

HON'BLE SRI JUSTICE SURESH KUMAR KAIT

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W.P. No. 22106 of 2016

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DATE: 29.08.2016

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Between:

Dawn Private Industrial Training Institute(ITI) .. Petitioner

And

The State of Telangana
and three others .. Respondents

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ORDER:-

This writ petition is filed for the following substantive relief:

“....to issue a Writ of Mandamus declaring the inaction of the respondents in granting permission to admit the students in the petitioner-college in pursuance of the affiliation granted by the National Council for Vocational Training (NCVT), dated 25.08.2015 and also feasibility report submitted by the Regional Director to the 2nd respondent vide Letter No.B/Estt/1994/2016, dated 04.04.2016, as illegal and arbitrary and consequently direct the respondents to grant permission to the petitioner-institution to admit the students for the academic session 2016.”

Vide order dated 20/07/2016, the Director General of Training, Shram Shakti Bhavan, Rafi Marg, New Delhi was impleaded as respondent No.4 for the reason that the learned counsel for the petitioner has submitted that till date, there is no clarification issued by the said authority. Accordingly, the petitioner was directed to file amended memo within two weeks and shall take steps to personally serve notice on the impleaded respondent No.4.

On receipt of notice, respondent No.4 was directed to file affidavit to the issue raised in this writ petition. Thereafter, the learned counsel for the petitioner filed a report stating that respondent No.4 has been served with notice. Subsequently, vide order dated 08/8/2016, this Court issued bailable warrant against respondent No.4 to be executed through the Deputy Commissioner of Police, Central Delhi, in

a sum of Rs.50,000/- (Rupees Fifty Thousand Only) to ensure his presence on 29.08.2016. Accordingly, Mr.Ashish Sharma, Director General of Training – 4th respondent, has appeared in-person with his counsel.

The learned Assistant Solicitor General, appearing on behalf of respondent No.4 submits that in pursuance of the order dated 20.07.2016, the Office of respondent No.4 did not receive any notice, therefore, respondent No.4 could not appear in Court on the next date of hearing.

I note, bailable warrant was issued on the submission of the learned counsel for the petitioner that he had served notice on respondent No.4 and service report thereof is placed on record. On a specific query raised by this Court regarding proof of service, the learned counsel for the petitioner has failed to show any document establishing that respondent No.4 was served with notice.

Because of misrepresentation of fact by the learned counsel for the petitioner, this Court had issued bailable warrant, due to which, respondent No.4 appeared in-person before this Court by coming all the way from New Delhi by Air in business-class as per his entitlement. Thus, in this process, it is a loss caused to the Government exchequer.

Respondent No.4 has produced the Bill Brochure of the Ticket got booked through Balmer Lawrie & Company Limited and the total amount spent on the ticket (Air Fare) is Rs.72,402/- (Rupees Seventy Two Thousand Four Hundred and Two Only). Hence, the petitioner is directed to pay the said amount within two weeks from today in favour of

respondent No.4. On payment of that amount by the petitioner, respondent No.4 is directed to deposit the same to the Department under the Head of Account, for which, the tickets are purchased for the purpose of coming to this Court from Delhi. The bailable warrant of respondent No.4 is recalled and his presence is dispensed with until further orders.

Respondent Nos.1 and 2 have filed counter affidavit.

Counter affidavit on behalf of respondent No.4 is stated to have been filed, however the same is not found in the record.

At this stage, the learned counsel for the petitioner has submitted that the facts of the case on hand are similar to those of W.P.No.22241 of 2016 which is disposed of by this Court on 29.08.2016 and the present writ petition is squarely covered by the order dated 29.08.2016 passed in W.P.No.22241 of 2016, and prays that the present writ petition may be disposed of in terms thereof.

In view of the submission of the learned counsel for the petitioner, and following the order dated 29.08.2016 passed in W.P.No.22241 of 2016, this Court is inclined to dispose of the present writ petition by making following observations:

I am conscious of the fact that admissions are only up to 31.08.2016, but in that sense, keeping in view the G.O.Rt.No.112, dated 15.09.2014, the petitioner should have taken all steps to ensure that its issue should have been placed before the Committee constituted. This fact cannot be denied that if any of the private institutions wants to set up ITI,

it should be in the knowledge of the State Government and without that there would be no control of the respective States.

Accordingly, the respondents are directed to place the case of the petitioner-Institute before the constituted Committee which shall take decision within a period of two weeks from the date of receipt of a copy of this order. It is made clear that if the Committee decides the case of the petitioner-Institute, then the petitioner may get the students admitted for the academic session 2017-2018. It is further made clear that if the petitioner is still aggrieved by the decision of the Committee or of the State, liberty is granted to the petitioner to approach appropriate forum.

With the above observations, the writ petition is disposed of. No order as to costs.

As a sequel, Miscellaneous Petitions, if any pending, shall stand disposed of as infructuous.

SURESH KUMAR KAIT, J

29.08.2016

Note: Furnish copy in two days

b/o

isl / gvl / bcj