REPORTABLE

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NOS. 1125-1128 OF 2011
(Arising out of Special Leave Petition Nos.17165-17168 of 2009)

National Council for Teacher Education and others ……Appellants

Versus

Shri Shyam Shiksha Prashikshan Sansthan and others etc. etc. ……Respondents

J U D G M E N T

G.S. Singhvi, J.

1. Leave granted.

2. Whether the cut off dates specified in clauses (4) and (5) of Regulation 5 of the National Council for Teacher Education (Recognition, Norms and Procedure) Regulations, 2007 (for short, "the 2007 Regulations") as amended by Notification F. No.48-3/(1)/2008/NCTE/N&S. dated 1.7.2008 for submission of application for recognition and disposal thereof

are mandatory and whether the learned Single Judge of the Rajasthan High Court, Jaipur Bench was justified in issuing directions, which have the effect of obliterating the cut off dates are the questions which arise for consideration in these appeals filed by the National Council for Teacher Education and its functionaries (hereinafter described as "the appellants") against judgment dated 13.5.2009 of the Division Bench of the High Court affirming the order of the learned Single Judge.

Scheme of the Act and the Regulations:

3. With a view to achieve the object of planned and coordinated development for the teacher education system throughout the country and for regulation and proper maintenance of norms and standards in the teacher education system and for matters connected therewith, Parliament enacted the National Council for Teacher Education Act, 1993 (for short, "the Act"), which provides for the establishment of a Council to be called the National Council for Teacher Education (for short, "the NCTE") with multifarious functions, powers and duties. Section 2(c) of the Act defines the term "Council" to mean a Council established under sub-section (1) of Section 3. Section 2(i) defines the term "recognised institution" to mean an institution recognised under Section 14. Section 2(j) defines the term "Regional Committee" to mean a Committee established under Section 20. Section 3

provides for establishment of the Council which comprises of a Chairperson, a Vice-Chairperson, a Member-Secretary, various functionaries of the Government, thirteen persons possessing experience and knowledge in the field of education or teaching, nine members representing the States and Union Territories Administration, three members of Parliament, three members to be appointed from amongst teachers of primary and secondary education and teachers of recognised institutions. Section 12 of the Act enumerates functions of the Council. Section 14 provides for recognition of institutions offering course or training in teacher education. Section 15 lays down the procedure for obtaining permission by an existing institution for starting a new course or training. Section 16 contains a *non obstante* clause and lays down that an examining body shall not grant affiliation to any institution or hold examination for a course or training conducted by a recognised institution unless it has obtained recognition from the concerned Regional Committee under Section 14 or permission for starting a new course or training under Section 15. The mechanism for dealing with the cases involving violation of the provisions of the Act or the rules, regulations orders made or issued thereunder or the conditions of recognition by a recognised institution finds place in Section 17. By an amendment made in July, 2006, Section 17-A was added to the Act. It lays down that no institution shall admit any student to a course or training in teacher

education unless it has obtained recognition under Section 14 or permission under Section 15. Section 31(1) empowers the Central Government to make rules for carrying out the provisions of the Act. Section 31(2) specifies the matters in respect of which the Central Government can make rules. Under Section 32(1) the Council can make regulations for implementation of the provisions of the Act subject to the rider that the regulations shall not be inconsistent with the provisions of the Act and the rules made thereunder. Section 32(2) specifies the matters on which the Council can frame regulations. In terms of Section 33, the rules framed under Section 31 and the regulations framed under Section 32 are required to be laid before the Parliament. By virtue of Section 34(1), the Central Government has been clothed with the power to issue an order to remove any difficulty arising in the implementation of the provisions of the Act. Sections 12, 14 to 16 and 17-A of the Act, which have bearing on the decision of these appeals read as under:

> "**12. Functions of the Council.–** It shall be the duty of the Council to take all such steps as it may think fit for ensuring planned and coordinated development of teacher education and for the determination and maintenance of standards for teacher education and for the purposes of performing its functions under this Act, the Council may–
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> (a) undertake surveys and studies relating to various aspects of teacher education and publish the result thereof;

(b) make recommendations to the Central and State Governments, Universities, University Grants Commission and recognised institutions in the matter of preparation of suitable plans and programmes in the field of teacher education;

(c) coordinate and monitor teacher education and its development in the country;

(d) lay down guidelines in respect of minimum qualifications for a person to be employed as a teacher in schools or in recognised institutions;

(e) lay down norms for any specified category of courses or training in teacher education, including the minimum eligibility criteria for admission thereof, and the method of selection of candidates, duration of the course, course contents and mode of curriculum;

(f) lay down guidelines for compliance by recognised institutions, for starting new courses or training and for providing physical and instructional facilities, staffing pattern and staff qualifications;

(g) xxx xxx xxx

(h) xxx xxx xxx

(i) xxx xxx xxx

(j) examine and review periodically the implementation of the norms, guidelines and standards laid down by the Council and to suitably advise the recognised institutions;

(k) xxx xxx xxx

(l) xxx xxx xxx

(m) xxx xxx xxx

(n) perform such other functions as may be entrusted to it by the Central Government.

14. Recognition of institutions offering course or training in teacher education.–(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:

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.

(2) The fee to be paid along with the application under sub-section (1) shall be such as may be prescribed.

(3) On receipt of an application by the Regional Committee from any institution under sub-section (1), and after obtaining from the institution concerned such other particulars as it may consider necessary, it shall,–

(a) if it is satisfied that such institution has adequate financial resources, accommodation, library, qualified staff, laboratory and that if fulfils such other conditions required for proper functioning of the institution for a course or training in teacher education, as may be determined by regulations, pass an order granting recognition to such institution, subject to such conditions as may be determined by regulations; or

(b) if it is of the opinion that such institution does not fulfil the requirements laid down in sub-clause (a), pass an order refusing recognition to such institution for reasons to be recorded in writing:

Provided that before passing an order under sub-clause (b), the Regional Committee shall provide a reasonable opportunity to the concerned institution for making a written representation.

(4) xxx xxx xxx

(5) Every institution, in respect of which recognition has been refused shall discontinue the course or training in teacher education from the end of the academic session next following the date of receipt of the order refusing recognition passed under clause (b) of sub-section (3).

(6) Every examining body shall, on receipt of the order under sub-section (4),–

(a) grant affiliation to the institution, where recognition has been granted; or

(b) cancel the affiliation of the institution, where recognition has been refused.

15. Permission for a new course or training by recognised institution.– (1) Where any recognised institution intends to start any new course or training in teacher education, it may make an application to seek permission therefor to the Regional Committee concerned in such form and in such manner as may be determined by regulations.

(2) The fees to be paid along with the application under sub-section (1) shall be such as may be prescribed.

