

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE K.VINOD CHANDRAN

WEDNESDAY, THE 8TH DAY OF JULY 2015/17TH ASHADHA, 1937

WP(C).No. 12451 of 2015 (F)

PETITIONER(S) :

**THE KERALA PVT ITI MANAGER'S ASSOCIATION,
P.B.NO.10, PARAVUR, KOLLAM - 691 301,
REPRESENTED BY ITS GENERAL SECRETARY,
M.S.SHAJI.**

**BY ADVS.SRI.C.P.KUNJHIKANNAN
SRI.S.K.MADHU
SRI.A.S.SREEKANTH**

RESPONDENT(S) :

- 1. UNION OF INDIA, REPRESENTED BY ITS SECRETARY,
MINISTRY OF LABOUR AND EMPLOYMENT, NEW DELHI- 110 001.**
 - 2. THE DIRECTOR GENERAL OF EMPLOYMENT AND TRAINING,
SHRAM SHAKTI BHAWAN, RAFI MARG, NEW DELHI - 110 001.**
 - 3. THE DIRECTOR, EMPLOYMENT AND TRAINING,
INDUSTRIAL TRAINING DEPARTMENT, THYCAUD POST,
THIRUVANANTHAPURAM - 695 014.**
 - 4. STATE COUNCIL FOR VOCATIONAL TRAINING,
REPRESENTED BY ADDITIONAL DIRECTOR / SECRETARY,
INDUSTRIAL TRAINING DEPARTMENT, THYCAUD POST,
THIRUVANANTHAPURAM - 695 014.**
 - 5. THE NATIONAL COUNCIL FOR VOCATIONAL TRAINING (N.C.V.T.),
DEPARTMENT OF INDUSTRIAL TRAINING
GOVERNMENT OF INDIA, NEW DELHI - 110 001.**
- R1,R2 & R5 BY ADV. SRI.N.NAGARESH, ASSISTANT SOLICITOR GENERAL
R3 & R4 BY GOVERNMENT PLEADER SRI.C.K.SHERIN**

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 08-07-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

Msd.

APPENDIX

PETITIONER(S)' EXHIBITS :

- EXT. P1: A PHOTOCOPY OF THE CERTIFICATE OF REGISTRATION OF THE PETITIONER ASSOCIATION ISSUED BY THE DEPUTY REGISTRAR, KOLLAM.**
- EXT. P1(A): A PHOTOCOPY OF THE LIST OF MEMBERS OF THE PETITIONER ASSOCIATION.**
- EXT. P2: A PHOTOCOPY OF THE COMMUNICATION NO.DGE & T-19(4)/2011-CD-PT ISSUED BY THE DIRECTOR GENERAL OF EMPLOYMENT AND TRAINING DATED 17.01.2013- (14TH MARCH 2013).**
- EXT. P3: A PHOTOCOPY OF THE COMMUNICATION NO.DGE & T-19(4)/2011-CD-PT DATED 23.08.2013 OF THE DIRECTOR GENERAL OF EMPLOYMENT AND TRAINING.**
- EXT. P4: A PHOTOCOPY OF THE SYLLABUS FOR THE TRADE DRAUGHTSMAN CIVIL SEMESTER PATTERN.**
- EXT. P5: A TRUE COPY OF THE GUIDELINES ORDER NO.DGE & T-18011/01/SEM-JAN/2015-TTC DATED 31.12.2014 OF THE 2ND RESPONDENT.**
- EXT. P6: A PHOTOCOPY OF THE QUESTION PAPER OF PAPER-I OF DRAUGHTSMAN CIVIL (THEORY) SEMESTER III.**
- EXT. P7: A PHOTOCOPY OF THE REPRESENTATION SUBMITTED BY THE PETITIONER ASSOCIATION TO THE 2ND RESPONDENT DATED 10.03.2015.**
- EXT. P7(A): A PHOTOCOPY OF THE LETTER SENT BY THE TRAINEES OF HILL TECH PRIVATE ITI, EDOOR DATED 06.03.2015 TO THE DGET 2ND RESPONDENT.**
- EXT. P7(B): A PHOTOCOPY OF THE LETTER DATED 09.03.2015 OF THE PRINCIPAL, MOUNT SEENA PRIVATE INDUSTRIAL TRAINING INSTITUTE TO THE DGET 2ND RESPONDENT.**
- EXT. P7(C): A PHOTOCOPY OF THE LETTER DATED 09.03.2015 SENT BY THE MANAGER, IDEAL INDUSTRIAL TRAINING INSTITUTE (ITI PVT.) TO THE 2ND RESPONDENT.**
- EXT. P7(D): A PHOTOCOPY OF THE LETTER DATED 07.03.2015 SENT BY THE TRAINEES OF THE ARCHITECTURAL ASSISTANT TRADE OF IDEAL INDUSTRIAL TRAINING INSTITUTE (ITI PVT.) TO THE 3RD RESPONDENT.**

