

\$~303, 1-84, 86-91, 93-95, 97, 99, 101-105, 107-121, 123-124, 127, 129-142, 144-156, 158-160, 162-174, 176-200, 202, 203, 205-210, 212-221, 223-230, 233-250, 252, 254-259, 261-273, 304-359, 365-368, 370-385, 387, 389-415, 417, 419, 421-432, 434, 436, 438-439, 441-445, 447, 448, 450-453, 455, 457, 458, 460-462, 464, 467-469, 471, 476.

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **W.P.(C) 7284/2022**

COLLEGE OF APPLIED EDUCATION AND
HEALTH SCIENCES

..... Petitioner

versus

NATIONAL COUNCIL FOR TEACHER EDUCATION & ANR.

..... Respondents

With

W.P.(C) 7574/2022, W.P.(C) 7576-77/2022, W.P.(C) 7580-81/2022,
W.P.(C) 7584-90, W.P.(C) 7592/2022, W.P.(C) 7594/2022, W.P.(C)
7596-97/2022, W.P.(C) 7600/2022, W.P.(C) 7602, W.P.(C)
7603/2022, W.P.(C) 7606/2022, W.P.(C) 7608/2022, W.P.(C)
7610/2022, W.P.(C) 7613/2022, W.P.(C) 7616-18/2022, W.P.(C)
7620-22/2022, W.P.(C) 7624/2022, W.P.(C) 7626-27/2022, W.P.(C)
7629-33/2022, W.P.(C) 7636/2022, W.P.(C) 7639-40/2022, W.P.(C)
7645/2022, W.P.(C) 7648-49/2022, W.P.(C) 7653/2022, W.P.(C)
7660-63/2022, W.P.(C) 7665-71/2022, W.P.(C) 7682-84/2022,
W.P.(C) 7691/2022, W.P.(C) 7693-94/2022, W.P.(C) 7696/2022,
W.P.(C) 7699/2022, W.P.(C) 7704-05/2022, W.P.(C) 7707/2022,
W.P.(C) 7709/2022, W.P.(C) 7721/2022, W.P.(C) 7723/2022,
W.P.(C) 7727/2022, W.P.(C) 7731/2022, W.P.(C) 7733/2022,
W.P.(C) 7748/2022, W.P.(C) 7754-55/2022, W.P.(C) 7757-58/2022,
W.P.(C) 7761-62/2022, W.P.(C) 7766/2022, W.P.(C) 7768/2022,
W.P.(C) 7770-71/2022, W.P.(C) 7777/2022, W.P.(C) 7790/2022,
7802/2022, W.P.(C) 7811/2022, W.P.(C) 7814/2022, W.P.(C)
7818/2022, W.P.(C) 7825/2022, W.P.(C) 7840/2022, W.P.(C) 7842-
43/2022, W.P.(C) 7845/2022, W.P.(C) 7848/2022, W.P.(C)
7861/2022, W.P.(C) 7863/2022, W.P.(C) 7873/2022, W.P.(C)
7882/2022, W.P.(C) 7886/2022, W.P.(C) 7891/2022, W.P.(C) 7898-

