

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.03.2017

CORAM

THE HONOURABLE MR. JUSTICE N.KIRUBAKARAN

W.P.Nos.28070 & 38318 of 2015

W.P.No.28070/2015

Annur Industrial Training Centre
Rep by its Correspondent
Avinashi Road
Annur - 641 653
Coimbatore District

... Petitioner

-vs.-

1. The Director General of Employment & Training
Ministry of Labour
Sharam Shakthi Bhavan
Rafi Marg
New Delhi - 110 001.

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

... Respondents

Prayer:

Writ petition filed under Article 226 of the Constitution of India, praying this Court for issuance of Writ of Mandamus directing the respondents to issue National Trade Certificates to the 19 students of the petitioner institute and who were issued with Provisional Certificates by the 2nd respondent.

For Petitioner : Mr.S.Kamadevan

For Respondents: Mr.N.Vijaya Baskar, ACGSC, for R1
Mr.P.Sanjay Gandhi, A.G.P., for R2

W.P.No.38318/2015

Annapackiam - Jayaraj Nadar
Industrial Training Institute
Rep by its Principal
Mallampalayam - 639 202

Dharapuram Taluk
Tiruppur District.

.. Petitioner

-vs.-

1. The Director General of Employment & Training
Ministry of Labour
Sharam Shakthi Bhavan
Rafi Marg
New Delhi - 110 001.

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

.. Respondents

Prayer:

Writ petition filed under Article 226 of the Constitution of India, praying this Court for issuance of Writ of Mandamus directing the respondents to issue National Trade Certificates to the 38 students of the petitioner institute and who were issued with Provisional Certificates by the 2nd respondent.

For Petitioner : Mr.S.Kamadevan

For Respondents: Mr.Su.Srinivasan, ASGI, for R1
Mr.P.Sanjay Gandhi, A.G.P., for R2

COMMON ORDER

The petitioner has come up with the present writ petition seeking for issuance of Writ of Mandamus directing the respondents to issue National Trade Certificates to the students of the petitioner institutes who were issued with Provisional Certificates by the 2nd respondent.

2.The petitioner is an Industrial Training Institute affiliated to the first respondent and they had admitted students from the academic year 1994-95. Though the students had completed their courses and were also issued with the provisional National Trade Certificates, so far they have not been issued with the National Trade Certificates by the respondents and hence, the petitioner has come up before this Court for the relief set out earlier.

3.Heard Mr.S.Kamadevan, learned counsel appearing for the petitioner in both the writ petitions, Mr.N.Vijaya Baskar, learned Central Government Standing Counsel appearing for R1 in W.P.No.28070/2015, Mr.Su.Srinivasan, learned Assistant Solicitor

General of India appearing for R1 in W.P.No.38318/2015 and Mr.P.Sanjai Gandhi, learned Additional Government Pleader appearing for R2 in both the writ petitions.

4.The learned counsel appearing for the petitioner would rely upon the earlier order passed by the Hon'ble Division Bench of this Court in W.A.No.801/2006, dated 07.08.2009, order of the learned Single Judge of this Court made in W.P.No.21113/2006, dated 03.01.2007 and the order passed by this Court made in W.P.No.9041/2006, dated 29.07.2010.

5.On the other hand, Mr.Su.Srinivasan, learned Assistant Solicitor General of India appearing for the first respondent would submit that though the petitioner institutes had applied for affiliation to the first respondent, the affiliation was not granted for the year 1994-95. However, the petitioner institutes had proceeded with the admission and conducted the courses after getting provisional affiliation from the second respondent. Therefore, he would submit that unless permanent affiliation has been granted by the first respondent, the first respondent cannot issue National Trade Certificate to the students who had finished the courses during the relevant period.

6.Considered the rival submissions made by both sides and perused the typed set of papers.

7.As rightly pointed out by Mr.S.Kamadevan, learned counsel appearing for the petitioner, the issue is already covered by the Hon'ble Division Bench of this Court made in W.A.No.801/2006 and the same was also relied upon in W.P.No.7645 and 7663/2010. The operative portion of the said order is usefully extracted here under:

"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."

8.In view of the earlier orders passed by the Hon'ble Division Bench as well as the learned Single Judges of this Court in identical matters, these writ petitions stand allowed as prayed for. The first respondent is directed to issue National Trade Certificates to the 19 students of the petitioner institute in W.P.No.28070/2015 and 38 students of the petitioner institute in W.P.No.38318/2015, within a period of four weeks from the date of receipt of a copy of this order. No costs.

-s/d-
Assistant Registrar(CCC)

True Copy

Sub-Assistant Registrar

To

- सत्यमेव जयते
1. The Director General of Employment & Training
Ministry of Labour
Sharam Shakthi Bhavan
Rafi Marg
New Delhi - 110 001.

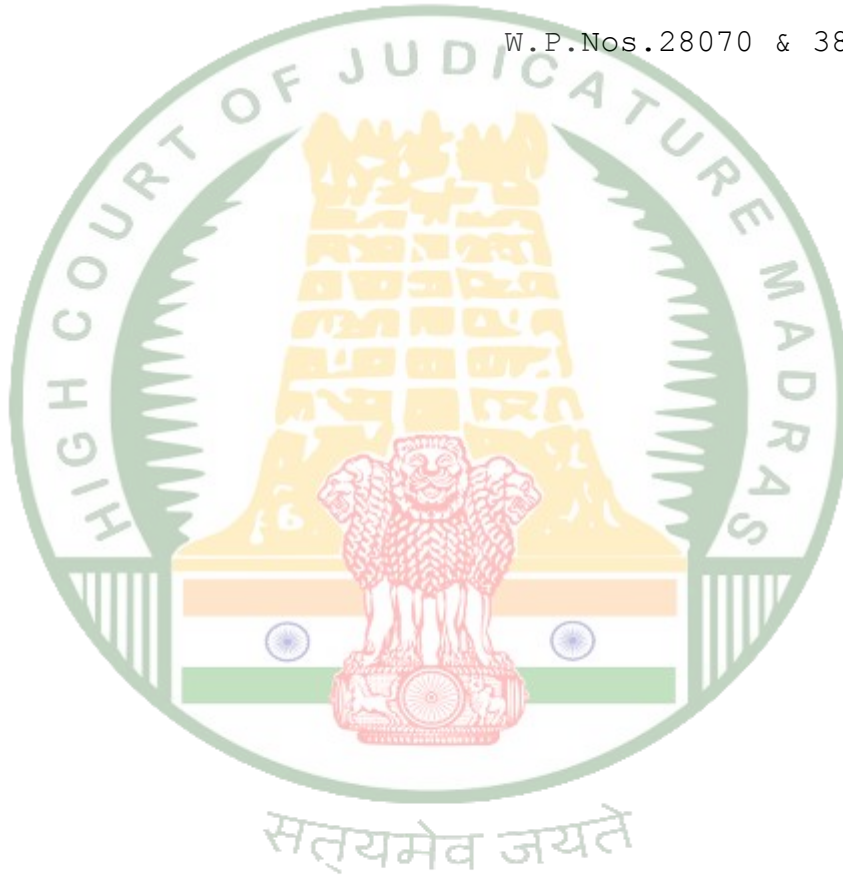
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2. The Director of Employment & Training
Guindy
Chennai - 32.

+1 CC to Mr. N. Vijaya Baskar, Advocate sr 18285
+1 CC to Mr.Su.Srinivasan, Advocate sr 18218
+1 CC to Mr.S. Kamadevan, Advocate sr 18190
+2 Ccs to The Govt. Pleader sr 18678 ,18800

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NMI (CO)
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