

GAHC010092732022



THE GAUHATI HIGH COURT
(HIGH COURT OF ASSAM, NAGALAND, MIZORAM AND ARUNACHAL PRADESH)

Case No. : WP(C)/3275/2022

HINDI TEACHERS TRAINING COLLEGE, NORTH GUWAHATI
RAJADUAR, WARD NO.4, KAMRUP, PIN-781030, ASSAM, (BEING REP. BY
ITS PRINCIPAL DR. MANIDEEPA BARUA)

VERSUS

THE UNION OF INDIA AND 4 ORS
REP. BY ITS JOINT SECRETARY, MINISTRY OF HUMAN RESOURCE
DEVELOPMENT (DEPTT. OF SCHOOL EDUCATION AND LITERACY), GOVT.
OF INDIA, SHASTRI BHAWAN, NEW DELHI-110001.

2:THE CHAIRMAN

NATIONAL COUNCIL OF TEACHER EDUCATION
G-7
SECTOR-10
DWARKA
NEAR METRO STATION
NEW DELHI-110075.

3:THE REGIONAL DIRECTOR
EASTERN REGIONAL COMMITTEE
15
NEELKANTHA NAGAR
NAYAPALLI
BHUBANESHWAR-751012
ORISSA.

4:THE STATE OF ASSAM
REP. BY ITS COMMISSIONER AND SECRETARY
DEPTT. OF EDUCATION (ELEMENTARY)
DISPUR

GUWAHATI-781006.

5:THE DIRECTOR
STATE COUNCIL OF EDUCATIONAL RESEARCH AND TRAINING (SCERT)
KAHILIPARA
GUWAHATI-781019

Advocate for the Petitioner : MR. S DUTTA

Advocate for the Respondent : ASSTT.S.G.I.

BEFORE
HONOURABLE MR. JUSTICE ACHINTYA MALLA BUJOR BARUA

JUDGMENT & ORDER (ORAL)

Date : 09-08-2022

Heard Mr. S. Dutta, learned Senior counsel for the petitioner and Mr. U.K. Goswami, learned CGC for the respondent No. 1, being the Union of India through the Ministry of Human Resource Development, Government of India. Also heard Mr. I. Alam, learned counsel for the respondents No. 2 and 3, being the authorities under the National Council for Teacher Education (NCTE) and Mr. S.M.T. Chistie, learned counsel for the respondents No. 4 and 5, being the authorities under the Education Department.

2. The petitioner Hindi Teachers Training College, North Guwahati represented by its Principal is an institution established for training and imparting Hindi courses to the Government teachers of Assam and it is affiliated to the Central Institute of Hindi, Agra. The institute is in existence and functioning since the year 1969 and it is stated to be the only teachers' training college of Hindi teachers who are serving in various Government schools of Assam. On 31.05.2005, the petitioner institute applied before the authorities under the NCTE for grant of recognition for conducting the Hindi Shikshan Parangat course to the in-service Government teachers of the region. The respondent No. 3 being the Regional Director, Eastern Regional Committee

(ERC) of the NCTE by its order dated 21.10.2008 had refused the grant of recognition for conducting the Hindi Shikshan Parangat course for the reasons that the institution had not submitted the list of teaching staff in the prescribed format, the total land area was less than the NCTE norms, the building plan and the building completion certified approved from the competent authority were not submitted.

3. The Principal of the petitioner institute by a letter dated 17.11.2008 requested the Member Secretary of the NCTE not to finalize the order of refusal dated 21.10.2008 as it could have an adverse effect on all the Government schools and colleges of Assam. On 07.01.2015, the Principal of the institute made an application to the Regional Director of NCTE for recognition to the college for conducting Hindi Shikshan Parangat course and along with the application, the required documents etc. were also enclosed but there was no response from the authorities under the NCTE against such application. Subsequent application was made on 30.05.2015 but again there was no response.

4. In the aforesaid circumstance, the Ministry of Human Resource Development, Government of India in the Department of School Education and Literacy issued a notification No. S.O.1457(E) dated 12.05.2020, by which in exercise of the powers conferred by the second proviso to Sub-section (1) of Section 14 of the National Council for Teacher Education Act, 1993 (for short 'the NCTE Act, 1993'), the Central Government specified the institutions funded by the Central Government or the State Government, as the case may be, and accorded recognition retrospectively, for the courses and duration mentioned in such notification. The petitioner institute finds its place at Sl. No. 5 of the notification dated 12.05.2020 and the course of which recognition was granted

was Hindi Shikshan Parangat and the period for which retrospective recognition was granted was from 1995-1996 to 2017-2018.

5. In the circumstance, the petitioner preferred an appeal under Section 18 of the NCTE Act, 1993 before the NCTE Appellate Authority, New Delhi, against the earlier order dated 21.10.2008 by which the ERC of the NCTE had refused recognition of the petitioner institute for conducting the Hindi Shikshan Parangat course. The appeal was given a consideration by the order dated 26.11.2021, by which the appeal stood rejected on the ground that it was instituted after thirteen years of the order dated 21.10.2008. It further provided that in between during the thirteen years, the norms and standards for teacher education programmes have changed in the years 2009 and 2014 and therefore, no recognition can be granted to the petitioner institute. Accordingly, the Appellate Authority of the NCTE decided not to entertain the appeal of the petitioner. Being aggrieved this writ petition is instituted.

