NATIONAL COUNCIL FOR TEACHER EDUCATION AND ANOTHER
v.
VENUS PUBLIC EDUCATION SOCIETY AND OTHERS
(Civil Appeal No. 7749 of 2012)

NOVEMBER 1, 2012

[K.S. RADHAKRISHNAN AND DIPAK MISRA, JJ.]

Educational institution – Seeking recognition from National Council for Teacher Education (NCTE) – For academic session 2010-11 – Council asking the institution to remove deficiencies – The institution moving the Court for direction to grant recognition – High Court directing to consider the case for grant of recognition – NCTE issuing 'letter of intent' to the institution – The institution, instead of complying with the same, moved court for grant of recognition for academic session 2011-12 – High Court directing to consider the case – NCTE issuing order of recognition for the academic session 2012-13 with direction to comply with post-recognition conditions and directing to give admission to students only after obtaining affiliation from the examining body – The institution giving admission to students for academic session 2011-12 and approaching the court for direction to treat the recognition granted for the academic session 2012-13 as recognition for academic Session 2011-12 – High Court directing to grant recognition for academic session 2011-12 with annual intake of 50 students – On appeal, held: Direction of the High Court is contrary to the provisions of law and interpretation of 1993 Act and 2009 Regulations – The recognition granted for academic session 2012-13 could not have been directed to be retrospectively operative as certain formalities remained to be complied with – The institution could not have given admission without recognition and affiliation with examining body – NCTE also

A *should have acted in promptitude and not to create a feeling that educational institutions are harassed – National Council for Teacher Education Act, 1993 – s. 14 – National Council for Teacher Education (Recognition, Norms and Procedure) Regulations, 2009 – Regulations 5(5), 7(9), 7(11), 8(1) and*
B *8(12).*

The respondent-Society made an application in October 2009 to the Western Regional Committee (WRC) of National Council for Teacher Education (NCTE) for grant of recognition for the purpose of conducting
C **D.El.Ed. course from the academic session 2010-11. WRC asked the Society to remove certain deficiencies. On the basis of the report of the inspection of the Society, WRC refused recognition. The appellate authority, directed inspection by NCTE headquarters. As per the order,**
D **inspection was conducted. After the submission of the report, appellate authority allowed the appeal, reversing the order of WRC and directing to process the case on merits.**

E **The society filed writ petition No. 4541/2011 seeking direction for NCTE to grant recognition for the academic session 2010-11. During pendency of the petition, WRC intended to conduct further inspection. High Court quashed the decision of inspection by WRC and directed**
F **to consider the case, for grant of recognition in accordance with order passed by appellate authority. As the order passed by High Court was not complied with, the society filed another writ petition. High Court observed that the society was at liberty to file a contempt**
G **petition.**

WRC then issued 'letter of intent' under Clause 7(9) of National Council for Teacher Education (Recognition, Norms and Procedure) Regulations, 2009. In the meantime the society filed contempt petition for non-
H **compliance of order passed in writ petition No. 4541/2011.**

The High Court directed to consider the case of the Society.

During pendency of the contempt petition, the Society filed still another writ petition for direction for grant of recognition for academic session 2011-12. WRC on 27-1-2011 issued an order of recognition of the session 2012-13 and directed the Society to comply with all post-recognition conditions enumerated under clause 8(11) to 8(16) of 2009 Regulations. It was stated that the Society to make admission only after it obtained affiliation from examining body. The Society again filed writ petition for direction to grant the recognition from academic session 2011-12 or to treat the recognition dated 27-10-12 as the recognition for the session 2011-12. The High Court decided the writ petition alongwith the contempt petition and held that the Society was entitled to recognition for academic session 2011-12 with an annual intake of 50 students. Hence the present appeal.

The appellant contended that direction of the High Court in the impugned judgment is legally impermissible as the Society had not fulfilled the NCTE norms and also the recognition could not have been made effective retrospectively.

The Society contended that after the order of the High Court, it was obligatory on the part of WRC to confer recognition; and that the Society was compelled to admit students under the circumstances of the case and therefore the students admitted for the session 2011-12 should be allowed to undertake the examinations.

