



एनसीटीई अपीलिय प्राधिकरण में/ IN THE NCTE APPELLATE AUTHORITY

राष्ट्रीय अध्यापक शिक्षा परिषद् (एन.सी.टी.ई.)
जी-7, सेक्टर-10, द्वारका, नई दिल्ली-110075

NATIONAL COUNCIL FOR TEACHER EDUCATION (NCTE)
G-7, Sector-10, Dwarka, New Delhi-110075

दिनांक/ Date - 01/02/2024

एनसीटीई अधिनियम की धारा 18 के तहत दायर अपील/
APPEAL FILED UNDER SECTION 18 OF NCTE ACT

File No. 89-286/E-126571/2019 Appeal/1st Meeting, 2024
APPLSRC201913313

A.P. College of Education, Duddeda, 609, Siddipet Revenue Division, Kondapak, Medak – 502277, Telangana	<u>Vs</u>	Southern Regional Committee, Plot No. G-7, Sector – 10, Dwarka, New Delhi - 110075.
APPELLANT		RESPONDENT

Representative of Appellant	Representative of the institution
Respondent by	Regional Director, SRC
Date of Hearing	11.01.2024
Date of Pronouncement	01.02.2024

Signature

आदेश/ ORDER

I. GROUND OF WITHDRAWAL

The appeal of **A.P. College of Education, Duddeda, 609, Siddipet Revenue Division, Kondapak, Medak – 502277, Telangana** dated 19.07.2019 filed under Section 18 of NCTE Act, 1993 against the Order No. **F.SRO/NCTE/APSO0398/B.Ed./TS/2019/04746-4751** dated 29.05.2019 of the Southern Regional Committee, withdrawing recognition for conducting B.Ed. Course on the grounds that “The Committee noted that the A.P. College of Education, Siddipet Revenue Division, Duddeda, Medak District, Telangana was granted recognition for B.Ed. programme from the academic session 2002-03 with an annual intake of 120 students. Subsequently the institution was granted recognition for D.El.Ed. course from the academic session 2012-13 with an annual intake of 50 students. The Management made a request to shift the institution to another place in a different district which is not permissible as per rules. b) Further it is also observed that since last 3 academic years the University is not extending affiliation as such institution is not functional. c) It is also noted from the record requesting for shifting that the land is registered in the name of A.P. College of Education on 24th July, 2017. However, the building plan has been approved on 27.6.2016. Further the management has not obtained LUC.”

II. SUBMISSIONS MADE BY APPELLANT: -

The Representative of **A.P. College of Education, Duddeda, 609, Siddipet Revenue Division, Kondapak, Medak – 502277, Telangana** appeared online to present the case of the appellant institution on 11.01.2024. In the appeal Memoranda it is submitted that “The representative of **A.P. College of Education, Duddeda, Siddipet Revenue Division, Kondapak, Medak, Telangana** presented the case of the appellant institution on **07.11.2022**. In the appeal and during personal presentation the appellant submitted (i) That in order to appreciate various contentions being raised hereinafter by the Appellant herein, it is necessary to state the following few relevant facts in brief. (ii) That it is submitted that the SRC, NCTE after processing of the application of the Appellant institution and conducting the expert inspection granted its

recognition dated 03.07.2003 to the Petitioner institution for conducting B. Ed. Course from academic session 2002-03 with annual intake of 120 students. A true copy of the SRC NCTE recognition order dated 03.07.2003 is annexed herewith and marked as **ANNEXURE P-2**. (ii) That it is submitted that the SRC, NCTE after due inspection and verification also granted the recognition for the D.El.Ed. Course vide its Order dated 05.09.2012 from session 2013-2014. A true copy of the SRC NCTE recognition order dated 05.09.2012 is annexed herewith and marked as **ANNEXURE P 3**. (iv) That it is submitted that the Govt. of Andhra Pradesh vide its G. O. dated 05.01.2013 granted the affiliation to the Appellant Institution for starting D. El. Ed. Programme. (v) That it is submitted that the Management of the institution is approaching the SRC, NCTE since many years for the shifting of premises and had lastly submitted the Land Documents, Building Completion Certificate, Building Plan, CLU, NEC, etc. A True Copy of the Land Documents, Building Completion Certificate, Building Plan, CLU, NEC is being annexed herewith as **ANNEXURE P 4**. (vi) That it is submitted that the SRC, NCTE vide its letter dated 22.04.2019 issued a show cause notice to the institution directing it to submit the original documents of Society including list of members, Site Plan approved by the competent authority and building completion certificate. A True Copy of the Show Cause Notice dated 22.04.2019 is being annexed herewith as **ANNEXURE P 5**. (vii) That it is submitted that the institution vide its Reply dated 29.04.2019 submitted the original documents of Society including list of members, Site Plan approved by the competent authority and building completion certificate as annexed in Para 7 of the appeal. A True Copy of the Reply dated 29.04.2019 is being annexed herewith as **ANNEXURE P 6** (viii) That it is submitted that surprisingly the SRC, NCTE in its 375th meeting decided to withdraw the recognition of the institution without looking into the documents. It seems that the S RC confused with the documents or failed to co-relate the documents. (ix) That it is submitted that the expert team of the NCTE visited the Appellant Institution and verified the infrastructural and instructional facilities. Thereafter, the S RC verified the visiting team report and viewed the CD and consider the documents including Building Completion Certificate, Building Plan etc. and accorded the recognition order to the Appellant Institution and the recognition won't have been withdrawn without ascertaining the proper facts. (x) That it is submitted that



the S RC NCTE vide its show cause notice only directed the Appellant Institution to submit the required documents which were submitted accordingly. (xi) That it is submitted that the SRC vide its order dated withdrew the recognition of the Appellant Institution pointing out certain other point also which was not a part of show cause notice and Appellant had no opportunity to justify. (xii) That it is submitted that the SRC ought to have given an opportunity to the Appellant institution to explain the building plan, BCC, Land Documents, etc. (xiii) That it is submitted that the withdrawal order of the SRC totally devoid of the merit and is not as per the statutory provisions as mandated under NCTE Act, 1993. (xiv) That it is submitted that it appears that SRC, NCTE proceeded in an arbitrary manner without considering the documents proper.”

III. OUTCOME OF THE CASE

The Appeal Committee in its 1st Meeting, 2024 held online on 11th January, 2024 perused the relevant records and the documents submitted by appellant institution in the Appeal Report, documents on record and oral arguments advanced during the meeting.

The Appeal Committee noted that the recognition of the institution was withdrawn for B.Ed. programme vide order dated 29.05.2019 issued by the SRC. The Committee further noted that vide order dated 26.09.2019 passed by Appellate Authority whereby the order of the SRC has been confirmed. The institution has challenged both the orders i.e., withdrawal order as well as Appellate order by filing of Writ Petition before the Hon’ble High Court.

The appellant institution had moved to the Hon’ble Delhi High Court by the way of W.P.C. No. 1111/2020 titled A.P. College of Education V/s National Council for Teacher Education & Anr. The Hon’ble Court vide order dated 04.07.2022 issued following directions: -

“... 7. Thus, in the interest of justice and in light of the position taken by co-ordinate benches of this Court, the order dated 26th September, 2019 passed by the Appellate Authority is set-aside and the matter is remanded back to the Appellate Authority, subject to the Petitioner depositing a cost of Rs. 10,000/- with the Delhi High Court Advocates’ Welfare Fund. The Appellate Authority is directed



to expeditiously consider afresh all documents placed by Petitioner-institute within a period of two weeks from today, including those annexed with the present petition and take a decision thereon in accordance with law..."

In compliance of Court order dated 04.07.2022 in W.P.C. No. 1111/2020 titled A.P. College of Education V/s National Council for Teacher Education & Anr, the instant matter was taken up by the Appeal Committee in its 8th Meeting, 2022 held on 07.11.2022. The Appellate Committee vide order dated 16.11.2022 rejected the appeal of the appellant institution. The relevant portion of the said order is being reproduced hereunder:

"The Appeal Committee noted that the matter was taken up by the Appeal committee for hearing in its 6th Meeting, 2022 held on 2nd September 2022 and further taken up in its 7th Meeting, 2022 held on 7th & 8th October, 2022, but nobody has appeared to represent the institution. Further, the matter was again taken up in 8th Meeting, 2022 held on 7th November 2022, however, on the said date also nobody has appeared to represent the institution before the Appellate Committee. The Committee decided not to grant another date for hearing to the institution and decided to consider the documents and passed appropriate order on the basis of material available on record. Appeal Committee noted that the appellant institution has submitted following documents:

- (i) A copy of Affidavit on Rs.100 non-judicial stamp paper.*
- (ii) A copy of Land documents such as Sale Deed, BCC, CLU, Statement of Encumbrance on property.*
- (iii) A copy of staff profile.*
- (iv) A copy of Site Plan.*

The Committee noted that the institution has submitted a copy of Sale Deed dated 24.07.2017. The property under sale deed is situated in Sangareddy District, However, the recognition was granted by the SRC to the institution at the address of the institution which is located in Medak District. The Committee noted that the as per withdrawal order which was passed in the year 2019 by the SRC, it is stated that the affiliating university has not extended the affiliation of the institution since last 3 academic years. The institution has also not explained this aspect in the appeal and has also not submitted any documents with respect to extension of the affiliation of the institution by the affiliating University.

The Appeal Committee therefore noted that the deficiencies pointed out by SRC was justified in withdrawing recognition of the appellant institution as they are failed to rectify the deficiencies.

In these circumstances, the Appeal Committee concluded that the instant appeal deserved to be rejected and therefore the impugned order of SRC is confirmed.

IV. DECISION: -

After perusal of the Memoranda of Appeal, affidavit, documents on record and oral arguments advanced during the online hearing, Appeal Committee of the



Council concluded appeal deserves to be rejected and therefore, the impugned withdrawal order issued by SRC is confirmed."

The petitioner institution has filed a **W.P. No. 30613/2023** in the **Hon'ble High Court for the State of Telangana at Hyderabad** against the Appeal Order dated 16.11.2022 i.e., rejecting the appeal of the appellant institution. The Hon'ble Court vide order dated **12.12.2023** directed as under: -

"....4. Taking into consideration the averments made in paragraph No.14 of the counter affidavit filed by respondents Nos. 1 and 2, the writ petition is disposed of directing respondent No.1 -appellate Committee to take a decision in the matter, within a period of three (3) weeks from the date of receipt of a copy of this order, in accordance to law in conformity with principles of natural justice by providing an opportunity of personal hearing to the petitioner and communicate the decision to the petitioner. However, there shall be no order as to costs.

Miscellaneous petitions, if any, pending in this writ petition, shall stand closed."

The instant matter was again taken up by the Appellate Committee in the 1st Meeting, 2024 held on 11.01.2024, the Appeal Committee noted that the appellant institution is not running as the affiliating University has not extending their affiliation as such the institution is non-functional. The Appellant Institution through its letter dated 09.01.2024 and their verbal arguments advanced during the online hearing, brought to the notice of the Appellate Committee that *"...the college is in Sangareddy District instead of Medak District. Actually, Medak district is bifurcated into 3 Districts Sangareddy, Medak and Siddipet in the year 2016. But, the college location is same location as earlier we submitted proposals which is Medak District. In bifurcation, the district is shown as Sangareddy, it is part of erstwhile Medak District only."*

The Appeal Committee in view of the submission made by the appellant institution decided to Remand Back the matter to SRC with the direction to conduct inspection of the institution u/s 13 of the NCTE Act in consonance with Inspection Division of NCTE (HQ) to verify the infrastructural and instructional facilities available with the institution.



Further it is clarified that this order is subject to outcome of decision taken by the SRC after following due process as per provisions of the NCTE Act, Rules & Regulations. The SRC is directed to expedite the decision in the matter as soon as possible.

