

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved On	30.03.2021
Pronounced On	11.06.2021

CORAM:

THE HON'BLE MR.JUSTICE C.SARAVANAN

W.P. Nos.18518, 18519, 20753, 20754 of 2015 & 2434 of 2017
and

M.P. Nos.1,1,1,1 of 2015 & W.M.P.No.2416 of 2017

W.P.Nos.18518, 18519, 20753 & 20754 of 2015

The Correspondent,
M/s.Kamatchi Industrial Training Institute,
Sekkupettai Saliya Street,
Kancheepuram,
Kancheepuram District - 631 501. ... Petitioner
in W.P.No.18518 of 2015

M/s.Kennedy I.T.C.,
Represented by its Founder & Correspondent,
Katpadi Road,
Vellore - 632 006. ... Petitioner
in W.P.No.18519 of 2015

M/s.Mahalakshmi Industrial Training Centre,
Represented by its Correspondent,
45, Chinnappa Mudali Street,
Manjakuppam, Cuddalore - 607 001. ... Petitioner
in W.P.No.20753 of 2015

Tamilaga I.T.C.,
Represented by its Founder & Correspondent,
Bangalore Road, Abdullapuram (P.O.),
Vellore - 632 010. ... Petitioner
in W.P.No.20754 of 2015

Vs

- 1.The Director General,
Employment & Training,
Ministry of Labour and Employment Training,
Shram Shakti Bhawan, Rafi Marg,
New Delhi.
- 2.The Director,
Employment & Training,
Guindy, Chennai - 600 032.
- 3.The Regional Joint Director,
Chennai Region,
Employment & Training,
Guindy, Chennai - 600 032.

... Respondents in
W.P.Nos.18518,18519,
20753 & 20754 of 2015

W.P.No.2434 of 2017

Tamilnadu Private Industrial

Training Institutes Association,
Represented by its State General Secretary,
V.Edwin Paul,
Admn. Office at No.12, Kamaraj Nagar,
Main Road, Avadi, Chennai - 600 071. ... Petitioner

Vs

- 1.The Director General of Employment & Training,
Ministry of Labour and Employment Training,
Shram Shakti Bhawan, Rafi Marg,
New Delhi.
- 2.The Director of Employment and Training,
Post Box No.3142, C.T.I. Campus,
Guindy Industrial Estate Campus,
Guindy, Chennai - 600 032.
- 3.The Regional Joint Director,
Employment Training,
Government Multi Department
Building Campus,
Kazhamalai, Trichy - 20. ... Respondents

Prayer in W.P.No.18518 of 2015: Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus, calling for the records of the third respondent culminating in the order dated 27.05.2015 made in Na.Ka.No.5446/Ni8/2014 and quash the same and consequently direct the second respondent to publish the results of the students of the petitioner Management admitted for the 2012-2014 academic session as per the annexure enclosed in the typedset of papers filed to this writ petition.

Prayer in W.P.No.18519 of 2015: Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus, calling for the records of the third respondent culminating in the order dated 29.05.2015 made in Na.Ka.No.2392/B/2015 and quash the same and consequently direct the second respondent to publish the results of the students of the petitioner Management admitted for the 2012-2014 academic session as per the annexure enclosed in the typedset of papers filed to this writ petition.

Prayer in W.P.No.20753 of 2015: Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus, calling for the records of the third respondent culminating in the order dated 29.05.2015 made in Na.Ka.No.2392/AA/2015 and quash the same and consequently direct the second respondent to publish the results of the students of the petitioner Management admitted for the 2012-

2014 academic session.

Prayer in W.P.No.20754 of 2015: Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus, calling for the records of the third respondent culminating in the order dated 27.05.2015 made in Na.Ka.No.5446/Ni8/2014 and quash the same and consequently direct the second respondent to publish the results of the students of the petitioner Management admitted for the 2012-2014 academic session.