EXT. P7(E): A PHOTOCOPY OF THE LETTER DATED 28.02.2015 SENT BY THE PRINCIPAL, SIVARAJA PILLAI MEMORIAL INDUSTRIAL TRAINING INSTITUTE, PARAVUR TO THE 2ND RESPONDENT.

EXT. P8: PHOTOCOPY OF THE REPRESENTATION DATED 02.03.2015 BY THE FEDERATION OF ALL INDIA PRIVATE ITI ASSOCIATION, TO THE 2ND RESPONDENT.

RESPONDENT(S)' EXHIBITS :

EXT. R1(A): TRUE COPY OF NOTIFICATION NO.DGET-19/16/2014-CD DATED 01.12.2014 ISSUED BY THE 1ST RESPONDENT.

EXT. R1(B): TRUE COPY OF THE MINUTES OF 39TH MEETING CIRCULATED AMONG THE MEMBERS OF NCVT ALONG WITH A COVERING LETTER DATED 04.02.2011.

EXT. R1(C): TRUE COPY OF THE COMMUNICATION DATED 14.03.2013 OF MINISTRY OF LABOUR AND EMPLOYMENT.

EXT. R1(D): TRUE EXTRACT FROM THE TRAINING MANUAL WHICH DEALS WITH THE COMPOSITION OF SUB-COMMITTEE OF NCVT AND THEIR FUNCTION.

EXT. R1(E): TRUE COPY OF THE COMMUNICATION DATED 23.08.2013 OF MINISTRY OF LABOUR AND EMPLOYMENT.

EXT. R1(F): TRUE COPY OF THE REPLY DATED 05.05.2015 ISSUED TO THE GENERAL SECRETARY, KERALA PRIVATE ITI MANAGERS ASSOCIATION.

EXT. R1(G): TRUE COPY OF THE REPORT SUBMITTED BY THE COMMITTEE CONSTITUTED BY THE DIRECTOR, TT.

EXT. R1(H): TRUE COPY OF THE REPLY DATED 14.03.2015 OF MINISTRY OF LABOUR AND EMPLOYMENT.

EXT. R3(A): TRUE COPY OF THE LETTER NO.DGE & T-19(4)/2011-CD-PT DATED 17.01.2013.

EXT. R3(B): TRUE COPY OF THE LETTER NO.DGET-27/5/2014-CD DATED 05.06.2014.

EXT. R3(C): TRUE COPY OF THE LETTER NO.DGE & T-18011/01/SEM-JAN/2015-TTC.

EXT. R3(D): TRUE COPY OF THE SPEED POST NO.G1/426/15 DATED 02.05.2015 OF THE INDUSTRIAL TRAINING DEPARTMENT (KERALA STATE) THIRUVANANTHAPURAM.

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EXT. R3(E): TRUE COPY OF THE LETTER NO.G1/1083/15 DATED 21.04.2015.

EXT. R3(F): TRUE COPY OF THE LETTER NO.G1/30575/14 DATED 20.07.2014.

//TRUE COPY//

PA.TO JUDGE.

Msd.

K. VINOD CHANDRAN, J.

W.P.(C) No. 12451 of 2015 (F)

Dated this the 8th day of July, 2015

J U D G M E N T

The petitioner is an Association of Managers who seek to challenge Ext.P4 syllabus, Ext.P5 guidelines and Ext.P6 question paper of Draughtsman Civil (Theory) Paper-I of the 3rd semester. The challenge essentially is on the premise that the students, to whom the members of the petitioner caters, are poor, underprivileged and non-meritorious who are unable to cope with the semester system and syllabi of the various courses; as programmed by the National Council of Vocational Training (for brevity 'NCVT') termed the 'Trades' in the vocational stream of academics.