Appeal Committee noted that the Hon'ble High Court of Delhi vide order dated 08.04.2021, passed in W.P. (C) 4382/2021 has observed as follows: -

“Appellate Committee of NCTE, is directed to ensure that, whenever an order of remand is passed, the status of the impugned is clearly spelt out so that the institution is not compelled to approach the Court in this manner.”

In view of the above-mentioned order, the Committee concluded to keep the impugned withdrawal in abeyance until and unless the SRC take an appropriate decision in the matter.

Noting the submission and verbal arguments advanced during the hearing, Appeal Committee decided to remand back the case to the SRC, NCTE with the direction to conduct inspection of the institution u/s 13 of the NCTE Act in consonance with Inspection Division of NCTE (HQ) to verify the infrastructural and instructional facilities available with the institution. The Appellant is directed to forward to the SRC the documents submitted in appeal within 15 days from the receipt of order of the Appeal to take further necessary action as per the NCTE Regulation, 2014, guidelines and amendments issued from time to time. The above order is subject to outcome of decision taken by the SRC after following due process as per provisions of the NCTE Act, Rules & Regulations. The SRC is directed to expedite the decision in the matter in terms of direction given herein above.



IV. DECISION: -

After perusal of the Appeal Report, documents on record and oral arguments advanced during the online hearing, Appeal Committee decided to remand back the case to the SRC, NCTE with the direction to conduct inspection of the institution u/s 13 of the NCTE Act in consonance with Inspection Division of NCTE (HQ) to verify the infrastructural and instructional facilities available with the institution. The Appellant is directed to forward to the SRC the documents submitted in appeal within 15 days from the receipt of order of the Appeal to take further necessary action as per the NCTE Regulation, 2014, guidelines and amendments issued from time to time. The above order is subject to outcome of decision taken by the SRC after following due process as per provisions of the NCTE Act, Rules & Regulations. The SRC is directed to expedite the decision in the matter in terms of direction given herein above.

उपरोक्त निर्णय अपील समिति की ओर से सूचित किया जा रहा है।/ The above decision is being communicated on behalf of the Appeal Committee


उप सचिव (अपील) / Deputy Secretary (Appeal)

Copy to :-

1. The Principal, A.P. College of Education, Duddeda, 609, Siddipet Revenue Division, Kondapak, Medak – 502277, Telangana
2. The Secretary, Ministry of Education, Department of School Education & Literacy, Shastri Bhawan, New Delhi.
3. Regional Director, Southern Regional Committee, Plot No. G-7, Sector-10, Dwarka, New Delhi – 110075.
4. The Secretary, Education (looking after Teacher Education) Government of Telangana.



एनसीटीई अपीलुीय प्रलधलकरण डें/ IN THE NCTE APPELLATE AUTHORITY

रलषुुीय अधुयलपक शलकुषल परलषद (एन.सी.टी.ई.)
ऑी-7, सेकुटर-10, दुवलरकल, नई दललुी-110075

NATIONAL COUNCIL FOR TEACHER EDUCATION (NCTE)
G-7, Sector-10, Dwarka, New Delhi-110075

दलनलंक/ Date - 01/02/2024

एनसीटीई अधलनलड डी धलरल 18 के तहत दलयर अपील/
APPEAL FILED UNDER SECTION 18 OF NCTE ACT

File No. 89-221/E-323499/2023 Appeal/1st Meeting, 2024
APPLERC202314729

Dinabandhu B.Ed. College, 438, 451, Raghunathpur, Guskara to Bolpur (NH2B), Unia Tatarpur, Mongolkote, Burdwan, West Bengal-713128	<u>Vs</u>	Eastern Regional Committee, Plot No. G-7, Sector – 10, Dwarka, New Delhi -110075.
APPELLANT		RESPONDENT

Representative of Appellant	Mr. Subhendu Roy, Representative
Respondent by	Regional Director, ERC
Date of Hearing	11.01.2024
Date of Pronouncement	01.02.2024

आदेश/ ORDER

I. GROUND OF WITHDRAWAL

The appeal of **Dinabandhu B.Ed. College, 438, 451, Raghunathpur, Guskara to Bolpur (NH2B), Unia Tatarpur, Mongolkote, Burdwan, West Bengal-713128** dated 07.11.2023 filed under Section 18 of NCTE Act, 1993 is against the Order No. **F.No.ER-333.13/NCTE/ERCAPP687/B.Ed./WB/2023/68985** dated 20.10.2023 of the Eastern Regional Committee, withdrawing recognition for conducting B.Ed. Course on the grounds that “The institution has not submitted the valid Fire Safety Certificate issued by the Competent Government Authority.”

II. SUBMISSIONS MADE BY APPELLANT: -

Mr. Subhendu Roy, Representative of Dinabandhu B.Ed. College, 438, 451, Raghunathpur, Guskara to Bolpur (NH2B), Unia Tatarpur, Mongolkote, Burdwan, West Bengal-713128 appeared online to present the case of the appellant institution on 11.01.2024. In the appeal report, it is submitted that “Inspections and procedures were done already but we haven’t received certificate from their end.”

III. OUTCOME OF THE CASE

The Appeal Committee in its 1st Meeting, 2024 held online on 11th January, 2024 perused the relevant records and the documents submitted by appellant institution in the Appeal Report, documents on record and oral arguments advanced during the meeting.

The Appeal Committee noted that the appellant institution was granted recognition for B.Ed. Course with an annual intake of 100 students vide order dated 19.08.2012, followed by revised recognition for B.Ed. programme of two-year duration with an annual intake of 100 students (two basic units) vide order dated 31.05.2015. The recognition of the institution for B.Ed. programme was withdrawn by the ERC vide order dated 20.10.2023.



The Appeal Committee noted that the Appellant Institution in addition to the explanation mentioned in appeal report submitted the following documents with a claim to have rectified the shortcomings pointed out in the impugned withdrawal order: -

- (i) A copy of Fire Safety Certificate issued by the Govt. of West Bengal on dated 26.10.2023.

The Appeal Committee noted that the institution has submitted documents with respect to points mentioned in the Withdrawal Order dated 20.10.2023 and keeping in view, the Hon'ble High Court of Delhi Judgment dated 23.02.2017 passed in W.P(C). no. 3231/2016 titled "Rambha College of Education V/s NCTE" wherein the Hon'ble Court has directed the Appeal Committee to take into consideration the subsequent documents of the Appellant while disposing of the Appeal has to be taken on record.

The Appeal Committee noted that the document submitted in appeal *vis a vis* the grounds mentioned in the order of withdrawal, required to be verified. The ERC is required to verify the Fire Safety Certificate submitted in appeal from the concerned competent authority as per provisions of the NCTE Regulations, 2014, guidelines and amendments issued from time to time and decision taken accordingly.

Appeal Committee noted that the Hon'ble High Court of Delhi vide order dated 08.04.2021, passed in W.P. (C) 4382/2021 has observed as follows: -

"Appellate Committee of NCTE, is directed to ensure that, whenever an order of remand is passed, the status of the impugned is clearly spelt out so that the institution is not compelled to approach the Court in this manner."

Appeal Committee noted that the Hon'ble High Court of Delhi vide order dated 30.07.2021, passed in W.P. (C) 7260/2021 has observed as follows: -

"Although the Appellate Committee of the NCTE would be well advised to expressly quash the original order of the concerned"



Regional Committee while remanding the matter, the position in law is that the order automatically stands quashed. The institution is, therefore, entitled to the benefits of recognition until a fresh withdrawal order is passed."

In view of the afore-mentioned extracts of the court orders, the impugned withdrawal order dated 20.10.2023 is set-aside as the Appellate Committee has decided to remand back the case to ERC for revisiting the matter.

Noting the submission and verbal arguments advanced during the hearing, Appeal Committee decided to remand back the case to ERC with a direction to verify the Fire Safety Certificate submitted in appeal from the concerned competent authority. The Appellant institution is directed to forward to the ERC the documents submitted in appeal within 15 days from the receipt of order of the Appeal and after receipt of the same the ERC to take further necessary action as per the NCTE Regulation, 2014, guidelines and amendments issued from time to time as per direction given herein above.

IV. DECISION: -

After perusal of the Appeal Report, documents on record and oral arguments advanced during the online hearing, Appeal Committee of the Council concluded to remand back the case to ERC with a direction to verify the Fire Safety Certificate submitted in appeal from the concerned competent authority. The Appellant institution is directed to forward to the ERC the documents submitted in appeal within 15 days from the receipt of order of the Appeal and after receipt of the same the ERC to take further necessary action as per the NCTE Regulation, 2014, guidelines and amendments issued from time to time as per direction given herein above.

उपरोक्त निर्णय अपील समिति की ओर से सूचित किया जा रहा है।/ The above decision is being communicated on behalf of the Appeal Committee


उप सचिव (अपील) / Deputy Secretary (Appeal)

Copy to :-

1. **The Principal, Dinabandhu B.Ed. College, 438, 451, Raghunathpur, Guskara to Bolpur (NH2B), Unia Tatarpur, Mongolkote, Burdwan, West Bengal-713128**
2. The Secretary, Ministry of Education, Department of School Education & Literacy, Shastri Bhawan, New Delhi.
3. Regional Director, Eastern Regional Committee, Plot No. G-7, Sector-10, Dwarka, New Delhi – 110075.
4. The Secretary, Education (looking after Teacher Education) Government of West Bengal.



एनसीटीई अपीलिय प्राधिकरण में/ IN THE NCTE APPELLATE AUTHORITY

राष्ट्रीय अध्यापक शिक्षा परिषद् (एन.सी.टी.ई.)
जी-7, सेक्टर-10, द्वारका, नई दिल्ली-110075

NATIONAL COUNCIL FOR TEACHER EDUCATION (NCTE)
G-7, Sector-10, Dwarka, New Delhi-110075

दिनांक/ Date - 01/02/2024

एनसीटीई अधिनियम की धारा 18 के तहत दायर अपील/
APPEAL FILED UNDER SECTION 18 OF NCTE ACT

File No. 89-226/E-324412/2023 Appeal/1st Meeting, 2024
APPLERC202314742

Jagatbandhu Teachers Training Institute, Rs. 352, 353 1r 462, 464, Mahinagar, Azimganj, Murshidabad Jiaganj Block, Murshidabad, West Bengal-742122	<u>Vs</u>	Eastern Regional Committee, Plot No. G-7, Sector – 10, Dwarka, New Delhi -110075.
APPELLANT		RESPONDENT

Representative of Appellant	Mr. Anjan Bhattacharya, Secretary
Respondent by	Regional Director, ERC
Date of Hearing	11.01.2024
Date of Pronouncement	01.02.2024

आदेश/ ORDER

I. GROUND OF WITHDRAWAL

The appeal of Jagatbandhu Teachers Training Institute, Rs. 352, 353 1r 462, 464, Mahinagar, Azimganj, Murshidabad Jiaganj Block, Murshidabad, West Bengal-742122 dated 12.12.2023 filed under Section 18 of NCTE Act, 1993 is against the Order No. **F.No.ER-33.31/NCTE/B.Ed./ERCAPP2690/WB/2023/69063** dated 18.12.2023 of the Eastern Regional Committee, withdrawing recognition for conducting B.Ed. Course on the grounds that "The institution has not submitted the reply of Final Show Cause Notice dated 05.09.2023 issued to it."

II. SUBMISSIONS MADE BY APPELLANT: -

Mr. Anjan Bhattacharya, Secretary of Jagatbandhu Teachers Training Institute, Rs. 352, 353 1r 462, 464, Mahinagar, Azimganj, Murshidabad Jiaganj Block, Murshidabad, West Bengal-742122 appeared online to present the case of the appellant institution on 11.01.2024. In the appeal report, it is submitted that "Our institute got first show cause 332nd (Virtual) Meeting of ERC, NCTE held on 30th August, 2023 against we submitted and reply through hard copy along with relevant documents by sending dtcd courier on 09 September, 2023 and NCTE received the shipment of documents on 11 Sept., 2023 but after the release 333rd ERC, NCTE meeting where our institute B.Ed. programme be withdrawn under section 17(1) of the NCTE Act, 1993 due to not submitted or reply the final show cause. Now again we submitted the valid fire safety certificate issued by the components Govt. authority with all the previous communication copy with NCTE. Please allow the institute for running the recognition from your end."

