was also flashed on website of the NRC-NCTE, after the minutes were approved, The NCTE HQs. returned the file to NRC office on request from the NRC for implementation of the decision on 18.11.2008.”

Thereafter, the respondent-NCTE referred to the contempt petition having been filed in the Court and several legal opinions having been taken and then, proceeded to state its decision in the following terms:-

“6. The committee considered the Hon'ble court Jodhpur order in writ petition No. 7777/2008 in the matter of Shiv Adarsh Shikshan Prashikshan Shodh Sansthan, Jodhpur for grant of Recognition of B.Ed. course in its 132<sup>nd</sup> meeting held on 11<sup>th</sup> - 14<sup>th</sup> Sep, 2008 to close the file pertaining to B.Ed. course as per NCTE Regulation 2007 clause 8(2) reads **“In the first instance, an institution shall be considered for grant of recognition for only one course for the basic unit as prescribed in the norms & standards of the particular teacher education programme. An institution can apply for one basic unit of an additional course from the subsequent academic session. However, application for nit more than one additional course can be made in a year”**

The legal opinion sought in respect of contempt matter from Sh. Sanjay Pareek, Legal Counsel of NCTE, Hon'ble High Court of Rajasthan and letter received from Co-coordinator and principal BSTC Entrance Examination Govt. College, Ajmer in allotment of Students to STC course for Academic Session 2008-2009 vide letter no बी.एस.टी.सी./जीसीए/2009 sp. 1 dated 20.01.2009.

In view of the above facts and the NCTE Regulation 2007 clause 8(2). “The Committee decided to confirm the decision taken in its 132<sup>nd</sup> meeting held on 11<sup>th</sup>-14<sup>th</sup> Sep, 2008 i.e.” As Recognition for STC course

has already been granted, the B.Ed. file be treated as closed”.

8. Now therefore, the application of B.Ed. course of Shiva Adarsh Shikshan Prashikshan & Shod Sansthan, Jodhpur, RJ-1627 is hereby closed.”

Aggrieved by the decision aforesaid, the petitioner has filed this writ petition.

In this writ petition, after notice to the respondents, the matter was considered on 28.05.2009 and after hearing the parties on the prayer for interim relief, this Court directed as under:-

“Learned counsel for respondents seeks short adjournment.

Heard on stay application.

Learned counsel for the petitioner submits that petitioner applied for grant of recognition to run B.Ed. Course vide application dated 24<sup>th</sup> December, 2007 and thereafter, applied for grant of recognition to run S.T.C. Course on 31<sup>st</sup> December, 2007. The application to run B.Ed. Course is prior in time than the application for grant of recognition of S.T.C. Course but the application filed by the petitioner for running S.T.C. Course was accepted. According to the respondents, two courses cannot be permitted to run at one time to one institution and therefore, the application for grant of recognition to run B.Ed. Course was rejected. Learned counsel for the petitioner submits that as per stand of the respondents, the institutions have been given option for giving preference for starting a particular course either B.Ed. or S.T.C. Course but no such option was given to the petitioner. Had the option been given to the petitioner, the petitioner-institution would have opted to run B.Ed. Course instead of S.T.C.

In this view of the matter, in the meanwhile, the petitioner may exercise its option for running either B.Ed. or S.T.C. Course as alleged to have been given to Chopasani Teachers Training College by the respondents and if such an option is exercised by the petitioner, the respondents shall consider the option objectively.

List the matter on 8<sup>th</sup> July, 2009.”

It appears that the matter was considered by the respondent NCTE pursuant to the directions aforesaid in the meeting held on 27<sup>th</sup> - 29<sup>th</sup> June 2009 wherein the decision was taken by the respondent-NCTE that the institution be directed to apply for withdrawal of STC course and that recognition of B.Ed. course would be considered after such withdrawal of previously recognised course. The option in that regard, as having been given by the petitioner on 06.07.2009, was placed before the Court and after considering the same, this Court passed the following order on 24.07.2009:-

"The learned counsel for the petitioner has made a mention stating urgency.

The learned counsel for the respondents submits that pursuant to the order dated 28.05.2009 as passed in this case, the matter concerning the petitioner was considered in the meeting held on 27-29.06.2009 wherein the following decision was taken:-

"As per direction of Hon'able of Judicature for Rajasthan the case was considered by the committee and the committee decides to direct the Institution to apply for withdrawal of STC course from 2009 – 2010 if the Institution is interested in running B.Ed. course. The recognition of B.Ed. Course will be considered as per Policy, Rules & Regulations of NCTE after withdrawal of previously recognized STC Course."