Allowing the appeal, the Court

HELD: 1.1 In view of Section 14 of National Council for Teacher Education Act, 1998 and Regulations 5(5), 7(9), 7(11), 8(1) and 8(12) of National Council for Teacher

A Education (Recognition, Norms and Procedure) Regulations, 2009, it is vivid that the university or examining body is required to issue letter of affiliation after formal recognition under sub-regulation (11) of Regulation 7 of the 2009 Regulations is issued. It is also
B clear that certain obligations are to be carried out by the institution after letter of intent is received. 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
C 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 the NCTE within two months. It was obligatory on the part of the institution to
D 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
E 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 clause 8(12) of the 2009 Regulations. [Para 26] [942-E-H; 943-A-B]

F 1.2 The High Court has erred in misconstruing its earlier order passed in Writ Petition 4541 of 2011. 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
G directions in the earlier order would be duly complied with. Thereafter, letter of intent was issued, but the institution instead of complying with the same, moved the High Court for grant of recognition. The High Court, in the initial order had directed to consider the case of
H 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 clause 8(12) of 2009 Regulations. The order of recognition clearly mentioned that it was meant for the academic session 2012-13. [Para 33] [947-D-G]

1.3 The High Court could not have directed the recognition to be retrospectively operative because certain formalities remained to be complied with. The High Court did not keep itself alive to the conceptual difference between "letter of intent" and "formal recognition". Though 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 2011-12 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. [Para 34] [947-H; 948-A-C]

1.4 Without recognition from the 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. The institution had given admission in a nonchalant manner. The institution betrayed the trust of the students and the students, in a way, atrophied their intelligence. [Para 35] [948-D-F; 949-A]

Chairman, Bhartia Education Society and Anr. v. State ofHimachal Pradesh and Ors. **(2011) 4 SCC 527: 2011**

A (2) SCR 461;*Adarsh Shiksha Mahavidyalaya v. Subhsh Rahangdale and Ors.*2012 (2) SCC 425; *Andhra Kesari Educational Society v.Director of School Education* (1989) 1 SCC 392: 1988 (3) Suppl. SCR 893; *A.P. Christian Medical Educational Society v. Govt. of A.P.* (1986) 2 SCC 667: B 1986 (2) SCR 749 ; *N.M.Nageshwaramma v. State of A.P.* 1986 Supp SCC 166; *State of Maharashtra v Vikas Sahebrao Roundale* (1992) 4 SCC 435:1992 (3) SCR 792 ; *St. John's Teachers Training Institute (for Women) v. State of T.N.* (1993) 3 SCC 595: 1993 (3) SCR 985 – relied on.

C *Ahmedabad St. Xavier's College Society v. State of Gujarat* (1974)1 SCC 717: 1975 (1) SCR 173; *Shri Morvi Sarvajanik KelavniMandal Sachalit MSKM BEd College v. National Council forTeachers' Education and Ors.* (2012) 2 SCC 16: 2011 (13)SCR 555; *State of T.N. v. St. Joseph* D *Teachers TrainingInstitute* (1991) 3 SCC 87: 1991 (2) SCR 231 – referred to.

2. NCTE should have acted in quite promptitude, for a statutory authority which is conferred with the power, E is required to act within the parameters of law and the directions given by the court and further not to create a feeling among the educational institutions that they are harassed. Its actions neither should show arbitrariness nor should it reflect any indulgence. Objectivity, reliability F and trust are to be the motto of the NCTE and the committees working under it. [Para 36] [949-C-E]

Case Law Reference:

1975 (1) SCR 173	Referred to	Para 3
G 1988 (3) Suppl. SCR 893	Referred to	Para 3
2011 (2) SCR 461	Relied on	Para 27
2011 (13) SCR 555	Referred to	Para 28

H

			A
1986 Supp SCC 166	**Referred to**	**Para 28**	
1991 (2) SCR 231	**Referred to**	**Para 28**	
1992 (3) SCR 792	**Relied on**	**Para 28**	
2012 (2) SCC 425	**Relied on**	**Para 29**	B
1986 (2) SCR 749	**Relied on**	**Para 31**	
1986 Supp SCC 166	**Relied on**	**Para 31**	
1993 (3) SCR 985	**Relied on**	**Para 31**	C

CIVIL APPELLATE JURISDICTION : Civil Appeal No. 7749 of 2012.

From the Judgment & Order dated 7.12.2011 of the High Court of Madhya Pradesh at Gwalior in Writ Petition (C) No. 7664 of 2011. D

Amitesh Kumar, Ravi Kant, Preeti Kumari, Chandra Shakher, Navin Prakash for the Appellants.

Ranjit Kumar, Varun Thakur, Brajesh Pandey, Varinder Kumar Sharma, Vibha Datta Makhija for the Respondents. E

The Judgment of the Court was delivered by

DIPAK MISRA, J. 1. Leave granted.

