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HIGH COURT OF CHHATTISGARH, BILASPUR

Writ Petition (S) No.4714 of 2015

Anju Padda, D/o Late Shri Chamru Ram Padda, aged about 29 years, Occupation Service, presently posted as Electrician, ITI, Bastar, Distt. Bastar (C.G.), R/o Village Devtara, Post Bahigaon, PS & Tahsil Keshkal, Distt. Kondagaon (C.G.)

---- Petitioner

Versus

1. State of Chhattisgarh, Through the Secretary, Department of Manpower Planning, Mahanadi Mantralaya, Naya Raipur, Post Office & Police Station Naya Raipur, Distt. Raipur (C.G.)
2. Director, Technical Education, Employment & Training, Indrawati Bhawan, Block 3-4, Mahanadi Mantralaya, Naya Raipur, Post Office & Police Station Naya Raipur, Distt. Raipur (C.G.)
3. National Council for Vocational Training, through its Secretary, National Council for Vocational Training, New Delhi.
4. State Council for Vocational Training, through its Secretary, Saddu, Raipur (C.G.)
5. State Board of Examination, through its Secretary, Committee constituted under the State Council for Vocational Training, Secretary, Saddu, Raipur (C.G.)
6. Principal, Government Industrial Training Institute, Keshkal, Kondagaon (C.G.)

---- Respondents

Writ Petition (S) No.4716 of 2015

Gulab Singh Jaiswal, S/o Teej Ram Jaiswal, aged about 28 years, Occupation Service, presently posted as Electrician, Industrial Training Institute, Kabeerdham (C.G.), R/o Post Pipariya, Tahsil Kawardha, District Kabeerdham (C.G.)

---- Petitioner

Versus

1. State of Chhattisgarh, Through the Secretary, Department of Manpower Planning, Mahanadi Mantralaya, Naya Raipur, Post Office & Police Station Naya Raipur, Distt. Raipur (C.G.)

2. Director, Technical Education, Employment & Training, Indrawati Bhawan, Block 3-4, Mahanadi Mantralaya, Naya Raipur, Post Office & Police Station Naya Raipur, Distt. Raipur (C.G.)
3. National Council for Vocational Training, through its Secretary, National Council for Vocational Training, New Delhi.
4. State Council for Vocational Training, through its Secretary, Saddu, Raipur (C.G.)
5. State Board of Examination, through its Secretary, Committee constituted under the State Council for Vocational Training, Secretary, Saddu, Raipur (C.G.)
6. Principal, Government Industrial Training Institute, Kabeerdham (C.G.)

---- Respondents

Writ Petition (S) No.4718 of 2015

Santosh Kumar Dhruw, S/o Balram Dhruw, aged about 31 years, Occupation Service, presently posted as Training Officer (Fitter), Govt. ITI, Aarang, Distt. Raipur (C.G.), R/o Ward No. 21, Naya Ravanbhata, Tahsil & Distt. Mahasamund (C.G.)

---- Petitioner

Versus

1. State of Chhattisgarh, Through the Secretary, Department of Manpower Planning, Mahanadi Mantralaya, Naya Raipur, Post Office & Police Station Naya Raipur, Distt. Raipur (C.G.)
2. Director, Technical Education, Employment & Training, Indrawati Bhawan, Block 3-4, Mahanadi Mantralaya, Naya Raipur, Post Office & Police Station Naya Raipur, Distt. Raipur (C.G.)
3. National Council for Vocational Training, through its Secretary, National Council for Vocational Training, New Delhi.
4. State Council for Vocational Training, through its Secretary, Saddu, Raipur (C.G.)
5. State Board of Examination, through its Secretary, Committee constituted under the State Council for Vocational Training, Secretary, Saddu, Raipur (C.G.)
6. Principal, Government Industrial Training Institute, Mahasamund (C.G.)

---- Respondents

Writ Petition (S) No.4717 of 2015

Madhu Verma (Dead), Through LR Jhal Singh Verma, S/o Late Shri Ratan Singh Verma, Aged about 38 years, R/o Chandkhuri, Tahsil Aarang, Distt. Raipur (C.G.)

---- Petitioner

Versus

1. State of Chhattisgarh, Through the Secretary, Department of Manpower Planning, Mahanadi Mantralaya, Naya Raipur, Post Office & Police Station Naya Raipur, Distt. Raipur (C.G.)
2. Director, Technical Education, Employment & Training, Indrawati Bhawan, Block 3-4, Mahanadi Mantralaya, Naya Raipur, Post Office & Police Station Naya Raipur, Distt. Raipur (C.G.)
3. National Council for Vocational Training, through its Secretary, National Council for Vocational Training, New Delhi.
4. State Council for Vocational Training, through its Secretary, Saddu, Raipur (C.G.)
5. State Board of Examination, through its Secretary, Committee constituted under the State Council for Vocational Training, Secretary, Saddu, Raipur (C.G.)
6. Principal, Government Industrial Training Institute, Mahasamund (C.G.)

