

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.04.2016

CORAM :

THE HONOURABLE MR.JUSTICE R.SUBBIAH

W.P.No.1743 of 2014

Thanthai Periyar ITI
rep by its Principal
A.Narayanan.

... Petitioner

Vs.

1. The Director of Training and Secretary to
National Council for Vocational Training
Directorate General of Employment and Training
Ministry of Labour, Government Of India
New Delhi.

2.The Director of Employment and Training
Gunidy, Chennai-32.

... Respondent

Writ petition is filed under Article 226 of the Constitution of India praying for issuance of Writ of Mandamus to direct the first respondent to issue National Trade Certificate to the students, who appeared ITI electrician course in the year 1997 in the petitioner ITI viz., Thanthai Periyar ITI, Kuppichipalayam, Bhavani Taluk, Erode District, Tamil Nadu State for enabling them to join duty in the Tamil Nadu Electricity Board by disposing the written representation made by the petitioner on 06.01.2014 within a stipulated time.

For Petitioner : Mr.C.Prakasam

For respondent : Mr.D.Chander for R1.
Mr.V.Jayaprakash Narayanan,
Spl.GP for R2.

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With the consent of both sides, the Writ Petition is taken up for final disposal.

2.The petitioner has come forward with the present Writ Petition seeking for issuance of Mandamus to direct the first respondent to issue National Trade Certificate to the students, who appeared ITI electrician course in the year 1997 in the petitioner ITI viz., Thanthai Periyar ITI, Kuppichipalayam,

Bhavani Taluk, Erode District, Tamil Nadu State for enabling them to join duty in the Tamil Nadu Electricity Board by disposing the written representation made by the petitioner on 06.01.2014.

3.The petitioner is the principal of Thanthai Periyar ITI Kuppichipalayam, Bhavani Taluk, Erode District. The said institution was started in the year 1989 and in the year 1995 classes were started for electrician course, during that period 40 students were admitted in the said course, at that time, the petitioner made representation before the respondents for affiliation, but the first respondent granted affiliation only during the month of August 1997. After completion of two years, the students were permitted to appear for the examination by the respondents during 1997 and the second respondent issued Provisional National Trade Certificate to all the 40 students on 22.10.1997.

4.Based on the Provisional National Trade Certificate issued by the second respondent, the petitioner made representation before the first respondent for issuance of National Trade Certificate, but the first respondent till date has not issued the National Trade Certificate. On the other hand, the second respondent informed that the electrician course was affiliated only from the month of August 1997. The petitioner states, that the respondents permitted the students to write examinations in the year 1997 and issued provisional certificate in the month of October 1997 and awarded marks to all the students by the second respondent, the first respondent ought to have issue National Trade Certificate for the students who appeared for the examination in the month of July 1997. But till date, the first respondent refused to issue National Trade Certificate to the petitioner institution, hence the petitioner filed the present writ petition.

5.The first respondent filed its counter inter alia stating that the first respondent granted affiliation with effect from August 1997 and August 1998, but the petitioner institution admitted 40 students from August 1995 itself, in the electrician course, even prior to the affiliation. As per Appendix IX of Training Manual that "the State Director may seek permanent affiliation by forwarding the Inspection Report (Annexure-III) to the Secretary, NCVT, New Delhi. The State Director need not wait for an instruction in this matter from Secretary, NCVT. He may grant permission to the management of the Institute to admit trainees in the trade/units which have been recommended for permanent affiliation by the Standing Committee". However, it is made clear in the present case, permanent affiliation is not granted, final trade test and certificate would be the responsibility of respective State Council for Vocational training. The second respondent is vested with the powers of granting provisional permission to the management of the institute to admit the trainees in the trades/units.

6.Hence, the second respondent had granted provisional National Trade Certificate to the petitioner to admit the trainees in anticipation of permanent affiliation to be granted by the first respondent. However, in case if permanent affiliation is not granted by the National Council for Vocational Training then the testing trade certificate should be issued by the respective State Council for Vocational Training. The petitioner institute is fully aware of the above provision given in the training manual, hence, the petitioner institute is not entitled to claim National Trade Certificate. Thus, sought for dismissal of the present writ petition.

7.The learned counsel appearing for the petitioner submitted that the second respondent issued a provisional National trade certificate and hence there cannot be any impediment for the first respondent to issue National trade certificate to the petitioner institution.

8.It is the submission of the first respondent that the petitioner institution has got affiliation only in the year 1997, whereas the petitioner admitted 40 students even prior to the grant of affiliation during 1995-1996. Therefore, the petitioner institution is not entitled to get affiliation for National Trade Certificate.

9.I am of the opinion, the present writ petition has been filed to consider the representation of the petitioner dated 06.01.2014. The said representation dated 06.01.2014 is pending before the first respondent for consideration, the first respondent ought to have disposed the said representation either by rejecting the representation of the petitioner institution or by passing any other appropriate orders with regard to issuance of National Trade Certificate. The first respondent cannot keep the representation pending. Hence, this Court, without going into the merits of the case, directs the first respondent to consider the representation of the petitioner institution dated 06.01.2014 and pass appropriate orders, on merits and in accordance with law, within a period of six weeks from the date of receipt of a copy of this order, after affording opportunity of personal hearing to the petitioner institution as well as to the necessary parties, if any. It is made clear that this Court has not expressed any opinion with regard to the merits of the claim of the petitioner.

10.The writ petition is disposed of accordingly. No costs.

Sd/-
Asst.Registrar (CO)

/true copy/

Sub Asst. Registrar

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To

1. The Director of Training and Secretary to
National Council for Vocational Training
Directorate General of Employment and Training
Ministry of Labour, Government Of India
New Delhi.

2.The Director of Employment and Training
Gunidy, Chennai-32.

1 cc to Mr.C. Prakasam, Advocate, Sr. 22262

1 cc to Mr.D. Chander (ACGSC), Advocate, sr. 21911

W.P.No.1743 of 2014

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