F

2. Acquisition of knowledge and obtaining of necessary training for imparting education have their immense signification. As C. Simmons would like to put it "The secret of successful teaching is to teach accurately, thoroughly, and earnestly" and one may fruitfully add that accuracy and G thoroughness can be achieved by cultivated education, matured training and keen intellect. That is why teaching becomes a teacher's passion and religion. A good teacher, in a way, represents country's orderly civilization. A teacher is expected to kindle interest in the taught by method of investigation, H

A incessant implantation of knowledge and demonstration of experience that is replete with intellectual pragmatism. A student who is keen on getting training has to keep in mind the concept of reason, conception of logic and sanctity of rationality. He is expected to distance himself from habitual disobedience and
B unfettered feeling, for a civilized society which is governed by Rule of Law does not countenance such characteristics. The aspiration to become a teacher after obtaining training requires these qualities as they constitute the base on which the superstructure is built.

C

3. Importance of teachers and their training, significance of qualified teachers in schools and colleges and their centripodal role in building of the nation have been highlighted in *Ahmedabad St. Xavier's College Society v. State of Gujarat*[1], *Andhra Kesari Educational Society v. Director of*
D *School Education*[2], *State of Maharashtra v Vikas Sahebrao Roundale*[3], *St. John's Teachers Training Institute (for Women) v. State of T.N.*[4] and *N.M. Nageshwaramma v. State of A.P.*[5], and recently reiterated in *Adarsh Shiksha Mahavidyalaya and others v. Subhash Rahangdale and others*[6].

E

4. It is to be clearly stated that an institution that is engaged or interested in getting involved in imparting a course for training has to obey the command of law in letter and spirit. There cannot be any deviation. But, unfortunately, some of the institutions
F flagrantly violate the norms with adamantine audacity and seek indulgence of the court either in the name of mercy or sympathy for the students or financial constraint of the institution or they have been inappropriately treated by the statutory regulatory

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G 1. (1974) 1 SCC 717.
2. (1989) 1 SCC 392.
3. (1992) 4 SCC 435.
4. (1993) 3 SCC 595.
5. 1986 Supp SCC 166.
H 6. (2012) 2 SCC 425.

bodies. None of these grounds justify deviation. The case at hand graphically depicts deviations but the High Court putting the blame on the statutory authority has granted relief to the respondent-institution which is impermissible.

5. The factual exposition of the present litigation demonstrably reflects the combat between the truth and falsehood, battle between justice and injustice, the contestation between the accord and discord, the collision between fairness and manipulation, the scuffle betwixt the sacrosanctity of the majesty of law and its abuses and the clash between the mandated principles and invocation of sympathy. Such a controversy emerges because majesty, sanctity and purity of law have been corroded and truth, however, relative it may be in the mundane world, has its own command and the same has been deliberately guillotined forgetting the fundamental fact that none can afford to build a castle in Spain in the realm of truth. It is worthy to note that justice in its connotative expanse engulfs the liberalism of an ocean, the magnanimity of the Sun, the sternness of a mountain, the simplicity of a saint, the austerity of a Spartan and the humility of a river. The concept of justice has to remain embedded in spite of adversities. It should remain unshaken, unterrified, unperturbed and loyal to the Rule of Law. In the case at hand, as a maladroit effort has been made to give an indecent burial to the command of law and pave the path of injustice, the same has to be dealt with sternly sans sympathy.

6. Presently to the factual narration. The respondent-society submitted an application on 27.10.2009 to the Western Regional Committee (for short "the WRC") of National Council for Teacher Education (for brevity "the NCTE") for grant of recognition for the purpose of conducting D.El.Ed. course from the academic session 2010-11. On receipt of the said application the WRC, after scrutiny of the same, issued a communication dated 10.2.2010 to remove certain deficiencies, namely, the institution had submitted the lease

A deed issued by Gwalior Development Authority in favour of the Society for a period of thirty years but the same was not certified by the competent authority; that it had submitted copy of the building plan approved by Nagar Nigam, Gwalior meant for school purposes and not for the college; that the land use B certificate issued by the competent Government authority was not submitted; that the building completion certification from the competent Government authority was not filed; that the encumbrance certificate from the competent Government authority was not submitted; and that necessary undertaking in C the prescribed format was not enclosed. The respondent institution was advised to remove the deficiencies within a span of sixty days. It was also required to submit a reply pertaining to the deficiencies pointed out by the WRC. The respondent submitted its reply on 20.3.2010 and the same was considered D in the 133rd meeting of the WRC held on 20-21.04.2010. On 11.5.2010 the WRC informed the respondent that it would conduct an inspection for D.El.Ed. course for the academic session 2010-11 on a date between 21.5.2010 to 30.5.2010. The visiting team carried out the inspection and submitted its report to the WRC which, in its 136th meeting held on 5- E 7.6.2010, decided to issue a show cause notice under Section 14(3)(b) of the National Council for Teacher Education Act, 1993 (for brevity 'the 1993 Act') and, accordingly, a show cause notice was issued on 19.6.2010 requiring the respondent to file its representation within twenty one days. The reply to show F cause notice was received on 7.7.2010 and the WRC considered the same and took the decision on 20-21.7.2010 to refuse recognition on the ground that the approved building plan submitted by the college showed a square building with ground and two floors, whereas the videograph showed the G building was rectangular and having ground and one floor. The said decision was communicated vide order dated 3.8.2010 whereunder the WRC refused recognition in exercise of power under Section 14(3)(b) of the 1993 Act.

