**IN THE HIGH COURT OF MADRAS**

W.P. No. 3236 of 2010 and M.P. Nos. 1, 2 and 3 of 2010

Decided On: 04.03.2011

Appellants: **Senthil****Education Society, rep. by its Secretary**
**Vs.**
Respondent: **The Member Secretary, National council for Teacher****Education and Regional Director, National Council for Teacher****Education (NCTE) Southern Regional Committee**

**Hon'ble Judges/Coram:**
K.B.K. Vasuki, J.

**ORDER**

**K.B.K. Vasuki, J.**

1. The writ petition is filed for setting aside the public notice dated 28.07.2009 issued by the 1st Respondent and the Order No. F.SRO/NCTE/2009-2010/16235 dated 28.10.2009 passed by the 2nd Respondent and to direct the 2nd Respondent to reconsider the Petitioner's application dated 22.10.2009 to grant recognition for enhancement of intake for B. Ed. Courses with effect from academic year 2010-2011 onwards.

2. The brief facts which are relevant for consideration herein are:

The Petitioner was, by order dated 28.11.2005 of the second Respondent, accorded recognition for starting a B. Ed college with an intake of 100 students during the academic year 2005-2006 and the Petitioner has after duly complying with all the norms and standards framed by National Council for Teacher Education [herein after shortly referred to as 'NCTE'] established the college and has been running the same. As any existing recognised institutions could on completion of three academic sessions of a recognised course apply for enhancement of intake, provided the institution duly satisfies all the conditions set forth by the regulations, the Petitioner herein has after duly completing three years and having created required infrastructure which is larger enough to support the additional intake, submitted duly filled up application dated 22.10.2009 along with all requisite documents and receipt for payment of necessary processing fee, to the 2nd Respondent seeking permission for additional intake of 100 students for the academic year 2010-2011. The 2nd Respondent has by its communication dated 28.10.2009 returned the application on the ground that NCTE, New Delhi has decided not to further recognise/permit institution for conduct of teacher training course for the academic session 2010-2011 in the State of Pondicherry as policy decision vide public notice in Times of India dated 29.07.2009. As per the public notice impugned herein, the policy decision is taken with the view to achieve planned and coordinated development of teacher educationsystem and in order to regulate growth of teacher education at all levels, the policy decision is so taken in consultation with the State Government/Union Territories and this step is being taken by NCTE as a temporary measure for regulating the growth of teacher training institutions, pending State-wise assessment of the manpower requirement of trained teachers in the country. The propriety, validity and enforceability of such policy decision and the consequential communication of the 2nd Respondent are now seriously challenged in this writ petition.

3. The learned Counsel for the Petitioner has sought to question the propriety and validity of the impugned policy decision and the communication on more than one ground by questioning the authority of NCTE to take one such policy decision and by denying the applicability of such prohibition to an application for additional intake as made by the Petitioner. It is seriously contended by the learned Counsel for the Petitioner that NCTE is under Section 32 of the NCTEAct only empowered to frame any rules or regulations which are not inconsistent with the provisions of the Act and the Rules made there under and the same shall be generally for carrying out the provisions of the Act and NCTE is not empowered to pass regulations amounting to absolute prohibition for establishing new college or a new course or for additional intake and it is for the concerned State Government or Union Territory to take one such policy decision or even the state Government/Union Territory, as the case may be, are not empowered to take general policy that too on common ground without adopting individual oriented approach and without applying the acid test individually in the light of the relevant regulations laying down norms and standards and even otherwise, the Policy decision is only for prohibiting establishment of new college and not for applying for additional intake.

4. Per contra, the learned standing counsel for the Respondents would seriously attempt to justify the authority of NCTE to impose one such prohibition by way of policy decision. It is further argued that the policy decision so taken cannot be the subject matter of judicial review and the policy decision is taken only to prevent mushroom growth of establishment of teacher training institutions and commercialisation of teacher education and for want of employment opportunities to all the certificate holders in future. It is further seriously contended by the learned standing counsel for the Respondents that there was active exercise undertaken by the Government to go into the existing relevant factors and vital statistics are collected by the Government which would go to show that there are already more teachers available than necessary, thereby there is no likelihood of further need of such teachers arising in future. The learned Counsel for the Respondents has also produced the study report which is the outcome of statewide assessment made relating to demand and supply estimates of teachers and teacher educations and the withdrawal letters received from few institutions for withdrawal of recognition on the ground of want of response for the course, for perusal of this Court to duly consider and appreciate the situation which according to the Respondents compelled the authority concerned to take the policy decision impugned herein.

