

\$~

*

IN THE HIGH COURT OF DELHI AT NEW DELHI

Reserved on: 16.10.2015

%

Pronounced on: 25.01.2016

+ LPA 705/2015 & C.M.No.23589/2015 (*stay*)
UNION OF INDIA Appellant

Versus

NEW GYAN JYOTI PRIVATE ITI & ORS Respondents

+ LPA 706/2015 & C.M.No.23593/2015 (*stay*)
UNION OF INDIA Appellant

Versus

SHEKHAWATI PRIVATE ITI & ORS Respondents

+ LPA 707/2015 & C.M.No.23599/2015 (*stay*)
UNION OF INDIA Appellant

Versus

VIJAY PRIVATE ITI & ORS Respondents

+ LPA 708/2015 & C.M.No.23604/2015 (*stay*)
UNION OF INDIA Appellant

Versus

HARSH PRIVATE ITI & ORS Respondents

+ LPA 710/2015 & CM No.23612/2015(*stay*)
UNION OF INDIAAppellant

Versus

MATA SANTOSHI DEVI AND ORS. ...Respondents

Present:- Mr.Nawal Kishore Jha, Adv. for the Appellants/UOI along
with Mr.Sushil Kumar, Dy.Director; Mr.P.S.Verma, Asstt.
Director, Mr.A.K.Tyagi, Asstt. Director.
Mr.Sanjay Sharawat, Adv. with Mr.Ratish Kumar, Adv. for

R-1.

Mr.Umang Mittal, Adv. with Mr.Vikas Chopra, Adv. for R-2(NBET).

CORAM:

HON'BLE THE CHIEF JUSTICE

HON'BLE MR. JUSTICE JAYANT NATH

JAYANT NATH, J.

1. This bunch of LPAs is filed seeking to impugn the common order dated 24.09.2015, passed by the learned Single Judge. The facts of LPA 710/2015 are stated in this judgment.

2. Respondent No.1 filed the writ petition seeking the following reliefs:-

“a) Issue a writ of mandamus and direct the Respondent No.1 and 2 to grant accreditation/affiliation to the Petitioner for 8 units each for “Electrician Trade” on the basis of letter dated 31.08.2015 written by the Respondent No.3 for academic session commencing w.e.f. August, 2015; and

b) Issue a writ of mandamus and direct the Respondent No.1 to extend the last date for admitting students from 17.09.2015 to 30.09.2015 and consequentially permit the Petitioner to admit students and commence the current i.e. Aug 2015 academic session.”

3. The brief background facts are that the National Council for Vocational Training (*hereinafter referred to as the 'NCVT'*) was set up by the Union of India in 1956 and was entrusted with responsibilities for prescribing standards and curricula for craftsmen training and advise to Union of India on overall policy and programme and awarding National Trade Certificate.

The Quality Council of India (*in short 'QCI'*) was set up jointly by Union of India and Indian Industry to establish and operate national accreditation structure and promote quality. The said QCI is a non-profit society with its own Memorandum of Association. NCVT and the QCI had developed an accreditation document for NCVT affiliation of Government and private industrial training institute. The National Accreditation Board for Education and Training i.e., respondent No.2 is one of the constituent Boards of QCI and is responsible for handling the scheme of accreditation of Government and private industrial training institutes.

4. With effect from 01.09.2012 an Industrial Training Institute is required to seek accreditation for any trade/unit from QCI before seeking affiliation to NCVT. Affiliation from NCVT is mandatory for imparting duly recognised training to the students.

5. Coming to the facts of LPA 710/2015, respondent No.1 is an existing ITI running since 2007. With its desire to seek affiliation in Electrician Trade for additional eight units, respondent No.1 submitted an application with the appellant and respondent No.2 on 30.11.2013.

6. By a letter dated 10.11.2014, respondent No.3/State of Rajasthan informed the appellant about its decision in imposing restrictions upon the Electrician Trade in the State. In case an institute applies for Electrician Trade for the first time, maximum two units for Electrician Trade will be permissible.

7. Pursuant to the application filed by respondent No.1, respondent No.2 conducted an inspection on 29.01.2015. It is the contention of respondent No.1 that it removed all deficiencies but the appellant and

respondent No.2 did not take any decision on the application of respondent No.1.

8. Vide letter dated 21.07.2015, the appellant took a decision that institutions from State of Rajasthan who had applied on or before 20.01.2015 may be granted maximum of two units in the Electrician Trade. On 04.08.2015, it is averred that the appellant decided to grant affiliation for 2 units to respondent No.1 in view of its earlier letter dated 21.07.2015.

9. Vide letter dated 31.08.2015, the State of Rajasthan took a decision to waive the restriction of 2 units for Electrician Trade on applications submitted before 20.01.2015. Hence, all the applications submitted before 20.01.2015 were to be considered for grant of affiliation without restriction of 2 units imposed on Electrician Trade.

10. It is further submitted in the writ petition that three institutions from the State of Rajasthan who had submitted applications for affiliation for Electrician Trade before 20.01.2015 and whose applications were not being processed on the ground of restrictions imposed by the State Government filed writ petitions before this court being W.P.(C) Nos.4363/2015, 7078/2015 and 7092/2015. The said writ petitions were allowed by this court based on the communications from the State of Rajasthan dated 31.08.2015. It is further averred that in compliance with the said order passed by this court, the appellant has granted affiliation to the said institutions in Electrician Trade with the number of units as were sought in their applications.

