

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 3505 OF 2012
(arising out of S.L.P. (Civil) No. 233 OF 2011)

NATIONAL COUNCIL FOR TECH.EDU. & ANR.

Appellant(s)

VERSUS

VAISHNAV INST.OF TECH.& MGT.

Respondent(s)

WITH

CIVIL APPEAL NO. 3518 OF 2012
(arising out of SLP(C) NO. 12101 of 2011)

CIVIL APPEAL NO. 3519 OF 2012
(arising out of SLP(C) NO. 12355 of 2011)

CIVIL APPEAL NO. 3520 OF 2012
(arising out of SLP(C) NO. 12738 of 2011)

CIVIL APPEAL NO. 3521 OF 2012
(arising out of SLP(C) NO. 12803 of 2011)

CIVIL APPEAL NO. 3522 OF 2012
(arising out of SLP(C) NO. 12815 of 2011)

CIVIL APPEAL NO. 3523 OF 2012
(arising out of SLP(C) NO. 12890 of 2011)

CIVIL APPEAL NO. 3524 OF 2012
(arising out of SLP(C) NO. 12963 of 2011)

CIVIL APPEAL NO. 3525 OF 2012
(arising out of SLP(C) NO. 13023 of 2011)

CIVIL APPEAL NO. 3526 OF 2012
(arising out of SLP(C) NO. 15239 of 2011)

CIVIL APPEAL NO. 3506 OF 2012
(arising out of SLP(C) NO. 21796 of 2011)

CIVIL APPEAL NO. 3507 OF 2012
(arising out of SLP(C) NO. 21797 of 2011)

CIVIL APPEAL NO. 3508 OF 2012
(arising out of SLP(C) NO. 21798 of 2011)

CIVIL APPEAL NO. 3509 OF 2012
(arising out of SLP(C) NO. 21906 of 2011)

CIVIL APPEAL NO. 3510 OF 2012
(arising out of SLP(C) NO. 21907 of 2011)

CIVIL APPEAL NO. 3511 OF 2012
(arising out of SLP(C) NO. 21909 of 2011)

CIVIL APPEAL NO. 3512 OF 2012
(arising out of SLP(C) NO. 21910 of 2011)

CIVIL APPEAL NO. 3513 OF 2012
(arising out of SLP(C) NO. 25921 of 2011)

CIVIL APPEAL NO. 3514 OF 2012
(arising out of SLP(C) NO. 25922 of 2011)

CIVIL APPEAL NO. 3515 OF 2012
(arising out of SLP(C) NO. 25923 of 2011)

CIVIL APPEAL NO. 3516 OF 2012
(arising out of SLP(C) NO. 25925 of 2011)

CIVIL APPEAL NO. 3517 OF 2012
(arising out of SLP(C) NO. 25926 of 2011)

J U D G M E N T

R.M. LODHA, J.

Delay condoned in filing special leave petitions.

2. Interlocutory application for permission to delete respondent Nos. 3 and 4 from the array of parties in Special Leave Petition (Civil) No. 12815 of

2011 is allowed at the risk of the petitioner.

3. Leave granted.

4. Of these 22 Appeals, 9 arise from the judgment of the Delhi High Court and 13 from the different judgments of the Madhya Pradesh High Court. 13 Appeals arising from the judgments of the Madhya Pradesh High Court have been preferred by the National Council for Teacher Education (for short, 'NCTE' or 'Council') and the concerned Regional Committee. The 9 Appeals arising from the judgment of the Delhi High Court have been filed by various institutions.

5. In these Appeals, the common question for consideration is, where an action is contemplated against recognised institution under Section 17(1) of the National Council for Teacher Education Act, 1993, (for short, 'the 1993 Act') by the Regional Committee and inspection of such recognised institution is found necessary, whether such inspection must proceed under Section 13 of the 1993 Act or independent of Section 13, the Regional Committee is empowered to carry out inspection ?