---- Respondents

Writ Petition (S) No.4715 of 2015

Virendra Kumar Thakur, S/o Govind Singh Thakur, aged about 31 years, Occupation Service, ITI, Tilda, Distt. Raipur (C.G.), R/o Raman Tola, Distt. Mahasamund (C.G.)

---- Petitioner

Versus

1. State of Chhattisgarh, Through the Secretary, Department of Manpower Planning, Mahanadi Mantralaya, Naya Raipur, Post Office & Police Station Naya Raipur, Distt. Raipur (C.G.)
2. Director, Technical Education, Employment & Training, Indrawati Bhawan, Block 3-4, Mahanadi Mantralaya, Naya Raipur, Post Office & Police Station Naya Raipur, Distt. Raipur (C.G.)
3. National Council for Vocational Training, through its Secretary, National Council for Vocational Training, New Delhi.

4. State Council for Vocational Training, through its Secretary, Saddu, Raipur (C.G.)
5. State Board of Examination, through its Secretary, Committee constituted under the State Council for Vocational Training, Secretary, Saddu, Raipur (C.G.)
6. Principal, Government Industrial Training Institute, Tilda, Distt. Raipur (C.G.)

---- Respondents

Writ Petition (S) No.4808 of 2015

Lakhan Lal Dhruw, S/o Dwarika Prasad Dhruw, aged about 33 years, Occupation Service, presently posted as Training Officer (Surveyor), ITI, Kasdol, Distt. Baloda Bazar-Bhatapara (C.G.), R/o Qr.No.H/8, Kodar Colony, Mahasamund, Distt. Mahasamund (C.G.)

---- Petitioner

Versus

1. State of Chhattisgarh, Through the Secretary, Department of Manpower Planning, Mahanadi Mantralaya, Naya Raipur, Post Office & Police Station Naya Raipur, Distt. Raipur (C.G.)
2. Director, Technical Education, Employment & Training, Indrawati Bhawan, Block 3-4, Mahanadi Mantralaya, Naya Raipur, Post Office & Police Station Naya Raipur, Distt. Raipur (C.G.)
3. National Council for Vocational Training, through its Secretary, National Council for Vocational Training, New Delhi.
4. State Council for Vocational Training, through its Secretary, Saddu, Raipur (C.G.)
5. State Board of Examination, through its Secretary, Committee constituted under the State Council for Vocational Training, Secretary, Saddu, Raipur (C.G.)
6. Principal, Government Industrial Training Institute, Mahasamund (C.G.)

---- Respondents

Writ Petition (S) No.4807 of 2015

Soni Kumar Sidar, S/o Saharta Ram Sidar, Aged about 31 years, Occupation Service, Presently posted at Government ITI, Koni, Distt. Bilaspur, R/o Village & Post Raipura, Via Sakti, Tahsil Jaijaipur, Distt. Janjgir-Champa (C.G.)

---- Petitioner

Versus

1. State of Chhattisgarh, Through the Secretary, Department of Manpower Planning, Mahanadi Mantralaya, Naya Raipur, Post Office & Police Station Naya Raipur, Distt. Raipur (C.G.)
 2. Director, Technical Education, Employment & Training, Indrawati Bhawan, Block 3-4, Mahanadi Mantralaya, Naya Raipur, Post Office & Police Station Naya Raipur, Distt. Raipur (C.G.)
 3. National Council for Vocational Training, through its Secretary, National Council for Vocational Training, New Delhi.
 4. State Council for Vocational Training, through its Secretary, Saddu, Raipur (C.G.)
 5. State Board of Examination, through its Secretary, Committee constituted under the State Council for Vocational Training, Secretary, Saddu, Raipur (C.G.)
 6. Principal, Government Industrial Training Institute, Korba (C.G.)
- Respondents

Writ Petition (S) No.4801 of 2015

Shankar Lal Kange, S/o Late Shri Nathu Ram Kange, aged about 37 years, Occupation Service, presently posted as Draftsman, IT, Gariyaband, Distt. Gariyaband (C.G.), R/o C/o Smt. Vidya Sinha, Sharda Chowk, Gariyaband, Distt. Gariyaband (C.G.)

