

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24.03.2017

CORAM:

THE HONOURABLE MR. JUSTICE N.KIRUBAKARAN

W.P.No.18811 of 2016

and

W.M.P.Nos.16418 to 16420 of 2016

Thanthai Periyar ITI
Rep. by its Principal
A.Narayanan
S/o.Ammasi Gounder
Kuppichipalayam,
Bhavani Taluk,
Erode District.

...PETITIONER

Vs

1.The Assistant Director of
Training T.T.Cell Ministry of
Skill Development & Entrepreneurship
Directorate General of Training
Shram Shakti Bhawan, Rafi Marg
New Delhi.

2.The Director of Employment
and Training Guindy,
Chennai - 600 032.

..RESPONDENTS

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying for writ of certiorarified mandamus calling for the entire records relating to the impugned order passed by the 1st respondent in his proceedings MSDE-18015/3/2016-TTC dated 24.05.2016 and quash the same and consequently directing the 1st respondent to issue National Trade Certificate to the students who appeared ITI Electrician Course in the year 1997 in the petitioners ITI viz. Thanthai Periyar ITI, Kuppichipalayam, Bhavani Taluk, Erode District, Tamil Nadu State.

For Petitioner : Mr.C.Prakasam

For R-1 : Mr.D.Chandar for R1

For R-2 : Mr.P.Sanjay Gandhi
Addl. Govt. Pleader

O R D E R

The petitioner institute admitted students for Electrician Course in the year 1995. After applying for affiliation to the first respondent, pending recognition application, the second respondent gave provisional affiliation and the students also completed their course. Subsequently, affiliation was granted by the first respondent during the month of 1997. Therefore, petitioner applied for National Trade Certificate for 40 students who completed the Electrician course during the year 1995 to 1997. However, the same was declined to be issued by virtue of impugned order dated 24.05.2016 stating that the students were admitted by the petitioner, even before affiliation was granted by the first respondent in August 1997.

2. Heard Mr.C.Prakasam, learned counsel appearing for the petitioner, Mr.D.Chandar, learned counsel appearing for the first respondent and Mr.P.Sanjay Gandhi, learned Additional Government Pleader appearing for the second respondent.

3. The issue is already covered by a number of judgments of this Court namely Writ Appeal No.801 of 2006, dated 07.08.2009. Another Writ Petition namely WP No.21113 of 2006 was also allowed by this Court on 03.01.2007. The operative portion of the order passed in Writ Appeal No.7645 & 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."

7. In the light of the above decision of this Court in an identical matter, the students are entitled to get Trade Certificates from the first respondent. Hence, a direction is given to the respondents to issue National Trade Certificates for the batch of trainees who appeared for the examination for which permanent affiliation is granted in the subsequent year. The respondents are directed to issue the N.C.V.T., certificates within a period of three months from the date of receipt of a copy of this order subject to verification of other details of the respective students."

6.The learned counsel appearing for the petitioners submitted that the issue involved in these cases are already decided in the above writ petitions and therefore, the same order may be passed. The learned counsel further submitted that one similar case which was filed earlier was dismissed namely, W.P.No.38340 of 2005 dated 06.04.2006 by a learned single Judge and the said order was challenged in W.A.No.801 of 2006 and the Division Bench of this Court dated 07.08.2009, paragraph 9 to 14 held as follows:

"12.....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.

Following the above referred judgment, Mr.Justice N.Paul Vasanthakumar allowed batch of writ petitions in W.P.Nos.44489, 43551 and 43552 of 2006 and W.P.No.7894 of 2007, dated

21.11.2008. We are in full agreement with the said judgment.

13. But unfortunately, the aforesaid decision has not been brought to the notice of the learned single Judge which has resulted in the dismissal of the writ petition. In the light of the above decision of this Court, in an identical matter, the students are entitled to get Trade Certificates from the first respondent.

14. For the aforesaid reasons, we are of the considered view that the order of the learned single Judge dated 06.04.2006 made in W.P.No.38340 of 2006 is liable to be set-aside and accordingly the same is set-aside. The writ appeal is allowed. However, there will be no order as to costs. Hence, a direction is issued to the respondents to issue National Trade Certificates for the batch of trainees who appeared for the examination for which permanent affiliation is granted in the subsequent year. The respondents are directed to issue the N.C.V.T., certificates within a period of three months from the date of receipt of a copy of this judgment subject to verification of other details of the respective students."

7. The learned counsel also submitted that as against the order passed by the Division Bench in W.A.No.801 of 2006 dated 07.08.2009, the first respondent filed the Special Leave Petition in S.L.P.No.3596 of 2010 and the Special Leave Petition was also dismissed by the Hon'ble Supreme Court on 15.03.2010 and therefore, the Division Bench order arriving at the judgment of mine dated 21.11.2008 has become final and the same order may be passed.

8. The learned counsel appearing for the respondents are unable to dispute the said submission.

9. In the light of the order passed by me, the Division Bench of this Court and the order passed in the Special Leave Petition, these writ petitions are allowed as prayed for. The first respondent is directed to issue the National Trade Certificates to the students of the petitioners, within a period of four weeks, from the date of receipt of a copy of this order.

10.The writ petitions are allowed with the above direction. No costs."

4. In view of the above, the impugned order is quashed and the first respondent is directed to issue National Trade Certificate to the forty (40) students who completed their Electrician course in the petitioner's institution during the year 1995 - 1997, within six (6) weeks from the date of receipt of copy of this order.

5. With the above direction, this writ petition is disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

6. Post the matter for compliance in the first week of June 2017.

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

rsi/rg

To

1.The Assistant Director of Training T.T.Cell
Ministry of Skill Development & Entrepreneurship
Directorate General of Training
Shram Shakti Bhawan, Rafi Marg
New Delhi.

2.The Director of Employment and Training
Guindy,
Chennai - 600 032.

+1cc to Mr.C.Prakasam, Advocate, S.R.No.19025
+1cc to Mr.D.Chandar, Advocate, S.R.No.18748

GJII(CO)
EU 10.4.17

W.P.No.18811 of 2016