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**IN THE HIGH COURT OF DELHI AT NEW DELHI**

*Reserved on 04.08.2022*

*Date of decision: 24.08.2022*

+ W.P.(C) 2813/2021, W.P.(C) 7855/2022 & CM APPL. 23972/2022, W.P.(C) 8368/2022 & CM APPL. 25183/2022, W.P.(C) 8918/2022, W.P.(C) 7025/2022 W.P.(C) 4749/2022, CM APPL. 14237/2022, CM APPL. 14238/2022, W.P.(C) 5958/2022 & CM APPL.17921-22/2022, W.P.(C) 6021/2022, W.P.(C) 6119/2022, W.P.(C) 6128/2022, W.P.(C) 6140/2022, W.P.(C) 6147/2022, W.P.(C) 6154/2022 & CM APPL. 18555/2022, W.P.(C) 6163/2022, CM APPL. 18569/2022, W.P.(C) 7386/2022, W.P.(C) 6178/2022, CM APPL. 18608/2022 , W.P.(C) 61/2022, W.P.(C) 137/2022, W.P.(C) 279/2022, W.P.(C) 661/2022, W.P.(C) 2739/2021 & CM APPL. 8159/2021 -Int. Dir, W.P.(C) 788/2022 W.P.(C) 790/2022, W.P.(C) 849/2022, W.P.(C) 1373/2022, W.P.(C) 1707/2022 & CM APPL. 4924/2022 -Int.Dir., W.P.(C) 1885/2022, W.P.(C) 2191/2022, W.P.(C) 2253/2022 & CM APPL. 6477/2022 -Int.Dir, W.P.(C) 2277/2022 & CM APPL. 6538/2022 -Int.Dir., W.P.(C) 2594/2022, W.P.(C) 2657/2022, W.P.(C) 2714/2022 & CM APPL. 7733/2022 -Int.Dir, W.P.(C) 2819/2022, W.P.(C) 2820/2022 & CM APPL. 8132/2022 -Int. Dir., W.P.(C) 2844/2022 & CM APPL. 8197/2022 -Int. Dir., W.P.(C) 2906/2022, CM APPL. 8425/2022 -Ex. CM APPL. 8426/2022 --Int. Dir., W.P.(C) 9479/2021 & CM APPL. 29416/2021 -Int. Dir., W.P.(C) 2934/2022 & CM APPL. 8498/2022 --Int. Dir., CM APPL. 8499/2022 -Ex., W.P.(C) 2935/2022 & CM APPL. 8500/2022 --Int. Dir., CM APPL. 8501/2022 -Ex., W.P.(C) 3327/2022 & CM APPL. 9679/2022 --Int. Dir., W.P.(C) 3334/2022 & CM APPL. 9707/2022 --Int. Dir., W.P.(C) 3541/2022 & CM APPL. 10421/2022 -Ex., CM APPL. 10422/2022 -Ex., W.P.(C) 4075/2022, W.P.(C) 4084/2022, W.P.(C) 4523/2022 & CM APPL. 13551/2022 --Int. Dir., W.P.(C) 4555/2022 & CM APPL. 13666/2022 -Ex. CM APPL. 13667/2022 -Ex., W.P.(C) 4814/2022, W.P.(C) 4869/2022 & CM APPL. 14597/2022 --Int. Dir., W.P.(C) 4875/2022 & CM APPL. 14612/2022 --Int. Dir., W.P.(C) 4877/2022 & CM APPL. 14615/2022 --Int. Dir., W.P.(C) 4894/2022 & CM APPL. 14800/2022 --Int. Dir., W.P.(C) 4960/2022 & CM APPL. 14755/2022 --Int. Dir., W.P.(C) 4992/2022 & CM APPL. 14828/2022 --Int. Dir., W.P.(C) 5000/2022

& CM APPL. 14843/2022 --Int. Dir.,W.P.(C) 5218/2022 & CM APPL. 15524/2022 --Int. Dir.,W.P.(C) 5360/2022, W.P.(C) 5432/2022,W.P.(C) 5456/2022 & CM APPL. 16266/2022 --Int. Dir.,W.P.(C) 5479/2022 & CM APPL. 16314/2022 --Int. Dir., W.P.(C) 5480/2022 & CM APPL. 16323/2022 --Int. Dir., W.P.(C) 5493/2022 & CM APPL. 16455/2022 --Int. Dir., W.P.(C) 5495/2022 & CM APPL. 16362/2022 --Int. Dir., W.P.(C) 5617/2022, W.P.(C) 5653/2022 CM APPL. 16836/2022 -Ex., CM APPL. 16837/2022 -Ex W.P.(C) 5657/2022 CM APPL. 16841/2022 -Ex., CM APPL. 16842/2022 -Ex., W.P.(C) 5741/2022 & CM APPL. 17164/2022 --Int. Dir., W.P.(C) 5759/2022 & CM APPL. 17252/2022 --Int. Dir., W.P.(C) 5817/2022, W.P.(C) 5924/2022 & CM APPL. 17789/2022 -- Int. Dir, W.P.(C) 1664/2021, W.P.(C) 4800/2021, W.P.(C) 4910/2021 W.P.(C) 5072/2021, W.P.(C) 5078/2021 & CM APPL. 15544/2021 -- Int. Dir.,W.P.(C) 5079/2021,W.P.(C) 5095/2021,W.P.(C) 5174/2021,W.P.(C) 5202/2021,W.P.(C) 14761/2021,W.P.(C) 2815/2021,W.P.(C) 2816/2021,W.P.(C) 2819/2021,W.P.(C) 3003/2021,W.P.(C) 3011/2021,W.P.(C) 3178/2021,W.P.(C) 3633/2021,W.P.(C) 3670/2021,W.P.(C) 3672/2021 & CM APPL. 11139/2021 --Int. Dir, W.P.(C) 3709/2021 & CM APPL. 11232/2021 --Int. Dir, W.P.(C) 3716/2021, W.P.(C) 3723/2021,,W.P.(C) 3739/2021,W.P.(C) 3748/2021,W.P.(C) 3777/2021,W.P.(C) 3870/2021 W.P.(C) 3871/2021,W.P.(C) 3882/2021,W.P.(C) 3900/2021,W.P.(C) 4137/2021,W.P.(C) 4140/2021,W.P.(C) 4144/2021,W.P.(C) 4165/2021,W.P.(C) 4346/2021 & CM APPL. 13263/2021 --Int. Dir,W.P.(C) 4374/2021,W.P.(C) 4412/2021 & CM APPL. 13515/2021 --Int. Dir,W.P.(C) 4418/2021,W.P.(C) 4456/2021 & CM APPL. 13631/2021 --Int. Dir,W.P.(C) 4517/2021 & CM APPL. 13801/2021 --Int. Dir,W.P.(C) 4597/2021,W.P.(C) 4734/2021 & CM APPL. 14603/2021 --Int. Dir,W.P.(C) 4804/2021 & CM APPL. 14829/202 --Int. Dir,W.P.(C) 4891/2021 & CM APPL. 15055/2021 --Int. Dir.,W.P.(C) 5213/2021 & CM APPL. 16000/2021 --Int. Dir.,W.P.(C) 5214/2021,W.P.(C) 5217/2021,W.P.(C) 5302/2021 & CM APPL. 16314/2021 --Int. Dir,W.P.(C) 5308/2021 & CM APPL. 16325/2021 --Int. Dir.,W.P.(C) 5391/2021,W.P.(C) 5468/2021 & CM APPL. 16940/2021 --Int. Dir.,W.P.(C) 5470/2021 & CM APPL. 16944/2021 --Int. Dir.,W.P.(C) 5473/2021 & CM APPL. 16958/2021 --Int. Dir.,W.P.(C) 5474/2021 & CM APPL. 16963/2021

--Int. Dir.,W.P.(C) 5483/2021 & CM APPL. 17000/2021 --Int. Dir.,W.P.(C) 5494/2021 & CM APPL. 17034/2021 --Int. Dir.,W.P.(C) 5496/2021 & CM APPL. 17038/2021 --Int. Dir.,W.P.(C) 5516/2021 & CM APPL.17114/2021—Int., W.P.(C) 5520/2021 & CM APPL. 17123/2021 --Int. Dir.,W.P.(C) 5522/2021, CM APPL. 17131/2021 ,W.P.(C) 5524/2021 & CM APPL. 17135/2021 --Int. Dir.,W.P.(C) 5598/2021,W.P.(C) 5599/2021, W.P.(C) 5640/2021,W.P.(C) 5769/2021,,W.P.(C) 5779/2021,W.P.(C) 5796/2021 & CM APPL. 18170/2021 --Int. Dir.,W.P.(C) 5812/2021 & CM APPL. 18200/2021 --Int. Dir.,W.P.(C) 6285/2021 & CM APPL. 19844/2021--Int. Dir.,W.P.(C) 6294/2021,W.P.(C) 6321/2021& CM APPL. 19898/2021--Int. Dir.,W.P.(C) 6323/2021 & CM APPL. 19900/2021--Int. Dir.,W.P.(C) 6325/2021 & CM APPL. 19905/2021--Int. Dir.,W.P.(C) 6387/2021 & CM APPL. 20060/2021--Int. Dir.,CM APPL. 20061/2021 -Ex.W.P.(C) 6597/2021 & CM APPL. 20676/2021--Int. Dir.,W.P.(C) 6823/2021 W.P.(C) 6826/2021,W.P.(C) 6827/2021,W.P.(C) 6831/2021,W.P.(C) 7852/2021 & CM APPL. 24409/2021--Int. Dir., W.P.(C)6828/2021, W.P.(C) 8099/2021,W.P.(C) 8103/2021,W.P.(C) 8114/2021,W.P.(C) 8115/2021,W.P.(C) 8121/2021, W.P.(C) 8127/2021,W.P.(C) 8147/2021 & CM APPL. 25287/2021--Int. Dir.,W.P.(C) 8148/2021,W.P.(C) 8455/2021,W.P.(C) 8460/2021,W.P.(C) 8548/2021 & CM APPL. 26440/2021--Int. Dir.,W.P.(C) 8551/2021 & CM APPL. 26446/2021--Int. Dir.,W.P.(C) 8559/2021 & CM APPL. 26466/2021--Int. Dir.,W.P.(C) 8562/2021 & CM APPL. 26474/2021--Int. Dir.,W.P.(C) 8614/2021,W.P.(C) 8650/2021,W.P.(C) 9005/2021,W.P.(C) 9531/2021,W.P.(C) 9537/2021,W.P.(C) 9695/2021,W.P.(C) 9763/2021 & CM APPL. 30098/2021--Int. Dir.,W.P.(C) 9957/2021,W.P.(C) 10010/2021 & CM APPL. 30880/2021--Int. Dir.,W.P.(C) 10011/2021 & CM APPL. 30882/2021--Int. Dir.,W.P.(C) 10012/2021 & CM APPL. 30884/2021--Int. Dir.,W.P.(C) 10013/2021 & CM APPL. 30886/2021--Int. Dir.,W.P.(C) 10014/2021 & CM APPL. 30888/2021--Int. Dir.,W.P.(C) 10019/2021 & CM APPL. 30927/2021-Int. Dir., W.P.(C) 10020/2021 & CM APPL. 30929/2021-Int. Dir., W.P.(C) 10024/2021 & CM APPL. 30936/2021-Int. Dir., W.P.(C) 10064/2021 & CM APPL. 31067/2021-Int. Dir., W.P.(C) 10065/2021 & CM APPL.

