

**TO BE PUBLISHED IN GAZETTE ON INDIA PART III SECTION 4**

F.No.SRC/NCTE/APSO8546/B.Ed/KA/2020/ 116170-116174

Date: 24/07/20

**ORDER**

**WHEREAS**, Sri Yadatore Vidya Samasthe, Arkanatha Raste, 2 nd Cross, Sri Rama Block, K.R. Nagar- 571602, Karnataka has submitted an application to the Southern Regional Committee of NCTE for grant of recognition to Sri. Yadatore B.Ed. College, Arkanatha Road 3<sup>rd</sup> Cross, K.R. Nagar, Mysore District- 571602, Karnataka for conducting B.Ed. course with an annual intake of 100 students and was granted recognition on 08.08.2008.

**AND WHEREAS**, on 16.03.2015, the institution submitted the affidavit for offering B.Ed. course with an intake of 50 students.

**AND WHEREAS**, the SRC in its 276<sup>th</sup> meeting held during 7<sup>th</sup> – 9<sup>th</sup> January 2015(Vol.5 Sl.No.62) considered the matter and decided to proceed to issue provisional recognition orders to the existing institutions as and when the affidavits are received by this office. The SRC also decided to place the consolidated lists of cases to the committee for ratification subsequently. The committee also decided to maintain a check list of such cases for verification in October/November and for causing inspection. Accordingly, a provisional order was issued to the institution on 27.05.2015.

**AND WHEREAS**, on 02.11.2015, a letters was received for the institution submitting documents. The SRC in its 315<sup>th</sup> meeting held during 17<sup>th</sup> to 18<sup>th</sup> June 2016 considered the reply to the revised order-documents considered for shifting of premises and decided to issue show cause notice as under:-

1. Title to land is not clear. There is reference to a mortgage in the E.C.
2. The Gift Deed also refers to the title- holder by name. The gift Deed should be amended to State especially that the 'gift' is to the institution and not to an individual.
3. Issue show cause notice accordingly.

**AND WHEREAS**, as per the decision of SRC, a Show Cause Notice was issued to the institution on 27.06.2016. The institution submitted reply to the show cause notice on 19.07.2016.

"As mentioned in the above subject our management committee has come to the opinion to run the college in one basic unit (intake 50 students per year) basically we have the permission for two basic unit now we need permission for the intake of one unit. So kindly provide us the revised order to one unit. And the present year admission is also for one unit as per the Mysore University instruction."

**AND WHEREAS**, on 22.07.2016, a letter dated 21.07.2016 was received from the institution with a request to provide revised order of one unit.

**AND WHEREAS**, the SRC in its 318<sup>th</sup> meeting held during 08<sup>th</sup> and 09<sup>th</sup> August 2016 considered the matter and decided as under:-

1. The shifting condition was imposed in 2008. They have had plenty of time to shift. They have brazenly violated.
2. Even the shifting was proposed to a 'mortgaged' land. In other words, they were playing games with us.
3. Their request for more time cannot be considered.
4. Reject their application. Ask them not to admit any more students. Inform the University.
5. Withdraw recognition w.e.f 2016-17.

**AND WHEREAS**, as per the decision of SRC the application of Sri. Yadathore Vidya Samthe for B.Ed. course is hereby withdrawn.

**AND WHEREAS**, a withdrawal order was issued to the institution on 26.10.2016. On 04.10.2016, the institution has submitted request letter for continuation of recognition.

**AND WHEREASE**, aggrieved by the withdrawal order of SRC, the institution filled as appeal before the appellate authority, NCTE Hqrs. The appellate authority vide order F.No. 89-784/2016 Appeal 1/5<sup>th</sup> meeting -2017 dated 18/4/2017 has stated as under:-

*"Sh. Lokesh Bharani, PRO, Sri. Yadathors B.Ed. College, Mysore Dist., Karnataka presented the case of the appellant institution on 23/03/2017. In the appeal and during personal presentation it was submitted that 'are definitely ready to fulfil the conditions referred to. The shifting proposed land is in their Secretary's name that land is not under any type of mortgage. Their secretary is willing to donate half acre land to the institution.*

