

TO BE PUBLISHED IN GAZETTE OF INDIA
(EXTRAORDINARY)
PART – III, SECTION 4

F.No.ER336.2/NCTE/ERCAPE00199/B.Ed./AS/2024/

Dated: 03/06/2024

(69735-69741)

ORDER

WHEREAS, in terms of Section 14/15 of the NCTE Act, 1993, **Kamala Bezbaruah Memorial College of Teacher Education, College Path, Tarajan, Jorhat, Assam (Code No. APE001.99)** was granted recognition for B.Ed. course with an intake of 100 from the academic session 2005-2006 vide ERC Order No. 2349 dated 19.07.2005, followed by revised order vide No.31769 dated 20.05.2015 from the academic session 2015-2016 as per NCTE Regulations, 2014. The intake of B.Ed. Course was reduced from 100 to 50 vide letter No. 39490 dtd. 03/12/2018 on request of the institution, as per NCTE Regulations, 2014.

2. **AND WHEREAS**, the ERC in its 271st meeting held on 24th – 25th April 2019 decide that Show Cause Notice u/s 17(1) be issued to the institution. Accordingly, Show Cause Notice dated 18.05.2019 was issued to the institution, followed by the Final Show Cause dated 14.05.2019 and the recognition granted to the institution was withdrawn vide Order No. F.No.ER-274.14.34/(APE00199)/B.Ed./2019/61425 dated 28.08.2019.

3. **AND WHEREAS**, the institution had filed WP (C) 986/2020 before the High Court of Guwahati against the withdrawal order and the Hon'ble Guwahati High Court passed order dated 25/05/2022 , 30/08/2022 and 27.6.2023. In compliance of order passed by the Hon'ble High Court, the original file of the institution alongwith other related documents, NCTE Act, 1993, Regulations and Guidelines issued by NCTE from time to time, was considered by ERC and the Committee decided that Latter Patent Appeal (LPA) be filed against the Order dated 27.06.2023 passed by the Hon'ble High Court of Guwahati in W.P. (C) No. 986/2020. In compliance of decision taken by ERC, the ERC filed LPA WA/346/2023 before the Hon'ble High Court of Guwahati against the judgment dated 27.06.2023 passed in WP (C) No. 986/2020. The Hon'ble Court Guwahati passed an order dated 18.09.2023 in the said LPA , the operative part of the order is as under:

Heard learned counsel appearing for the parties and perused the material placed on record.

2. The instant intra-Court writ appeal is preferred by the National Council for Teacher Education (NCTE for short) being aggrieved by the judgment dated 27.06.2023 whereby the writ petition, being, WP(C) 986/2020 preferred by the respondent No.1 herein was accepted. The aforesaid writ petition came to be instituted by the respondent No.1 herein aggrieved of the order dated 28.08.2019 passed by the Eastern Regional Committee (ERC), NCTE by which, the recognition

of the petitioner college (respondent No.1 herein) was withdrawn. The respondent No.1/writ petitioner also laid challenge to the order dated 05.12.2019 whereby the statutory appeal preferred by the respondent No.1/writ petitioner was rejected. It may be further mentioned that during the pendency of the writ petition, the matter was reconsidered in the 306th meeting of the ERC held on 14/15 September, 2022 wherein the above decision was affirmed. The learned Single Judge recorded this fact and interfered with the same.

3. The short issue which arises for consideration of this Court in this writ appeal is whether the respondent college was having insufficient built up area in terms of the National Council for Teacher Education (Recognition Norms and Procedure) Regulations, 2014 so as to make it liable to lose its recognition by the NCTE. The ERC cancelled the recognition by taking recourse to Clause 8(7) of the NCT Regulations, 2014 wherein it was stipulated that the temporary structure or asbestos roofing shall not be allowed in institution even if it is in addition to the prescribed built up area, i.e. 1500 sq.m. since the top storey of the college building was under a CI sheet roofing, it was held that the said area could not be counted as a permanent structure and was extended from built up area. The appellate authority went on to hold that if the area under the CI sheet roofing of the institution's building was excluded, the built-up area with RCC roofing was not adequate for B.Ed. course, as per the NCTE norms which should be minimum 1500 sq.m. The respondent/writ petitioner highlighted before the learned Single Bench the amendment of the Rules dated 04.05.2022, wherein in the Clause pertaining to exclusion of temporary structures, the words "CI sheet roofing" were deleted. The appellant NCTE opposed the said submission on the ground that the roofing on the third floor was comprised of CI sheet and hence, it was undeniably a temporary structure.

4. The learned Single Judge, after hearing the arguments advanced by the learned counsel appearing for the parties and considering the definition of 'building' as appearing in Rule 2(14) of the Assam Notified Urban Areas (other than Guwahati) Building Rules, 2014, held that merely because the roofing of the institution's building was comprised of CI sheet, it could not be taken out of the purview of a permanent structure and accordingly, it was held that the building was having built-up area of more than 1500 sq.m. and thus, the same was compliant of the NCTE Regulations 2014 as amended in the year 2022. The judgment dated 27.06.2023 rendered by the learned Single Judge accepting the writ petition and reversing the decision to derecognize the respondent college is assailed in this intra-Court writ appeal at the instance of the NCTE.

5. Mr. I. Alam, learned counsel representing the appellant NCTE vehemently and fervently urged that the built-up area of the respondent college having RCC roofing was only 9806.250 sq. ft. out of total built-up area of 16840.225 sq. ft. The area under CI sheet roofing would have to be treated as a temporary structure and hence, the same was in violation of Clause 8(7) of the NCTE Regulations 2014. On these grounds, he implored the Court to accept the writ appeal and reverse the impugned judgment.