31069/2021-Int. Dir., W.P.(C) 10105/2021, W.P.(C) 10186/2021 & CM APPL. 31434/2021-Int. Dir., CM APPL 31435/2021, W.P.(C) 10277/2021 & CM APPL. 31649/2021-Int. DIR., W.P.(C) 10279/2021 & CM APPL. 31653/2021-Int. DIR., W.P.(C) 10280/2021 & CM APPL. 31655/2021-Int. DIR. W.P.(C) 10284/2021, W.P.(C) 10286/2021 & CM APPL. 31682/2021-Int. Relief, W.P.(C) 10297/2021 & CM APPL. 31703/2021-Int. Dir., W.P.(C) 10298/2021 & CM APPL. 31705/2021-INT. Dir., W.P.(C) 10303/2021 & CM APPL. 31722/2021-INT. Dir., W.P.(C) 10304/2021 & CM APPL. 31724/2021-INT. Dir., W.P.(C) 10305/2021 & CM APPL. 31726/2021-INT. Dir., W.P.(C) 10333/2021, W.P.(C) 10348/2021, W.P.(C) 10350/2021, W.P.(C) 10355/2021 & CM APPL. 31868/2021, CM APPL. 31869/2021-Int. Dir., W.P.(C) 10356/2021, W.P.(C) 10361/2021 & CM APPL. 31881/2021-Int. Dir., W.P.(C) 10367/2021 & CM APPL. 31895/2021-Int. Dir., W.P.(C) 10370/2021 & CM APPL. 31901/2021-Int. Dir., W.P.(C) 10395/2021, W.P.(C) 10896/2021, W.P.(C) 10942/2021, CM APPL 33727/2021, CM APPL. 33728/2021, W.P.(C) 10993/2021, W.P.(C) 11053/2021, W.P.(C) 11061/2021, W.P.(C) 11079/2021 & CM APPL. 34153/2021-Int. Dir., W.P.(C) 11087/2021 & CM APPL. 34164/2021-Int. Dir., W.P.(C) 11089/2021 & CM APPL. 34167/2021-Int. Dir., W.P.(C) 11090/2021 & CM APPL. 34169/2021-Int. Dir., W.P.(C) 11092/2021 & CM APPL. 34171/2021-Int. Dir., W.P.(C) 11145/2021, W.P.(C) 11385/2021, W.P.(C) 11489/2021, W.P.(C) 11505/2021, W.P.(C) 11512/2021 & CM APPL. 35494/2021-INT. DIR., W.P.(C) 11514/2021 & CM APPL. 35497/2021-INT. DIR., W.P.(C) 11516/2021 & CM APPL. 35501/2021-Int. Dir., W.P.(C) 11518/2021 & CM APPL. 35504/2021-Int. Dir., W.P.(C) 11520/2021 & CM APPL. 35507/2021-INT. DIR., W.P.(C) 11697/2021, W.P.(C) 11700/2021 & CM APPL. 36184/2021-INT. DIR., W.P.(C) 11733/2021 & CM APPL. 36256/2021-INT. DIR., W.P.(C) 11734/2021 & CM APPL. 36258/2021-INT. DIR., W.P.(C) 11736/2021 & CM APPL. 36265/2021-INT. DIR., W.P.(C) 11740/2021 & CM APPL. 36287/2021-INT. DIR., W.P.(C) 11894/2021, W.P.(C) 11895/2021, W.P.(C) 11936/2021, W.P.(C) 11947/2021, W.P.(C) 11948/2021, W.P.(C) 11963/2021, W.P.(C) 12023/2021, W.P.(C) 12034/2021, W.P.(C) 12047/2021 & CM APPL. 37494/2021, W.P.(C)

12341/2021, W.P.(C) 12679/2021, W.P.(C) 12702/2021, W.P.(C) 12722/2021, W.P.(C) 12738/2021, W.P.(C) 12739/2021, W.P.(C) 12864/2021 & CM APPL. 40487/2021, W.P.(C) 13207/2021 & CM APPL. 41702/2021, W.P.(C) 13229/2021 & CM APPL. 41758/2021, W.P.(C) 13236/2021 & CM APPL. 41782/2021, W.P.(C) 13238/2021 & CM APPL. 41785/2021, W.P.(C) 13587/2021 & CM APPL. 42893/2021, W.P.(C) 13588/2021 & CM APPL. 42897/2021, W.P.(C) 13591/2021 & CM APPL. 42909/2021, W.P.(C) 13593/2021 & CM APPL. 42915/2021, W.P.(C) 13595/2021 & CM APPL. 42918/2021, W.P.(C) 13607/2021 & CM APPL. 42956/2021, W.P.(C) 13687/2021, W.P.(C) 13965/2021 & CM APPL. 44047/2021, W.P.(C) 13967/2021 & CM APPL. 44051/2021, W.P.(C) 13969/2021 & CM APPL. 44059/2021, W.P.(C) 14112/2021 & CM APPL. 44530/2021, W.P.(C) 14249/2021, W.P.(C) 14253/2021, W.P.(C) 14255/2021, W.P.(C) 14263/2021, W.P.(C) 14278/2021, W.P.(C) 14279/2021, W.P.(C) 14477/2021 & CM APPL. 45587/2021, W.P.(C) 14478/2021 & CM APPL. 45588/2021, W.P.(C) 14644/2021, W.P.(C) 15081/2021, W.P.(C) 6298/2022 & CM APPL. 18978/2022 -Int. Dir., W.P.(C) 6300/2022 & CM APPL. 18981/2022 -Int. Dir., W.P.(C) 6324/2022 & CM APPL. 19055/2022 -Int. Dir., W.P.(C) 6329/2022 & CM APPL. 19064/2022 -Int. Dir., W.P.(C) 6339/2022 & CM APPL. 19135/2022 -Int. Dir., W.P.(C) 6220/2022 & CM APPL. 18706/2022 -Ex., W.P.(C) 6426/2022, W.P.(C) 6442/2022 & CM APPL.19499/2022, W.P.(C) 6583/2022, W.P.(C) 6592/2022, W.P.(C) 6596/2022, W.P.(C) 6605/2022, W.P.(C) 6712/2022, W.P.(C) 6873/2022, W.P.(C) 10113/2022, W.P.(C) 10114/2022, W.P.(C) 10141/2022, W.P.(C) 10262/2022, W.P.(C)10304/2022W.P.(C) 6128/2022, W.P.(C) 10444/2022, W.P.(C) 10466/2022, W.P.(C) 10559/2022 & CM APPL. 30492/2022 -Int. dir., W.P.(C) 10561/2022 & CM APPL. 30499/2022 -Int. dir., W.P.(C) 10565/2022 & CM APPL. 30544/2022 -Int. dir., W.P.(C) 10967/2022, W.P.(C) 11015/2022, W.P.(C) 11143/2022 & CM APPL. 32720/2022 -Int. dir, W.P.(C) 11190/2022, W.P.(C) 11242/2022, W.P.(C) 11443/2022, W.P.(C) 11538/2022 & CM APPL.34164/2022, W.P.(C) 11543/2022 & CM APPL. 34177/2022, W.P.(C) 11545/2022 & CM APPL. 34180/2022 and W.P.(C) 11590/2022 & CM APPL.34353/2022

MEHTA TEACHER TRAINING COLLEGE

..... Petitioner

versus

NATIONAL COUNCIL FOR TEACHER EDUCATION & ANR.

..... Respondents

*and other connected petitions.*

**Appearances:**

**For petitioners:**

Mr.Sanjay Sharawat, Mr.Amitesh Kumar, Ms.Binisa Mohanty, Ms.Priti Kumar, Mr. Divyank Rana, Mr.Akash Sahraya, Mr.Ashok Kumar, Mr.Sumit Kishore, Mr.Manmohan Singh Narula, Mr.Sarabjeet Singh, Ms.Somya, Mr.Mayank Manish, Mr.Ravi Kant, Mr.Harsh Chaoudhary, Mr.Narender Singh, Mr.Shaswat Singh, Ms.Arunima Dwivedi, Mr.Ved Prakash, Ms.Ashi Sharma, Ms.Swati Jhunjhunwala, Mr.Abhishek Singh, Ms.Priyanka Madavaram, Mr.Sumit Kishore & Mr.Gaurav Arora, Advs.

**For respondents**

Ms.Aishwarya Bhati, Sr.Adv./ASG with Mr.Govind Manoharan & Mr.Nakul Rajan, Advs.

Ms.Aakanksha Kaul, Mr.Manek Singh & Mr.Aman Sahani, Advs.

