

F.SRO/NCTE/APSO8149/M.Ed/KA/2019 106027-6028

Date: 19/6/19

Show Cause Notice

WHEREAS, K.I.E.T College of P.G. & Research in Education, 60/1, 7th cross, Bismilla Nagar, Bannerghatta Main Road, Bangalore- 560029, Karnataka run by Karnataka International Education Trust® was granted recognition for M.Ed course with an intake of 25 students dated 06.03.2008. Enhancement of intake of 10 seats from existing 25 to 35 was permitted on 03.12.2010.

AND WHEREAS, a letter dated 20.7.2012 from Advocate Ashok Harnahalli's office along with the judgement in W.P. No.30609/2009 filed by Karnataka International Education Trust was received by this office on 27.08.2012.

AND WHEREAS, as per the letter the advocate had stated that "the above W.P. was filed questioning the communication dated 14.10.2009 issued by the Respeondent – SRC intimating the petitioner that the inspection of the petitioner institution will be conducted on 20.10.2009. As per directions, a draft letter to the institution along with a copy of the complaint and copy of the inspection report with a CC copy to the advocate is put up for perusal and approval/further orders, please. As per directions of the Advocate dated 20.7.2012 and in compliance to the Court order, a draft letter is issued to the institution on 29.8.2012 along with a copy of the complaint and a copy of the inspection report. A copy of the letter dated 29.8.2012 was also sent to the advocate for information.

AND WHEREAS, a copy of the Court order in W.P.No.30609 of 2009 dated 20.7.2012 is received from the Hon'ble High Court of Karnataka on 3.9.2012 between KIET and SRC, NCTE. The order dated 20th July, 2012 had stated that "petitioner would be made available copies of complaints following which notices Annexure-F was issued for inspection and in respect of which a report Annedure-R4 is submitted, to which the petitioner may submit an explanation or objection and extend an opportunity of hearing to the petitioner, nothing further survives for consideration in this petition and is accordingly disposed of. In continuation of the above letter regarding W.P.No.30609/2009, a reply is received from the institution on 11.10.2012 in response to this office letter dated 29.8.2012. Only signature is available in the reply. The name and designation of the person who has replied is not known.

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AND WHEREAS, this institution had submitted all the details with documentary evidence like photos, CDs in replying to the filled enquiries to your office on 30.7.2009. Regarding infrastructure the trust has its own land constructed pakka RCC building built-up area which is more than sufficient to run the Teacher Education programme. The certificate issued by the Govt. Engineer also submitted along with the filled enquiries. However, the copy of the same is enclosed herewith.

AND WHEREAS, in the meanwhile, a Notice is received on 17.09.2012 from the Hon'ble High Court of Karnataka at Bangalore in W.P.No.33635/2012 and 33913 of 2012 in which SRC, NCTE is the 4th respondent to appear before the Hon'ble Court on 17.9.2012. The writ petition is filed against Bangalore University and others by KIET and Pali Education Society. The petitioner is praying for interim relief staying the resolution dated 30.8.2012 and all the adverse action under and in pursuance thereof in so far as the same pertains to the petitioners only, pending disposal of this writ petition.

AND WHEREAS, a report is received on 14.9.2012 from the Chairman & on behalf of Members of Bangalore University Task force on M.Ed Colleges affiliated to Bangalore University. The reports states that "the Task force visited 7 M.Ed Colleges affiliated to Bangalore University and submitted its report to the Hon'ble Vice Chancellor on 22nd August,2012 and further a special meeting of Academic Council of Bangalore University was convened to discuss and approve the report of the Task force. In the light of the above, the members of Task force thought of appraising SRC on its findings for kind notice and necessary action".

AND WHEREAS, the SRC in its 233rd meeting held on 26th- 28thSeptember 2012 considered the report of Bangalore University, Task force of the 7M.Ed colleges affiliated to Bangalore University vide letter dated 14/09/2012 and it was decided to serve Show cause Notice under NCTE Act.

AND WHEREAS, a show cause notice was issued on 07.11.2012. The institution submitted a written representation on 29.11.2012.

AND WHEREAS, the SRC in its 241st meeting held on 30th March to 1st April 2013 considered the written reply of the institution and relevant documents of the institution and decided to withdraw recognition of the M.Ed course run by, KIET College of Education (Post Graduation Studies) Bannerghatta main Road, Bismillah Nagar, Bangalore – 560029, Karnataka from the academic year 2013-14, in order to enable the ongoing batch of students in M.Ed, course, if any, to complete their course.

AND WHEREAS, in the meanwhile, a copy of the Interim order of High Court of Karnataka in W.P.No. 17161 – 17162 filed by Pali Education Society, Prashanthnagar and Karnataka International Education Trust, Banneghatta Road, Bangalore is received by this office on 29.04.2013 from the Principal, St. Paul's College of Education, where in NCTE, New Delhi is the first respondent and SRC,NCTE is the second respondent. The grievance

of the petitioners in the writ petitions is that without considering the reply and without providing an opportunity of being heard to the petitioner-institutions, the impugned orders withdrawing the recognition have been passed.