7901/2022, W.P.(C) 7903/2022, W.P.(C) 7905-06/2022, W.P.(C) 7908-09/2022, W.P.(C) 7917/2022, W.P.(C) 7921-24/2022, W.P.(C) 7929/2022, W.P.(C) 7932/2022, W.P.(C) 7943/2022, W.P.(C) 7961-64/2022, W.P.(C) 7966/2022, W.P.(C) 7970-76/2022, W.P.(C) 7983/2022, W.P.(C) 7986/2022, W.P.(C) 7989-91/2022, W.P.(C) 7993-97/2022, W.P.(C) 7999/2022, W.P.(C) 8001-03/2022, W.P.(C) 8005/2022, W.P.(C) 8008-10/2022, W.P.(C) 8021-22/2022, W.P.(C) 8024/2022, W.P.(C) 8027/2022, W.P.(C) 8029/2022, W.P.(C) 8032-37/2022, W.P.(C) 8040-41/2022, W.P.(C) 8046/2022, W.P.(C) 8049-50/2022, W.P.(C) 8053/2022, W.P.(C) 8057/2022, W.P.(C) 8064-65/2022, W.P.(C) 8067-68/2022, W.P.(C) 8070-71/2022, W.P.(C) 8073-75/2022,, W.P.(C) 8079-81/2022, W.P.(C) 8083/2022. W.P.(C) 8094/2022, W.P.(C) 8099-8100/2022, W.P.(C) 8103/2022, W.P.(C) 8105/2022, W.P.(C) 8109/2022, W.P.(C) 8110/2022, W.P.(C) 8112/2022, W.P.(C) 8113/2022, W.P. (C) 8115/2022, W.P.(C) 8117-18/2022, W.P.(C) 8120/2022, W.P.(C) 8122/2022, W.P.(C) 8124/2022, W.P.(C) 8131/2022, W.P.(C) 8133/2022, W.P.(C) W.P.(C) 8134/2022, W.P.(C) 8136/2022, W.P.(C) 8142/2022, W.P.(C) 8145/2022, W.P.(C) 8149/2022, W.P.(C) 8152-53/2022, W.P.(C) 8156-63/2022, W.P.(C) 8166/2022, W.P.(C) 8169-8174/2022, W.P.(C) 8181/2022, W.P.(C) 8191/2022 W.P.(C) 8194/2022, W.P.(C) 8198-99/2022, W.P. (C) 8201/2022, W.P.(C) 8202/2022, W.P.(C) 8205-06/2022, W.P.(C) 8209-19/2022, W.P.(C) 7287/2022, W.P.(C) 7316-21/2022, W.P.(C) 7332/2022, W.P.(C) 7334-40/2022, W.P.(C) 7342-45/2022,, W.P.(C) 7351/2022, W.P.(C) 7353/2022, W.P.(C) 7361/2022, W.P.(C) 7363-64/2022, W.P.(C) 7366/2022, W.P.(C) 7399-7401/2022, W.P.(C) 7404/2022, W.P.(C) 7409-10/2022, W.P.(C) 7414/2022, W.P.(C) 7417-19/2022, W.P.(C) 7427/2022, W.P.(C) 7431/2022, W.P.(C) 7439-40/2022, W.P.(C) 7444/2022, W.P.(C) 7458/2022, W.P.(C) 7461/2022, W.P.(C) 7463/2022, W.P.(C) 7466-67/2022, W.P.(C) 7470/2022, W.P.(C) 7486/2022, W.P.(C) 7491/2022, W.P.(C) 7494-96/2022, W.P.(C) 7498-99/2022, W.P.(C) 7501/2022, W.P.(C) 7503/2022, W.P.(C) 7518/2022, W.P.(C) 8222/2022, W.P.(C) 8223/2022, W.P.(C) 8226/2022, W.P.(C) 8232/2022, W.P.(C) 8248-49/2022, W.P.(C) 8255/2022, W.P.(C) 8258/2022, W.P.(C) 8270-71/2022, W.P.(C) 8281/2022, 8283/2022, W.P.(C) 8290-91/2022, W.P.(C) 8293-94/2022, W.P.(C) 8296-97/2022, W.P.(C) 8299/2022, W.P.(C)

8302/2022, W.P.(C) 8308/2022, W.P.(C) 8320/2022, W.P.(C) 8325-29/2022, W.P.(C) 8335/2022, W.P.(C) 8336-37/2022 & W.P.(C) 8339-40/2022, W.P.(C) 8349-50/2022, W.P.(C) 8353-54/2022, W.P.(C) 8367/2022, W.P.(C) 8370/2022, W.P.(C) 8377/2022, W.P.(C) 8390-91/2022, W.P.(C) 8395-96/2022, W.P.(C) 8398/2022, W.P.(C) 8400/2022, W.P.(C) 8415/2022, W.P.(C) 8420/2022, W.P.(C) 8426/2022, W.P.(C) 8434/2022, W.P.(C) 8441/2022, W.P.(C) 8444-45/2022, W.P.(C) 8453-54/2022, W.P.(C) 8457/2022, W.P.(C) 8459/2022, W.P.(C) 8461-63/2022, W.P.(C) 8467/2022, W.P.(C) 8470/2022, W.P.(C) 8472/2022, W.P.(C) 8477/2022, W.P.(C) 8485/2022, W.P.(C) 8499/2022, W.P.(C) 8500/2022, W.P.(C) 8502/2022, W.P.(C) 8503/2022, W.P.(C) 8505-06/2022, W.P.(C) 8510/2022, W.P.(C) 8513/2022, W.P.(C) 8516/2022, W.P.(C) 8518/2022, W.P.(C) 8523/2022, W.P.(C) 8524/2022, W.P.(C) 8525/2022, W.P.(C) 8529/2022, W.P.(C) 8537/2022, W.P.(C) 8538/2022, W.P.(C) 8540-41/2022, W.P.(C) 8544/2022, W.P.(C) 8552-53/2022, W.P.(C) 8555/2022, W.P.(C) 8576/2022, W.P.(C) 8578/2022.