Mr. Jai Sahai Endlaw & Ms.Kartika Sharma, Advs.

**CORAM:**

**HON'BLE MS. JUSTICE REKHA PALLI**

**REKHA PALLI, J**

**JUDGMENT**

1. The present batch of petitions preferred under Article 226 of the Constitution of India assail the decision of the National Council for Teacher Education (“NCTE”) refusing to open its online web portal for submission

of applications from institutions desirous of seeking recognition of teachers' education courses. The petitioners also seek a consequential direction to the respondent NCTE to open its portal and accept and process their applications for the next academic session as per clause 5(6) of the NCTE (Recognition Norms and Procedure) Regulations, 2014 ("Regulations") Since the issues raised in these petitions are common, for the sake of convenience, reference is being made only to the facts in W.P.(C) No. 2813/2021.

***Brief Factual Matrix:***

2. The petitioner is an unaided and self-financed educational institution established by a registered society named 'Mehta Education Society'. The respondent No.1/NCTE is a statutory board established under "The National Council for Teacher Education Act, 1993" ("the Act") for the purpose of achieving planned and co-ordinated development of teacher education system in the country. The respondent no.2/Western Regional Committee ("WRC") is one of the four regional committees under the respondent no.1.

3. The petitioner college upon being granted recognition by the Northern Regional Committee ("NRC") on 26.03.2015, commenced its B.Ed. course. On 30.05.2016, the petitioner, being desirous of running the integrated course of BA.B.Ed/BSc.B.Ed, submitted an application to the NRC seeking grant of recognition for running the said courses. Upon scrutiny of the petitioner's application by the NRC, it was issued a show cause notice on 19.01.2017, the petitioners' reply where to was found unsatisfactory. Consequently, its application was rejected by the NRC on 28.04.2017.

4. Though, the petitioner could have assailed this rejection order by way

of a statutory remedy of appeal before the NCTE, it did not do so and instead chose to wait for the NCTE to invite fresh applications for the next academic session. The respondents, however, did not invite any applications for grant of recognition, and instead issued public notices in the years 2017 and 2018, stating therein that, it would not be accepting any new applications for the academic sessions 2017-18 and 2018-19. The position remained the same in the next four years, except in 2019, when applications for one programme, namely the 'Four-year Integrated Teacher Education Programme (Pre-Primary to Primary and Upper Primary to Secondary' ("integrated programme") from some states were invited, but even these applications were subsequently not processed. It is in these circumstances that the petitioners, who have not been able to submit any application for any new course during the last six years, i.e. after 2016, have approached this Court seeking a writ of mandamus directing the respondent no.1 to open the portal and accept online applications sought to be submitted to them under clause 5(5) of the National Council for Teacher Education (Recognition Norms and Procedure) Regulations, 2014 ("the Regulations") for grant of recognition for running B.A.B.E.d/ B.Sc.B.E.d course in the academic session 2022-23. The petitioner in W.P.(C) No. 2813/2021 has also sought quashing of the rejection order dated 25.04.2017 vide which its application seeking grant of recognition for B.A.B.E.d/ B.Sc.B.E.d was rejected on 30.05.2016.

***Submissions of the Petitioners:***

5. At the outset, Mr. Sanjay Sharawat, learned counsel for the petitioners, submits that every institution offering or intending to offer a course or training in teacher education, is in terms of Section 14 of the Act,



required to make an application for grant of recognition to the concerned regional committee in such form or manner as may be prescribed under the Regulations. The Regulations framed under Section 32 of the Act prescribe that, institutions desirous of submitting applications for seeking recognition of any teachers training course, must submit their applications between 1<sup>st</sup> of March to 31<sup>st</sup> May of the year preceding the year for which recognition is sought. By drawing my attention to Section 32(2)(e) and (f) of the Act, he submits that the respondent no.1 Council is competent to make regulations, prescribing the form and manner in which applications seeking recognition must be submitted, as also the conditions required to be fulfilled for recognition of a new course or training. He submits that there is however, no provision either in the Act, or in the Regulations, which grants any discretion to respondent no.1 or its regional committees, to altogether refuse to receive or entertain applications seeking recognition. He, therefore, contends that once the scheme of the Act, as is evident from the Regulations, envisages submission of applications between these specified dates every year, by institutions desirous of offering any new teaching course, the NCTE is obliged to accept and consider these applications as per the prescribed criteria. His plea, thus, is that in accordance with Section 14 (1), 32 (2)(e) and (f) of the Act, while the NCTE is empowered to make regulations prescribing the conditions and procedure for processing applications of institutions for seeking recognition, it cannot either altogether refuse to receive applications, or to decide that it will not process any further applications in a particular academic year.

6. He submits that for the last six years, the NCTE has, without any justification, failed to open its portal for receiving applications from eligible

institutions and is, therefore, refusing to accept any applications despite the institutions meeting all the conditions prescribed in the Regulations. This, he contends, is wholly arbitrary and in fact, by refusing to accept the applications, the NCTE is acting contrary to the statutory regulations, and its decision not to open the portal goes against the very intent of the purpose of creation of this specialised regulatory body under the Act. The NCTE was created only to regulate the conditions and procedure for processing of applications; neither the Act nor the Regulations vests the NCTE with any such power to prohibit institutions from submitting applications for seeking recognition for teaching courses or to issue any such public notice not to accept applications altogether. Once, there is no such provision in the Act or the Regulations, the NCTE cannot, in apparent exercise of its administrative powers, issue such directions which virtually take away the right of the institutions to impart education in teaching courses.

7. Mr. Sharawat, learned counsel for the petitioners, then submits that the right to establish and administer educational institutions is a fundamental right, guaranteed under Article 19 (1)(g) of the Constitution of India to all the citizens. Furthermore, minorities have been granted a special right under Article 30 to establish and administer educational institutions, which right too is being abridged by this arbitrary action of the NCTE. By placing reliance on the decision of the Apex Court in *T.M.A. Pai Foundation versus State of Karnataka (2002) 8 SCC 481*, he contends that the NCTE cannot take away this fundamental right by the purported policy decision taken by its governing council not to accept applications.

8. Mr. Sharawat next submits that a similar action of the NCTE has already been found to be unsustainable by the Madras High Court, for which

purpose he places reliance on the decision in *M/S Senthil Education Society versus Member Secretary, National Council for Teacher Education (NCTE), W.P. No. 3236/2010*. He submits that, in *M/s Senthil (supra)* the Court held that issuance of a mere policy decision by the NCTE cannot be the basis for imposing any kind of a general ban on submissions of applications. He, therefore, contends that every application for a new teaching course received by the NCTE is required to be considered by it on merits. Moreover, Sections 4, 5, 14 and 15 of the Act contemplate consideration of individual applications by the NCTE, there being no provision for taking a general decision like banning applications for all institutions.

9. He then contends that, a similar action of the Bar Council of India imposing a moratorium of three years on opening of new institutions for imparting legal education was frowned upon by the Punjab and Haryana High Court. In *Chandigarh Educational Society versus the Bar Council of India, CWP No. 7441/2020*, the resolution dated 12.08.2019, imposing the moratorium was sought to be defended on the ground that there were already sufficient number of institutions imparting legal education in the country. The Court, however, did not accept the plea and held that, while the Bar Council of India was competent to issue guidelines/circulars etc. in respect of both setting up a new college, as also an already running institute, and to ensure compliance thereof, for regulating and maintaining standards of legal education, it could not impose a complete ban on opening of new institutions. The Court therefore, held that, this decision of the BCI lacked legislative backing, and was therefore, violative of Article 19 (1)(g) of the Constitution of India. The BCI duly accepted this decision, and on

16.06.2021, withdrew the resolution. He therefore, prays that the NCTE be directed to open the portal immediately and invite and process the applications from eligible institutions, without any further delay.

10. While adopting the submissions made by Mr. Sanjay Sharawat, Mr. Amitesh Kumar, learned counsel for the petitioners in the connected petitions, by placing reliance on the decision of the Apex Court in *State of Bihar versus Project Uchcha Vidya, Shikshak Sangh and Others, (2006) 2 SCC 545*, submits that the term 'law' as envisaged under Article 19 (6) of the Constitution implies a statutory provision introduced by the legislature. Issuance of a mere circular by the NCTE conveying not to accept any applications seeking grant of recognition cannot, by any stretch of imagination, be treated as being prescribed by law, as contemplated under Article 19 (6). He contends that a policy decision of the respondents seeking to abridge the fundamental rights of the petitioners under Article 19(1)(g) would not satisfy the test of reasonable restrictions by law, as contemplated under Article 19(6). In fact, the respondents have, by issuing the impugned circulars, not only sought to illegally violate the right of the petitioners under Article 19(1)(g) of the Constitution, but have also failed to fulfil the mandate under Section 25 of the Right of Children to Free and Compulsory Education Act, 2009 ("the RTE Act"). Section 25 of the RTE Act casts a statutory obligation on all authorities to endeavour to ensure, that the pupil-teacher ratio, as mentioned in the schedule to the Act, is achieved within three years of the promulgation of the RTE Act. The respondents, instead of taking appropriate steps to reduce the already existing huge deficiency of trained teachers, is stalling the commencement of new teaching courses, thereby adding to the existing shortfall of trained teachers.