(3) On receipt of an application from an institution under sub-section (1), and after obtaining from the recognised institution such other particulars as may be considered necessary, the Regional Committee shall,–

(a) if it is satisfied that such recognised institution has adequate financial resources, accommodation, library, qualified staff, laboratory, and that it fulfils such other conditions required for proper conduct of the new course or training in teacher education, as may be determined by regulations, pass an order granting permission, subject to such conditions as may be determined by regulation; or

(b) if it is of the opinion that such institution does not fulfil the requirements laid down in sub-clause (a), pass an order refusing permission to such institution, for reasons to be recorded in writing:

Provided that before passing an order refusing permission under sub-clause (b), the Regional Committee shall provide a reasonable opportunity to the institution concerned for making a written representation.

(4) xxx xxx xxx

16. Affiliating body to grant affiliation after recognition or permission by the Council.– Notwithstanding anything contained in any other law for the time being in force, no examining body shall, on or after the appointed day,–

(a) grant affiliation, whether provisional or otherwise, to any institution; or

(b) hold examination, whether provisional or otherwise, for a course or training conducted by a recognised institution,

unless the institution concerned has obtained recognition from the Regional Committee concerned, under section 14 or permission for a course or training under section 15.

17-A. No admission without recognition.– No institution shall admit any student to a course or training in teacher education, unless the institution concerned has obtained recognition under section 14 or permission under section 15, as the case may be."

4. In exercise of the power vested in it under Section 32, the Council has, from time to time, framed Regulations. In the first place, such Regulations were framed in 1995 with the title "the National Council for Teacher Education (Application for recognition, the manner for submission, determination of conditions for recognition of institutions and permissions to start new course or training) Regulations, 1995". In 2002, the Council

framed "the National Council for Teacher Education (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". These regulations were amended six times between 2003 and 2005 and were finally repealed by "the National Council for Teacher Education (Recognition, Norms and Procedure) Regulations, 2005". The 2005 Regulations were repealed by the 2007 Regulations. The relevant provisions of the 2007 Regulations are reproduced below:

> "**4. Eligibility**
> The following categories of institutions are eligible for consideration of their applications under these regulations:
>
> (1) Institutions established by or under the authority of Central/State Government/UT Administration;
> (2) Institutions financed by Central/State Government/UT Administration;
> (3) All universities, including institutions deemed to be universities, so recognized under UGC Act, 1956.
> (4) Self financed educational institutions established and operated by 'not for profit', Societies and Trusts registered under the appropriate law.
>
> **5. Manner of making application and Time Limit**
>
> (1) An institution eligible under Regulation 4, desirous of running a teacher education programme may apply to the concerned Regional Committee of NCTE for recognition in the prescribed form in triplicate along with processing fee and requisite documents.

(2) The form can be downloaded from the Council's website www.ncte-in.org, free of cost. The said form can also be obtained from the office of the Regional Committee concerned by payment of Rs.1000 (Rs. One thousand only) by way of a demand draft of a Nationalized Bank drawn in favour of the Member Secretary, NCTE payable at the city where the office of the Regional Committee is located.

(3) An application can be submitted conventionally or electronically on-line. In the latter case, the requisite documents in triplicate along with the processing fee shall be submitted separately to the office of the Regional Committee concerned. Those who apply on-line shall have the benefit of not to pay for the form.

(4) The cut-off date for submission of application to the Regional Committee concerned shall be **31st October** of the preceding year to the academic session for which recognition has been sought.

(5) All complete applications received on or before 31st October of the year shall be processed for the next academic session and final decision, either recognition granted or refused, shall be communicated by **15th May** of the succeeding year.

7. Processing of Applications

(1) The applicant institutions shall ensure submission of applications complete in all respects. However, in order to cover the inadvertent omissions or deficiencies in documents, the office of the Regional Committee shall point out the deficiencies within 30 days of receipt of the applications, which the applicants shall remove within 90 days. No application shall be processed if the processing fees of Rs.40,000/- is not submitted and such applications would be returned to the applicant institutions.

(2) Simultaneously, on receipt of application, a written communication alongwith a copy of the application form

submitted by the institution(s) shall be sent by the office of Regional Committees to the State Government/U.T. Administration concerned.

(3) On receipt of the communication, the State Government/UT Administration concerned shall furnish its recommendations on the applications to the office of the Regional Committee concerned of the National Council for Teacher Education within 60 days from receipt. If the recommendation is negative, the State Government/UT Administration shall provide detailed reasons/grounds thereof with necessary statistics, which shall be taken into consideration by the Regional Committee concerned while deciding the application. If no communication is received from the State Government/UT Administration within the stipulated 60 days, it shall be presumed that the State Government/UT Administration concerned has no recommendation to make.

(4) After removal of all the deficiencies and to the satisfaction of the Regional Committee concerned, the inspection of infrastructure, equipments, instructional facilities etc, of an institution shall be conducted by a team of experts called Visiting Team (VT) with a view to assessing the level of preparedness of the institution to commence the course. Inspection would be subject to the consent of the institution and submission of the self-attested copy of the completion certificate of the building. Such inspection, as far as administratively and logistically possible, shall be in the chronological order of the date of receipt of the consent of the institution. In case the consent from more than one institution is received on the same day, alphabetical order may be followed. The inspection shall be conducted within 30 days of receipt of the consent of the institution.

(5) xxx xxx xxx

(6) xxx xxx xxx

(7) xxx xxx xxx

(8) xxx xxx xxx

(9) The institution concerned shall be informed, through a letter, of the decision for grant of recognition or permission subject to appointment of qualified faculty members before the commencement of the academic session. The letter issued under this clause shall not be notified in the Gazette. The faculty shall be appointed on the recommendations of the Selection Committee duly constituted as per the policy of the State Govt/Central Govt/University/UGC or the concerned affiliating body, as the case may be. The applicant institution shall submit an affidavit in the prescribed form that the Selection Committee has been constituted as stated above. A separate staff list with the details would be submitted in the prescribed form. The Regional Committee would rely on the above affidavit and the staff list before processing the case for grant of formal recognition.

(10) All the applicant institutions shall launch their own website soon after the receipt of the letter from the Regional Committee under Regulation 7(9) covering, *inter alia*, the details of the institution, its location, name of the course applied for with intake, availability of physical infrastructure (land, building, office, classrooms, and other facilities/amenities), instructional facilities (laboratory, library etc.) and the particulars of their proposed teaching and non-teaching staff etc. with photographs, for information of all concerned.

(11) The institution concerned, after appointing the requisite faculty/staff as per Regulation 7(9) above and fulfilling the conditions under Regulation 7(10) above shall formally inform the Regional Committee concerned alongwith the requisite affidavit and staff list. The Regional Committee concerned shall then issue a formal recognition order that shall be notified as per provision of the NCTE Act.

