

HIGH COURT OF MADHYA PRADESH AT JABALPUR
WRIT PETITION NO.19914/2014

PETITIONER : VEENA VADINI D.ED. COLLEGE,
PRITHVIPUR.

Vs.

RESPONDENTS : NATIONAL COUNCIL FOR TEACHERS
EDUCATION AND OTHERS.

**Present : Hon'ble Shri Justice R.S. Jha,
Hon'ble Shri Justice V. K. Shukla.**

For the petitioner : Shri Vrindavan Tiwari, Advocate.

For respondents 1 & 2 : Shri K. K. Singh, Advocate.

For respondent no.3 : Shri Harpreet Ruprah, Advocate.

ORDER
(01/12/2016)

Per R. S. Jha, J.

The petitioner has filed this petition being aggrieved by order dated 16/25.09.2014 passed by the Appellate Authority constituted under the National Council for Teacher Education Act, 1993 (hereinafter referred to as the 'NCTE Act') and the Regulations framed thereunder and the consequential order passed by the Director of the Regional Committee dated 10.11.2014, Annexure P-2, whereby, pursuant to the order in the appeal, the application for recognition of the

petitioner has been filed and has not been processed further.

2. The brief facts, leading to the filing of the present petition, are that the petitioner institution applied for grant of recognition under the Act of 1993 and the National Council for Teacher Education (Recognition, Norms and Procedure) Regulations, 2005, for the purposes of starting an educational institution for imparting D.Ed. Courses in teacher education.

3. As per the averment made by the petitioner, the respondent authorities, after conducting inspection and scrutinizing the documents submitted by the petitioner-institution passed an order on 30.10.2006 granting recognition to the petitioner under the NCTE Act. It is submitted that pursuant to the grant of recognition by the NCTE, the petitioner-institution also obtained affiliation from the Madhya Pradesh Board of Secondary Education, Bhopal on 19.12.2007 vide Annexure P-7 and thereafter continued to admit students and imparted D.Ed. Courses.

4. It is submitted by the learned counsel for the petitioner that sometime in the year 2014 the petitioner-institution's name was removed from the list

of recognized institution shown and displayed by the NCTE and the respondent Board also informed the petitioner institution by order dated 30.4.2014 that it had been de-affiliated, being aggrieved by which the petitioner filed a Writ Petition before this Court which was registered as W.P No.11778/2014 and was ultimately disposed of by order dated 19.9.2014 by taking note of the fact that the petitioner had already filed an appeal against the act of the respondent which was pending before the Appellate Authority. The petition was, accordingly, disposed of granting liberty to the petitioner to prosecute the appeal. It is submitted that pursuant to the disposal of the writ petition, the appellate authority of the respondent NCTE passed the impugned order on 16/25.09.2014 dismissing the appeal consequent to which the impugned communication dated 10.11.2014 has been issued by the Director of the Regional Committee informing the petitioner that his application for recognition cannot be processed any further.

5. The petitioner-institution, in the present petition, has assailed the aforesaid two orders i.e. the order dismissing his appeal and the order dated 10.11.2014 passed by the Director, Regional Committee refusing to

process the petitioner's application for recognition any further and has also prayed for a direction to the respondent Board to grant affiliation to the petitioner and quash the communication issued by it on 30.4.2014.

6. It is submitted by the learned counsel for the petitioner that the petitioner-institution was granted recognition by the respondent authorities by their communication and order dated 30.10.2006 and in such circumstances the petitioner-institution, being a recognized institution, is entitled to impart D.Ed. Courses in teacher education and also has a right for issuance of a direction to the respondent NCTE to display its name in the list of recognized institutions.

7. It is submitted that the petitioner-institution having been granted recognition by the respondent NCTE in accordance with the Act of 1993 and the Regulations framed thereunder, the respondent authorities were bound to display the petitioner-institution's name in the list of recognized institutions and their act of delisting the petitioner-institution without giving any show cause notice or opportunity of hearing to the petitioner amounts to violation of the petitioner's Fundamental Rights under Article 14 of the Constitution of India as

well as denial of opportunity of hearing which violates the principles of natural justice.

8. It is also contended by the learned counsel for the petitioner that a recognition once granted under the Act of 1993 and the Regulations framed thereunder can only be withdrawn in accordance with the procedure prescribed under the Regulations of the Act. It is submitted that in the instant case, as the respondent authorities have not initiated any proceedings under section 17 of the Act of 1993 to derecognize the petitioner-institution by issuing a notice as prescribed thereunder therefore, in the absence of any such proceedings or an order of derecognition, the act of the respondent authorities in dropping the name of the petitioner-institution from the list of recognized institutions deserves to be quashed and the petitioner be awarded cost for the inconvenience that the petitioner as well as the students studying in the petitioner-institution have been required to undergo.

9. On the basis of the aforesaid submission, the petitioner has also prayed for a direction to the respondent authorities to restore the name of the petitioner-institution with all consequential benefits and

to quash the order dated 30.4.2014 passed by the respondent Board deaffiliating the petitioner-institution on the ground that its name has not been reflected in the list of recognized institutions by the NCTE.