11. Without prejudice to his aforesaid plea that the NCTE has no power to issue this kind of a general ban by way of a policy decision, he contends that, even otherwise, the justification sought to be furnished by the respondent Council for its illegal action of imposing a ban, is contrary to the factual position prevailing as on date. The respondents' plea before this Court that, recognition of new teaching courses was rightly put to halt on account of there already being a surplus of trained teachers and teacher training institutions, is belied from the material available on record. By drawing my attention to extracts from the 'State of the Education Report for India-2021' published by 'The United Nations Educational, Scientific and Cultural Organisation' (UNESCO), Mr. Kumar submits that as per the said report, to achieve the goal of ensuring inclusive and equitable quality education to all by 2030, it is necessary to substantially increase the supply of qualified teachers in the country. Similarly, one of the key recommendations of the National Education Policy, 2020 ("NEP 2020") formulated by the central government is to improve the teacher availability by filling up all available vacancies, which, as per the data provided by Unified District Information System for Education (UDISE), exist in about 19% of the schools across the country. In addition, the country is also grappling with the problem of underqualified teachers in a number of states, the problem being more acute in the rural parts of the country. He submits that the NEP, 2020, in furtherance whereunto the respondents claim to have taken the impugned decision, in itself notes that the additional teacher requirement in the country is about 1,116,846. In fact, even in reply to a question posed in the Lok Sabha regarding the basic infrastructure in schools, the government had categorically stated that about 15.91% of the

teaching posts in the country are vacant. He therefore, contends that in the light of this huge shortage of trained teachers, there is an urgent need of introducing more teacher training courses. The NCTE, however, instead of promoting institutions offering teacher training courses, so as to ensure the availability of adequate qualified teachers in the country, has adopted a wholly unfair approach by imposing a general ban, which will result in stifling the growth of teaching institutions, despite their having the requisite infrastructure and capability to impart good quality education.

12. Mr. Kumar then submits that even though the statutory regulations which can be amended only after being placed before the parliament, have, after the formulation of the NEP, 2020 in July, 2020, been amended twice, once in October, 2021 and then again in May, 2022, no such provision for imposition of a general ban has been included in these amended Regulations. This, he contends, was not done, as the respondents were well aware that a regulation giving them a blanket power to impose a general ban on commencement of new teaching courses, and that too for an indefinite period, being violative of Articles 14 and 19 of the Constitution, would not have been approved by the Parliament.

13. Finally, Mr. Kumar places reliance on a recent decision of this Court in '*Shaheed Teg Bahadur College of Pharmacy versus Pharmacy Council of India*', W.P. No. 175/2021 wherein the Court was dealing with a similar ban imposed by the Pharmacy Council of India on the opening of new pharmacy colleges in the country. The Court held that the Pharmacy Council of India, under exercise of its executive authority, did not have the power to issue any moratorium on the very establishment of new institutions by way of a mere policy decision. He contends that, the Court held that the power to

regulate the functioning of pharmacy colleges available with the Pharmacy Council of India could not imply that the Council could simply put a blanket moratorium on the opening of new institutions. He, therefore, prays that the writ petitions be allowed.

***Submissions of the Respondents:***

14. *Per contra*, Ms. Aishwarya Bhati, learned Additional Solicitor General of India, appearing on behalf of the respondents, opposes the petitions by submitting, at the outset, that the respondent council, which has been statutorily created with the objective of maintaining and coordinating standards in teacher education, is obliged to take all requisite steps to prevent uncontrolled growth of sub-standard teacher education institutions. The NCTE which has been statutorily created under the Act, has been vested with powers to take all steps necessary for achieving the objective of determination, maintenance and coordination of standards in teachers' education, and to establish a suitable system for continuing education of teachers. She, contends that once, the NCTE is mandated under the Act to ensure that only institutions maintaining the highest standards in teacher education are permitted to continue and grow, no fault can be found with its decision to temporarily suspend recognition of new colleges and courses, which has been taken to ensure that there is no unplanned growth of teachers' education institutions.

15. She relies on Section 3 of the Act, to contend that the NCTE, which comprises of a large number of experts from various domains, has to ensure that sub-standard institutions are neither encouraged nor permitted to crop up, and new institutions/teaching courses are granted recognition after meeting the stringent standards laid down in the Regulations. She submits

that Section 3(4) of the Act succinctly lays down the details of the experts forming the respondent Council, and therefore, contends that this decision taken in interest of the general public by such an expert body ought not to be interdicted by the Court.

16. Ms. Bhati next refers to Section 12 of the Act, which lays down the functions of the respondent Council. By drawing my attention to Sections 12(c),(f),(m) and (n) of the Act, she submits that there are two primary functions and duties of the NCTE, the first being to regulate and maintain norms and standards for grant of recognition of institutional courses in teacher education; the second being to ensure planned and coordinated development of the teachers' education system in the country, so as to prevent its commercialisation. Section 12 is, therefore, intended to clothe the respondent Council with wide powers to take all steps not only to maintain the standards of education, but also to prevent unplanned growth of teacher education courses and institutions. She submits that, the decision of the respondent Council not to accept any application for any new course for the present, is a step in this direction, and therefore, contends that no interference is called for with this decision to temporarily suspend the opening of the portal.

17. In support of her plea that the power of the respondent Council to take steps for coordination of standards in teachers' education under the Act has to be read in an expansive manner and not in a restrictive way, she places reliance on the decision of the Apex Court in *State of Tamil Nadu and Another versus Adhuyaman Educational and Research Institute, (1995) 4 SCC 104*. She contends that the term 'coordination' would not only include the power to facilitate a development plan, but would also include the power



to prevent actions which would hinder such coordination, for which purpose she relies on the following extract.

*“It is always open for NCTE to decide when and how to invite fresh applications for grant of recognition to run B.Ed. course. In case fresh applications are not being currently entertained from any prospective, applicant, who wishes to run the course, there would be no occasion for this Court to interfere. The application of the petitioner, however, shall be considered as and when such applications are entertained by the NCTE, as is clearly undertaken by their counsel before this Court.”*

18. The learned ASG then refers to the decision of the Apex Court in ***Modern Dental College and Research Centre and Another versus State of Madhya Pradesh and Others, (2016) 7 SCC 353***, to contend that for the purpose of maintaining standards in education, the regulations put in place by the regulatory body are of vital importance. Her plea, thus, is that a regulatory body, like the NCTE, has the power to impose reasonable restrictions in accordance with Article 19 (1) (g) of the Constitution. She further places reliance on the decision of the Apex Court in ***K. Ramanathan versus State of Tamil Nadu and Another, (1985) 2 SCC 116*** and contends that the term ‘regulation’ cannot be given any rigid or inflexible meaning. She submits that the power to regulate is a plenary power and cannot be read so as to exclude the power to introduce prohibitions which may be necessary to achieve the very purpose of the regulatory body.

19. The learned ASG then submits that the petitioners’ plea that the respondent is obliged to open the portal in every academic year, is wholly misplaced. In accordance with Sections 14 and 15 of the Act, which clothe the Council with the power to grant recognition to new teachers’ education

institutions and courses, the respondent Council is required to prescribe the procedure for submission of applications for this purpose. It is therefore, incumbent upon the NCTE to lay down standards for grant of recognition, as also the form and manner in which an application for recognition is required to be made to the concerned regional committee. She submits that the Council in discharge of its statutory obligations, has duly framed Regulations under Section 32 of the Act laying down these criteria, and therefore, it cannot be said that the NCTE has failed to fulfil its mandate under the Act. Once there is no provision under the Act, Rules or Regulations imposing any legal duty on the NCTE to open the portal for inviting applications for any particular academic year, or to do so in every academic year, it cannot be said that the respondent Council by temporarily suspending the opening of the portal, is acting in breach of its statutory duty. She, therefore, contends that the petitioners' plea that there is a mandate on the NCTE under the Act to open the portal every year, and consequently, invite and consider applications in each academic year, is wholly without any basis.

20. The Learned ASG next submits that the decision of the respondents not to invite or accept applications for permission to commence new teaching courses for the present, is even otherwise in consonance with the NEP, 2020, and the NCTE being a sectoral regulator, is under Section 29 of the Act, obliged to follow all directions of the Central Government, including such policy decisions taken by the government. By placing reliance on the recommendations made in the NEP, 2020, she submits that introduction of an educationally sound, multidisciplinary, and integrated teacher education programmes is the need of the hour to restore the prestige

of the teaching profession. Once the NEP, 2020 emphasises on the formulation of teachers' educational programmes only within composite multidisciplinary institutions, the respondent Council is justified in temporarily suspending the commencement of any fresh teachers' education courses, whether in already existing institutions, or in new institutions. As per the NEP, 2020, by the year 2030, all the existing teacher education institutions will be required to offer a Four-Year Integrated Teacher Education Programme ("ITEP"), as a consequence whereof, standalone institutions/courses offering B.Ed. will be required to be converted into multidisciplinary institutions.

21. She submits that when the NEP, 2020 has brought about radical changes in India's teachers' education sector, there are major tasks which lie ahead for the NCTE to bring them to fruition. In order to ensure that these sea-changes in the teachers' education system envisaged under the NEP, 2020 are implemented smoothly, the NCTE, which has to act in furtherance of the aims and objects of the NEP, has taken the impugned decision not to grant recognition to any new teaching course for the present. In fact, in consonance with this objective, the National Council for Teacher Education (Recognition, Norms and Procedure) Amendment Regulations, 2021 ("Regulations, 2021") have been promulgated on 22.10.2021, by addition of 'clause (ca)' which defines a multi-disciplinary institution, clearly bringing out its intention for the respondent Council to only recognise such institutions in the future.

22. The learned ASG next refers to the report dated 31.03.2019 prepared by the Department of School Education and Literacy, Ministry of Education on 31.03.2009 referred to as the 'Sarthaq'- which lays down the

‘implementation plan’ for the smooth implementation of NEP, 2020. She submits that the UNESCO report so heavily relied upon by the petitioners in itself makes a recommendation that the NEP, 2020 should be implemented.

23. By relying on the data as provided in ‘Sarthaq’, she submits that there are 16,729 teachers’ education institutions across the country with an intake capacity of 19,61,184 students, many of which do not prescribe to the standards as laid down. The growth of these institutions in the private sector is highly disproportionate with approximately 92% of them being in the private sector, 6% in the government-aided sector, and barely 2% being in the government sector. This growth has also been uneven across the States, and therefore, it is the duty of NCTE to make sure that as per the mandate of the NEP, 2020 all the existing 16,729 institutions fall into the multi-disciplinary segment by 2030. She further contends that it is not as if the respondent Council has introduced an absolute ban as is sought to be contended, but taking into account the major changes required to ensure that only ITEPs are permitted to run in the future, the Council has in its 52<sup>nd</sup> General Body Meeting held on 25.01.2021, decided to start on a pilot basis the ITEP course, only in Central and State Government institutions. In case the pilot programme is found to be successful, gradually applications will also be invited from private institutions and till then, new courses/institutions have to be deferred in public interest. This temporary suspension of the recognition process is necessary to ensure that all the standalone teachers’ education institutions move to become multi-disciplinary colleges and offer the ITEP as the minimum qualification for all school teachers by 2030, in a phased manner.

