

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE THE AG.CHIEF JUSTICE MR.ASHOK BHUSHAN

&

THE HONOURABLE MR.JUSTICE A.M.SHAFFIQUE

FRIDAY, THE 9TH DAY OF JANUARY 2015/19TH POUSHA, 1936

WA.No. 120 of 2009 () IN WP(C).3887/2007

AGAINST THE JUDGMENT IN WP(C) 3887/2007 of HIGH COURT OF
KERALA DATED 25-02-2008

APPELLANT(S)/IST RESPONDENT:

THE DIRECTOR GENERAL OF EMPLOYMENT
AND TRAINING, DIRECTORATE OF EMPLOYMENT & TRAINING
MINISTRY OF LABOUR, GOVERNMENT OF INDIA
SHARMASHAKTHI BHAVAN, RAFI MARG, NEW DELHI.

BY ADV. SRI.BABU KARUKAPADATH,ACGSC

RESPONDENT(S)/PETITIONERS AND RESPONDENTS 2 TO 6:

1. LEENA OONNUNNI,
MOONAMKIZHAKKATHIL, THEKKUMURI, EAST KALLADA
KOLLAM.

2. BINUMOL.T.,
URMBIL, PAKKANAM, PUNCHAVAYAL P.O.
MUNDAKAYAM (VIA), KOTTAYAM.

3. NISHA.G.PILLAI,
NIKHI BHAVAN, KAITHACODE P.O., KOLLAM - 691 543.

4. REJANI SOMAN,
REJANI BHAVAN, PIRAVANTHOOR P.O., PIRAVANTHOOR
PIN - 689696.

5. KUMARI SREEKALA.A.,
SREEJITH BHAVAN, KANNIMEL CHERRY, KAVANADU P.O.
KOLLAM-3.

6. USHA.O.,
KALIYILLIL VADAKKATHIL, KANNIMEL CHERRY, KAVANADU P.O.
KOLLAM-3.

7. SHAMEENA.M.,
SANOOJA MANZIL, CHANDANATHOPE P.O., KOLLAM- 691014.

8. SALINI.S.,
SALINI NILAYAM, NEAR PUNNAMUKKU, PERUMPUZHA P.O.
PIN- 691 504.

9. SHAJIRA.A.,
MANGATTUMOOTIL VADAKKATHIL, CHONAMCHIRA
PERINADU P.O., KOLLAM-691 601.

10. SREEJAYA.P.,
SREEMURUGHA BHAVAN, MULAVANA P.O., KUNDARA
PUNNATHADAM- 691 503.

11. SANDHYA MOL.T.S.,
THYNIYIL, PAKKANAM, PUNCHAVAYAL P.O.
MUNDAKAYAM (VIA), KOTTAYAM.

12. SHAMEERA S.A.,
D/O.ABOOBAKER, KALAVARA HOUSE, PEROOR
T.K.M.C.P.O., KOLLAM.

13. THE INDUSTRIAL TRAINING DEVELOPMENT,
STATE OF KERALA REPRESENTED BY SECRETARY TO
INDUSTRIES, GOVERNMENT SECRETARIAT
THIRUVANANTHAPURAM.

14. THE DIRECTOR OF EMPLOYMENT & TRAINING,
THYCADU, THIRUVANANTHAPURAM.

15. THE DIRECTOR,
INDUSTRIAL TRAINING DEPARTMENT, THIRUVANANTHAPURAM.

16. THE INDUSTRIAL TRAINING INSTITUTE
FOR WOMEN, KOLLAM.

17. THE VIKRAM SARABHAI SPACE CENTRE,
DEPARTMENT OF SPACE, THIRUVANANTHAPURAM
REPRESENTED BY ITS DIRECTOR.

R1-12 BY ADV. SRI.C.RAJENDRAN
R-17 BY ASGI N. NAGARESH
BY GOVERNMENT PLEADER SMT. GIRIJA GOPAL FOR R13 TO 16

THIS WRIT APPEAL HAVING BEEN FINALLY HEARD ON
09-01-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

W.A.NO.120/2009

APPENDIX

ANNEXURE: TRUE COPY OF THE JUDGMENT DATED 2-8-2005 IN WRIT PETITION 15567/2004 AND CONNECTED CASES.

ANNEXURE-B: TRUE COPY OF THE TRADE TEST PROCEDURE FOR THE CRAFTSMEN TRAINING SCHEME UNDER THE AEGIS OF NCVT

ASHOK BHUSHAN , Ag. CJ,
&
A.M.SHAFFIQUE, J.

.....
W.A. No. 120 of 2009
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Dated this the 9th day of January, 2015

JUDGMENT

Shaffique, J.

The appeal is filed by the first respondent challenging the judgment dated 25-02-2008 in W.P. (C) No. 3887 of 2007. The above Writ Petition is filed by respondents 1 to 12 seeking a direction to the first respondent to issue National Trade Certificate by the National Council for Vocational Training (NCVT) to the petitioners.