5. I heard and considered the rival submissions made on both sides and perused the materials available on records.

6. The cause of action for filing this writ petition is the return of the Petitioner's application for additional intake of 100 students on the ground that as per the policy decision taken by the Respondent National Council for Teachers Education vide public notice published in Times of India dated 29.7.2009 not to accord further recognition or permission to start fresh institutions for conducting teacher training courses for the Academic Year 2010-2011 in 13 States/Union territories one among which is state of Pondicherry.

7. The short point that arises for consideration herein is as to whether NCTE has while performing its powers and functions as defined under Section 12 of NCTE Act, empowered to take policy decision to totally ban the establishment of new institutions and as to whether the ban imposed for according recognition/permission to establish new institutions amounts to ban for seeking permission for enhancement of additional intake.

8. NCTE is established under the NCTE Act with a view to achieve planned and coordinated development of the teacher education system throughout the country and also to lay down norms for establishment, regulation and maintenance of the Teacher Training Institutions with a view to standardise the teacher education system all over the country and the matters connected therein. Section 3 of the Act, speaks about the establishment of the Council and the members who go to constitute the Council. Section 12 in Chapter III prescribes the functions of the Council and Section 12 begins to say that it is the duty of the Council to take all 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 the Act as laid down under Section 12(a) to 12(n) few among which are: The council may-

(c) Co-ordinate and monitor teacher education and its development in the country;

(d) lay down guidelines in respect of minimum qualifications for a person to be employed as a teacher in schools or in recognised institutions;

(e) lay down norms for any specified category of courses or trainings in teacher education, including the minimum eligibility criteria for admission thereof, and the method of selection of candidates, duration of the course, course contents and mode of curriculum;

(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 qualification;

(m) take all necessary steps to prevent commercialization of teachereducation.

9. Section 14 of the Act, empowers every institution offering a new course or training to make an application to the Regional Committee concerned for grant of recognition in such form and in such manner as may be determined by regulations. Section 14(2) prescribes fee payable along with the application and Section 14(3) lays down the mode of disposing of the application seeking recognition/permission with or without conditions. Section 15 lays down similar procedure for seeking recognition to start any institution or new course in the existing training institution. Section 15(3) prescribes the manner and the particulars based on which the conditions to be complied with.

10. Section 32(i) empowers the council by notification in the Official Gazette to make regulations not inconsistent with the provisions of the Act and the rules made there under and generally to carry out the provisions of the Act. Section 32(2)(a) to (p) lists the matters in respect of which the regulations to be made by NCTE. Section 32(2)(e) to (h) lays down the manner in which the application shall be made for recognition and the conditions for the proper conduct of new institution or new course, etc. In exercise of the powers vested upon the council Under Section 32 regulations, norms and standards are laid down regarding the procedure in the matter of recognition and the regulations 3 to 8 shall cover all matters relating to teacher education programmes including norms and standards and procedure for recognition of institution, commencement of new programmes and addition to sanctioned intake in existing programmes and other matters incidental thereto, the categories of institutions eligible for consideration of their applications, the manner of making application and time limit, processing fees, processing of applications and conditions for grant of recognition, etc.

11. NCTE has taken a policy decision vide public notice dated 28.10.2009 not to grant further recognition/permission to start new institution with a view to achieve planned and coordinated development of teacher education system and in order to regulate the growth of teachereducation at all levels. The policy decision so taken is in consultation with the State Government/Union Territories. The learned Counsel for the Petitioner has in the course of his argument produced detailed study material regarding demand and supply estimates of school teachers and Teacher Educators (2007-08 to 2016- 2017) along with list of tables on various matters relating to the issue, which would of-course support the contention raised on the side of the Respondents that considering the total number of institutions Government and Private and unaided Private, Aided private at all levels in various places in Pondicherry region, the number of passed out, the number of intake for every year, number of unemployed teacher certificate holders and the percentage of demand and supply to various schools at all levels as per which percentage share of B. Ed course at all levels i.e., upper primary, secondary, senior secondary stage is far below 50% of enrollment and on this ground, the learned Counsel for the Respondents sought to justify the policy decision taken by NCTE.