III. OUTCOME OF THE CASE

The Appeal Committee in its 1st Meeting, 2024 held online on 11th January, 2024 perused the relevant records and the documents submitted by appellant institution in the Appeal Report, documents on record and oral arguments advanced during the meeting.



The Appeal Committee noted that the appellant institution was granted recognition for B.Ed. Course with an annual intake of 100 students vide order dated 02.05.2016. The recognition of the institution for B.Ed. programme was withdrawn by the ERC vide order dated 18.12.2023.

The Appeal Committee noted that the Appellant Institution in addition to the explanation mentioned in appeal report submitted the following documents with a claim to have rectified the shortcomings pointed out in the impugned withdrawal order: -

- (i) A copy of Fire Safety Certificate issued by the West Bengal Fire & Emergency Services, Govt. of West Bengal on dated 31.07.2023.

The Appeal Committee noted that the institution has submitted documents with respect to points mentioned in the Withdrawal Order dated 18.12.2023 and keeping in view, the Hon'ble High Court of Delhi Judgment dated 23.02.2017 passed in W.P(C). no. 3231/2016 titled "Rambha College of Education V/s NCTE" wherein the Hon'ble Court has directed the Appeal Committee to take into consideration the subsequent documents of the Appellant while disposing of the Appeal has to be taken on record.

The Appeal Committee noted that the document submitted in appeal *vis a vis* the grounds mentioned in the order of withdrawal, required to be verified. **The ERC is required to verify the Fire Safety Certificate submitted in appeal from the concerned competent authority as per provisions of the NCTE Regulations, 2014, guidelines and amendments issued from time to time and decision taken accordingly.**

Appeal Committee noted that the Hon'ble High Court of Delhi vide order dated 08.04.2021, passed in W.P. (C) 4382/2021 has observed as follows: -

"Appellate Committee of NCTE, is directed to ensure that, whenever an order of remand is passed, the status of the impugned is clearly spelt out so that the institution is not



compelled to approach the Court in this manner."

Appeal Committee noted that the Hon'ble High Court of Delhi vide order dated 30.07.2021, passed in W.P. (C) 7260/2021 has observed as follows: -

"Although the Appellate Committee of the NCTE would be well advised to expressly quash the original order of the concerned Regional Committee while remanding the matter, the position in law is that the order automatically stands quashed. The institution is, therefore, entitled to the benefits of recognition until a fresh withdrawal order is passed."

In view of the afore-mentioned extracts of the court orders, the impugned withdrawal order dated 18.12.2023 is set-aside as the Appellate Committee has decided to remand back the case to ERC for revisiting the matter.

Noting the submission and verbal arguments advanced during the hearing, Appeal Committee decided to remand back the case to ERC with a direction to verify the Fire Safety Certificate submitted in appeal from the concerned competent authority. The Appellant institution is directed to forward to the ERC the documents submitted in appeal within 15 days from the receipt of order of the Appeal and after receipt of the same the ERC to take further necessary action as per the NCTE Regulation, 2014, guidelines and amendments issued from time to time as per direction given herein above.



IV. DECISION: -

After perusal of the Appeal Report, documents on record and oral arguments advanced during the online hearing, Appeal Committee of the Council concluded to remand back the case to ERC with a direction to verify the Fire Safety Certificate submitted in appeal from the concerned competent authority. The Appellant institution is directed to forward to the ERC the documents submitted in appeal within 15 days from the receipt of order of the Appeal and after receipt of the same the ERC to take further necessary action as per the NCTE Regulation, 2014, guidelines and amendments issued from time to time as per direction given herein above.

उपरोक्त निर्णय अपील समिति की ओर से सूचित किया जा रहा है।/ The above decision is being communicated on behalf of the Appeal Committee



उप सचिव (अपील) / Deputy Secretary (Appeal)

Copy to :-

1. The Principal, Jagatbandhu Teachers Training Institute, Rs. 352, 353 1r 462, 464, Mahinagar, Azimganj, Murshidabad Jiaganj Block, Murshidabad, West Bengal-742122
2. The Secretary, Ministry of Education, Department of School Education & Literacy, Shastri Bhawan, New Delhi.
3. Regional Director, Eastern Regional Committee, Plot No. G-7, Sector-10, Dwarka, New Delhi – 110075.
4. The Secretary, Education (looking after Teacher Education) Government of West Bengal.



एनसीटीई अपीलिय प्राधिकरण में/ IN THE NCTE APPELLATE AUTHORITY

राष्ट्रीय अध्यापक शिक्षा परिषद् (एन.सी.टी.ई.)
जी-7, सेक्टर-10, द्वारका, नई दिल्ली-110075

NATIONAL COUNCIL FOR TEACHER EDUCATION (NCTE)
G-7, Sector-10, Dwarka, New Delhi-110075

दिनांक/ Date - 01/02/2024

एनसीटीई अधिनियम की धारा 18 के तहत दायर अपील/
APPEAL FILED UNDER SECTION 18 OF NCTE ACT

File No. 89-204/E-320537/2023 Appeal/1st Meeting, 2024
APPLNRC202314721

Blooms College of Education, 715, Kot, Sunder Nagar Baggi Main Road, Chunahan, Balh, Mandi, Himachal Pradesh- 175027	<u>Vs</u>	Northern Regional Committee, Plot No. G-7, Sector – 10, Dwarka, New Delhi -110075.
APPELLANT		RESPONDENT

Representative of Appellant	No one presented
Respondent by	Regional Director, NRC
Date of Hearing	11.01.2024
Date of Pronouncement	01.02.2024

आदेश/ ORDER

I. GROUNDS OF ORDER

The appeal of **Blooms College of Education, 715, Kot, Sunder Nagar Baggi Main Road, Chunahan, Balh, Mandi, Himachal Pradesh-175027** dated 20.10.2023 filed under Section 18 of NCTE Act, 1993 is against the Order No. **NCTE-Regl015/3794/2021-Regulation Section(HP) – NRC/(222959-222966)/Computer No: 50068 /HP-96 + HP-135** dated 14.08.2023 of the Northern Regional Committee, for conducting B.Ed. Course on the grounds that “(i). The institution is not a Multi-Disciplinary Institution as per clause 2 (b) of NCTE Regulations, 2014. (ii). The management society of the college does not have separate land infrastructural and instructional facilities to run school and courses of B.Ed. & D.El.Ed. the institution has submitted the letter from Principal Govt. Sr. Sec. School, mandi regarding closing of school. The above letter should have been issued by the Regulatory authority i.e., CBSE. (iii). The institution was granted recognition by NCTE in 2003 for B.Ed. course and 2004 for D.El.Ed. course when the provisions of rented premises and land on ownership basis was there. The institution was to shift to its own premises within a period of three years form recognition by NCTE. (iv). The institution has violated the provisions of clause 8 (9) of NCTE Regulations 2014, which states “In case of change of premises, prior approval of the Regional Committee concerned shall be necessary……”. (v). The institution shifted to its new premises which is on lease basis from private party for a period of 40 years, which is not acceptable as per the provisions of prevailing NCTE Regulations, as the institution has submitted the application for shifting in 2012, when the norms for leased premises were not prevalent. (vi). The other documents for land and building viz. NEC, CLU, building plan, Building Completion Certificate, Building Safety Certificate, Building Disabled Friendly certificate, Fire Safety Certificate etc. are not acceptable in view of the fact that the institution has shifted to the new building without prior approval from NCTE. (vii). Only seven staff for B.Ed. and six for D.El.Ed. have been approved by the affiliating body as against requirement of 1+15 for B.Ed. and 1+7 for D.El.Ed. (viii). The website of the institution is not updated as per clause 7 (14) and 8 (14) of NCTE Regulations, 2014.”



II. SUBMISSIONS MADE BY APPELLANT: -

No one from Blooms College of Education, 715, Kot, Sunder Nagar Baggi Main Road, Chunahan, Balh, Mandi, Himachal Pradesh-175027 appeared online to present the case of the appellant institution on 11.01.2024. In the appeal report, it is submitted that “(i). The institution has appointed 1(One) Principal, 12 Assistant Professors approved by Sardar Patel University, Mandi and 3 Lecturers approved by DIET Mandi for B.Ed. course. Total number of faculty in B.Ed. is (1+15). (Annexure-1). (ii). In Himachal Pradesh SCERT is not authorized to approve the faculty for D.El.Ed. course. (Copy enclosed as Annexure-2 from SCERT). As per the Notification of Himachal Pradesh Board of School Education, Dharamshal (Affiliating body for D.El.Ed. course) has authorized concerned district DIETs to approve the faculty for the said course that is D.El.Ed. (Copy enclosed as Annexure-3).”

III. OUTCOME OF THE CASE

The Appeal Committee in its 1st Meeting, 2024 held online on 11th January, 2024 perused the relevant records and the documents submitted by appellant institution in the Appeal Report.

The Appeal Committee noted that the appellant institution was granted recognition for B.Ed. Course with an annual intake of 100 students. Thereafter, as per direction of the Hon'ble High Court of Himachal Pradesh at Shimla in W.P. No. 1311 dated 12.12.2018, the inspection of the institution under Section 13 of the NCTE Act was conducted by NCTE. The recognition of the institution for B.Ed. programme was withdrawn by NRC vide order dated 14.08.2023.

The Appeal Committee noted that the Hon'ble High Court of Shimla in C.P.(W). 5746/2022, decided the matter on merits of vide order dated 28.09.2023 stated the following: -

“....7. In response thereto, learned counsel for the NCTE has handed over instructions, which are taken on record, which read as under: -

“As it is clearly mentioned in the withdrawal order dated 14th August, 2023, the recognition granted to the institution has been withdrawn from the academic session 2024-25. This clearly mean that it can admit students for the session 2023-24. But it can't take students from the session 2024-25.

The students enrolled in the academic session 2023-24 will complete their courses and their degree will remain valid for all purposes."

8. The above clearly demonstrated that the NCTE has clarified that the withdrawal order does not comes in the way of the petitioner-Institute to admit students as far as the current academic session is concerned.

9. With the said directions and observations, the petition is disposed of. Pending miscellaneous applications, if any, also stand disposed of."

The Appeal Committee noted that the Hon'ble High Court in its order has directed that the petitioner institute can admit students for the current academic session 2023-24. But it can't take students from the session 2024-25. The Hon'ble High Court further clarified that the withdrawal order does not comes in the way of the petitioner-institute.

However, the matter was considered by NRC in its 413th Meeting and vide order dated 20.10.2023, the NRC decided as under: -

"In view of the above, the Committee decided that the institution has not sufficient approved faculties for running B.Ed. course. Hence, the institution is not entitled to admit students for the academic session 2023-24."

The Appeal Committee noted that the instant matter was taken up by the Appellate Committee in its 14th Meeting, 2023 held on 04.11.2023 whereby the Appeal Committee decided to grant (Second) Opportunity to the institution. The operative part of the decision is as under: -

"The Appeal Committee noted that during on-line hearing held on 04.11.2023, the appellant institution has submitted a copy of latest staff list. However, the appellant institution failed to submit the requisite documentary proof about the observations of the NRC regarding shifting of premises viz a viz land & building documents etc. The Appeal Committee in order to consider the case of the appellant institution on merit, decided to ask the appellant institution to submit the following clarification/documents so that the decision of the Appeal Committee become authenticated: -

- (i) The appellant institution is required to clarify about the status of separate land infrastructural and instructional facilities to run school and courses of B.Ed. & D.El.Ed. as the institution has submitted the letter from Principal Govt. Sr. Sec. School, mandi regarding closing of school. The above letter should have been issued by the Regulatory authority i.e., CBSE.***
- (ii) The institution is required to clarify about the observation of the NRC that the institution was granted recognition by NCTE in 2003 for B.Ed. course and 2004 for***

D.El.Ed. course when the provisions of rented premises and land on ownership basis was there. The institution was to shift to its own premises within a period of three years form recognition by NCTE and the institution has violated the provisions of clause 8 (9) of NCTE Regulations 2014, which states "In case of change of premises, prior approval of the Regional Committee concerned shall be necessary.....".