(12) xxx xxx xxx

(13) xxx xxx xxx

8. Conditions for grant of recognition

(1) An institution must fulfill all the prescribed conditions related to norms and standards as prescribed by the NCTE for conducting the course or training in teacher education. These norms, inter alia, cover conditions relating to financial resources, accommodation, library, laboratory, other physical infrastructure, qualified staff including teaching and non-teaching personnel, etc.

(2) 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 for 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 not more than one additional course can be made in a year.

(3) An institution shall be permitted to apply for enhancement of course wise intake in teacher education courses already approved, after completion of three academic sessions of running the respective courses.

(4) An institution shall be permitted to apply for enhancement of intake in Secondary Teacher Education Programme – B.Ed. & B.P. Ed. Programme, if it has accredited itself with the National Assessment and Accreditation Council (NAAC) with a *Letter Grade* B developed by NAAC.

(5) An institution that has been granted additional intake in B.Ed. and B.P. Ed. teacher training courses after promulgation of the Regulations, 2005 i.e. 13.1.2006 shall have to be accredited itself with the National Assessment and Accreditation Council (NAAC) with a *Letter Grade* B under the new grading system developed

by NAAC before 1st April, 2010 failing which the additional intake granted shall stand withdrawn w.e.f. the academic session 2010-2011.

(6) xxx xxx xxx

(7) No institution shall be granted recognition under these regulations unless it 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/Govt institutions for a period of not less than 30 years. In cases where under relevant State/UT laws the maximum permissible lease period is less than 30 years, the State Government/UT Administration law shall prevail. However, no building could be taken on lease for running any teacher training course.

(8) xxx xxx xxx

(9) xxx xxx xxx

(10) At the time of inspection, the building of the institution shall be complete in the form of a permanent structure on the land possessed by the institution in terms of Regulation 8(7), equipped with all necessary amenities and fulfilling all such requirements as prescribed in the norms and standards. The applicant institution shall produce the original completion certificate, approved building plan in proof of the completion of building and built up area and other documents to the Visiting Team for verification. No temporary structure/asbestos roofing shall be allowed.

(11) xxx xxx xxx

(12) An institution shall make admission only after it obtains order of recognition from the Regional Committee concerned under Regulation 7(11), and affiliation from the examining body.

(13) to (16) xxx xxx xxx"

5. Since the 2007 Regulations were notified on 10.12.2007 i.e. after the cut off date specified in Regulation 5(4) for submission of application for academic session 2008-2009 was over, the Council issued Notification F. No.48-3/(1)/2008/NCTE/N&S dated 1.7.2008 and fixed 31.8.2008 as the cut off date for processing and disposal of all the pending applications. Paragraph 4 of that notification reads as under:

> "**4. Extent of Amendment.–** Clause 5(5) of the NCTE (Recognition Norms and Procedure) Regulations, 2007, is modified as under only for grant of recognition/permission for starting various teacher training courses for current academic session i.e. 2008-2009.
>
> All complete applications pending with the Regional Committees shall be processed for the current academic session i.e. 2008-2009 in accordance with the provisions of relevant Regulations and maintaining the chronological sequence and final decision, either recognition granted or refused, shall be communicated by 31st August, 2008."

6. By Notification No.F.51-1/2009-NCTE (N&S) dated 31.8.2009, the 2007 Regulations were also repealed by the National Council for Teacher Education (Recognition, Norms and Procedure) Regulations, 2009 (for short, "the 2009 Regulations"). The provisions contained in these Regulations including the cut off dates specified in clauses (4) and (5) of Regulation 5 are similar to the corresponding provisions of the 2007 Regulations.

7. At this stage it will be apposite to notice the guidelines issued by NCTE vide letter dated 2.2.1996 for ensuring that the teacher training institutions are established keeping in view the requirement of trained teachers in the particular State or the Union Territory. The same read as under:

> "1. The establishment of teacher training institutions by the Government, private managements or any other agencies should largely be determined by assessed need for trained teachers. This need should take into consideration the supply of trained teachers from existing institutions, the requirement of such teachers in relation to enrolment projections at various stages, the attrition rates among trained teachers due to superannuation, change of occupation, death, etc. and the number of trained teachers on the live register of the employment exchanges seeking employment and the possibility of their deployment. The States having more than the required number of trained teachers may not encourage opening of new institutions for teacher education or to increase the intake.
>
> 2. The States having shortage of trained teachers may encourage establishment of new institutions for teacher education and to increase intake capacity for various levels of teacher education institutions keeping in view the requirements of teachers estimated for the next 10-15 years.
>
> 3. Preference might be given to institutions which tend to emphasise the preparation of teachers for subjects (such as Science, Mathematics, English, etc.) for which trained teachers have been in short supply in relation to requirement of schools.
>
> 4. Apart from the usual courses for teacher preparation, institutions which propose to concern themselves with new

emerging specialities (e.g. computer education, use of electronic media, guidance and counselling, etc.) should receive priority. Provisions for these should, however, be made only after ensuring that requisite manpower, equipment and infrastructure are available. These considerations will also be kept in view by the institution intending to provide for optional subjects to be chosen by students such as guidance and counselling, special education, etc.

5. With a view to ensuring supply of qualified and trained teachers for such specialities such as education of the disabled, non-formal education, education of adults, pre-school education, vocational education, etc. special efforts and incentives may be provided to motivate private managements/voluntary organisations for establishment of institutions, which lay emphasis on these areas.

6. With a view to promoting professional commitment among prospective teachers, institutions which can ensure adequate residential facilities for the Principal and staff of the institutions as well as hostel facilities for substantial proportion of its enrolment should be encouraged.

7. Considering that certain areas (tribal, hilly regions, etc.) have found it difficult to attain qualified and trained teachers, it would be desirable to encourage establishment of training institutions in those areas.

8. Institutions should be allowed to come into existence only if the sponsors are able to ensure that they have adequate material and manpower resources in terms, for instance, of qualified teachers and other staff, adequate buildings and other infrastructure (laboratory, library, etc.), a reserve fund and operating funds to meet the day-to-day requirements of the institutions, including payment of salaries, provision of equipment, etc. Laboratories, teaching science methodologies and practicals should have adequate gas plants, proper fittings and regular supply of water, electricity, etc. They should also have adequate arrangements. Capabilities of the institution for fulfilling norms prepared by NCTE may be kept in view.

> 9. In the establishment of an institution preference needs to be given to locations which have a large catchment area in terms of schools of different levels where student teachers can be exposed to demonstration lessons and undertake practice teaching. A training institution which has a demonstration school where innovative and experimental approaches can be demonstrated could be given preference."