6. The Madhya Pradesh High Court has taken the view that it is imperative on the part of the Council to issue notice under Section 13 of the 1993 Act to the recognised institution and, if on inspection under Section 13, contraventions are found, then a notice needs to be given by the Council to the concerned recognised institution pointing out to it the deficiencies noticed during inspection and, if the institution fails to remove the deficiencies so pointed out, the action under Section 17 may be taken.

7. The Delhi High Court has not accepted the above view of the Madhya Pradesh High Court. In the view of the Delhi High Court, the power of inspection by the Regional Committee is inherent in exercise of the power under Section 17 of the 1993 Act and it is not imperative on the part of the Council to issue notice under Section 13 of the 1993 Act before taking action under Section 17 of the 1993 Act.

8. Mr. Amitesh Kumar, learned counsel for the NCTE, stoutly defended the judgment of the Delhi High Court. He referred to Sections 13, 14, 15 and 17 of the 1993 Act and submitted that the provision of inspection under Section 13 is entirely different and the power of

Regional Committee conferred under Section 17 with regard to withdrawal of recognition and the consequences for contravention of the provisions of the 1993 Act, Rules, Regulations, etc. is self-contained and not circumscribed by the provision of inspection by the Council provided in Section 13. He submitted that Regional Committee might not be able to discharge its functions under Section 17 appropriately if for exercise of such power the provision of Section 13 is read into Section 17.

9. Learned counsel for the NCTE also raised the grievance about the nature of direction given by the Madhya Pradesh High Court in the impugned judgments.

10. On the other hand, learned counsel for the institutions supported the view of the Madhya Pradesh High Court. They submitted that the view of the Delhi High Court was not in conformity with the statutory scheme under the 1993 Act and the rules framed thereunder.

11. The 1993 Act was enacted by the Parliament to provide for the establishment of a National Council for Teacher Education with a view to achieving planned and co-ordinated development for the teacher education system throughout the country, the regulation and

proper maintenance of norms and standards in the teacher education system and for matters connected therewith. It came into force with effect from July 1, 1995.

12. Section 2 deals with definitions of the expressions used elsewhere in the 1993 Act. Section 2(c) defines "Council" as under :

"Section 2(c) "Council" means the National Council for Teacher Education established under sub-section (1) of section 3."

Section 2(i) defines "recognised institution" as under :

"Section 2(i) "recognised institution" means an institution recognised by the Council under section 14."

Section 2(j) defines "Regional Committee" as under :

"Section 2(j) "Regional Committee" means a committee established under Section 20."

According to Section 2(k), "Regulations" means regulations made under Section 32.

13. The establishment of the Council is provided in Section 3. According to sub-section (2) thereof, the Council is a body corporate having perpetual succession. Under sub-section (3) of Section 3, with the previous approval of the Central Government, the

Council may establish regional offices at other places in India while the head office of the Council is in Delhi.

14. Section 12 sets out the functions of the Council. Section 13, which is relevant for our purposes, reads as follows :-

"13. Inspection.-

(1) For the purposes of ascertaining whether the recognised institutions are functioning in accordance with the provision of this Act, the Council may cause inspection of any such institution, to be made by such persons as it may direct, and in such manner as may be prescribed.

(2) The Council shall communicate to the institution the date on which inspection under sub-section (1) is to be made and the institution shall be entitled to be associated with the inspection in such manner as may be prescribed.

(3) The Council shall communicate to the said institution, its views in regard to the results of any such inspection and may, after ascertaining the opinion of that institution, recommend to that institution the action to be taken as a result of such inspection.

(4) All communications to the institution under this section shall be made to the executive authority thereof, and the executive authority of the institution shall report to the Council the action, if any, which is proposed to be taken for the purposes of implementing any such recommendation as is referred to in sub-section (3).

15. Recognition of teacher education institutions is provided in Chapter IV of the 1993 Act. Sections 14,

15, 17 and 18, which are relevant for the consideration of the present matter, read as follows :

"14. Recognition of institutions offering course or training in teacher education.-(1) Every institution offering or intending to offer a course or training in teacher education on or after the appointed day, may, for grant of recognition under this Act, make an application to the Regional Committee concerned in such form and in such manner as may be determined by regulations:

Provided that an institution offering a course or training in teacher education immediately before the appointed day, shall be entitled to continue such course or training for a period of six months, if it has made an application for recognition within the said period and until the disposal of the application by the Regional Committee.