Present: Mr. Tushar Mehta, Solicitor General of India, along with Mr. Shivam Singh, Standing counsel for NCTE.
 Mr. Sanjay Sharawat, Mr. Divyank Rana and Mr. Ashok Kumar, Advocates.
 Mr. Gaurav Arora, Advocate.
 Mr. Abhishek Singh, Advocate with Mr. Madavaram, Ms. Priyanka and Mr. Ankit Tayal, Advocates.
 Mr. Vaibhav Mehndiratta, Advocate.
 Ms. Sumita Hazarika, Advocate with Ms. Nazia Parveen and Mr. V.S. Raju, Advocates.
 Mr. Tishampati Sen, Advocate with Ms. Riddhi Sancheti, Mr. G. Karthikeyan and Mr. Anurag Anand, Advocates.
 Mr. Sudhir Naagar, Advocate with Mr. Mohit Singh, Mr. Vikrant Mehta, Mr. Vikram Singh, Advocates.
 Mr. Kunal Chatterji, Advocate with Mr. Rohit Bansal, Advocate.
 Mr. Jayesh Gaurav, Advocate with Ms. Diksha Ojha, Advocate.
 Mr. Shyam Singh Chauhan, Advocate.
 Mr. Manish Mohan, CGSC-UOI with Mr. Devendra Kumar,

Advocate.

Mr. Neeraj Shekhar, Advocate with Mr. Chandra Pratap and Mr. Hemant Kr. Sunny, Advocates.

Mr. Kush Chaturvedi, Advocate with Mr. Aditya Shekar and Mr. Syed Faraz Alam, Advocates.

Mr. Chandrashekhar Singh, Advocate.

Mr. Santosh kr. Tripathi, SC (Civil) GNCTD with Mr. Arun Panwar, Advocate.

Mr. Harsh Choudhary, Advocate.

Mr. Devendra Kumar, Advocate for Mr. N.K. Upadhyay, Advocate.

Mr. Amitesh Kumar, Advocate with Ms. Binisa Mohanty and Ms. Preti Kumari, Advocates.

Mr. Mayank Manish, Advocate with Mr. Ravi Kant, Advocate

CORAM:

HON'BLE MR. JUSTICE SANJEEV NARULA

ORDER

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27.05.2022

CM APPL. 24809/2022 in W.P.(C) 8214/2022

CM APPL. 25603/2022 in W.P.(C) 8502/2022

CM APPL. 25633/2022 in W.P.(C) 8516/2022

CM APPL. 25649/2022 in W.P.(C) 8523/2022

CM APPL. 25652/2022 in W.P.(C) 8524/2022

CM APPL. 23314/2022 in W.P.(C) 7580/2022

CM APPL. 23318/2022 in W.P.(C) 7581/2022

CM APPL. 23329/2022 in W.P.(C) 7584/2022

CM APPL. 23332/2022 in W.P.(C) 7585/2022

CM APPL. 23341/2022 in W.P.(C) 7588/2022

CM APPL. 23358/2022 in W.P.(C) 7592/2022

CM APPL. 23363/2022 in W.P.(C) 7594/2022

CM APPL. 23367/2022 in W.P.(C) 7596/2022

CM APPL. 23395/2022 in W.P.(C) 7610/2022

CM APPL. 23505/2022 in W.P.(C) 7665/2022

CM APPL. 23541/2022 in W.P.(C) 7683/2022

CM APPL. 23542/2022 in W.P.(C) 7684/2022

CM APPL. 23644/2022 in W.P.(C) 7727/2022

CM APPL. 23650/2022 in W.P.(C) 7731/2022

CM APPL. 23653/2022 in W.P.(C) 7733/2022
CM APPL. 23720/2022 in W.P.(C) 7761/2022
CM APPL. 23721/2022 in W.P.(C) 7762/2022
CM APPL. 23856/2022 in W.P.(C) 7790/2022
CM APPL. 24071/2022 in W.P.(C) 7873/2022
CM APPL. 24108/2022 in W.P.(C) 7900/2022
CM APPL. 24192/2022 in W.P.(C) 7943/2022
CM APPL. 24326/2022 in W.P.(C) 7986/2022
CM APPL. 24447/2022 in W.P.(C) 8050/2022
CM APPL. 24497/2022 & W.P.(C) 8083/2022
CM APPL. 24984/2022 & W.P.(C) 8296/2022
CM APPL. 25008/2022 & W.P.(C) 8299/2022
CM APPL. 25081/2022 & W.P.(C) 8329/2022
CM APPL. 25314/2022 & W.P.(C) 8415/2022

1. Exemption is granted, subject to all just exceptions.
2. The Petitioner shall file legible and clearer copies of exempted documents, compliant with practice rules, before the next date of hearing.
3. Accordingly, the application stands disposed of.

