



WP(MD)No.4724 of 2016

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 14.03.2023

CORAM:

THE HONOURABLE MR.JUSTICE **B.PUGALENDHI**

WP(MD)No.4724 of 2016

Muniaraj

: Petitioner

Vs.

1.The Director General of Employment and Training,
Shramsakthi Bhavan,
New Delhi.

2.The Director,
Employment and Training,
Guindy, Chennai – 600 032.

3.The Principal,
Government Industrial Training Institute,
Sivagangai.

: Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India seeking issuance of a Writ of Mandamus directing the respondents to issue National Trade Certificate to the petitioner for having passed in the All India Trade Test, July 2009, in the Fitter Trade at Government Industrial Training Institute, Sivagangai (Reg. No.M2000113).



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For Petitioner : Mr.N.Ananda Kumar

For Respondents : Mr.Veera Kathiravan,
Additional Advocate General

Assisted by
Mr.T.Vilavankothai,
Additional Government Pleader
for R.3

Mr.G.Rajarajan
for R.1, R.2

ORDER

This writ petition is filed for a mandamus directing the respondents to issue National Trade Certificate to the petitioner for having passed in the All India Trade Test, July 2009, in the Fitter Trade at Government Industrial Training Institute, Sivagangai.

2.The petitioner studied Fitter Trade Course in the Government Industrial Training Institute, Sivagangai, in the year 2008-2009 and he has successfully completed the course by securing 481 marks out of 700. The third respondent has also issued provisional National Trade Certificate to the petitioner on 07.10.2009 and based on the same, he has secured a job in the Tamil Nadu State Transport Corporation in the year 2014.



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3. According to the petitioner, his employer, namely, State Transport Corporation, has now directed him to produce the National Trade Certificate issued by the first respondent and therefore, he approached the respondents 2 and 3 for issuance of the certificate. Alleging that the respondents 2 & 3 have not taken any steps to get the certificate from the first respondent, he has filed the present writ petition.

4. Learned Additional Advocate General, by relying upon the counter affidavit filed by the third respondent submitted that the third respondent Institute was started in the year 2007, vide G.O.Ms.No.156 Labour and Employment (S2) Department Dated 16.07.2007 with the following trades:-

- a) Fitter - 4 Units
- b) Welder - 2 Units
- c) Electrician - 2 Units
- d) Cutting & Sewing - 2 Units
- e) Computer Operator Programming Assistant - 2 Units
- f) Mechanic Repair & Maintenance of Two Wheelers - 2 Units.



5.The petitioner had undergone training in the trade of Fitter in the Government Industrial Training Institute, Sivagangai, from August 2007 to July 2009. On completion of the training period, the petitioner wrote the All India Trade Test (AITT) held during July 2009 and he had successfully completed the test. Consequently, Provisional National Trade Certificate (PNTC) in the trade of Fitter has also been issued. But, the National Trade Certificate (NTC) could not be issued to the petitioner, since the trade of Fitter was not affiliated with National Council for Vocational Training (NCVT) which is under the direct control of the first respondent / Director General of Employment Training, Ministry of Skill Development and Entrepreneurship, Government of India.

6.He further submitted that as per the training manual issued by the first respondent, students were allowed for the academic sessions with the Industrial Training Institute, which has forwarded the Standing Committee Inspection Report (SCIR) to the first respondent for affiliation. In these institutes, (trade/units) trainees can be admitted on the understanding that they will be allowed to appear for National Council for Vocational Training (NCVT) examination subject to the affiliation from the first respondent, failing which, they would be trade tested by the State Council for Vocational Training(SCVT).



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7. In anticipation of getting affiliation, the petitioner and other students were admitted in the third respondent institute in the year 2007 and the petitioner has also written the All India Trade Test held in the year 2009 and passed in the test. In the case on hand, since the affiliation for trade was obtained only with effect from the year 2011, vide first respondent's affiliation order in No.DGET-6/22/3/2008-TC, dated 18.08.2011, the second respondent, as per the Training Manual, issued the Provisional National Trade Certificate (PNTC) for the passed out candidates of All India Trade Test, including the petitioner.

