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**IN THE HIGH COURT OF MADHYA PRADESH PRINCIPAL SEAT AT
JABALPUR**

CO 74830 W.P.....9228 of 2014

PETITIONER:

Narmada Welfare Society a registered society, through its Secretary, Mukund Das Maheshwari S/o Late Narsingh Das, aged 69 years, R/o Raja Gokul Vallabh Palace, Hanuman Tal, Jabalpur, M.P.

VERSUS

RESPONDENTS :

(1) National Council for Teacher Education,
Hans Bhavan, Wing II, 1, Bahadur Shah Zafar Marg,
New Delhi

Filed on 24/6/2014

M. Verma

(2) The Regional Director, National Council for Teacher Education, Manas Bhawan, Shyamla Hills, Bhopal M.P.

Presented by Assistant

**WRIT PETITION UNDER ARTICLE 226 OF THE CONSTITUTION
OF INDIA.**

1. Particulars of the Cause/Order against which the petition is made.

(1) Date of Order/Notification/Circular/
Policy/Decision etc. : 29-05-14

(2) Passed in : Appeal u/s 18 of NCTE Act 1993

(3) Passed by : National Council for Teacher Education New Delhi

(4) Subject matter in brief:-

Narmada Welfare Society a registered society running Narmada Shikshan Sansthan, Jabalpur applied for recognition to run D. El.Ed. commonly known as D.Ed. course to National Council for Teacher Education u/s 14 of NCTE Act 1993 by submitting on line application to Regional office, Bhopal as per rules. The Regional Director, Western Regional Committee of NCTE Bhopal further referred to as RD, WRC, Bhopal for short, examined the application and pointed out certain deficiencies which were removed by the petitioner but having being dissatisfied by the reply of petitioner the RD, WRC, NCTE, issued wide order dated 10-12-13 refused the recognition to the petitioner. Against this order the petitioner preferred an appeal u/s 18 of NCTE Act 1993 before Member NCTE, New Delhi which was heard and decided against the petitioner on 29-05-14. Being aggrieved by this order the petitioner is filing this writ petition before

HIGH COURT OF MADHYA PRADESH : JABALPUR

WRIT PETITION NO. 9228 OF 2014

Narmada Welfare Society

versus

National Council for Teacher Education

Respondent

Present : Hon'ble Shri Justice Rajendra Menon

Hon'ble Shri Justice Anil Sharma

.....
Shri Mukund Das Maheshwari authorized representative
and Secretary of the society is present in person
Shri K. K. Singh for the respondents.
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ORDER

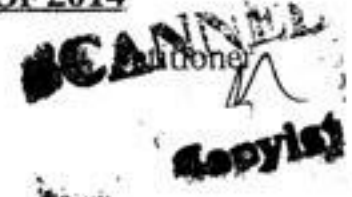
(25/09/14)

As per Rajendra Menon, J:-

The society has filed this writ petition and challenge in the writ petition is made to orders passed by the National Council for Teacher Education (hereinafter referred to as 'N.C.T.E.') through its Western Regional Committee for quashing the order Annexure P-6 dated 29.05.14 by which an appeal filed under Section 18 of the N.C.T.E. Act has been dismissed.

2. Challenge is also made to the original order dated 10.12.13 passed by the Western Regional Committee vide Annexure P-5 refusing permission to start a course in D.Ed. The refusal has been ordered under Section 14 (3) (b) of the N.C.T.E. Act.

3. Records indicate that a show-cause notice was issued to the institute vide Annexure R-1/2 dated 1.10.13 and it was found that the institute is not having the requisite area i.e. 2500 sq. mts. exclusive well demarcated land, with 1500 sq.



mts. built up area for the purpose of carrying out the educational activities.

4. It was the case of the petitioner that it has the requisite area as indicated and provided in the rule but the area is scattered. However, it is sufficient and appropriate enough to carry out the activities. It is stated that more than 1500 sq mts. of area is available with the society which can be utilized for the purpose of carrying out the educational activities. The representative of the institute appears in person and from the rejoinder and material available on record, it is seen that because the requisite area as per the statutory rule and requirement is not available together in one place or campus, the impugned action is taken. Shri Maheshwari representative of the petitioner points out that in the matter of various other institutes particulars of which are given in the rejoinder, the Western Regional Committee has relaxed the norms and granted the benefit but the similar benefit is denied to the petitioner institute. Contending that in the statutory rules namely Rule 5 of the Norms and Standards laid down for the course in accordance with the powers available to the Council under the N.C.T.E. Regulations, 2009 the only requirement is with regard to the institute possessing 2,000 sq. feet well demarcated land, there is nothing to indicate that this area should be available to one place or campus and not scattered or available in the different area. Accordingly, Shri Maheshwari tried to emphasize that the reasons given for denying of approval and recognition to the institute is unsustainable.

5. Shri K. K. Singh refuted the aforesaid and took us through the Regulations and Guidelines included therein and referring to Regulation 8 (7) (i) of the N.C.T.E. Regulations, 2009 argued that the institute cannot be granted permission in view of the provisions contained in the norms laid down prescribing the standard for conducting the course. It is the



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case of the respondents that the area should be available in one place and if the scattered area is available in one campus, no permission can be granted.