*Accordingly to Government of Karnataka they need permission for this process and it is mandatory time is required for this transaction. The appellant submitted a letter dated 23.03.2017 stating that they will submit some more documents relating to land shifting and transfer in the same of the institution in the next date of hearing and the order of withdrawal may be stayed or suspended granted time for 2 years to comply with the deficiencies pointed out by the SRC. In this letter the appellant further submitted the Dept. of Public Instruction, Govt. of Karnataka allotted 23 seats (Govt. Quota) for B.Ed. course for the academic year 2016-17 and the institution made admission of students against these seats, who will be put to hardship."*

*The committee noted that the appellant, who has not complied with the requirement of land/building for so many years, is still requesting for extension of time by two years. The committee is of the opinion that the request is totally unjustified and deserved to be rejected. The committee also noted that according to the provisions of the second provision to section 17(1) of NCTE Act, 1993, order withdrawing or refusing recognition passed by the Regional Committee shall come into force only with effect from the end of the academic session next following the date of communication of such order. Since*

*the withdrawal of the SRC in dated 26.10.2016, it will come into force with the end of the academic session 2017-18.*

*In view of the above position, the committee concluded that the SRC was justified in withdrawing recognition and therefore, the appeal deserved to be rejected and the order of withdrawal confirmed. However, the SRC is directed to issue a corrigendum to their withdrawal order dated 26.10.2016 stating that the order will come into force with the end of academic session 2017-18 but the institution should not admit any fresh students during that session.*

*After perusal of the memorandum of appeal, affidavit, the documents available on records and considering the oral arguments advanced during the hearing, the committee concluded that the SRC was justified in refusing recognition and therefore, the appeal deserved to be rejected and the order of the SRC is confirmed. The impugned withdrawal order dated 26.10.2016 shall be modified to come into force with effect from the end of academic session next following the date of communication of such order."*

**AND WHEREAS**, the SRC in its 338<sup>th</sup> meeting held on 1<sup>st</sup> -3<sup>rd</sup> May 2017 considered the order of the appellate authority decided as under:-

1. In compliance of the Appellate order, the order issued earlier for withdrawal of recognition w.e.f. 2016-17 is amended to say, the withdrawal of recognition will be w.e.f. the end of the academic year 2017-18
2. Return FDRs, if any
3. Close the file.

**AND WHEREAS**, the institution referred and appeal to the NCTE hqrs. An appeal committee confirm the order appeal against vide order dated 18.04.2017.

**AND WHEREAS**, the SRC in its 366<sup>th</sup> meeting held during 03<sup>rd</sup> & 04<sup>th</sup> December 2018 considered the matter decided as under: -

1. *This case has been allowed to progress in spite of basic infirmities.*
2. *For lack of examination of basic details, decisions were deferred and the applicant Institution*
3. *was allowed to carry on with the programme since 2007.*
- 3.1. *There was basic infirmity right from the start. They did not have title to the lands and to the building. The land was leased; and, the building was rented.*
- 3.2. *The lease was from a private party – KSRTC Employees Welfare Trust; and, the lease – period was also (initially) only 3 years. The subsequent extension by 30 years cannot convert the private lease character.*
- 3.3. *The building was rented. The accommodation available was also not adequate or well – furnished.*
- 4.1. *The applicant's institution has shown utter disregard for adherence to the Regulations. They had also not been giving the necessary documents.*
- 4.2. *Their recalcitrance was unfortunately allowed to persist by soft– pedalling of issues by us. The issue of RPRO was another blunder committed.*
- 4.3. *It was the strong action taken in 2016-17 in to withdraw recognition that has injected some seriousness of consideration.*

- 4.4. Distressingly, even at this stage, the applicant Institution is talking of acquiring an 'agricultural' land. The issue of conversion of the land use to 'educational' purpose is still wide – open.
- 4.5. Then comes the issue about the building. There is nothing on the ground. They admit, they will need at least 2 years to erect a structure. Until then what happens should we allow the unacceptable, objectionable conditions to prevent. Should their casualness (bordering on contempt) towards Regulations be allowed to continue?
- 5.1. NCTE must take a firm stand. The Institution should not be allowed to exploit the judicial process to cover up their deficiencies.
- 5.2. To invoke issues like 'future of students being at stake' is to distort this factual position. The Hon'ble Supreme Court has clearly directed that institutions should not be allowed to resort to such emotional blackmailing. They should function as responsible institutions to prevent development of such situations. And. The students involved are not young children who cannot distinguish what is right and what is wrong. They cannot enter into institutions and/or courses without verifying their credentials and then wait about their future. This instruction of the Supreme Court will be equally applicable to this case also.
- 6.1. This case will come up for hearing in the Hon'ble High Court again on 10.12.2018. Our Counsel should be duly instructed of all these observations. So, as to be able to appear in person and properly apprise the Court of the Stark facts.
- 6.2. The RD should personally ensure full and proper compliance of these decisions so that the Hon'ble High Court is not taken for a ride by the applicant Institution.