W.P.(C) 8441/2022, W.P.(C) 8444-45/2022, W.P.(C) 8453-54/2022,
W.P.(C) 8457/2022, W.P.(C) 8459/2022, W.P.(C) 8461-63/2022, W.P.(C)
8467/2022, W.P.(C) 8470/2022, W.P.(C) 8472/2022, W.P.(C) 8477/2022,
W.P.(C) 8485/2022, W.P.(C) 8499/2022, W.P.(C) 8500/2022, W.P.(C)
8502/2022, W.P.(C) 8503/2022, W.P.(C) 8505-06/2022, W.P.(C)
8510/2022, W.P.(C) 8513/2022, W.P.(C) 8516/2022, W.P.(C) 8518/2022,
W.P.(C) 8523/2022, W.P.(C) 8524/2022, W.P.(C) 8525/2022, W.P.(C)
8529/2022, W.P.(C) 8537/2022, W.P.(C) 8538/2022 W.P.(C) 8540-
41/2022, W.P.(C) 8544/2022, W.P.(C) 8552-53/2022, W.P.(C) 8555/2022,
W.P.(C) 8576/2022, W.P (C) 8578/2022

4. Issue notice. Mr. Shivam Singh, standing counsel, accepts notice on behalf of NCTE.
5. The instant petitions are tagged along with W.P.(C) 7284/2022 and other batch of petitions.

6. Mr. Singh states that the counter affidavit filed in W.P.(C) 7284/2022 shall be treated to be filed in the present petitions as well.

7. As the above batch of petitions are listed today at 2:30 PM for hearing, with the consent of the parties, the stay applications listed in present petitions are being taken up alongwith the batch matters, and a common order is being passed.

W.P.(C) 7284/2022 & CM APPL. 22329/2022, W.P.(C) 7574/2022 & CM APPL. 23303/2022, W.P.(C) 7576/2022 & CM APPL. 23305/2022, W.P.(C) 7577/2022, CM APPL. 23307/2022 & W.P.(C) 7580/2022, W.P.(C) 7581/2022, W.P.(C) 7584/2022, W.P.(C) 7585/2022, W.P.(C) 7586/2022 & CM APPL. 23334/2022, W.P.(C) 7587/2022 & CM APPL. 23336/2022, W.P.(C) 7588/2022 & CM APPL. 23340/2022, W.P.(C) 7589/2022 & CM APPL. 23345/2022, W.P.(C) 7590/2022 & CM APPL. 23354/2022, W.P.(C) 7592/2022, W.P.(C) 7594/2022, W.P.(C) 7596/2022, W.P.(C) 7597/2022 & CM APPL. 23369/2022, W.P.(C) 7600/2022 & CM APPL. 23377/2022, W.P.(C) 7602/2022 & CM APPL. 23381/2022, W.P.(C) 7603/2022 & CM APPL. 23383/2022, W.P.(C) 7606/2022 & CM APPL. 23388/2022, W.P.(C) 7610/2022, W.P.(C) 7608/2022 & CM APPL. 23391/2022, W.P.(C) 7613/2022 & CM APPL. 23404/2022, W.P.(C) 7616/2022 & CM APPL. 23410/2022, W.P.(C) 7617/2022 & CM APPL. 23415/2022, W.P.(C) 7618/2022 & CM APPL. 23416/2022, W.P.(C) 7620/2022 & CM APPL. 23418/2022, W.P.(C) 7621/2022 & CM APPL. 23419/2022, W.P.(C) 7622/2022 & CM APPL. 23422/2022, W.P.(C) 7624/2022 & CM APPL. 23426/2022, W.P.(C) 7626/2022 & CM APPL. 23431/2022, W.P.(C) 7627/2022 & CM APPL. 23435/2022, W.P.(C) 7629/2022 & CM APPL. 23437/2022, W.P.(C) 7630/2022 & CM APPL. 23441/2022, W.P.(C) 7631/2022 & CM APPL. 23442/2022, W.P.(C) 7632/2022 & CM APPL. 23445/2022, W.P.(C) 7633/2022 & CM APPL. 23446/2022, W.P.(C) 7636/2022 & CM APPL. 23447/2022, W.P.(C) 7639/2022 & CM APPL. 23452/2022, W.P.(C) 7640/2022 & CM APPL. 23454/2022, W.P.(C) 7645/2022 & CM APPL. 23462/2022, W.P.(C) 7648/2022 & CM APPL. 23468/2022, W.P.(C) 7649/2022 & CM APPL. 23469/2022, W.P.(C) 7653/2022 & CM APPL. 23482/2022, W.P.(C) 7660/2022 & CM APPL. 23495/2022, W.P.(C)