8. The private respondents, namely, Shri Shyam Shiksha Prashikshan Sansthan, Bhadra and Shri Shyam Sewa Samiti (respondent Nos.1 and 2 in the appeal arising out of SLP(C) No.17165 of 2009), Neelkanth Education Society (respondent No.1 in the appeal arising out of SLP(C) No.17166 of 2009), Bhanwar Kanwar Sujan Shiksha Mahavidyalaya, Inderpura, Udaipurwati and Dhamana Shekha Sewa Trust (respondent Nos.1 and 2 in the appeal arising out of SLP(C) No.17167 of 2009) and Varsha Education Society (respondent No.1 in the appeal arising out of SLP(C) No.17168 of 2009) submitted their applications on 28.12.2007, 31.3.2008, 10.4.2008 and 17.4.2008 respectively for grant of recognition for starting B.Ed. course for the academic year 2008-2009. They also applied to the State Government for grant of 'no objection certificates'. After considering their applications, the Northern Regional Committee of the Council informed the private respondents about the deficiencies in their applications. After the deficiencies were removed, the premises of the private respondents were

inspected by the teams constituted by the Northern Regional Committee. The inspection reports were considered in the meeting of the Northern Regional Committee held on 21.9.2008 but recognition was not granted to them apparently on the ground that the cut off date specified in the regulations was already over.

9. Feeling aggrieved by the alleged failure of the Northern Regional Committee to grant recognition, the private respondents filed writ petitions in the Rajasthan High Court, Jaipur Bench, with the allegation that they have been discriminated vis-a-vis other applicants and, in this manner, their right to equality guaranteed under Article 14 of the Constitution has been violated. By an interim order dated 24.10.2008, the learned Single Judge of the High Court directed that the applications made by the private respondents for grant of recognition be considered by the Northern Regional Committee. By another interim order dated 27.11.2008, the learned Single Judge directed the Council to issue approval letters and allot students to the private respondents.

10. The appellants contested the writ petitions by relying upon clauses (4) and (5) of Regulation 5 and notification dated 1.7.2008 and pleaded that recognition could not be given to the writ petitioners because their

establishments were inspected after 31.8.2008. The learned Single Judge then directed the Council to file affidavit to show whether 80 similarly situated institutions were granted recognition on the basis of decision taken in the meeting of the Northern Regional Committee held on 20-21.9.2008. In compliance of that order, affidavit dated 25.2.2009 was filed on behalf of the Council, wherein it was claimed that recognition was granted to some institutions after 31.8.2008 in compliance of the orders passed by the Delhi High Court.

11. After considering the pleadings of the parties and taking cognizance of order dated 12.12.2008 passed in S.B. Civil Writ Petition No.13038 of 2008 – Bright Future Teacher Training Institute v. State of Rajasthan, the learned Single Judge framed the following questions:

> "(i) Whether once the respondents have granted recognition to the thirteen Institutions whose inspection has been carried out after 31.8.2008 then, it is permissible for the respondents to justify denial of the recognition to other Institutions on the ground that their inspections were carried out after 31.8.2008 i.e. the cut off date?
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> (ii) Whether the respondents are justified in making lame submission in the last additional affidavit dated 25.2.2009 that the NRC Jaipur has committed serious irregularities and therefore, the NRC has been terminated vide notification dated 13.2.2009 and new Committee has been constituted vide notification dated 17.2.2009 but no action has been taken/proposed in the affidavit against the 13 institutions in whose cases inspection was carried

out after 31.8.2008 and recognition was granted in the 132nd meeting dated 20-21/9/2008?

(iii) Whether the respondents who have not withdrawn recognition order in respect of the thirteen institutions and allowed them to continue with the result that the students have been admitted and the studies are going on and discrimination is continuing against the petitioners and for removal of discrimination, they are entitled for extension of the date i.e. 31.8.2008 till the meeting dated 20-21/9/2008?

(iv) Whether fixing of the cut off date of inspection i.e. 31.8.2008 by the N.C.T.E. by Annexure R-7 dated 1.7.2008 has no reasonable nexus with the aims and object of granting recognition in the meeting dated 20-21.9.2008 or the same is a fortuitous circumstance?

(v) When the concerned University has admitted students up to 15.1.09 and submitted that 180 teaching days can be completed before the start of next academic session, then the petitioners who are not at fault, be allowed to suffer?"

12. While dealing with the question of discrimination, the learned Single Judge noted that large number of similarly situated institutions were granted recognition despite the fact that their cases were considered in the meeting of the Northern Regional Committee held on 20-21.9.2008 and observed:

> "It is true that two wrong cannot make one right. Here, in the instant case, the present writ petitions have been defended on the ground that since the inspection has been carried out after 31.8.2008 i.e. the cut off date fixed by Annexure R-7 dated 1.7.2008 the petitioners are not entitled for recognition. The respondents have granted recognition to 13 Institutions in whose cases inspection was carried out after 31.8.2008, therefore, they cannot be permitted to say that although they

> have committed illegality but the same cannot be allowed to be perpetuated by granting recognition to the petitioner Institutions. In my view, the entire issue is to be examined with reference to the decision dated 31.10.2008 when the recognition order was issued in favour of petitioner Institutions in compliance to the interim direction of this Court dated 24.10.2008 as in the meeting dated 20-21.9.2008 minor defects were pointed out in case of recognition order passed in favour of 80 colleges. The fixation of date – 31.8.2008 without considering the applications and completion of formalities is fortuitous and arbitrary. In view of the above, withholding recognition in the meeting dated 20-21/9/2008 and 31.10.2008 is not only discriminatory but arbitrary also and the said action is violative of Article 14 of the Constitution of India. I am of the further view that the respondents who have not acted fairly cannot be allowed to contend that the petitioners are not entitled to recognition on account of inspection being carried out after 31.8.2008 in the aforesaid facts and circumstances."

13. On the issue of completion of minimum 180 teaching days, the learned Single Judge adverted to the order passed in the case of Bright Future Teacher Training Institute (supra) wherein it was held that the deficiency of teaching days could be completed by holding extra classes on holidays and overtime classes and held that similar mechanism could be adopted in the case of the private respondents. The learned Single Judge further held that the cut off date i.e. 31.8.2008 fixed vide notification dated 1.7.2008 is discriminatory, arbitrary and violative of Article 14 of the Constitution. The appeals filed against the order of the learned Single Judge were dismissed by the Division Bench of the High Court.