12. The learned Counsel for the Respondents has also cited various authorities of the Supreme Court reported in  : (1996) 9 SCC 709 in Tata Iron & Steel Co. Ltd. v. Union of India and Anr.  : 2001 (3) SCC 635 in UGAR Sugar Works Ltd. v. Delhi Administration and Ors.  : (2003) 5 SCC 437 in Union of India and Anr. v. International Trading Co and Anr.  : 2004 (5) SCC 232 in Union of India and Anr. v. Manu Dev Arya  : 2007 (10) SCC 684 in Indian Airlines Officers' Assn. v. Indian Airlines Ltd. and Ors. and  : 2009 (3) SCC 649 in State of Kerala and Anr. v. Naveena Prabhu and others, for the legal proposition that policy, policy decision and policy matter cannot be the subject matter of judicial review. However the restraint imposed by the judicial authority to review policy decision is, in my considered view, not blanket one and the interference by the court when there is any violation of statutory or constitutional provision and when the decision so taken is arbitrary, is allowed in some of the judgments cited on the side of the Respondents reported in (2008) 3 SCC 432 in Basic Education Board, U.P. v. Upendra Rai and Ors.  : 1998 (4) SCC 117 in State of Punjab and Ors. v. Ram Lubhaya Begga and others. The Supreme Court has also in the judgment reported in : (1996) 3 SCC 15 in Thirumuruga Kirupananda Variyar Thavathiru Sundara Swamigal Medical Educational and Charitable Trust v. State of Tamil Nadu and others and  : (2000) 5 SCC 231 in Jaya Gogul Educational Trust. v. Commissioner & Secretary to Government, Higher Education Department, Thiruvanathapuram, Kerala and Anr., dealt with the policy decision of the government and interfered with the same. Hence, the first objection raised against the maintainability of the writ petition is negatived.

13. Regarding the authority of NCTE our High Court has on more than one occasion dealt with the powers of NCTE and our High Court in the Judgments reported in  : 2005 (2) CTC 182 in Bharathidasan University v. Dhanalakshmi Srinivasan Educational and Charitable Trust and  : 2002 Writ L.R. 94 in the Government of TamilNadu and Ors. v. Emmanuel Teacher Training Institute and others is pleased to uphold that the Council has exclusive jurisdiction to start and maintain any institution and in the latest judgment, it is observed that NCTE Act covers entire field of teacher education and is not restricted to area of recognition alone. However, it is further held such jurisdiction can be exercised by such manner in accordance with the regulations laid down by NCTE in exercise of powers Under Section 32 of the NCTE Act.

14. The combined reading of Section 32 and regulations particularly regulations 4 & 5 would disclose that NCTE has no authority under the guise of policy decision to impose a general ban not to accord recognition or permission for establishment of new colleges. Our High Court has in the authority reported in  : 2002 Writ L.R. 94 in (1) The Government of Tamil Nadu rep. By its Secretary, Department of School Education, Chennai and two Ors. v. 1. Emmanuel Teacher Training Institute rep. By its Manager Mr. C. Rajan, Tirunelveli District and Anr., dealt with the validity of Regulations 5(e) and 5(f) providing for obtaining no objection certificate from the State Government/Union Territories in which the teachers training institution is located, to be enclosed with any application for recognition or permission to start teacher training institution or to increase the intake by the recognised institution, as the case may be, to be submitted to the Regional committee concerned. In the said case, some of the institutions made due applications to the State Government seeking no objection certificate for applying for either permission to start afresh teacher training institution or additional intake as the case may be and the applications are rejected on the common ground that there are thousands of unemployed teacher training degree holders and there is no possibility of such teachers being provided with job and NOC could not be given for starting fresh teacher training institution and batch of writ petitions came to be filed challenging the same. The writ petitions are dismissed in favour of the State Government and the aggrieved independent institutions preferred writ appeals and all the writ appeals involving identical issues and other cases at writ petition stage are disposed of by common order. The Division Bench of our High court has, while dealing with the authority of State Government in refusing to issue NOC on common ground of policy decision, discussed in paragraphs 14 to 16 and 18 of the judgment about the limited jurisdiction of NCTE and for proper and better appreciation, the paragraphs 11, 14 to 16 & 18 of the judgment are reproduced herein:

11. ... A statement is made practically in each order that there are already 60000 unemployed trained teacher on the record of various employment exchanges and more particularly in the live list therein and, therefore, there are already more teachers available than necessary and thereby there is no likelihood of the need of such teachers arising in future. It is repeated practically in all the orders that because of the fact of the surplus number of teachers being available and in some places there are said to be 32000 teachers - there was no necessity of any teacher and for that reason the opening of the new teacher's training institutes was not necessary. In some orders, it is stated that as on 31.12.1988 there were 28500 unemployed secondary grade teachers and the results of more than 10500 trained teachers were to be published as on 31.03.1999 and the rate of intake is only 3000 to 4000 per annum. There will be unemployment problem for another thirty years in so far as these teachers are concerned. In some orders, the State Government mentioned that the child population had reduced drastically in the State to the extent of 1500000 and therefore, in future, nearly 35000 trained teachers would be rendered surplus considering the students teacher ratio fixed at 1:40.

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 coordinated development of the teacher education system throughout the country. Section 12 of the actprovides for the functioning of the council while Section 14 speaks of the recognition of the institutions offering course or training in teacher education. Section 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 fulfils such other conditions required for proper functioning of the institution as may be determined by regulation. 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 Section 14 for recognition has also been made available under Section 18. Similarly under Section 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 courses or training along with so many other factors like financial resources, available facilities etc.

15. The reading of Section 14 and Section 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 Section 32, the Council has the power to make regulations which are not inconsistent with the provisions of the Act and the Rules made there under and generally for carrying out the provisions of the Act. Sub-sections (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 Section 15 as also the conditions required for proper conduct of new course or training and conditions for granting permission under Section 15. Accordingly, regulations seem 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 teacher 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 incase of institutions in the sense that there under 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 Sections 14 and 15and, therefore, they cannot have any different shades or dimensions from those sections which are highly individualistic in character. It will be seen that Sections 14 and 15 do not spell out any policy decision.

17. ... It was pointed out that there has to be a proper assessment for the establishment of teacher training institutes keeping in mind the starting of the additional primary and middle schools in the distant areas, hilly areas and rural areas. It is also pointed out by the learned Counsel that by the very scheme of the Act, it was obvious that though the National Council and the Regional Council were to consider the question of recognition, the State Government had also a major role to play and it is only for that reason that the regulations required the State Government to record their No Objection to start a particular institution. It is obvious that the State Government would be required to take all these factors into consideration

18. One more ground on which the policy decision is seriously challenged by the learned Counsel for the Petitioner is that the policy is applied only for non-minority institution. As rightly argued by the learned Counsel for the Petitioner, when the reasoning for taking such a policy decision is to achieve planned and coordinated development of the teacher education system and in order to regulate the growth of teacher education at all levels and in view of mushrooming growth of teacher training educational institutions without any standard or without any basis infrastructure, there is no well laid down reasoning or logic to restrict the decision with respect to non-minority institutions that too in few States alone and this Court finds serious force in the contention raised on the side of the Petitioner that the policy decision vide public notice suffers from arbitrariness. In this context the observation of our High Court in Para 19 of the judgment in Emmanuel Teacher Training Institute can be usefully quoted. In the said case, the Government while imposing ban for establishing new colleges by non-minority institutions, increased the seats by 50% in case of minority institutions and it was observed in Para 19 as follows:

A question was asked therefore that if the State Government was increasing the seats how could it justify its stand that it would not permit opening of any new institution. It was also pointed out that in some individual cases, there was a dire need for the teacher training institutions at that particular places.

and the observation can be usefully quoted in the instant case.