H 7. As the factual matrix further gets unfolded, the

respondent preferred an appeal on 29.9.2010 under Section 18 of the 1993 Act and the appellate authority by order dated 10.11.2010 opined as follows: -

> "**AND WHEREAS** Shri Vivek Gupta, President, Venus Public Education Society, Gwalior, Madhya Pradesh presented the case of the appellant institution on 20.10.2010. In the appeal and during personal presentation, it was submitted that there was not at all any mismatch between the approved plan and videography. The building with Ground and two floors was constructed in the same shape according to the building plan which was also proved by the completion certificate. The similarity was also proved with the relevant clip of the videography which was submitted wherein the building was visible with ground and two floors with the visiting team. The position of the existing building with ground plus two floors was also proved by the photographs of the building taken from different angles. The ground taken by the WRC that the building was square and rectangular was an after thought which was totally unlawful. The WRC did not communicate such type of objection earlier. The building was more than sufficient and fulfills the norms and standards of the NCTE.
>
> **AND WHEREAS** the Council noted that the VT report did not indicate the dimensions of the rooms as well as the total built up area available for the proposed course. The report also did not contain an essential data sheet in which the particulars with regard to land and built up area details are to be filled. It merely stated the infrastructural facilities were as per the NCTE norms. Further the photographs annexed with the appeal do not confirm to the VCD available in the WRC's file. In view of this the Council came to the conclusion that an inspection of the institution may be conducted by the NCTE Hqrs. for taking a final decision in the appeal."

A On the basis of the aforesaid order a team was constituted which submitted the report and eventually, after perusal of the report, the NCTE, on 11.3.2011, passed the following order: -

B "**AND WHEREAS** the Council noting that the report of the visiting team from the Hqrs. of the Council has clarified the position, came to the conclusion that the appeal deserves to be accepted and the order of the WRC reversed with a direction to process the case further on merits.

C

AND WHEREAS after perusal of documents, memorandum of appeal, affidavit and after considering oral arguments advanced during the hearing, the Council reached the conclusion that there was adequate ground D to accept the appeal and reverse the WRC's order dated 03.08.2010 with the direction to the WRC to process the case further on merits. Accordingly, the appeal was accepted and the order of the WRC dated 03.08.2010 reversed."

E 8. After the appeal was disposed of, the WRC decided to constitute a visiting team. In the meantime the respondent preferred Writ Petition No. 4541 of 2011 for issue of writ of mandamus to the NCTE to grant recognition for the academic session 2010-11 for D.El.Ed. course. During the pendency of F the writ petition, on 22.7.2011 the WRC decided to conduct further inspection between 22.7.2011 to 30.7.2011. The inspecting team visited the respondent institution on 27.7.2011 and submitted its report to the WRC. The report indicated that a functionary of the Society told the team that as the matter was G subjudice, the WRC had no authority to inspect. However, the team went to the institution and took photographs of the building. When the matter came up before the High Court on 28.7.2011, it, after narrating the chronological events and the order passed by the appellate authority, issued the following H directions: -

"(i) That the decision of the Respondent No. 1 for inspection of the petitioner institution vide letter dated 22.7.2011 is hereby quashed;

(ii) The respondent is directed to consider the case of the petitioner for grant of recognition in accordance with the order passed by Appellate Authority dated 11.3.2011.

(iii) The case of the petitioner shall be considered for grant of recognition within a period of two weeks from the date of receipt of a copy of this order."

9. As the order was not complied with within the stipulated time, the respondent preferred Writ Petition No. 5776 of 2011. The High Court disposed of the same by observing that the grievance of the petitioner was that in spite of direction issued by the court in the earlier writ petition, the respondents had yet not complied with the direction and for the aforesaid purpose, the petitioner was at liberty to file a contempt petition. The High Court further observed that it was expected that the respondents shall obey the direction issued by the court in W.P. C No. 4541/ 2011.

