



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 20.04.2016

CORAM:

THE HONOURABLE MRS.JUSTICE PUSHPA SATHYANARAYANA

W.P (MD) Nos.10802 and 10803 of 2015

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Sri Adhisankarar Industrial Training Centre,
rep. By its Correspondent,
51/12, Thiruvanaikoil,
Trichy-5.

...Petitioner in W.P.(md).No.10802/2015

Sri Adhisankarar Industrial Training Centre,
rep. By its Correspondent,
2nd street, V.O.C.Nagar,
Thanjavur-7.

...Petitioner in W.P.(md).No.10803/2015

Vs.

1.The Directorate General,
Employment & Training,
Ministry of Labour and Employment Training,
Shram Shakti Bhawan, Rafi Marg, New Delhi.

2.The Director,
Employment & Training,
Guindy, Chennai-600 032.

3.The Regional Joint Director,
Employment Training, Guindy,
Government Multi Department Building,
Campus, Kazhamalai,
Trichy-20.

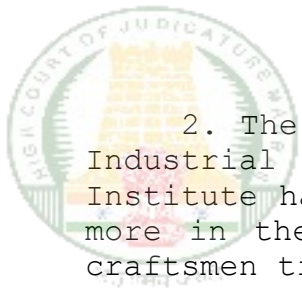
...Respondents in both writ petitions

Prayer in both Writ petitions: Writ Petition is filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus calling for the records of the third respondent culminating in the order dated 29.05.2015 made in Na.Ka. No. 2392/B/2015 passed by the 3rd respondent and quash the same and consequently direct the second respondent to publish the results of the students of the petitioner Management admitted for the 2012-2014 academic session as per the annexure enclosed in the typeset of papers filed to this Writ Petition. In both W.Ps:

For Petitioner : Mr.G.Thilakavathy
For Respondents : Mr.S.Sadeshkumar
Addl. Government Pleader
for RR-2 & 3
Mr.S.Jayasingh for R-1

COMMON ORDER

The writ petitions are filed challenging the order of the third respondent dated 29.05.2015 declining to publish the examination results of the students of the petitioner's institute. The reason for such refusal is that certain delinquencies are on the part of the petitioner.



2. The petitioner in both the writ petitions is the Sri Adhisankarar Industrial Training Centre, Trichy and Thanjavur. The petitioner Institute has been established for imparting technical courses, which are more in the nature of Certificate Courses, after the student undergoes craftsmen training for a period of two years.

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3. The circumstance leading to the present situation is that there was a surprise inspection in the petitioner's institute on the ground that the students admitted in 2012-2014 session have not undergone full training period. During the above said inspection, the records of the institutes were seized and taken away by the officials. Earlier, when the results were withheld, the petitioners along with other Industrial Training Institutes had filed W.P.No.1702 of 2015 etc. batch, in which, at paragraph No.8, the Principal Bench of this court has held as follows:

"8. Thus, it is seen that the dispute is whether the candidates underwent the training for the full period and this has to be established by the petitioners' institutions by producing sufficient records. Since the records in respect of the Institutions in the Southern Region are in the custody of the third respondent, the petitioners should be afforded an opportunity to appear before the third respondent and demonstrate from the records in the possession of the third respondent as well as other records, which are in their custody and establish that the candidates of the respective institutions underwent the training for the full period. In respect of Institutions where records not taken by the third respondent Department, those institutions also should produce records before the third respondent and establish that the candidates were imparted training for the full period for the session 2012-2014. If the petitioner Institutions are able to establish that the disputed trainees had completed the training satisfactorily as per the norms prescribed, then, it is open to the third respondent to consider the same and pass orders for publication of results without further loss of time. However, in the event there is no satisfactory explanation, then, it is open to the third respondent to pass a speaking order as to why the candidates' result cannot be published."

4. Pursuant to the said order, the third respondent had sent a communication dated 23.04.2015 to the petitioners' institute to produce all the relevant records including the documents of educational qualification of the 17 candidates of the electrician course of Trichy institute and 29 students of Thanjavur institute. A committee was also constituted under the administrative control of the third respondent in this regard. The above said committee was requested to submit a report as to the veracity of the relevant records contained in the petitioner Institute. The third respondent also is said to have afforded sufficient opportunity to the petitioner institute to satisfy the authorities for the publication of the results. The committee, after scrutinizing the relevant records produced by the petitioner institute with regard to the details of the disputed 29 + 17 trainees noted several defects and discrepancies.

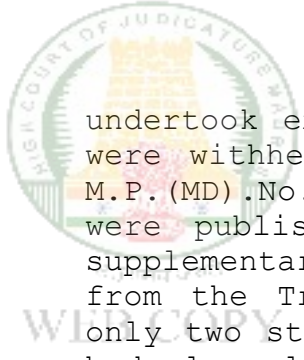


5. As per the inspection report of the committee, only a single list has to be maintained for the trainees admitted in August 2012, but it is proved and confirmed that there is a separate admission list maintained for the disputed 29+ 17 trainees. It is also alleged that there is no entry found in the Attendance Register for 29 disputed trainees along with regular trainees. The registration fee was also paid by the disputed trainees only after regular admission was over. Certificate Verification fee was also paid belatedly after the commencement of the examination for the disputed trainees. For one of the trainees, 10th standard mark-sheet, though was issued on 30.05.2014, she was included in the August list. One another discrepancy pointed out by the Inspection committee was that the examination fee was paid by the institution on 27.06.2014 itself, when the approval was accorded by the third respondent only on 14.07.2014. There were other minor discrepancies pointed out by the Inspection Committee namely that the trainees' training records were not recorded and the Consumable Register has not been maintained properly.