24. Ms. Bhati, further submits that the reliance of the petitioners on

Section 25 of the RTE Act to urge that there is a mandate on the NCTE to ensure that the teacher-pupil ratio as per the schedule is maintained, is also misplaced. She submits that this mandate under Section 25 of the RTE Act is not on the respondents but on the local authorities and the concerned government. On the other hand, under Section 23 of the Act, the respondent Council is only required to ensure that the standards of teachers' education are maintained. All steps being taken by the respondents including the impugned decision to permit, for the present, only state and central government institutions to submit application, she contends, are in accordance with this mandate under the RTE Act.

25. She next relies on the decision of the Apex Court in *Karnataka Live Band Restaurants Association versus State of Karnataka and Others, (2018) 4 SCC 372*, to contend that, while examining the restrictions imposed by the Legislature in public interest, the scope of the enquiry has to be limited to the reasonableness of the restrictions. As long as the restrictions are reasonable and are in consonance with the mischief sought to be arrested by the legislature, no interference is called for. She also places reliance on the decision of the Apex Court in *Dental Council of India versus Biyani Shikshan Samiti and Another, (2022) SCC OnLine SC 444* to contend that the decisions of the experts ought not to be interfered with lightly as the Court should not substitute its opinion in respect of a policy framed by an expert regulation making body. She, thus, contends that this Court ought not interfere with the decision taken by its various experts in the Council, which in any event, is only a temporary closure of the portal for private institutions.

26. The learned ASG then submits that similarly, the decision in *Shaheed Teg Bahadur (supra)*, heavily relied upon by the petitioners, is not

applicable to the facts of the present case. In *Shaheed Teg Bahadur (supra)*, the Court was dealing with a situation where a five-year moratorium had been imposed by the Pharmacy Council of India, even though, the Pharmacy Act, 1948 unlike the NCTE Act, 1993, does not give any power to the Pharmacy Council of India to regulate or coordinate education in the pharmacy sector. She submits that the provisions of the two acts are not *para materia* and under the NCTE Act, a duty is cast on the NCTE to regulate and coordinate education in teacher education courses. Moreover, the NCTE has not imposed any blanket moratorium as was imposed by the Pharmacy Council of India, and is permitting, by way of a pilot project, State and Government institutions to submit their applications for the ITEP. The decision of the Pharmacy Council was held to be unsustainable by the Court as it was found that before imposing the moratorium, no prior approval from the Central Government had been taken. On the other hand, in the present case, the respondents are acting only in furtherance of the directions issued by the Central Government by way of the NEP, 2020 and therefore, even on this ground, the decision in *Shaheed Teg Bahadur College of Pharmacy (supra)* is inapplicable.

27. Ms. Bhati finally submits that a similar challenge to the action of the NCTE not to open the portal already stands rejected by the Allahabad High Court in *Suman Rani Institute of Technology versus National Council for Teacher Education and Others, W.P. (C) No. 245/2020*. In the said decision, the Allahabad High Court refused to interfere with the decision of the NCTE as to when, and in what manner, it should invite fresh applications for grant of recognition. She, therefore, prays that the writ petitions be dismissed.

***Analysis and Findings:***

28. Having considered the submissions of the learned counsel for parties and perused the record, I find that three issues arise for my consideration in the present case. The first and foremost issue being as to whether the petitioners have a fundamental right under Article 19 (1)(g) of the Constitution of India to commence a new teachers' education course, as and when they want, and if yes, whether the NCTE can curtail this right by imposing a short-term general ban on the commencement of new courses. In order to determine whether the NCTE has the right to impose a general ban, it would be necessary to examine the scope of the powers and functions of the respondent NCTE under the Act, to determine whether the Act give the respondents power to only lay down standards for teacher' education or whether the same includes power to altogether prohibit commencement of new teacher training institutions for any period as deemed appropriate. This, therefore, would be the second issue which needs to be delved upon. An ancillary offshoot thereof would be whether there is any mandate on the respondents as per the Act or otherwise to accept applications for commencement of new teaching courses on a regular basis or on a yearly basis as urged by the petitioners. The third and final issue which needs to be determined is as to whether the issuance of the NEP, 2020 can be treated as a mandate or directions from the Central Government as envisaged under Section 29 of the Act and also whether the ban imposed by the Council on the commencement of new courses as existing for the last six years has any nexus with the implementation of NEP, 2020.

29. In order to appreciate the rival contentions of the parties, it would be

necessary to first note the provisions of the Act. I may begin by referring, at the first instance, to the ‘Statement of objects and reasons’ of the Act’, and then refer to the provisions of Section 3 (4), 12 (c), 12 (f), 12 (m) and 12 (n), Sections 14, 29, 32 (e) & (f), of the Act on which reliance has been placed by the parties.

30. I may begin by noting the ‘Statement of objects and reasons’ for enactment of the Act, on which great emphasis was laid by the learned ASG. The same reads as under-

*1. The National Council for Teacher Education (NCTE) was set up in 1973 by a Government Resolution as a National expert body to advise Central and State Governments on all matters pertaining to teacher education. NCTE's status and role have so far been purely advisory and, mainly due to this reason, it has had very little impact on the standards of teacher training institutions in the country and on their unplanned growth.*

*2. To maintain the standards of teacher education, the National Policy on Education (NPE) stated that the NCTE would be provided with necessary resources and capability of accredited institutions of teacher education and provide guidance regarding curricula and methods. The Programme of Action prepared for implementation of the NPE in 1986, realising the inherent difficulties in the constitution of the NCTE to be able to guide the system of teacher education, envisaged conferring it with statutory status.*

*3. The present Bill seeks to provide statutory powers to the NCTE with the objective of determination, maintenance and coordination of standards in teacher education laying down norms and guidelines for various courses, promotion of innovation in this field and*



*establishment of a suitable system of continuing education of teachers.*

*4. The Bill seeks to empower the Council to make qualitative improvement in the system of teacher education by phasing out sub-standard institutions and courses for teacher education. The NCTE would also be empowered to grant recognition to institutions for teacher education and permission to recognised institutions for new course or training in teacher education. The Bill also provides for delegation of various powers to Regional Committees and other Committee for effective implementation of the function of the Council.*

31. Now it may be apposite to refer to Section 3 (4) of the Act which lays down the constitution of the respondent Council by setting out the details of its constituent members, as provided in clauses (a) to (p). The same reads as under:

*3 (4) The Council shall consist of the following Members, namely:—*

- a) a Chairperson to be appointed by the Central Government;*
- b) a Vice-Chairperson to be appointed by the Central Government;*
- c) a Member-Secretary to be appointed by the Central Government;*
- d) the Secretary to the Government of India in the Department dealing with Education ex officio;*
- e) the Chairman, University Grants Commission established under Section 4 of the University Grants Commission Act, 1956 (3 of 1956) or a member thereof nominated by him, ex officio;*
- f) the Director, National Council of Educational*

*Research and Training, ex officio;*

*g) the Director, National Institute of Educational Planning and Administration, ex officio;*

*h) the Adviser (Education), Planning Commission, ex officio;*

*i) the Chairman, Central Boards of Secondary Education, ex officio;*

*j) the Financial Adviser to the Government of India in the Department dealing with Education, ex officio;*

*k) the Member-Secretary, All-India Council for Technical Education, ex officio;*

*l) the Chairpersons of all Regional Committees, ex officio;*

*m) thirteen persons possessing experience and knowledge in the field of education or teaching to be appointed by the Central Government as under, from amongst the—*

*i. Deans of Faculties of Education and Professors of Education in Universities —Four;*

*ii. experts in secondary teacher education —One;*

*iii. experts in pre-primary and primary teacher education —Three;*

*iv. experts in non-formal education and adult education —Two;*

*v. experts in the field of natural sciences, social sciences, linguistics, vocational education, work experience, educational technology and special education, by rotation, in the manner prescribed — Three;*

*n) nine Members to be appointed by the Central Government to represent the States and the Union Territory Administrations in the manner prescribed;*

*o) three Members of Parliament of whom one shall be nominated by the Chairman of the Council of States and two by the Speaker of the House of the People;*

*p) three Members to be appointed by the Central Government from amongst teachers of primary and secondary education and teachers of recognised*

*institutions.*

32. I may now note Sections 12 (c), 12 (f), 12 (m) and 12 (n), 14, 29 and 32 (e) and 32 (f) of the Act which read as under-

***Section 12. Functions of the Council-***

*It shall be the duty of the Council to take all such steps as it may think fit for ensuring planned and coordinated development of teacher education and for the determination and maintenance of standards for teacher education and for the purposes of performing its functions under this Act, the Council may—*

*(c) coordinate and monitor teacher education and its development in the country;*

*(f) lay down guidelines for compliance by recognised institutions, for starting new courses or training and for providing physical and instructional facilities, staffing pattern and staff qualifications;*

*(m) take all necessary steps to prevent commercialisation of teacher education; and*

*(n) perform such other functions as may be entrusted to it by the Central Government.*

***Section 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.*

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

- (i) are funded by the Central Government or the State Government or the Union territory Administration;*
- (ii) have offered a course or training in teacher education on or after the appointed day till the academic year 2017-2018; and*
- (iii) fulfil the conditions specified under clause (a) of sub-section (3), shall be deemed to have been recognised by the Regional Committee.]*

*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,—*

*a) if it is satisfied that such institution has adequate financial resources, accommodation, library, qualified staff, laboratory and that it fulfils 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*

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

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

*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.*

5. *Every institution, in respect of which recognition has been refused shall discontinue the course or training in 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),—*
  - a) *grant affiliation to the institution, where recognition has been granted; or*
  - b) *cancel the affiliation of the institution, where recognition has been refused.*