6. Per contra, Mr. T.J. Mahanta, learned senior counsel representing the respondent No.1 urged that the college is the oldest institution in Assam imparting B.Ed. Degree course and is functional since last 33 years. The building was constructed in the year 2003 and recognition was granted by the NCTE in the year 2015 after extensive inspection, etc. He further urged that in the State of Assam, it is an age old practice to construct the buildings with CI sheet roofings in order to make the building insusceptible to the heavy rain fall, which continues for almost six months during the monsoon period. He pointed out that there are a large number of iconic buildings in the State of Assam which are having CI sheet roofing and are proudly referred to as 'Assam Type' buildings. Mr. Mahanta further urged that in view of the exclusion of the word "CI sheet" in Clause 8(7) by virtue of the amended Regulations, 2022, there is no justification behind the decision of the NCTE

in withdrawing the recognition of the respondent college. He thus implored the Court to affirm the judgment of the learned Single Judge and dismiss the writ appeal.

7. We have thoughtfully considered the submissions advanced at Bar and have perused the impugned judgment and the material placed on record. We have gone through the amendment of 2022 brought in Clause 8(7) of the National Council for Teacher Education (Recognition Norms and Procedure) Regulations, 2014, whereby categorisation of a CI sheet roofing to be a temporary structure, as it existed earlier, has been deleted. It is thus manifest that a building with CI sheet roofing cannot now be treated to be a temporary structure. We also have to remain cognizant of the ground realities in the State of Assam and the adjoining Northeast States which are prone to long spells of heavy rains in extended monsoon periods. Thus, it becomes imperative to construct the buildings with slanting roofs so as to facilitate the flow of the rain water to the ground. It is an established practice in the State of Assam to construct the buildings with CI Sheet roofings which are referred to as Assam Type buildings.

8. Many iconic structures and heritage buildings in Assam with tin sheet/CI Sheet roofings continue to stand with pride having withstood the wrath of elements for decades. In this very category, we may refer to the Chief Justice residence, which is an Assam type structure constructed more than 110 years ago, which has been declared a "living heritage building". The District Court building of Kamrup (Metro) is also an Assam Type structure and was constructed decades ago and is fully functional and operational even as on date. Thus, the reservation expressed by the NCTE on treating the buildings having CI sheet roofing to be temporary structures is absolutely unwarranted, more so, when the words "CI sheet roofing" have been deleted in the amendment of 2022, referred to supra.

9. Thus, merely because the roofing of the respondent college's building is comprised of CI sheet, the same cannot be considered to be a temporary structure. The area under the CI sheet would definitely form a part of the built-up area and cannot be excluded when the total built-up area is being counted for. There is no dispute that the total built-up area of the college, including the 7 area under the CI sheet roofing, is more than 1500 sq. mtrs which is compliant of the norms of the NCTE Regulations.

10. In this background, we are of the firm opinion that the view taken by the learned Single Judge in accepting the writ petition and quashing the order of the appellant NCTE by which the recognition of the college was withdrawn and the appeal was rejected, does not suffer from any infirmity warranting interference of this Court in this writ appeal and thus, the writ appeal fails and is dismissed.

No order as to cost.

4. **AND WHEREAS**, the matter was considered by ERC and before filing SLP against the said order, legal opinion was sought from the Standing Counsel of NCTE Ms. Manisha T. Karia, The legal opinion in this regard was received from Ms. Karia vide its letter No. NiL dated 11.03.2024.

5. **AND WHEREAS**, the matter was placed in 344th meeting of ERC held on 21st & 22nd May, 2024 (Part-1) and the committee decided as under:

"The original filed of the institution alongwith other related documents, NCTE Act, 1993, Regulations and Guidelines issued by NCTE from time to time, was considered by ERC.

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In compliance of the Order dated 27.06.2023 and 18.09.2023 passed by the Hon'ble Guwahati High Court WP (C) No. 986/2020 and WA/346/2023, the Committee decided to restore the recognition of the institution for B.Ed. course with an annual intake of 50 students."

6. **NOW THEREFORE**, in terms of above decision of ERC, the recognition granted to the institution viz. **Kamala Bezbaruah Memorial College of Teacher Education, College Path, Tarajan, Jorhat, Assam (Code No. APE00199)** for B.Ed course *vide* Order No 39490 dated 03.12.2018 with an annual intake of 50 students for one basic unit is hereby restored.

By Order,

(Ravindra Singh)
Regional Director

69735 **The Controller of Publications,**
Department of Publications, (Gazette Section),
Ministry of Urban Development,
Civil Lines, Delhi-110054.

To

69736 **The Principal/Correspondent,**
Kamala Bezbaruah Memorial College of Teacher Education,
College Path, Tarajan, Jorhat,
Assam-785001

Copy to:

- 69737 1. The Commissioner & Secretary, Department of Education, Govt. Of Assam, Capital Complex, Dispur, Guwahati, Assam – 781006.
- 69738 2. The Registrar, Dibrugarh University, Dibrugarh, Assam – 786004
- 69739 3. The Director, SCERT, Assam, Kahilipara, Guwahati, Assam – 781019.
- 69740 4. The Secretary, Department of School Education and Literacy, Ministry of Education, Govt. of India, Shastri Bhawan, New Delhi-110001.
- 69741 5. The Under Secretary (IT), National Council for Teacher Education, G-7, Dwarka Sector-10, Near Metro Station, New Delhi-110075.
6. Institution file/Office Order file/Guard file.

Regional Director