10. As is perceptible, the WRC in its 154th meeting held on 11-12.9.2011 considered the matter and vide order dated 22.9.2011 issued a "letter of intent" for grant of recognition for D.El.Ed. course under clause 7(9) of National Council for Teacher Education (Recognition, Norms and Procedure) Regulations, 2009 (for short "2009 Regulations"). The relevant part of the said letter of intent reads as follows: -

"3. Before grant of formal recognition under Regulation 7(11) of the NCTE Regulations 2009, is considered, you are requested to submit the following:

(i) The institution shall initiate the process of appointments of qualified staff as per Policy of State Government or University Grants

A Commission or University and ensure that the staff or faculty is appointed as per the NCTE norms within two months. (in case of M.Ed. six months). The Institute shall submit the list of faculty as approved by the affiliating body to the Western
B Regional Committee. An affidavit on the enclosed format of Rs.100/- Non-Judicial Stamp Paper from each faculty member appointed are to be submitted.

C (ii) The institute shall launch its own website covering interalia, the details of the institution, its location, name of the course applied for with intake, availability of physical infrastructural (land, building, office, class rooms and other facilities/amenities), infrastructural facilities (laboratory, photographs,
D Permanent Account Number (PAN) or Unique Identity Number (UIN) of the teacher educator whenever issued by the NCTE), for information of all concerned. *The institution shall also make available on its website information relating to*:

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i. Sanctioned programmes along with annual intake in the institution.

j. *Name of faculty and staff in full as mentioned in school certificate along with*
F *their qualification, scale of pay and photograph.*

k. Name of faculty Members who left or joined during the last quarter.

G

l. Names of students admitted during the current session alongwith qualification, percentage of marks in the qualifying examination and in the entrance test, if any, date of admission etc.

H

m. Fee charged from students

n. Facilities added during the last summer.

o. *Number of books in the library, journals subscribed to and addition, if any, in the last quarter.*

p. The institution shall be free to post additional relevant information, if it so desires.

(iii) The institution shall submit FDR of Rs.500 Lakhs towards Endowment Fund and Rs.300 Lakhs towards reserve fund in the joint name of authorised representative of the management and the Regional Director, WRC, NCTE and the same shall be maintained perpetually by way of renewal of FDR's at the intervals of every five years. The FDRs submitted by the institution are returned herewith for conversion/renewal (this time to be added in case FDRs are not in the office).

4. Any wrong or incomplete information on website shall render the institution liable for withdrawal of recognition, under the Act of NCTE.

5. *Admission should not be made until formal recognition order under Clause 7(11) of the NCTE (Recognition, Norms and Procedures) Regulation, 2009 is issued by Western Regional Committee, NCTE and affiliation is obtained from the University/examining body concerned.*

6. You are advised to comply the above requirement before formal recognition is considered under regulation 7(11) of NCTE (Recognition, Norms and Procedures) Regulation, 2009 under section 14(3)(a) of the Act."

[emphasis supplied]

A 11. Be it noted, in the meantime the respondent had filed Contempt Petition No. 677 of 2011 for non-compliance of order dated 28.7.2011 passed in Writ Petition No. 4541 of 2011. On 28.9.2011 a submission was put forth that as the court had decided to grant recognition to the respondent-institution, an B interim direction should be issued to admit the students for D.Ed. course because after 30.9.2011 it would not be able to admit the students. The High Court, dealing with the said submission, opined as follows: -

C "In our opinion, no such interim direction can be issued in favour of the petitioner vide clause 3 of the letter, the petitioner has been directed to submit certain information and documents and that has to be verified by the NCTE. Even apart, in a contempt matter, by way of interim direction, a relief could not be granted. However, we D observe that if the petitioner is eligible, the authority shall consider the case of the petitioner on 30th September, 2011."

12. It is worthy to note that the WRC was to file the reply E within three weeks. During the pendency of the contempt petition, the respondent preferred Writ Petition No. 6674 of 2011 for grant of recognition for academic session 2011-12 for D.El.Ed. course. The High Court, vide order dated 30.9.2011, directed the Regional Director of the WRC to F remain present and explain as to why the decision had not been taken in regard to grant of recognition of the respondent institution. As is perceived, the WRC vide order dated 27.10.2011 issued an order of recognition. The relevant portion of the same is reproduced hereinbelow: -

G "4. .....*the institution is required to comply with all post-recognition conditions enumerated from clause 8 (11) to Clause 8(16) of NCTE (Recognition, Norms and Procedures) Regulations 2009.*

H 6. *The institution shall make admission only after it*

obtains affiliation from the examining body in terms of clause 8(12) of the NCTE (Recognition Norms and Procedures) Regulation, 2009 for the academic session

.....

7. The institution/permission will operate for 2012-13 only if the requirement of 200 teaching days in the session is fulfilled as per calendar of the university/affiliating body."