- (iii) As per observation of the NRC, the institution shifted to its new premises which is on lease basis from private party for a period of 40 years, which is not acceptable as per the provisions of prevailing NCTE Regulations, as the institution has submitted the application for shifting in 2012, when the norms for leased premises were not prevalent.*
- (iv) The institution is required to clarify about the NRC observation that other documents submitted for land and building viz. NEC, CLU, building plan, Building Completion Certificate, Building Safety Certificate, Building Disabled Friendly certificate, Fire Safety Certificate etc. are not acceptable in view of the fact that the institution has shifted to the new building without prior approval from NCTE.*

In view of above, the Committee decided to grant another (Second) opportunity to the appellant institution with the direction to submit the aforesaid clarification with necessary documents on or before next date of the Appeal Committee Meeting.

IV. DECISION: -

Appeal Committee as per extant appeal rules decided to grant another (Second) opportunity to the appellant institution to present its case before the Appellate Authority in its next meeting with all the required documents as sought for in the aforesaid decision."

The Appeal Committee noted that the instant matter was again placed in 15th Meeting, 2023 held on 05.12.2023. The appellant institution did not appear online to present its case before Appellate Authority on 05.12.2023 and as such the Appeal Committee as per extant appeal rules decided to grant another (3rd/Final) opportunity to appellant institution to present its case before Appellate Authority.

The Appeal Committee noted that the Appellant Institute preferred a Writ Petition before the Hon'ble High Court of Himachal Pradesh having CWP No. 9031 of 2023 and vide order dated 28.12.2023, the Hon'ble High Court has directed that: -

".... Heard. Taking into consideration the fact that interim order was passed by this Court by heavily replying upon Annexure P-7/A (referred to in the order as Annexure P/7), which would be evident from the paras of interim order quoted here-in-above and as now this very document is shrouded with suspicion, this Court is of the considered view that the interim granted to the petitioner by the Court on the basis of said document, cannot be continued. This Court is making this observation for the reason that on one hand, there in an application of a Statutory University alleging that the document purportedly bearing the signatures of its Registrar is a forged document, as the signatures of its Registrar is a forged document, as the signatures of the Registrar thereupon have been forged and on



the other hand, there is the stand of the petitioner-society, which is beneficiary of this document, who in the reply filed to the application states with regard to the allegation of forgery that an in-house inquiry is being conducted by the petitioner and its Managing Director-Cum-Authorized Signatory has been unanimously suspended with immediate effect without salary w.e.f. 15.12.2023 when this fact came to the notice of the petitioner. In fact, this stand of the petitioner creates suspicion on the act and conduct of the petitioner-Society itself. If no forgery as alleged has been committed, then what was the need for in-house inquiry. As the allegation made against the petitioner is grave as forgery is alleged by the petitioner qua a document, which was submitted to this Court alongwith this writ petition, order dated 22.11.2023 passed by this Court is hereby vacated, forthwith. This Court directs the Superintendent of Police, Mandi to register an FIR against the petitioner as well as against such other persons, who may be found involved in the issue, on the basis of the complaint filed by the Registrar, Sardar Patel University, Mandi and proceed with the same in accordance with law and also explain by the next date as to why no action was taken on the complaint till date by the Superintendent of Police, Mandi, despite the fact that the complaint stood filed as far back as on 29th November, 2023.

As this stage, learned Senior Counsel for the non-applicant/petitioner submits that students stand admitted to the petitioner-Institute. With regard to this, all that this Court can observe is that in the interim order passed by this Court, it was made clear that the students seeking admission in the petitioner-Institute be made aware of the pendency of the litigation and they should also be apprised that their admission shall abide by the final outcome of the writ petition and they shall not claim any equity at least against the respondents."

The Appeal Committee noted that the instant matter was again placed in 1st Meeting, 2024 held on 11.01.2024 and the Appellant institution vide letter dated 15.11.2023 had submitted the following:

- (i) An original affidavit containing the names of faculty members along with their designation and bank details.
- (ii) A duplicate copy of 16 faculty teaching staff list approved by the Registrar, Sardar Patel University, Mandi (HP) on 01.11.2023
- (iii) A duplicate court order dated 28.09.2023 passed by the Hon'ble High Court of Himachal Pradesh.

That pertinently, it was brought to the notice of the Appeal Committee that in writ petition no. 9031/2023, the Hon'ble Court has observed that;

"Learned counsel for the applicant-University has submitted that non-applicant/petitioner has obtained the interim order by committing forgery as a forged document stood appended with the petition, as Annexure P7/A to demonstrate that it was having the sanctioned teaching faculty of 16 as the requirement of NCTE by forging the signatures of the Registrar of the applicant-University thereon. She has also referred to the document appended with the application as Annexure R-5/C, which is the complaint lodged by the Registrar of the applicant-University to the Superintendent of Police, Mandi against the petitioner for producing a forged document in this Court."



Moreover, it is pertinent to mention that the Station House Officer, Police Station Dhanotu, Sundernagar, Mandi, Himachal Pradesh visited the NCTE on 12.01.2024 and had collected the documents enumerated below:

- (i) The original cover letter dated 04.11.2023.
- (ii) An original affidavit containing the names of faculty members along with their designation and bank details.
- (iii) A duplicate copy of 16 faculty teaching staff list approved by the Registrar, Sardar Patel University, Mandi (HP) on 01.11.2023
- (iv) A duplicate court order dated 28.09.2023 passed by the Hon'ble High Court of Himachal Pradesh.
- (v) Envelop with a receipt of having track id EE750311163IN dated 08.11.2023.

In view of the above, the Appellate Committee has decided that the allegation on the Appellant Institution are grave in nature and the matter is sub-judice before the Hon'ble High Court of Himachal Pradesh. Hence, the Appeal Committee concluded that the instant appeal deserves to be rejected and therefore, the impugned withdrawal order dated 14.08.2023 & letter dated 20.10.2023 issued by NRC are confirmed.

IV. DECISION: -

After perusal of the Appeal Report, documents, the Appeal Committee of the Council concluded that the NRC was justified in withdrawing the recognition and decided that the instant appeal deserves to be rejected and therefore, the impugned withdrawal order dated 14.08.2023 & letter dated 20.10.2023 issued by NRC are confirmed.

उपरोक्त निर्णय अपील समिति की ओर से सूचित किया जा रहा है।/ The above decision is being communicated on behalf of the Appeal Committee


उप सचिव (अपील) / Deputy Secretary (Appeal)

Copy to :-

1. The Principal, Blooms College of Education, 715, Kot, Sunder Nagar Baggi Main Road, Chunahan, Balh, Mandi, Himachal Pradesh-175027
2. The Secretary, Ministry of Education, Department of School Education & Literacy, Shastri Bhawan, New Delhi.
3. Regional Director, Northern Regional Committee, Plot No. G-7, Sector-10, Dwarka, New Delhi – 110075.
4. The Secretary, Education (looking after Teacher Education) Government of Himachal Pradesh.



एनसीटीई अपीलिय प्राधिकरण में/ IN THE NCTE APPELLATE AUTHORITY

राष्ट्रीय अध्यापक शिक्षा परिषद् (एन.सी.टी.ई.)
जी-7, सेक्टर-10, द्वारका, नई दिल्ली-110075

NATIONAL COUNCIL FOR TEACHER EDUCATION (NCTE)
G-7, Sector-10, Dwarka, New Delhi-110075

दिनांक/ Date - 01/02/2024

एनसीटीई अधिनियम की धारा 18 के तहत दायर अपील/
APPEAL FILED UNDER SECTION 18 OF NCTE ACT

File No. 89-208/E-320793/2023 Appeal/1st Meeting, 2024
APPLNRC202314715

Maa Gayatri Arya Kanya Mahavidyalaya, 3295, Jalesar, Etah, Uttar Pradesh-207302	<u>Vs</u>	Northern Regional Committee, Plot No. G-7, Sector – 10, Dwarka, New Delhi -110075.
APPELLANT		RESPONDENT

Representative of Appellant	Mr. Ashok Kumar, Office Superintendent
Respondent by	Regional Director, NRC
Date of Hearing	11.01.2024
Date of Pronouncement	01.02.2024

आदेश / ORDER

I. GROUND OF WITHDRAWAL

The appeal of **Maa Gayatri Arya Kanya Mahavidyalaya, 3295, Jalesar, Etah, Uttar Pradesh-207302** dated 12.10.2023 filed under Section 18 of NCTE Act, 1993 is against the Order No. **F. No./NRC/NCTE/NRCAPP-2487-D.El.Ed./406th (Part-1) (Online Mode) Meeting/ 2023/222946** dated 14.08.2023 of the Northern Regional Committee, withdrawing recognition for conducting D.El.Ed. Course on the grounds that "The representation of the institution dated 02.06.2023 was considered by NRC and the Committee decided to close/withdraw the recognition of D.El.Ed. course run by the institution. Therefore, the institution and all the concerned be informed accordingly."

II. SUBMISSIONS MADE BY APPELLANT: -

Mr. Ashok Kumar, Office Superintendent of Maa Gayatri Arya Kanya Mahavidyalaya, 3295, Jalesar, Etah, Uttar Pradesh-207302 appeared online to present the case of the appellant institution on 11.01.2024. In the appeal report, it is submitted that "The decision of the sponsoring body i.e., Ram Lal Arya Dharmarth Trust was passed in haste without detailed deliberations in view that few students taking admission in the D.El.Ed. programme of the institution resulting into the letter dated 02.06.2023 of the institution. That sponsoring body i.e., Ram Lal Arya Dharmarth Trust have detailed deliberation for running D.El.Ed. and passed a resolution that institution will run the course and make the request to the NRC NCTE for the continuation of the Recognition and for the withdrawal of the request letter dated 02.06.2023 as the institution full fill all the criteria of norms and standard of running the course and renewed demand for the course by many students."

III. OUTCOME OF THE CASE

The Appeal Committee in its 1st Meeting, 2024 held online on 11th January, 2024 perused the relevant records and the documents submitted by appellant institution in the Appeal Report, documents on record and oral arguments advanced during the meeting.



The Appeal Committee noted that the appellant institution was granted recognition for D.El.Ed. Course with an annual intake of 50 students vide order dated 08.03.2010. Thereafter, the institution has submitted a representation dated 02.06.2023 requesting therewith to withdraw/close the D.El.Ed. course. The recognition of the institution for D.El.Ed. programme was withdrawn by the NRC vide order dated 14.08.2023.

The instant matter was placed in 15th Meeting, 2023 held on 05.12.2023 whereby the Appeal Committee of the Council concluded that the Appeal is kept pending till the report is submitted by NRC: -

"The Appeal Committee considered the documents submitted alongwith the Appeal Report and observed that the NRC had withdrawn the recognition of the Appellant institution for running D.El.Ed. course from the academic session 2023-24 on the basis of its closure request. However, during the Appeal hearing the appellant institution contented that the College management has taken decision in haste to close down the D.El.Ed. course without confirming the same from the sponsoring i.e., Ram Lal Dharmarth Trust.

The Appeal Committee in order to verify the aforementioned facts direct the NRC, NCTE to submit its report on the submission made and documents submitted by the appellant institution in Appeal, and after verifying the same, a point-wise note/comments shall be submitted to the Appeal Division clarifying the status of the following documents so that the decision of the Appeal Committee become authenticated.