14. Shri Raju Ramachandran, learned senior counsel appearing for the appellants fairly stated that this Court may not interfere with the direction given by the learned Single Judge of the High Court, which has been confirmed by the Division Bench, because in compliance thereof the Northern Regional Committee has already granted recognition to the private respondents and by now they must have admitted students against the sanctioned intake. He, however, argued that the reasons assigned by the learned Single Judge for striking down the cut off date specified in clause (5) of Regulation 5 are legally untenable and to that extent the order of the learned Single Judge and the judgment of the Division Bench are liable to be set aside. Learned senior counsel emphasized that the cut off dates have been prescribed for submission of application to the Regional Committee and communication of the decision regarding grant or refusal of recognition with a view to ensure that decision on the issue of recognition of the colleges is not unduly delayed and the students admitted in the recognized institutions are able to fulfil the requirement of attending at least 180 teaching days during the academic session. Learned senior counsel further submitted that the cut off dates specified in clauses (4) and (5) of Regulation 5 have direct nexus with the object of ensuring time bound decision of the applications submitted for grant of recognition so that the teaching and training courses are completed by every institution well before

commencement of the examination and the candidates who fulfill the requirement of attending minimum classes and training courses are able to take examinations. Shri Ramachandran then submitted that the 2007 Regulations contain a comprehensive mechanism for grant of recognition to eligible applicants for starting courses and for increasing the intake and provision for consultation with the concerned State Government/Union Territory Administration has been made with a view to ensure that unduly large number of institutions are not granted permission to start the courses and the State may find it impossible to provide employment to the students successfully completing the courses every year. Learned senior counsel made a pointed reference to letter dated 27.1.2009 sent by Principal Secretary of the Council to the Regional Director, Northern Regional Committee on the question of grant of recognition for B.Ed., STC, Shiksha Shastri Courses in the State of Rajasthan for academic session 2009-2010 to show that decision was taken by the Council not to grant recognition keeping in view the fact that there was virtually no requirement of trained teachers in the State.

15. We have given serious thought to the arguments of the learned counsel. We shall first deal with the question whether the cut off dates specified in clauses (4) and (5) of Regulation 5 for submission of application

to the Regional Committee, processing thereof and communication of the final decision on the issue of recognition are arbitrary, discriminatory, irrational and violative of Article 14 of the Constitution.

16. Article 14 forbids class legislation but permits reasonable classification provided that it is founded on an intelligible differentia which distinguishes persons or things that are grouped together from those that are left out of the group and the differentia has a rational nexus to the object sought to be achieved by the legislation in question. In **re the Special Courts Bill, 1978** (1979) 1 SCC 380, Chandrachud, C.J., speaking for majority of the Court adverted to large number of judicial precedents involving interpretation of Article 14 and culled out several propositions including the following:

> "(2) The State, in the exercise of its governmental power, has of necessity to make laws operating differently on different groups or classes of persons within its territory to attain particular ends in giving effect to its policies, and it must possess for that purpose large powers of distinguishing and classifying persons or things to be subjected to such laws.
>
> (3) The constitutional command to the State to afford equal protection of its laws sets a goal not attainable by the invention and application of a precise formula. Therefore, classification need not be constituted by an exact or scientific exclusion or inclusion of persons or things. The courts should not insist on delusive exactness or apply doctrinaire tests for determining the

validity of classification in any given case. Classification is justified if it is not palpably arbitrary.

(4) The principle underlying the guarantee of Article 14 is not that the same rules of law should be applicable to all persons within the Indian territory or that the same remedies should be made available to them irrespective of differences of circumstances. It only means that all persons similarly circumstanced shall be treated alike both in privileges conferred and liabilities imposed. Equal laws would have to be applied to all in the same situation, and there should be no discrimination between one person and another if as regards the subject-matter of the legislation their position is substantially the same.

(5) By the process of classification, the State has the power of determining who should be regarded as a class for purposes of legislation and in relation to a law enacted on a particular subject. This power, no doubt, in some degree is likely to produce some inequality; but if a law deals with the liberties of a number of well defined classes, it is not open to the charge of denial of equal protection on the ground that it has no application to other persons. Classification thus means segregation in classes which have a systematic relation, usually found in common properties and characteristics. It postulates a rational basis and does not mean herding together of certain persons and classes arbitrarily.

(6) The law can make and set apart the classes according to the needs and exigencies of the society and as suggested by experience. It can recognise even degree of evil, but the classification should never be arbitrary, artificial or evasive.

(7) The classification must not be arbitrary but must be rational, that is to say, it must not only be based on some qualities or characteristics which are to be found in all the persons grouped together and not in others who are left out but those qualities or characteristics must have a reasonable relation to the object of the legislation. In order to pass the test, two conditions must be fulfilled, namely, (1) that the classification must be founded on an intelligible differentia which distinguishes those that are grouped together from others and

> (2) that that differentia must have a rational relation to the object sought to be achieved by the Act."

17. In **Union of India v. Parameswaran Match Works** (1975) 1 SCC 305, this Court was called upon to examine whether clause (b) of notification No.205/67-CE dated 4.9.1967 issued by the Government of India, Ministry of Finance prescribing concessional rate of duty in respect of units engaged in manufacture of match boxes, which were certified as such by the Khadi and Village Industries Commission or units set up in the cooperative sector was discriminatory and violative of Article 14 on the ground that the cut off date i.e. 21.7.1967 specified in the notification was arbitrary. The High Court of Madras allowed the writ petition filed by the respondents and struck down the cut off date by observing that the classification of the units engaged in the manufacturing of match boxes was irrational and arbitrary. While reversing the order of the High Court, this Court referred to the judgment in **Louisville Gas Co. v. Alabama Power Co.** (1927) 240 US 30 and held:

> "We do not think that the reasoning of the High Court is correct. It may be noted that it was by the proviso in the notification dated July 21, 1967 that it was made necessary that a declaration should be filed by a manufacturer that the total clearance from the factory during a financial year is not estimated to exceed 75 million matches in order to earn the concessional rate of Rs 3.75 per gross boxes of 50 matches each. The proviso, however, did not say, when the declaration should be filed. The purpose behind that proviso was to enable

only bona fide small manufacturers of matches to earn the concessional rate of duty by filing the declaration. All small manufacturers whose estimated clearance was less than 75 million matches would have availed themselves of the opportunity by making the declaration as early as possible as they would become entitled to the concessional rate of duty on their clearance from time to time. It is difficult to imagine that any manufacturer whose estimated total clearance during the financial year did not exceed 75 million matches would have failed to avail of the concessional rate on their clearances by filing the declaration at the earliest possible date. As already stated, the respondent filed its application for licence on September 5, 1967 and made the declaration on that date. The concessional rate of duty was intended for small bona fide units who were in the field when the notification dated September 4, 1967 was issued; the concessional rate was not intended to benefit the large units which had split up into smaller units to earn the concession. The tendency towards fragmentation of the bigger units into smaller ones in order to earn the concessional rate of duty has been noted by the Tariff Commission in its report [see the extract from the report given at p. 500 (SCC, p. 431) in M. Match Works v. Assistant Collector, Central Excise]. The whole object of the notification dated September 4, 1967 was to prevent further fragmentation of the bigger units into smaller ones in order to get the concessional rate of duty intended for the smaller units and thus defeat the purpose which the Government had in view. In other words, the purpose of the notification was to prevent the larger units who were producing and clearing more than 100 million matches in the financial year 1967-68 and who could not have made the declaration, from splitting up into smaller units in order to avail of the concessional rate of duty by making the declaration subsequently. To achieve that purpose, the Government chose September 4, 1967, as the date before which the declaration should be filed. There can be no doubt that any date chosen for the purpose would, to a certain extent, be arbitrary. That is inevitable.