---- Petitioner

Versus

1. State of Chhattisgarh, Through the Secretary, Department of Manpower Planning, Mahanadi Mantralaya, Naya Raipur, Post Office & Police Station Naya Raipur, Distt. Raipur (C.G.)
2. Director, Technical Education, Employment & Training, Indrawati Bhawan, Block 3-4, Mahanadi Mantralaya, Naya Raipur, Post Office & Police Station Naya Raipur, Distt. Raipur (C.G.)
3. National Council for Vocational Training, through its Secretary, National Council for Vocational Training, New Delhi.
4. State Council for Vocational Training, through its Secretary, Saddu, Raipur (C.G.)
5. State Board of Examination, through its Secretary, Committee

constituted under the State Council for Vocational Training,
Secretary, Saddu, Raipur (C.G.)

6. Principal, Government Industrial Training Institute, Bastar (C.G.)
---- Respondents

Writ Petition (S) No.4915 of 2015

Rikesh Kumar Sinha, S/o Kunju Ram Sinha, aged about 27 years,
Occupation Service, presently posted as Fitter, ITI, Antagarh, Distt.
Kanker (C.G.), R/o Village Kosamkunta, PO Jamgaon, Tahsil
Rajim, Distt. Gariyaband (C.G.)

---- Petitioner

Versus

1. State of Chhattisgarh, Through the Secretary, Department of
Manpower Planning, Mahanadi Mantralaya, Naya Raipur, Post
Office & Police Station Naya Raipur, Distt. Raipur (C.G.)
2. Director, Technical Education, Employment & Training, Indrawati
Bhawan, Block 3-4, Mahanadi Mantralaya, Naya Raipur, Post
Office & Police Station Naya Raipur, Distt. Raipur (C.G.)
3. National Council for Vocational Training, through its Secretary,
National Council for Vocational Training, New Delhi.
4. State Council for Vocational Training, through its Secretary, Saddu,
Raipur (C.G.)
5. State Board of Examination, through its Secretary, Committee
constituted under the State Council for Vocational Training,
Secretary, Saddu, Raipur (C.G.)
6. Principal, Government Industrial Training Institute, Mahasamund
(C.G.)

---- Respondents

Writ Petition (S) No.4831 of 2015

Dharna Sahu, D/o Bhaktu Ram Sahu, aged about 29 years,
Occupation Service, Presently posted as Computer Operator &
Programme Assistant (COPA), ITI, Badiureli, Distt. Dhamtari
(C.G.), R/o ITI Campus, Badiureli, Post Badiureli, Tahsil Magarlod,
Distt. Dhamtari (C.G.)

---- Petitioner

Versus

1. State of Chhattisgarh, Through the Secretary, Department of

Manpower Planning, Mahanadi Mantralaya, Naya Raipur, Post Office & Police Station Naya Raipur, Distt. Raipur (C.G.)

2. Director, Technical Education, Employment & Training, Indrawati Bhawan, Block 3-4, Mahanadi Mantralaya, Naya Raipur, Post Office & Police Station Naya Raipur, Distt. Raipur (C.G.)
 3. National Council for Vocational Training, through its Secretary, National Council for Vocational Training, New Delhi.
 4. State Council for Vocational Training, through its Secretary, Saddu, Raipur (C.G.)
 5. State Board of Examination, through its Secretary, Committee constituted under the State Council for Vocational Training, Secretary, Saddu, Raipur (C.G.)
 6. Principal, Government Industrial Training Institute, Dhamtari (C.G.)
- Respondents

Writ Petition (S) No.4828 of 2015

Jyotsna Sahare, D/o Mansingh Sahare, Aged about 41 years, Occupation Service, Presently posted at Government ITI, Tilda, District Raipur, R/o Village Daihan, PO Taraud, Tahsil Balod, Distt. Balod (C.G.)

---- Petitioner

Versus

1. State of Chhattisgarh, Through the Secretary, Department of Manpower Planning, Mantralaya, Mahanadi Bhawan, Naya Raipur (C.G.)
 2. Director, Technical Education, Employment and Training, Indrawati Bhawan, Block 3 and 4, First, Third & Fourth Floors, Naya Raipur (C.G.)
- Respondents

AND

Writ Petition (S) No.4830 of 2015

Kuleshwar Prasad, S/o Budhram Singh, Aged about 29 years, Occupation Service, Presently posted at Government ITI, Gidam, District Dantewada, R/o Ward No.1, ITI Colony, Main Road, Gidam, Distt. Dantewada (C.G.)