Prayer in W.P.No.2434 of 2017: Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus, directing the second respondent to dispose of the petitioner's representation dated 08.04.2015 and 19.01.2017 to announce the results of the trainees of the members of the petitioner Association vide Annexure 'A' who appeared in the All India Trade Test held in July, 2014 and to issue Course Completion Certificate for the successful trainees and to permit the failed trainees to appear for supplementary examination of AITT to be held on 02.02.2017.
W.P.Nos.18518 & 18519 of 2015

For Petitioner : Ms.G.Thilagavathy
Senior Counsel
for Mr.R.Gopinath
For Respondents :
For R1 : Mr.J.Madanagopal Rao
SCGSC
For R2 & R3 : Mr.P.H.Aravind Pandian
Additional Advocate General
assisted by Mr.N.Inbanathan
Additional Government Pleader

W.P.Nos.20753 & 20754 of 2015

For Petitioner : Ms.G.Thilagavathy
Senior Counsel
for Mr.R.Gopinath
For Respondents :
For R1 : Mr.R.Murugan
CGSC
For R2 & R3 : Mr.P.H.Aravind Pandian
Additional Advocate General
assisted by Mr.N.Inbanathan
Additional Government Pleader

W.P.No.2434 of 2017

For Petitioner : Mrs.Auxilia Peter
For Respondents :
For R1 : Mr.K.Srinivasamurthy
SPC

For R2 & R3 : Mr.P.H.Aravind Pandian
Additional Advocate General
assisted by Mr.N.Inbanathan
Additional Government Pleader

COMMON ORDER

By this common order, all these writ petitions are being disposed of.

2. These writ petitions have been filed by the petitioner association and some of the individuals who are part of the association of Tamilnadu Private Industrial Training Institutes Association. They have challenged the identical impugned orders passed by the 3rd respondent wherein it has been stated that the petitioner association and the Industrial Training Institutes had admitted the students beyond the cut off date and that there was large scale irregularity in admitting the students, by these institutions. They have been refrained from declaring the results of the students who appeared in the examinations conducted by the 2nd respondent from their Industrial Training Institutes.

3. The impugned orders have been passed based on the representation of the petitioner association. Earlier, a common order was passed in W.P.Nos.1702, 1724 & 973 of 2015 on dated 27.02.2015. By the aforesaid order, these writ petitions were disposed with the following observations:-

"8. Thus, it is seen that the dispute is whether the candidates underwent the training for the full period and this has to be established by the petitioners' Institutions by producing sufficient records. Since the records in respect of the Institutions in the Southern Region are in the custody of the third respondent, the petitioners should be afforded an opportunity to appear before the third respondent and demonstrate from the records in the possession of the third respondent as well as other records, which are in their custody and establish that the candidates of the respective Institutions underwent the training for the full period. In respect of Institutions where records not taken by the third respondent Department, those Institutions also should produce records before the third respondent and establish that the candidates were imparted training for the full period for the session 2012-2014. If the petitioner Institutions are able to establish that the disputed trainees had completed the training satisfactorily as per the norms prescribed, then it is open to the third respondent to consider the same and pass orders for publication of results without further loss of time. However, in the

event there is no satisfactory explanation, then it is open to the third respondent to pass a speaking order as to why the candidates' result cannot be published.

9. In the light of the above, the Writ Petitions are disposed of, by directing the petitioners' Institutions to appear before the third respondent along with the records in their custody and the third respondent shall afford an opportunity to the petitioners' Institutions to establish from the records in their possession and the records which were seized by the officials of the third respondent that the disputed trainees had completed the training satisfactorily as per the norms prescribed.

10. As stated above, if the petitioners Institutions are able to satisfy that the disputed trainees had completed the training satisfactorily as per the norms prescribed, then it is open to the third respondent to pass orders for publication of results without further delay. However in cases where, the Institutions are unable to satisfactorily explain is that the disputed trainees had completed the full training period, the third respondent shall pass a speaking order assigning reasons as to why the results of those disputed trainees cannot be published. The above exercise shall be completed within a period of eight weeks from the date of receipt of a copy of this order. No costs. Consequently, connected miscellaneous petitions are closed."

4. Mrs.Auxilia Peter, learned counsel on behalf of the petitioner in W.P.No.2434 of 2017 submits that the writ petition is maintainable in response to a preliminary objection raised by Mr.K.Srinivasamurthy, learned counsel for the 1st respondent who submitted that the writ petition at the behest of the association is not maintainable. In this case, he placed reliance on the decision of this Court in Tamilaga Asiriyar Koottani, Chennai - 5 Vs The Secretary, Government of Tamil Nadu, Chennai and others in W.A.No.717 of 2005.

5. In response the learned counsel for the petitioner in W.P.No.2434 of 2017 placed reliance on the decision of the Hon'ble Supreme Court in Akhil Bharatiya Soshit Karamchhari Sangh (Railway) represented by its Assistant General Secretary on behalf of the Association Etc., Vs Union of India & Others, [AIR 1981 Supreme Court 290], 1981 (1) SC 246, wherein, the Hon'ble Supreme Court held that the writ petition can be filed

on behalf of the members by its association.