10. The respondent NCTE has filed a return and has stated that the petitioner-institution had applied for grant of recognition and pursuant to his application order 30.10.2006 was passed by the respondent NCTE granting conditional recognition to the petitioner-institution. It is submitted that in the said order the authorities of the NCTE have specifically mentioned that the conditional recognition granted to the petitioner-institution was subject to fulfillment of the conditions that were mentioned in the order. It is pointed out that the order dated 30.10.2006 clearly specified that the conditional recognition was granted subject to appointment of qualified faculty members as per NCTE norms without delay by the petitioner-institution and submitting information in that regard on its official website alongwith a copy of the said information to the Western Regional Office of the NCTE. It is stated that the order also stipulated that, as and when such compliance is made by the petitioner-institution, the authorities would take up steps to verify the same and

only thereafter a formal unconditional order of recognition would be issued. The respondent authorities, in para-2 of the return, have also pointed out that in the order granting conditional recognition to the petitioner, the respondent authorities have also clearly ordered that the petitioner-institution would be entitled to make admissions only after receiving the unconditional order of recognition from the NCTE.

11. The learned counsel for the respondent NCTE submits that till date the information, as sought by the respondent NCTE and the conditions which were required to be complied with by the petitioner-institution as per the order of conditional recognition dated 30.10.2006, Annexure P-5, have not been complied with by the petitioner-institution and, therefore, no order of unconditional recognition has been issued to the petitioner-institution.

12. On the basis of the aforesaid factual assertion, it is submitted that the petitioner-institution is not a recognized institution as per the provisions of the Act of 1993 and the Regulations framed thereunder.

13. The learned counsel for the respondent NCTE submits that as there is no formal order of unconditional

recognition issued by the respondent NCTE, the relief as prayed for by the petitioner-institution deserves to be rejected.

14. The respondents have also brought on record the fact that criminal cases have been instituted against the petitioner in respect of its fraudulent activities on account of complaints received at Police Station, Shyamla Hills, Bhopal and criminal proceedings for imposing punishment for offences punishable under Sections 420, 467, 468 and 471 of the IPC, have been initiated against the petitioner-institution.

15. The respondents have also brought on record a report submitted by the Deputy Collector, Tikamgarh dated 06.03.2013 wherein on complaints being received, the Regional Director of the NCTE has asked the local authorities to conduct an investigation and the local authorities, after doing so, had submitted a report to the effect that the activity of the petitioner-institution appears to be fraudulent as in a single campus the parent society of the petitioner-institution i.e. Jan Sewa Siksha Samiti has installed several boards of various educational institutions and that no student or teaching staff or any infrastructure was found on the spot.

16. The learned counsel for the respondent submits that in such circumstances, the petition filed by the petitioner deserves to be dismissed with cost. The respondent NCTE has also brought on record order dated 27.04.2009 passed by this Court in W.P No.7250/2008 filed by the parent society of the petitioner-institution challenging criminal proceedings initiated against them which was dismissed by this Court. On the basis of aforesaid averments the learned counsel for the respondent NCTE has prayed for dismissal of the petition.

17. The learned counsel appearing for the respondent Board submits that the respondent Board had granted affiliation to the petitioner-institution for the Session 2007-2008 on 19.12.2007, only on account of the fact that the petitioner-institution had informed them that it was a recognized institution. It is submitted that the said affiliation was conditional upon obtaining proper recognition from the NCTE and was only for a year. It is submitted that the respondent Board has subsequently withdrawn and cancelled the affiliation of the petitioner by order dated 27.08.2011 since the session 2010-2011 and thereafter no affiliation has been granted to the petitioner-institution on account of the fact that the

name of the petitioner-institution has been delisted from the list of recognized institutions by the NCTE.

18. We have heard the learned counsel for the parties at length.

19. To properly appreciate the factual matrix of the case it is necessary to analyze the letter/order dated 30.10.2006 which is the basis and foundation on which the petitioner-institution has based his entire claim and relief as the stipulation contained in the order would determine its nature and impact. Relevant portion thereof is quoted hereinbelow:-

“The institutions mentioned in the table under para 2 below had submitted applications to the Western Regional Committee of National Council for Teacher Education for grant of recognition to PPTC/P.T.C./D.Ed.B.Ed./M.Ed./B.P.Ed./C.P.Ed. in terms of Section 14(1) and 15(1) of NCTE Act, 1993, among others.

The WRC in its 90th meeting held from 27th October 2006 at Bhopal considered applications of the institutions included in the Agenda for the meeting and after careful examination of relevant documents, Visiting Team Reports, Video Recording, etc. found the following institutions fit for grant of recognition subject to the fulfillment of condition mentioned in para-3

below and also in remarks column against their names:

S.NO	NCTE CODE	NAME AND ADDRESS OF THE INSTITUTION	COURSE	REMARKS
1 to 43	xxx	xxx	xxx	xxx
44	APW02964 / 222120	VEENA VADINI D.ED. MAHAVIDYALAYA, JANSEVA BHAVAN, PRITVIPUR, TIKAMGARH	D.ED	--

The above institutions are hereby directed to appoint qualified faculty members as per NCTE norms without delay and to put the information on their official website with a copy to the Western Regional Officer of NCTE. Upon receipt of the compliance and its verification at this end, the formal unconditional order of recognition shall be issued.

