



IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. /2026
(@ SPECIAL LEAVE PETITION (C) NO. 11756/2023)

THE NATIONAL COUNCIL FOR TEACHERS
EDUCATION

...APPELLANT(S)

VERSUS

ASSOCIATION OF NCTE APPROVED COLLEGES
TRUST AND ORS.

...RESPONDENT(S)

J U D G M E N T

1. Leave granted.
2. Though free and compulsory elementary education to all children aged 6 to 14 years has now attained the status of an enforceable fundamental right, we have not bestowed on teacher education the attention that it deserves. Our former President, Dr. S. Radhakrishnan, whose birthday we celebrate as Teachers' Day, also observed that, "*Teachers have a great deal to do with the shaping of the minds and hearts of our youth. This is so obvious that it does not need repetition, but in spite of much repetition we do not*

seem to have a real understanding of the place of the teacher in the present context.”¹

2.1 In this appeal, we are concerned with the regulatory powers of the National Council for Teacher Education (NCTE) established to achieve planned and coordinated development of the teacher education system. Having noted that the interpretation adopted by the High Court while setting aside the action of the National Council for Teacher Education calling upon the Teacher Education Institutes (TEI) to submit annual Performance Appraisal Report (PAR) as illegal and arbitrary actually impairs its regulatory jurisdiction, we have allowed the appeal, and set aside the judgment of the High Court by declaring the correct position of law.

3. Teacher education has assumed greater importance after our Constitution formally recognized elementary education for all children of the age of 6 to 14 as a fundamental right under Article 21A of the Constitution.² Following the Constitutional mandate, Parliament enacted the Right of Children to Free and Compulsory Education Act, 2009³ (“RTE Act”). The RTE Act, under Section 23, recognizes the importance of qualified teachers for effective exercise of the right to education of children and therefore provides

¹ Sarvepalli Radhakrishnan, President Radhakrishnan’s Speeches and Writings, May 1962–May 1964, “Universities and Teachers,” speech at the inauguration of Punjabi University, Patiala, 24 June 1962, Publications Division, Government of India, p. 184.

² 86th Constitutional Amendment Act, 2002.

³ Article 21A. *Right to education: The State shall provide free and compulsory education to all children of the age of six to fourteen years in such manner as the State may, by law, determine.*

for an ‘academic authority’ to lay down the minimum qualifications. Section 23 is here for ready reference;

“Section 23. Qualifications for appointment and terms and conditions of service of teachers

- (1) Any person possessing such minimum qualifications, as laid down by an academic authority, authorised by the Central Government, by notification, shall be eligible for appointment as a teacher.*
- (2) Where a State does not have adequate institutions offering courses or training in teacher education, or teachers possessing minimum qualifications as laid down under sub-section (1) are not available in sufficient numbers, the Central Government may, if it deems necessary, by notification, relax the minimum qualifications required for appointment as a teacher, for such period, not exceeding five years, as may be specified in that notification:*

Provided that a teacher who, at the commencement of this Act, does not possess minimum qualifications as laid down under sub-section (1), shall acquire such minimum qualifications within a period of five years:

[Provided further that every teacher appointed or in position as on the 31st March, 2015, who does not possess minimum qualifications as laid down under sub-section (1), shall acquire such minimum qualifications within a period of four years from the date of commencement of the Right of Children to Free and Compulsory Education (Amendment) Act, 2017 (24 of 2017).]”

The ‘academic authority’, contemplated under Section 23, is the National Council for Teacher Education (hereinafter referred to as the Council), established under the National Council for Teacher Education Act, 1993, (hereinafter referred to as the NCTE Act).

4. The development of a child, for that matter, the life of a child is integrally connected to the role of an elementary school teacher. In *Dinesh Biwaji Ashtikar v. State of Maharashtra & Ors.*⁴, this Court declared that the real consequence of identifying the right of elementary education as a fundamental right is in the recognition of five duty bearers being; (i) the appropriate Government⁵, (ii) the local authority⁶, (iii) the neighbouring school⁷, (iv) the parents/guardians⁸, and (v) the elementary school teacher⁹.

