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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **W.P.(C) 9672/2019 & CM No.39926**

KUMAR ITC

..... Petitioner

Through: Mr. Sanjay Sharawat with Mr.
Divyank Rana and Mr. Abhishek
Dhankhar, Advs.

versus

DIRECTORATE GENERAL OF TRAINING

..... Respondent

Through: Mr. Vijay Joshi with Mr. Sahaj Garg,
Advs.

CORAM:

HON'BLE MR. JUSTICE RAJIV SHAKDHER

ORDER

% **17.02.2020**

1. The substantive prayers made in the captioned writ petition are as follows:

- “[a] Issue a writ of certiorari and quash the decision taken by the Respondent in its 7th meeting of the "Recommendation Committee" held on 27.08.2019 qua the Petitioner vide which it has declined to grant affiliation to the Petitioner for additional 8 [4+4] units in Electrician Trade for August 2019 academic session; and*
- [b] Issue a writ of mandamus and direct the Respondent to grant affiliation to the Petitioner on the basis of the inspection report dated 21.07.2019 in Electrician Trade for 8 [4+4] additional units for August 2019 academic session; and*
- [c] Permit the Petitioner to admit trainees in Electrician Trade against 8 [4+4] additional units for August 2019 academic session and permit it to commence the course with the said intake; and...”*

2. As would be evident upon perusal of the aforementioned prayers, the petitioner is aggrieved by the decision taken by the Recommendation Committee/DGT in its 7th Meeting held on 27.08.2019, whereby, it declined to grant affiliation to the petitioner for additional 8 (4+4) units in the Electrician Trade qua August 2019 academic session.

2. This petition came up for hearing, for the first time, on 5.9.2019. Since the Court did not assemble on that date, the matter was listed on 13.9.2019 when, the principal grievance advanced on behalf of the petitioner was noted.

3. On behalf of the petitioner, it was conveyed that the petitioner would be satisfied if a fresh inspection was conducted. It is argued though that the impugned decision was unsustainable in law as it was taken without adhering the principles of natural justice.

4. It is in this background that the counsel for the respondent [i.e. Directorate General of Training (hereafter referred to as “DGT”)] was asked to take instructions as to whether a fresh inspection could be conducted.

4.1 On the following date i.e. 24.9.2019, counsel for DGT returned with instruction, to the effect, that a fresh inspection could not be carried out since the Recommendation Committee had rejected the petitioner’s case on account of absence of infrastructure.

4.2 Accordingly, a formal notice was issued to the DGT. The DGT was granted a week’s time to file a counter affidavit in the matter.

4.3 The matter was listed for further proceedings on 23.10.2019. On that date, once again, counsel for DGT sought time to file a counter affidavit. At request of the counsel for the DGT, further two weeks were granted to file a

counter affidavit.

5. It is in these circumstances, the matter has been listed today. A Counter affidavit on behalf of the DGT has still not been filed. The assertions made in the writ petition, which are supported by an affidavit, will, thus, have to be accepted.

6. However, before I proceed further, let me just record the broad undisputed facts, which arise in the matter.

7. It appears that in 2010-11, the petitioner was granted affiliation for 20 units (10+10) qua Electrician Trade and for 4 units (2+2) in the Fitter Trade. In early 2019, the DGT invited applications for additional units in the Electrician Trade. The petitioner, in response to the same, filed its application on 24.5.2019. Accordingly, on 21.7.2019, an inspection was carried out by the DGT, which resulted in generation of a favourable report *vis.-a-vis.* the petitioner.

8. On 31.7.2019, the Recommendation Committee held its 6th Meeting. In the said meeting, the Recommendation Committee, *inter alia*, took the following decision:

“...Upon consideration of the inspection reports, the Recommendation Committee approved the proposals for grant of affiliations except some cases with remarks. A list of these ITIs is annexed as Annexure-6D. In few cases, the number of units/shift is abnormally high which may require huge infrastructure, it was decided that maximum 8 units/shift may be allowed for grant of affiliation, in case in any ITI the total number of units/shift goes beyond 8 units (base units +additional units), a high power team comprising of DGT officer (officer not less than the rank of Director) and State Directorate Officer (officer not less than the rank of Joint Director) will verify the infrastructure, basing on the report affiliation of units over and above 8 units/shift will be considered for grant of affiliation.

