

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

CWP No. 21674 of 2016
Reserved on: 30.11.2016
Date of decision: 14.12.2016

Punjab Private ITI/ITC Association (Regd.)

....Petitioner(s)

Versus

Union of India and others

...Respondent(s)

CORAM: HON'BLE MR. JUSTICE G.S.SANDHAWALIA

Present: Mr. A.S. Virk, Advocate,
for the petitioner.

Mr. Vinod Sharma, Advocate,
for respondents no. 1 and 2.

Ms. Lavanya Paul, AAG, Punjab.

G.S.SANDHAWALIA, J.

The petitioner-association challenges the communication dated 06.10.2016 (Annexure P-12) issued by respondent no. 2-Directorate General of Training, Government of India whereby, decision was taken to extend the last date for admitting trainees to the Craftsman Training Scheme (CTS) till 09.10.2016. This benefit was only given to the ITIs which were granted affiliation by the sub-committee of the National Council for Vocational Training (NCVT) in its meeting held on 23.09.2016 and on the meeting which was to be held on 07.10.2016.

Challenge has also been raised in the amended writ petition to the passing of the order dated 10.11.2016 (Annexure P-12/A) issued by the same respondent whereby, it has declined to extend the last date for admission in reference to the request made by respondent no. 3-Directorate,

Technical Education and Industrial Training, Punjab, which had been made vide letter dated 06.10.2016.

It is the case of the petitioner that the prospectus had been issued in May, 2016 for the session 2016-17 for making online centralized admissions for the Government as well as the private ITIs and notice dated 02.06.2016 (Annexure P1/B) had been issued for making centralized admissions. The cut off date as per the same was fixed as 26.08.2016 for the fourth counseling and classes have to start from 01.08.2016 since the first counseling was slated from 06.07.2016 to 10.07.2016. A corrigendum was issued on 11.07.2016 (Annexure P-2) refixing the schedule for partial amendment. The admission was to be made to 245 private affiliated ITIs against the sanctioned 72,250 seats which were part of Government as well as private ITIs.

There is no dispute that the last date of admission was 31.08.2016 as per the communication dated 14.12.2015 and 17.05.2016 (Annexures P-3 and P-4). Vide notice dated 29.08.2016 (Annexure P-5), by way of fifth counseling, the last date was extended to 31.08.2016. Thereafter another notice was issued on 14.09.2016 (Annexure P-6) vide which, counseling was also fixed between 23.09.2016 to 25.09.2016 on account of the affiliations granted to as many as 20 private ITIs in the State of Punjab as late as 25.09.2016 and 27.09.2016 and on account of these institutions having not participated in the online centralized admission process. It is apparent that the order dated 06.10.2016 was passed for extending the last date upto 09.10.2016 for the said ITIs. The restriction was, thus, made only to the ones which were granted affiliation subsequently as they would not have been able to fill up the seats.

The petitioner-association had accordingly made representation on 26.09.2016 (Annexure P-11) to respondent no. 3 on account of vacant seats that only 42% of the seats had been filled up in private institutions and, therefore, the last date for admission should be extended upto 31.10.2016. The said request was accordingly forwarded to respondent no. 2 on 06.10.2016 (Annexure P-12). The denial by the said respondent is on the ground that 90 days' training is essential to acquire the necessary skills of ITI training in each semester. The quality of teaching should not be compromised and the next semester has to begin by March, 2017. The session was to start by 10.10.2016 and the second semester would start from 02.02.2017.

Counsel for the petitioner has accordingly submitted that even as per the prospectus, there was no such clause regarding 90 working days and there were two shifts with the ITIs and extra classes could be conducted. Reference was accordingly made to Annexure P-14 dated 21.06.2016 that the condition of providing minimum of 90 days was subsequent event and, therefore, the prospectus would prevail having the force of law. Reliance was also placed upon letter dated 07.01.2016 to submit that 80% attendance could be counted as a cumulative effect in both the semesters and, therefore, even at this stage, the last date could be extended.