5. As regards the fifth duty bearer, the elementary school teacher, is concerned, this Court in *Dinesh Biwaji Ashtikar (supra)*, also observed:

“7.5 The fifth duty bearer; is the elementary school teacher. There is no human resource or value higher than development of a student's mind and character. Therefore, the elementary school teachers have the most important role in nation building and as such, they have to be treated with utmost respect and care. A society that does not take care of its elementary school teachers is bound to fail in securing the constitutional objective.”

6. In order to fasten these duty bearers with the obligation to ensure quality education, we must add to the above, *sixth* and *seventh* duty bearers. The *sixth*¹⁰ being institutions recognised for imparting courses to educate

⁴ 2026 SCC OnLine SC 56.

⁵ Section 6 of the RTE Act.

⁶ Section 9 of the RTE Act.

⁷ Section 12 of the RTE Act.

⁸ Section 10 of the RTE Act.

⁹ Section 24 of the RTE Act.

¹⁰ See under Section 2(e) of the NCTE Act

and train teachers, the Teacher Education Institutions (TEI), as defined under Section 2(e) of the NCTE Act. This obligates them to carry out programmes of education, research and training of persons for equipping them to teach pre-primary, primary, secondary and senior secondary stages in schools. This obligation extends to imparting non-formal education, part-time education, adult education and correspondence education. These institutions have the obligation to seek recognition and abide by such principles as are provided in Sections 14 to 17 of Chapter IV of the NCTE Act.

7. The *seventh*¹¹ duty bearer must be the National Council for Teacher Education. The Council is entrusted with the duty to achieve planned and coordinated development of the teacher education system throughout the country. The Council is also to ensure that the TEIs imparting teacher education function effectively, efficiently and conduct their affairs with integrity. We have no hesitation in declaring that the duties to be performed by the Council and the bodies that are constituted along with it, such as the Executive Committee and the Regional Committees, are perhaps the highest of all the duty bearers.

¹¹ Section 3, 12, 19 & 20 of the National Council for Teacher Education Act, 1993.

8. Short facts that are necessary for our adjudication are that the proceedings before the High Court commenced with TEI's assailing a "Public Notice" dated 22.09.2019 issued by the Member Secretary of the Executive Committee, the notice is as follows:

"PUBLIC NOTICE

1. The National Council for Teacher Education is a statutory body that came into existence in pursuance of the National Council for Teacher Education Act, 1993 (No. 73 of 1993) on the 17th August, 1995 to achieve planned and coordinated development of the teacher education system throughout the country, the regulation and proper maintenance of Norms and Standards in the teacher education system and for matters connected therewith.

2. As part of one of the conditions of recognition, NCTE insists on submission of a Performance Appraisal Report annually which includes annual statement of accounts duly audited by a Chartered Accountant. Similarly, in section 12(j) & (k) of the NCTE Act, 1993, the following is mandated –

"(j) examine and review periodically the implementation of the norms, guidelines and standards laid down by the Council, and to suitably advise the recognised institutions;

(k) evolve suitable performance appraisal system, norms and mechanism for enforcing accountability on recognised institutions; "

Furthermore, Section 17 of the NCTE Act, 1993 stipulates as under:-

*.
. .*

4. The Performance Appraisal Report (PAR) is now required to be mandatorily submitted by all TEIs online on the specially designed portal <http://ncte.gov.in/Website/PARsystem.aspx>, PAR should be submitted for the academic year 2018-2019 through online method and make necessary payments as under:-

(i) Central and State Govt. institutions are required to pay Rs 5000/- per institution, regardless of number of courses being run.

- (ii) All other categories to pay Rs. 15000/- per institution, regardless of number of courses being run.
5. Timeline to submit the online PAR shall be from 23rd September 2019 to 31st December 2019 (mid night).
6. Non-submission of PAR will attract action under section 17(1) of NCTE Act, 1993.