2. The facts involved in the Writ Petition would disclose that the petitioners have studied for various trades in Electronics, Mechanic, Vehicle Mechanic and

Refrigeration and Air Conditioning etc. in the 5th respondent Institution. They have passed the examination and are issued with provisional certificates, some of which are produced as Exts. P1 o P5. In the certificates issued in their favour it was also mentioned that the National Trade Certificate will be issued by National Council for Vocational Training. According to the petitioners, they have joined the courses on the basis of the prospectus issued by the Institute which is a State Government undertaking and later when they requested for NCVT Certificates, the same has not been issued and, accordingly, they have approached this Court. Petitioners have also relied upon the earlier directions issued by this Court in the cases of similarly situated persons.

3. Based on the judgment of this Court in W.P.C. No. 38305/2004 and connected cases, the learned single Judge disposed of the Writ Petitions directing the first respondent to issue National Trade Certificates to the petitioners

within a specified time. It is aggrieved by the aforesaid judgment, that the appellant has approached this Court. It is inter alia contended by the learned counsel for the appellant that the judgment relied upon by the learned Judge in WPC 38305 of 2003 will have no application to the facts of this case, especially, since the learned Judge who decided the case observed that the said order shall not be treated as a precedent. On a perusal of paragraph 6 of the judgment in W.P.C. No. 38305/2003 and connected cases, it would appear that the learned single Judge formed an opinion that the candidates who got employment on the strength of the provisional certificates shall not be prevented from continuing their respective trades. It is under such circumstances, that the directions have been issued.

4. The learned counsel for the appellant further relied upon the Judgment of the Division Bench of this Court in W.P.C. No. 34194/2004 and connected cases which was

decided on 2nd August 2005. This Court having considered the issue relating to issuance of NCVT certificates in respect of institutions which were not affiliated to NCVT, observed that only those candidates who had undergone trade tests in an institute which is affiliated to NCVT are eligible to appear for All India Trade Test and entitled for the said certificates. It is submitted that in so far as the Institute in which the petitioners have undertaken the course was not having the affiliation during the relevant time, the direction issued is erroneous.

5. On the other hand, the learned counsel for the respondents/Writ Petitioners have relied upon the judgment of the Supreme Court in Civil Appeal Nos. 1541-1544 of 2008 wherein similar issues were considered by the Supreme Court. In that case, the Supreme Court observed that the Kerala High Court has directed issuance of NCVT certificates to several similarly placed persons. That was also a case where the Institute was not

affiliated at the relevant time for a particular category of trade. After referring to the earlier judgments, in paragraph 6 of the Judgment of the above Civil appeals, the Supreme Court held as under:

“ 6. Learned Addl. Solicitor General submitted that having regard to the facts and circumstances of the case, in particular the State Government having mentioned in the prospectus that the students who successfully completed the course would be issued National Trade Certificates and the earlier decisions in similar cases having been complied with, the NCVT would give National Trade Certificates in these cases also having validity all over the country. The National Trade certificates will have to be issued to all the appellants as also the proforma respondents who were writ petitioners, within three months. To expedite the process, the appellants and the proforma respondents are also permitted to submit applications with all relevant records to NCVT and on receipt of such applications, NCVT shall issue certificates to the eligible candidates/applicants within the period as mentioned above”.

In fact, that was a case which was decided on a submission made by the Addl. Solicitor General indicating that the National Trade Certificates would be issued by NCVT

especially in view of the fact that the course was conducted by the State Government.

6. Relying upon the aforesaid judgment, a Division Bench of this Court in **Shysimol .V. vs. Chief Secretary, Government of Kerala - 2011 (2) KHC 900**, held that the State Government having published through Ext. P1 prospectus that the Institute has affiliation with NCVT for the courses undergone by the petitioners and they will be issued National Trade Certificate and it is clearly mentioned in the provisional certificates also that the petitioner will be entitled to get original National Trade Certificates issued by NCVT, there is no reason to deny them the said benefit. Accordingly, the said Writ Petitions were allowed directing the NCVT to issue original National Trade Certificates to the petitioners based on the provisional certificate issued to them.

7. Though as rightly contended by the learned counsel for the appellant that the Institution did not have

affiliation during the relevant time, it is clear that the 5th respondent Institution is a Government of Kerala Institution and functioning for the last more than 25 years and the affiliation was not granted only for a limited period of time. All the students had undertaken the courses on the bonafide belief that they would be issued NCVT certificates. They had undergone the courses, passed the tests and they have been issued with provisional certificates and ultimately they are now told that there was no affiliation and, therefore, NCVT certificates could not be issued with. It is also brought to our notice that most of them are employed based on such certificates proceeding on the basis that NCVT certificates will be available. The learned Single Judge has, relying upon a judgment of similarly placed persons, exercised the discretion to direct NCVT to issue the certificates. Having regard to the aforesaid factual issues and especially, in view of the judgment of the Supreme Court as well as a Division

Bench of this Court as referred to above, we do not think that the exercise of discretion by the learned Single judge was unjustified. Under the said circumstances, we do not find any good ground to interfere with the said discretion exercised by the learned Single Judge. Accordingly, this Writ Appeal is dismissed.

The said certificates shall be issued within a period of two months from the date of receipt of a copy of this Judgment.

ASHOK BHUSHAN ,
Ag. CHIEF JUSTICE

A.M.SHAFFIQUE,
JUDGE

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