11. It is further averred in the writ petition that initially the last date for admissions in the academic session August 2015 was fixed by the

appellant as 31.07.2015. This date was later changed to 10.08.2015 and then 31.08.2015 and subsequently to 17.09.2015. It is also averred that respondent No.1 had approached the appellant on several occasions to grant affiliation for 8 units in Electrician Trade instead of 2 units in view of the letter dated 31.08.2015 issued by the State of Rajasthan and order dated 02.09.2015 passed by this court in W.P.(C) No.4363/2015 but to no avail. Hence, respondent No.1 filed the present writ petition.

12. The writ petition came up for hearing on 18.09.2015 when the court noted the submissions of respondent No.1 and also noted that the last date for admitting students was fixed as 31.07.2015 and this has been postponed subsequently on various dates and finally to 17.09.2015. It noted the communication dated 31.08.2015 of the State of Rajasthan and on the request of the learned counsel for respondents in the writ petitions, including the appellant herein, time was given to take instructions.

13. On the next date of hearing on 24.09.2015, the learned counsel for the appellant on instructions stated that affiliation would be granted to respondent No.1 herein as an inspection has already been conducted. It was further stated that this step would also be taken in all those cases in which applications were filed prior to 20.01.2015. Learned counsel for the appellant further submitted that the affiliations will be granted by 10.10.2015 and the date for admission will be extended till 20.10.2015. Directions were passed in the impugned order that public notice would be taken out in respect of the same, so that all similarly circumstanced entities can be given the benefit of the concession granted today by respondent No.1. The impugned order also directed that in case extra classes are required to be held to cover up the time lost, suitable steps will

be taken by the respondents by interfacing with each other.

14. We have heard learned counsel for the parties and gone through the record placed before this court.

15. The only grounds raised in the present appeal by the appellant are that the impugned order has failed to appreciate that the admission process for the session 2015-2016 is already over. It is further stated that the training period for the semester exam is very limited, i.e., the exams are scheduled to be held in January/February, 2016. It is urged that the programme consists of 80% practical training and 20% theoretical and late admissions would lead to unemployment due to lack of proper skill.

16. We are unable to agree with the contentions raised by the appellant in the present appeal. As is apparent from a perusal of the impugned order, the same has been passed in view of the submissions made by the learned counsel for the appellant on instructions. We may reproduce the relevant portion of the impugned order in this regard as follows:

“2. The learned counsel for respondent no.1 (appellant herein) has obtained instructions. The learned counsel says that consistent with its actions in the past, which are reflected in the communication dated 09.09.2015 qua other similarly placed entities, in these cases as well, respondent no.1 will grant affiliation to the petitioners herein as inspections have already been conducted. 2.1 The learned counsel for respondent no.1 says that not only in this case but in all those cases in which applications have been filed prior to 20.01.2015, they would be entitled to seek affiliation from respondent no.1. 2.2 The learned counsel for respondent no.1 says that affiliation will be granted to the petitioners by 10.10.2015, and that dates of admission will be extended till 20.10.2015.”

17. Hence, it was the appellant who through his counsel had,

communicated that it was willing to grant affiliation to respondent No.1 by 10.10.2015 and that the dates for admission would be extended till 20.10.2015.

18. We see no reason as to why the appellant may be permitted to resile from the statement made in court and to take the plea that the admissions have been closed.

19. In this context reference may be had to the judgment of this Court in *Paul Properties Pvt. Ltd. & Anr. v. Estate Officer Life Insurance Corporation of India & Anr.*, LPA 298/2010 (MANU/DE/1511/2010), wherein this court held as follows:

“33. At this juncture, we think it appropriate to observe that on a keener scrutiny of the order of the proceedings before the learned Single Judge, it is clear that it is an unequivocal concession with regard to a finding of fact which has been arrived at by the Estate Officer. While the learned Single Judge was going to dismiss the writ petition, time was sought for and thereafter, concession was given. The concession of a counsel in a court of law has its own sacrosanctity. It is not the case where there was no consultation whatsoever. On a scrutiny of the entire gamut of the facts, it emerges with utmost clarity which can be envisioned that a maladroit attempt was made to take a somersault and wriggle out of the same. In case the same, if we allow ourselves to say so, is permitted, it will usher in a state of anarchy in the process of adjudication and the high tradition of the Bar and the acceptance of statements made at the Bar would be in jeopardy. The law does not countenance the same either in the expanse of substantive law or in the expansion of adjective law.”

20. In the light of the above judgment, in our opinion, the appellant cannot be permitted to resile/back out from the concession/statement made in court.

21. Further even otherwise, it is obvious that there are no basis or grounds for the appellant to file the present appeal. Respondent No.1 had applied for additional 8 units in Electrician Trade. The restrictions on Electrician Trade were imposed by the State of Rajasthan on 10.11.2014. Subsequently, the State of Rajasthan on 31.08.2015 changed its policy of restriction of 2 units for Electrician Trade on the applications filed before 20.01.2015. This court in W.P.(C) 4363/2015 and another connected writ petitions in view of the said communication of State of Rajasthan dated 31.08.2015 allowed similar writ petitions filed by the institutions situated in the State of Rajasthan. Hence, there were no impediments for the appellant to grant affiliation for 8 units to respondent No.1.

22. There are no grounds or basis for challenging the impugned order dated 24.09.2015. We see no merits in the present appeal. The appeal is accordingly dismissed.

**(JAYANT NATH)
JUDGE**

(CHIEF JUSTICE)

JANUARY 25, 2016

v