6. The learned counsel for the petitioner in W.P.No.2434 of 2017 also placed reliance on the decision of the Allahabad High Court in Umesh Chand Vinod Kumar and Others Vs Krishi Utpadan Mandi Samiti Bharathanaand Another, AIR 1984 ALL 46.

7. Arguing on behalf of the individual institutions, Ms.G.Thilagavathi, learned senior counsel for the petitioner in W.P.No.18518 of 2015 submits that neither the institutions nor the students cannot be penalized on account of any alleged irregularities. She further submits that in 2014, there was a transition from Annual Examination system to Semester System and therefore in the transition, there were some disruption in maintenance of the records but that however by itself did not mean that the students were not admitted in time. Though the admission for some of the students were delayed, they were on account of various factors which were beyond the control of the petitioner Industrial Training Institutes and therefore the impugned communications dated 27.05.2015 were liable to be quashed.

8. The learned senior counsel for the petitioner in W.P.No.18518 of 2015 also drew my attention to the decision of this Court challenging similar order in W.P.(MD).Nos.10802 & 10803 of 2016, dated 20.04.2016 which were allowed with the following observations:-

"10. If the petitioner institutes are violating any of the norms that may be prescribed, it is always open to the respondent to pass orders on time without affecting the student community. The said check by the respondents may be done in advance and stop the institutes like petitioner indulging in any kind of malpractice. The institutes also cannot convert sympathy towards the students to their advantage and continue to violate the norms. In the light of the above, the writ petitions are allowed setting aside the impugned order dated 29.05.2015 made in Na.Ka.No.2392/B/2015 passed by the 3rd respondent and the respondents are directed to issue the Course Completion Certificates to the candidates, who have successfully cleared the examinations. Consequently, connected miscellaneous petitions are closed. No costs."

9. The learned Senior Counsel for the petitioner further submits that the respondents appeals before the Division Bench of this Court were also unsuccessful and the appeals were dismissed vide order dated 16.04.2019 in W.A.(MD).Nos.1105 & 1106 of 2017 in W.P.(MD).Nos.10802 & 10803 of 2015, with the

following observations:-

"9. This Court is of the considered view that there is no infirmity or error apparent in the reasons found by the learned Judge for allowing the writ petitions and finds no merit in the writ appeals.

10. In the result, both the writ appeals are dismissed, confirming the common order dated 20.04.2016 made in W.P.(MD)Nos.10802 and 10803 of 2015. No costs. Consequently, the connected Miscellaneous Petitions are closed.

11. In the light of the dismissal of the writ appeals, the appellants 2 and 3 are directed to declare the results of the concerned students who had studied in the two institutions viz., Sri Adhisankarar Industrial Training Centre, Thiruvananthapuram, Trichy and Sri Adhisankarar Industrial Training Centre, Thanjavur and issue course completion certificates within a period of three weeks from the date of receipt of a copy of this order."

She further submits that the appeals filed against the order were allowed to be withdrawn by the Hon'ble Supreme Court with liberty to apply for review. The Hon'ble Division Bench of this Court dismissed the review petition by its order dated 16.04.2019 in Rev.Aplw(MD).Nos.93 & 94 of 2019 in W.A.(MD).Nos.1105 & 1106 of 2017 in W.P.(MD).Nos.10802 & 10803 of 2015.

10. Mr.P.H.Aravind Pandian, the learned Additional Advocate General appearing on behalf of the 2nd and 3rd respondents submits that the 2nd respondent had preferred an appeal before the Hon'ble Supreme Court in SLP.Nos.18302 & 18303 of 2019. He submits that by an order dated 12.02.2020, the Hon'ble Supreme Court dismissed the SLPs. While dismissing the SLPs, the Hon'ble Supreme Court however stated that the Judgment of the Division Bench of the High Court may not be treated as a precedent and that direction issued by the Division Bench may be completed within a period of six weeks, in accordance with law.

11. The learned Additional Advocate General further submits that there was a large scale irregularity by many of the institutions by admitting the students beyond cut-off date to write examination. It is submitted that students appeared in the examination without attending classes. He submits that, a representation was received on 03.07.2014 at the fag end of the Academic Year for the students who were allegedly admitted between 2012-2013 for writing examinations to be held during July 2014.