The concessional rate of duty can be availed of only by those who satisfy the conditions which have been laid down under the notification. The respondent was not a manufacturer before

> September 4, 1967 as it had applied for licence only on September 5, 1967 and it could not have made a declaration before September 4, 1967 that its total clearance for the financial year 1967-68 is not estimated to exceed 75 million matches. In the matter of granting concession or exemption from tax, the Government has a wide latitude of discretion. It need not give exemption or concession to everyone in order that it may grant the same to some. As we said, the object of granting the concessional rate of duty was to protect the smaller units in the industry from the competition by the larger ones and that object would have been frustrated, if, by adopting the device of fragmentation, the larger units could become the ultimate beneficiaries of the bounty. That a classification can be founded on a particular date and yet be reasonable, has been held by this Court in several decisions. The choice of a date as a basis for classification cannot always be dubbed as arbitrary even if no particular reason is forthcoming for the choice unless it is shown to be capricious or whimsical in the circumstances. When it is seen that a line or a point there must be and there is no mathematical or logical way of fixing it precisely, the decision of the legislature or its delegate must be accepted unless we can say that it is very wide off the reasonable mark."
>
> (emphasis supplied)

18. The ratio of the aforementioned judgment was reiterated by the Constitution Bench in **D.G. Gose and Co. (Agents) (P) Ltd. v. State of Kerala** (1980) 2 SCC 410. One of the several issues considered in that case was whether the tax imposed under Kerala Building Tax Act, 1975 with retrospective effect from 1.4.1973 was discriminatory and violative of Article 14. The Constitution Bench referred to the judgment in **Union of India v. Parameswaran Match Works** (supra) and observed:

> "It has not been shown in this case how it could be said that the date (April 1, 1973) for the levy of the tax was wide of the reasonable mark. On the other hand it would appear from the brief narration of the historical background of the Act that the State legislature had imposed the building tax under the Kerala Building Tax Act, 1961, which came into force on March 2, 1961, and when that Act was finally struck down as unconstitutional by this Court's decision dated August 13, 1968, the intention to introduce a fresh Bill for the levy was made clear in the budget speech of 1970-71. It will be recalled that the Bill was published in June 1973 and it was stated there that the Act would be brought into force from April 1, 1970. The Bill was introduced in the Assembly on July 5, 1973. The Select Committee however recommended that it may be brought into force from April 1, 1973. Two Ordinances were promulgated to give effect to the provisions of the Bill. The Bill was passed soon after and received the Governor's assent on April 2, 1975. It cannot therefore be said with any justification that in choosing April 1, 1973 as the date for the levy of the tax, the legislature acted unreasonably, or that it was "wide of the reasonable mark."

19. In **State of Bihar v. Ramjee Prasad** (1990) 3 SCC 368, this Court reversed the judgment of the Patna High Court which had struck down the cut off date fixed for receipt of the application. After adverting to the judgments in **Union of India v. Parameswaran Match Works** (supra) and **Uttar Pradesh Mahavidyalaya Tadarth Shikshak Niyamitikaran Abhiyan Samiti, Varanasi v. State of U.P.** (1987) 2 SCC 453, the Court observed:

> "In the present case as pointed out earlier the past practice was to fix the last date for receipt of applications a month or one and a half months after the date of actual publication of the

> advertisement. Following the past practice the State Government fixed the last date for receipt of applications as January 31, 1988. Those who had completed the required experience of three years by that date were, therefore, eligible to apply for the posts in question. The respondents and some of the intervenors who were not completing the required experience by that date, therefore, challenged the fixation of the last date as arbitrary and violative of Article 14 of the Constitution. It is obvious that in fixing the last date as January 31, 1988 the State Government had only followed the past practice and if the High Court's attention had been invited to this fact it would perhaps have refused to interfere since its interference is based on the erroneous belief that the past practice was to fix June 30 of the relevant year as the last date for receipt of applications. Except for leaning on a past practice the High Court has not assigned any reasons for its choice of the date. As pointed out by this Court the choice of date cannot be dubbed as arbitrary even if no particular reason is forthcoming for the same unless it is shown to be capricious or whimsical or wide off the reasonable mark. The choice of the date for advertising the posts had to depend on several factors, e.g. the number of vacancies in different disciplines, the need to fill up the posts, the availability of candidates, etc. It is not the case of anyone that experienced candidates were not available in sufficient numbers on the cut-off date. Merely because the respondents and some others would qualify for appointment if the last date for receipt of applications is shifted from January 31, 1988 to June 30, 1988 is no reason for dubbing the earlier date as arbitrary or irrational."
>
> (emphasis supplied)

20. The same view was reiterated in **Dr. Sushma Sharma v. State of Rajasthan** (1985) Supp. SCC 45, **University Grants Commission v. Sadhana Chaudhary** (1996) 10 SCC 536, **Ramrao v. All India Backward**

Class Bank Employees Welfare Association (2004) 2 SCC 76 and **State of Punjab v. Amar Nath Goyal** (2005) 6 SCC 754.

21. If challenge to the cut off dates specified in clauses (4) and (5) of Regulation 5 is examined in the light of the propositions laid down in the above noted judgments, it is not possible to find any fault with the decision of the Council to prescribe 31st October of the year preceding the academic session for which recognition is sought as the last date for submission of application to the Regional Committee and 15th May of the succeeding year as the date for communication of the decision about grant of recognition or refusal thereof. The scheme of the 2007 Regulations envisages the following steps:

(1) The applications received for recognition are scrutinized by the office of the Regional Committee to find out the deficiency, if any.

(2) In case any deficiency is found, the same is required to be brought to the notice of the concerned applicant within 30 days of the receipt of application and the latter is under an obligation to remove the deficiency within next 90 days.

(3) Simultaneously, a written communication is required to be sent to the State Government/Union Territory Administration. Within 60 days of the receipt of communication from the Regional Committee,

the concerned State Government/Union Territory Administration has to send its recommendations/suggestions.

(4) After removal of the deficiency, if any, and receipt of the recommendations/suggestions of the State Government/Union Territory Administration, the Regional Committee is required to constitute a team to inspect infrastructure, equipments and instructional facilities made available by the applicant with a view to assess the level of preparedness for commencement of the course.