7661/2022 & CM APPL. 23496/2022, W.P.(C) 7662/2022 & CM APPL. 23498/2022, W.P.(C) 7663/2022 & CM APPL. 23499/2022, W.P.(C) 7665/2022, W.P.(C) 7666/2022 & CM APPL. 23506/2022, W.P.(C) 7667/2022 & CM APPL. 23507/2022, W.P.(C) 7668/2022 & CM APPL. 23508/2022, W.P.(C) 7669/2022 & CM APPL. 23509/2022, W.P.(C) 7670/2022 & CM APPL. 23510/2022, W.P.(C) 7671/2022 & CM APPL. 23511/2022, W.P.(C) 7682/2022 & CM APPL. 23540/2022, W.P.(C) 7683/2022, W.P.(C) 7684/2022, W.P.(C) 7691/2022 & CM APPL. 23553/2022, W.P.(C) 7693/2022 & CM APPL. 23555/2022, W.P.(C) 7694/2022 & CM APPL. 23558/2022, W.P.(C) 7696/2022 & CM APPL. 23569/2022, W.P.(C) 7699/2022 & CM APPL. 23576/2022, W.P.(C) 7704/2022 & CM APPL. 23586/2022, W.P.(C) 7705/2022 & CM APPL. 23591/2022, W.P.(C) 7707/2022 & CM APPL. 23596/2022, W.P.(C) 7709/2022 & CM APPL. 23599/2022, W.P.(C) 7721/2022 & CM APPL. 23634/2022, W.P.(C) 7723/2022 & CM APPL. 23636/2022, W.P.(C) 7727/2022, W.P.(C) 7731/2022 & CM APPL. 23649/2022, W.P.(C) 7723/2022, W.P.(C) 7748/2022 & CM APPL. 23688/2022, W.P.(C) 7754/2022 & CM APPL. 23698/2022, W.P.(C) 7755/2022 & CM APPL. 23702/2022, W.P.(C) 7757/2022 & CM APPL. 23705/2022, W.P.(C) 7758/2022 & CM APPL. 23706/2022, W.P.(C) 7766/2022 & CM APPL. 23731/2022, W.P.(C) 7768/2022 & CM APPL. 23733/2022, W.P.(C) 7770/2022 & CM APPL. 23742/2022, W.P.(C) 7771/2022 & CM APPL. 23743/2022, W.P.(C) 7777/2022 & CM APPL. 23773/2022, W.P.(C) 7790/2022, W.P.(C) 7802/2022 & CM APPL. 23874/2022, W.P.(C) 7811/2022 & CM APPL. 23900/2022, W.P.(C) 7814/2022 & CM APPL. 23910/2022, W.P.(C) 7818/2022 & CM APPL. 23916/2022, W.P.(C) 7825/2022 & CM APPL. 23922/2022, W.P.(C) 7840/2022 & CM APPL. 23939/2022, W.P.(C) 7842/2022 & CM APPL. 23941/2022, W.P.(C) 7843/2022 & CM APPL. 23945/2022, W.P.(C) 7845/2022 & CM APPL. 23947/2022, W.P.(C) 7848/2022 & CM APPL. 23955/2022, W.P.(C) 7861/2022 & CM APPL. 24012/2022, W.P.(C) 7863/2022 & CM APPL. 24021/2022, W.P.(C) 7873/2022 & CM APPL. 24070/2022, W.P.(C) 7882/2022 & CM APPL. 24085/2022, W.P.(C) 7886/2022 & CM APPL. 24090/2022, W.P.(C) 7891/2022 & CM APPL. 24096/2022, W.P.(C) 7898/2022 & CM APPL. 24106/2022, W.P.(C) 7899/2022 & CM APPL. 24107/2022, W.P.(C) 7900/2022, W.P.(C) 7901/2022 & CM APPL. 24109/2022, W.P.(C) 7903/2022 & CM APPL. 24111/2022, W.P.(C) 7905/2022 & CM APPL. 24112/2022, W.P.(C) 7906/2022 & CM APPL.