_____ The admission to the course can be made only after receiving the unconditional order of recognition from NCTE.” (underlined by us)

20. A bare perusal of the aforesaid letter dated 30.10.2006 makes it abundantly clear that the letter itself clearly mentions that the petitioner-institution was found fit for grant of recognition “subject to fulfillment of conditions mentioned in para-3 below” and that it imposes a condition upon the petitioner-institution to appoint qualified faculty members as per NCTE norms and put the information on their official website with a copy to the Committee and it is only “upon receipt of the compliance and its verification at this end, the formal

unconditional order of recognition shall be issued.” The last paragraph of the letter stipulates that admissions to the course can be made only after receiving the unconditional order of recognition from the NCTE. The words “subject to the fulfillment of conditions” and the clear stipulation that only after verifying the fact of fulfillment of the conditions “formal unconditional order of recognition” shall be issued as well as the direction contained in the said letter that admissions can be made only after receiving “unconditional order of recognition” makes it abundantly clear that the letter/order dated 30.10.2006 is an order granting conditional recognition and that it clearly specifies that an order of unconditional recognition would be and shall be issued only after the conditions mentioned in the letter are complied with and the compliance has been duly verified.

21. On a conjoint reading of the documents Annexure P-5 dated 30.10.2006 alongwith the notices issued to the petitioner-institution which have been filed by the petitioner himself along with the rejoinder as Annexure R/J-2 dated 23.02.2006/2.03.2006 and Annexure R/J-3 dated 5/11.09.2006, it is clear that the respondent NCTE, while processing the application of the petitioner, passed an order granting conditional/provisional recognition to

the petitioner-institution as provided under Regulation 7(11) of the Regulations of 2005 (which were prevalent at that point of time) and is not an order granting unconditional recognition as contemplated by Regulation 7(12) of the Regulations of 2005.

22. From a perusal of the record and the averments made by the petitioner in the petition as well as the two rejoinders filed by the petitioner and the return and additional return filed by the respondents, it is apparent that after passing of the order dated 30.10.2006 granting conditional recognition to the petitioner-institution, the petitioner did not take any step to fulfill the conditions mentioned therein and as on date it is an admitted and undisputed fact that no order granting unconditional recognition has been issued to the petitioner till date.

23. Before we proceed any further, we think it appropriate to first deal with the contention of the learned counsel for the petitioner to the effect that the order passed by the respondent Committee dated 30.10.2006 is and should be treated to be an order granting final recognition to the petitioner under the

provisions of the Act and the Regulations framed thereunder.

24. To appreciate the contention of the petitioner in the proper prospect, it is necessary to refer to the relevant provisions of the Regulations of 2005 under which the application for recognition filed by the petitioner was processed and under which the communication dated 30.10.2006 has been issued by the respondent authorities which, it is urged by the learned counsel for the petitioner, should be treated as an order granting recognition to the petitioner institution.

25. The relevant provisions of Regulation 2005 which deal with grant of conditional and unconditional recognition are Regulation 7(11), 7(12) and 8(10), are in the following terms:-

“7(11) The institution concerned shall be informed of the decision for grant of recognition or permission subject to appointment of qualified faculty members before the commencement of the academic session.

7(12) The institution concerned, after appointing the requisite faculty/staff, shall put the information on its official website and also formally inform the Regional Committee concerned. The Regional Committee concerned shall then issue a formal unconditional recognition order.

8(10) An institution shall make admission only after it obtains unconditional letter of recognition from the Regional Committee concerned, and affiliation from the examining body.”

26. A conjoint reading of the aforesaid Regulations makes it clear that the Regional Committee after scrutinizing the applications filed for recognition and conducting inspection, first issues a letter granting permission or recognition which is not final and is subject to fulfillment of certain conditions and, therefore, is a letter of intent/conditional recognition under Regulation 7(11). In the said letter of intent/conditional recognition the institution concerned is asked to remove the deficiencies specifically relating to appointment of qualified faculty members in accordance with the Regulations of the NCTE and inform the authority concerned who in turn, after verification and inspection and recording a finding regarding removal of deficiencies and fulfillment of conditions ultimately issues a final unconditional recognition under Regulation 7(12). Regulation 8(10) specifically provides that unless and until an unconditional recognition is not granted to an institution, it shall not grant admission in the institution concerned.

27. From a perusal of the letter dated 30.10.2006 alongwith the provisions of Regulation 7(11), 7(12) and 8(12) of the Regulations of 2005, it is apparent that the letter dated 30.10.2006 is only a conditional recognition issued under Regulation 7(11) of the Regulations of 2005, and, therefore, cannot be treated as an order granting final unconditional recognition to the petitioner-institution. We are also of the considered opinion that mere issuance of the letter dated 30.10.2006 does not amount to granting recognition to the petitioner nor can the petitioner consider itself to be a recognition institution in the absence of a formal order granting unconditional recognition being issued under Regulation 7(12) of the Regulations of 2005 and, therefore, the contention to the contrary of the petitioner deserves to be and are hereby rejected.