12. Based on the representation of the petitioner's Association, the 2nd respondent namely the then Director of Employment and Training ordered all Regional Joint Directors namely the 3rd respondent and their counterparts in the respective locations/zones to grant approval for the trainees on 14.07.2014 and that on the same date the Regional Joint Directors received letters by mail and therefore the students were allowed to write examination on 15.07.2014 and there was no sufficient time to verify the records of the individual Industrial Training Institutions.

13. After completion of the examination, the Regional Joint Directors formed a committee to verify the records of the Trainees and Staffs of the institutions who obtained the admission approval on the verge of conduct of examination. Accordingly, the Committee inspected thoroughly and that the inspection revealed startling facts that there was large scale irregularity and inasmuch as many of the students who have not attended classes were allowed to write examinations and that a DVAC complaint was also lodged against the then incumbent of the 2nd respondent and that of the 1st respondent acting on the complaint, the Director of Employment and Training Institutions, namely the 2nd respondent ordered the 3rd respondent to inspect all the Industrial Training Institutes and submitted a report and it is pursuant that all the ITIs in which 1340 students were allowed to write examinations was on account of malpractice and furnished the report for withholding the results of the trainees. Accordingly, the results of 2445 trainees in 51 ITIs were declared and the results of 1340 disputed students were withheld. It is further submitted that the 2nd respondent issued Show Cause Notices to all the 51 ITIs on 31.12.2016 and that none of the institutions were able to give any satisfactory explanation as to why the results for the 1340 trainees/students should not be withheld.

14. I have perused the same. I have perused the text of the relevant portion of the Training Manual For Industrial Training Institutes and Centre updated dated as of April 2002.

15. I have also considered the arguments advanced by the learned senior counsel representing the interest of the respective Industrial Training Institutes Ms.G.Thilagavathy, Mrs.Auxilia Peter, the learned counsel for the Tamil Nadu Private Industrial Training Institutes and learned Additional Advocate General Mr.P.H.Aravind Pandian for 2nd and the 3rd respondent and Mr.K.Srinivasamurthy, learned counsel for the Director General of Employment and Training, Ministry of Labour and Employment Training, New Delhi.

16. W.P.No. 2434 of 2017 has been filed by an Association to dispose its representation date 08.04.2015 and 19.01.2017. The other writ petitions in W.P.No.18518 of 2015, W.P.No.18519 of 2015, W.P.No.20753 of 2015 and W.P.No.20754 of 2015 have been filed by the respective Industrial Training Institutes. They have challenged the respective orders passed by the 3rd respondent on 29.05.2015 and 27.05.2015.

17. By these orders, the 3rd respondent has declined to give permission for announcing the results of the exams of some of the candidates who were admitted belatedly and for whom approval to write exam was granted by the 2nd respondent on 14.07.2014.

18. These orders were issued pursuant to a show cause notices dated 31.12.2014 to these Industrial Training Institutes and subsequent order dated 27.02.2015 of this court in W.P.No.1702 of 2015 filed by the Association, content of which has been extracted above. Similar order was passed in W.P.No.15460 of 2015.

19. The long and short of the allegations in the impugned orders is that as against the sanctioned capacity to admit trainees who attended course between 2012-2014, the respective Industrial Training Institutes had admitted students/trainees at the fag end just before the exams were to be held during July 2014 and obtained an approval dated 14.07.2014 irregularly from the 2nd respondent pursuant to a representation, dated 03.07.2014 of the Association. It is submitted that this approval was irregular which enabled the trainees from these institutions to write exams, even though they had not attended the course during the academic years.

20. The case of the 3rd respondent in these orders is that an inspection held by the Regional Joint Director on 29.05.2015 and 30.05.2015. During inspection, it was found that there are no records to substantiate that the trainees who were allowed to write exams pursuant to approval dated 14.07.2014 of the 2nd respondent showed that they had either attended the regular classes and/or had undergone the requisite training and thus their results were to be withheld. The investigation also showed that the records were manipulated and signatures were obtained only in the last sheet and that there are no records to substantiate purchase of requisite practical materials for these trainees to have undergone training at the petitioner Training Institutes.

21. On the other hand, it is the contention of the petitioners that during 2013-2014, the system of annual examination was changed to semester pattern and therefore in the process, there was some delay in sending the papers for approval of the candidates who were admitted belatedly. Such

22. It is submitted that the delay was purely on account of the transition and on account of the late verification of the community certificates of these trainees and therefore the delay on account of sending the names for approval should not be to the prejudice of these trainees who have undergone training under them and were allowed to write exams.