- (i) The NRC is required to submit a copy of representation submitted by the appellant institution regarding closure of its D.El.Ed. programme alongwith the observation of the NRC before issuing withdrawal order.***
- (ii) The NRC is required to clarify as to whether the required procedure as per clause 7(19) of the NCTE Regulations, 2014 has been duly followed by the NRC or not.***

The Appeal Committee in view of the above direct NRC, NCTE shall submit a point-wise note/comments to the Appeal Division clarifying the same. Hence, the Appeal Committee decided to keep the matter pending until the report is submitted by the Northern Regional Committee (NRC).

IV. DECISION: -

After perusal of the Appeal Report, documents on record and oral arguments advanced during the online hearing, Appeal Committee of the Council concluded that the Appeal is kept pending till the report is submitted by Northern Regional Committee (NRC), NCTE in terms of direction given herein above."

The Appeal Committee noted that the NRC vide letter dated 11.01.2024 submitted its report wherein the following has been informed: -

"...7. Vide letter dated 02.06.2023 (signed by Mr. Arpit Prakash as Secretary, Maa Gayatri Arya Kanya Mahavidyalaya, Jalesar, Etah, U.P. It was requested to NRC NCTE for



surrendering of D.El.Ed. course as the college is stated to be unable to run this course further as very few students are taking admission in this course for the last several sessions. The request letter was annexed with a resolution of Maa Gayatri Arya Kanya Mahavidyalaya but seems to have been signed by only the Secretary of Maa Gayatri Arya Kanya Mahavidyalaya i.e. Mr. Arpit Prakash. The request letter also enclosed with an original Affidavit on Rs. 100/- stamp paper signed by same Mr. Arpit Prakash. Copy of the request letter with all enclosures are attached with this note.

8. The request of the institution with all enclosures were placed before the NRC in its 406th meeting (Part-1) held on 1st to 3rd August 2023 and the NRC decided to close/withdraw the recognition of D.El.Ed. course and hence an order dated 14.08.2023 withdrawing recognition was issued."

The Appeal Committee noted that the appellant institution send a request for closure of the programme with a resolution signed by the Secretary of the institution alongwith an original Affidavit on Rs.100/- stamp paper and considering the same the NRC accepted the closure of the programme being run by the appellant institution. Appeal Committee concluded that the NRC was justified in withdrawing the recognition and decided that the instant appeal deserves to be rejected and therefore, the impugned withdrawal order dated 14.08.2023 issued by NRC is confirmed.

IV. DECISION: -

After perusal of the Appeal Report, documents on record and oral arguments advanced during the online hearing, Appeal Committee of the Council concluded that the NRC was justified in withdrawing the recognition and decided that the instant appeal deserves to be rejected and therefore, the impugned withdrawal order dated 14.08.2023 issued by NRC is confirmed.

उपरोक्त निर्णय अपील समिति की ओर से सूचित किया जा रहा है।/ The above decision is being communicated on behalf of the Appeal Committee



उप सचिव (अपील) / Deputy Secretary (Appeal)

Copy to :-

- 1. The Principal, Maa Gayatri Arya Kanya Mahavidyalaya, 3295, Jalesar, Etah, Uttar Pradesh-207302**
- 2. The Secretary, Ministry of Education, Department of School Education & Literacy, Shastri Bhawan, New Delhi.**
- 3. Regional Director, Northern Regional Committee, Plot No. G-7, Sector-10, Dwarka, New Delhi – 110075.**
- 4. The Secretary, Education (looking after Teacher Education) Government of Uttar Pradesh.**



एनसीटीई अपीलिय प्राधिकरण में/ IN THE NCTE APPELLATE AUTHORITY

राष्ट्रीय अध्यापक शिक्षा परिषद् (एन.सी.टी.ई.)
जी-7, सेक्टर-10, द्वारका, नई दिल्ली-110075

NATIONAL COUNCIL FOR TEACHER EDUCATION (NCTE)
G-7, Sector-10, Dwarka, New Delhi-110075

दिनांक/ Date - 01/02/2024

एनसीटीई अधिनियम की धारा 18 के तहत दायर अपील/
APPEAL FILED UNDER SECTION 18 OF NCTE ACT

File No. 89-126/E-311602/2023 Appeal/1st Meeting, 2024
APPLERC202314642

Education Department, Babasaheb Bhimrao Ambedkar Bihar University, 742-743, Khabra, Main Road, B. U. Campus, Muzaffarpur, Bihar- 842001	<u>Vs</u>	Eastern Regional Committee, Plot No. G-7, Sector – 10, Dwarka, New Delhi -110075.
APPELLANT		RESPONDENT

Representative of Appellant	Dr. Mayank Kapila, Assistant Professor
Respondent by	Regional Director, ERC
Date of Hearing	11.01.2024
Date of Pronouncement	01.02.2024

आदेश/ ORDER

I. GROUND OF WITHDRAWAL

The appeal of **Education Department, Babasaheb Bhimrao Ambedkar Bihar University, 742-743, Khabra, Main Road, B. U. Campus, Muzaffarpur, Bihar-842001** dated 25.07.2023 filed under Section 18 of NCTE Act, 1993 is against the Order No. **F.No.ER-316.4/ERCAPP2681/B.Ed. M.Ed. (3 year Integrated)/BR/2022/ 67110** dated 04.01.2023 of the Eastern Regional Committee, withdrawing recognition for conducting B.Ed. M.Ed. (3 year Integrated) Course on the grounds that "The Committee observed that the institution has not submitted the reply of First Show Cause Notice dated 05.08.2022 and Final Show Cause Notice dated 20.10.2022 issued to it for non-submission of Performance Appraisal Report (PAR) for the academic session 2020-21."

II. SUBMISSIONS MADE BY APPELLANT: -

Dr. Mayank Kapila, Assistant Professor of Education Department, Babasaheb Bhimrao Ambedkar Bihar University, 742-743, Khabra, Main Road, B. U. Campus, Muzaffarpur, Bihar-842001 appeared online to present the case of the appellant institution on 11.01.2024. In the appeal report, it is submitted that "Facts (a) The Appellant is a state university located in Muzaffarpur, Bihar. Established in 1960, the Appellant has 37 constituent colleges and also offers Distance education courses. It is a premier institution of teaching and learning in the city and offers full-time and part-time courses ranging from undergraduate to postgraduate and research level. (b) The Courses offered by the Appellant are approved from University Grants Commission (UGC). The Appellant also acts as an affiliated link between several colleges and institutes located across the state in providing higher education and is also a member of The Association of Indian Universities (AIU). (c) On 05.01.2015, the Advisory Council of the Appellant approved the decision to form University Department of Education. On 20.01.2015, the Academic Council, on 21.01.2015, the Senate and on 11.02.2015, the Assembly in their respective meetings approved the said decision as well. (d) On 28.05.2015, the said University Department of Education of the Appellant filed an Application before ERC (NCTE) under Section 15(1) of the NCTE Act, 1993 for grant of recognition/permission for B.Ed. M.Ed. (3 year Integrated) programme through online mode for duration of 2 years. On 06.07.2015, the ERC (NCTE) received the hard copy of the said


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application. (e) In the meantime, on 09.06.2016, a meeting of Advisory Council of Directorate of Distance Education was held wherein the Vice Chancellor of Appellant on the recommendation of the said council constituted an Advisory Council for University Department of Education. (f) On 17.08.2016, the notification for constitution of Advisory Council of University Department of Education was released. True copy of notification dated 17.08.2016 is annexed hereto as Annexure-A2. (g) On 18.08.2016, a meeting of Advisory Council was held whereby among other resolutions, the draft proposal to be sent to the State Government for starting the concerned Department and approval of various new courses including B.Ed. M.Ed. (3 year Integrated) programme was approved and it was further resolved that Registrar will send the same to the State Government for its approval under his signature. (h) The Advisory Council resolved that the B.Ed. M.Ed. (3 year Integrated) programme along with other three courses will be started in the Appellant University only after the approval of the State Government. The Appellant thereafter sent the draft proposal for approval of the State Government. (i) The approval was not granted by the State Government even after repeated requests. The tenure of Advisory Council ended before receiving the approval and a new Advisory Council was to be constituted. (j) Meanwhile, the ERC scrutinized the Application along with the documents, affidavit submitted by the Appellant, the report received from VT and videography and the certificates received from the affiliating body. (k) After scrutinizing the documents, the ERC was satisfied that the Appellant has fulfilled the requirements under the provisions of NCTE Act, Rules and relevant Regulations including the Norms and Standards for the said teacher education programme such as instructional facilities, infrastructural facilities, financial resources, etc. For running the programme. (l) On 18.04.2017, the Eastern Regional Committee (ERC), in exercise of powers vested under Section 15(3) (a) of the NCTE Act, 1993 granted recognition to Appellant for conducting B.Ed. M.Ed. programme (3 year Integrated) vide recognition order no. ER-237.6.49/ERCAPP2681/3 Yr. Integrated B.Ed. M.Ed./2017/52391, annexed as Annexure-A1, for two years' duration with annual intake of 50 students from the academic session 2017-2018 onwards under clause 7(16) of NCTE (Recognition Norms & Procedure) Regulations, 2014 subject to fulfilment of following conditions- i. The institution shall comply with the various other norms and standards prescribed in the NCTE regulations, as amended from time to time. ii. The institution shall make admission only after it obtains affiliation from the examining body in terms of clause 8(10) of the NCTE (Recognition Norms & Procedure) Regulation 2014 iii. The institution shall ensure that the required number of academic staff duly approved by affiliating body for conducting the course should always remain in position. The other stipulated conditions were as follows i. The recognition/ permission is subject to fulfilment of all such other



requirements as may be prescribed by other regulatory bodies like UGC, affiliating University/Body, the State Government etc., as applicable. ii. The institution shall submit to the Regional Committee a Self-Appraisal Report at the end of each academic year along with the statement of annual accounts duly audited by a Chartered Accountant. iii. The institution shall maintain its website with hyperlink to the Council and the ERC, covering, inter-alia, the details of the institution, its location, name of the programme applied for with intake availability of physical infrastructure, such as land, building, office, classrooms and other facilities or amenities instructional facilities, such as laboratory and library and the particulars of their proposed teaching faculty and non-teaching staff with photographs, for information of all concerned. The information with regard to the following shall also be made available on the website namely- (a) Sanctioned programmes along with annual intake in the institution (b) Name of the faculty and staff in full as mentioned in school certificate along with their qualifications, scale of pay and photograph (c) Name of faculty members who left or joined during the last quarter (d) Names of students admitted during the current session along with qualification, percentage of marks in the qualifying examination and in the entrance test, if any, date of admission, etc. (e) Fee charged from students (f) Available infrastructural facilities (g) Facilities added during the last quarter (h) Number of books in the library, journals subscribed to, and additions, if any, in the last quarter (i) The affidavit with enclosure submitted along the application (j) The institution shall be free to post additional relevant information, if it so desires (k) Any false or incomplete information on its website shall render the institution liable for withdrawal of recognition. iv. The institution shall adhere to the mandatory disclosure in the prescribed format and display up to date information on its official website. v. The institution shall make available list of students admitted on its official website. vi. The Education institution shall follow Uniform Accounting System as brought out by ICAI and accepted by MHRD. (m) On 09.12.2019, the Committee of Internal Quality Assurance Centre, Directorate of Distance Education, B.R.A. Bihar University, in its meeting decided that University Department of Education will introduce B.Ed. M.Ed. (3 year Integrated) programme with three other courses under self-financing scheme. The said decision was approved by Academic Council and by the Senate in their meetings held on 17.01.2020 and on 24.01.2020 respectively (n) On 06.02.2020, another meeting was conducted by Committee of Internal Quality Assurance Centre, and it was decided that the courses will start only after taking approval and NO Objection Certificate from the State Government. (o) On 30.07.2020, the Appellant requested the Director, Department of Higher Education, Government of Bihar vide letter no. DDE/769 to grant approval and issue No Objection Certificate for commencing the said courses approved in the meetings conducted by CIQA. True copy of letter no. DDE/769