[emphasis supplied]

13. Being grieved by the aforesaid order the respondent preferred Writ Petition No. 7664 of 2011 with a prayer to command the NCTE to grant recognition from the academic session 2011-12 for D.El.Ed. course or to treat the recognition dated 27.10.2011 for the academic session 2011-12 instead of 2012-13. The High Court dealt with the said writ petition along with the contempt petition and, after referring to its earlier order passed in Writ Petition No. 4541 of 2011, the chronology of events, the issue of "letter of intent" and eventual grant of recognition, concluded as under: -

"8. In this view of the matter, in our opinion, the petitioner is entitled to have recognition for the academic session 2011-12 also because the case of the petitioner was pending before the Western Regional Committee and in pursuance to the directions of the Court dated 28.07.2010 passed in writ petition No. 4541/2010, it was obligatory on the part of the respondents to include the claim of the petitioner for recognition from the academic session 2011-12 also. In our opinion, the respondents have deliberately not included the same due to pendency of the Contempt Proceeding and other proceedings."

14. After so stating the Bench disposed of the contempt petition and the writ petition by directing that in the recognition order dated 27.10.2011 it shall be added that the institution was entitled for recognition for the D.El.Ed. course with an annual

A intake of 50 students for academic session 2011-12 also. The said order is the subject-matter of assail in this appeal.

15. The thrust of the matter is whether the High Court by the impugned order passed on 7.12.2011 could have issued a direction as has been stated hereinabove.
B

16. It is submitted by Mr. Amitesh Kumar, learned counsel for the appellants that the order of recognition passed in favour of the respondent was conditional and there was a clear stipulation that admission should not be made until formal
C recognition under clause 7(11) of the 2009 regulations is issued by the WRC and affiliation is obtained from the University/examining body. That apart, the order of recognition dated 27.10.2011 clearly laid a postulate that the institution shall make admission only after it obtains affiliation from the
D examining body in terms of clause 8(12) of 2009 Regulations for the academic session and, therefore, the High Court has fallen into error by holding that it was obligatory on the part of the NCTE to include the aim of the respondent for recognition for the academic session 2011-12 as the same was not
E deliberately done. The learned counsel would submit the direction given by the High Court that the institution was entitled for recognition with annual intake of 50 students for academic session of 2011-12 also is legally impermissible inasmuch as the institution had not fulfilled the NCTE norms and further the
F recognition could not have been made retrospectively effective.

17. Mr. Varun Thakur, learned counsel appearing for the respondents, per contra, would contend that the WRC had acted mala fide in constituting the inspection team and after the High Court quashed the same it was obligatory on its part
G to confer recognition without any delay. It is canvassed by him that the appellant under the circumstances was compelled to admit the students and, therefore, the students who have been admitted for the academic session 2010-11 should be allowed to undertake the examinations in respect of added intake seats
H as directed by the High Court. It is vehemently proponed by him

that the educational institutions cannot remain at the total mercy of the WRC and such an attitude on the part of the WRC is likely to lead to anarchy and a state of uncertainty which would corrode the financial backbone of the educational societies that are devoted to imparting education. It is also urged by him that such a situation would smother the legitimate expectations of the students.

18. Mrs. Vibha Datta Makhija, learned counsel appearing for respondent No. 2, M.P. Board of Secondary Education, has contended that it is obligatory on the part of the Board to verify whether an educational institution has obtained recognition from the NCTE and affiliation from the Board and then only the said institution can admit the students, but in the case at hand as the respondent No. 1 has admitted the students without recognition and affiliation, they cannot be permitted to appear in the examination and conferment of such privilege would destroy the fundamental fibre of the education system.

19. At this juncture, we may fruitfully refer to Section 14 of the 1993 Act which deals with recognition of institutions offering course or training in teacher education. It reads as follows: -

> ***"14. Recognition of institutions offering course or 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.

A (2) The fee to be paid along with the application under sub-section (1) shall be such as may be prescribed.

(3) On receipt of an application by the Regional Committee from any institution under sub-section (1), and after obtaining from the institution concerned such other particulars as it may consider necessary, it shall –

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(a) if it is satisfied that such institution has adequate financial resources, accommodation, library, qualified staff, laboratory and that it fulfills such other conditions required for proper functioning of the institution for a course or training in teacher education, as may be determined by regulations, pass an order granting recognition to such institution, subject to such conditions as may be determined by regulations; or

C

D

(b) if it is of the opinion that such institution does not fulfill the requirements laid down in sub-clause (a), pass an order refusing recognition to such institution for reasons to be recorded in writing:

E

Provided that before passing an order under sub-clause (b), the Regional Committee shall provide a reasonable opportunity to the institution concerned for making a written representation.