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8. Briefly stated, the genesis of present batch of petitions is from a

public notice dated 22nd September, 2019 issued by Respondent No. 1 – National Council for Teacher Education [*hereinafter*, ‘NCTE’] calling upon its recognised teacher education institutes [*hereinafter*, ‘TEIs’] to submit their performance appraisal report [*hereinafter*, ‘PAR’] as per instructions contained therein.

9. The afore-noted public notice was impugned by the TEIs,¹ which was dismissed *vide* order dated 27th May 2021, holding that NCTE was empowered to issue the notification and insist on filing of PAR. The said decision was challenged in a batch of appeals,² where, at the stage of admission, by way of an interim order dated 25th February, 2022, the court declined to grant any interim stay, but extended time to submit PAR till 31st March, 2022. This interim order was then carried in appeal before the apex Court,³ which also declined to grant any interim relief. However, it extended the time for compliance up till 02nd April, 2022.

10. As some TEIs still did not file PAR within the extended timelines, NCTE, in its 54th General Body Meeting held on 27th April, 2022 decided to declare the academic session 2022-23 as ‘zero academic year for fresh intake’ in respect of such non-compliant TEIs. This decision led to the issuance of public notice dated 03rd May, 2022, appended with a list of institutes which have filed the PARs. The Petitioners herein are those who

¹ In W.P.(C) 11304/2019 titled *Associates of NCTE Approved Colleges Trust v. National Council For Teacher Education*, and other connected batch of petitions.

² In LPA No. 190/2021 titled *Association Of NCTE Approved Colleges Trust v. National Council For Teacher Education*.

³ being Special Leave to Appeal No. 5479/2022.

do not find their names mentioned in the list.

11. In the above background, the present batch of petitions have been filed by such non-compliant TEIs, seeking quashing of the impugned minutes of the 54th General Body Meeting and the public notice issued pursuant thereto. In the interregnum, they seek a stay of operation of the impugned minutes and notice.

12. The institutions contend that they attempted to submit the PAR during the extended timelines, but could not succeed for a plethora of reasons. On this aspect, at the first instance, *vide* Order dated 18th May, 2022, the court had requested the learned Solicitor General appearing for the Respondents to examine whether any amicable solution could be found by re-opening the portal to enable the TEIs to submit their PARs, with imposition of penalty for delay. However, the learned Solicitor General, on instructions, stated that such a course of action would not be possible for several reasons which are not required to be gone into at this stage. In that light, it must also be noted that some of the TEIs had, in fact, approached the Apex Court seeking extension of time, but that request was declined *vide* Order dated 25th April, 2022. Signature Not Verified
15:52:07 Subsequently another miscellaneous application was filed seeking similar reliefs,⁴ which was then withdrawn with liberty to pursue remedies as available under law.

13. Thus, the undisputed position that emerges is that Petitioner-TEIs

⁴ M.A. No. No. 920/2022 in SLP (C.) 5479/2022 titled *Ashaskiya Mahavidyalaya Sangh v. National Council For Teacher Education*.

have failed to file PAR within time, whatsoever the reason may be. Whether indeed the Petitioner-TEIs were genuinely prevented from filing the PAR within time or not, and/or whether their right to seek relaxation is foreclosed in view of the decision of the Supreme Court, are issues which would require considerable deliberation. However, in the wake of the above-referred orders, especially with the Supreme Court declining the relief of extension, this court is not persuaded to give any benefit of doubt to the Petitioners for not filing the PAR on the grounds narrated in the petitions. That said, the fundamental question which arises for consideration today is whether the impugned notice, as a follow-up action on account of non-filing of PAR, is liable to be stayed for the grounds and reasons discussed hereinafter.

14. On this aspect, the court has heard Mr. Sharawat as well as other counsel for the Petitioners, and also Mr. Tushar Mehta, learned Solicitor General of India for NCTE.

15. Mr. Sharawat has stressed that the impugned action of NCTE is contrary to the mechanism provided for enforcing any non-compliance in the scheme of the National Council for Teacher Education Act, 1993 [hereinafter, '*the Act*']. He states that punitive mechanism is only provided in Section 17 of the Act, which reads as follows:

"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."