**AND WHEREAS**, the SRC in its 369<sup>th</sup> meeting held during 28<sup>th</sup> January 2019 considered the matter decided as under: -

1. The Hon'ble High Court has asked us to clarify the position w.r.t. five specific points.
2. Before doing that, as was pointed out in our 366<sup>th</sup> meeting, this college has shown utter disregard all through for adherence to Regulations. We should ask our lawyer to reiterate all the observations made by us in our 366<sup>th</sup> meeting (03<sup>rd</sup> - 04<sup>th</sup> December, 2018).
3. Even now the situation has not changed. They have been very casual about the issues involved:
  - i) They have only obtained permission to acquire 0.25 guntas. They have not yet got the land acquired.
  - ii) The land use remains 'agricultural'. No LUC to counter this fact has been submitted.
  - iii) Even after the land is acquired and given, they want 2 years' time to construct their own building thereon.
  - iv) It will be farcical to play with The Hon'ble Supreme Court approved norms/standards in this manner.

It is relevant here to stress the point that they had been behaving like this all along. They had made these very observations and given the same assurances in mid-2016 also. They have not moved seriously in the matter.
  - v) Their class-rooms and seminar-hall are not adequately furnished.
  - vi) The college continues to exploit the judicial process to cover up their deficiencies. An Institution with such a recalcitrant attitude should not be allowed

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to emotionally blackmail all of us by citing the plight of students. The Hon'ble Supreme Court had strongly deprecated such approaches long ago. And, the Hon'ble High Court in this case also has observed that the 'admissions' made, if any, will be subject to the outcome of this litigation.

4. In this backdrop, we can respond as follows to the issues posed by the Hon'ble High Court:

- i) The recognition granted in 2008 was certainly formal. But, whenever norms/ standards were changed through amendment/ revision of Regulations, all Institutions were required, to modify their arrangements. In fact, earlier the amended/ revised Regulations themselves used to stipulate a 1-year transition time. The 2014 Regulations totally changed most of the norms/ standards. The 'transition time' clause was not built-into the Gazette Notification. But, the Hon'ble Supreme Court had categorically and forcefully directed that all the Institutions shall come under the 2014 Regulations and no case shall be processed anymore under any other Regulations.

It was in this backdrop that the system of issuing RPROs was introduced. This system recognised the Hon'ble Supreme Court ruling (in *Mitilesh Kumari Vs. Prem Behari Khare*) that "..... a statute is not properly called a retrospective statute because a part of the requisites for its action is drawn from a time antecedent to its passing."

It is important to recognize that, in view of this legal position, the Institutions were required to file an Affidavit Confirming their readiness to come under the 2014 Regulations. Only the Institutions that gave such an affidavit were given the RPRO significantly, the Yadore Vidya B.Ed. College also submitted such an Affidavit. They are now attempting to exploit the judicial process to renege from the commitment made in that Affidavit.

The RPRO meant 'Revised Provisional Recognition Order. this was meant to give them time to modify their facilities to ensure adherence to the 2014 Regulations to ensure adherence to the 2014 Regulations.

It is important to note that the B.Ed. course was converted from a one year course to a 2-year course. The physical and instructional infrastructure requirements had undergone major changes. Even the 'basic unit' size was changed from 100 to 50. So, the norms/ standards had to be altered. Only thereafter, could the 'Provisional' order be replaced by a Regular Recognition order under the 2014 Regulations at the new address in this case.

- ii) It is true that the condition about shifting to an own building on own land was not built-into the Formal Recognition Order issued earlier. That was a mistake. But, the Regulations have consistently imposed this requirement. In any case, as described in issue (i) above, the 2014 Regulations have reimposed it and the Institution have given an Affidavit confirming their readiness to abide by it. In the case of *Mitilesh Kumar Vs. Prem Behari Khare* case itself the Hon'ble Supreme Court had observed that "..... a statute is not properly called a retrospective statute because a part of the requisites for its action is drawn from a time antecedent to its passing."