***Section 29. Directions by the Central Government.-***

1. *The Council shall, in the discharge of its functions and duties under this Act be bound by such directions on questions of policy as the Central Government may give in writing to it from time to time.*
2. *The decision of the Central Government as to whether a question is one of policy or not shall be final.*

***Section 32. Power to make regulations.—***

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

- (e) the form and the manner in which an application for recognition is to be submitted under sub-section (1) of Section 14;*
- (f) conditions required for the proper functioning of the institution and conditions for granting recognition under clause (a) of sub-section (3) of Section 14;*

33. It may also be apposite to note the contents of Regulation 5 which is the only regulation relied upon by both the parties. The same reads as under-

**5. Manner of making application and time limit.—**

1. *An institution eligible under Regulation 4, desirous of running a teacher education programme may apply to the concerned Regional Committee for recognition in the prescribed application form along with processing fee and requisite documents:*

*Provided that an institution may make simultaneous applications for shifting of premises or additional intake, or additional teacher education programmes as the case may be:*

*Provided further that an existing institution may make an application for closure or discontinuation of one or several teacher education programmes recognised by the Council.*

2. *The application form may be downloaded from the website of the Council, namely, [www.ncte-india.org](http://www.ncte-india.org) and different forms may be downloaded for programmes offered through open and distance learning.*

3. *The application shall be submitted online electronically alongwith the processing fee and scanned copies of required documents such as no objection certificate issued by the concerned affiliating body. While submitting the application, it has to be ensured that the application is duly signed by the applicant on every page, including digital signature at appropriate place at the end of the application.*

4. *While submitting the application online a copy of the registered land document issued by the competent authority, indicating that the society or institution applying for the programme possesses land on the date of application, shall be attached along with the application.*

5. *Duly completed application in all respects may be submitted to the Regional Committee concerned between 1<sup>st</sup> March to 31<sup>st</sup> May of the preceding year from the academic session for which recognition is sought:*

*Provided that the aforesaid period shall not be applicable for submission of application to innovative programmes of teacher education.*

6. *All applications received online from 1<sup>st</sup> March to 31<sup>st</sup> May 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 3<sup>rd</sup> day of March of the succeeding year.*

34. Having noted the relevant provisions of the Act, it is now time to deal with the first issue. The petitioners have contended that the right to establish an educational institution, and as a corollary thereof, the right to commence a new educational teaching course is a fundamental right. In support of this plea, they have urged that this right to establish an educational institution is akin to carrying out an occupation and is therefore, necessarily a fundamental right guaranteed under Article 19 (1) (g) of the Constitution, for which purpose they have relied on para 25 of the decision in ***T.M.A. Pai Foundation versus State of Karnataka (2002) 8 SCC 481***. The petitioners have also referred to the answer to question no.11 as per the majority view of the Constitution Bench. The relevant extracts thereof read as under-

*25. The establishment and running of an educational institution where a large number of persons are employed as teachers or administrative staff, and an activity is carried on that results in the imparting of knowledge to the students, must necessarily be regarded as an occupation, even if there is no element of profit*

generation. It is difficult to comprehend that education, per se, will not fall under any of the four expressions in Article 19(1)(g). "Occupation" would be an activity of a person undertaken as a means of livelihood or a mission in life. The above quoted observations in *Sadan Singh t.-case6* correctly interpret the expression "occupation" in Article 19(1)(g).

**Q. 11.** What is the meaning of the expressions "education" and "educational institutions" in various provisions of the Constitution? Is the right to establish and administer educational institutions guaranteed under the Constitution?

**A.** The expression "education" in the articles of the Constitution means and includes education at all levels, from the primary school level up to the postgraduate level. It includes professional education. The expression "educational institutions" means institutions that impart education, where "education" is as understood hereinabove.

35. It is the petitioners' case that this right to commence a new educational course/institution guaranteed under Article 19 (1) (g) can be curtailed only under Article 19 (6) of the Constitution. It would, therefore, be useful at this stage to also refer to Articles 19 (1) (g) and 19 (6) of the Constitution, which read as under-

*19. Protection of certain rights regarding freedom of speech etc*

*19. (1) All citizens shall have the right (g) to practise any profession, or to carry on any occupation, trade or business*

*19. (6) Nothing in sub clause (g) of the said clause shall affect the operation of any existing law in so far as it imposes, or prevent the State from making any law*



*imposing, in the interests of the general public, reasonable restrictions on the exercise of the right conferred by the said sub clause, and, in particular, nothing in the said sub clause shall affect the operation of any existing law in so far as it relates to, or prevent the State from making any law relating to,*  
*(i) the professional or technical qualifications necessary for practising any profession or carrying on any occupation, trade or business, or*  
*(ii) the carrying on by the State, or by a corporation owned or controlled by the State, of any trade, business, industry or service, whether to the exclusion, complete or partial, of citizens or otherwise*

36. Insofar as the petitioners' plea that the right to establish an educational institution is a fundamental right does not really need much deliberation and has not really been disputed by the respondents. The plea of the respondents however is that this right under Article 19 (1) (g) is subject to reasonable restrictions under Article 19 (6) and it has been therefore contended that the decision to temporarily suspend opening of the portal for private institutions is a reasonable restriction. In view of the plain language of Article 19 (6) which provides for imposition of reasonable restrictions in general public interest on the exercise of the fundamental right guaranteed under Article 19 (1) (g), the petitioners have also not really disputed that restrictions can be placed on the right under Article 19 (1) (g). Their contention, however, is that this right can be curtailed only by law as contemplated under Article 13 and not by way of a circular or a policy decision of an executive body. It may be noted that Article 19 (6) protects not only the existing laws, but also entitles the State from enacting any law by resorting to this power under Article 19 (6), subject to its meeting the

twin conditions of general public interest and reasonable restrictions. What needs to be noted is that the restrictions envisaged under Article 19 (6) refer to curtailment of the right under Article 19 (1) (g) by law, whether existing or enacted by a Statute, at any point in the future. The question for determination before this Court, therefore, would really boil down to as to whether the policy decision of the respondents which they admit has not been notified either in the Regulations or the Act would therefore meet the test of reasonable “restrictions by law” as envisaged under Article 19(6). Having given my thoughtful consideration, I have no hesitation in coming to the conclusion that any restriction on the exercise of the right under Article 19(1) (g) can only be by law and anything short of law would fall foul of the power under Article 19 (6). The petitioners are, therefore, right in urging that the requirement under clause (6) of Article 19 of the Constitution can be met only by introduction of a statutory provision either in the Act or in the Regulation and not merely by the issuance of a circular or a policy decision taken by an authority, howsoever high. I am, therefore, inclined to agree with the petitioners that a citizen cannot be deprived of this right to establish and administer an educational institution, unless the legislature in its wisdom decides to impose a reasonable restriction in general public interest on exercise of this fundamental right.

37. In this regard, reference may also be made to the observations of a Single Bench of the Madras High Court in *M/S Senthil Education Society (supra)*, wherein the Court had usefully referred to the observations of the Division Bench of the Madras High Court in 2002 Writ L.R. in *The Government Of Tamil Nadu and others versus Emmanuel Teacher training Institute and others*. Para 13 to 16 of the decision of *The*

**Government Of Tamil Nadu and others (supra)** reads as under:

*“13. We do not find any reason to differ from the first finding of the learned single Judge that the State Government had given practically “common reasons” in respect of all the applications for refusing to give the “No Objection Certificate” and it was almost a matter of policy. We have already noted that the learned Government Pleader could not show us any individual approach in respect of the applications. The policy of the State Government seems to be that since there were surplus number of trained teachers available in the State, there would be no necessity of opening any new teachers' training institute.*

*14. On this background it will be worthwhile to see whether such wholesale rejection by common reasons was justified. As a matter of fact, when we see the scheme of the Act, it is clear that by this Act “National Council” was established for achieving planned and co-ordinated development of the teacher education system throughout the country. Sec. 12 of the Act provides for the functioning of the Council while Sec. 14 speaks of the recognition of the institutions offering course or training in teacher education. Sec. 14 provides that every institution offering or intending to offer a course or training in teacher education has to make an application individually to the Regional Committee concerned and the Regional Committee has to be satisfied about such institution having adequate financial resources, accommodation, library, qualified staff, laboratory, etc., It is also required to be satisfied that the institution fulfills such other conditions required for proper functioning of the institution as may be determined by regulations. It is only then that the Regional Committee may pass order granting recognition. Even a “reasonable opportunity” is required to be given to the institution before rejecting the application of such institution for recognition. The*

*order passed under Sec. 14 for recognition has also been made available under Sec. 18. Similarly, under Sec. 15 of the Act, permission of the council is required for starting a new course or training by an institute which is already a recognised institution. The council is required to examine even such proposals thoroughly regarding the viability of such new course or training along with so many other factors like financial resources, available facilities, etc.*

*15. The reading of Sec. 14 and Sec. 15 of the Act will suggest that the matter of recognition of the institution has been treated to be on the individualistic lines and not by way of a general policy. It will be seen that every institute seeking recognition or seeking permission for starting a new course or training has to pass the acid test “individually” and indeed, there cannot be any generality regarding such matters. Every individual institute has to answer the tests laid down by the Act.*

*16. Under Sec. 32, the council has the power to make regulations which are not inconsistent with the provisions of the Act and the Rules made thereunder and generally for carrying out the provisions of the Act. Subsections (e), (f), (g) and (h) provided that the regulation shall be as regards the form and the manner in which the application for recognition is to be made, the conditions required for proper functioning of the institute and conditions for granting recognition and the form and the manner in which an application for permission is to be made under Sec. 15 as also the conditions required for proper conduct of new course or training and conditions for granting permission under Sec. 15. Accordingly, regulations seems to have been framed on 3.11.1995 and Regulation 4 therein provides for the starting of new course or training while Regulation 5 provides for the manner of making the application. Clauses (e) and (f) of Regulation 5 require*