2. The petitioner, in fact, by the first prayer in the writ petition, seeks a writ of certiorari to quash Exts. P4, P5 and P6. However, the second prayer is for directing the respondents to conduct a fresh examination of Paper-I

Draughtsman (Civil) of the 3rd Semester as per Ext.P4 syllabus published by the Director General of Employment and Training (DGET). Incongruous though the prayers, the petitioner primarily is dissatisfied with the general conduct of the course, the syllabi designed as also the evaluation made.

3. Admittedly, the students of various Industrial Training Institutions sat for the examination conducted by the NCVT in February, 2015. The Institutes and their managers obviously had a complaint as to the conduct of the course itself in general and in particular with regard to one of the papers, being the Civil Draughtsman Paper-I of the 3rd semester. The contentions raised in the writ petition are that there were many out-of-syllabus questions and hence, the entire examination has to be set aside and a re-examination conducted in accordance with Ext.P4 syllabus.

4. The learned counsel for the petitioner relies on Ext.R1(g) wherein, allegedly, the Committee appointed to look into the various representations received by the various States had directed implementation of some remedial measures insofar as granting marks to the questions which were out-of-syllabus. The learned counsel would also take me through Ext.R3(d) which was in pursuance of Ext. P7 representation. Ext.R3(d) is a communication from the Director of Industrial Training Department, Kerala State (for brevity 'DIT Kerala'), to the DGET. Therein, according to the petitioner, the DIT Kerala itself has found certain anomalies which were pointed out to the DGET.

5. The counter affidavit of the Additional DIT, Kerala dispels the claim of the petitioner that the State Department favours such dilution of standards. The introduction of semester system and negative marks is said to have been intimated quite in advance, by Exts.R3(a) and

R3(b). Negative marking was introduced and was avoided for questions not answered; by Ext.R3(c), which is perfectly valid since that avoids wild surmises being made without any basis. Exts.R3(d) and R3(e) are said to be the communications of the DIT, Kerala, to the DGET, based on the report of the Enquiry Officer appointed by the State Department. Ext.R3(d) speaks of certain out-of-syllabus questions in a particular exam. This will have to be examined on the basis of the reply of NCVT.

6. Ext R3(e) however, is not worthy of consideration, which speaks of there being diminution in admissions for reason of a heavy syllabus. The ultimate aim in conducting vocational training is not merely to attract students to the course. The endeavour should be to bring forth skilled vocational hands, who can contribute effectively to industrial growth of the country. To qualify more, with dilution of standards, would only diminish the industrial growth.

7. The answer to the claim of out-of-syllabus questions is found in paragraph 19 of the counter affidavit of the NCVT which is extracted hereunder:

“Regarding the averments in paragraph 21 of the Writ Petition it is submitted that the objective of Vocational Training is to provide appropriate combination of skill and knowledge. The proper skill and knowledge is essential to cater competency. Though certain questions in 3rd semester paper were from the 1st and 2nd semester syllabus, which had already been taught to trainees, the questions were so simple and straight forward that trainees on basis of previous knowledge could easily answer it correctly. The basic idea of practical tests are to proceed from simple and to complex, so some of the question of 1st and 2nd semester which were very fundamental but essential in nature are included in the Practical Question Paper of 3rd semester. The vocational training is a skill imparting process and skill acquired during 1st and 2nd semester has to be retained till 3rd and final semester

to attain the overall competency of the trade. The skill attainment is reinforcing process and complete skills require the knowledge of basic element also. More over the same paper has been provided to all over India for draughtsman (Civil) trade. There is no complaint from any other State/Organization pertaining to Draughtsman (Civil) question paper of 3rd semester. It justifies that the question of said trade were relevant, though a few question are from the syllabus of 1st and 2nd semester but none from 4th semester or from other trades.”