19. On facts, it may be true that the statistics collected through detailed study conducted by the state government and the particulars contained therein produced before this Court may not be an encouraging one and the same would substantiate the contention of the Respondents regarding the increase in number of unemployed degree holders. However, identical argument is advanced by the State Government of Tamil Nadu in Emmanuel Teacher Training Institute case and the same was dealt with in detail by the Division Bench of our High court and it is observed by our High court in Para 17 of the citation that "we would like to point thatelementary education is almost in the nature of Fundamental Right as recognised in Unnikrishnan case and in that view, we have no doubts that the number of schools should increase every year and more particularly elementary and middle schools. If that is so, it cannot be said that there would be no necessity of the teachers for teaching in such schools. The State Government (here NCTE) cannot take the stance that there should be no new schools and therefore, there should be no teachers. Such a stance would be disastrous". It is further observed that The learned Counsel also argued with reference to Article 45 of the Constitution of India and stressed the need for more schools. This argument was also stressed by the learned senior counsel Mr. Vijayan who also suggested that in view of the mandate of Article 45 of the Constitution of India and the law laid down by the Apex Court in Unnikrishnan case, cited supra, the State Government was bound to open many more primary, elementaryand middle schools to spread education and to make education available to every child upto 14 years. In this behalf, the learned Counsel also invited our attention to an enactment passed by the State of Tamil nadu, viz., The Tamil Nadu Compulsory Elementary Education Act,1994 (T.N. Act 33/95) in which the education has been made compulsory for each child and depriving a child of education or not sending a child to take education has been recognised as an offence. The learned Counsel therefore stressed that there had to be spread of educationby providing more and more elementary and middle schools and for that purpose, there had to be made available adequate number of trained teachers and the State Government could not simply shut their eyes for the future need of the trained teachers. In this behalf, it was also pointed out that the guidelines provide that while assessing the need, the need for the future fifteen years has to be taken into consideration. All these arguments were made only to point out and assail the policy reflected in the impugned orders before the learned single Judge which suggested that the State Government had decided not to allow any teacher training institute to be opened in the State. it was also stressed that all these institutions were to cause absolutely no expenditure to the State Government as they were self-financing institutions.

20. We have deliberately quoted all these arguments in order to point out the various angles which the State Government would have to take into consideration while dealing with the applications. In our opinion, individually each application will have to be assessed in the light of not only the guidelines provided by the National Council but also in view of the dire need to spread at least the elementary and middle school education making it available to each child. Though what is dealt in the Division Bench judgment of our High Court is the policy decision of State Government of Tamil Nadu not to grant No Objection Certificate to be filed along with application for starting new colleges by non-minority self financing institutions, the ground on which the policy decision taken is common identical ground and the observation of Division Bench of our High Court is, in full force, applicable to the identical policy decision taken by NCTE to ban establishment of new colleges. In the Division Bench judgment, it is State Government, wherein it is NCTE herein.

21. The discussion held above in the judgment is sufficient enough to reject the contention raised by the learned Counsel for the Respondents that the teacher education can be regulated only by taking such a policy decision to ban starting of new college and to restrict the additional intake of the students.

22. The Division Bench of our High court has in the authority cited above, also referred to two decisions of Andhra Pradesh High Court reported in  : AIR 1984 A.P. 251 in Andhra Kesari Education Society v. Govt. of Andhra Pradesh and  : AIR 1991 A.P. 311 in Secretary, Govt. Education Department, Andhra Pradesh v. Society for St. Ann's, Mehdipatnam wherein, such policy in respect of the teacher training institutes was held to be not a sound policy and could not be countenanced.

23. Almost similar issue arising out of rejection of request for grant of permission/NOC for staring a private law college at Tindivam by Law department and grant of affiliation by Dr. Ambedkar Law University and approval of Bar council of India came up for consideration in W.P. No. 2003 of 2009 filed by Vanniyar Educational Trust rep. By its President G.K. Mani, Konerikuppam, Malathur Post, Tindivanam Taluk and our High court has by following the Judgments reported in  : (1996) 3 SCC 15 in Thirumuruga Kirupananda Variyar Thavathiru Sundara Swamigal Medical Educational and Charitable Trust v. State ofTamil Nadu and Ors.  : (1995) 4 SCC 104 in State of Tamil Nadu v. Adhiyaman Educational and Research Institute;  : (2000) 5 SCC 231 in Jaya Gogul Educational Trust. v. Commissioner & Secretary to Government, Higher EducationDepartment, Thiruvanathapuram, Kerala and Anr. 2002 (1) SC 589 State of Maharashtra v. Indian Medical Association, 2003 (3) CTC 1 in H.E.T.C Educational Society v. State of TamilNadu and 2000 W.L.R 94 in The Government of Tamil Nadu and Ors. v. Emmanuel Teacher Training Institute and others taken a similar view as that of the view taken in Emmanuel Teacher Training Institute case that in so far as the establishment of medical, dental and technical institutions are concerned, grant of permission or NOC cannot be rejected by the State Governments on the ground of policy decision and the proposal cannot be rejected at the threshold without independently looking into various aspects viz., infrastructural facilities, instructional facilities and the local need and the application submitted by various institutions are to be considered on its own merit depending upon the area where the institution is sought to be established; whether there is requirement etc.

24. As such applying the view expressed by the Division Bench of our High court and the observation made by the learned single judge after following the earlier Judgments of the Supreme Court and the Division Bench of our High court, the policy decision vide public notice issued by the NCTE cannot be treated as sound policy and legally valid.