(Sanjay Awasthi)
Member Secretary”

9. The challenge to the Public Notice is *inter alia* on the ground that the Council alone could have issued and implemented a notice of this nature. It has also been contended, on the basis of the Minutes of Meeting of the General Body of the Council, that there existed no empowerment of the Executive Committee to issue such a Public Notice. Though the learned Single Judge dismissed the writ petition, Division Bench of the High Court allowed the appeals by holding;

*“16. A perusal of the said agenda shows that it was discussed in the meeting to insist on Performance Appraisal Report and to put in place a system of Managing Information System. The Council, after discussing the agenda, approved the proposal of authorising the NCTE to proceed in the matter through a proforma which was to be developed by NCTE for this purpose. There is nothing to indicate that the proforma, which has been uploaded with the notice under challenge, was placed before the NCTE in any meeting and has been approved by the NCTE. **There is nothing on record to show that the function of the Council as laid down in Section 12(k) NCTE Act which is to evolve suitable performance appraisal system, had been delegated to the Member Secretary as per Section 27 of the NCTE Act.** This Court, at this moment, is not going into the question as to whether the function of evolving a suitable performance approval report could be delegated at all or not. Be that as it may. The decision of the Council was specific that the proforma was to be developed by the NCTE*

and had to be approved by the NCTE and there is nothing on record to show that this process has been followed.

(...)

19. ...In the absence of any material to show that the proforma attached with the notice under challenge was evolved or even approved by the NCTE. The notice under challenge which necessitates on the Teacher Education Institutions running NCTE recognized Teacher Education Courses to file a Performance Appraisal Report annually is unsustainable and, therefore, the same is liable to be quashed as the same is in violation of the provisions of the NCTE Act. This Court is not going into the second question as to whether the amount of Rs.5,000/- which is to be submitted by the Central and State Government Institutions and Rs.15,000/- which is to be submitted by all other category of institutions along with the Performance Appraisal Report is in the nature of fee or in the nature of tax as the same is an academic exercise for the present.”

(emphasis supplied)

10. We are not in agreement with the approach adopted by the High Court. When a High Court is called upon to examine the exercise of power by a statutory regulator, the approach must be to see whether the functioning of the authority is in violation of any mandatory provision or that it has transgressed the power that is vested in it. As the High Court was called upon to exercise judicial review over the power exercised by the Member Secretary, it is necessary to examine powers and duties in the context of the larger mandate of the Act and the Council.

11. The NCTE Act was enacted in the year 1993, with a view to “*achieving planned and co-ordinated development of the teacher education system throughout the country, the regulation and proper maintenance of norms and*

standards in the teacher education system".¹² Teacher Education, as contemplated under the NCTE Act is defined in Section 2(I) as follows:

"2. Definitions.—*In this Act, unless the context otherwise requires,—*

(I) "teacher education" means programmes of education, research or training of persons for equipping them to teach at pre-primary, primary, secondary and senior secondary stages in schools, and includes non-formal education, part-time education, adult education and correspondence education;"

12. The definition of teacher education transcends programmes of education and research for training and equipping the teachers to teach pre-primary, primary, secondary and senior secondary stages in schools. It also contemplates acquiring the necessary training to impart life skills to children through non-formal means of education. We have already noted that the qualifications for appointment of elementary school teacher are to be prescribed by the academic authority, which is the Council established under the NCTE Act. The Council, established under Section 3 of the Act, is a body corporate and thus has the primary duty under Section 12, *"to take all such steps as it may think fit for ensuring planned and coordinated development of teacher education and for determination and maintenance of standards of teacher education"*. For this purpose, amongst other functions, the Council is also empowered to, (i) conduct surveys [S.12(a)], (ii) give recommendations to government universities for preparation of plans and

¹² See Preamble of the NCTE Act.

programs for teacher education [S.12(b)], (iii) coordinate and monitor teacher education [S.12(c)], (iv) frame guidelines for minimum qualification, minimum eligibility criteria for admission, selection for course [S. 12(e)], (v) lay down guidelines for compliance by recognized institutions for starting new courses [S.12(f)], (vi) evolve suitable performance appraisal systems to enforce accountability [S.12(k)].

13. For enforcing and implementing its functions, the statute also empowers the Central Government under Section 31 to make necessary rules which *inter alia* enables the Council to issue rules to provide “*fees payable on application for obtaining recognition under sub-section (2) of Section 14 and for obtaining permission under sub-section (2) of Section 15.*” The Act also empowers the Council to make regulations under Section 32.

