



2024 : DHC : 1378



\$~69

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

+ W.P.(C) 2589/2024 and CM APPL. No. 10625/2024

**KANYA GURUKUL COLLEGE OF
EDUCATION**

.....Petitioner

Through: Mr. Sanjay Sharawat, Advocate

versus

**NATIONAL COUNCIL FOR TEACHER
EDUCATION**

..... Respondent

Through: Mr. Balbir Singh, Sr. Advocate
with Mr. Akhilesh K. Srivastava, Mr. Manoj
Kumar and Ms. Anu Sura, Advocates

CORAM:

HON'BLE MR. JUSTICE C.HARI SHANKAR

JUDGMENT (ORAL)

21.02.2024

%

1. This writ petition, instituted under Article 226 of the Constitution of India, seeks issuance of an appropriate writ, quashing Public Notice dated 5 February 2024 issued by the respondent National Council for Teacher Education (NCTE) as being *ultra vires* the National Council for Teacher Education Act, 1993 (“the NCTE Act”) and the Regulations framed thereunder. Additionally, the writ petition seeks quashing of the requirement, incorporated in the impugned Public Notice, to the petitioner and other similarly placed institutions who were seeking to transit from the B.Sc. B.Ed./B.A.B.Ed courses presently offered by them to the Integrated Teachers Education Programme (ITEP), of having to pay fees of ₹ 1,77,000/-.



2. After some arguments, Mr. Sharawat, learned counsel for the petitioner, restricted his challenge for the present to the requirement of payment of fees of ₹ 1,77,000/-.

Rival Contentions

3. Mr. Sharawat has drawn my attention to the NCTE Act, 1993, which, according to him, permit charging of fees only by institutions who intend to seek recognition under Section 141 or permission under Section 152 or from institutions who seek to file appeals under Section 18. As, according to him, the present case does not fall within any one of these limited circumstances in which fees can be charged

¹ **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.

Provided further that such institutions, as may be specified by the Central Government by notification in the Official Gazette, which –

- (i) are funded by the Central Government or the State Government or the Union territory Administration;
- (ii) have offered a course or training in teacher education on or after the appointed day till the academic year 2017-2018; and
- (iii) fulfil the conditions specified under clause (a) of sub-section (3),

shall be deemed to have been recognised 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.

² **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.

Provided that the course or training in teacher education offered on or after the appointed day till the academic year 2017-2018 by such institutions, as may be specified by the Central Government by notification in the Official Gazette, which –

- (i) are funded by the Central Government or the State Government or the Union territory Administration; and
- (ii) fulfil the conditions specified under clause (a) of sub-section (3),

shall be deemed to have been granted permission by the Regional Committee.



from an institution, the requirement in the impugned Public Notice to pay fees of ₹ 1,77,000/- is *ultra vires* the NCTE Act and the NCTE Rules and Regulations.

4. Mr. Balbir Singh, learned Senior Counsel appearing for the NCTE, submits that the direction to pay a fee of ₹ 1.77 lakhs is well within the jurisdiction of the NCTE and places reliance on Rule 9 of the NCTE Rules, 1997 which reads thus:

“9. Fee:-

Every application made under Sub-section (1) of Section 14 to the concerned Regional Committee for obtaining grant of recognition under the Act by any institution offering or intending to offer a course or training in teacher education on or after the appointed day and every application made under Sub-section (1) of Section 15 to the concerned Regional Committee for grant of permission for starting any new course or training in teacher education or for increasing intake in respect of an existing course by a recognized institution shall be accompanied by a fee of Rs. 1,50,000;

Provided that Government institutions shall be exempt from payment of the fee under this rule.”

5. Mr. Balbir Singh submits that, as the ITEP is a “new course” within the meaning of Section 15(1) of the NCTE Act, any institution which desires to start the ITEP had necessarily to apply under Section 15(1) for doing so. Inasmuch as Rule 9 of the NCTE Rules empowers the NCTE to charge a fee of ₹ 1.5 lakhs (which, after addition of GST, he submits, would work out to ₹ 1.77 lakhs), the requirement for payment of fee in the impugned Public Notice is well within the powers of the NCTE.