28. At this stage it is pertinent to note that the parent society of the petitioner-institution alongwith other petitioners had been denied 'No Objection Certificate' by the affiliating body in the year 2006 and, therefore, they had previously filed petitions before this Court against the same as well as several other issues relating to grant of recognition and this Court in the bunch of petitions namely **Jan Seva Shiksha Samiti vs. State of M.P.**

and others, I.L.R (2008) M.P. 706, had the occasion to consider the import and impact of Regulations 7(11) and 7(12) of the Regulations of 2005, which were reproduced in para-16 of the Judgment and in that context this Court, while considering the legality of the alleged orders of recognition granted to the **Jan Seva Shiksha Samiti** (supra) and other petitioners has held as under:-

“24. Each of the aforesaid issues requires careful consideration. First we shall advert to the statutory requirement. The 1993 Act has its objects to achieve. If the anatomy of the entire scheme of the Act is scrutinised it would be quite clear that it is a complete code and it has a laudable purpose. The NCTE has been conferred a sacrosanct and paramount role in the Act. The NCTE has also been extended the power to frame regulations. It has also framed a set of regulations in the year 2005. Section 14(3) of the 1993 Act which has been reproduced hereinabove lays a postulate that the conditions are to be satisfied. The conditions which have been imposed can be compartmentalised into categories, one which the institutions are required to do after the institutions become functional to impart education and the other, as we perceive, before the functioning of the institutions. To elaborate: the conditions are pre-functional. The language used is 'subject to'.

25 & 26. xxx xxx xxx

27. We have referred to the aforesaid decisions only to show that 'subject to' can mean that it is a conditional one and once the conditions are satisfied then the order becomes a ripened, crystallised and concretised one.

28. It is submitted by Mr. Ajay Mishra, learned senior counsel and other counsel appearing for the petitioners that as per Statutes 27 and 28 of the University without commencement of the course the faculty members cannot be appointed. Regulation 7(12) caste a mandate that the institution concerned after appointing the requisite faculty/staff, shall put the information on its official website and also formally inform the Regional Committee concerned. As it seems there is no material on record that the said conditions precedent have been fulfilled. The recognition granted is subject to many a condition and one such condition is appointment of faculty/staff. The University statute has to succumb to the Regulation framed under the NCTE Act. We are inclined to hold so in view of the law laid down in **State of Maharashtra vs. Sant Dnyaneshwar Shikshan Shastra Mahavidyalaya**, 2006 AIR SCW 2048. Thus, the submissions putforth by the learned counsel for the petitioners that they can only appoint teachers after affiliation is given is sans substance. The affiliation can only be granted if recognition is granted by the NCTE and the NCTE recognition is only given if Regulation 7(12) is complied with.

29 to 31. xxx xxx xxx

32. Section 14(3) postulates that the Committee has to be satisfied apart from other things that the institution has fulfilled such other conditions apart from qualifying staff. Condition have been imposed in all the orders of recognition as the terminology 'subject to fulfillment of education staff' is used.

33. Regulation 7(11) clearly stipulates that the institution concerned shall be informed of the decision for grant of recognition or permission subject to appointment of qualified faculty members before the commencement of the academic session. Regulation 7(12) postulates that the institution concerned after appointing the requisite faculty/staff, shall put the information on its official website and also formally inform the Regional Committee concerned and thereafter the Committee shall issue a formal recognition order. Regulation 8(1) clearly lays down that the institution shall fulfill all the prescribed conditions related to norms and standards as prescribed by the NCTE for conducting the course or training in teacher education. The norms cover conditions relating to financial resources, accommodation, library, laboratory, other physical infrastructure, qualified staff including teaching and non-teaching personnel, etc. Regulation 8(10) unequivocally postulates that an institution shall make admission only after it obtains unconditional letter of recognition from the Regional Committee concerned and affiliation from the examining body.

34 to 40. xxx xxx xxx

41. Keeping in view the totality of facts and circumstances and the action taken by the Central Government with regard to the recognition granted by the WRC, Bhopal and the non-fulfillment of the conditions imposed in the so called orders of recognition, we are unable to accede to the relief sought for in the writ petitions.

42. Regard being had to the factual matrix in entirety, we proceed to state our conclusions and directions in seriatim:

(a) Though the letters of recognitions issued by the NCTE are couched in different phraseology in various cases, yet the same lead to one inescapable conclusion that they are conditional recognitions.

(b) The conditional recognitions could have been ripened after satisfying certain statutory requirements like appointment of teaching and non-teaching staff and other conditions enumerated/provided in regulations 7 and 8 of the Regulations as they are conditions precedent and relate to fundamental realm of recognition.

(c) Certain conditions are relatable to the institutions after they become functional but on that foundation it cannot be construed that the orders of recognition are totally unconditional.”

(d) to (k) xxx xxx xxx

(underlined by us)

29. The legality of the order passed by the Division Bench of this Court in the case of **Jan Seva Shiksha Samiti** (supra) was taken up for consideration before the Supreme Court in the case of **Adarsh Shiksha Mahavidyalaya** (supra) and was affirmed with approval by the Supreme Court. The Supreme Court, while doing so, took into consideration the provisions of Section 17-A of the Act of 1993 which statutorily provides that “no institution shall admit any student to a teacher training course or programme unless it has obtained recognition under Section 14 or permission under Section 15, as the case may be.”

