



W.P(MD)No.7785 of 2015

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 08.08.2023

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)No.7785 of 2015

Rosi Foundation,
Represented by its Chairman,
S.Palanivelu,
3889, South 2nd Street,
Pudukottai – 622 001.

... Petitioner

Vs

- 1.The National Skill Development Corporation,
Represented by its Director,
Block A, Clanon Collection (qutab Hotel),
Shaheed Jeet Marg,
New Delhi – 110 016.
- 2.Thiyagarajar Educational Trust,
Represented by its Managing Trustee,
Lakshmi Nagar,
Valappady,
Salam District – 636 115.
- 3.The Management of Bank of India,
Represented by its General Manager,
Star House C-5, 'G' Block,
Bandra Kurla Complex,
Bandra (East),
Mumbai – 400 051.



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4.The Branch Manager,
Pudukottai Branch of
Bank of India,
T.S.No.9954 , Alangudi Road,
Pudukottai – 622 001.

5.The Branch Manager,
Thiruchirapalli Main Branch of
Bank of India,
West Bulivard Road,
Theppakulam – Post,
Trichy – 2.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus, directing the first respondent to release the reward money for the remaining 106 candidates among the 157 candidates who successfully completed the Dairy Farmer Training given by the petitioner as per the NSDC STAR Dairy Farmer Training Programme of the first respondent, with 18% interest p.a and within a time frame as may be fixed by this Court.

For Petitioner : Mr.S.Arunachalam

For Respondents : Mr.R.Thirunavukarasu
Standing Counsel for R.1

No Appearance for R.2, R.4 & R.5

ORDER

Heard the learned counsel appearing for the writ petitioner and the learned Standing Counsel appearing for National Skill Development Corporation (NSDC). The second respondent has been served but there is no



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appearance on their behalf. The respondents 2 and 3 have also not chosen to enter appearance.

2. The case of the writ petitioner is as follows:

The writ petitioner is an NGO. It is engaged in several social welfare activities. The petitioner was recognised as an associate partner by the second respondent. The second respondent has been acknowledged and recognised by the National Skill Development Corporation (NSDC) as one of their training partners. The petitioner and the second respondent entered into a contractual arrangement. The program was organised by the petitioner and the second respondent under what is known as NSDC-STAR Diary Farmers Training Programme during the period 2014-15. The scheme envisages payment of what is known as reward money to the individual participants. The grievance of the petitioner is that they had trained as many as 240 candidates who took part in the training program. Out of them 157 turned out to be successful. But the first respondent corporation paid reward money only to 51 out of 157. Though several representations were submitted for paying reward money to the remaining trainees, the first respondent did not favourably respond. That impelled the petitioner to file this writ petition.



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3. The first respondent has filed a detailed counter affidavit and the learned Standing Counsel appearing for the Corporation took me through its contents. The objections of the first respondent are primarily two fold:

- a) The writ petition itself was not maintainable
- b) There is no privity of the contract between the petitioner and the first respondent Corporation.

He relied on the decision reported in ***(2002) 5 SCC 111 (Pradeep Kumar Biswas Vs Indian Institute of Chemical Biology & others)*** and the decision reported in ***(2003) 10 SCC 733 (Federal Bank Limited Vs Sagar Thomas)*** in support of his contention. He also would add that the Corporation did not pay the reward money to the list of trainees submitted by the petitioner primarily for the reason that the details appeared to be suspect and even after scrutiny, the first respondent was not satisfied about the bonafideness and genuineness.

4. The learned Standing Counsel appearing for the Corporation would submit that since disputed questions of fact are involved, the writ Court may not exercise its jurisdiction in the matter. He pressed for dismissal of the writ petition.



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5. I carefully considered the rival contentions and went through the materials on record.

6. In the counter affidavit, the nature of the organisation has been delineated. It is seen there from the National Skill Development Corporation (NSDC) is a “Not for profit public Limited Company”. The shareholding of the Government is 49%. The total number of directors is 15 but only 6 out of them are nominated by the Government. It is obvious that the majority shareholding of NSDC is private. Applying the tests laid down in *Pradeep Kumar Biswas Vs Indian Institute of Chemical Biology & others* and *Federal Bank Limited Vs Sagar Thomas*, I have to necessarily hold that the first respondent will not fall within the definition of the term “State instrumentality” within the meaning of Article 12 of the Constitution of India. I therefore have to necessarily endorse the contention of the learned counsel for the first respondent that the writ petition is not maintainable.

7. Coming to the merits of the matter also, I have to sustain the contentions of the learned counsel appearing for the first respondent. There is no privity of contract between the petitioner and the first respondent



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Corporation. The learned counsel appearing for the petitioner, of course, relied on the decision reported in **(2019) 19 SCC 682 (City & Industrial Development Corporation of Maharashtra Limited Vs Lambda Therapeutic Research Limited and Others)** in support of his contention that if a person has an interest in the matter even though he may not have privity of contract, he was still have locus. However, in the materials enclosed in the typed set of papers, the partner's name has been only mentioned as Thiyyagarajar Educational Trust. The agreement was between the second respondent and the first respondent. If the petitioner had any independent agreement with the second respondent, the petitioner can definitely proceed against the second respondent.

8. The learned counsel appearing for the petitioner would submit that during the relevant time, insistence on furnishing the aadhar number was not made mandatory and it led to some confusion. I, therefore, observe that the dismissal of this writ petition will not mean that the petitioner has come out with any false claim. It is always open to the petitioner to independently satisfy the first respondent through the second respondent or in any other mode about the genuineness of their case and obtain relief.

9. With this liberty to the petitioner, this writ petition is dismissed. The dismissal of the writ petition need not come in any way of the first respondent



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from independently considering the petitioner's claim and granting relief.

There shall be no order as to costs.

08.08.2023

Index : Yes / No
Internet : Yes / No
NCC : Yes / No
MGA

To

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National Skill Development Corporation,
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- 2.The Managing Trustee,
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