



F.No.89-251/2014 Appeal/2nd Mtg.-2019/30th & 31st January, 2019

NATIONAL COUNCIL FOR TEACHER EDUCATION

Hans Bhawan, Wing II, 1, Bahadurshah Zafar Marg, New Delhi - 110 002

Date: 18/02/2019

ORDER

WHEREAS the appeal of Pandit Deen Dayal Shiksha Mahavidyalaya, Bhind, Madhya Pradesh dated 13/05/2014 is against the Order No. WRC/WRCAPP209/223/185/2013/107310 dated 29/08/2013 of the Western Regional Committee, refusing recognition for conducting B.Ed course on the grounds that "the application was registered on 31/12/2012 whereas the sale deed which has been submitted is registered on 01/01/2013. Thus, the applicant Society did not own land on the date of application. Hence, the case is summarily rejected."

AND WHEREAS aggrieved by the order of the WRC, the appellant filed a Writ Petition no. 2398/2014 before the Hon'ble High Court of Madhya Pradesh, Bench at Gwalior and the Hon'ble High Court in their order dt. 22/04/2014 disposed of the petition with the direction that if the petitioner files an appeal within a period of two weeks from 22/04/2014, the authority may consider the appeal in accordance with law. The appellant filed the appeal on 13/05/2014. The appellant, while filing the appeal submitted that delay beyond the prescribed time limit of 60 days occurred as the appellant was not served with the order dt. 29/08/2013 and as soon as it came to his knowledge, he preferred the Writ Petition no. 2398/2014 before the Hon'ble High Court. In view of the directions of the Hon'ble High Court, the Committee decided to consider the appeal.

AND WHEREAS Sh. Raj Narayan Sharma, Director and Sh. Bheem Singh, Principal, Pandit Deen Dayal Shikshal Mahavidyalaya, Bhind, Madhya Pradesh presented the case of the appellant institution on 27/06/2014. In the appeal and during personal presentation it was submitted that "the land was in the possession of the Society and the sale deed was executed on 30/12/2012 but the same was registered on 01/01/2013".

AND WHEREAS the Committee noted that according to the provisions of clause 8(7) (i) of the NCTE Regulations, 2009, on the date of application, the institution or society sponsoring the institution should be in possession of the required land, free from all encumbrances. Since, the land was registered in the name of the Society on 01/01/2013 i.e. after the date of application, the Committee concluded that the WRC was justified in refusing recognition and therefore, the appeal deserved to be rejected and the order of the WRC confirmed. Accordingly Appeal order dated 01/07/2014 was issued by NCTE.

Present Scenario

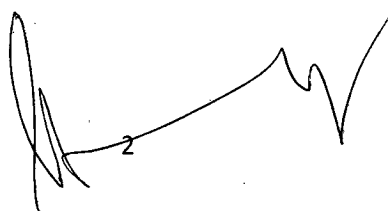
AND WHEREAS pursuance receiving a Comtempt Notice, the matter was placed before Appeal Committee in its 2nd Meeting -2019 held on 31/01/2019. Sh. Raj Narayan Sharma and Sameer Sharma represented the appellatant institution.

AND WHEREAS appellate Authority noticed that appellatant institution on being not satisfied with the appeal order dated 01/07/2014 filed a Writ Petition No. 7120/2014 in the High Court of Madhya Pradesh Bench at Gwalior seeking following relief:-

- (i) Quashing refusal order dated 29/08/2013 and Appellate order dated 01/07/2014.
- (ii) Requiring respondents to consider application of petitioner afresh for grant of recognition to conduct B.Ed. course.
- (iii) Any other suitable direction which Hon'ble Court deems fit.

AND WHEREAS Appeal Committee on perusal of the regulatory file of W.R.C. observed that appellatant by its letter dated 13/05/2015 submitted to W.R.C., Bhopal a copy of the Court's order dated 11/05/2015 which reads as follows:-

"Heard on IA No. 2990/2015, the petitioner's application for issuance of ad-interim direction to the authorities of the respondents to consider and decide the old application for giving recognition for the Academic Session 2015-2016, which was filed as per the advertisement, as Annexure – A with the application.



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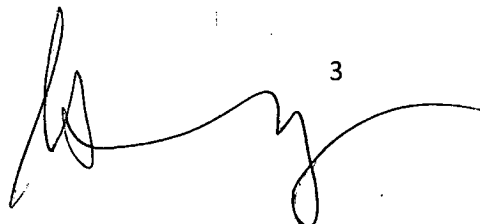
"In the available scenario of the matter, without expressing any opinion on the merits of the matter, the authorities of the respondents are directed to consider and decide the aforesaid application of the petitioner, in accordance with the procedure prescribed under the rules and statutes. Such exercise be carried out with the period prescribed under the statute or if no such period is prescribed, then in such circumstances, the same be considered and decided on its own merits, under intimation to the petitioner within fifteen days from the date of receiving the certified copy of this order.