dated 30.07.2020 is annexed hereto as Annexure-A3. (p) On 16.11.2020, the Appellant again wrote letter to the Director, Department of Higher Education, Government of Bihar vide letter no. DDE/799 for granting the NOC to start the courses. True copy of second letter no. DDE/799 dated 16.11.2020 is annexed hereto as Annexure-A4. (q) Being under the impression that the Appellant is required to obtain NOC from the State Government and approval from the Chancellor, the Appellant again wrote letter being letter no. DDE/803 dated 06.12.2020 to approve its request and grant NOC in respect of the courses approved by NCTE. True copy of third letter dated 06.12.2020 is annexed hereto as Annexure-A5. (r) After repeated requests by Appellant for issuing No Objection Certificate, the Director, Research & Training, Department of Education responded vide letter dated 16.12.2020 to the requests of Appellant stating that the NOC from the Department of Education is required before recognition from NCTE and there is no need for NOC after receiving recognition from NCTE. True copy of response received from Director, Research & Training, Department of Education dated 16.12.2020 is annexed hereto as Annexure-A6. (s) Thereafter, on 12th – 13th July 2022, the ERC in its 306th meeting decided to issue show cause notice under Section 17(1) of NCTE Act, 1993 to all the institutions which had not filed Performance Appraisal Report (PAR) on the ground that the institution has breached the condition of recognition as per the provisions of clause 8(12) NCTE Regulations 2014 and also clause 7(14) of NCTE Regulations, 2014 which is related to uploading information on the website, if the website of these institutions are not working. Accordingly, the Appellant was issued Show Cause Notice on 05.08.2022. (t) On 05.08.2022, as result of the said decision, the Appellant was issued Show Cause Notice for non-submission of Performance Appraisal Report. (u) The matter was again considered by ERC in its 311th (Virtual) meeting held on 11.10.2022 and it was decided that Final Show Cause Notice be issued to the institutions before withdrawal of recognition under Section 17 of the NCTE Act, 1993 to submit reply within 15 days from the date of issue of Final Show Cause Notice. (v) On 28.10.2022, the Final Show Cause Notice was issued to the Appellant to submit its reply within 15 days for non-submission of PAR. True copy of Final Show Cause Notice dated 28.10.2022 is annexed hereto as Annexure-A7. (w) Thereafter, on 04.01.2023, Regional Director, ERC issued withdrawal order and it was observed that the Appellant has not submitted reply of First Show Cause Notice dated 05.08.2022 and Final Show Cause Notice dated 28.10.2022 issued to it for non-submission of Performance Appraisal Report for the academic session 2020-2021. Therefore, the recognition granted to Appellant for the said course was withdrawn with effect from the end of next academic session following the date of communication of withdrawal order. • Explanation (x) In view of the above stated facts and circumstance, it is submitted that the Appellant was under the impression that

for commencing the course, a No Objection Certificate is to be obtained from the State Government. To obtain the same, the Appellant was continuously corresponding the State Government but no response from the Government was received till 16.12.2020. (y) The response received from the Director, Research & Training, Department of Education clarified that there is no requirement of NOC after the recognition is granted by the NCTE (z) The similar position was confirmed by Hon'ble Patna High Court in Vijay Kumar & Ors. V. State of Bihar & Ors. (Civil Writ Jurisdiction Case No.23014 of 2018) vide Judgment dated 23.12.2020 and it was held that "...taking into account the well-settled law to the effect that the law made with regard to the technical institutions by the Parliament would prevail and the State Government would not have parallel powers especially in view of enactment of the NCTE Act, 1993 by the Parliament, coupled with the fact that the respondent B.R.A. Bihar University, Muzaffarpur has been granted approval / recognition both by the NCTE as well as by the UGC to conduct the B.Ed. (ODL mode) programme for the session 2014-15 onwards, no encumbrance/hurdle can be put forth, either by the State Government or by the Chancellor, in view of law laid by the Hon'ble Apex Court in the case of Sant Dnyaneshwar Shikshan Shastra Mahavidyalaya & ors. ((2006) 9 SCC 1) and Maa Vaishno Devi Mahila Mahavidyalaya ((2013) 2 SCC 617) as also by the learned Division Bench of this Court in the case of Mata Gujri Memorial Medical College & L.S.K. Hospital ((1995) 1 PLJR 237), Mata Gujri Memorial Medical College (AIR 1994 Pat 22) and Nawadah Vidhi Mahavidyalaya, Nawadah & Ors. (C.W.J.C. No. 5855 of 1993) ..." (aa) The above stated position became clear only in the month of December, 2020 and therefore, the academic session 2020-2021 for the said course could not be commenced by the Appellant. Apart from the above-mentioned reasons, no steps could be undertaken by the Appellant as the country was under complete lockdown due to COVID-19 pandemic from March 2020. (bb) It is submitted that since the academic session 2020-2021 under the said course could not be commenced due to above mentioned reasons, no Performance Appraisal Reports as per the conditions stipulated in the recognition order dated 18.04.2017 was prepared. There was no intake of students, no admission fee was collected, and list of the faculty was approved but not appointed. The Appellant did not incur any expenditure with regard to the course as only 3 months were left in the academic session 2020-2021. Therefore, no information was updated on the website. (cc) It is further submitted the ERC failed to give an opportunity to undertake remedial action to the Appellant and withdrew the recognition for B.Ed. M.Ed. (3 year Integrated) programme for non-submission of PAR. The Hon'ble Apex Court in National Council for Teacher Education v. Vaishnav Institute of Technology & Management, (2012) 5 SCC 139 observed that "22. Once recognition has been granted by the Regional Committee to an



institution, the Council has to ensure that such recognised institution functions in accordance with the 1993 Act. To achieve that objective, the Council has to get inspection of recognised institution done periodically and, if such institution is found wanting in its functioning as required, then recommend to the institution the remedial action to be taken by it as a result of the inspection. 25. By Section 13, as a matter of law, it is intended that the Council ascertains whether the recognised institutions are functioning in accordance with the provisions of the 1993 Act or not. For that purpose, it empowers the Council to cause inspection of any such institution to be made by such persons as it may direct, and in such manner as may be prescribed. The Council may authorize the Regional Committee to carry out its function of inspection. But such inspection has to be made as prescribed in Rule 8 to find out whether such recognised institution is or is not functioning in accordance with the provisions of the 1993 Act. 27. On the inspection being completed as provided in sub-sections (1) and (2) of Section 13 of the 1993 Act read with Rule 8 of the 1997 Rules, the Council is required to communicate to the institution concerned its views with regard to the outcome of the inspection and, if deficiencies are found, to recommend to such institution to make up the deficiencies. The whole idea is that the Council as a parent body keeps an eye over the recognised institutions that they function in accordance with the 1993 Act and the Rules and the Regulations and Orders made or issued thereunder and, if any recognised institution is found wanting in its functioning, it is given an opportunity to rectify the deficiencies. 28. Derecognition or withdrawal of recognition of a recognised institution is a drastic measure. It results in dislocating the students, teachers and the staff. That is why, the Council has been empowered under Section 13 to have a constant vigil on the functioning of a recognised institution. On the recommendation of the Council after inspection, if a recognised institution does not rectify the deficiencies and continues to function in contravention of the provisions of the 1993 Act or the Rules or the Regulations, the Regional Committee under Section 17 has full power to proceed for withdrawal of recognition in accordance with the procedure prescribed therein.” (dd) In view of the above reasons, the Appellant submits that the Appellant is willing to commence new academic session for the year 2023-2024 for B.Ed. M.Ed. (3 year Integrated) programme. It is most humbly prayed that the withdrawal of recognition granted to Appellant is set aside and Appellant may be allowed to commence the said course for the academic session 2023-2024. (ii). It is submitted that the Appellant did not reply to the show cause notices as the Appellant has to take approval of the Advisory Council headed by Vice Chancellor of the University for taking administrative and authoritative decisions. (b) It is submitted that the then Vice Chancellor was severely ill and was on bed rest. Therefore, the Appellant could not convene any meeting of the Advisory Council and take decisions pertaining



to administrative functions of the Appellant. (c) It is further submitted that the then Vice Chancellor retired in the month of March 2023. The new Officiating Vice Chancellor was appointed but had no decision-making authority, as no policy decision could be taken without the approval of the Chancellor (i.e., Governor). True copy of the Notification bearing No. BSU(VC) – 40/2019-368/GS(I) dated 10.03.2023 issued by the Governor's Secretariat, Bihar is annexed hereto as Annexure-A8. Trite that the Office of the Governor is hard pressed for time and the processes and procedures for even seeking approval for constituting decisions making bodies (such as Advisory Council, Academic Council, Finance Committee, Syndicate etc.) is fraught with delay. (d) It was only by the Notification No. BU-09/2023-774 dated 26.05.2023 issued by the Governor's Secretariat, Bihar that the current Officiating Vice Chancellor was authorized to convene the necessary Council (i.e., Advisory Council or Academic Council) required for taking decisions on policy matters. True copy Notification No. BU-09/2023-774 dated 26.05.2023 issued by the Governor's Secretariat, Bihar is annexed as Annexure-A9. (e) In view of the above circumstances, being a State University, the Appellant could not submit reply to Show Cause Notice without proper discussions and authorization of the Advisory Council under the Chairmanship of the Vice Chancellor."

III. OUTCOME OF THE CASE

The Appeal Committee in its 1st Meeting, 2024 held online on 11th January, 2024 perused the relevant records and the documents submitted by appellant institution in the Appeal Report, documents on record and oral arguments advanced during the meeting.

The Appeal Committee noted that the appellant institution was granted recognition for B.Ed. M.Ed. (3 year Integrated) Course with an annual intake of 50 students vide order dated 18.04.2017. The recognition of the institution for B.Ed. M.Ed. (3 year Integrated) programme was withdrawn by the ERC vide order dated 04.01.2023.

The Appeal Committee noted that the instant matter was placed in 11th Meeting, 2023 held on 27.09.2023 whereby the Appeal Committee decided to defer the matter. The operative part of the decision is as under: -

"The Appeal Committee during online appeal hearing held on 27th September, 2023 noted that a legal opinion dated 18.09.2023 has been received from the Legal Division, NCTE wherein the following has been concluded: -



"In view of the interim order dated 06.07.2013, passed by the Hon'ble Supreme Court in SLP (C) No.11756/2023, it is being clarified that the NCTE may take action against the institutes for non-compliance of PAR under the provisions of the NCTE Act and as per the Notice dated 22.09.2019. However, importantly, the NCTE can take such action only during the time the stay granted by the Supreme Court is in operation. Therefore, in these circumstances the NCTE must be cautioned about the legal implications which may arise, as the SLP (C) 11756/2023 against the order dated 13.03.2023 passed by the High Court is pending before the Supreme Court.

The above constitute opinion and advise vis a vis the queries raised considering the above facts and NCTE current regulations. Trust, you would find them in order."

The Committee observed that one of the grounds of withdrawal of the recognition of the said institution was done on the basis of non-filing of PAR. The Committee noted that by virtue of order dated 13.03.2023 the Hon'ble High Court Delhi has disposed of the LPA 190/2021 & LPA 520/2022. Thereafter, aggrieved by the said order the NCTE has filed a SLP No. 11756 of 2023 before the Hon'ble Supreme Court of India. The Committee also noted that the said matter was sub-judice before the Hon'ble Supreme Court of India in which the Hon'ble Court has granted interim order dated 06.07.2023 whereby the operation of impugned order has been stayed.

The Appeal Committee after taking into consideration the legal opinion dated 18.09.2023 from the NCTE Hq. (Legal Division) decided to keep the matter pending before the Appeal Committee till the above SLP is finally adjudicated by the Hon'ble Supreme Court.

IV. DECISION: -

Keeping in view of Legal Opinion, the Appeal Committee decided to defer the matter until the SLP is finally adjudicated by the Hon'ble Supreme Court of India."