16. Mr. Sharawat states that the Act does not provide for declaration of a zero year as a possible consequence, and the said action is thus bad in law. He submits that the non-compliance of PAR cannot be visited with a penalty that is not provided under the scheme of the Act itself. He states that NCTE could perhaps, at the highest, withdraw the recognition granted to such non-compliant TEIs, subject to fulfilment of conditions provided under the above provision, but certainly NCTE is incapable of imposing the penalty as

imposed under the impugned notice. Mr. Sharawat emphasises that even the action of derecognition has to be preceded by a show cause notice, which, admittedly, has not been done. He also highlights that recognition is withdrawn only by the Regional Committee alone and no one else. Additionally, Mr. Sharawat argues that there has been a complete non-application of mind in the impugned decision which has gravely prejudiced the Petitioner-TEIs. He reads out the notice to indicate that there was been no deliberation before taking the decision, which has serious ramifications. In these circumstances, he argues that the decision which is bereft of reasoning and the public notice dated 03rd May, 2022, issued to implement the same, ought to be stayed.

17. Per contra, Mr. Mehta argues that although there is no specific provision under the Act which provides for declaration of zero year as a consequence for non-compliance, nevertheless, such a power can be read-in by way of a meaningful reading of the functions of the council provided under Section 12(j) and (k) of the Act, which read as follows:

“12. Functions of the Council.—It shall be the duty of the Council to take all such steps as it may think fit for ensuring planned and co-ordinated development of teacher education and for the determination and maintenance of standards for teacher education and for the purposes of performing its functions under this Act, the Council may—

xxx ... xxx ... xxx

(j) examine and review periodically the implementation of the norms, guidelines and standards laid down by the Council, and to suitably advise the recognised institutions;

(k) evolve suitable performance appraisal systems, norms and mechanisms for enforcing accountability on recognised institutions;

xxx ... xxx ... xxx”

18. Mr. Mehta submits that, for non-compliance of filing PAR, it is not imperative to impose the harshest of penalty provided under the Act. He

states that the NCTE surely has the power to impose a penalty of lesser severity than withdrawal of recognition. The penalty of zero year, as presently imposed, is fit and just having regard to the wrongdoing on the part of TEIs, as it does not cause them grave prejudice. They can make up for the deficiency and proceed with student intake in the year subsequent to the zero year. This, Mr. Mehta, states, would also be in consonance with the scheme of the Act and the functions of the NCTE as provided therein.

19. Additionally, Mr. Mehta expresses his doubt and reservation as to whether all the Petitioner-TEIs are speaking in the same voice, as has been argued by Mr. Sharawat. He states that perhaps some of the institutions may be satisfied with the penalty of declaration of a zero year and may not want to be de-recognized for the same, and therefore, all petitions may not be painted with the same brush.

20. The Court has considered the above contentions. At the first instance, we must take note of the impugned decision of the NCTE to discern its reasoning for imposing the penalty of zero year. This was taken up as Agenda Item No. 2 in the 54th General body Meeting, the minutes of which, read as follows:

“Agenda Item No. 2:

PAR is a mechanism of annual online self-declaration, developed by NCTE to monitor the quality control of Teacher Education Institutions (TEIs) vide the Single Bench judgment of the Hon'ble Delhi High Court, dated 27.05.2021 it was decided that PAR starting from academic session 2020-21 would have to be filed by all TEIs by 15th March, 2022. Further, vide Division Bench Order dated 25 February, 2022, the Hon'ble Court while upholding the decision of the Single Bench extended the date of filing of PAR to 31st March, 2022. Further, the Hon'ble Supreme Court, vide its Order dated 01.04.2022, decided that the TEIs would have file PAR for the academic session 2020-21 by 2nd April, 2022. Approximately, 11000 TEIs have filed the PAR.

In view of the above facts & circumstances, the matter is placed before the General Body of the Council for consideration and taking policy decision in respect of the following:

- (a) *The PAR applications received by NCTE shall be further analysed for further necessary action by NCTE.*
- (b) *With regard to the TEIs which have not filed PAR in compliance with Hon'ble Supreme Court's deadline of 02nd April, 2022, the academic session 2022-23 shall be declared as a zero academic year for fresh intake.*

DECISION OF THE COUNCIL:

The Council, after detailed deliberation, has approved two proposals mentioned in agenda Item No. 2."

21. The aforesaid decision of the NCTE does not indicate any deliberation whatsoever. The decision on Agenda Item No. 2 is without any discussion or reasoning. It is well settled in law, that reasoning for decision-making by an administrative/statutory authority is a crucial aspect of principles of natural justice. Courts have repeatedly held that orders of the statutory authorities should clearly disclose the grounds and reasons to sustain their decision and action. It is the reasoning alone that can assist this court to review the decision and determine if it is sustainable in law. Unfortunately, on this point, the impugned decision is entirely at fault.