AND WHEREAS, the interim order dated 19.04.2013 in W.P.No. 17161 – 17162 reads as under:-

"On perusal of the impugned order, I find that without assigning reasons, the respondent has proceeded to withdraw the recommendation. Prima facie it is clear that there is non-application of mind to the reply submitted and there is no opportunity of hearing given to petitioners. The impugned orders, therefore, prima facie appear to be in clear violation of principles of natural justice.

Hence, I am inclined to issue Emergent notice to the respondents , returnable within two weeks.

Till the next date of hearing, there shall be an interim order of stay on the impugned orders. Petitioners shall serve the standing Counsel for the respondent University and file acknowledgements for effecting such service mentioned in their names, office to list the matter by showing the names of the Counsel for the University."

AND WHEREAS, the advocate is requested to vacate the interim stay granted to the institution vide order dated 19.04.2013 and defend the case in the interest of SRC, NCTE, Bangalore and NCTE, New Delhi and intimate further developments to this office at the earliest vide this office letter dated 09.05.2013. It was also brought to the Notice of the advocate that the petitioner has not preferred an appeal before the appellate authority, NCTE, New Delhi under section 18 of the NCTE Act.

AND WHEREAS, this office has not yet issued the Withdrawal order to the institution.

AND WHEREAS the SRC in its 245th meeting held during 19-21 May, 2013 considered the matter and noted the Hon'ble High Court of Karnataka's direction dt.19.04.2013.

2. The Hon'ble High Court has pointed out in their order dt.19.04.2013 that enough opportunity is being not heard nor given to the petitioner. Enough opportunity was given to the institution by SRC by way of 1) Deficiency letter issued, 2) VT inspection was done, 3) Show cause notices were issued to the institution to explain & rectify the deficiencies pointed out in the notices. The lawyer is to be informed that there is no provision for personal hearing by SRC as suggested by the Hon'ble High Court.

3. The Lawyer is to be informed to highlight the strict enforcement of norms/standards as per Supreme Court order.

Keeping in view, Supreme Court vide their order in Civil Appeal No. 1125-1128/2011 in SLP No. 17165-68/2009 filed by NCTE Vs ors, which reads as under:

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"An institution is not entitled to recognition unless it fulfils the conditions specified in various clauses of the Regulations. The Council is directed to ensure that in future no institution is granted recognition unless it fulfils the conditions laid down in the Act and the Regulations and the time schedule fixed for processing the application by the Regional Committee and communication of the decision on the issue of recognition it strictly adhered to".

Further,

4. The committee confirmed the action taken to get the 'stay' vacated informed to the advocate through our letter dt.09.05.2013.

As per the decision of SRC, letters were addressed to the advocate on 14.6.2013, 3.7.2013 and 27.9.2013.

In the meantime, the institution has submitted its written representation on 30.12.2013 along with submission of Hon'ble High Court order in W.P.No.17161-17162/2013 dated 10.12.2013. The court order stated as follows: -

".....in respect of W.P.Nos.17161-17162/2013, it is needless to mention that the recognition conferred earlier, continues."

AND WHEREAS, the SRC in its 258th meeting held on 3-5 January 2014 considered the Hon'ble High Court order dated 10.12.2013 and the committee has decided as follows.

"Enough opportunities were give to these institutions to explain their cases. We should file an appeal. Ask lawyer to file and obtain 'stay'. Report action taken in the 260th meeting".

AND WHEREAS, a letter was sent to advocate on 13.01.2014. An e-mail has been sent to advocate on 29.01.2014.

AND WHEREAS, the institution has submitted its written representation on 19.01.2015 along with willingness affidavit as per regulations 2014.

AND WHEREAS, another reminder letter was sent to advocate on 04.02.2015.

AND WHEREAS, Revised recognition order was sent to institution on 31.05.2015.

AND WHEREAS, on 02.07.2015, an advocate Sri.Pramod.N.Kathavi has sent a letter along with court order in W.P.No.37892 of 2014 dated 18.06.2015 filed by KIET College of PG & Research in Education. The court order stated as follows:-

"1. Learned Counsel for the petitioner submits that the writ petition may be disposed of by giving liberty to the petitioner to apply afresh to respondent No.1- University for grant of affiliation to M.Ed course for the academic year 2014-2015 by producing all relevant documents sought for by the university.

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2. Leave granted. If the petitioner makes an application, it shall be considered by respondent No.1-university expeditiously and in accordance with law.
Petitions disposed of."

AND WHEREAS, the Southern Regional Committee in its 290th meeting held during 10th and 11th July, 2015 considered the matter, Court order dated 18.06.2015 and decided as under:

"1.The Court order is to the affiliating body. It is noted.

2.Remind the lawyer to apply to the Court for early hearing on our petition for vacation of 'stay' and dismissal of the case."

AND WHEREAS, as per the decision of SRC a letter was addressed to the advocate on 28.10.2015. On 02.11.2015, a court notice dated 28.10.2015 in W.A.no. 3479 of 2015 is received by this office from the Hon'ble High Court of Karnataka at Bengaluru.