14. Apart from the establishment of the Council, the Act also constitutes bodies such as the Executive Committee under Section 19 and the Regional Committee under Section 20. In contrast to the constitution of the Regional Committee, which is to be constituted by way of a notification in the Official Gazette, the Executive Committee does not require such a notification. The same is constituted by the Council to discharge such functions as are assigned to it. Section 19, which provides for the composition of the Executive Committee, is reproduced for ready reference;

19. Executive Committee.—(1) *The Council shall constitute a Committee, called Executive Committee for discharging such functions as may be assigned to it by the Council or as may be determined by regulations.*

(2) *The Executive Committee shall consist of the following members, namely:—*

(a) *the Chairperson;*

(b) *the Vice-Chairperson;*

(c) *the Member-Secretary;*

(d) *the Secretary to the Government of India in the Department dealing with Education, ex officio;*

...

(h) *four experts in teacher education to be nominated by the Central Government;*

(i) *four State representatives to be nominated by the Central Government in such manner as may be prescribed;*

(j) *the Chairpersons of the Regional Committees.*

(3) *The Chairperson and the Member-Secretary of the Council shall respectively, function as the Chairperson and the Member-Secretary of the Executive Committee.*

15. The Executive Committee is the body which actually discharges the functions of the Council. It is an important institution created by the statute, and has the obligation to ensure that the purpose and object of the Act, i.e. to achieve a planned and co-ordinated development of teacher education system is implemented in its letter and spirit.

16. The RTE Act which was enacted in 2009 is integrally connected to the NCTE Act passed in 1993. While RTE Act declares the positive right and fastens certain responsibilities on certain duty bearers, the NCTE Act seeks to institutionalise teacher education system through the institutions, the TEIs

and the statutory regulators, the Council and the Executive Committee. The significance of institutionalising the functioning of these duty bearers is not difficult to conceive. If these institutions work effectively and efficiently, it is but natural that the purpose and object of the legislation will be achieved in a substantial measure. It is necessary to ensure that in the functioning of these bodies, there is efficiency in administration, efficiency through expertise, innovation through multi-disciplinary composition, integrity through transparency and accountability, and finally, accountability itself through regular review, audits and assessments.

17. The statutory framework in which regulators are constituted, their duties and the functions as well as the necessity to ensure that they work effectively and efficiently are important to be borne in mind before exercising judicial review.

18. Returning to the facts, from the minutes of the 48th Meeting of the General Body of the Council, it is to be noticed that the issue relating to Annual Renewal of Recognition unfortunately got involved in continuous and unending litigation initiated by various TEIs before the High Courts. In the 48th Meeting of the General Body held on 05.02.2019, the Council considered the issue of Performance Appraisal Report. The Minutes of Meeting on Agenda no. 3 and the decision taken by the Council are extracted herein for ready reference:

***“MINUTES OF THE 48TH MEETING OF THE GENERAL
BODY OF NCTE HELD ON 5TH FEBRUARY, 2019***

Agenda Item No. 3: Consideration of the Performance Appraisal Report (PAR) Linked Renewal of Recognition/Permission of TEIs.

The Council in its 46th meeting held on 28th March 2017 vide agenda item no. 10 approved the Annual Renewal of Recognition of Teacher Education Institutions recognized by NCTE. Before the decision could be implemented a large number of TEIs filed court cases across the country in various High Courts.

2. A study of the various petitions filed in Courts revealed that a regime of annual renewal of recognition would not be feasible. Accordingly, it is proposed to insist on Performance Appraisal Report (PAR) at this stage to put in place a system of Managing Information System (MIS), which was intended with the Agenda Item No. 10, as placed before the 46th GB Meeting. Accordingly, with same terms and conditions as already approved, the “PAR” may be substituted for “Annual Renewal of Recognition”. Proforma to be developed by NCTE.

3. The PAR, being part of the condition of recognition, will be insisted upon Course wise and with fees chargeable (as already approved in 46th GB) accordingly.

4. The Council may consider the issue and accord its approval.

Decision of the Council:

The agenda item was approved as proposed authorising NCTE to proceed in the manner through a proforma to be developed by NCTE for this purpose.”