After hearing counsel for the petitioner and the respondents, this Court is of the opinion that the argument raised is not liable to be accepted at this belated stage. The respondents have specifically denied the receipt of the communication dated 06.10.2016 (Annexure P-12). It has, however, been admitted that similar requests were made from other States

but they could not be considered keeping in view the norms of 90 days' training which is required to clear the necessary skills. The session was to start by 10.10.2016 and, therefore, the admissions could not be further extended in the current session. In the additional affidavit now filed on behalf of respondents no. 1 and 2, it has been further pointed out that 10 to 16 weeks of syllabus had already been completed. Sessional examination was scheduled for 25.10.2016 and till date, only 45 days are left for the first semester's final examination. The minimum of 90 days was required to complete the course and it was mandatory that the training is done by the institution. Merely minimum attendance requirement and the mandatory 90 days were two different criterion. The training was essential for the candidates to ensure that quality of teaching should not be compromised.

The argument of counsel for the petitioner that in similar circumstances for the earlier academic year directions have been issued to extend the date which should also be applied in the facts and circumstances is liable to be rejected. As noticed, initially, the cut off date was fixed as 31.08.2016 which was pushed till 25.09.2016. It had further been extended only in the cases of newly recognized ITIs who have not been able to utilize the centralized counseling on account of late recognition. Thus, for all practical purposes as the classes had started from 10.10.2016, the relief to extend the admission date beyond the prescribed period would only lead in producing half baked students who would not have adequate experience in training. The argument raised that the 90 days has been prescribed subsequently on 21.06.2016 and it was not part of the prospectus is also not liable to be extended.

As per the prospectus itself, the department has a right to

change the information published in the prospectus by way of further notification. The Apex Court in ***Charles K. Skaria and others vs. Dr. C. Mathew and others, 1980 (2) SCC 752*** has held that the prospectus is not a scripture as such, which would have to be scrupulously followed. The decision as such of respondent no. 2 is, thus, based on a valid reasoning on account of the fact that admission at this stage would violate the 90 working days' principle since exams are slated for first week of February, 2017. The reliance upon the orders passed in the earlier year by the association would be of no help since in that case, an interim order had already been passed on 21.10.2015 allowing the petitioner-association to fill up the vacant seats till 31.10.2015. Resultantly, the writ petition was disposed of on 23.12.2015 confirming the admissions made within the prescribed period.

In the present case, as noticed, no interim directions were issued and at this stage to grant the benefit of admission will not be in the interest of the standards of education.

In similar circumstances, admission given in the B.Ed. course at the fag end of the session was not approved of. The Division Bench of this Court in ***LPA No. 486 of 2014, Maharishi Dayanand University, Rohtak vs. IPS School of Management and Education and others***, held that it would amount to just completing the formality of holding classes and the balancing factor of there being a proper curriculum carried on or before a candidate is granted degree would not be completed and the obtaining of the degree would affect the future of many students. The relevant portion reads thus:-

*“We have heard learned counsels for the parties
at length and given our thought to the matter as it deals*

with the issue of education of students. We are conscious of the paucity of the seats for further education to be carried on. However, this has to be balanced with the factor of there being proper curriculum carried on before a candidate is granted a degree. This aspect has great importance, as obtaining of degree would in turn effect the future of so many students whom they have to teach. Obtaining of degree cannot be a mere formality to be completed.

If the impugned order had been passed relatable to a time period when the regular admission process was being completed predicated on an order of disaffiliation being kept in abeyance, there would have been no reason to interfere. However, we are faced with a situation where at the fag-end of the course, the seats are sought to be filled in and the curriculum completed one way or the other only just to grant degree and respondent No.1 Institute to earn the fee therefrom. We really fail to appreciate as to how a curriculum which has to be carried on from 15.10.2013 (endeavours of students to seek extension of counseling in these proceedings having failed) which would have to come to an end on 01.06.2014 can be completed in 2½ months time from 15.03.2014 to 01.06.2014. This would just amount to somehow completing the formality of holding the classes as the specified time period for course is of 200 days. It is impossible even if the classes are held every day without a break to complete the curriculum over a period of 75 days what is meant to be a curriculum of 200 days. The degree would thus be issued to the candidates who would be ill-equipped to guide the future of so many students as they would become entitled to teach being B.Ed. degree holders.”

Resultantly, this Court is of the opinion that the impugned orders are not liable to be interfered with and the writ petition is dismissed.

14.12.2016
shivani

(G.S. SANDHAWALIA)
JUDGE

Whether reasoned/speaking

Yes/No

Whether reportable

Yes/No