6. We have noticed that although the initial application of the petitioner for recognition may have been refused by the order dated 21.10.2008 but by the notification dated 12.05.2020, the petitioner institute was given the recognition with retrospective effect by the Ministry of Human Resource Development, Government of India, in exercise of the powers under the second proviso to Section 14(1) of the NCTE Act, 1993. But Mr. S. Dutta, learned Senior counsel for the petitioner has raised a grievance that although the recognition had been given as per the notification dated 12.05.2020 with retrospective effect, but the notification itself provides that the retrospective recognition is for the period mentioned therein i.e. years 1995-96 to 2017-18. In other words, going by the provisions of the notification, it has to be understood that from 2017-2018 onwards, there would be no further recognition.

7. We have taken note that the retrospective recognitions/recognition accorded to the petitioner institute by the notification dated 12.05.2020 is made under the second proviso to Section 14(1) of the NCTE Act, 1993. Section 14(1) of the NCTE Act, 1993 as amended and existed as on 12.05.2020 when the retrospective recognition was accorded by the Ministry of Human Resource Development, Government of India is extracted as below:

“14. Recognition of institutions offering course of 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.

[Provided further that such institutions, as may be specified by the Central Government by notification in the Official Gazette, which-

(i) are funded by the Central Government or the State Government or the Union Territory Administration;

(ii) have offered a course or training in teacher education on or after the appointed day till the academic year 2017-2018; and

(iii) fulfil the conditions specified under clause (a) of sub-section (3),

shall be deemed to have been recognised by the Regional Committee.]”

8. A reading of the provisions of Section 14(1) including the second proviso makes it discernible that every institution offering or intending to offer a course or training in teacher education on or after the appointed day i.e. the date of establishment of the NCTE, would be required to make an application to the Regional Committee concerned for recognition under the NCTE Act, 1993. In other words, without recognition being granted by the NCTE, teacher training course that may be offered would remain unrecognized. But, however, the second proviso to Section 14(1) provides for an exception that such institutions, as may be specified by the Central Government by notification in the Official

Gazette, which, amongst others, are funded by the Central Government or the State Government or the Union Territory and have offered a course of training in teacher education on or after the appointed day till the academic year 2017-18 and fulfils the conditions specified under Sub-section (3)(a), shall be deemed to have recognized by the Regional Committee. The provisions of the second proviso itself makes it explicitly clear that if the three conditions precedent i.e. the institutes are funded by the Central Government or the State Government or the Union Territory; have offered a course of training in teacher education on or after the appointed day i.e. when NCTE was established up to the academic year 2017-18; and fulfils the conditions of Sub-section (3)(a) and specified by the Central Government by a notification in the Official Gazette, such institutions shall be deemed to have been recognized by the Regional Committee. The very expression 'deemed to have been recognized by the Regional Committee' is a legal fiction created in favour of such institutes that if they satisfy the three conditions referred above and the institutes are specified by the Central Government in the Official Gazette, the law recognizes that such institutions have been recognized by the Regional Committee.

9. Accordingly, the petitioner institute having been specified by the Central Government as per the notification dated 12.05.2020 in furtherance of the powers under the second proviso to Section 14(1) of the NCTE Act, 1993, it would have to be understood that there is a legal fiction created in favour of the petitioner institute that it is recognized by the Regional Committee of the NCTE or in other words, the law by itself had given the recognition to the petitioner institute. We have also examined the provisions of the second proviso to Section 14(1) of the NCTE Act, 1993, wherein the legal fiction of deemed recognition is provided. Under the provision of second proviso to Section 14(1) of the NCTE

Act, 1993, the provision 'shall be deemed to have been recognized by the Regional Committee' itself is unconditional and not circumscribed to a limited period of time. The reference to the academic year 2017-18 that is available in clause (ii) of the second proviso, which is one of the conditions precedent that the courses in teacher education would have to be offered after the appointed day i.e. the date establishment of the NCTE till the year 2017-18. Any institute satisfying the said condition precedent would be entitled for a deemed recognition. Merely because the condition precedent to have a deemed recognition is the offering of teacher education course from the appointed day up to the year 2017-18, it cannot be understood that the recognition would also be only up to the year 2017-18, which would be more so as no such limitation or being circumscribed is provided in the provisions of the second proviso to Rule 14(1) of the NCTE Act, 1993. On the other hand, the provision of the second proviso is explicitly clear that it will be a deemed recognition without any limitation or being circumscribed up to a given duration, provided the three conditions are satisfied.

10. In view of the above, we declare that the recognition to the petitioner institute as per the notification dated 12.05.2020 of the Ministry of Human Resource Development, Government of India, has to be understood to be a recognition without any limit or duration mentioned therein. Accordingly, the petitioner institute shall be entitled to the benefits of recognition without it being circumscribed for any limited period.

With the above clarification and declaration, writ petition stands allowed.

JUDGE

Comparing Assistant