- iii) *Whether or not the norms/ standards relating to ownership of lands/ building have been applied with retrospective effect has been conclusively clarified by the Hon'ble Supreme Court direction that all Institutions shall come under the 2014 Regulations. Any ambiguity in the understanding of this requirement has also been removed by the Hon'ble Supreme Court themselves in the Mitilesh Kumari Vs. Prem Behari Khare Case.*
- iv) *The institution has not filed any new application seeking fresh recognition. But, compliance of the requirement to file the Affidavit for issue of an RPRO itself is indicative of such acceptance/ application. And, the very fact that the RPRO was 'Provisional' subject to verification of adherence to the 2014 norms/ standards for issue of an RRP (Regular Recognition Order) conclusively establishes the validity/ legality of the action involved. The Institution is making desperate attempts to wriggle out of the difficult situation they have pushed themselves into by showing utter disregard for adherence to the Hon'ble Supreme Court approved norms/ standards.*
- v) *The amended regulations, in view of the Hon'ble Supreme Court ruling, can not be styled as 'retrospective statute'. Their decision in the Mitilesh Kumar Vs. Prem Behari Khare case itself categorically establishes this position. That being so, there is no illegality in the action taken and there is no injustice caused to the applicant Institution.*
5. *Please inform our Lawyer accordingly to properly and clearly apprise the court of the legal and factual position in this case.*
6. *Send a copy by way of information to the affiliating University.*

**AND WHEREAS**, a letter issued to Advocate, and copy to Registrar, Mysore University, was issued to the on 30.01.2019. **The institution initially requested for one unit of B.Ed course and further requested for 2 unit. Now again the institution is requesting for one unit.**

**AND WHEREAS**, the SRC in its 376<sup>th</sup> meeting held on 11<sup>th</sup> & 12<sup>th</sup> June 2019 considered the matter and decided as under:-

**The original files of the Institution alongwith other related documents, NCTE Act, 1993, Regulations Guidelines issued by NCTE from time to time and documents furnished by the institution were carefully considered by the SRC and the following observations were made:-**

**The withdrawal order issued vide order dated 26.10.2016 is confirmed. Further, a letter may be addressed to the Registrar, Mysore University not to make admission any more to the institution and compliance may be sent to the SRC for office record.**

**AND WHEREAS**, as per the decision of SRC a letter was issued to the institution on 01.07.2019. Further the Hon'ble High Court has directed vide order dated 12.02.2020 received in office on 21.07.2020 as follows:-



6. On the basis of above the petitioner TEI was running on rented premises since 2007, petitioner institution has submitted representation dated 15.05.2019 intimating that they have acquired 1 Acre 20 guntas of agricultural land from State Government to construct their own building. However, directions were sought to permit them to continue in the existing building for the next two academic years within which time they will put up construction on the land, which they have acquired pursuant to the permission granted by State Government.

**THEREFORE, the withdrawal order No. F.SRO/NCTE/APS08546/B.Ed/KA/2016-17/89390 dated 26.10.2016 confirmed by the SRC, NCTE.**

By Order.  
24/7/20  
(Dr. Anil Kumar Sharma)  
Regional Director

**The Principal,**  
Sri. Yadatore B.Ed. College,  
Arkanatha Road 3<sup>rd</sup> Cross, K.R. Nagar,  
Mysore District- 571602,  
Karnataka.

**Copy to:-**

1. **The Secretary,** Sri Yadatore Vidya Samasthe, Arkanatha Raste, 2 nd Cross, Sri Rama Block, K.R. Nagar- 571602, Karnataka.
2. **The Principal Secretary, (Higher Education),** Govt. of Karnataka, M.S. Building, Dr. Ambedkar Veedhi, Bangalore-560001, Karnataka.
3. **The Legal Counsel,** Shri Basavaraj V. Sabarad, Chamebers No. 33, 2<sup>nd</sup> main 3<sup>rd</sup> Cross Chekravarthy Layout, Place Cross Road, Bangalore-560020, Karnataka.
4. **The Registrar,** Mysore University, Mysore, Karnataka.

24/7/20  
Regional Director