(5) The inspection is to be carried out by associating the representative(s) of the concerned institution.

(6) Upon receipt of the inspection report and after satisfying itself that the requirements enumerated in clauses (10) and (11) of Regulation 7 have been fulfilled, the Regional Committee has to take final decision on the issue of grant of recognition to the applicant.

22. This entire exercise is time consuming. Therefore, some date had to be fixed for submission of application and some time schedule had to be prescribed for taking final decision on the issue of recognition, which necessarily involves scrutiny of the application, removal of deficiency, if any, receipt of recommendations/suggestions of the State Government/Union Territory Administration, inspection of infrastructure,

equipments and other facilities in the institution and consideration of the entire material including report of the inspection committee. By fixing 31st October of the preceding year, the Council has ensured that the Regional Committee gets at least 7 months for scrutiny of the application, processing thereof, receipt of recommendation/suggestion from the State Government/Union Territory Administration, inspection of the infrastructure, etc. made available by the applicant before an objective decision is taken to grant or not to grant recognition. Likewise, by fixing 15th May of the year succeeding the cut off date fixed for submission of application, the Council has ensured that adequate time is available to the institution to complete the course, teaching as well as training and the students get an opportunity to comply with the requirement of minimum attendance. For academic session 2008-2009, the cut off date was amended because the 2007 Regulations were notified on 27.12.2007 and going by the cut off dates specified in clauses (4) and (5) of Regulation 5, no application could have been entertained and no institution could have been recognized for B.Ed. course.

23. In our view, the cut off dates specified in the two clauses of Regulation 5 of the 2007 Regulations and notification dated 1.7.2008 are neither arbitrary nor irrational so as to warrant a conclusion that the same are

violative of Article 14 of the Constitution. The conclusion of the learned Single Judge that 31.8.2008 fixed vide notification dated 1.7.2008 is discriminatory and violative of Article 14 appears to have been influenced by the fact that some of the applicants, whose applications were considered in the meeting of the Regional Committee held after the cut off date were granted recognition while others like the writ petitioners were denied similar treatment on the pretext that decision in their case could not be taken before the cut off date. Unfortunately, the Division Bench of the High Court mechanically adopted the reasoning of the learned Single Judge for holding that the said date was unconstitutional.

24. The consultation with the State Government/Union Territory Administration and consideration of the recommendations/suggestions made by them are of considerable importance. The Court can take judicial notice of the fact that majority of the candidates who complete B.Ed. and similar courses aspire for appointment as teachers in the government and government aided educational institutions. Some of them do get appointment against the available vacant posts, but large number of them do not succeed in this venture because of non-availability of posts. The State Government/Union Territory Administration sanctions the posts keeping in view the requirement of trained teachers and budgetary provisions made for

that purpose. They cannot appoint all those who successfully pass B.Ed. and like courses every year. Therefore, by incorporating the provision for sending the applications to the State Government/Union Territory Administration and consideration of the recommendations/suggestions, if any made by them, the Council has made an attempt to ensure that as a result of grant of recognition to unlimited number of institutions to start B.Ed. and like courses, candidates far in excess of the requirement of trained teachers do not become available and they cannot be appointed as teachers. If, in a given year, it is found that adequate numbers of suitable candidates possessing the requisite qualifications are already available to meet the requirement of trained teachers, the State Government/Union Territory Administration can suggest to the concerned Regional Committee not to grant recognition to new institutions or increase intake in the existing institutions. If the Regional Committee finds that the recommendation made by the State Government/Union Territory Administration is based on valid grounds, it can refuse to grant recognition to any new institution or entertain an application made by an existing institution for increase of intake and it cannot be said that such decision is *ultra vires* the provisions of the Act or the Rules.

25. The importance of the role of the State Government in such matters was recognized in **St. Johns Teachers Training Institute v. Regional Director, National Council For Teacher Education and another** (2003) 3 SCC 321. In that case, *vires* of Regulation 5(e) and (f) of the 1995 Regulations was challenged insofar as they incorporated the requirement of obtaining NOC from the State Government. A learned Single Judge of the Karnataka High Court held that Regulation 5(e) and (f) were *ultra vires* the provisions of the Act. The order of the learned Single Judge was reversed by the Division Bench of the High Court. This Court referred to Section 14 of the Act and two clauses of Regulation 5, which were impugned in the writ petition filed by the appellant and observed:

> "Sub-section (3) of Section 14 casts a duty upon the Regional Committee to be satisfied with regard to a large number of matters before passing an order granting recognition to an institution which has moved an application for the said purpose. The factors mentioned in sub-section (3) are that the institution has adequate financial resources, accommodation, library, qualified staff, laboratory and that it fulfils such other conditions required for proper functioning of the institution for a course or training in teacher education as may be laid down in the Regulations. As mentioned earlier, there are only four Regional Committees in the whole country and, therefore, each Regional Committee has to deal with applications for grant of recognition from several States. It is therefore obvious that it will not only be difficult but almost impossible for the Regional Committee to itself obtain complete particulars and details of financial resources, accommodation, library, qualified staff, laboratory and other conditions of the institution which has moved an application for grant of recognition. The institution may be located in the interior of the district in a faraway State.

> The Regional Committee cannot perform such Herculean task and it has to necessarily depend upon some other agency or body for obtaining necessary information. It is for this reason that the assistance of the State Government or Union Territory in which that institution is located is taken by the Regional Committee and this is achieved by making a provision in Regulations 5(e) and (f) that the application made by the institution for grant of recognition has to be accompanied with an NOC from the State or Union Territory concerned. The impugned Regulations in fact facilitate the job of the Regional Committees in discharging their responsibilities."

After adverting to the guidelines issued by the Council on 2.2.1996, the Court observed:

> "A perusal of the guidelines would show that while considering an application for grant of an NOC the State Government or the Union Territory has to confine itself to the matters enumerated therein like assessed need for trained teachers, preference to such institutions which lay emphasis on preparation of teachers for subjects like Science, Mathematics, English etc. for which trained teachers are in short supply and institutions which propose to concern themselves with new and emerging specialities like computer education, use of electronic media etc. and also for speciality education for the disabled and vocational education etc. It also lays emphasis on establishment of institutions in tribal and hilly regions which find it difficult to get qualified and trained teachers and locations which have catchment area in terms of schools of different levels where student teachers can be exposed to demonstration lessons and can undertake practice teaching. Para 8 of the guidelines deals with financial resources, accommodation, library and other infrastructure of the institution which is desirous of starting a course of training and teacher education. The guidelines clearly pertain to the matters enumerated in sub-section (3) of Section 14 of the Act which have to be taken into consideration by the Regional Committee while considering the application for granting recognition to an institution which wants to start a course for training in teacher education. The guidelines have also direct nexus to the object of the Act, namely, planned and

> coordinated development of teacher education system and proper maintenance of norms and standards. It cannot, therefore, be urged that the power conferred on the State Government or Union Territory, while considering an application for grant of an NOC, is an arbitrary or unchannelled power. The State Government or the Union Territory has to necessarily confine itself to the guidelines issued by the Council while considering the application for grant of an NOC. In case the State Government does not take into consideration the relevant factors enumerated in sub-section (3) of Section 14 of the Act and the guidelines issued by the Council or takes into consideration factors which are not relevant and rejects the application for grant of an NOC, it will be open to the institution concerned to challenge the same in accordance with law. But, that by itself, cannot be a ground to hold that the Regulations which require an NOC from the State Government or the Union Territory are ultra vires or invalid."

