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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **LPA 190/2021 & CM APPLs. 18838, 19512/2021**

ASSOCIATION OF NCTE APPROVED COLLEGES TRUST

..... Appellant

Through: Mr. Sanjay Sharawat, Adv.

versus

NATIONAL COUNCIL FOR TEACHER EDUCATION

..... Respondent

Through: Mr. Tushar Mehta, SG & Mr. Shivam Singh, SC with Mr. Jaideep Khanna & Mr. Hamza Tariq, Advs.

26

+ **LPA 196/2021 & CM APPLs. 19501/2021, 3900/2022**

HARYANA SELF FINANCED PRIVATE COLLEGES

ASSOCIATION

..... Appellant

Through: Mr. Amitesh Kumar, Ms. Priti Kumari, Ms. Binisa Mohanty, Advs.

versus

NATIONAL COUNCIL FOR TEACHER EDUCATION

..... Respondent

Through: Mr. Tushar Mehta, SG & Mr. Shivam Singh, SC with Mr. Jaideep Khanna & Mr. Hamza Tariq, Advs.

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+ **LPA 211/2021 & CM APPLs. 22978/2021, CM APPL. 3776/2022**

ASHASKIYA MAHAVIDYALAYA SANGH

..... Appellant

Through: Mr. Amitesh Kumar, Ms. Priti Kumari, Ms. Binisa Mohanty, Advs.

versus

NATIONAL COUNCIL FOR TEACHER EDUCATION

..... Respondent

Through: Mr. Tushar Mehta, SG & Mr. Shivam Singh, SC with Mr. Jaideep Khanna & Mr. Hamza Tariq, Advs.

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LPA 214/2021 & CM APPLs. 23204/2021, CM APPL. 4331/2022

ASSOCIATION OF TEACHERS TRAINING COLLEGE BIHAR

..... Appellant

Through: Mr. Amitesh Kumar, Ms. Priti Kumari, Ms. Binisa Mohanty, Advs.

versus

NATIONAL COUNCIL FOR TEACHER EDUCATION

..... Respondent

Through: Mr. Tushar Mehta, SG & Mr. Shivam Singh, SC with Mr. Jaideep Khanna & Mr. Hamza Tariq, Advs.

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LPA 50/2022 & CM APPLs. 3330-31/2022

SWAMI RAM KRISHAN PARAMHANSH TEACHER TRAINING

COLLEGE AND ORS

..... Appellants

Through: Mr. Mayank, Mr. Manish & Mr. Ravi Kant, Advs.

versus

NATIONAL COUNCIL FOR TEACHER EDUCATION

..... Respondent

Through: Mr. Tushar Mehta, SG & Mr. Shivam Singh, SC with Mr. Jaideep Khanna & Mr. Hamza Tariq, Advs.

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+ **LPA 57/2022 & CM APPLs. 4150-52/2022**

MAX INSTITUTE OF TEACHERS TRAINING AND ANR

..... Appellants

Through: Mr. Mayank, Mr. Manish & Mr. Ravi
Kant, Advs.

versus

NATIONAL COUNCIL FOR TEACHER EDUCATION

..... Respondent

Through: Mr. Tushar Mehta, SG & Mr. Shivam
Singh, SC with Mr. Jaideep Khanna
& Mr. Hamza Tariq, Advs.

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+ **LPA 58/2022 & CM APPLs. 4154-55/2022**

DEVI AHILYA ASASKIYA SIKSHA MAHAVIDYALAYIN

SANCHALAK SANGH

..... Appellant

Through: Mr. Mayank, Mr. Manish & Mr. Ravi
Kant, Advs.

versus

NATIONAL COUNCIL FOR TEACHER EDUCATION

..... Respondent

Through: Mr. Tushar Mehta, SG & Mr. Shivam
Singh, SC with Mr. Jaideep Khanna
& Mr. Hamza Tariq, Advs.

