

***IN THE HIGH COURT OF DELHI AT NEW DELHI**

%

Date of decision: 27th August, 2015

+

W.P.(C) 8073/2015 & CM No.16684/2015 (for stay)

**MAYA DEVI INSTITUTE OF ADVANCED
EDUCATION PVT. ITI**

..... Petitioner

Through: Mr. V.V. Gautam, Adv.

Versus

**C.E.O., NATIONAL ACCREDITATION BOARD FOR
EDUCATION & TRAINING, QUALITY
COUNCIL OF INDIA & ORS**

..... Respondents

Through: Mr. Vikas Chopra, Adv. for R-1.
Ms. Monika Arora, CGSC with Mr.
Gaurav Upadhyay, Adv. for R-
2&3/UOI.

CORAM :-

HON'BLE MR. JUSTICE RAJIV SAHAI ENDLAW

RAJIV SAHAI ENDLAW, J.

1. The counsel for the respondent No.1 National Accreditation Board for Education & Training (NABET) has today in Court handed over a short affidavit which is taken on record.
2. The counsel for the petitioner Industrial Training Institute (ITI) states that since the writ petition unless heard today will become infructuous, he does not wish to file a rejoinder and the matter may be decided on the basis

of the writ petition and the counter affidavit filed by the respondent No.1 NABET.

3. The counsels have been heard.

4. The petitioner ITI has filed this petition pleading:

(i) that the petitioner ITI has been set up by a Society (Mann Samriddhi Social Welfare and Education Society registered under the Madhya Pradesh Society Registration Act, 1973 on 16th October, 2009) to impart education at Nagukhedi, District Dewas, Madhya Pradesh;

(ii) that the respondent No.2 NCVT has developed an accreditation document for NCVT Affiliation of Government and Private ITIs and all ITIs intending for NCVT Affiliation are first required to obtain accreditation from Quality Council of India (QCI) and which in turn has set up the respondent No.1 NABET for handling the scheme of accreditation of ITIs;

(iii) that the respondent No.3 Directorate General of Employment & Training, Union of India had laid down criteria / guidelines for grant of accreditation and affiliation of ITIs;

- (iv) that the petitioner ITI on 24th February, 2015 submitted its application for accreditation, to provide Industrial Training in Electronic Trade;
- (v) that the assessor of the respondent No.1 NABET inspected the petitioner ITI on 16th June, 2015 and submitted a report pointing out few deficiencies and which were also conveyed to the petitioner ITI;
- (vi) that the petitioner ITI rectified all the said deficiencies and submitted a compliance report on 7th July, 2015;
- (vii) the respondent No.1 NABET however, after watching the video prepared of the inspection on 16th June, 2015, raised another set of objections on 7th August, 2015 and proposed re-visit of the petitioner ITI;
- (viii) that the respondent No.1 NABET, under the guidelines laid down by the respondent No.3, is not entitled to so re-visit the petitioner ITI.

Accordingly, this petition seeking, (i) a mandamus to the respondent No.1 NABET to grant accreditation to the petitioner ITI with or without causing any further inspection and without any further delay; and, (ii) a mandamus to the respondent No.2 National Council

for Vocational Training (NCVT) to grant affiliation to the petitioner ITI before 31st August, 2015, so that the petitioner ITI can admit students for ITI course in the academic year 2015-2016.

5. The petition came up before this Court first on 24th August, 2015 when the counsel for the petitioner ITI informed that the respondent No.1 NABET, since the filing of the petition had conducted a second inspection of the petitioner ITI on 22nd August, 2015. Notice of the petition was issued. The counsel for the respondent No.1 NABET, as aforesaid, has handed over in Court today a short counter affidavit and the petitioner ITI has chosen not to rejoin thereto.

6. The counsel for the petitioner ITI, during the hearing today has drawn attention to the report of the inspection dated 16th June, 2015 to show that only four minor deficiencies of, (a) the exhaust pipe of one of the Diesel Generator set being not connected to workshop; (b) the ring of Diesel Generator set in workshop being loosely grouted; (c) the emergency gates having not been demarcated in all the workshops; and (d) the projector screen was found moist with water in the IT Lab, were found. He has also drawn attention to the compliance report submitted. He has contended that the petitioner thus ought to have been granted accreditation and affiliation.

7. I may notice that vide communication dated 7th August, 2015 supra it was pointed out to the petitioner that from the videograph of the inspection on 16th June, 2015, it appeared that in the same building from which the petitioner ITI proposed to provide Industrial Training in Electronic Trade, B.Ed. and D.Ed. courses were also being conducted and which was not allowed as per norms. It was further pointed out that the electric connection should be in the name of the petitioner ITI and the Diesel Generator set should be replaced.