*the production of a “No Objection Certificate” from the State for starting a teachers' training institute. The very look of Regulations 4 and 5 would suggest that even these regulations are highly individualistic in nature in the sense that these regulations along with Sections 14 and 15 have an individual-oriented approach in case of institutions in the sense that thereunder every new institute has to be specifically considered as regards its merits and demerits. Regulations 4 and 5 are after all the further fallout of Secs. 14 and 15 and, therefore, they cannot have any different shades or dimensions from those sections which are highly individualistic in character. It will be seen that Secs. 14 and 15 do not spell out any policy decision. In our opinion, Regulation 5, which is the direct fallout of those sections, also does not intend to create a general policy as regards the grant of “No Objection” to the individual institutions. When all these provisions are closely seen, it is clear that the State Government while granting “No Objection Certificate” has to individually consider each case and each application and examine its necessity. It cannot say that by way of a general policy, it has decided not to allow any teachers' training institute to be opened in the whole State and, therefore, the “No Objection Certificate” would be refused in respect of all the individual institutions. Such approach is clearly incorrect. In our opinion, the learned single Judge has correctly approached the question and has held that the State Government has disposed of all the applications only by way of policy without considering the said applications individually. We are in complete agreement with the learned Judge when he says that the said applications should have been considered in the light of the guidelines for this purpose. The learned Judge has taken troubles to quote all the guidelines in paragraph 19 of his judgment and we do not find it necessary to repeat the same. We only say that we are in agreement with the learned Judge that the State Government should*

*have decided the applications individually in the light of the aforementioned guidelines.”*

38. At this stage, reference may also be made to the following observations of the Punjab and Haryana High Court in ***Chandigarh Educational Society (supra)***. The same read as under:

*“ The reply placed on record on behalf of respondent Nos. 1 and 2 is sketchy insofar as the afore noticed aspect is concerned. The only averment coming forth in the reply is that certain notices have been issued to approximately 30 law institutes. The reply does not clarify; as to whether any law institute on account of lack of infrastructure or faculty has been shut down till date.” Counsel for BCI or for that matter respondents No. 1 and 2 including BCI was directed to file a specific affidavit in response to the observations made in the aforesaid order, In response thereto, additional reply was filed by respondents No. 1 and 2 wherein a plea was raised that due to situation created on account of Corona pandemic, the BCI is constrained to extend the time for compliance till 31.10.2020 and without affording proper opportunity in a normal Covid free atmosphere, it would not be in the fitness of things to shut down existing law colleges as it involves the question of career and future of many students and livelihood of teaching and non teaching staff working there. Counsel for respondents No. 1 and 2 has failed to point out that any Law Institute and centre of Legal Education has been shut down till date for non adherence to the prescribed standard of Legal Education or circulars issued by the BCI. If the existing Centers of Legal Education/Law Colleges/Law Institutes have failed to comply with the guidelines and circulars issued by the BCI or BCI has failed to ensure compliance thereof by getting timely inspection reports or scheduled information etc., the BCI can not justify its failure to ensure maintenance of standards of Legal*

*Education by imposing complete ban on setting up of New Law Colleges, in violation of fundamental right under Article 19 (1) (g) of the Constitution of India that deals with right of citizens*

*to practice any profession, or to carry any occupation, trade or business. In TMA Pai Foundation's case (supra), it has been held that right to establish an educational institution is a fundamental right.*

*No doubt, the BCI can issue guidelines/circulars etc. And press for compliance thereof as well as 2008 Rules either at the grant of approval to a New College or adherence thereof by the Colleges/Institutes for Legal Education already existing throughout the country but under that pretext, it can not impose a complete ban on opening of New Institutes for imparting Legal Education. It is pertinent to mention here that society has not approached this court to seek any relief against issuance of any circulars/guidelines or 2008 Rules. Even in the resolution (Annexure P- 12), the BCI has noted that when the Bar Council of India has refused to grant approval to more than 300 institutions which had obtained NOC from the State Governments and affiliation by the university, the institutes approached some of the High Courts and adverse directions were issued to the BCI to consider the proposals of New Law Colleges. Counsel for respondents No. 1 and 2 has failed to advance any arguments much less meaningful to give legal justification in regard to resolution/decision of the BCI to impose moratorium for a period of three years for grant of approval to New Law Colleges/Centers/Institutes. In this view of the matter, I find merit in contention of the petitioner that resolution dated 11.8.2019 (Item No. 241 of 2019) vide which moratorium is imposed stand the test of judicial scrutiny and accordingly set aside being violative of Article 19 (1)(g) of the Constitution of India.*

39. Coming to the second issue, I may now examine the powers and functions of the NCTE so as to consider whether the impugned decision to impose a general ban on recognition of new teacher training courses would fall within the scope of duties and functions of the NCTE. The learned ASG appearing for the respondents has vehemently urged that the aims and objects of the NCTE Act, 1993 in itself show that the NCTE now has statutory powers to impose restrictions. She has, in fact, urged that not only does the NCTE has the power to impose reasonable restrictions on exercise of the right under Article 19 (1) (g), but has been specifically assigned the statutory function of ensuring that the standards of teaching institutions are maintained. She has, therefore, urged that the NCTE, in order to discharge this important statutory function, in consonance with the objects and statements for introducing the Act, has taken a decision not to permit opening of new teaching education institutions.

40. From a perusal of the 'Statement of objects and reasons for enactment of the Act' on which the learned ASG has placed heavy reliance, it is evident that the Act was introduced with an object to give statutory powers to the NCTE, which though, set up in 1973, had till then been given only an advisory role. After the enactment of the NCTE Act, the respondent council is statutorily empowered to grant recognition to courses or training in teacher education. It has also been permitted to delegate its powers to regional and other committees for effective implementation of its functions. The learned ASG is, therefore, justified in urging that the Act was introduced with the purpose of empowering the respondent Council and clothe the NCTE with the requisite statutory powers to maintain, determine



and coordinate standards of teacher education. The fact that the NCTE now has statutory powers and functions is, therefore, a non-issue. The question, however, is as to what is the ambit and scope of these powers and functions, as also the manner in which the power is required to be exercised, so as to meet the test of Article 19 (6). The petitioners would urge that the power was only given to regulate the standard of education in these training courses, by laying down the procedure and criteria required to be fulfilled before seeking recognition. The respondents have, however, urged that the power to coordinate and regulate teaching education, as envisaged under the Act, would include the power to decide as to whether to invite applications or not, and thereafter decide as to whether there is a requirement for commencement of new teaching courses or institutions.

41. The respondents have urged that the decision taken by them not to permit establishment of new courses and institutions, is strictly within the ambit of their power to regulate and coordinate running and establishment of teaching institutions. It is their plea that the power to coordinate and regulate teacher education, includes the power to take all steps as may be necessary to maintain standards of education. Even though, *prima facie*, it appears that the imposition of a total ban on the commencement of new educational courses may not strictly fall within the ambit of the respondents' power to regulate and coordinate teacher education, I am of the considered view that even if this plea were to be accepted, the fact remains that the fundamental right of a citizen to establish educational institutions can, under Article 19 (6), be curtailed only by way of a legislative act. As already observed hereinabove, a mere decision taken by the general body of the respondent Council comprising of experts, howsoever large in number, to impose a total

ban, or its simple inaction not to open the portal for years together, thereby preventing institutions from submitting applications for recognition of new courses, can by no stretch of imagination be said to be falling within the ambit of the term 'law' as envisaged under Article 19(6). The decision of the respondents to suspend the opening for the portal for the private institutions for the last six years has been introduced by way of any amendment to the Act or the Regulations, which it is an admitted position, can be amended only after being laid before the parliament. It may also be noted that the Regulations have been amended atleast on four occasions ever since the respondents took its decision to altogether close its portal in 2016. However, none of these amendments to the Regulations carried out in 2018, 2019, 2021 and 2022 refer to, or give a legislative backing to any such decision of the respondent Council not to accept any application whatsoever for any period as it deems fit. I, therefore, have no hesitation in coming to the conclusion that the decision of the respondents not to open its portal after 2016 for private institutions, amounts to interfering with their fundamental right under Article 19 (1) (g), and being based only on a policy decision taken by the NCTE, would also not fall within the ambit of Article 19 (6).

42. I have also considered the decision in *State of Tamil Nadu and Another versus Adhuyaman Educational and Research Institute, (1995) 4 SCC 104*, relied upon by the respondents, and find that the same, while laying down the wide ambit and scope of the respondent Council's power to coordinate and maintain standards, does not deal with the issue as to whether a policy decision can be treated as law. This decision, therefore, does not forward the case of the respondents. For similar reasons, the decision in *K. Ramanathan versus State of Tamil Nadu and Another, (1985) 2 SCC 116*,

wherein the Apex Court held that the term regulation cannot have any rigid or inflexible meaning so as to exclude prohibition, will also not be applicable to the facts of the present case, where the impugned decision of the respondents is neither backed by any statute nor by any statutory regulations or rules.

43. I have also considered the decision in *Modern Dental College and Research Centre and Another versus State of Madhya Pradesh and Others, (2016) 7 SCC 353*, and find that the same lays down the well settled legal proposition that, in order to maintain standards of education, the creation of a regulatory body is essential to fulfil the constitutional goal of bringing a social transformation in the society. This also, unfortunately for the respondents, does not forward their case, as neither is the issue of creation of NCTE as a regulatory body under challenge, nor is this Court examining the power of the NCTE to take steps for maintenance of standards in teacher education. I have also examined the decision of the Apex Court in *Karnataka Live Band Restaurants Association versus State of Karnataka and Others, (2018) 4 SCC 372* which deals with the power of the State to impose reasonable restrictions under Article 19 (6) by taking into account the general interest of the public and the objective intended to be achieved by the said restrictions. As already noted hereinabove, it is not the power of the respondent Council to impose reasonable restrictions in doubt, but the manner in which the power to curtail the right under Article 19 (1) (g) is being sought to be exercised in the present case, which unfortunately in my considered view, fails to meet the test laid down under Article 19 (6).