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



6. Mr. Sharawat, in rejoinder, submits that the invocation of Section 15(1) of the NCTE Act is *ex facie* misconceived. He submits that introduction of the ITEP Programme by institutions which were already running the B.Sc.B.Ed./B.A.B.Ed or composite programmes was merely a “transition”. He has drawn my attention in this context to para 9 of the points, which were placed before the General Body (GB) of the NCTE in the 54th GBM held on 27 April 2022, specifically clause 1 thereof, which reads thus:

“1. The institutions wherein the Regional Committees have granted recognition for the 4-year Integrated B.Sc.B.Ed./B.A.B.Ed. programme, their recognition shall remain valid. They would be allowed to enroll students subject to the condition that they shall *transition to the new 4 year ITEP curriculum* in accordance with NCTE Amended Regulations 2021 dated 22.10.2021 before start of academic session 2023-24. As the Amended Regulation 2021 came to effect vide directions from MoE under Section 29 of NCTE Act 1993, therefore if approved it would be communicated to MoE for legal vetting and bringing necessary amendments in the NCTE Notification dated 22.10.2021 published in the Gazette of India.”

(Emphasis supplied)

7. Mr. Sharawat submits that the decision on the agenda item was taken in the 56th GBM which was held on 25 March 2023, the minutes of which have also been placed on record with the writ petition. Both these minutes, he submits, refer to “transition” to the new 4 year ITEP “curriculum”. Mr. Sharawat submits that there is a difference between a curriculum and a course. He submits that the curriculum is always prescribed by the affiliating University albeit after consultation with the NCTE, and any institution which desires to start the ITEP had only to adopt the said curriculum. According to Mr. Sharawat, therefore,



the transition to the ITEP curriculum cannot be regarded as introduction of a new course, within the meaning of Section 15(1) of the NCTE Act.

Analysis

8. Having heard learned Counsel for both sides and having applied myself to the material on record, I am unable to agree with the submission of Mr. Sharawat that the ITEP does not amount to a new course. The ITEP, by its very nomenclature, is an “Integrated Teacher Education *Programme*”. A programme, classically in education jurisprudence, refers to a new course. Besides, the infrastructure and other requirements which are stipulated for institutions which desire to run the ITEP are distinct and different from those which provide single, or composite, courses, the most important distinction being that the ITEP could be provided only by a Multi Disciplinary Institution (MDI).

9. In so far as the reference to “the new 4 year ITEP curriculum”, in the 54th and 56th GBMs are concerned, the said reference in fact actually substantiates the conclusion that the ITEP is a “new course” within the meaning of Section 15(1) of the NCTE Act. It is axiomatic that one course can have only one curriculum. In education parlance, it is ordinarily unthinkable that one course can have two curricula. The very reference to the “new 4 year ITEP curriculum”, therefore, buttresses the conclusion that the ITEP is in fact a new course within the meaning of Section 15(1) of the NCTE Act.



10. Mr. Sharawat sought to repeatedly emphasise that so long as the institution concerned satisfies the requirement of being an MDI, the only difference between the existing courses and the ITEP was a slight change in curriculum and it was possible for the same institute with the same infrastructure to start the ITEP. Ergo, he submits, the ITEP cannot be regarded as a “new course”.

11. The argument, in my view, is circular, and turns upon itself. The very requirement of an institute which desires to start ITEP having to be an MDI itself denotes an infrastructural difference between an institute which does not provide ITEP and an institute which provides ITEP. That apart, even if, it were to be assumed that there was no difference in infrastructure, or no additional infrastructure which the institute was required to incorporate, in order to start the ITEP, that would not *ipso facto* imply that the ITEP is not a new course. There is no known principle, either of fact or of law, that a new course cannot be started using the existing infrastructure.

12. Mr. Sharawat laid great emphasis on the use of the word “transition” in the 54th and 56th GBMs of the NCTE and the use of the word “transit” in Regulation 6A of the National Council for Teacher Education (Recognition, Norms and Procedure) Regulations, 2014 as amended by the National Council for Teacher Education (Recognition, Norms and Procedure) (Amendment) Regulations, 2024, to support his submission that the ITEP is not a “new course”. He seeks to point out that the 54th and 56th GBM minutes contemplate permitting



institutions which were already conducting the four year integrated B.Sc.B.Ed./B.A.B.Ed course, even while retaining recognition granted to them to do so, being permitted to enrol students subject to the condition that “they shall transition to the new four year ITEP curriculum....” Regulation 6A of the 2014 Regulations similarly provides thus:

“6A. The institutions which have been granted recognition for conducting 4-year Integrated B.Sc.B.Ed./B.A.B.Ed. programme under the omitted Appendix-13 prior to its omission vide Gazette Notification No: NCTE-Reg1011/80/2018-MS(Regulation)-HQ, dated the 22nd October, 2021 shall continue and they shall be allowed to enroll students subject to the condition that they shall transit to the new Integrated Teacher Education Programme in accordance with the National Council for Teacher Education (Recognition Norms and Procedure) Amendment Regulations, 2021 dated the 22nd October, 2021 before the start of the academic session 2025-2026. 4-year Integrated B.Sc.B.Ed./B.A.B.Ed. programme under the omitted Appendix-13 shall be discontinued from the academic session 2025-2026 and no fresh admissions shall be allowed to any of the existing institutions conducting 4-year Integrated B.Sc.B.Ed./B.A.B.Ed. programme under omitted Appendix-13.”

13. Mr. Sharawat contends that while, for a new institution, the ITEP course would certainly be a new course, it cannot be treated as a new course for existing institutions, especially those which were already providing the 4 year integrated B.Sc.B.Ed./B.A.B.Ed programme as, in the case of such institutions who already possess the necessary infrastructure to start the ITEP, it would be a mere transition.

14. I am completely unable to accept the submission. There is no justification for making any distinction in so far as Section 15(1) of the NCTE Act is concerned, between a new course started by an existing institution and new course started by a new institution. The



only distinction between the two is that the new institution would also have to obtain recognition under Section 14. The NCTE Act makes it clear that, even if an existing institution starts a new course, the institution has necessarily to seek permission under Section 15(1). This is apparent from the opening words of Section 15(1) which read “where any recognised institution intends to start any new course or training in teacher education...”. The regulation by itself, therefore, envisages a new course being started by a recognized institution; in other words, an institution which already possesses recognition for the existing courses being imparted by it. There cannot there be any justification to accept Mr. Sharawat’s submission that the ITEP should be treated as a new course for new institutions but should not be treated as a new course for existing institutions.

15. That distinction, in my view, would fly directly in the face of Section 15(1) of the NCTE. Too much, in my view, is being made of the word “transition”. The word “transition” is not a word of art. The use of the word “transition” or “transit” is obviously only intended to connote the introduction, by an institution which earlier was not providing the ITEP and which, thereafter, decides to start the course.

16. In fact the word “transition” appears to have been used because of the decision of the NCTE, founded on the New Education Policy (NEP) 2020, to phase out all courses except the ITEP. The said decision is subject matter of challenge before this Court in other proceedings, and I am not expressing any opinion on the legality of the decision here. The use of the word “transition”, however, is



obviously only reflective of the fact that there is a gradual movement from the existing B.Sc.B.Ed./B.A.B.Ed course or integrated 4 year courses to the ITEP which, according to the respondent's avowed objective, should be the only teachers' training course being provided on or after 2030.

17. That, in my view, is the sense in which the word “transition” or “transit” have been used. They do not in any way indicate that ITEP is not a “new course” within the meaning of Section 15(1) of the NCTE Act. Nor, at the cost of repetition, is there any justification for treating the ITEP as a new course for new institutions and not treating it a new course for existing institutions. That would fly in the face of the very opening words of Section 15(1) of the NCTE Act, which envisage an application for permission being made by any existing institution which desires to start a new course.

18. Whether, therefore, one examines the issue from the point of view of common parlance, or from a more legalistic perspective, there appears to be no escape from the position, in law and in fact, that the ITEP is a “new course” within the meaning of Section 15(1) of the NCTE Act.

19. The inexorable sequitur is that, as the ITEP is a new course for which an application under Section 15(1) has necessarily to be made, there is no illegality in the NCTE calling upon the applicant concerned to pay additional fees of ₹ 1.5 lakhs along with GST, which works out to ₹ 1.77 lakhs. The power to do so vests in the NCTE by Rule 9 of



2024 : DHC : 1378



the NCTE Rules.

Conclusion

20. The challenge to the impugned Public Notice dated 5 February 2024, therefore, fails.

21. The writ petition is, accordingly, dismissed in *limine*.

C.HARI SHANKAR, J

FEBRUARY 21, 2024

yg

Click here to check corrigendum, if any