F

(4) Every order granting or refusing recognition to an institution for a course or training in teacher education under sub-section (3) shall be published in the Official Gazette and communicated in writing for appropriate action to such institution and to the concerned examining body, the local authority or the State Government and the Central Government.

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(5) Every institution, in respect of which recognition has been refused shall discontinue the course or training in

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teacher education from the end of the academic session next following the date of receipt of the order refusing recognition passed under clause (b) of sub-section (3).

(6) Every examining body shall, on receipt of the order under sub-section (4) – B

(a) grant affiliation to the institution, where recognition has been granted; or

(b) cancel the affiliation of the institution, where recognition has been refused." C

20. Section 32 of the Act empowers the council to make regulations not inconsistent with the provisions of the Act and rules framed thereunder generally to carry out under the provisions of the Act. Sub-section (2)(d) provides for the norms, D guidelines and standards in respect of certain categories of employees who are to be employed in the institution. The said provision reads as follows:-

"(2) In particular and without prejudice to the generality of the foregoing power, such regulations may provide for all E or any of the following matters, namely—

(*a*) .....

(*b*) ..... F

(*c*) .....

(*d*) the norms, guidelines and standards in respect of —

(*i*) the minimum qualifications for a person to be G employed as a teacher under clause (*d*) of Section 12;

(*ii*) the specified category of courses or training in teacher education under clause (*e*) of Section 12; H

A (*iii*) starting of new courses or training in recognised institutions under clause (*f*) of Section 12;

(*iv*) standards in respect of examinations leading to teacher education qualifications referred to in clause (*g*) of Section 12;

B

(*v*) the tuition fees and other fees chargeable by institution under clause (*h*) of Section 12;

(*vi*) the schemes for various levels of teachers education, and identification of institutions for offering teacher development programmes under clause (*l*) of Section 12;"

C

21. It is apt to note that in exercise of the aforesaid power, the NCTE has, from time to time, framed certain regulations. Initially, regulations were framed in the year 1995. Thereafter in 2002, 2005, 2007, and the latest one in 2009 have been framed.

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22. The lis in the present case is governed by 2009 Regulations. Clause 5(5) of 2009 Regulations provides as follows: -

E

"5(5) All applications received on-line on or before the 31st day of the October of the year shall be processed for the next academic session and final decision, either recognition granted or refused, shall be communicated to the applicant on or before the 15th day of May of the succeeding year."

F

23. On a perusal of the said Regulation, it is clear as noon day that recognition can only be granted for the next academic session. Regulation 7(9) provides for issue of "letter of intent". The said regulation is as follows: -

G

"7(9) The Institution concerned shall be informed through a letter of intent, regarding the decision for grant of

H

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 Govt. 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."

24. Regulation 7(9) stipulates what the institution is required to do after receipt of the "letter of intent". 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]

A 25. Regulations 8(1) and 8(12) of the 2009 Regulations which deal with norms and standards being in a composite compartment are quoted below:-

> "8(1) An institution must fulfill all the prescribed conditions pertaining to norms and standards as prescribed by
B National Council for Teacher Education for conducting course or training in teacher education. These norms, inter-alia, cover conditions relating to financial resources, accommodation, library, laboratory, other physical infrastructure, qualified staff including teaching and non-
C teaching personnel etc.
>
> (12) *The University or Examining Body shall grant affiliation only after issue of the formal recognition order under sub-regulation (11) of Regulation 7 of these*
D *Regulations. Further, admissions by the institution shall be made only after affiliation by the University or Affiliating body and as per the State policy.*"
>
> [emphasis supplied]

E 26. On a keen scrutiny of Section 14 and the aforesaid Regulations it is vivid that the university or examining body is required to issue 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
F are to be carried out by the institution after 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
G 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 the 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,
H 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 clause 8(12) of the 2009 Regulations. Clause 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-clause (11) of Regulation 7 and thereafter the institution shall make the admissions.

27. In *Chairman, Bhartia Education Society and another v. State of Himachal Pradesh and others*[7] this Court in the context of 1993 Act after drawing a distinction between "recognition" and "affiliation" proceeded to state as follows: -

> "The examining body can therefore impose its own requirements in regard to eligibility of students for admission to a course in addition to those prescribed by NCTE. The State Government and the examining body may also regulate the manner of admissions. As a consequence, if there is any irregularity in admissions or violation of the eligibility criteria prescribed by the examining body or any irregularity with reference to any of the matters regulated and governed by the examining body, the examining body may cancel the affiliation irrespective of the fact that the institution continues to enjoy the recognition of NCTE. Sub-section (6) of Section 14 cannot be interpreted in a manner so as to make the process of affiliation, an automatic rubber-stamping consequent upon recognition, without any kind of discretion in the examining body to examine whether the institution deserves affiliation or not, independent of the recognition. An institution requires the recognition of NCTE as well as affiliation with the examining body, before it can offer a

7. (2011) 4 SCC 527.