While dealing with the argument of the learned counsel for the appellant that the impugned Regulations have the effect of conferring the power of considering the application for grant of recognition under Section 14 upon the State Government, the Court referred to Regulation 6(ii) of the 2002 Regulations and observed:

> "Regulation 6(ii) of these Regulations provides that the endorsement of the State Government/Union Territory Administration in regard to issue of NOC will be considered by the Regional Committee while taking a decision on the application for recognition. This provision shows that even if the NOC is not granted by the State Government or Union Territory concerned and the same is refused, the entire matter will be examined by the Regional Committee while taking a decision on the application for recognition. Therefore, the grant or refusal of an NOC by the State Government or Union Territory is not conclusive or binding and the views expressed

> by the State Government will be considered by the Regional Committee while taking the decision on the application for grant of recognition. In view of these new Regulations the challenge raised to the validity of Regulations 5(e) and (f) has been further whittled down. The role of the State Government is certainly important for supplying the requisite data which is essential for formation of opinion by the Regional Committee while taking a decision under sub-section (3) of Section 14 of the Act. Therefore no exception can be taken to such a course of action."
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> (emphasis supplied)

26. In **State of Tamil Nadu and another v. S.V. Bratheep and others** (2004) 4 SCC 513, the Court interpreted the provisions of the All India Council for Technical Education Act, 1987, referred to the Constitution Bench judgment in **Dr. Preeti Srivastava's** case and observed that the State Government can prescribe additional qualification to what has been prescribed by AICTE for admission to engineering courses and no fault can be found with such a provision.

27. In **Govt. of A.P. and another v. J.B. Educational Society and another** (2005) 3 SCC 212, this Court considered the question whether the provision contained in Section 20(3)(a)(i) of the Andhra Pradesh Education Act, 1982 under which obtaining of permission of the State Government was made *sine qua non* for starting an institution for Teacher Training Course was *ultra vires* the provisions of the All India Council for Technical Education Act, 1987 and the Regulations framed thereunder. While

rejecting the challenge, the Court referred to Articles 245, 246 and 254(2) and Entries 66 of List-I and 25 of List-III of Seventh Schedule to the Constitution and observed:

> "The provisions of the AICTE Act are intended to improve technical education and the various authorities under the Act have been given exclusive responsibility to coordinate and determine the standards of higher education. It is a general power given to evaluate, harmonise and secure proper relationship to any project of national importance. Such a coordinate action in higher education with proper standard is of paramount importance to national progress. Section 20 of the A.P. Act does not in any way encroach upon the powers of the authorities under the Central Act. Section 20 says that the competent authority shall, from time to time, conduct a survey to identify the educational needs of the locality under its jurisdiction notified through the local newspapers calling for applications from the educational agencies. Section 20(3)(*a*)(*i*) says that before permission is granted, the authority concerned must be satisfied that there is need for providing educational facilities to the people in the locality. The State authorities alone can decide about the educational facilities and needs of the locality. If there are more colleges in a particular area, the State would not be justified in granting permission to one more college in that locality. Entry 25 of the Concurrent List gives power to the State Legislature to make laws regarding education, including technical education. Of course, this is subject to the provisions of Entries 63, 64, 65 and 66 of List I. Entry 66 of List I to which the legislative source is traced for the AICTE Act, deals with the general power of Parliament for coordination, determination of standards in institutions for higher education or research and scientific and technical educational institutions and Entry 65 deals with the union agencies and institutions for professional, vocational and technical training, including the training of police officers, etc. The State has certainly the legislative competence to pass the legislation in respect of education including technical education and Section 20 of the Act is intended for general welfare of the

> citizens of the State and also in discharge of the constitutional duty enumerated under Article 41 of the Constitution.
>
> The general survey in various fields of technical education contemplated under Section 10(1)(*a*) of the AICTE Act is not pertaining to the educational needs of any particular area in a State. It is a general supervisory survey to be conducted by the AICTE Council, for example, if any IIT is to be established in a particular region, a general survey could be conducted and the Council can very much conduct a survey regarding the location of that institution and collect data of all related matters. But as regards whether a particular educational institution is to be established in a particular area in a State, the State alone would be competent to say as to where that institution should be established. Section 20 of the A.P. Act and Section 10 of the Central Act operate in different fields and we do not see any repugnancy between the two provisions."
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> (emphasis supplied)

28. In **State of Maharashtra v. Sant Dnyaneshwar Shikshan Shastra Mahavidyalaya and others** (2006) 9 SCC 1, this Court considered the question whether, after grant of recognition by NCTE, the State Government can refuse to issue no objection certificate for starting B.Ed. colleges on the premise that a policy decision in that regard had been taken. After adverting to the relevant provisions of the Constitution, the Act and the Regulations and the judgment in **St. John Teachers Training Institute v. Regional Director, NCTE** (supra), the Court held that final authority to take decision on the issue of grant of recognition vests with the NCTE and it cannot be denuded of that authority on the ground that the State Government/Union Territory Administration has refused to issue NOC.

29. In the light of the above discussion, we hold that the cut off dates specified in clauses (4) and (5) of Regulation 5 of the 2007 Regulations as also the amendment made in Regulation 5(5) vide notification dated 1.7.2008 are not violative of Article 14 of the Constitution and the learned Single Judge and the Division Bench of the High Court were not right in recording a contrary finding qua the date specified in notification dated 1.7.2008. We further hold that the provisions contained in Section 14 and the Regulations framed for grant of recognition including the requirement of recommendation of the State Government/Union Territory Administration are mandatory and an institution is not entitled to recognition unless it fulfils the conditions specified in various clauses of the Regulations. The Council is directed to ensure that in future no institution is granted recognition unless it fulfils the conditions laid down in the Act and the Regulations and the time schedule fixed for processing the application by the Regional Committees and communication of the decision on the issue of recognition is strictly adhered to.

29. The appeals are disposed of in the manner indicated above.

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.....J.
[G.S. Singhvi]

…..…..……..J.
[Asok Kumar Ganguly]

New Delhi;
January 31, 2011.