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

+ LPA 589/2016

DIRECTORATE GENERAL OF TRAINING (DGT)..... Appellant

Through: Mr.Sanjay Jain, ASG with Mr.Aditya
Dewan, Ms.Iti Agarwal and Mr.Ravi Prakash,
Adv.

versus

SAMRAT ASHOK PRIVATE ITI & ANR Respondent

Through: Mr.Sanjay Sharawat, Adv. for R-1.

CORAM:

HON'BLE THE CHIEF JUSTICE

HON'BLE MS.JUSTICE SANGITA DHINGRA SEHGAL

ORDER

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26.10.2016

CM No.40039/2016 (exemption)

Allowed, subject to all just exceptions.

LPA No.589/2016 & CM Nos.40037/2016 (addl.doc.), 40038/2016 (stay)

1. This appeal is preferred against the order of the learned Single Judge dated 14.09.2016 in CM No.33084/2016 in W.P.(C) No.7971/2016. The Directorate General of Training (DGT), Government of India/the respondent No.1 in the writ petition is the appellant before us.

2. W.P.(C) No.7971/2016 was filed by the respondent No.1 herein aggrieved by the action of DGT/appellant herein in not considering their request for grant of affiliation for the Academic Session 2016-17 on the ground of non-compliance with the requirement of the Building Completion Certificate and the sanctioned building plan. According to the writ petitioner/respondent No.1 herein, the circulars dated 17.06.2016 and

30.08.2016 with regard to the filing of the Building Completion Certificate from the competent authority and approved building plan do not apply to their institute (ITI) since the same has been set up in rural area where there is no applicability of any master plan and there is no competent authority to grant Building Completion Certificate.

3. After hearing both the parties, the learned Single Judge recorded the *prima facie* opinion that the case of the petitioner deserves to be considered provisionally without the requirement of the Building Completion Certificate and the sanction plan and accordingly passed the order under appeal with the following directions:

"Since the petitioner's institute has been set up in a rural area where, it is contended, that there is no competent authority for sanction of a building plan and, accordingly, there would be no authority which would issue a Building Completion Certificate, the respondent cannot insist on the said requirement being complied with prior to the processing of the application further.

The petitioner had submitted the applicant for grant of affiliation prior to the amendment of 17.06.2016. *Prima facie*, I am of the view that the application of the petitioner needs to be considered in accordance with the Rules as they existed on the date when the application was filed.

The respondents are directed to place the application of the petitioner before the NCVT Sub Committee for grant of affiliation on 16.09.2016, at this stage, insisting upon the Building Completion Certificate or the approved building plan provided that the petitioner satisfies the other requirements, as were communicated in the Brochure for the academic session 2016-17.

In case the file of the petitioner is still pending with the QCI, the QCI is directed to immediately forward the same to the respondent No.1 for being placed before the NCVT Sub Committee in its meeting scheduled on 16.09.2016. The case of the petitioner shall be considered in the next meeting of

16.09.2016 for the academic session 2016-17.

It is clarified that the grant of affiliation, if any, to the petitioner would be subject to further orders from this Court. No special equity shall flow in favour of the petitioner."

4. The said order is assailed in this appeal contending *inter alia* that the learned Single Judge failed to consider the fact that it is mandatory for the applicants to submit the Building Completion Certificate/duly authenticated building plan as per the local bye-laws regardless of the circulars dated 17.06.2016 and 30.08.2016.

5. We have heard Sh.Sanjay Jain, the learned ASG appearing for the appellant as well as Sh.Sanjay Sharawat, the learned counsel appearing for the respondent No.1/writ petitioner.

6. At the outset, it is brought to our notice by the learned counsel for the respondent No.1 that in compliance with the impugned directions of the learned Single Judge, the affiliation has already been granted on the application of the writ petitioner. Though the said fact has not been disputed by the learned ASG appearing for the appellant, it is contended that even in the absence of the competent authority for sanction of a building plan, the applicants are required to furnish the certificate as provided under the Municipal Bye-Laws and the impugned order needs modification to that effect.

7. We found that the learned Single Judge while issuing the impugned directions made it clear that the grant of affiliation to the writ petitioner would be subject to further orders from this Court and no special equity shall flow in favour of the writ petitioner. A date has also been fixed for the hearing of the writ petition.

8. Hence, there is no need for the modification as sought by the appellant. However, we consider it appropriate to reiterate that the affiliation granted to the writ petitioner pursuant to the impugned direction shall be subject to the result of the writ petition and that the same shall not entitle the writ petitioner to claim any equity.

9. The appeal is accordingly disposed of.

CHIEF JUSTICE

SANGITA DHINGRA SEHGAL, J

OCTOBER 26, 2016

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