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+ **LPA 63/2022 & CM APPLs. 4640-43/2022**

GREET TEACHER TRAINING COLLEGE

..... Appellant

Through: Mr. Mayank, Mr. Manish & Mr. Ravi
Kant, Advs.

versus

NATIONAL COUNCIL FOR TEACHER EDUCATION

..... Respondent

Through: Mr. Tushar Mehta, SG & Mr. Shivam Singh, SC with Mr. Jaideep Khanna & Mr. Hamza Tariq, Adv.

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LPA 80/2022 & CM APPLs. 6014-15, 6017/2022

DEPARTMENT OF EDUCATION, SHYAM UNIVERSITY

..... Appellant

Through: Mr. Sanjay Sharawat, Adv.

versus

NATIONAL COUNCIL FOR TEACHER EDUCATION

..... Respondent

Through: Mr. Tushar Mehta, SG & Mr. Shivam Singh, SC with Mr. Jaideep Khanna & Mr. Hamza Tariq, Adv.

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LPA 82/2022 & CM APPLs. 6029-30, 6032/2022

SCHOOL OF EDUCATION, SHYAM UNIVERSITY

..... Appellant

Through: Mr. Sanjay Sharawat, Adv.

versus

NATIONAL COUNCIL FOR TEACHER EDUCATION

..... Respondent

Through: Mr. Tushar Mehta, SG & Mr. Shivam Singh, SC with Mr. Jaideep Khanna & Mr. Hamza Tariq, Adv.

CORAM:
HON'BLE MR. JUSTICE VIPIN SANGHI
HON'BLE MR. JUSTICE JASMEET SINGH

O R D E R

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25.02.2022

CM APPL. 18838/2021 in LPA 190/2021

CM APPL. 19501/2021 in LPA 196/2021

CM APPL. 22978/2021 in LPA 211/2021

CM APPL. 23204/2021 in LPA 214/2021

CM APPL. 3331/2022 in LPA 50/2022

CM APPL. 4151/2022 in LPA 57/2022

CM APPL. 4155/2022 in LPA 58/2022

CM APPL. 4642/2022 in LPA 63/2022

CM APPL. 6014/2022 in LPA 80/2022

CM APPL. 6029/2022 in LPA 82/2022

1. These matters have been received on transfer from another Bench.
2. We have heard learned counsels for the appellants on the aspect of grant of interim stay.
3. The learned Single Judge by detailed and considered judgement has dismissed the writ petitions, whereby the public notice dated 22.09.2019 issued by the respondent-National Council for Teacher Education has been upheld. The said public notice required the teacher training schools recognised by the respondent-Council to submit the performance appraisal reports in the prescribed format along with fee of Rs. 15,000/-.
4. The challenge to the same was premised, firstly, on the competence of the Member Secretary of the Council to issue the said public notice on the ground that only the Council, which is a large statutory body constituted under Section 3 of the National Council for Teacher Education Act, 1993, could have taken the decision to formulate the performance appraisal report

format. In this regard, our attention has been drawn to the resolutions passed by the Council in the 46th Meeting, which was held on 28.03.2017, as well as the resolution passed by the Council in its 48th Meeting held on 05.02.2019. Mr. Sharawat has submitted that the format of the form in which the performance appraisal report was to be submitted was to be worked out by the Council itself, and not by the Member Secretary.

5. It is argued that he did not have the statutory power, to, on his own, formulate the format, in which the performance appraisal report was to be called. This aspect has been considered by the learned Single Judge, and *prima facie*, we are not impressed by the submission for the reason that the Council has not disowned the format. The Council has, in fact, defended its impugned public notice as well as the format before the learned Single Judge.

6. The next submission of Mr. Sharawat was that the format itself requires a submission of information, in relation to the faculties and students of the teacher training schools, which shall encroach upon the right of privacy of all such persons. Mr. Sharawat has placed reliance on the judgment of the Supreme Court in *K.S. Puttaswamy vs. Union of India* [(2017) 10 SCC 1], particularly on paragraph 325 thereof.