The learned counsel for the petitioner refers to the fact that pursuant to this decision, the petitioner has stated its consent to withdraw the permission to run the STC course from the session 2009-2010 without prejudice to its rights. The learned counsel has placed for perusal the letter dated 06.07.2009 as sent by the petitioner.

The copies of the documents as shown during the course of submissions be placed on the record of this writ petition.

Having regard to the circumstances of the case and particularly when the petitioner has categorically stated its

option in the letter dated 06.07.2009, it is expected of the respondents to immediately take a decision in relation to the petitioner without further loss of time.

Mr.Kuldeep Mathur appearing for the respondents submits that the respondents shall be advised appropriately to take objective decision on the option stated by the petitioner.

List this matter on 03.08.2009.”

The matter has thereafter remained pending for one reason or the other. However, when the matter was being heard on 11.01.2011, it was submitted on behalf of the petitioner-society that they were ready to give up the permission to run the STC course from the coming academic session if permission for running B.Ed. course was granted and an additional affidavit was filed during the course of hearing that reads as under:-

“1. That I am the Organizing Secretary of the petitioner society and am well conversant with the facts and circumstances of the case. I am authorized to file this affidavit.

2. That the petitioner has already submitted its option vide communication dated 06.07.2009 to run B.Ed. course in pursuant to the order dated 28.05.2009 and as well as the direction given by the respondent NCTE in its meeting of NRC held on 27-29 June, 2009. A copy of the communication dated 06.07.2009 is submitted herewith and marked as **Annexure-27**.

3. That the petitioner further undertakes that it is ready to give up the permission to run the S.T.C. course from coming academic session if the permission for running the B.Ed. course is granted from coming academic session with liberty to move a new application for grant of recognition to run the S.T.C. Course.

4. That the document annexed with this affidavit is true and correct copy of its respective original.”

The respondents have taken the stand that though the petitioner-Institution submitted an application for conducting B.Ed. course on 24.12.2007 but then, the petitioner-Institution

itself submitted an application seeking the grant of recognition for conducting STC course; and as per Regulation 8(2) of the NCTE (Recognition, Norms and Procedure) Regulation, 2007 ('the Regulations of 2007'), only one of such applications could have granted. It is submitted that File No. 1772 pertaining to STC course was processed and placed in the 131<sup>st</sup> meeting of Northern Regional Committee held on 09<sup>th</sup> - 11<sup>th</sup> August 2008; and the NRC granted permission for STC course to the petitioner institution. Subsequently, by the communication dated 10.09.2008, formal order granting permission for starting STC course of 02 years duration with annual intake of 50 students was issued in favour of the petitioner institution; and the NCTE was informed by the convener that the petitioner institution had given admission to the 50 students in STC course. It is submitted that though in the 132<sup>nd</sup> Meeting of NRC held on 11<sup>th</sup> - 14<sup>th</sup> September 2008, the matter pertaining to grant of recognition of B.Ed. course was considered but in view of the fact that the recognition for STC course had already been granted, the file was closed.

According to the respondent, the request of the petitioner for giving permission for establishing college for B.Ed. course cannot be accepted and this writ petition deserves to be dismissed mainly for the reasons that: (a) Regulation 8(2) of Regulations 2007 prohibit for grant of two Teacher Training Courses in one academic year, (b) the petitioner was having the remedy of filing an appeal against



the order rejecting application for B.Ed. course; (c) the petitioner institution challenged the order declining grant of permission for B.Ed. course only after giving admission to the students in STC course and it is, therefore, an afterthought; (d) the NCTE on any ground cannot act against statue and the doctrine of promissory estoppel does not apply against the statue; and (e) NCTE had taken a decision that looking to the number of B.Ed. Colleges in the State of Rajasthan presently, there is no need for establishing new colleges offering B.Ed. course and this decision, in force since the Academic Year 2009-2010, has been upheld by this Court. The respondent has referred to the decision of the Hon'ble Supreme Court in M/s Motilal Padampat Sugar Mills Co. Ltd Vs. State of Uttar Pradesh: (1979) 2 SSC 409 and of this Court in SB Civil Writ Petition No. 5913/2009 decided on 13.08.2009: Sampat STC Mahavidhayalaya & 109 Ors. Vs. State of Rajasthan & Ors. (2010(1) WLC 353).

Having given a thoughtful consideration to the entire matter, this Court is of opinion that the petition deserves to be allowed and while setting aside the order dated 20.01.2009, the related decision, so far relating to refusal of the application of the petitioner for starting B.Ed. course, deserves to be quashed and the respondents deserve to be directed to consider the case for grant of recognition to the petitioner-society for running B.Ed. course immediately.