The Appellant institution has submitted a representation dated 25.11.2023 to the Chairperson, NCTE for speedy adjudication and disposal of the Appeal No. 89-126/E-311602/2023 filed by the Babasaheb Bhimrao Ambedkar Bihar University before the NCTE Appellate Authority. Furthermore, the Appellant Institute brought to the notice of the Committee that, since 2020 the Appellant Institution did not commence the said course and therefore, no Performance Appraisal Report was submitted as there were no intake of students, no admission fee was collected and the list of faculty was approved however, the same was not appointed.

In view of the above, the Appeal Committee placed the matter in its 1st Meeting, 2024 held on 11.01.2024 observed that the matter is still sub-judice before the Hon'ble



Supreme court. Hence, the Appeal Committee has decided not to entertain the said Appeal till the final adjudication of the matter by the Hon'ble Supreme Court.

IV. DECISION: -

After perusal of the Appeal Report, document on record and oral arguments advanced during the online hearing, Appeal Committee of the Council has decided not to entertain the said Appeal till the final adjudication of the matter by the Hon'ble Supreme Court.

उपरोक्त निर्णय अपील समिति की ओर से सूचित किया जा रहा है।/ The above decision is being communicated on behalf of the Appeal Committee



उप सचिव (अपील) / Deputy Secretary (Appeal)

Copy to :-

1. **The Principal, Education Department, Babasaheb Bhimrao Ambedkar Bihar University, 742-743, Khabra, Main Road, B. U. Campus, Muzaffarpur, Bihar-842001**
2. The Secretary, Ministry of Education, Department of School Education & Literacy, Shastri Bhawan, New Delhi.
3. Regional Director, Eastern Regional Committee, Plot No. G-7, Sector-10, Dwarka, New Delhi – 110075.
4. The Secretary, Education (looking after Teacher Education) Government of Bihar.



एनसीटीई अपीलिय प्राधिकरण में/ IN THE NCTE APPELLATE AUTHORITY

राष्ट्रीय अध्यापक शिक्षा परिषद् (एन.सी.टी.ई.)
जी-7, सेक्टर-10, द्वारका, नई दिल्ली-110075

NATIONAL COUNCIL FOR TEACHER EDUCATION (NCTE)
G-7, Sector-10, Dwarka, New Delhi-110075

दिनांक/ Date - 01/02/2024

एनसीटीई अधिनियम की धारा 18 के तहत दायर अपील/
APPEAL FILED UNDER SECTION 18 OF NCTE ACT

File No. 89-127/E-311606/2023 Appeal/1st Meeting, 2024
APPLERC202314643

Education Department, Babasaheb Bhimrao Ambedkar Bihar University, 742-743, Khabra, Main Road, B. U. Campus, Muzaffarpur, Bihar- 842001	<u>Vs</u>	Eastern Regional Committee, Plot No. G-7, Sector – 10, Dwarka, New Delhi -110075.
APPELLANT		RESPONDENT

Representative of Appellant	Dr. Mayank Kapila, Assistant Professor
Respondent by	Regional Director, ERC
Date of Hearing	11.01.2024
Date of Pronouncement	01.02.2024

Angshu

आदेश/ ORDER

I. GROUND OF WITHDRAWAL

The appeal of Education Department, Babasaheb Bhimrao Ambedkar Bihar University, 742-743, Khabra, Main Road, B. U. Campus, Muzaffarpur, Bihar-842001 dated 25.07.2023 filed under Section 18 of NCTE Act, 1993 is against the Order No. **F.No.ER-316.4/ERCAPP2678/M.Ed./BR/2022/67116** dated 04.01.2023 of the Eastern Regional Committee, withdrawing recognition for conducting M.Ed. Course on the grounds that "The Committee observed that the institution has not submitted the reply of First Show Cause Notice dated 05.08.2022 and Final Show Cause Notice dated 20.10.2022 issued to it for non-submission of Performance Appraisal Report (PAR) for the academic session 2020-21."

II. SUBMISSIONS MADE BY APPELLANT: -

Dr. Mayank Kapila, Assistant Professor of Education Department, Babasaheb Bhimrao Ambedkar Bihar University, 742-743, Khabra, Main Road, B. U. Campus, Muzaffarpur, Bihar-842001 appeared online to present the case of the appellant institution on 11.01.2024. In the appeal report, it is submitted that "Facts (a) The Appellant is a state university located in Muzaffarpur, Bihar. Established in 1960, the Appellant has 37 constituent colleges and also offers Distance education courses. It is a premier institution of teaching and learning in the city and offers full-time and part-time courses ranging from undergraduate to postgraduate and research level. (b) The Courses offered by the Appellant are approved from University Grants Commission (UGC). The Appellant also acts as an affiliated link between several colleges and institutes located across the state in providing higher education and is also a member of The Association of Indian Universities (AIU). (c) On 05.01.2015, the Advisory Council of the Appellant approved the decision to form University Department of Education. On 20.01.2015, the Academic Council, on 21.01.2015, the Senate and on 11.02.2015, the Assembly in their respective meetings approved the said decision as well. (d) On 28.05.2015, the said University Department of Education of the Appellant filed an Application before ERC (NCTE) under Section 15(1) of the NCTE Act, 1993 for grant of recognition/permission for B.Ed. M.Ed. (3 year Integrated) programme through online mode for duration of 2 years. On 06.07.2015, the ERC (NCTE) received the hard copy of the said



application. (e) In the meantime, on 09.06.2016, a meeting of Advisory Council of Directorate of Distance Education was held wherein the Vice Chancellor of Appellant on the recommendation of the said council constituted an Advisory Council for University Department of Education. (f) On 17.08.2016, the notification for constitution of Advisory Council of University Department of Education was released. True copy of notification dated 17.08.2016 is annexed hereto as Annexure-A2. (g) On 18.08.2016, a meeting of Advisory Council was held whereby among other resolutions, the draft proposal to be sent to the State Government for starting the concerned Department and approval of various new courses including B.Ed. M.Ed. (3 year Integrated) programme was approved and it was further resolved that Registrar will send the same to the State Government for its approval under his signature. (h) The Advisory Council resolved that the B.Ed. M.Ed. (3 year Integrated) programme along with other three courses will be started in the Appellant University only after the approval of the State Government. The Appellant thereafter sent the draft proposal for approval of the State Government. (i) The approval was not granted by the State Government even after repeated requests. The tenure of Advisory Council ended before receiving the approval and a new Advisory Council was to be constituted. (j) Meanwhile, the ERC scrutinized the Application along with the documents, affidavit submitted by the Appellant, the report received from VT and videography and the certificates received from the affiliating body. (k) After scrutinizing the documents, the ERC was satisfied that the Appellant has fulfilled the requirements under the provisions of NCTE Act, Rules and relevant Regulations including the Norms and Standards for the said teacher education programme such as instructional facilities, infrastructural facilities, financial resources, etc. For running the programme. (l) On 18.04.2017, the Eastern Regional Committee (ERC), in exercise of powers vested under Section 15(3) (a) of the NCTE Act, 1993 granted recognition to Appellant for conducting B.Ed. M.Ed. programme (3 year Integrated) vide recognition order no. ER-237.6.49/ERCAPP2681/3 Yr. Integrated B.Ed. M.Ed./2017/52391, annexed as Annexure-A1, for two years' duration with annual intake of 50 students from the academic session 2017-2018 onwards under clause 7(16) of NCTE (Recognition Norms & Procedure) Regulations, 2014 subject to fulfilment of following conditions- i. The institution shall comply with the various other norms and standards prescribed in the NCTE regulations, as amended from time to time. ii. The institution shall make admission only after it obtains affiliation from the examining body in terms of clause 8(10) of the NCTE (Recognition Norms & Procedure) Regulation 2014 iii. The institution shall ensure that the required number of academic staff duty approved by affiliating body for conducting the course should always remain in position. The other stipulated conditions were as follows i. The recognition/ permission is subject to fulfilment of all such other



requirements as may be prescribed by other regulatory bodies like UGC, affiliating University/Body, the State Government etc., as applicable. ii. The institution shall submit to the Regional Committee a Self-Appraisal Report at the end of each academic year along with the statement of annual accounts duly audited by a Chartered Accountant. iii. The institution shall maintain its website with hyperlink to the Council and the ERC, covering, inter-alia, the details of the institution, its location, name of the programme applied for with intake availability of physical infrastructure, such as land, building, office, classrooms and other facilities or amenities instructional facilities, such as laboratory and library and the particulars of their proposed teaching faculty and non-teaching staff with photographs, for information of all concerned. The information with regard to the following shall also be made available on the website namely- (a) Sanctioned programmes along with annual intake in the institution (b) Name of the faculty and staff in full as mentioned in school certificate along with their qualifications, scale of pay and photograph (c) Name of faculty members who left or joined during the last quarter (d) Names of students admitted during the current session along with qualification, percentage of marks in the qualifying examination and in the entrance test, if any, date of admission, etc. (e) Fee charged from students (f) Available infrastructural facilities (g) Facilities added during the last quarter (h) Number of books in the library, journals subscribed to, and additions, if any, in the last quarter (i) The affidavit with enclosure submitted along the application (j) The institution shall be free to post additional relevant information, if it so desires (k) Any false or incomplete information on its website shall render the institution liable for withdrawal of recognition. iv. The institution shall adhere to the mandatory disclosure in the prescribed format and display up to date information on its official website. v. The institution shall make available list of students admitted on its official website. vi. The Education institution shall follow Uniform Accounting System as brought out by ICAI and accepted by MHRD. (m) On 09.12.2019, the Committee of Internal Quality Assurance Centre, Directorate of Distance Education, B.R.A. Bihar University, in its meeting decided that University Department of Education will introduce B.Ed. M.Ed. (3 year Integrated) programme with three other courses under self-financing scheme. The said decision was approved by Academic Council and by the Senate in their meetings held on 17.01.2020 and on 24.01.2020 respectively (n) On 06.02.2020, another meeting was conducted by Committee of Internal Quality Assurance Centre, and it was decided that the courses will start only after taking approval and NO Objection Certificate from the State Government. (o) On 30.07.2020, the Appellant requested the Director, Department of Higher Education, Government of Bihar vide letter no. DDE/769 to grant approval and issue No Objection Certificate for commencing the said courses approved in the meetings conducted by CIQA. True copy of letter no. DDE/769



dated 30.07.2020 is annexed hereto as Annexure-A3. (p) On 16.11.2020, the Appellant again wrote letter to the Director, Department of Higher Education, Government of Bihar vide letter no. DDE/799 for granting the NOC to start the courses. True copy of second letter no. DDE/799 dated 16.11.2020 is annexed hereto as Annexure-A4. (q) Being under the impression that the Appellant is required to obtain NOC from the State Government and approval from the Chancellor, the Appellant again wrote letter being letter no. DDE/803 dated 06.12.2020 to approve its request and grant NOC in respect of the courses approved by NCTE. True copy of third letter dated 06.12.2020 is annexed hereto as Annexure-A5. (r) After repeated requests by Appellant for issuing No Objection Certificate, the Director, Research & Training, Department of Education responded vide letter dated 16.12.2020 to the requests of Appellant stating that the NOC from the Department of Education is required before recognition from NCTE and there is no need for NOC after receiving recognition from NCTE. True copy of response received from Director, Research & Training, Department of Education dated 16.12.2020 is annexed hereto as Annexure-A6. (s) Thereafter, on 12th – 13th July 2022, the ERC in its 306th meeting decided to issue show cause notice under Section 17(1) of NCTE Act, 1993 to all the institutions which had not filed Performance Appraisal Report (PAR) on the ground that the institution has breached the condition of recognition as per the provisions of clause 8(12) NCTE Regulations 2014 and also clause 7(14) of NCTE Regulations, 2014 which is related to uploading information on the website, if the website of these institutions are not working. Accordingly, the Appellant was issued Show Cause Notice on 05.08.2022. (t) On 05.08.2022, as result of the said decision, the Appellant was issued Show Cause Notice for non-submission of Performance Appraisal Report. (u) The matter was again considered by ERC in its 311th (Virtual) meeting held on 11.10.2022 and it was decided that Final Show Cause Notice be issued to the institutions before withdrawal of recognition under Section 17 of the NCTE Act, 1993 to submit reply within 15 days from the date of issue of Final Show Cause Notice. (v) On 28.10.2022, the Final Show Cause Notice was issued to the Appellant to submit its reply within 15 days for non-submission of PAR. True copy of Final Show Cause Notice dated 28.10.2022 is annexed hereto as Annexure-A7. (w) Thereafter, on 04.01.2023, Regional Director, ERC issued withdrawal order and it was observed that the Appellant has not submitted reply of First Show Cause Notice dated 05.08.2022 and Final Show Cause Notice dated 28.10.2022 issued to it for non-submission of Performance Appraisal Report for the academic session 2020-2021. Therefore, the recognition granted to Appellant for the said course was withdrawn with effect from the end of next academic session following the date of communication of withdrawal order. • Explanation (x) In view of the above stated facts and circumstance, it is submitted that the Appellant was under the impression that