6. We have considered the rival contentions and we find that the norms and standards prescribed for granting permission to start an institute under Clause 5 (1) (a) reads as under :-

The institution shall possess 2500 sq mts (two thousand five hundred square meters) of exclusive well demarcated land for the initial intake of fifty students out of which 1500 sq mts (one thousand five hundred square meters) shall be the built up area and the remaining space for lawns, playfields etc. For an additional intake of fifty students or part thereof it shall possess additional land of 500 sqm. (five hundred square meters). For an annual intake beyond two hundred and upto three hundred, it shall possess land of 3000 sqm. (three thousand square meters). For the institutions established prior to this Regulation, for an additional intake of fifty, the built up area is to be increased by 500 sqm (five hundred square meters) and requirement of additional land may not apply to them. Total intake capacity of an institution taking into account all the teacher education courses together must not exceed three hundred. However, Physical teacher education courses are to be offered in a separate campus.

7. From the aforesaid, it is clear that the institute should possess 2500 sq mts. of exclusive well demarcated land of which the built up area should be 1500 sq mts. The



reproduced provisions of the requirement further shows that apart from the built up area 1500 sq mts. the remaining space has to be used for lawns, playfields etc. and for an additional intake of 50 students, the area increases proportionately as indicated in the rule.

8. If the rules are read in its totality, it is seen that there is nothing in the rule to indicate that the area can be possessed in different locations. If the entire requirement of infrastructure as contained in Rule 5(1) (a) along with Rules 5 (1) (b) and 5 (1) (c) are taken note of, it would be seen that the rule contemplates existence of the infrastructural facilities in the institutional campus within one premises.

9. Be it as it may be, the fact remains that the N.C.T.E. a statutory authority and it is their prerogative to decide as what should be the requirement for having adequate infrastructural facility and if a policy decision is taken by such a statutory authority indicating the manner in which the infrastructural facility should be available, their opinion and decision which is of an expert statutory authority cannot be interfered with by us in a manner so as to frustrate the requirement of the statute.

10. Somewhat similar question has been considered by a Co-ordinate Bench of this Court headed by Hon'ble the Chief Justice in W. P. No. 21371/13 in the case of **B. M. Educational Society Vs. National Council for Teacher Education**. In that case also, the institute wanted to start the D. Ed. course and the same norms and standards as contemplated under Rule 5 (1) (a) came out for consideration. It was found that the institute was in possession of land measuring 4100 square meters but after taking note of the provisions of Rule 5 (1) (a), the learned Bench observed that this provision pre-supposes that there should be 2500 square meters of land which must be exclusively well demarcated and if the norms are read in its

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totality along with Rule 5 (1) (c), it becomes amply clear that the building, parking space and open space of land should be in one compound or complex and not separated. It is found by the Division Bench that sub-clause (f) of Clause 5 (1) postulates that the institutional campus, building and furniture etc. should be barrier free and the provisions have been interpreted by the learned Division Bench in such a manner that the entire activities of the college must be in one complex/land which is exclusively well demarcated.

11. That being so, now the contention of the petitioner that they are having adequate land in different areas cannot be a ground to hold that they fulfil the norms.

12. From the return filed by the respondents and the documents available on record, it is seen that the area is not available and when the show-cause notice was issued, it was found on an enquiry that the institute has informed the council that it will provide free transport facility to the students to undertake the journey to the play-ground which is located nearby. It is found by the statutory authority on an enquiry that the area is not located in one place. It is scattered in various places.

13. That apart, in para 6 of the rejoinder filed, the petitioner themselves make the following assertions :-

There shall be games facilities with a playground. Alternatively, the playground available with the attached school or local body may be utilized exclusively for fixed periods. No deficiency has been found in the constructed area and other infrastructure. Imparting training in two blocks of land will in no way harm the studies because theory and other curricular activities will be conducted in one school building and only indoor and outdoor games, yoga and extra curricular activities will be conducted in the



other open ground.

14. From the aforesaid, it is clear that the area held by the institute is in different locations and if the principle laid down and considered in the case of **B. M. Educational Society** (supra) is taken note of, we are of the considered view that there is no error in the action taken by the respondents. Respondents are the statutory authority, experts in the matter of granting recognition and affiliation to the institute for imparting education and their decision should not be lightly tingled with by the Court of law and the consequence arrived at by them has to be given due weightage.

15. In this regard, we are of the considered view that now no further indulgence into the matter can be made. That apart, during the course of hearing, Shri Maheshwari tried to emphasize that some other institutes having infrastructural facility in identical manner have been granted the benefit of recognition but we are of the considered view that if by violating the statutory provisions and if in an illegal manner, an undue benefit has been granted to some organization, that cannot be a ground for claiming parity.

16. Petitioner may seek quashment of the action taken for them but on such consideration, we cannot allow the petitioner institute to grant permission for recognition in violation of the rules.

17. In view of the above, finding no error with the order passed by the respondents, this petition is dismissed.

sd (Rajendra Menon)
JUDGE

sd (Anil Sharma)
JUDGE

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