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

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

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

(b) if it is of the opinion that such

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

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

(4) Every order granting or refusing recognition to an institution for a course or training in teacher education under sub-section (3) shall be published in the Official Gazette and communicated in writing for appropriate action to such institution and to the concerned examining body, the local authority or the State Government and the Central Government.

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

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

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

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

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

regulations.

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

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

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

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

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

(4) Every order granting or refusing permission to a recognised institution for a new course or training in teacher education under sub-section (3), shall be published in the Official Gazette and communicated in writing for appropriate action to such recognised institution and to the concerned examining body, the local authority, the State Government and the Central Government.

17. Contravention of provisions of the Act and consequences thereof.-

(1) Where the Regional Committee is, on its own motion or on any representation received from any person, satisfied that a recognised institution has contravened any of the provisions of this Act, or the rules, regulations, orders made or issued thereunder, or any condition subject to which recognition under sub-section (3) of section 14 or permission under sub-section (3) of section 15 was granted, it may withdraw recognition of such recognised institution, for reasons to be recorded in writing:

Provided that no such order against the recognised institution shall be passed unless a reasonable opportunity of making representation against the proposed order has been given to such recognised institution:

Provided further that the order withdrawing or refusing recognition passed by the Regional Committee shall come into force only with effect from the end of the academic session next following the date of communication of such order.

(2) A copy of every order passed by the Regional Committee under sub-section (1), -

(a) shall be communicated to the recognised institution concerned and a copy thereof shall also be forwarded simultaneously to the University or the examining body to which such institution was affiliated for cancelling affiliation; and

(b) shall be published in the Official Gazette for general information.

(3) Once the recognition of a recognised institution is withdrawn under sub-section (1), such institution shall discontinue the course or training in teacher education, and the concerned University or the examining body shall cancel affiliation of the institution in accordance with the order passed under sub-section (1), with effect from the end of the academic session next following the date of communication of the said order.

(4) If an institution offers any course or training in teacher education after the coming into force of the order withdrawing recognition under sub-section (1), or where an institution offering a course or training in teacher education immediately before the appointed day fails or neglects to obtain recognition or permission under this Act, the qualification in teacher education obtained pursuant to such course or training or after undertaking a course or training in such institution, shall not be treated as a valid qualification for purposes of employment under the Central Government, any State Government or University, or in any school, college or other educational body aided by the Central Government or any State Government.

18. Appeals.-(1) Any person aggrieved by an order made under section 14 or section 15 or section 17 of the Act may prefer an appeal to the Council within such period as may be prescribed.

(2) No appeal shall be admitted if it is preferred after the expiry of the period prescribed therefor:

Provided that an appeal may be admitted after the expiry of the period prescribed therefor, if the appellant satisfied the Council that he had sufficient cause for not preferring the appeal within the prescribed period.

(3) Every appeal made under this section shall be made in such form and shall be accompanied

by a copy of the order appealed against and by such fees as may be prescribed.

(4) The procedure for disposing of an appeal shall be such as may be prescribed:

Provided that before disallowing an appeal, the appellant shall be given a reasonable opportunity to represent its case.

(5) The Council may confirm or reverse the order appealed against."

16. Section 20 deals with Regional Committees. Sub-section (1) thereof provides that the Council shall, by notification in the Official Gazette, establish the following Regional Committees, namely, (i) The Eastern Regional Committee; (ii) the Western Regional Committee; (iii) the Northern Regional Committee, and (iv) the Southern Regional Committee. Its composition, terms of the members, etc. are provided in different sub-sections. Sub-section (6) provides that the Regional Committee shall, in addition to its functions under Sections 14, 15 and 17, perform such other functions, as may be assigned to it by the Council or as may be determined by regulations.