30. The Supreme Court, in the case of **Adarsh Shiksha Mahavidyalaya** (supra) also considered the provisions of the Regulations of 2005 specifically Regulations 7(11) and 7(12) as well as Regulation 8(10) of the Regulation of 2005, which have been quoted in para-15 of the judgment and in para-17 also took into consideration the provisions of the National Council for Teacher Education (Recognition, Norms and Procedure) Regulations, 2007, which replaced the 2005 Regulation and while doing so has reproduced Regulations 7(9), 7(10) and 7(11) of the 2007 Regulations, in para-17 of its judgment which are in similar terms as the Regulations of 2005 though with greater elaboration and clarification. The Supreme Court in the aforesaid decision has also reproduced Regulation

8(12) of the Regulations of 2007, which was in similar terms as Regulation 8(10) of the Regulations of 2005, and has thereafter considered the decision of this Court in the case of **Jan Seva Shiksha Samiti** (supra) in para- 32, 64, 79 in the following terms:-

“32. The High Court in **Jan Seva Shiksha Samiti** (supra) referred to the provisions of Sections 14 to 16, 20, 21, 29 and 32 of the 1993 Act and Regulations 3, 5, 6 and 7 of the 1995 Regulations, different types of orders passed by the Western Regional Committee under Section 14(1) and (3) and 15(1) of the 1993 Act for grant of recognition to different institutions as also the directions given by the Central Government under Section 29 of the 1993 Act, report submitted by the Committee headed by Mrs. Anita Kaul and issued the following directions:

"(a) Though the letters of recognition issued by the NCTE are couched in different phraseology in various cases, yet the same lead to one inescapable conclusion that they are conditional recognitions.

(b) The conditional recognitions could have been ripened after satisfying certain statutory requirements like appointment of teaching and non-teaching staff and other conditions enumerated/provided in regulations 7 & 8 of the Regulations as they are conditions precedent and relate to fundamental realm of recognition.

(c) Certain conditions are relatable to the institutions after they become functional but on that foundation it cannot be construed that the orders of recognition are totally unconditional.”

(d) to (k) xxx xxx xxx

64. If the High Court had not ordered re-scrutiny of the recognition/affiliation granted to the private institutions, the irregularities committed by the Western Regional Committee may never have seen the light of the day and we do not see any reason to nullify the exercise undertaken by the High Court to ensure that the provisions of the 1993 Act and the Regulations thereunder are strictly followed by the authorities entrusted with the task of granting recognition and affiliation to the institutions and colleges engaged in conducting teacher training courses.

79. What needs to be emphasised is that no recognition/permission can be granted to any institution desirous of conducting teacher training course unless the mandatory conditions enshrined in Sections 14(3) or 15(3) read with the relevant clauses of Regulations 7 and 8 are fulfilled and that in view of the negative mandate contained in Section 17-A read with Regulation 8(10), no institution can admit any student unless it has obtained unconditional recognition from the Regional Committee and affiliation from the examining body.” (underlined by us)

31. The Supreme Court, after affirming and approving the decision of this Court in the case of **Jan Seva Shiksha Samiti** (supra) and other connected writ petitions, reiterated the directions issued by this Court in para-87 of its judgment and thereafter also issued necessary directions to the effect that the result of the students admitted by an unrecognized institution shall not be declared in the following terms in para-88:-

“88. So far as these appeals are concerned, we deem it proper to give the following directions:

(i) xxx xxx xxx

(ii) The result of the students admitted by an unrecognized institution or by an institution which had not been granted affiliation by the examining body shall not be declared. The result of the students who were admitted without qualifying the entrance examination shall also not be declared. In other words, the students admitted by the private institutions on their own shall not be entitled to declaration of their result. If any private institution had not complied with the requirements of completing the prescribed training, then the result of students of such institution shall also not be declared.”

(iii) to (v) xxx xxx xxx

32. The aforesaid decision of this Court as well as of the Supreme Court clearly indicate that the parent society of

the petitioner-institution was well aware of the law as well as the directions issued by this Court in this regard. The petitioner-institution was also aware of the mandatory requirement of Regulation 7(11) and 7(12) as well as 8(10) of the Regulations of 2005, and the corresponding elaborated provisions contained in the provisions of Regulation of 2007, inspite of which they have proceeded to grant admissions and have audaciously filed the present petition again seeking the relief of being treated as a recognized institution and for approving and affirming the admissions granted by it.

33. The decisions in the case of **Adarsh Shiksha Mahavidyalaya** (supra) and the interpretation of similar Regulations contained in the subsequent Regulation framed by the NCTE in the year 2009 came up for consideration and interpretation before the Supreme Court in the case of **National Council for Teacher Education and another vs. Venus Public Education Society and others**, (2013) 1 SCC 223, and the Supreme Court after considering the same in detail, set aside the judgment of the High Court treating the letter of intent as an order granting recognition and has held as under:-

“22. Regulation 7(9) provides for issue of “letter of intent”. The said Regulation is as follows:

“7(9) The institution concerned shall be informed, through a letter of intent, regarding the decision for grant of recognition or permission subject to appointment of qualified faculty members before the commencement of the academic session. The letter of intent issued under this clause shall not be notified in the gazette but would be sent to the institution and the affiliating body with the request that the process of appointment of qualified staff as per policy of State Government or University Grants Commission or University may be initiated and the institution may be provided all assistance to ensure that the staff or faculty is appointed as per National Council for Teacher Education Norms within two months. The institution shall submit the list of the faculty, as approved by the affiliating body, to the Regional Committee.”