23. In a connected matter arising out of similar proceedings, the Madurai Bench of this High Court in W.P. (MD). Nos.10802 and 10803 of 2016, had quashed the orders of the 3rd respondent. Further appeal before a Division Bench in W.A.Nos.1105 and 1106 of 2017 was also dismissed on 27.03.2018.

24. Against the said order of the Division Bench Special Leave Petition Nos.15749 and 15750 of 2018 was filed before the Hon'ble Supreme Court. These Special Leave Petitions were however withdrawn at the time of admission on 10.07.2018 with a liberty to file Review Petitions against the orders dated 27.03.2018 of the Division Bench in W.A.Nos.1105 and 1106 of 2017.

25. The Director-General Of Employment And Training along with the other respondents thereafter filed Review Application (MD)Nos.93 and 94 of 2019 before the Division Bench at Madurai of this High Court. The said Review Petition was also dismissed by the Division Bench by its order dated 16.04.2019.

26. Pursuant to the aforesaid order, results in respect of the trainees of the Industrial Training Institutes in W.P (MD).Nos.10802 and 10803 of 2015/respondents in W.A (MD). Nos.1105 and 1106 of 2017 were also published on 16.07.2019.

27. Against orders dated 16.04.2019 of the Division Bench of Madurai High Court in Review Application (MD).Nos.93 and 94 of 2019 in W.A(MD).Nos.1105 and 1106 of 2017, the respondent herein had filed Special Leave Petition (Civil) Nos.18302 and 18303 of 2018.

28. The Hon'ble Supreme Court has declined to interfere with the order dated 16.04.2019 passed by the Division Bench of the Madurai High Court in Review Application (MD).Nos.93 and 94 of 2019 in W.A (MD).Nos.1105 and 1106 of 2017 in the peculiar facts of the case.

29. However, while disposing the above Special Leave Petitions, the Hon'ble Supreme Court has also observed that the orders dated 16.04.2019 2019 passed by the Division Bench of the Madurai High Court in Review Application (MD). Nos.93 and 94 of 2019 may not be treated as a precedent.

30. Therefore, this court is not bound to follow the decision of the Division Bench of the Madurai High Court in Review Application (MD).Nos.93 and 94 of 2019 in its order dated 19.04.2019 if the facts of the case justify a opposite conclusion.

31. The parties herein were called upon to furnish copies of the relevant Rules and Regulations governing the conduct of the exams by the 2nd respondent. The learned senior standing counsel for the 1st respondent, the Director General of Employment and Training, Ministry of Labour and Employment Training, New Delhi has filed extracts from Training Manual for Industrial Training Institutes and Centres 2002 edition in 2014 edition.

32. The National Council for Vocational Training and Advisory Body, was set up by the Government of India in the year 1956 when it was known as the National Council of Training in Vocational Trades.

33. The Council has been entrusted with the responsibilities of prescribing the standards and the curricula for craftsmen training, advising the Government of India on the overall policy and programmes/schemes conducting All India Trade Test and awarding National Trade Certificates.

34. The Grade test in various courses are arranged by or under the authority of the National Council for Vocational Training and certificates duly approved is awarded to successful candidates.

35. The State-Level Council for Vocational Training corresponding to the National Council deals with all matters relating to vocational training at State-level. The State Council, is affiliated to the National Council for Vocational Training. It functions as a State agency to advise the State Government, in carrying out the training policy laid down by the National Council and to coordinate Vocational Training Programs throughout the State.

36. Chapter 2 deals with Craftsmen Training Scheme (CTS). The objective of the Craftsmen Training Scheme are to equip the human resource with appropriate skills required in the to make the youth more productive by providing

them employable skills to achieve wage benefits as well as self-employment; to produce highly skilled craftsmen for the industry; to ensure steady flow of skilled workers for industrial/service sectors; to raise the quality and quantity of the industrial production by systematic training of potential workers.

37. Skill Training programmes under the Government and Private Industrial Training institutes have been designed to impart basic skills and knowledge in trade so as to prepare the trainees as skilled and semi-skilled workers for employment in organized sector as well as for self-employment.