Accordingly, the IA is allowed in part."

It is evident that directions of the Hon'ble Court related to a part of Interim Application. W.R.C. on getting the directions of the Hon'ble High Court had considered the case of appellant institution and responded by a communication dated 12/06/2015. There is no communication on record to show as to what happened thereafter till the present contempt Notice was received. The present Notice refers to an order dated 16/07/2016 passed by M.P. High Court at Gwalior in W.P. Case no. 7120 of 2014 which reads as under:

"In view of the preceding analysis, we hereby quash the order dated 01/07/2014 passed by the appellate authority and remit the matter to the appellate authority with a direction to decide the appeal preferred by the petitioner by a speaking order in the light of the observations made by this Court supra, within a period of forty-five days from the date of receipt of the certified copy of the order passed today."

AND WHEREAS appellate Authority, hence before, was not apprised of the Hon'ble Court's order dated 16/07/2016 and the appellant has also sent a Contempt Notice after more than two years of the Court's order dated 16/07/2016. The Appeal order dated 01/07/2014 was set aside by the Hon'ble Court with a direction to decide the appeal preferred by petitioner by a speaking order in light of the observations made by the Court Supra within 45 days from the date of receipt of certified copy.

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AND WHEREAS appellant appeared before Appeal Committee on 31/01/2019 but failed to submit any evidence to prove that a copy of the Court's order requiring redeciding the appeal by issue of speaking order was ever made available to the Committee. Hon'ble High Court has also not stated that on what grounds the earlier Appeal order dated 01/07/2014 was considered to be a non-speaking order.

AND WHEREAS Appeal Committee, carefully reconsidered the whole matter. It was observed that application dated 31/12/2012 seeking recognition for B.Ed. course was summarily rejected by W.R.C. as date of registration of land documents was found to be 01/01/2013. Appeal Committee noted that the date of application i.e. 31/12/2012 is very crucial and has an important bearing on the said case. The application was submitted online and an APP code was generated. Incidentally 31/12/2012 was also the last date for receipt and submission of online application. Crucial date means that the documents including the registration of sale deed documents should be either as on 31/12/2012 or of a date prior to 31/12/2012. Land document is one of the essential documents non-submission of which may result in summary rejection of any application. In the present case hard copy of the application is found to have been received in the office of W.R.C. on 10/02/2013 which might have been due to delay in receiving copy of the sale deed from the office of Sub-Registrar, Bhind by the appellant institution.

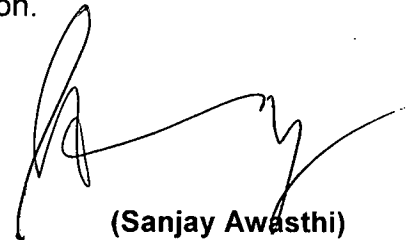
AND WHEREAS the relevant provisions of NCTE Regulations, 2009 contained in para 7 (i) reads as follows:-

"No institution 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. The land free from all encumbrances could be either on ownership basis or on lease from Government or Government institutions 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."

AND WHEREAS as 31/12/2012 was the last date for receipt of online applications, appellant's application could not have been generated on 01/01/2013. Appellant stated

that sale deed of land was executed on 31/12/2012 but the same was registered on 01/01/2013. Appeal Committee observes that execution of sale deed becomes legally valid only with registration. Appeal Committee further decided that date on which online application is made is the valid date of application for deciding the intent of possession of land on ownership basis. Appeal Committee reiterates its earlier decision that the appeal deserved to be rejected as date of online application i.e. 31/12/2012 is the valid date of application.

AND WHEREAS after perusal of the Memoranda of Appeal, affidavit, documents on record and oral arguments advanced during the hearing and the order dated 16/07/2016 passed by M.P. High Court at Gwalior in W.P. No. 7120 of 2014, Appeal Committee reiterates its earlier decision that the appeal deserved to be rejected as date of online application i.e. 31/12/2012 is the valid date of application.



(Sanjay Awasthi)
Member Secretary

1. **The Secretary, Pandit Deen Dayal Shiksha Mahavidyalaya, Adampura, Ashra No. 160, Own 160, Ladampura, Bhind – 477001, Madhya Pradesh.**
2. The Secretary, Ministry of Human Resource Development, Department of School Education & Literacy, Shastri Bhawan, New Delhi.
3. Regional Director, Western Regional Committee, Plot No. G-7, Sector – 10, Dwarka, New Delhi -110075.
4. The Secretary, Education (looking after Teacher Education) Government of Madhya Pradesh, Bhopal.