17. The Council has been empowered to terminate the Regional Committee in the circumstances provided in Section 21. Section 27 empowers the Council to delegate its powers and functions, etc., except the power to make regulations under Section 32.

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18. Section 31 empowers the Central Government to make rules, while Section 32 empowers the Council to make regulations. In exercise of powers conferred under Section 31, the Central Government has framed the rules titled the National Council for Teacher Education Rules, 1997 (for short, 'the 1997 Rules'). Relevant rule for the purposes of our consideration is Rule 8, which deals with inspection. Rule 8 provides as under :

"8. Inspection :-

(1) The Council may inspect the recognised institutions in the manner specified in sub-rules (2) to (8).

(2) The Council shall approve a panel of names of experts in teacher education or educational administration who may be able to inspect the recognised institutions. The Chairman shall nominate at least two person out of the panel of experts to a inspection team.

(3) The Council shall give a notice of its intention to the institution alongwith a questionnaire in Form - 'IV' seeking information within fifteen days on all relevant matters relating to the institution.

(4) On receipt of the completed questionnaire, the Council shall communicate the names of the members of inspection team and the date of inspection to the institution.

(5) The institution to be inspected shall nominate its one officer or employee, to be associated with the inspection team.

(6) The inspection team shall ascertain as to whether the institution is functioning in accordance with the provisions of the Act and the rules and regulations made thereunder.

(7) The members of the inspection team may, if deem necessary, interact with the faculty members and other employees of the institution.

(8) The inspection team shall submit its report to the Council within a period of fifteen days from the last day of the inspection."

19. From the survey of the above provisions, it would be seen that the Council has been established for ensuring planned and co-ordinated development for the teacher education; for proper maintenance of norms and standards for teacher education and for discharge of diverse functions assigned to it in the 1993 Act. The Regional Committees are empowered to discharge their functions as statutorily provided in Sections 14, 15 and 17 and also such other functions which may be assigned to them by the Council or which may be provided in the regulations. For grant of recognition to an institution, the Regional Committee, on receipt of the application as prescribed, has to consider diverse aspects, particularly it has to be satisfied that such institution has adequate financial resources, accommodation, library, qualified staff, laboratory and that the applicant-institution fulfils other conditions

necessary for proper functioning for a course or training in teacher education. It is only after the Regional Committee issues recognition to an institution and that is notified in the Official Gazette, the Examining Body grants affiliation to such institution.

20. Under Section 15, the Regional Committee is empowered to grant permission for a new course or training to an institution which has already been granted recognition.

21. Section 17 empowers the Regional Committee to take action against recognised institution where it receives a representation from any person or it is suo motu satisfied that a recognised institution has contravened any of the provisions of the 1993 Act or the 1997 Rules, regulations, orders made or issued thereunder, etc. or the recognised institution has contravened the conditions of recognition.

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 inspection.

23. In view of the above statutory scheme, it is hard to appreciate the litigious approach of the council and the present controversy. If the Council feels that its function of inspection under Section 13 may be performed by the Regional Committees, it can so provide by invoking Section 20(6) or Section 27, as the case may be.

24. What is clear from the provisions of the 1993 Act is that post recognition, an institution acquires a different position. On recognition by the Regional Committee under Section 14 and on affiliation being granted by the Examining Body, once the recognised institution starts functioning, the interest of teachers, employees and the students intervene. In order to ensure that the recognised institutions function in accordance with the 1993 Act, the 1997 Rules, regulations and the conditions of recognition and, at the same time, functioning of such recognised institutions is not disturbed unnecessarily, the provision for inspection and follow-up action pursuant thereto has been made in Section 13. 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 authorise 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.

25. In the 1997 Rules framed by the Central Government, Rule 8 deals with inspection and sub-rule (6) provides that the inspection team shall ascertain as to whether the recognised institution is functioning in accordance with the provisions of the 1993 Act and the rules and regulations made thereunder.

26. On 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 concerned institution 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.

27. 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 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.