---- Petitioner

Versus

1. State of Chhattisgarh, Through the Secretary, Department of Manpower Planning, Mahanadi Mantralaya, Naya Raipur, Post Office & Police Station Naya Raipur, Distt. Raipur (C.G.)
 2. Director, Technical Education, Employment & Training, Indrawati Bhawan, Block 3-4, Mahanadi Mantralaya, Naya Raipur, Post Office & Police Station Naya Raipur, Distt. Raipur (C.G.)
 3. National Council for Vocational Training, through its Secretary, National Council for Vocational Training, New Delhi.
 4. State Council for Vocational Training, through its Secretary, Saddu, Raipur (C.G.)
 5. State Board of Examination, through its Secretary, Committee constituted under the State Council for Vocational Training, Secretary, Saddu, Raipur (C.G.)
 6. Principal, Government Industrial Training Institute, Durg (C.G.)
- Respondents

For Petitioners: Mr. Rajeev Shrivastava and Mr. Gagan Tiwari,
Advocate.

For Respondents No.1, 2 and 6 / State : -
Mr. Dhiraj Kumar Wankhede, Govt. Advocate.

Hon'ble Shri Justice Sanjay K. Agrawal

Order On Board

09/10/2017

1. Since common question of law and fact is involved in the above batch of writ petitions, they are being disposed of by this common order.
2. This batch of writ petitions is directed against the order Annexure P-1 passed by the Directorate of Technical Education, Employment and Training, Chhattisgarh, as well as the show cause notices issued by the Commissioner-cum-Director, Technical Education, by which show cause notices have been issued to the petitioners for

cancellation of their appointment.

3. Learned counsel for the petitioners submits that the petitioners were granted provisional National Trade Certificate by the State Council for Vocational Training, Chhattisgarh, in July, 2009 and thereafter, they have been granted National Trade Certificate by the National Council for Vocational Training, New Delhi. By order dated 27-11-2015 (Annexure P-1), the Director, Technical Education, cancelled the provisional National Trade Certificate and based upon that, issued show cause notice to the petitioners to cancel their appointment on the post of Training Officer (Probation) on different trades pursuant to the direction given by the State Government. He further submits that such an order of cancellation of their provisional NTC without even affording opportunity of hearing and that too at the dictation of the State Government is unsustainable and bad in law and after cancellation of their provisional National Trade Certificate, the petitioners have been issued notice for cancellation of their appointment based upon that cancellation which is per se illegal and bad in law.
4. Learned State counsel opposes the submissions of counsel for the petitioners and submits that the order passed by the Director, Technical Education, cancelling the certificates of the petitioners as well as issuing show cause notice is strictly in accordance with law. The petitioners are at liberty to file reply to the show cause notice which will be considered in accordance with law.
5. I have heard learned counsel for the parties and considered the

rival submissions made herein-above and also gone through the records with utmost circumspection.

6. It is not in dispute that the petitioners were granted provisional National Trade Certificate from January, 2006 to July, 2009 and thereafter, they were granted National Trade Certificate and on that basis, they have been appointed on 10-1-2013 and 2-5-2013 on the post of Training Officer (Probation) on different trades and they are continuing on the said post. In the meanwhile, the State Government has taken a decision on 29-7-2015 to cancel their appointment orders on the ground that their provisional National Trade Certificate was granted by an institution which was not duly recognised and which was the necessary eligibility criteria for appointment on the post of Training Officer and therefore they were not eligible to be appointed on the said post.
7. The fact remains that provisional National Trade Certificate was granted to the petitioners from January, 2006 to July, 2009 and accepting that certificate, they were appointed on the post of Training Officer (Probation) and they are working on the said post. The appointing authority on the said post is the Director, Technical Education. But the State Government has issued order dated 29-7-2015 and on the basis of that order / instruction, the Director, Technical Education has revoked the provisional National Trade Certificate of the petitioners.
8. The order passed by the Director, Technical Education revoking their provisional National Trade Certificate is violative of the

principles of natural justice, as while cancelling the certificate the petitioners were not afforded minimal opportunity of hearing and not afforded opportunity to show cause before cancelling the certificate, and on the dictation and direction by the State Government such certificate has been cancelled. In the opinion of the State Government, if the certificate was required to be cancelled, opportunity of hearing ought to have been afforded to the petitioners by the Director, Technical Education, which has not been done in the present case.

9. Apart from this, admittedly, the provisional National Trade Certificate was granted by respondent No.4 – State Council for Vocational Training, Chhattisgarh. If the certificate has been granted contrary to law, the competent authority to declare the certificate void or illegal is respondent No.4 (State Council for Vocational Training), but that has also not been done in the present case and the matter was not referred to the State Council for Vocational Training by the State Government / Director (Technical Education) and straightway, the State Government has taken decision and acting upon that decision, the Director, Technical Education has passed the order. The certificate has been cancelled by an incompetent authority, as the Director, Technical Education is not the authority who has granted that certificate, it is the State Council for Vocational Training who has granted that certificate, therefore, it could not have been cancelled by the Director, Technical Education.