The facts of the case are not much in dispute and it is at once clear that the petitioner's application for B.Ed. course was in fact prior in time as made on 24.12.2007. Even if it be accepted that the NCTE could not take the decision on the application made on 24.12.2007 for valid reasons in the earlier sitting of the 131<sup>st</sup> meeting, and the matter was deferred but it remains inexplicable that in its subsequent sitting, the respondent NCTE chose to grant the application made by the petitioner later for STC course but did not take the decision on the petitioner's earlier application for B.Ed. course allegedly for the file having been called by the headquarter; and thereafter, the application for B.Ed. course was treated as closed for permission having been granted for STC course. The petitioner had never asked for decision on its application for STC course at the first and before the decision on its application for B.Ed. course. When the application for B.Ed. course was prior in time and no other impediment has been shown, it does not appear justified that NCTE in its Northern Regional Committee, took the decision on STC course application first and then closed the matter for B.Ed. course.

The submission that the petitioner has started STC course hardly operates against the right of the petitioner in the given set of facts and circumstances. When the NCTE chose to grant such permission, the petitioner cannot be faulted in starting with that course and the petitioner was not expected to give up such course also. The submission that the prayer

for B.Ed. course is an afterthought is basically incorrect on the very essential fact that the petitioner had indeed moved the application for B.Ed. course even before moving the application for STC course.

The stance of the respondent-NCTE in this matter is difficult to be appreciated where it has with impunity avoided to consider the purport and spirit of the orders passed by this Court. As noticed above, by the order dated 28.05.2009, this Court took note of the submissions of the petitioner that other institutions were given option for starting either of the course but no such option was given to the petitioner and while the petitioner was given a liberty to exercise the option, the respondents were directed to consider the application objectively. The respondents still avoided to take a concrete decision but only stated in its meeting dated 27-29.06.2009 that recognition for B.Ed. course would be considered after withdrawal of previously recognised STC course. When the petitioner had specifically stated its option seeking withdrawal of permission to run the STC course from 2009-2010 in its communication dated 06.07.2009, a decision ought to have been taken by the respondents objectively in keeping with the spirit of the order dated 28.05.2009 and so also further order dated 24.07.2009 as reproduced hereinabove.

It appears that the respondent-NCTE has chosen to stand more on technicalities rather than substance and in the result, this litigation has got unnecessarily prolonged. As

noticed, even during the course of submissions in this matter, an undertaking has been stated by the petitioner that they were ready to give up the permission to run the STC course from coming session if permission for running B.Ed. course was given to them forthwith with liberty to make a new application for grant of recognition to run STC course. The submissions on behalf of the petitioner are squarely in conformity with the Regulation 8 (2) of the Regulations of 2007 as referred to and relied upon on behalf of the respondents that reads as under:-

“In the first instance, an institution shall be considered for grant of recognition for only one course for the basic unit as prescribed in the norms and standards for the particular teacher education program. An institution can apply for one basic unit of an additional course from the subsequent academic session. However, application for not more than one additional course can be made in a year.”

The decision in Motilal Padampat Sugar Mills (supra) as referred on behalf of the respondents has hardly any application to the facts of the present case. It is not the doctrine of promissory estoppel whereby the petitioner seeks the relief. The right of the petitioner for consideration of the application for B.Ed. course had been available from the very beginning and rather the respondents had been at fault in not deciding that application earlier.

The observations as made in Sampat STC Mahavidhayalaya (supra) cannot operate against the interest of the petitioner because, as noticed, its application for B.Ed. course had been filed way back on 24.12.2007 and was

deferred for the reasons best known to the respondent-NCTE and was not decided before the decision on other application for STC course. Thus, this writ petition deserves to be allowed with necessary directions.

The aspect regarding alternative remedy in the given set of facts and circumstances does not operate against the right of the petitioner to seek appropriate relief from this Court in writ jurisdiction. Such submissions on the part of the respondents have only been noted to be rejected.

Accordingly, this writ petition is partly allowed. The order dated 20.01.2009 is quashed; and the decisions taken by the respondent NCTE in 132<sup>nd</sup> meeting dated 11-14.09.2008 and as confirmed in the 136<sup>th</sup> meeting dated 19-21.01.2009 in so far as relating to refusal of application of the petitioner for starting and running B.Ed. course stand quashed and are set aside. The respondents are directed to consider the application of the petitioner for B.Ed. course as made on 24.12.2007 coupled with its option as stated on 06.07.2009 immediately and latest within a week from production of certified copy of this order by the petitioner. However, in the circumstances, there shall be no order as to costs.

**(DINESH MAHESHWARI), J.**