for commencing the course, a No Objection Certificate is to be obtained from the State Government. To obtain the same, the Appellant was continuously corresponding the State Government but no response from the Government was received till 16.12.2020. (y) The response received from the Director, Research & Training, Department of Education clarified that there is no requirement of NOC after the recognition is granted by the NCTE (z) The similar position was confirmed by Hon'ble Patna High Court in Vijay Kumar & Ors. V. State of Bihar & Ors. (Civil Writ Jurisdiction Case No.23014 of 2018) vide Judgment dated 23.12.2020 and it was held that "...taking into account the well-settled law to the effect that the law made with regard to the technical institutions by the Parliament would prevail and the State Government would not have parallel powers especially in view of enactment of the NCTE Act, 1993 by the Parliament, coupled with the fact that the respondent B.R.A. Bihar University, Muzaffarpur has been granted approval / recognition both by the NCTE as well as by the UGC to conduct the B.Ed. (ODL mode) programme for the session 2014-15 onwards, no encumbrance/hurdle can be put forth, either by the State Government or by the Chancellor, in view of law laid by the Hon'ble Apex Court in the case of Sant Dnyaneshwar Shikshan Shastra Mahavidyalaya & ors. ((2006) 9 SCC 1) and Maa Vaishno Devi Mahila Mahavidyalaya ((2013) 2 SCC 617) as also by the learned Division Bench of this Court in the case of Mata Gujri Memorial Medical College & L.S.K. Hospital ((1995) 1 PLJR 237), Mata Gujri Memorial Medical College (AIR 1994 Pat 22) and Nawadah Vidhi Mahavidyalaya, Nawadah & Ors. (C.W.J.C. No. 5855 of 1993) ..." (aa) The above stated position became clear only in the month of December, 2020 and therefore, the academic session 2020-2021 for the said course could not be commenced by the Appellant. Apart from the above-mentioned reasons, no steps could be undertaken by the Appellant as the country was under complete lockdown due to COVID-19 pandemic from March 2020. (bb) It is submitted that since the academic session 2020-2021 under the said course could not be commenced due to above mentioned reasons, no Performance Appraisal Reports as per the conditions stipulated in the recognition order dated 18.04.2017 was prepared. There was no intake of students, no admission fee was collected, and list of the faculty was approved but not appointed. The Appellant did not incur any expenditure with regard to the course as only 3 months were left in the academic session 2020-2021. Therefore, no information was updated on the website. (cc) It is further submitted the ERC failed to give an opportunity to undertake remedial action to the Appellant and withdrew the recognition for B.Ed. M.Ed. (3 year Integrated) programme for non-submission of PAR. The Hon'ble Apex Court in National Council for Teacher Education v. Vaishnav Institute of Technology & Management, (2012) 5 SCC 139 observed that "22. Once recognition has been granted by the Regional Committee to an



institution, the Council has to ensure that such recognised institution functions in accordance with the 1993 Act. To achieve that objective, the Council has to get inspection of recognised institution done periodically and, if such institution is found wanting in its functioning as required, then recommend to the institution the remedial action to be taken by it as a result of the inspection. ... 25. By Section 13, as a matter of law, it is intended that the Council ascertains whether the recognised institutions are functioning in accordance with the provisions of the 1993 Act or not. For that purpose, it empowers the Council to cause inspection of any such institution to be made by such persons as it may direct, and in such manner as may be prescribed. The Council may authorize the Regional Committee to carry out its function of inspection. But such inspection has to be made as prescribed in Rule 8 to find out whether such recognised institution is or is not functioning in accordance with the provisions of the 1993 Act. 27. On the inspection being completed as provided in sub-sections (1) and (2) of Section 13 of the 1993 Act read with Rule 8 of the 1997 Rules, the Council is required to communicate to the institution concerned its views with regard to the outcome of the inspection and, if deficiencies are found, to recommend to such institution to make up the deficiencies. The whole idea is that the Council as a parent body keeps an eye over the recognised institutions that they function in accordance with the 1993 Act and the Rules and the Regulations and Orders made or issued thereunder and, if any recognised institution is found wanting in its functioning, it is given an opportunity to rectify the deficiencies. 28. Derecognition or withdrawal of recognition of a recognised institution is a drastic measure. It results in dislocating the students, teachers and the staff. That is why, the Council has been empowered under Section 13 to have a constant vigil on the functioning of a recognised institution. On the recommendation of the Council after inspection, if a recognised institution does not rectify the deficiencies and continues to function in contravention of the provisions of the 1993 Act or the Rules or the Regulations, the Regional Committee under Section 17 has full power to proceed for withdrawal of recognition in accordance with the procedure prescribed therein." (dd) In view of the above reasons, the Appellant submits that the Appellant is willing to commence new academic session for the year 2023-2024 for B.Ed. M.Ed. (3 year Integrated) programme. It is most humbly prayed that the withdrawal of recognition granted to Appellant is set aside and Appellant may be allowed to commence the said course for the academic session 2023-2024. (ii). It is submitted that the Appellant did not reply to the show cause notices as the Appellant has to take approval of the Advisory Council headed by Vice Chancellor of the University for taking administrative and authoritative decisions. (b) It is submitted that the then Vice Chancellor was severely ill and was on bed rest. Therefore, the Appellant could not convene any meeting of the Advisory Council and take decisions pertaining



to administrative functions of the Appellant. (c) It is further submitted that the then Vice Chancellor retired in the month of March 2023. The new Officiating Vice Chancellor was appointed but had no decision-making authority, as no policy decision could be taken without the approval of the Chancellor (i.e., Governor). True copy of the Notification bearing No. BSU(VC) – 40/2019-368/GS(I) dated 10.03.2023 issued by the Governor's Secretariat, Bihar is annexed hereto as Annexure-A8. Trite that the Office of the Governor is hard pressed for time and the processes and procedures for even seeking approval for constituting decisions making bodies (such as Advisory Council, Academic Council, Finance Committee, Syndicate etc.) is fraught with delay. (d) It was only by the Notification No. BU-09/2023-774 dated 26.05.2023 issued by the Governor's Secretariat, Bihar that the current Officiating Vice Chancellor was authorized to convene the necessary Council (i.e., Advisory Council or Academic Council) required for taking decisions on policy matters. True copy Notification No. BU-09/2023-774 dated 26.05.2023 issued by the Governor's Secretariat, Bihar is annexed as Annexure-A9. (e) In view of the above circumstances, being a State University, the Appellant could not submit reply to Show Cause Notice without proper discussions and authorization of the Advisory Council under the Chairmanship of the Vice Chancellor.”

III. OUTCOME OF THE CASE

The Appeal Committee in its 1st Meeting, 2024 held online on 11th January, 2024 perused the relevant records and the documents submitted by appellant institution in the Appeal Report, documents on record and oral arguments advanced during the meeting.

The Appeal Committee noted that the appellant institution was granted recognition for M.Ed. Course with an annual intake of 50 students vide order dated 02.05.2017. The recognition of the institution for M.Ed. programme was withdrawn by the ERC vide order dated 04.01.2023.

The Appeal Committee noted that the instant matter was placed in 11th Meeting, 2023 held on 27.09.2023 whereby the Appeal Committee decided to defer the matter. The operative part of the decision is as under: -

“The Appeal Committee during online appeal hearing held on 27th September, 2023 noted that a legal opinion dated 18.09.2023 has been received from the Legal Division, NCTE wherein the following has been concluded: -



"In view of the interim order dated 06.07.2013, passed by the Hon'ble Supreme Court in SLP (C) No.11756/2023, it is being clarified that the NCTE may take action against the institutes for non-compliance of PAR under the provisions of the NCTE Act and as per the Notice dated 22.09.2019. However, importantly, the NCTE can take such action only during the time the stay granted by the Supreme Court is in operation. Therefore, in these circumstances the NCTE must be cautioned about the legal implications which may arise, as the SLP (C) 11756/2023 against the order dated 13.03.2023 passed by the High Court is pending before the Supreme Court.

The above constitute opinion and advise vis a vis the queries raised considering the above facts and NCTE current regulations. Trust, you would find them in order."

The Committee observed that one of the grounds of withdrawal of the recognition of the said institution was done on the basis of non-filing of PAR. The Committee noted that by virtue of order dated 13.03.2023 the Hon'ble High Court Delhi has disposed of the LPA 190/2021 & LPA 520/2022. Thereafter, aggrieved by the said order the NCTE has filed a SLP No. 11756 of 2023 before the Hon'ble Supreme Court of India. The Committee also noted that the said matter was sub-judice before the Hon'ble Supreme Court of India in which the Hon'ble Court has granted interim order dated 06.07.2023 whereby the operation of impugned order has been stayed.

The Appeal Committee after taking into consideration the legal opinion dated 18.09.2023 from the NCTE Hq. (Legal Division) decided to keep the matter pending before the Appeal Committee till the above SLP is finally adjudicated by the Hon'ble Supreme Court.

IV. DECISION: -

Keeping in view of Legal Opinion, the Appeal Committee decided to defer the matter until the SLP is finally adjudicated by the Hon'ble Supreme Court of India."

The Appellant institution has submitted a representation dated 25.11.2023 to the Chairperson, NCTE for speedy adjudication and disposal of the Appeal No. 89-127/E-311606/2023 filed by the Babasaheb Bhimrao Ambedkar Bihar University before the NCTE Appellate Authority. Furthermore, the Appellant Institute brought to the notice of the Committee that, since 2020 the Appellant Institution did not commence the said course and therefore, no Performance Appraisal Report was submitted as there were no intake of students, no admission fee was collected and the list of faculty was approved however, the same was not appointed.

In view of the above, the Appeal Committee placed the matter in its 1st Meeting, 2024 held on 11.01.2024 observed that the matter is still sub-judice before the Hon'ble



Supreme court. Hence, the Appeal Committee has decided not to entertain the said Appeal till the final adjudication of the matter by the Hon'ble Supreme Court.

IV. DECISION: -

After perusal of the Appeal Report, document on record and oral arguments advanced during the online hearing, Appeal Committee of the Council has decided not to entertain the said Appeal till the final adjudication of the matter by the Hon'ble Supreme Court.

उपरोक्त निर्णय अपील समिति की ओर से सूचित किया जा रहा है।/ The above decision is being communicated on behalf of the Appeal Committee



उप सचिव (अपील) / Deputy Secretary (Appeal)

Copy to :-

1. **The Principal, Education Department, Babasaheb Bhimrao Ambedkar Bihar University, 742-743, Khabra, Main Road, B. U. Campus, Muzaffarpur, Bihar-842001**
2. **The Secretary, Ministry of Education, Department of School Education & Literacy, Shastri Bhawan, New Delhi.**
3. **Regional Director, Eastern Regional Committee, Plot No. G-7, Sector-10, Dwarka, New Delhi – 110075.**
4. **The Secretary, Education (looking after Teacher Education) Government of Bihar.**