

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01-11-2017

CORAM :

THE HONOURABLE MR.JUSTICE N.KIRUBAKARAN

W.P.No.5697 of 2017

V.Iniyavan

... Petitioner

Vs

1.The Director General of Employment & Training,
Ministry of Labour,
Sharam Shakthi Bhavan,
Rafi Marg
New Delhi.

2.The Director of Employment & Training,
Guindy, Chennai - 32.

3.The Training Superintendent,
Government Industrial Training Unit,
Thiruvannamiyur now at
Government Industrial Training CEO Building
Guindy, Chennai - 32.

4.The Director General,
Ministry of Skill Development and Entrepreneurship,
Sharam Sakthi Bhavan,
Raji Marg, New Delhi 110 001.

(R4 is suo motu impleaded as per order
dated 20.04.2017 in WP.No.5697/2017)

... Respondents

Prayer: Writ petition is filed under Article 226 of the
Constitution of India for issuance of Writ of Mandamus,
directing the respondents to issue National Trade Certificate to
the petitioner in Electronics Mechanic trade bearing Roll
No.5082011.

For Petitioner : Mr.S.Kamadevan

For Respondents : Mr.C.V.Ramachandramurthy (for R1 & R4)

Mr.T.M.Pappiah (for R2 & R3)
Special Government Pleader

O R D E R

The petitioner underwent ITI course in the 3rd respondent institute during the year 2000-2002. The second respondent issued Provisional National Certificate in February 2003 and thereafter, National Trade Certificate has to be issued to the petitioner. But the same has not been issued to the petitioner so far and therefore, the petitioner has come before this court seeking Writ of Mandamus to direct the respondents to issue National Trade Certificate to him in Electronics Mechanic trade bearing Roll No.5082011.

2.Mr.S.Kamadevan, learned counsel appearing for the petitioner would rely upon the earlier order passed by this court in Writ Appeal No.801 of 2006 dated 07.08.2009 and the order of the Single Judge of this Court made in Writ Petition No.21113 of 2006 dated 03.01.2007 and another order passed by this Court in Writ Petition No.9041 of 2006 dated 29.07.2010 granting similar relief.

3.On the other hand, the learned counsel for the first respondent would submit that though the third respondent applied for affiliation, it was not given for the year 2000. However, it is also his submission that thereafter, affiliation was granted to the 3rd respondent.

4.Heard the parties and perused the records

5. Taking into consideration the earlier order passed by this court in Writ Appeal No.801 of 2006, dated 07.08.2009, this Court is inclined to pass similar order. Paragraph Nos. 6 to 11 of the order passed in Writ Petition Nos.7645 and 7663 of 2010 is extracted as follows:

"6.In the judgment made in W.P.No.21113 of 2006 dated 3.1.2007, in paragraph 8 (c) onwards, it is held as follows:-

"(c)" As a matter of fact, the practice adopted by the first respondent in the matter of grant of affiliation, conduct of examination and the issue of certificates, appear to be very peculiar. As per the Training Manual for ITIs and ITCs, the first respondent acts as the affiliating body and he conducts examinations and issues Certificates only through the second respondent, who is described as "The State director". The question papers are dispatched to the second respondent who conducts the examination. Ultimately, blank National Trade Certificates are also dispatched by the first respondent to the second respondent, who is empowered to issued those Certificates after filling up the

blanks. Clause (vii) of the said Training Manual reads as follows:-

"The State Director may seek permanent affiliation by forwarding the inspection report (Annexure III) to the Secretary, NCVT, New Delhi. The State director need not wait for any instruction in this matter from Secretary, NCVT. He may grant permission to the management of the Institute to admit trainees in the trades/units which have been recommended for permanent affiliation by the Standing Committee. It should however be made clear that in case permanent affiliation is not granted, final trade test and certification would be the responsibility of respective SCVT."

The above clause makes it clear that even without waiting for orders of affiliation, the State Director can permit the courses to be commenced.

(d) The first respondent has also admitted in para-17 of his counter that students can be admitted to the trades/units, for which a recommendation is made by the second respondent, subject to the grant of permanent affiliation by the first respondent. According to the first respondent, if permanent affiliation is eventually granted, the first respondent will issue National Trade Certificates (NCVT) and if permanent affiliation is refused, the second respondent will issue state Trade Certificates (SCVT). In this case, the second respondent has agreed to grant State Trade Certificates (SCVT), thereby indicating that the State Director permitted the admission of students for the two additional units for the batch 1995 -1997. Ultimately, the first respondent has also granted permanent affiliation, in June 1997, though with effect from August, 1996.