19. It is evident from the above that while the issue relating to annual renewal of recognition became litigious, the Council found it necessary to insist on Performance Appraisal Report (PAR) to put in place a system of managing information system. In this view, the Council deliberated on the question and suitably modified the requirement of annual renewal

recognition and called for a Performance Appraisal Report. Having deliberated upon the issue, the Council finally arrived at a decision, *“approved as proposed, authorising NCTE to proceed in the manner through a proforma to be developed by NCTE for this purpose”*.

20. The Executive Committee, being the executive arm of the Council authorised to implement the decision of the Council dated 05.02.2019, through its Member Secretary, issued the Public Notice for implementing the requirement of Performance Appraisal Report.

21. We are of the opinion that there is ample empowerment of the Council as well as the Executive Committee to call for annual Performance Appraisal Report from institutions imparting teacher education. To start with, such a power is clearly traceable to Section 12(k) of the Act, whereunder the Council could *“evolve suitable performance appraisal system, norms and mechanisms for enforcing accountability on recognised institutions”* and in exercise of such a function, the Council deliberated on the issue and authorised Executive Committee to implement it through a formal proforma. Thereafter, it is the duty of the Executive Committee to carry forward the mandate of the Council. This is exactly what the Member Secretary did, when he issued the Public Notice dated 22.09.2019 calling upon the institutions running NCTE recognised courses to file Performance Appraisal Report.

22. We fail to understand as to how a regulatory measure of a statutory body, empowered to achieve planned and coordinated development of teacher education system in the country could be restrained from calling upon the TEIs to file Performance Appraisal Report. We are of the opinion that even without a specific empowerment under the statute, such a regulatory measure can always be incidental and ancillary to the duties and functions of a regulator. As there is a performance audit of NCTE itself by the Comptroller and Auditor General of India (CAG), it is but natural and incidental that NCTE would require the stakeholders, over which it exercises the regulatory jurisdiction, to provide the necessary Performance Appraisal Report.

23. It is necessary for the Council and its bodies to ensure accountability of educational institutions. Accountability in itself is an essential principle of administrative law. Judicial review of administrative action undertaken by the Council will only be effective and meaningful if accountability of Teacher Education Institutes is ensured by it. Accountability has three essential constituent dimensions: (i) responsibility, (ii) answerability and (iii) enforceability. Responsibility requires identification of duties and performance obligations of individuals and authorities. Answerability requires reasoned decision-making and enforceability requires corrective action against lack of responsibility and accountability. Accountability enables

action against officials or institutions for dereliction of duty and also ensures that procedures and policies are improved upon.¹³

24. Apart from the duty to ensure that the executive authority/statutory bodies do not exercise powers that are not vested in them, Constitutional courts also have a positive duty to ensure that Authorities, more particularly, the regulators do exercise their powers effectively, efficiently and in an accountable manner. In this context, Courts cannot adopt a technical or a pedantic view of the action taken by the regulators.

25. The Public Notice, apart from requiring the Teacher Education Institution to upload Performance Appraisal Report on the designated portal also required the institutions to make certain payments. This payment is really in the nature of process fee which is again an incidental and ancillary power that the regulator must have. Though it was indicated to us that a decision on the impugned Public Notice dated 22.09.2019 is unnecessary as subsequently, in the 53rd meeting the procedural and technical problem was rectified, we found it necessary to give our judgment on this issue as there must be clarity about the power and functions that statutory regulators should exercise. In conclusion, we hold that the Public Notice issued by the Member Secretary of the Executive Committee is legal and valid and the Division

¹³ *Vijay Rajmohan v. CBI* (2023) 1 SCC 329.

Bench of the High Court committed an error in setting aside the said Public Notice. The Council as well as the Executive Committee is within its jurisdiction to call TEIs to upload Performance Appraisal Report.

26. For the reasons stated above, we allow the appeal, set aside the judgment and order passed by the High Court of Delhi in LPA No. 190 of 2021 dated 13.03.2023. There shall be no order as to costs.

.....J.
[PAMIDIGHANTAM SRI NARASIMHA]

.....J.
[ALOK ARADHE]

**NEW DELHI;
SEPTEMBER 03, 2026**