38. About 70% of marks is allotted for practical training and rest 30% relating to Trade, Theory, Workshop Calculations and Science and Engineering, Drawing. The Emphasis is on Skill Building and therefore, most of the time is devoted for practical training. In order to impart awareness on issues like workers rights, occupational safety, as of skills, entrepreneurship and IT literacy, a compulsory subject "Employability Skills" in place of "social studies has been introduced with effect from August 2012 in all Government and private ITI's.

39. By DGE&T-19 (4) 2011-CD dated 17 January and 14 March 2013, all the Government and private Industrial Training Institutes were advised to implement training program under semester system in place of existing long-term courses. Appropriate guidelines have also been issued for the aforesaid purpose.

40. Thus, from reading of the above literature of the DGE&T, it is clear that it is intended for equipping youth with required skills etc., for self-employment to meet the requirement of the market demand with skilled and semi-skilled worker. Incidentally, it also caters to the requirements of organized sectors including Government, public sector undertakings and other institutions.

41. The above literature also prescribes the eligibility criteria of the trainees to appear All India Trade Test (for Regular Trainees). DG E& T-1 (02)/2013-CD, dated 8 October 2013 and DGE&T-19 (20)/2010-CD, dated 02.11.2010 prescribes the eligibility criteria for candidates/trainees to appear in the All India Trade Test (AITT) as a private candidate under CTS also has been prescribed. The same reads as under:-

"1. The applicant should have a minimum prescribed entry qualification for a particular trade under CTS in which he/she is desirous of appearing as a private candidate.

2. The applicant should possess a minimum 3 years experience in the relevant trade in establishments implementing Apprenticeship Training Scheme/small establishment covered under Factories Act, 1948, or registered with any governmental/local authorities.

3. SCVT certificate holder who has received institutional training in the same trade with the same duration of training. An entry qualification.

4. There should be All India Trade Test by SCVT for all the candidates who are desirous of appearing in the All India Trade Test under the aegis of NCVT as private candidates. All those, who qualified the SCVT test, may be permitted by the State Director to appear in AITT under NCVT.

5 Private candidates from establishments covered under the Apprentices Act, 1961 and sponsored candidates of ITIs and SCVT certificate holder (above III), may be exempted from appearing in the All India Trade Test to be conducted by the SCVT.

6. Apprentices under the Apprentices Act, 1961, who have failed 6 times in the All India Trade Test for National Apprenticeship Certificate can appear as private candidates in the corresponding trade under CTS only to stop this will be only applicable to such apprentices who have not qualified earlier for award of National Trade Certificate by the NCVT.

7. Private candidates will have to appear in all exams of semesters for the concerned trade under CTS from the session commencing from 2013."

42. Paragraph Nos.4.45 to 4.47 of Training Manual for Industrial Training Institutes reads as under:-

"4.45 All India Trade Test in the Engineering Trades

All India Trade Test is conducted by the National Council for Vocational Training in the following five subjects.

1. Practical including sessional work
2. Trade Theory including sessional work
3. Workshop Calculation and Science including sessional work
4. Engineering Drawing including sessional work
5. Employability Skills

Sl. No.	Subject for All India Trade Test	Maximum Marks for Each Subject	Minimum % Required for Pass	Minimum Marks Required for Pass
1.	Practical (including sessional work)	400 (Practical test:300) (Sessional work:100)	60%	240
2.	Trade Theory (including sessional work)	120 (Written test paper:100) (Sessional work:20)	40%	48
3.	Workshop Calculation and Science (including sessional work)	60 (Written test paper:50) (Sessional work:10)	40%	24
4.	Engineering Drawing (including sessional work)	70 (Drawing test paper:50) (Sessional work:20)	40%	28
5.	Employability Skills*	50	40%	20
	Total	700		360

(DGE&T-12(16)/82-TC, dated 24.11.82)

4.46. In the case of private candidates, there being no sessional work, the total marks and the minimum marks required for a pass for the different subjects will be as follows:-

Sl. No.	Subject for All India Trade Test	Maximum Marks for Each Subject	Minimum % Required for Pass	Minimum Marks Required for Pass in each subject
1.	Practical	300	60%	180
2.	Trade Theory	100	40%	40
3.	Workshop Calculation and Science	50	40%	20

Sl. No.	Subject for All India Trade Test	Maximum Marks for Each Subject	Minimum % Required for Pass	Minimum Marks Required for Pass in each subject
4.	Engineering Drawing	50	40%	20
5.	*Employability Skills	50	40%	20
	Total	550		280

(DGE&T-12(16)/82-TC, dated 24.11.82)

4.47 All India Trade Test in the Non-Engineering Trades

The maximum and minimum marks required to pass different subject will be as follows:-

Sl. No.	Subject for All India Trade Test	Maximum Marks for Each Subject	Minimum % Required for Pass	Minimum Marks Required for Pass
1.	Practical (including sessional work)	120 (Practical test:100) (Sessional work:20)	60%	72
2.	Trade Theory	30	40%	12
3.	*Employability Skills	50	40%	20
	Total	200		104

*(DGE&T-19(17)/2010-CD dated 12 April

2012) ”.