10. In the matter of **Joint Action Committee of Air Line Pilots'**

Association of India (ALPAI) and others v. Director General of

Civil Aviation and others¹, the Supreme Court has held that if any

decision is taken by a statutory authority at the behest or on

suggestion of a person who has no statutory role to play, the same

would be patently illegal. Paragraphs 26 to 28 of the report read as

under : -

“26. ... It is a settled legal proposition that the authority which has been conferred with the competence under the statute alone can pass the order. No other person, even a superior authority, can interfere with the functioning of the statutory authority. In a democratic set-up like ours, persons occupying key positions are not supposed to mortgage their discretion, volition and decision-making authority and be prepared to give way to carry out commands having no sanctity in law. Thus, if any decision is taken by a statutory authority at the behest or on suggestion of a person who has no statutory role to play, the same would be patently illegal. (Vide *Purtabpore Co. Ltd. v. Cane Commr. of Bihar*², *Chandrika Jha v. State of Bihar*³, *Tarlochan Dev Sharma v. State of Punjab*⁴ and *Manohar Lal v. Ugrasen*⁵.)

27. Similar view has been reiterated by this Court in *Commr. of Police v. Gordhandas Bhanji*⁶, *Bahadursinh Lakhubhai Gohil v. Jagdishbhai M. Kamalia*⁷ and *Pancham Chand v. State of H.P.*⁸ observing that an authority vested with the power to act under the statute alone should exercise its discretion following the procedure prescribed therein and interference on the part of any authority upon whom the statute does not confer any jurisdiction, is wholly unwarranted in law. It violates the constitutional scheme.

1 (2011) 5 SCC 435

2 (1969) 1 SCC 308

3 (1984) 2 SCC 41

4 (2001) 6 SCC 260

5 (2010) 11 SCC 557

6 AIR 1952 SC 16

7 (2004) 2 SCC 65

8 (2008) 7 SCC 117

28. In view of the above, the legal position emerges that the authority who has been vested with the power to exercise its discretion alone can pass the order. Even senior official cannot provide for any guideline or direction to the authority under the statute to act in a particular manner.”

11. Therefore, the order Annexure P-1 passed by the Director, Technical Education deserves to be quashed on the short ground of not having been passed by the competent authority having jurisdiction and power, that too without affording opportunity of hearing to the petitioners to justify the grant of said certificate.
12. This would bring me to the next question as to whether the show cause notice issued to the petitioners is with predetermination.
13. The Director, Technical Education, firstly cancelled the provisional National Trade Certificate and thereafter, basing that order as a ground, issued show cause notice to the petitioners why their appointment on the said post of Training Officer should not be cancelled.
14. The show cause notice deserves to be set aside on two grounds, firstly, that it is based on the order of the Director, Technical Education cancelling the provisional National Trade Certificate which has been held to be illegal herein-above by this Court and secondly, that in the show cause notice it has been held that the petitioners did not have the necessary educational qualification for the post of Training Officer, whereas it is the case of the petitioners that they did have the requisite qualification for the post of Training Officer.

15. In **W.P.(S)Nos.4828/2015 and 4830/2015**, the show cause notice issued for cancellation of appointment also states that the petitioners did not have permanent driving license on the date of issuance of advertisement dated 31-8-2010 and their permanent driving license was issued thereafter and, therefore, on the date of appointment they did not have the permanent driving license as such, the petitioners were ineligible for the post applied for. Whereas, the order of appointment clearly states that they are required to submit their permanent driving license at the time of joining. There is no such condition that they must have permanent driving license before the date of advertisement and that has not been taken care of while issuing the show cause notice Annexure P-1.

16. It appears that the Commissioner-cum-Director, Technical Education, had already made up his mind based on the direction and dictation of the State Government. Since the Director, Technical Education has no authority and jurisdiction to cancel the provisional National Trade Certificate and that too the said certificate has been cancelled without giving opportunity of hearing and on the basis of that cancellation, show cause notice has been issued to the petitioners clearly affirming the opinion that the petitioners were ineligible for the post of Training Officer, this Court is of the opinion that the orders Annexures P-1 and P-2 deserve to be quashed and they are hereby quashed. However, it is open to respondent No.2 to proceed in accordance with law after following

the due procedure of law.

17. The writ petitions are allowed to the extent sketched herein-above.

No order as to costs.

Sd/-
(Sanjay K. Agrawal)
Judge

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