

WEST BENGAL ADMINISTRATIVE TRIBUNAL

Bikash Bhavan, Salt Lake, Kolkata – 700 091.

Present-

The Hon'ble Sayeed Ahmed Baba, Officiating Chairperson and Administrative Member.

Case No. –OA 581 of 2022

Krishna Maity and Another. - Versus - The State of West Bengal & Others.

Serial No. and Date of order	For the Applicants	: Mr. M. N. Roy, Advocate.
<u>07</u> 04.05.2023.	For the State Respondents	: Mr. G. P. Banerjee, Advocate.
	For the Respondent No. 4	: Mr. U. K. Jana, Advocate.

The matter is taken up by the Single Bench pursuant to the order contained in the Notification No. 638-WBAT/2J-15/2016 (Pt. II) dated 23rd November, 2022 issued in exercise of the powers conferred under Section 5 (6) of the Administrative Tribunals Act, 1985.

On consent of the learned counsels for the contesting parties, the case is taken up for consideration sitting singly.

The prayer in this application is for setting aside the Memo. No. 754/DIET/BIRB dated 02.08.2022 and Memo. No. 205/DIET-UD/2022 dated 19.07.2022 and Office Order No. 221/DIET-UD/2022 dated 29.07.2022 issued in favour of the applicants directing them to take classes at the 2nd DIETs campuses at Bolpur, Birbhum and Bhatol, Uttar Dinajpur issued by the respondent nos. 6 and 7.

Mr. M. N. Roy, learned counsel appearing on behalf of applicants submits that the order issued by the respondent is void in law and does not have the legal support to enforce it for the reasons as mentioned hereunder :-

- (i) “As per the order No. 330-SE(E)/10M-56/15 dated 24th April, 2015, the Secretary to the Government of West Bengal had stated that the remaining 10 (ten) no. of PTTIs will be 2nd campuses of DIET for separate batches to be trained in the 2nd campus after obtaining due approval of NCTE”. Submission of Mr. Roy is that till date no such approval has been obtained / granted by NCTE. Therefore, operation of

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these two 2nd campuses is non est in the eye of law.

- (ii) As per sections 14, 15 and 16 of the NCTE Act, 1993, any State wanting to open 2nd campus of DIET has to submit a proposal in prescribed format before NCTE. Mr. Roy submits that till today no such formal approval has been granted to the State authorities by the NCTE to open and operationalise these two 2nd campuses as evident from the affidavit filed by the NCTE.

Mr. U. K. Jana, learned counsel appearing on behalf of the respondent no. 4 has submitted through an affidavit that

- (i) These two 2nd campuses of DIET opened by the State authorities are not recognized by NCTE as of date.
- (ii) Mr. Jana is also not aware of any such proposal have not submitted by the respondent authorities before NCTE.
- (iii) It is submitted by Mr. Jana that as per NCTE Act and the guidelines framed therein, NCTE is the sole authority to grant recognition to any new campuses which are subject to fulfillment of required criteria and conditions.
- (iv) However, Mr. Jana also submits that appointment, posting of lecturers and administrative matters relating to the operationalisation of such campuses are the sole responsibility of the State Government Authorities.

In response to above submissions of Mr. G. P. Banerjee, learned counsel appearing on behalf of the State respondent has the following submissions :-

- (i) It is not understood how the applicants had been prejudiced and suffered by the order of the respondent in posting them

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in these two 2nd campuses for just two days a week. As Government employees, they are duty bound to obey the orders of the authority. By virtue of their posting in these two campuses twice a week, how their service has been affected is not understood.

- (ii) On 18.10.2022 followed by a reminder on 19.12.2022, the Director, SCERT (WB) wrote to the Regional Director, ERC, NCTE for approval of 10 + 1 PTTI institutions set up under BRGF Scheme in West Bengal. However, the NCTE has not considered such approval to the proposal till today.
- (iii) Considering the larger interest of education in the State, it was necessary to expand the Scheme by opening 11 (eleven) more campuses in 11 (eleven) districts as an interim arrangement till formal approval of NCTE is received.
- (iv) Finally, in order to operationalise these 11(eleven) 2nd campuses in different districts, a total of 10 (ten) lecturers were deputed to take classes. Out of 10 (ten), 8 (eight) have already complied and are taking classes in the 2nd campuses except these two applicants who have approached this Tribunal for cancellation of the order.

After hearing the submission of the learned counsels and perusing the records in this application, the Tribunal has the following observations

:-

- (i) It is clear that the NCTE is the appropriate authority to grant formal recognition to any institution opened by the State Government under the DIET Scheme.
- (ii) It is the responsibility by the State authority to submit a proposal for such recognition before the NCTE in prescribed

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format as per the NCTE Regulations Act, 2014.

- (iii) The State Government appears to have already opened and operationalised 11 (eleven) such 2nd campuses without recognition of the NCTE. From NCTE perspective, those 2nd campuses are “unrecognized units”.
- (iv) However, it has also been made clear and accepted by NCTE that administration of such 2nd campus is the sole domain and responsibility of the State authority. Responsibility of the State authorities also include conditions of service of Lecturers, Students, Fees, Teaching and Non-Teaching Staffs.
- (v) It is also made clear that NCTE or any Central Government authority does not provide any financial grant to the State authorities for running of these campuses.
- (vi) From the copy of the correspondence submitted by the State authorities, it is also clear that a proposal has been submitted to the Regional Director, NCTE for granting approval to additional 10 + 1 PTTI institutions in the State, a reminder dated 19.12.2022 has also been followed. It appears that till today neither any recognition nor any reply has been furnished by the Regional Director, NCTE to the Director, SCERT (WB) on this issue. Affidavit so filed by NCTE also has no mention about receipt and consideration of such proposal.

Having observed the above issues, the Tribunal is of the opinion that being employees of the State authorities, these applicants as lecturers, are duty bound to obey the orders for taking classes twice a week in 2nd campuses at Bolpur, Birbhum and Bhatol, Uttar Dinajpur. It is also to be mentioned that the other 8 (eight) colleagues by the same order have

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already complied.

Since it has been made clear and admitted by NCTE that administration of this DIET centre is the sole domain and responsibility of the State authorities, therefore, it is clear that as a step to expand the horizon of education and to meet the growing demand, the State authorities took such a step of opening 11 (eleven) 2nd campuses.

It is also to be understood that the Director, SCERT (WB) has proposed on 18.10.2022 followed by reminder 19.12.2022 requesting recognition of the 11 (eleven) 2nd campuses. However, till today, the NCTE has not yet responded to such proposal. The question is how long should the State authority keep waiting for such approval or response from the Regional Director, NCTE.

It is, therefore, the decision of this Tribunal that based on above observations and conclusions, this application has no merit and thus, disposed of without any orders. Interim orders, if any, are vacated.

Accordingly, the application is disposed of.

(SAYEED AHMED BABA)
Officiating Chairperson and Member (A)

S.M./H.S.