8. The respondent No.1 NABET, in the short affidavit filed today, has stated that:

(I) there is no illegality, upon a doubt having arisen, in carrying out a second inspection of the petitioner ITI;

(II) rather, the petitioner ITI without having any accreditation till date is found to have already started advertising and which it is not entitled to do;

(III) that the application submitted by the petitioner ITI for accreditation was not even complete and deficiencies pointed out to the petitioner ITI after the desktop assessment of the said application were rectified by the petitioner ITI only on 26th May, 2015 and

immediately whereafter the first inspection was carried out on 16th June, 2015;

(IV) that in the second inspection on 20th August, 2015 (and not 22nd August, 2015, as informed by the petitioner ITI earlier), it has been found that the petitioner ITI has concealed in the application the fact that the aforesaid Society under which the petitioner ITI has applied for accreditation is already running another ITI for same trade in premises having the same address and in the name and style of M.S. Pvt. ITI;

(V) that the petitioner ITI, in the application form, was required to disclose the details of the previously accredited ITI functioning at the same premises, but did not do so;

(VI) that the second inspection was deemed necessary after watching the video of the first inspection and finding certain discrepancies in the video and the report submitted by the assessor;

(VII) that during the second inspection, report of which had also been immediately made available to the petitioner ITI by uploading on the website, various non-compliances, list whereof is appended, were found;

(VIII) that the petitioner ITI has not been found to fulfil the minimum criteria of equipments for being entitled to accreditation;

(IX) that on most of the equipment found in the petitioner ITI during the second inspection on 20th August, 2015, the name of other ITI namely M.S. Pvt. ITI alongwith number of the application by which M.S. Pvt. ITI had sought accreditation , was found, suggesting that the same is not of the petitioner ITI and was shown during inspection merely to obtain accreditation and affiliation without the same being available to students;

(X) that the petitioner is thus guilty of misrepresentation and has concealed from this Court also the fact of the Society which has set up the petitioner ITI already running another ITI.

9. I may mention that in the second inspection, deficiencies of, (A) the electrician workshop not having the requisite area; (B) proper meter sealing report indicating the sanctioned power load being not available; and, (C) the qualification of the training officer not matching with the prescribed norms, were also found.

10. The counsel for the petitioner ITI has not controverted that the same Society, which has set up the petitioner ITI, is running another ITI in the name of M.S. Pvt. ITI.

11. The counsel for the respondent No.1 NABET has drawn attention to the prescribed application form filled by the petitioner and against one of the columns, “Details of any other NCVT affiliated ITI’s which are running under the same organization (If Yes, please Enter the Details in Below Fields)” wherein the petitioner ITI has not filled up any details .

12. The counsel for the petitioner ITI has urged that the petitioner ITI was not required to disclose the other ITI, inasmuch as the petitioner ITI is an independent entity from the other ITI.

13. There is however no merit in the said contention. As aforesaid, it is not in dispute that the petitioner ITI is set up by the Mann Samriddhi Social Welfare & Education Society. The petitioner, while filling up the prescribed application form for accreditation, while filled up its name against the column “Name of Institute” filled up the name of the Society against the column “Name of Organisation”. The petitioner thus against the column “Details of any other NCVT affiliated ITI’s which are running under the

same organisation” was indeed required to give the particulars of the other NCVT affiliated ITI being run by the Society and which it failed to do.

14. The counsel for the petitioner ITI then urges that the petitioner ITI had nothing to gain from concealing the said facts and the error if any is unintentional and under a misconception.

15. We, as of today, cannot say what could be the reason for the petitioner ITI for not disclosing the other ITI being run by the same Society which has set up the petitioner ITI. However it is quite possible that if the other ITI has been disclosed and it had also been disclosed that the other ITI is running / operating from the same address, the Inspector / Assessor making the site visit as well as the respondent No.1 NABET, while studying the Inspection Report, would have specifically applied themselves to the possibility of compliances being shown with the equipment and other infrastructure of other ITI, when the petitioner ITI appears to be required to have its own separate equipment / infrastructure.

16. It thus cannot be said that the mis-statement or the suppression in which the petitioner has provenly indulged in while seeking accreditation and affiliation is such which would have no impact on the grant thereof. I am of the view that the petition is liable to be dismissed on this ground alone, of

the petitioner ITI having played a fraud while making the application for accreditation and having also misrepresented facts and concealed material facts in the petition preferred before this Court.

17. I must however record that the counsel for the petitioner ITI also sought to argue that the guidelines having provided for time period of 90 days for dealing with an application for accreditation, upon the respondents not refusing accreditation within the said time, accreditation stood automatically granted; he went to the extent of stating that there is a deeming provision in the guidelines but when asked to point out, could not show any.

18. I may notice that though the guidelines provide for total time for accreditation process to be of 90 days from the date of completion of application but the same has been made subject to the delays taking place at the applicant's end. As per the short counter affidavit of the respondent No.1 NABET and to which the petitioner ITI has chosen not to rejoin, the petitioner ITI made up the deficiencies in the application only on 26th May, 2015 and for this reason also, it cannot be said that the said period of 90 days was over. In any case, once the petitioner ITI in the application is found to have concealed the facts, which it was specifically required to state, the

timeframe, even if were held to be mandatory, is of no relevance, inasmuch as, upon the petitioner ITI being found guilty of fraud / suppression, the accreditation, even if had been granted, would have been revoked. Reliance if any needed on the proposition, may be placed on *Abhyudya Sanstha Vs. Union of India* (2011) 6 SCC 145.

19. Accordingly, the petition is dismissed with costs of Rs.10,000/- payable to the respondent No.1 NABET.

RAJIV SAHAI ENDLAW, J.

AUGUST 27, 2015

bs

(corrected and released on 8th September, 2015).