8. Obviously, the NCVT found that the questions which are alleged to be out-of-syllabus, were relating to the portions included in the syllabus; but in the 1st and 2nd semesters. No student can insist that in the examination of a particular semester only portions taken in the said semester be included. The specific stand of the NCVT is that no questions of the 4th semester were included; since the students would not have been taught the same in the 3rd

semester. However, to test the aptitude of the students as also to enhance the skills acquired in the course, there were certain fundamental questions which related to the portions of the 1st and 2nd semesters, which cannot be found fault with. No student can have a grievance on the count that a question appeared in a semester, which actually was of the previous semester. An objection could definitely be raised on account of a question from a portion which was never taught, but not otherwise. It is also to be noticed that the so called out-of-syllabus questions are said to be fundamental to the trade.

9. A reading of Ext.R1(f) would indicate that the grievances considered were with respect to the All India Technical Training system, which grievances were forwarded by various State Directorates. The grievances raised by the petitioner has specifically been dealt with. Ext.R1(f) speaks of a 'Mentor Council' including industrialists, IIT Professors, State Directorate Officials, ITI

Instructors and other experts. The syllabus framed by such experts and the semester system brought in cannot be interfered with by this Court. The issue of out-of-syllabus questions raised by the petitioner did not find favour with the NCVT or the Council for the reasons afore stated in the counter affidavit. The committee minutes, produced along with Ext.R1(f) also shows that the out-of-syllabus questions identified in the semester exams for various trades were to be given full marks. No order can be passed by directing such full marks to be granted in the case of the trainees of Draughtsman Civil Paper I, 3rd semester examination in the Kerala State. The Committee did not find any reason to award such marks for any question in the Draughtsman Civil Paper I, 3rd semester, for reason of there being no such complaints received from any other part of the Country.

10. The petitioner, an Association of Managers of Industrial Training Institutions affiliated with the NCVT, cannot dictate the syllabus or the conduct of the

examination since it is for the NCVT, the academic body, to decide on the same. If specific instances of some mistakes having crept in, in the question papers are detected, then the same could be definitely raised before the NCVT.

11. The petitioner asserts that Exts. P7 and P8 representations filed, was not answered. The same are answered in Exts. R1(f) and R1(h) respectively. This Court does not find any reason to interfere with what has been stated in Exts.R1(f) and R1(h). Further Exts.P7 and P8 are said to be representations addressed to the NCVT, respectively by the petitioner and the students. Both of these highlight the grievance against the semester system and the difficulty expressed by the students with regard to the exams. They also seek to give emphasis to the training aspect and not the evaluation through examinations.

12. When an academic body, herein the NCVT, devises the conduct of a course in a particular manner and also puts in place a reasonable evaluation process, it is not

for this Court to interfere with the same under Article 226 of the Constitution of India unless it is found to be grossly unreasonable or arbitrary. Semester system is a widely accepted system in today's academics and it enables focus on particular topics, with evaluation made in each of the areas covered by a syllabi. An annual examination often would not be able to cover each and every area, in a syllabi which the semester system is able to achieve with lesser strain to the students.

13. As to the emphasis sought for training, the same cannot be ignored, especially in a vocational stream. But, that cannot lead to total erasing of evaluation by examinations. Herein, the petitioners continue the course with affiliation to the NCVT, and the certificates are to be issued by the NCVT. Training is imparted in the individual Industrial Training Institutions (ITI) and the assessment of the practical skill alone cannot be the norm for issuance of certificates by the apex body. The apex body too has to be

satisfied about the practical and theoretical knowledge of the students certified to be skilled in a particular trade. It is the duty of the petitioners herein to rise up to the occasion and have competent tutors, to train their students and equip them to be successful in the exams. The petitioners prayer for dilution of standards, in vocational training, for the alleged reason of their students being unable to cope with the syllabi, has been found to be an exercise rendering futile the course itself.

14. The petitioner also has not thought it fit to implead even one student who had appeared for the examination. The results have been stayed as on 17.04.2015 and the prejudice caused to the students cannot be ignored. For all the above reasons, this Court does not find any reason to interfere with the examination. The results shall be declared expeditiously at any rate within one week from the date of receipt of the certified copy of this judgment.

Writ petition would stand dismissed.

Sd/-
K.VINOD CHANDRAN,
JUDGE