

CWP No.9268 of 2014

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**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

**CWP No.9268 of 2014
Date of decision:03.08.2015**

Janki Institute of Art & Craft

...Petitioner

Versus

State of Haryana and others

...Respondents

CORAM: Hon'ble Mr. Justice Rakesh Kumar Jain

Present: Mr. Anil Ghanghas, Advocate,
for the petitioner.

Mr. RKS Brar, Addl. A.G., Haryana.

Mr. I.P.Singh, Advocate,
for respondent no.3.

Rakesh Kumar Jain, J.

The petitioner has prayed for a writ in the nature of *certiorari* to quash the notice dated 02.07.2012 (Annexure P-6), order dated 08.11.2012 (Annexure P-8) and for a writ in the nature of *mandamus*, directing the respondents to release the bank guarantee of ₹5,00,000/-.

In brief, the petitioner was provisionally given “No Objection Certificate” by the Director, Industrial Training & Vocational Education, Haryana, Chandigarh, on 28.11.2005 to start two units (total 60 Trainees) of two years Art & Craft Teacher Training Course for the year 2005-06, on the following conditions:-

“1. Society shall follow all the instructions given by

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the State Director from time to time to upkeep the standard of training and for welfare of the trainees.

2. The inspection of the Institute can be done at any time and the society will produce all the records of income and expenditure at the time of inspection.
3. Mere issuance of permission for the current year does not make the institute/society eligible/entitled for issuance of provisional NOC for the coming years.
4. Society will make all the payments of its employees through bank and statement of payment shall be shown by the society at the time of inspection.
5. You will charge only those fees and funds as per rates prescribed by the Govt. from time to time.
6. Society will make all infrastructural facilities including land, building, machinery, equipment and trained staff as decided in the policy.
7. Society will deposit an amount of Rs.50000/- as security as Bank Draft in favour of Head Master, Govt. Arts School, Rohtak.”

Thereafter, on the basis of the inspection conducted by the respondents on 05/19.04.2011, the petitioner-institute was granted conditional/provisional permission on 04.07.2011 for admission in Art &

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Craft Teachers Training Course for the session 2011-2013, on the following terms and conditions:-

“1. That you will deposit a Bank Guarantee of Rs.5.00 lacs in the name of Director, Industrial Training Deptt. Haryana with Headmaster, Govt. Art. School, Rohtak before date of start of admission for session 2011-13. The bank guarantee will be forfeited if the Centre/Organization failed to.

a) All the deficiencies noticed during last inspection will be removed within two months.

b) The training standard will be improved.

The infrastructure offered by the Centre for Art & Craft teachers Training Centre will not be used for any other purpose except for Art & Craft Teachers Training Centre without the permission of this directorate.

c) Complete staff required for the centre with specified qualifications will be appointed.

d) The salary to the staff will be paid through the bank.

e) Physical presence of the students will be ensured.

f) Will abide by the instructions issued by the department.”

It was also provided that the petitioner shall furnish an

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undertaking along with bank guarantee to the Headmaster, Govt. Art School, Rohtak, before starting the admissions and if it failed to remove the deficiencies and abide by the above terms and conditions, the provisional permission granted to the petitioner would be withdrawn and bank guarantee deposited would be forfeited.

The petitioner furnished the undertaking on 20.07.2011, which reads as under:-

“It is to be certified that refer to your letter no.T-8/Pvt./Art & Craft dated 13.04.2011 on the subject cited above, as per the subject described in our concern Institute letter. We do clear that as described deficiency, our Institution removes all deficiencies within two months.”

However, the deficiencies were found during the inspection on 13.04.2011, which read as under:-

- “1. Teachers are not maintaining training record i.e. Daily Diary, Lesson Plan, Demonstration Plan etc.
2. Attendance Register of students are not being maintained properly.
3. Education Teacher Language Hindi & English does not fulfill qualification as per requirement (only one teacher has been appointed for both subjects), but on checking the documents of Education Teacher Language, it is found that

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Education Teacher Language fulfills the
qualification as per requirement.”

Thereafter, the respondents had noticed various other repeated
deficiencies and, ultimately, on 02.07.2012, the following notice was given
to the petitioner:-

“Memo No.KC/T6/Pvt.Art&Craft/Admission/2011-13-
1223/1516 Dated 2.7.12/1.8.12.

Your institute was granted temporary permission
for admission in Art.& Craft Teacher Training Course
vide director I.T.I. Letter No.T-8 Art & Craft
Admission/2011-13 dated 04.07.2011 on the conditions
mentioned below:-

1. That you will deposit a bank guarantee of Rs.5.00
lacs in the name of Director Industrial Training
Department Haryana with Principal/Headmaster Govt.
Art School Rohtak before admission for session 2011-
13, the bank guarantee will be forfeited if the
Centre/Organization failed to.
 - a) All the deficiencies noticed during last inspection
will be removed within two months.
 - b) The training standard will be improved. The
infrastructure offered by the Centre for Art &
Craft TTC will not be used for any other purpose
except for Art & Craft TTC without the

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permission of this directorate.