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It was also discussed and agreed to consider 5% tolerance in Electric connected load while scrutinizing the Joint Inspection reports for grant of affiliation.

Committee members also in view of that the terms and definition of 'Joint Inspection Team' and 'Standing Committee for Inspection' shall be re-examined by DGT officers, for standardization of nomenclature of such inspection teams to avoid confusion and litigation..."

(emphasis is mine)

8. As a result of this decision, a fresh inspection was ordered qua the petitioner. Unfortunately, the fresh inspection did not yield a favourable recommendation. The inspection report, it appears, in this behalf, was generated on 20.8.2019. It is this inspection report, which propelled the Recommendation Committee on 27.08.2019 to take a decision to decline the petitioner's application for affiliation of 8 additional units in electrician trade.

10. The petitioner, being aggrieved, has preferred, as noted hereinabove, the instant writ petition.

11. A perusal of the minutes of meeting dated 27.8.2019 would show that no reasons have been set out therein. The petitioner assails this decision principally on the ground that, no reasons are given and that principles of natural justice were not adhered to as no show cause notice was issued nor was a hearing accorded.

12. It is the contention of Mr. Sharawat, who appears for the petitioner, that if a show cause notice was issued and deficiencies were pointed out, perhaps, the petitioner would have cured the same.

13. Mr. Sharawat says that since the impugned decision does not give any reasons, one is unaware as to why the petitioner's application was rejected; especially, when, it is seen in the backdrop of the earlier inspection report, whereby, the petitioner's case was recommended.

14. Mr. Vijay Joshi, who appears for DGT, cannot but agree that the impugned decision is not backed by any reasons. It is, however, submitted that because the infrastructural deficiencies were found, the petitioner's request for grant of affiliation qua 8 additional units was declined.

15. I have heard the counsel for the parties and perused the record.

16. As noted hereinabove, DGT has chosen, for whatever reason, not to file a counter affidavit in the matter. The impugned decision discloses no reason. Mr. Sharawat is right in his submission that an order declining the petitioner's request ought to have disclosed reasons; especially, given the fact that the earlier inspection report had recommended the petitioner's case for grant of affiliation qua 8 additional units.

17. To my mind, the least that the Recommendation Committee/DGT could have done, is to issue a show cause notice to the petitioner to cure the deficiencies, which had been found by the second inspecting team.

18. I have no hesitation in agreeing with the petitioner that the impugned decision is bad in law.

19. Accordingly, the impugned decision taken by the Recommendation Committee/DGT in its 7th Meeting, held on 27.8.2019, qua the petitioner is set aside.

20. The matter is remitted to the Recommendation Committee/DGT for a fresh decision.

21. Needless to add, this exercise will be carried out by the DGT with due expedition, though, not later than 10 weeks from the date of receipt of a copy of this order.

22. The Recommendation Committee/DGT will issue a show cause notice to the petitioner setting out therein deficiencies, if any, found during the inspection. The petitioner will be given an opportunity to cure the deficiencies.

23. In case, even thereafter, the Recommendation Committee/DGT finds that the petitioner has not been able to meet the requisite norms and standards stipulated for grant of affiliation, the relevant reasons which support such a conclusion will be articulated by way of a speaking order. A copy of the speaking order will be furnished to the petitioner.

24. It may, perhaps, also help if the Recommendation Committee/DGT were to order a fresh inspection given the fact that the last inspection was held on 20.8.2019.

25. Needless to add, if the order passed is adverse to the interest of the petitioner, it will have liberty to assail the same as per law.

26. The captioned writ petition is disposed of in the aforementioned terms. Resultantly, pending application shall also stand closed.

RAJIV SHAKDHER, J

FEBRUARY 17, 2020/pmc