43. Thus, what is evident from a reading of the various circular/guidelines issued by the DGE&T extracted above indicates that the trainees are required to undergo intensive training and are required to have 80% attendance. The trainee has to score a minimum of 360/700. Out of total marks of 700, 400 marks are allocated towards practical (including sessional work). Thus, the candidates have to write exams for only 300 marks and should score a minimum of 120 marks from the written exams to get the certificate.

44. Each Trainee is required to submit his/her sessional work to the Chairman indicating his/her roll number. The Chairman will give sessional work of the Trainee to the

Examiner concerned for valuation. Thus, there is objectively, as the valuation should be done on the basis of the progress card of the training, exercises done by him/her during his/her training, class notebooks, and records etcetra kept by him/her. The periodical assessment made as mentioned in S.No.30 has to be kept in mind and few questions related to the trade may be asked by the Examiner concerned during the practical test. Simple questions on Employability Skills also may be asked.

45. What is evident from the reading of the above is that the candidate/trainee is subjected to questions by the Examiner based on the records maintained by him or her. Unless, a trainee has undergone practical training, he or she may not be able to answer the questions that may be posed by the Examiner nominated by the Chairman.

46. The proof of regularity of attendance will be evident at the time of such questioning by the Examiner. If a trainee has not attended practical classes, he or she will fail to score minimum of marks in the 400 marks allotted for practical (including sessional work). Therefore, even if records are not maintained by the institutions concerned which may possibly be the case also, the aspiration of the trainees cannot be put at stake, merely because the institution concerned were not maintaining the protocols and the records that are required for allowing the candidates to write the exam.

47. In my view, there is no justification in not releasing the results of the trainee. The results would show whether the candidates had indeed attended the classes all through the years.

48. Seven years have elapsed and the trainees have been cheated of their right to get proper recognition/certificate from the respondents for no fault of theirs.

49. The guidelines/circulars issued by the 1st respondent also provides for consequences on the institutions for not maintaining the records, or where it is found lacking in any aspect. Therefore, appropriate actions can be taken against the respective petitioner for their failure to maintain appropriate records. However, it cannot be used as a tool to deny the candidates/trainees who have undergone training and have appeared in exams way back in 2014.

50. I am therefore of the view that the results of the candidates who appeared in the exams cannot be withheld by the 2nd and 3rd respondent notwithstanding the fact that the respective petitioner Industrial Training Institutes had

miserably failed to establish that these candidates were admitted in time and/or had undergone the practical training for a period of two years with minimum 80% attendance.

51. Any action that can be taken has to be directed only against the petitioner Industrial Training Institutes. The candidates cannot be denied of their right to the results in the exams in which participated as they are not at fault for the mistakes committed by the petitioner institutes.

52. These Writ petitions stand allowed with liberty to the respondents to initiate appropriate action against the respective petitioner either to cancel/suspend their recognition prospectively without impacting the rights of the trainees who have enrolled with them and are undergoing training with them. No costs. Consequently, connected Miscellaneous Petitions are also closed.

Sd/-

Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

arb

To:

- 1.The Director General,
Employment & Training,
Ministry of Labour and Employment Training,
Shram Shakti Bhawan, Rafi Marg,
New Delhi.
- 2.The Director,
Employment & Training,
Guindy, Chennai - 600 032.
- 3.The Regional Joint Director,
Chennai Region,
Employment & Training,
Guindy, Chennai - 600 032.
- 4.The Regional Joint Director,
Employment Training,
Government Multi Department Building Campus,
Kazhamalai, Trichy - 20.

+lcc to Mr.R.Gopinath , Advocate SR.No. 27740

+lcc to Mr.K.Krishna Moorthy, Advocate SR.No. 27675

W.P. Nos.18518, 18519, 20753, 20754 of 2015 and

W.P.No.2434 of 2017

VSN II

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