9. Therefore, the following conclusions become inevitable, from the sequence of events narrated above, which are not in dispute:-

(a) that the petitioner admitted students with the permission of the State Director, who is empowered to grant such permission:

(b) that the students admitted against the additional units are entitled to Trade Certificates issued by SCVT; and

(c) that affiliation is always granted by NCVT (first respondent), only post facto and hence neither the petitioner nor the students can be found fault with.

10. In view of the foregoing conclusions, the only objection taken by the first respondent for refusing to issue National Trade Certificates to the 1995-1997 batch of students, is illegal and the writ petition is liable to be allowed.'

11. Accordingly the writ petition is allowed and the respondents are directed to issue National Trade Certificates for the 1995 batch of Trainees, in the trades of Electrician and Fitter, who took the examinations in July 1997 and the supplementary examinations thereafter, within a period of three months from the date of receipt or production of a copy of this order, subject to the students being found otherwise eligible for the grant of the Certificates".

6. In the light of the decision of this Court in an identical matter, the petitioner is entitled to get the said certificate from the respondents 1, 2 and 4. Hence there shall be a direction to the respondents 1, 2 and 4 to issue National Trade Certificate in Electronics Mechanic Trade in favour of the petitioner bearing Roll No.5082011 within a period of eight weeks from the date of receipt of a copy of this order. The Respondents 1, 2 and 4 shall issue the certificates only to those candidates who have produced copy of the provisional certificate.

7. With the above directions, this Writ Petition is allowed. No costs.

Sd/-
Asst. Registrar (CS VIII)

/true copy/

Sub Asst. Registrar

tkp/sai

To

1. The Director General of Employment & Training,
Ministry of Labour,
Sharam Shakthi Bhavan,
Rafi Marg
New Delhi.

2. The Director of Employment & Training,
Guindy, Chennai - 32.

3.The Training Superintendent,
Government Industrial Training Unit,
Thiruvanmiyur now at
Government Industrial Training CEO Building
Guindy, Chennai - 32.

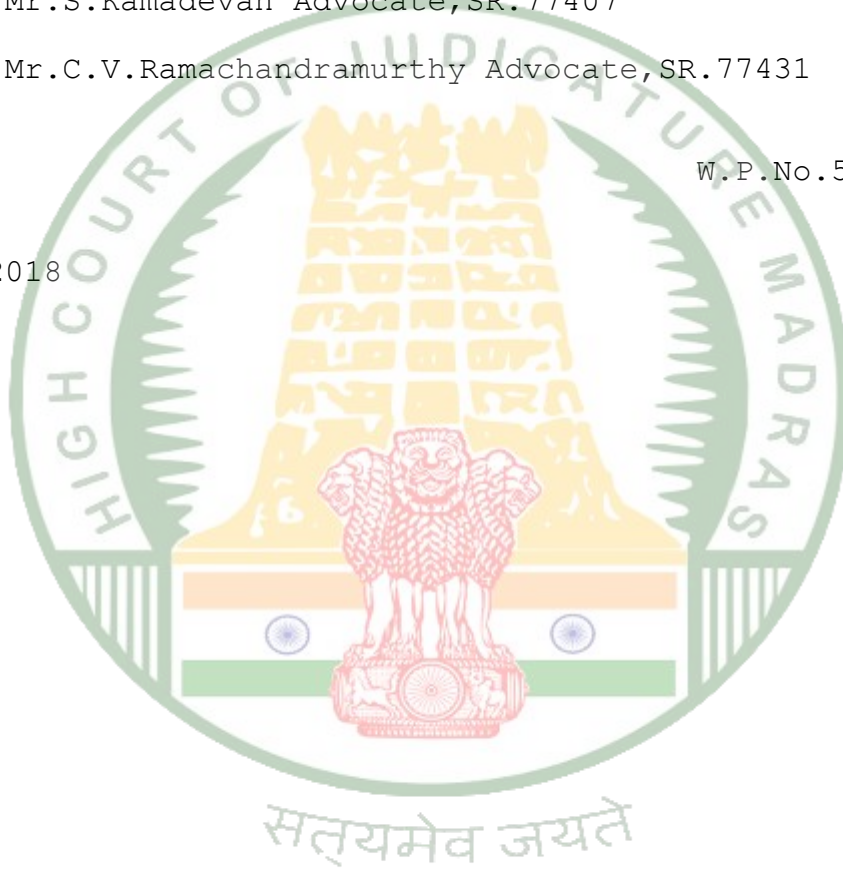
4.The Director General,
Ministry of Skill Development and Entrepreneurship,
Sharam Sakthi Bhavan,
Raji Marg, New Delhi 110 001.

+ 1 cc to Mr.S.Kamadevan Advocate,SR.77407

+ 1 cc to Mr.C.V.Ramachandramurthy Advocate,SR.77431

W.P.No.5697 of 2017

SAI (CO)
NR 17/01/2018



WEB COPY