- c) Complete staff required for the centre with specified qualifications will be appointed.
- d) The salary to the staff will be paid through the bank.
- e) Physical presence of the students will be ensured.
- f) Will abide by the instructions issued by the department.

According to the abovesaid conditions your institute had submitted a Bank Guarantee of Rs.5 lakh with the Principal, government Art School, Rohtak and thereafter admissions were permitted. The inspection committee carried out inspection of your institute on 4.1.2012 and found under mentioned discrepancies.

- 1. Classes are not being taken and practical jobs are not conducting regularly as per requirement of the syllabus.
- 2. Maximum Tools and Equipment are short.
- 3. Instructions are not preparing Instructional material and Training Material.
- 4. Strength of the students admitted is very poor only eleven students are in 1st year and 15 students are in 2nd year.
- 5. Internet connection is not available.

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The Government has taken a decision that the bank guarantee deposited by you institute is to be forfeited and by withdrawing your temporary recognition, transfer the students to other training institutes. In case you wish to put your defence in this matter you may do so within 3 days on receipt of this letter otherwise the action will be taken as per rules.”

The petitioner is alleged to have responded to the aforesaid notice on 09.08.2012, with the following reply:-

“In reference to your office letter no.KC/T6 Pvt. Art & Craft/ Admission 2011-13, 1223/1517 dated 2.7.12/1.8.12, in compliance of the abovesaid it is submitted that the shortcomings referred during the inspection by the department dated 4.1.2012, have been rectified. Earlier bank guarantee of Rs.5 lakh and at present bank guarantee of Rs.7.5 lakh has been deposited on 30.6.2012 and has been sent to your office through Art & Craft School, Rohtak.

It is also submitted that the earlier president of this Institute Sh. Amar Chand has resigned on 30.7.2012 and Sh. Ram Charan Sharma has taken over as President on 31.7.2012. All the correspondence may kindly be made in his name in future. It shall be so kind of you. The photocopy of resignation of Ex-President and joining of

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new President are attached.”

Ultimately, the respondents passed the impugned order on 25.09.2012/08.11.2012, which reads as under:-

“Your institute was granted conditional permission for admission to Art & Craft Course for the years 2011-13 vide letter no.T8/Art&Craft/Admissions/2011-13 dated 4.7.2011, to deposit the bank guarantee of Rs.5.00 lacs in favour of Headmaster Art School Rohtak and remove the deficiency within 2 months. The inspection committee inspected your institute on 04.01.2012 and found the following discrepancies which are mentioned as under:-

1. Classes are not being taken and practical jobs are not conducting regularly as per requirement of the syllabus.
2. Maximum Tools and Equipment are short.
3. Instructions are not preparing Instructional material and Training Material
4. Strength of the students admitted is very poor only eleven students are in 1st year and 15 students are in 2nd year.
5. Internet connection is not available.

In this connection your institute was issued with a notice vide this directorate letter no.KC/T-6/Pri Art &

Craft/Admission/2011-13/2013 dt. 2.7.2012. Your institute has not removed above mentioned discrepancies. Therefore why your bank guarantee of Rs.5.00 lacs should not be forfeited. You have submitted your reply to the notice on 09.8.2012. Your reply is not found satisfactory, as per the directions of the Government the bank guarantee of your institute for Rs.5.00 lacs is forfeited.”

Counsel for the petitioner has argued that before passing of the impugned order, the respondents have not taken the objections of the petitioner into consideration inasmuch as an opportunity of hearing has not been granted to it.

On the other hand, counsel for the respondents have submitted that before passing the impugned order, show cause notice was given to the petitioner and the deficiencies noticed in the inspection dated 04.01.2012 were also highlighted, but the petitioner submitted a vague reply of having rectified the deficiencies, without giving any detail, as a result thereof, the respondents have passed the order finding that the deficiencies have not been removed.

I have heard learned counsel for the parties and examined the available record.

There is no dispute that before passing the impugned order, a show cause notice was given to the petitioner, highlighting the deficiencies noticed by the Inspection Committee in the inspection dated 04.01.2012 and

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the petitioner was made aware that in case the deficiencies are still found subsisting, the bank guarantee deposited by the petitioner would be forfeited and provisional permission would be withdrawn. The petitioner was given time of 3 days to put up their defence after the receipt of the notice dated 02.07.2012, but when the petitioner submitted their reply on 09.08.2012, much after a period of 3 days, the same was entertained by the respondent, but in the said reply, the petitioner did not satisfy as to how they have removed the deficiencies except for giving a vague reply that the shortcomings noticed in the inspection dated 04.01.2012 have been rectified. The respondents have, thus, observed that the shortcomings found during the inspection dated 04.01.2012 were not found to have been removed and the the impugned order was passed.

In view of the aforesaid discussion, there is no error on the part of the respondents in passing the order under challenge because the said order has been passed after giving due opportunity to the petitioner.

Consequently, the present petition is hereby dismissed being denuded of any merit.

August 03, 2015
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(Rakesh Kumar Jain)
Judge