44. I have also considered the decision in *Dental Council of India versus*

*Biyani Shikshan Samiti and Another, (2022) SCC OnLine SC 444* and find that even this does not forward the case of the respondents. In fact, this decision deals mainly with the grounds on which subordinate legislations can be challenged. In the present case, this Court is not dealing with any subordinate legislation as it is an admitted case of the respondents that there is no specific provision in the regulations, which entitles the respondents not to invite applications for years altogether. On the other hand, I find that para 5 of the regulations clearly lays down the timeline for submission and processing of the applications; para 5 (5) clearly entitles an institution desirous of running a teacher education programme between 1<sup>st</sup> March to 31<sup>st</sup> May of the year preceding the academic session for which recognition is sought. Not only does the regulation 5 entitle an institution to submit an application between this window of 1<sup>st</sup> March to 31<sup>st</sup> May but, simultaneously, regulation 5 (6) makes it obligatory upon the NCTE to process all applications received by it for the subsequent academic year, as well as to also communicate to the applicant the final decision taken thereon, on or before 3<sup>rd</sup> March of the succeeding year.

45. I may finally deal with the third issue. It is the respondents' plea that the policy decision taken by them is in consonance with the Central Government's NEP, 2020, which, it has been vehemently urged, amounts to a direction issued to the NCTE under Section 29 of the Act. In order to appreciate this plea, it would be appropriate to refer to para 15.1 to 15.7 of the NEP, 2020, which read as under:

*“15.1 Teacher education is vital in creating a pool of schoolteachers that will shape the next generation.*

*Teacher preparation is an activity that requires multidisciplinary perspectives and knowledge, formation of dispositions and values, and development of practice under the best mentors. Teachers must be grounded in Indian values, languages, knowledge, ethos, and traditions including tribal traditions, while also being well-versed in the latest advances in education and pedagogy.*

*15.2 According to the Justice J. S. Verma Commission (2012) constituted by the Supreme Court, a majority of stand-alone TEIs - over 10,000 in number are not even attempting serious teacher education but are essentially selling degrees for a price. Regulatory efforts so far have neither been able to curb the malpractices in the system, nor enforce basic standards for quality, and in fact have had the negative effect of curbing the growth of excellence and innovation in the sector. The sector and its regulatory system are, therefore, in urgent need of revitalization through radical action, in order to raise standards and restore integrity, credibility, efficacy, and high quality to the teacher education system.*

*15.3. In order to improve and reach the levels of integrity and credibility required to restore the prestige of the teaching profession, the Regulatory System shall be empowered to take stringent action against substandard and dysfunctional teacher education institutions (TEIs) that do not meet basic educational criteria, after giving one year for remedy of the breaches. By 2030, only educationally sound, multidisciplinary, and integrated teacher education programmes shall be in force.*

*15.4. As teacher education requires multidisciplinary inputs, and education in high-quality content as well as pedagogy, all teacher education programmes must be conducted within composite multidisciplinary institutions. To this end, all multidisciplinary universities and colleges - will aim to establish,*

education departments which, besides carrying out cutting-edge research in various aspects of education, will also run B.Ed. programmes, in collaboration with other departments such as psychology, philosophy, sociology, neuroscience, Indian languages, arts, music, history, literature, physical education, science and mathematics. Moreover, all stand-alone TEIs will be required to convert to multidisciplinary institutions by 2030, since they will have to offer the 4-year integrated teacher preparation programme.

15.5. The 4-year integrated B.Ed. offered by such multidisciplinary HEIs will, by 2030, become the minimal degree qualification for school teachers. The 4-year integrated B.Ed. will be a dual-major holistic Bachelor's degree, in Education as well as a specialized subject such as a language, history, music, mathematics, computer science, chemistry, economics, art, physical education, etc. Beyond the teaching of cutting-edge pedagogy, the teacher education will include grounding in sociology, history, science, psychology, early childhood care and education, foundational literacy and numeracy, knowledge of India and its values/ethos/art/traditions, and more. The HEI offering the 4-year integrated B.Ed. may also run a 2-year B.Ed., for students who have already received a Bachelor's degree in a specialized subject. A 1-year B.Ed. may also be offered for candidates who have received a 4-year undergraduate degree in a specialized subject. Scholarships for meritorious students will be established for the purpose of attracting outstanding candidates to the 4-year, 2-year, and 1-year B.Ed. programmes.

15.6. HEIs offering teacher education programmes will ensure the availability of a range of experts in education and related disciplines as well as specialized subjects. Each higher education institution will have a network of government and private schools to work closely with, where potential teachers will student-

*teach along with participating in other activities such as community service, adult and vocational education, etc.*

*15.7. In order to maintain uniform standards for teacher education, the admission to pre-service teacher preparation programmes shall be through suitable subject and aptitude tests conducted by the National Testing Agency, and shall be standardized keeping in view the linguistic and cultural diversity of the country.”*

46. What emerges from the aforesaid extracts of the NEP is that this policy of the Central Government lays emphasis on creating a pool of school teachers that will shape the next generation by ensuring that teachers are equipped with multi-disciplinary perspectives and knowledge. In order to achieve this purpose, the policy recommends that teachers' training institutions are converted to multi-disciplinary institutions by 2030, so that they can offer the 4-year Integrated Teaching Education Programme (ITEP). The policy, however, does not, in any manner, suggest that there should be a complete halt to recognition of new courses in teacher education for years together. In fact, the respondents have also not been able to substantiate as to how grant of recognition for commencement of various new teacher education courses including M.Ed. to institutions which meet the standards and criteria fixed by the NCTE itself, will be a hurdle in the implementation of the NEP. Even though, the petitioners have vehemently urged that the NEP, 2020 cannot be said to be a direction by the Central Government to the NCTE as contemplated under section 29 of the Act, I do not deem it necessary to deal with this aspect as I find that neither does the NEP, 2020, in any manner, suggest that no new private teaching courses or institutions should be granted recognition for years together nor will this action of the

NCTE in imposing a virtual moratorium on the commencement of new teacher education courses by private institutions, be in furtherance of the objects sought to be achieved by the NEP, 2020.

47. The learned ASG has urged that it is only to fulfil the aim and objective of the NEP, 2020 which envisages that by 2030, all teaching institutions will offer the four-year integrated teaching education courses, that a decision has been taken to put on hold, commencement of private teaching institutions, and instead for the present, permit only commencement of the 4-year ITEP in Central and State government institutions. In my considered view, even though this initiative taken by the respondents, to start as a pilot project, the 4-year ITEP course only in Central and State Government institutions, and in the meanwhile refuse granting recognition to private institutions, may on the first blush appear to be justified, but when examined in the light of the data presented by the respondents themselves, is clearly faulty and against public interest. Having perused the data regarding the growth of the teachers' education institutions, as relied upon by the learned counsel for respondents, I fail to appreciate as to how the same supports the case of the respondents. On the other hand, the said data depicts that the high demand of teachers' education in the country is met mainly by private institutions. It is the respondents' own case that 92% of the teachers' education institutions are in the private sector, while 6% of them are in the government-aided sector, with only 2% being in the government sector. When majority of these institutions are in the private sector with only a miniscule percentage of them being in the government sector, this restriction by the respondents on commencement of new courses, and that too for the last six years, will instead run counter to what is sought



to be achieved in furtherance of the NEP, 2020. It was always open for the NCTE to prescribe conditions, including a mandatory condition for commencement of integrated teaching education courses wherever applicable, for achieving the purpose of the NEP 2020, which path it has not chosen. By totally ignoring applications from all private institutions in the interregnum, while it carries out its pilot project, would be counteractive to the objects sought to be achieved by the NEP. In my considered view, the purpose of the NEP, 2020 would in fact be achieved by running of more and more teaching courses by following the pattern recommended under the NEP 2020, which aspect the respondents appear to have overlooked.

48. I have also considered the decision of the Allahabad High Court in *Suman Rani Institute of Technology versus National Council for Teacher Education and Others*, W.P. (C) No. 245/2020 and find that the said decision of a Single Judge Bench of the Allahabad High Court, except for merely stating that it is always open for the NCTE to decide when and how to invite applications for grant of recognition, does not really deal with the issues raised in the present petitions. On the other hand, the decision in *M/s Senthil Education Society (supra)* relied upon by the petitioners, deals with an almost identical situation wherein the respondent NCTE had, by way of a policy decision, decided not to permit conducting of teaching education courses for the academic session 2010-11 in the State of Pondicherry. In the said decision, the Madras High Court, while setting aside the aforesaid policy decision, held that the NCTE had no authority, under the guise of a policy decision, to impose a general ban not to accord recognition or permission for establishment of new colleges. To similar effect is the decision of the Punjab and Haryana High Court in the *Chandigarh*

*Education Society (supra)* wherein the Court was dealing with the similar moratorium imposed by the Bar Council of India.

49. Before I conclude, I am constrained to observe that not only the report of the UNESCO relied upon by the petitioners, but also the NEP, 2020 introduced by the Central Government, which is one of the primary justifications sought to be provided by the respondents, clearly reflect on the acute shortage of trained teachers in our country, which is still grappling with the problem of illiteracy in several regions. In spite of this, the NCTE, which is obligated under the Act to ensure maintenance of high standards of teacher education institutions, instead of laying higher standards for their establishment and functioning, is seeking to impose a total ban on prospective entrants. Such a ban which has been brazenly made applicable to at least 92% of the teacher education institutions, will in fact lead to an even greater shortage of trained teachers in the country, and worsen an already existing crisis. This will not only be against the aim of the NEP, 2020 but will also be against the interest of the general public.

50. I am therefore, of the view, that looked at from any angle, the petitions deserve to be allowed. The writ petitions are, accordingly, allowed by directing the respondents to open the online portal within two weeks and thereafter accept and process in a timely manner, the applications, as may be submitted for grant of recognition for conducting new teaching courses for the academic session 2022-23.

**(REKHA PALLI)**  
**JUDGE**

**AUGUST 24, 2022/kk**