25. In addition to the points referred to above, two more points to be added are (i) The Central government has recently enacted the Right of Children to Free and CompulsoryEducation Act 2009 as per the provisions of which, every child of the age of 6 to 14 years shall have the right of free and compulsory education in a neighbourhood school till completion of elementary education and under Section 6 of the Act, appropriate government and local authority shall ensure availability of a neighbourhood school, provide infrastructure including school building, teaching staff and learning equipment, ensure good qualityelementary education conforming to the standards and norms specified in the Schedule and provide training facility for teachers. Section 23 of the Act lays down the qualification for appointment and terms and conditions of service of teachers in such school, as per which the minimum qualification is laid down and Section 24 specifies duties of teachers and redressal of grievances and Section 25 prescribes Pupil- Teacher Ratio as prescribed in the schedule and appropriate government and local authority shall ensure that the Pupil-Teacher Ratio as specified in the Schedule is maintained in each school. Our High Court in the recent judgment held that the teacher pupil ratio is 1:40 and the same is subsequently modified as 1:30. Further, any qualified and trained teacher from any institution can seek employment throughout the country, as such the need of the trained teacher cannot be decided only on the strength of the requirement in any particular area, as such, the same cannot be a criteria for taking such a policy decision which is impugned in the present writ petition.

26. Further, NCTE is empowered to deal with the question of commercialization and mushroom growth of teacher training institutions in other ways by laying down higher standard of norms and guidelines for granting recognition and for proper functioning of the institution. The relevant provision of law under Section 32 vests NCTE with enormous powers to lay down appropriate rules and regulations generally to carry out the provisions of the Act. By issuing such a public notice, the regulations relating to norms and standard for receiving any application for recognition or permission for additional intake and for processing the application are rendered ineffective at least during the ban period. Above all, the policy decision vide public notice under challenge is only for granting recognition or permission to start new colleges and not for additional intake for which the application is filed by the Petitioner trust. It is nobody's case that the Petitioner trust does not have infrastructure and instructional facilities to accommodate additional 100 students. The application is submitted by the Petitioner for additional intake of 100 students on the ground that infrastructure created by the Petitioner trust involving huge expenditure, is more than sufficient to cater the needs of 200 students and the application so made shall be, as observed the Division Bench of our High court, considered individually on its own merits and in the manner as laid down under regulation 7 of the NCTE regulations. As a matter of fact, Sections 14 and 15 of NCTE Act enjoins the duty also on NCTE to provide reasonable opportunity to the concerned institution before refusing permission or recognition and the general ban imposed by policy decision deprives such opportunity to the institution concerned to make its representation. Thus, for the discussion held above, the policy decision is in violation of the provisions of law and against the principles of natural justice and is hence unconstitutional and arbitrary and can be interfered with by the courts of law.

27. In the light of the above discussion, this Court is of the firm view, the impugned public notice and the impugned order passed by the Respondents 1 and 2 respectively cannot be legally sustained and the first Respondent is bound to consider the application dated 22.10.2009 submitted by the Petitioner seeking permission for additional intake for the academic year 2010-2011 in the light of the guidelines laid down in the regulations and to pass appropriate orders within 2 months. Though it is sought to be argued that subsequent public notice dated 29.07.2010 is issued banning invitation for fresh applications for recognition of teacher training courses including additional intake to the existing recognised courses for the academic year 2011-2012 in few states and Union Territories one among which is Union Territory of Pondicherry, the Petitioner's application shall be considered only in the light of the state of affairs on the date of application and hence, objection raised on the side of the Respondent is negatived.

28. In the result, the writ petition is allowed by quashing public notice dated 28.07.2009 issued by the first Respondent and order No. F.SRO/NCTE/2009-2010/16235 dated 28.10.2009 passed by the second Respondent with further direction to the second Respondent to reconsider the Petitioner's application dated 22.10.2009 for granting additional intake of B. Ed course either for the academic year 2010-2011 or for 2011-2012 in accordance with the procedure laid down under NCTE regulations. The Petitioner is directed to represent the application dated 22.10.2009 to the second Respondent within 2 weeks from the date of receipt of the copy of this order and the second Respondent shall complete the exercise within 8 weeks from the date of receipt of the application. No costs. Consequently, connected Miscellaneous Petitions are closed.