Regulation 7(9) stipulates what the institution is required to do after receipt of the “letter of intent”.

23. Regulation 7(11) of the 2009 Regulations provides when a formal order of recognition is to be issued. The said Regulation is as follows:

“7(11) The institution concerned, after appointing the requisite faculty or

staff as per the provisions of sub-regulation (9) and after fulfilling the conditions under sub-regulation (10), shall formally inform the Regional Committee concerned that the faculty has been appointed as per National Council for Teacher Education Norms and has been approved by the affiliating body. The letter granting approval for the selection or appointment of faculty shall also be provided by the institution to the Regional Committee with the document establishing that the fixed deposit receipt of endowment fund and reserve fund have been converted into a joint account. *The Regional Committee concerned shall then issue a formal order of recognition which shall be notified as per provision of the National Council for Teacher Education Act.*" (emphasis added)

24. xxx xxx xxx

25. On a keen scrutiny of Section 14 and the aforesaid Regulations it is vivid that the university or examining body is required to issue a letter of affiliation after formal recognition under sub-regulation (11) of Regulation 7 of the 2009 Regulations is issued. It is also clear that certain obligations are to be carried out by the institution after the letter of intent is received. It is clear as a cloudless sky that the letter of intent was communicated to the institution as well as to the affiliating body with a request that the

process of appointment of qualified staff as per the policy of the State Government or University Grants Commission or university may be initiated and the institution may be provided all assistance to ensure that the staff or faculty is appointed as per the norms of NCTE within two months. It was obligatory on the part of the institution to submit the list of the faculty, as approved by the affiliating body, to the Regional Committee. Thus understood, the letter of intent laid down the conditions which were to be fulfilled by the institution. The said letter was issued on 22-9-2011 and the formal order of recognition was issued on 27-10-2011. Clause 6 of the same clearly stipulates that the institution shall make admission only after it obtains its affiliation from the examining body in terms of Regulation 8(12) of the 2009 Regulations. Regulation 8(12), which has been reproduced hereinabove, clearly lays a postulate that the university or the examining body shall grant affiliation only after issue of formal recognition order under sub-regulation (11) of Regulation 7 and thereafter the institution shall make the admissions.

26. xxx xxx xxx

27. xx xxx xxx

28. In **Adarsh Shiksha Mahavidyalaya** (supra) this Court, after referring to Sections 12, 14 to 16, 17, 17-A, 18, 20, 29 and 32 of the 1993 Act, Regulations 3, 5, 7 and 8 of the 2005 Regulations and further referring to Paras 1.0, 2.0, 3.0, 3.1, 3.2 and 3.3 of the amended Regulations made by

Notification dated 12-7-2006, has categorically laid down thus: (SCC p. 483, para 79)

“79. What needs to be emphasised is that no recognition/permission can be granted to any institution desirous of conducting teacher training course unless the mandatory conditions enshrined in Sections 14(3) or 15(3) read with the relevant clauses of Regulations 7 and 8 are fulfilled and that in view of the negative mandate contained in Section 17-A read with Regulation 8(10), no institution can admit any student unless it has obtained unconditional recognition from the Regional Committee and affiliation from the examining body.”

After laying down the aforesaid principle the Bench proceeded to deal with the cases of students who had taken admission in unrecognised educational institutions. The question posed by the Bench is as follows: (*Adarsh Shiksha case*, SCC p. 483, para 81)

“81. The question which remains to be considered is, whether the students who had taken admission in unrecognised institutions or the institutions which had not been granted affiliation by the examining body have the right to appear in the examination and whether the Court can issue a mandamus for declaration of the result of such students simply because they were allowed to

provisionally appear in the examination in compliance with the interim orders passed by the High Court and/or this Court. An ancillary question, which would require consideration is, whether the students who had not completed the requirement of minimum teaching days were entitled to appear in the examination and a direction can be given for declaration of their result.”

29. xxx xxx xxx

30. The direction contained in para 88(ii), being relevant for the present purpose, is reproduced hereinbelow: (*Adarsh Shiksha case*, SCC p. 488)

“88. (ii) The result of the students admitted by an unrecognised institution or by an institution which had not been granted affiliation by the examining body shall not be declared.