7. He has also taken us to the *proforma* in which the performance appraisal report is required to be submitted. *Prima facie* it does not appear to us that any information touching upon the privacy of the personnel has been called for, by the respondent-Council.

8. Learned Solicitor General, who has appeared, has pointed out, and this is also evident from reading of the minutes of the meeting of the Council as aforesaid that the endeavour of the Council is, firstly, to fix the

identity of the persons, maybe either teaching in or receiving education/training in teacher training institutions, to ensure that they are neither ghost teachers nor ghost students in such institutions. In addition, it has also been submitted that this information will remain with the council and will not be in public domain.

9. It has also been submitted that the Council does not have the power to levy a fee of Rs. 15,000/- on the appellant-institutions. It is argued that the same is contrary to the Article 265 of the Constitution of India, as the fee imposed is without authority of law. In this regard, Mr. Sharawat has sought to place reliance on the judgement rendered by the Supreme Court in *Tata Iron and Steel Company Ltd. vs. The State of Bihar* [(2018) 12 SCC 107], which in turn places reliance on the earlier judgement of the Supreme Court in *Ahmedabad Urban Development Authority vs. Sharad Kumar Jayanti Kumar Pasawalla & Ors.* [(1992) 3 SCC 285].

10. Mr. Amitesh Kumar, who is appearing for the appellant in item Nos. 26, 27 and 28 (LPAs 196/2021, 211/2021 and 214/2021 respectively), submits that the actions taken by the Council are in the teeth of the orders passed by the Supreme Court in Special Leave Petition (C) Nos. 4247/2009 and 4248/2009 from time to time. He has drawn our attention to some of these orders passed by the Supreme Court. He submits that the Union of India had undertaken to constitute Teacher Education Assessment and Accreditation Centre (TEAAC) for the purpose of assessing and accrediting teacher training institutions.

11. The aforesaid submissions of the appellants have been considered by the learned Single Judge in the impugned judgement.

12. These submissions would be considered by us as and when the

appeals are finally heard. At this stage, for working out the interim arrangement, we have to only *prima facie* make our assessment.

13. So far as the aspects already taken note hereinabove on which we have made our comment are concerned, we need not repeat the same.

14. The levy of fee of Rs. 15,000/- per annum by the respondent-Council apparently is with a view to process the information called from them for the performance appraisal report.

15. In our view, the rights of the parties could be balanced by directing that whatever amounts are collected towards fee by the Council shall abide by the decision of these appeals, and the Court shall pass appropriate orders in that regard, at the disposal of the appeals.

16. The amount of Rs. 15,000/- per annum, per institution, is not so high as to put any great burden on an institution.

17. The submissions of Mr. Amitesh Kumar have not only been considered by the learned Single Judge but also raised the issue as to why the appellants did not approach the Supreme Court if, according to them, the orders passed by the Supreme Court in Special Leave Petition (C) Nos. 4247 and 4248/2009 were not being complied with or were being breached. Since the purpose of requiring the teacher training institutes to furnish the performance appraisal reviews is to maintain vigilance and transparency in the matter of functioning of the teacher training institutes, in our view, it would not be in the larger public interest to interfere with the same at this stage.

18. The applications seeking stay are disposed of in the aforesaid terms.

19. Lastly, Mr. Sharawat has argued that the time within which the institutions may be required to furnish performance appraisal report may be

extended. The time is available to the institutions till 15.03.2022. We extend the same till 31.03.2022.

LPA 190/2021, LPA 196/2021, LPA 211/2021, LPA 214/2021, LPA 50/2022, LPA 57/2022, LPA 58/2022, LPA 63/2022, LPA 80/2022 & LPA 82/2022

List on 12.09.2022.

VIPIN SANGHI, J

JASMEET SINGH, J

FEBRUARY 25, 2022

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