22. That apart, the Court also finds *prima facie* merit in the contention of Mr. Sharawat that Section 17 of the Act does not provide or vest the power of declaration of an academic year as a zero year, i.e., the penalty imposed. It is noted that the first public notice (dated 22nd September, 2019 which called upon TEIs to file the PAR) itself provided the consequence for non-compliance, as "*Non-submission of PAR will attract action under section 17(1) of NCTE Act, 1993.*". However, subsequently, the NCTE declared the academic session 2022-23 as a zero academic year for fresh intake, which penalty has not been provided under the said section of the Act. It is an

established doctrine of law that where a statute requires a particular thing to be done in a particular manner, it must be done in that fashion only and in none other, whatsoever. The discretion of reduction of penalties must be specifically vested with the NCTE, with adequate clarity and prescription of the conditions that can entitle a party to such reduction.

23. Further, the court also finds merit in the submission that before the imposition of any penalty, the TEIs were entitled to be given a reasonable opportunity of being heard. Any penalty which has serious consequences ought not to have been imposed by issuing a public notice, in violation of principles of natural justice.

24. That apart, the court is unable to *prima facie* read the power to impose the penalty so meted out, as a part of the functions bestowed upon NCTE under Section 12(k) of the Act, which empowers it to evolve suitable performance appraisal system, norms and mechanism for enforcing accountability on recognised institutions. This delegation of power for appraisal cannot automatically include power to impose penalties that have not been specifically provided by the legislature, under the Act. Further, the Court also finds *prima facie* merit in the contention of the Petitioner that the power of Signature Not Verified
Digitally signed by W.P.(C) 7284/2022
15.02.2022 15:52:07 declaring a zero year, if not found in the Act itself, cannot be implied, as this entails penal consequences.

25. For the forgoing reasons, the Petitioners are entitled to interim protection, failing which, grave prejudice would be caused to them as the declaration of a year to be a zero academic year would entail severe consequences. The impugned minutes prohibit the TEIs from fresh intake of

students for the upcoming academic year. Likelihood of irreparable harm is thus made out. In this regard, the balance of convenience also rests in their favour.

26. Thus, till the next date of hearing, the decision of the NCTE at Agenda Item No. 2 in the 54th General Body Meeting held on 27th April, 2022 shall remain stayed. Consequently, the public notice dated 03rd May, 2022, to that effect, shall also remain stayed. Petitioner-TEIs shall be free to admit students for the respective courses for the academic session 2022-23 and the NCTE shall take such consequential steps/ measures to give effect to the aforementioned order by way of public notice or otherwise as found expedient.

27. The counsels for the Petitioners have pointed out that a large number of TEIs, running into several thousands, are similarly placed and would have to approach this court for similar relief. They pray for suitable directions in this regard. Considering the above, it is observed that since this order has stayed the effect of the decision at Agenda Item No. 2 taken in the 54th General Body Meeting held on 27th April, 2022 and the consequential public notice dated 03rd May, 2022, it has an *in rem* effect. Pertinently, since the stay has been granted irrespective of the fact whether the TEI has filed the PAR or not, all similarly-placed TEIs which were adversely affected by the impugned minutes and notice, but have not filed writ petitions here, shall also be covered by the foregoing directions and need not apply to this court seeking parity.

28. Before parting, it must also be observed that the purpose of

introducing the mechanism for filing PAR is to monitor and quality-control TEIs. However, non-compliance has to be dealt-with only as per the scheme of the Act. NCTE, as a regulator, must take steps to achieve holistic development of the teacher education system. It must take steps to develop and enhance accountability of its recognized institutions. Thus, it is clarified that for the non-compliance of filing PAR, the NCTE shall be free to take any recourse or any such measures as are provided under the Act.

29. The applications stand disposed of.

W.P.(C) 7284/2022 & connected matters

30. Mr. Shivam Singh has filed an additional affidavit in W.P.(C) 7284/2022, copy whereof has been received by the counsel for the Petitioner. The Petitioner is permitted to file a rejoinder, if so required, within a period of two weeks from today.

31. Counsel for the Respondent states that no separate counter-affidavit is required in all the matters and the counter affidavit in W.P.(C) 7284/2022 will be treated as a counter in all the other matters.

32. Likewise, additional affidavit and rejoinder thereto, if any, shall be treated as additional-affidavit in all the petitions.

33. Re-notify on 24th August, 2022.

SANJEEV NARULA, J

MAY 27, 2022

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