The result of the students who were admitted without qualifying the entrance examination shall also not be declared. In other words, the students admitted by the private institutions on their own shall not be entitled to declaration of their result. If any private institution had not complied with the requirements of completing the prescribed training, then the result of students of such institution shall also not be declared.” (emphasis supplied)

31. On a studied scrutiny of the statutory provisions, the relevant Regulations of the 2009 Regulations framed under Section 32 of the 1993 Act and the pronouncements in the field, we are disposed to think that the High Court has clearly erred in misconstruing its earlier order passed in *Venus Public Education Society v. NCTE, W.P No.4541/2011 order dated 28.7.2011 (MP)*. True it is, there was some delay and, therefore, the High Court was moved in another writ petition wherein it had granted liberty to file a contempt petition expecting that the directions in the earlier order would be duly complied with. Thereafter, as is manifest, letter of intent was issued but the institution instead of complying with the same moved the High Court for grant of recognition. As has been stated earlier, the High Court in the initial order had directed to consider the case of the respondent institution for grant of recognition without further inspection. Issuance of letter of intent was necessary prior to grant of formal letter of recognition. However, the High Court being moved directed for issuance of formal letter of recognition which was issued with a postulate that the institution shall only grant admission after obtaining affiliation from the examining body in terms of Regulation 8(12) of the 2009 Regulations. The order of recognition clearly mentioned that it was meant for the academic session 2012-2013.

32. Adjudged in the aforesaid perspective the High Court could not have directed the recognition to be retrospectively operative because certain formalities remained to be

complied with. It could not have put the clock back. It needs no special emphasis to state that the High Court did not keep itself alive to the conceptual difference between “letter of intent” and “formal recognition”. True it is, there was delay but that could not have enabled the High Court to issue a writ for treating the recognition to be effective for the year 2011-2012 with intake of fifty students. That apart, the respondent institution had not obtained affiliation from the university. Therefore, the direction of the High Court is contrary to the provisions of law and the interpretation of the Act and the Regulations made by this Court and, accordingly we are compelled to set aside the same, and we so direct.

33. Now, to the last plank of submission of the learned counsel for the respondent. It is urged by him that NCTE had procrastinated its decision at every stage and such delay was deliberate and, therefore, the Society was compelled to admit the students and impart education, regard being had to the fact that there were really no deficiencies. As has been laid down in many a pronouncement of this Court that without recognition from NCTE and affiliation from the university/examining body, the educational institution cannot admit the students. An educational institution is expected to be aware of the law. The students who take admission are not young in age. They are graduates. They are expected to enquire whether the institution has recognition and affiliation. If we allow ourselves to say so, the institution had given admission in a

nonchalant manner. Possibly, its functionaries harboured the idea that they had incomparable fertile mind. The students who had taken admission possibly immersed with the idea that ignorance is a bliss. It is also necessary to state that the institution had the anxious enthusiasm to commercialise education and earn money forgetting the factum that such an attitude leads to a disaster. The students exhibited tremendous anxiety to get a degree without bothering for a moment whether their effort, if any, had the sanctity of law. Such attitudes only bring nemesis. It would not be wrong to say that this is not a case which put the institution or the students to choose between Scylla and Charybdis. On the contrary, both of them were expected to be Argus-eyed. The basic motto should have been "transparency". Unfortunately, the institution betrayed the trust of the students and the students, in a way, atrophied their intelligence. The institution decidedly exhibited characteristics of carelessness. It seems that they had forgotten that they are accountable to law. The students, while thinking "vision of hope", chose to play possum. The law does not countenance either of the ideas. Hence, the plea propounded with anxiety, vehemence and desperation on behalf of the respondent is not acceptable and, accordingly we unhesitatingly repel the same."

34. In the backdrop of the aforesaid factual and legal position as well as the decision of the Supreme Court, when the validity of the impugned orders passed by the

Appellate Authority dated 16/25.09.2014 and the consequential order passed by the Director of the Regional Committee dated 10.11.2014 is examined, we find that there is no illegality or infirmity in the same. The Appellate Authority has considered all the facts in detail. The Appellate Authority has taken into consideration the fact that after grant of conditional recognition on 30.10.2006 no information whatsoever as required by the conditional order of recognition or any steps towards fulfillment of the conditions was placed before the Regional Committee and, therefore, a show-cause notice was issued to the petitioner-institution on 24/26.08.2009, a copy of which has been filed by the petitioner alongwith the petition as Annexure P-8 for taking further steps on the application seeking grant of recognition/permission filed by the petitioner-institution.

35. The aforesaid show-cause notice specifically mentions the fact that further inspection of the petitioner-institution could not be conducted as the petitioner-institution did not allow inspection under the Act of 1993. The Appellate Authority has also taken into consideration the reply filed by the petitioner-institution to the show-cause notice on 01.09.2009, a copy of which has been filed as Annexure P-9 and has thereafter held

that as the petitioner-institution has not complied with and fulfilled the conditions specified in the letter/order dated 30.10.2006 and has been granted unconditional recognition, therefore, it is an unrecognized institution and in such circumstances its name cannot be reflected in the list of recognized institutions. From a perusal of the impugned order dated 10.11.2014 passed by the Regional Committee, it is further apparent that the Regional Committee, on receiving the order of the Appellate Authority, took up the matter in its 211th meeting held on 31.10.2014 and after recording a finding to the effect that the petitioner-institution was an unrecognized institution which had not fulfilled the conditions specified in the conditional recognition order dated 30.10.2006, Annexure P-5, refused to further process the application for recognition filed by the petitioner-institution additionally on account of the fact that the Regulations of 2005 have now been substituted by the 2014 Regulations and all institutions are now required to process their applications for recognition in accordance with the Regulations of 2014 in respect to which no steps have been taken by the petitioner-institution. On the basis of the aforesaid finding the Regional Committee has informed the petitioner-

institution that it is an unrecognized institution as on date and no further proceedings on its application can be taken up.