AND WHEREAS, the writ appeal was filed by KIET College of PG and Research in Education (M.Ed) Bengaluru with a prayer to set aside the order dated 18.06.2015 rendered in W.P.No. 37892/2014 (EDN-REG-P) and allow this appeal by granting the reliefs prayed for in the said writ petition

AND WHEREAS, on 17.11.2015, this office has received a letter from the advocate Shri.Pramod Kathavi regarding filing of appeal against the order dated 10.12.2013 which is as under :-

"With reference to the above subject , it is brought to your kind notice that we have not received any papers in respect of Writ petitions mentioned in the subject of your letter dated 28.10.2015.The said writ petitions were disposed off by an order dated 10.12.2013 wherein the Hon'ble High Court of Karnataka quashed the resolution passed by the Southern Regional Committee in its 241st Meeting .at the time of passing the order , no representation was made by the Council or its advocate to defend NCTE/SRC. Therefore , as per order dated 10.12.2013 , KIET College continued to be recognized by NCTE..

In relation to W.P.No. 37892 of 2014, the institution sought to be recognized by the University and NCTE was a formal party .It is brought to your notice that all the writ petitions that have been referred to above have been disposed and no application can be made for early hearing or vacation of stay in a case that has been disposed ."

AND WHEREAS, A letter was addressed to the advocate on Shri.Pramod N.Kathavi on 19.11.2015.

AND WHEREAS, on 29.03.2016, Court order dated 17.03.2016 in W.A.No. 3479 of 2015 which is as under:-

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The writ appeal is barred by limitation

2. *As the affiliation of the Teacher's Training College is involved , at the request of Mr. Shantakumar K.C , learned advocate appearing for the appellant , we take up the writ appeal for preliminary hearing.*

3. *This is an appeal against the judgment and order dated June,18 , 2015 , passed by the Hon'ble Single Judge in Writ Petition No. 37892 of 2014*

4. *The appellant – College had recognition from the National Council for Teacher Education ('NCTE' in short) , upto the academic year 2011-12 .From the academic year 2012-13 onwards , this institution had no recognition .However , on May 31, 2015 ,NCTE granted fresh recognition to this institution from the academic year 2015-16..*

5. *Therefore, the Hon'ble Single Judge was right in directing the institution to apply afresh for affiliation, and, also directed the University to consider it.*

6. *If such an application for fresh affiliation is made within two weeks, the University is directed to consider and dispose of such application by four weeks from the date of submission of such application.*

7. *The application for condonation of delay and the writ appeal stand disposed of, accordingly.*

We make no order as to costs.

AND WHEREAS, the SRC in its 309th meeting held during 12th -14th April 2016, considered the Court order in W.A.No.3479 of 2015 and noted the matter.

AND WHEREAS, an email was received by the Advocate Shri Basavaraj Sabarad on 20.02.2017 with a request of signed vakalathnama. On 23.02.2017, a letter along with Vakalathnama was sent to the Advocate.

AND WHEREAS, the matter was considered by the SRC in its 376th meeting held from 11th & 12th June 2019 and the Committee decided as under:-

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


The Committee decided to issue Show Cause Notice u/s 17 of NCTE Act, 1993 before withdrawal of the recognition on the following grounds:-

1. The institution is required to submit certified copy of land documents. (If the same are in Regional Language the institution is also required to submit notarised copy of English version of land documents)
2. Land Use Certificate issued by the Competent Authority.
3. Non Encumbrance Certificate issued by the Competent Authority.
4. A copy of the approved Building Plan (if institution is running more than one Teacher Education programme, it shall be required to submit an exclusive earmarked building plan for each of the recognised Teacher Education programme)
5. Details of Teacher Education programme/other programme (if any) being run by the institution in the same campus

| Name of the Institution & course | NCTE Code No. | Intake/unit(s) | Year of starting | Affiliating body |
|----------------------------------|---------------|----------------|------------------|------------------|
|----------------------------------|---------------|----------------|------------------|------------------|

6. Building Completion Certificate as per prescribed Format.
7. Staff list duly approved by the affiliating body as per the prescribed Format.
8. Original FDR of Rs.7 lakh and 5 lakh, totalling Rs.12 lakh towards Endowment Fund & Reserve Fund into joint account for a duration of 5 years.

In view of above, the Committee decided that Show Cause Notice be issued to the institution as to why the recognition be not withdrawn on the above points. The Committee, therefore, provides last opportunity under Section 17 of the NCTE Act, 1993 to the institution to submit its reply within 21 days from the date of issue of notice, before the Committee takes the final decision. In case, the office does not receive any representation within stipulated time, it will be presumed that the institution does not wish to make any representation, and the Southern Regional Committee shall take decision as per provisions of the NCTE Act, Rules and Regulations.


(Dr. Anil Kumar Sharma)
Regional Director

To

(106027)
The Principal,
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Tank Bund Road,
Bangalore- 560029,
Karnataka

Copy to:-

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The Correspondent/ Secretary,
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