A course or training in teacher education or admit students to such course or training."

28. In *Shri Morvi Sarvajanik Kelavni Mandal Sachalit MSKM BEd College v. National Council for Teachers' Education and others*[8] a two-Judge Bench, after referring to the decisions in *N.M. Nageshwaramma* (supra), *State of T.N. v. St. Joseph Teachers Training Institute*[9], *Vikas Sahebrao Roundale* (supra) and Bhartiya Education Society case (supra), eventually opined that there was no justification to strike a discordant note.

29. 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:-

"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."

30. After laying down the aforesaid principle the Bench proceeded to deal with the cases of students who had taken admission in unrecognized educational institutions. The question posed by the Bench is as follows:-

"The question which remains to be considered is, whether

8. (2012) 2 SCC 16.

9. (1991) 3 SCC 87.

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."

31. Thereafter, the Bench referred to the pronouncements in *A.P. Christian Medical Educational Society v. Govt. of A.P.*[10], *N.M. Nageshwaramma* (supra), *Vikas Sahebrao Roundale* (supra) and *St. John's Teachers Training Institute (for Women)* (supra) and eventually recorded its conclusions in paragraph 87 by reiterating certain conclusions some of which are apposite to be reproduced regard being had to the fact situation of the present case: -

"**87.** .....

(*iv*) The recognition granted by the Regional Committees under Section 14(3)(*a*) of the 1993 Act read with Regulations 7 and 8 of the Regulations and permission granted under Section 15(3)(*a*) read with the relevant Regulations shall operate prospectively i.e. from the date of communication of the order of recognition or permission, as the case may be.

xxx xxx xxx

(*x*) In view of the mandate of Section 16, no examining body, as defined in Section 2(*d*) of the 1993 Act, shall grant

10. (1986) 2 SCC 667.

A affiliation unless the applicant has obtained recognition from the Regional Committee under Section 14 or permission for starting a new course or training under Section 15.

B (*xi*) *While granting affiliation, the examining body shall be free to demand rigorous compliance with the conditions contained in the statute like the University Act or the State Education Board Act under which it was established or the guidelines/norms which may have* C *been laid down by the examining body concerned.*

(*xii*) *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.*

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(*xiii*) While making admissions, every recognised institution is duty-bound to strictly adhere to Paras 3.1 to 3.3 of the Norms and Standards for Secondary/Pre-School Teacher Education Programme contained in Appendix 1 E to the Regulations.

(xiv) .....

(xv) The students admitted by unrecognised institution and institutions which are not affiliated to any examining F *body are not entitled to appear in the examination conducted by the examining body or any other authorised agency.*"

[emphasis supplied]

G 32. The direction contained in paragraph 88(ii), being relevant for the present purpose, is reproduced hereinbelow: -

"(*ii*) *The result of the students admitted by an unrecognised institution or by an institution which had not* H *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."

[underlining is ours]

33. On a studied scrutiny of the statutory provisions, the relevant Regulations of 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 Writ Petition 4541 of 2011. True it is, there was some delay and, therefore, the High Court was moved in another writ petition wherein the 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 clause 8(12) of 2009 Regulations. The order of recognition clearly mentioned that it was meant for the academic session 2012-13.

34. 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

A 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 2011-12 with intake of
B 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
C we so direct.

35. Now, to the last plank of submission of the learned counsel for the appellant. It is urged by him that the NCTE had procrastinated its decision at every stage and such delay was deliberate and, therefore, the society was compelled to admit
D 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 the NCTE and affiliation from the university/examining body, the educational institution cannot admit the students. An
E 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.
F 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 commercialize education and earn
G 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
H 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 appellant is not acceptable and, accordingly we unhesitatingly repel the same.

36. Before parting with the case, we are obliged to state that the NCTE should have acted in quite promptitude, for a statutory authority which is conferred with the power, is required to act within the parameters of law and the directions given by the court and further not to create a feeling among the educational institutions that they are harassed. This Court expects that the NCTE shall function with propriety regard being had to the statutory responsibility bestowed on it by the Parliament. Its actions neither should show arbitrariness nor should it reflect any indulgence. Objectivity, reliability and trust are to be the motto of the NCTE and the committees working under it. We say no more on this score.

37. In view of our aforesaid premised reasons, the appeal is allowed, the order passed by the High Court is set aside and that of the NCTE is restored. There shall be no order as to costs.

K.K.T. Appeal allowed.