36. We are of the considered opinion that in the backdrop of the history of the litigation and the admitted and undisputed fact that the petitioner-institution has not been granted unconditional recognition and is, therefore, an unrecognized institution as provided and prescribed by the Act of 1993 and the Regulations framed thereunder, no fault can be found with the impugned order dated 16/25.09.2014 passed by the Appellate Authority or the order dated 10.11.2014 passed by the Regional Committee.

37. As the petitioner-institution is an unrecognized institution, it could not have been granted affiliation by the respondent Board and, therefore, we are also of the considered opinion that the order dated 30.04.2014 passed by the respondent Board informing the petitioner that it has already withdrawn the affiliation granted to the petitioner with effect from 2010-2011 session vide order dated 27.08.2011 and that in such circumstances further request for affiliation cannot be considered, is apparently justified, moreso, in view of the provisions of

Section 14(6) of the Act of 1993 which specifically provides that the question of grant of affiliation to an institution would be considered only after it obtains recognition and any affiliation granted would be cancelled where the recognition sought by an institution is refused.

38. It is pertinent to note that the order dated 27.08.2011 passed by the respondent Board de-affiliating/withdrawing the affiliation granted to the petitioner-institution which has been specifically mentioned in order dated 30.4.2014 has never been challenged by the petitioner-institution and is also not subject matter of the present petition.

39. In the backdrop of the aforesaid findings recorded by us and the facts prevailing in the present case, it is clear that the petitioner-institution has also violated the provisions of Regulation 8(10) of the Regulations of 2005, which were prevalent at the time when the petitioner's application for recognition had been filed, by granting admission to students without having obtained an order of unconditional recognition.

40. Apparently the contentions of the petitioner institution regarding recognition and the approval of the

admissions granted by it were and are in contradiction of the provisions of the Regulations as well as the law laid down by this Court in the case of **Jan Seva Shiksha Samiti** (supra) and the Supreme Court in the case of **Adarsh Shiksha Mahavidyalaya and others vs. Subhash Rahangdale and others**, (2012) 2 SCC 425 and **National Council for Teacher Education and another vs. Venus Public Education society and others**, (2013) 1 SCC 223 which has been quoted above and, therefore, it is clear that the interim relief that was sought and granted to the petitioner-institution to permit the students to appear in the examination and to declare the result, etc. cannot be granted or issued by this Court as any such direction would be in clear violation of the provisions of law as well as the law laid down by the Supreme Court.

41. We are also of the considered opinion that the reliance placed by the learned counsel for the petitioner on the order passed by the Division Benches of this Court in W.P No.7447/2013 decided on 13.11.2014 as well as the orders passed in W.P No.6758/2011 dated 9.2.2015 and W.P No.9500/2009 and connected petitions is misplaced and misconceived inasmuch as in those cases the fact situation was totally different and the

relief that was granted to the petitioner therein was on account of the fact that the petitioner-institution in those cases were institutions that had already been granted recognition that was subsequently withdrawn which is not the case in the present petition. It is also apparent that the decision of this Court in the case of **Jan Seva Shiksha Samiti** (supra) and of the Supreme Court in the case of **Adarsh Shiksha Mahavidyalaya** (supra) were not placed before the Court in the aforesaid petition and were therefore not considered.

42. In the peculiar facts of the present case, the decision of the Supreme Court relied upon by the learned counsel for the petitioner in the case of **National Council for Teacher Education and Another vs. Vaishnav Institute of Technology and Management**, AIR 2012 SC 2232 also does not render any assistance to the petitioner.

43. It is reiterated that the present case is one where the petitioner-institution has never been granted unconditional recognition in accordance with the procedure prescribed by the Act of 1993 and the Rules framed thereunder. In fact it is surprising to note that the petitioner-institution has filed this petition raising the

aforesaid issues and is wrongly claiming parity with other cases inspite of the fact that all these issues have already been decided against the petitioner in the petition filed by the petitioner's parent society in the case of **Jan Seva Shiksha Samiti** (supra)

44. In view of the aforesaid analysis and the findings recorded by this Court in the preceding paragraphs, the petition filed by the petitioner being meritless is, accordingly, dismissed. We make it clear that the respondents would be at liberty to continue with or, if necessary, to initiate fresh criminal proceedings against the petitioner-institution or its parent society.

45. As the petition filed by the petitioner stands dismissed, the interim order passed by this Court which was subject to the final decision of this petition stand vacated and the pending interim applications filed by the petitioner seeking further interim relief also stand rejected.

46. In view of the history of the litigation and the factual backdrop mentioned by us in the body of the judgment as well as the aforesaid facts and circumstances prevailing in the present petition, the petition filed by the petitioner is dismissed with cost of

Rs.50,000/- (Rupees Fifty Thousand) which shall be deposited by the petitioner within a period of one month before the High Court Legal Services Committee, Jabalpur.

(R. S. JHA)
J U D G E

(V. K. SHUKLA)
J U D G E

mms/-