6. Based on the report of the Inspection Committee, the third respondent had passed the impugned order, which is a speaking order and communicated the same to the petitioner, which is now under challenge.

7. Heard both sides.

8. The learned counsel for the petitioner submitted that upto the year 2012, semester pattern of examination was conducted for the students for various approved trades in the petitioners' institute. Admission of the trades are completed by October/November of the respective year and the examination was conducted after the course is completed. It is stated that after the initial admission, there were delayed admissions, which was due to the change of the study patterns caused by various managements. Therefore, the association of management submitted a representation seeking for approval for the trainees, who were admitted belatedly. The second respondent also issued direction to the third respondent to cause verification of the students, who have been admitted belatedly, as requested by the association and to grant approval for them. The examinations were conducted in the second week of July 2014 and normally, the results of the examination would be published in the third week of October or in the first week of November. Since the results were not published for the students of 2012-14 batch, till the second week of February, the petitioner management had to file batch of cases along with other institutes. The second respondent, while publishing the results for the students for whom, approval was granted immediately upon their admission withheld the results of the disputed students. The third respondent also had issued show cause notices calling upon the petitioners to explain the reason for not giving training to the disputed students. When the same was challenged before this court, the department was directed to give a fair opportunity to the management to give an explanation with respect to the manner of training undergone by the students in completing the session. Accordingly, the inspection committee was appointed and based on the inspection report, the impugned order was passed. So far as the petitioner in W.P.(MD).No.10803 of 2015 is concerned, 84 students undertook examination for electrician trade and the result of only 17 students were withheld. With respect to the petitioner in W.P.(MD).No.10803 of 2015, 63 students



undertook examination for electrician trade and results of 29 students were withheld. Pursuant to the interim order passed by this court in M.P.(MD).No.1 of 2015 in the above writ petitions, on 13.07.2015, results were published and the students who failed were directed to undergo supplementary examinations in July 2015. Of the 17 disputed students, from the Trichy Institute, 15 students had passed the examination and only two students have failed and in the supplementary examination, they had also cleared the examinations. So far as the 29 disputed students of Thanjavur institute is concerned, 14 students had passed and 15 students had failed originally and in the supplementary examinations, the failed 15 students also had cleared their examinations.

9. The contention of the learned counsel for the petitioner is that if really the students had not undergone the training, as alleged by the respondents, they could not have cleared the examinations. The discrepancies pointed out by the inspection committee were only with respect to certain dates and the delinquencies by the management. The one of the defects pointed out that examination fees was paid even before the approval could come which may be for the reason that the date for payment of examination would be over before the approval could come. The non-maintenance of Consumable Register of the trainee records may not be put against the students. The publication of the results also goes to show that all the candidates have cleared the examinations and only certificates have to be issued by the third respondent. As all the students admitted have successfully completed their courses, they cannot be penalized by withholding their certificates. The trainees, who joined the institute would not have been aware of the fact that the petitioner institutes are not complying with the required formalities as expected of them. The very fact that all the students have cleared the examinations would go to show that they have completed the training satisfactorily as per the norms, though their admission might have been belated. Excepting the fact that they have not undergone the training by virtue of the reason that their admission was delayed, there is no grave error committed by the institute for penalizing the disputed students. Therefore, this court is of the opinion that the impugned order may be set aside and the students who had cleared the examinations had to be issued their qualification certificates.

10. If the petitioner institutes are violating any of the norms that may be prescribed, it is always open to the respondent to pass orders on time without affecting the student community. The said check by the respondents may be done in advance and stop the institutes like petitioner indulging in any kind of malpractice. The institutes also cannot convert sympathy towards the students to their advantage and continue to violate the norms. In the light of the above, the writ petitions are allowed setting aside the impugned order dated 29.05.2015 made in Na.Ka. No. 2392/B/2015 passed by the 3rd respondent and the respondents are directed to issue the Course Completion Certificates to the candidates, who have successfully cleared the examinations. Consequently, connected miscellaneous petitions are closed. No costs.

Sd/-

Assistant Registrar(CS-II)

<https://hcservices.ecourts.gov.in/hcservices/> /True Copy/

Sub Assistant Registrar(CS)



To

1.The Directorate General,
Employment & Training,
Ministry of Labour and Employment Training,
Shram Shakti Bhawan, Rafi Marg, New Delhi.

2.The Director,
Employment & Training,
Guindy, Chennai-600 032.

3.The Regional Joint Director,
Employment Training, Guindy,
Government Multi Department Building,
Campus, Kazhamalai,
Trichy-20.

+1cc to M/s.G.Thilakawathi, Advocate in SR.21787
+1cc to the Special Government Pleader, in SR.22450
+1cc to M/S.S.Jeyasingh, Advocate in SR.No.23340

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vs

PBK/NGM-SS/AR-I 22/04/2016 ::5P-7C:: (IT)