28. Sections 17 and 13 must be harmoniously construed. In exercise of its powers under Section 17, the Regional Committee may feel that inspection of a recognised institution is necessary before it can arrive at the satisfaction as to whether such recognised institution has contravened any of the provisions of the 1993 Act or the rules or the regulations or the orders made thereunder or breached the terms of the recognition. In that event, the route of inspection as provided under Section 13 has to be followed. If the Regional Committee has been authorised by the Council to perform its function of inspection, the Regional Committee may cause the inspection of recognition institution to be made as provided in Section 13 and prescribed in Rule 8. Where, however, the Regional Committee feels that the inspection of a recognised institution is not necessary for the proposed action under Section 17, obviously it can proceed in accordance with the law without following the route of inspection as provided under Section 13.

29. Mr. Amitesh Kumar, learned counsel for the NCTE, submitted that for an action under Section 17, inspection of the recognised institutions would be

necessary in most of the situations and, if the route of inspection under Section 13 was followed, it would result in delay and might affect right of appeal given to an aggrieved institution under Section 18 against the order of the Regional Committee passed under Section 17. The submission does not appeal us. It is hard to accept that unnecessary delay would occasion if inspection of a recognised institution is carried out in terms of Section 13 and as prescribed by Rule 8. Rather the inspection in that manner would bring objectivity and fairness. The guidelines for expeditious completion of such inspection can always be framed by the Council. The efficacy of right of appeal under Section 18 is not at all affected if the inspection of a recognised institution is done in the manner indicated above.

30. In view of the above, the view of the Delhi High Court does not commend us and we set aside the judgment of the Delhi High Court. The view of the Madhya Pradesh High Court to the extent it runs contrary to what we have noted above does not hold good. In other words, the view of the Madhya Pradesh High Court that before proceeding under Section 17 of the 1993 Act, the course of inspection provided in

Section 13 has to be necessarily followed in all situations is set aside. If satisfaction under Section 17 can be arrived at without inspection of a recognition institution, the Regional Committee is not required to follow the route of Section 13. However, where the Regional Committee forms an opinion that for its proper satisfaction as to whether a recognised institution has contravened the provisions of the 1993 Act or the rules or the regulations or the orders made or issued thereunder or the conditions of recognition, an inspection is necessary, then necessarily the inspection and follow-up action under Section 13 has to be followed. We answer the question accordingly.

31. It appears that the concerned institutions are presently not functional because of withdrawal of recognition. Insofar as Appeals arising from the Madhya Pradesh High Court are concerned, in the Appeals preferred by the NCTE, the Court by an interim order stayed the judgment of the Madhya Pradesh. As regards the Appeals filed by the institutions from the judgment of the Delhi High Court, we find that this Court refused to grant any stay in favour of the institutions. We are informed that with regard to the institutions who have appealed against the Delhi High

Court judgment, the Regional Committee had already ordered withdrawal of their recognition, but later on, the order of withdrawal of recognition was put in abeyance until the decision in the Writ Petitions. It would be, thus, seen that on dismissal of the Writ Petitions by the Delhi High Court, the order of withdrawal of recognition of the institutions has come into operation.

32. In what we have discussed above, in our considered view, interest of justice shall be subserved if the Council causes inspection of all the institutions concerned in these Appeals - which approached Madhya Pradesh High Court and Delhi High Court - being made as provided in Section 13 of the 1993 Act within six weeks from today. The Council shall communicate to the concerned institutions the result of such inspection and call upon the institutions to make up the deficiencies, if found during such inspection, as early as may be possible. With regard to the institutions where no deficiencies are found in the course of inspection or the institutions which make up deficiencies brought to their notice as a result of inspection, the Regional Committee shall issue appropriate order withdrawing order of derecognition.

In respect of the institutions which do not make up the deficiencies within time granted by the Council, the order of withdrawal of recognition by the Regional Committee shall stand.

33. Civil Appeals are disposed of as above with no order as to costs.

34. In view of the above, Interlocutory Applications, if any, do not survive and stand disposed of.

.....J.
(R.M. LODHA)

NEW DELHI;
APRIL 12, 2012

.....J.
(H.L. GOKHALE)