8. This Court considered the rival submissions made by the learned Counsel on either side and perused the available materials.

9. The petitioner joined the Government Industrial Training Institution in the Fitter course in the year 2007 and has successfully completed the course in the year 2009. The petitioner has also wrote the All India Trade Test during July 2009 and passed in the test. Based on the same, the third respondent had issued Provisional National Trade Certificate to the petitioner and thereafter, the petitioner has also obtained a job in the Tamil State Transport Corporation. The



petitioner's employer now insists for the National Trade Certificate, which has to be issued by the first respondent. The stand of the third respondent is that since the course has not been affiliated by the first respondent, at the relevant point of time, they are not in a position to issue the Certificate.

10. Similar such issue was dealt with by this Court in ***Director of Employment & Training, Guindy, Chennai v. ICWS Industrial Training Institute*** [WA.No.1163, 1222 of 2008, decided on 20.07.2010], wherein, the First Bench of this Court, at the Principal Seat, has held as follows:-

“11. This takes us to the question as to whether on the given facts and circumstances of the case, the candidates of the first respondent-institute are entitled to National Trade Certificates. This question came up for consideration before the Division Bench of this Court in W.A.Nos. 735 to 737 of 2006 (between The Director of Employment and Training, Chennai, vs. The Correspondent, Indira Gandhi Industrial Training Institute, Mannargudi and another). In the said case, the Division Bench has relied upon the earlier Division Bench judgment of this Court reported in 1997 (3) L.W. Page 1 (St. Stephens Teacher Training Institute, Velayutha Nagar, Kanyakumari Dist. Rep. By its Manager/Correspondent, V.Thangaraj vs. The Director of Government Examinations, Chennai-6 and another), wherein it has been observed as follows:-



"7. Concedingly the application was made within the stipulated period and has not been decided. It is categorically discernible from reading of Section 14, that it provided for a deemed recognition i.e., in case of the institutions which were already recognised before the coming into force of the Act, it would continue as such for six months, during which one is required to apply for recognition till the disposal of the application by the Regional Committee if applied within the period provided by the Act. Thus it provides a statutorily deemed recognition of the institution during the pendency of the application before the Regional Committee. It is the recognised principle of interpretation of statutes that provision of legislation are to be read in consonance with each other so that they may be operative in their respective field and will not render any statutory provision as obsolete. Deemed recognition has to be given its logical meaning. Consequently in our view the only interpretation which is comprehensible is, that for the purposes of Section 16 the deemed recognition provided by Section 14 shall have to be taken as recognised institution till it is either refused or any other order passed by the Regional Committee. In case interpretatively it is held that during the pendency of application, it would be deemed to be 'refused', it would run contrary to the express provisions of Section 14. Protection provided for six months or till the date of the decision of the application by the Regional Committee by the proviso to Section 14 would be rendered as obsolete. The students



having already studied in a recognised school would be left high and dry, and this time spent in studies would go waste which cannot be said to be either the object of the Act or could be intention of legislation. In ordinary course legislature does not denude a person of what one has already acquired, which is not the object of the Act. The institution as well as recognition is meant for the students. It cannot be said that the institution may go on gathering benefits like aid etc., and the students for whose benefit such benefits are conferred by the State on the institution would not be there, to reap its fruits. It is incomprehensible. In view of the observations made above, the respondents are directed to permit the students to take the examination and would continue treating the petitioner institution as recognised till this application for recognition is finally disposed of by the Regional Committee."

Ultimately, the Division Bench by judgment dated 23.04.2009 has observed that for the default committed by the officers, who are otherwise obligated to consider the application in time, the students should not be affected since they could not be made permanent by their respective employers for want of National Trade Certificates and accordingly, directed issuance of National Trade Certificates.

12.Coming to the case on hand, as already stated, the first respondent-institute had applied for affiliation as early in the year 1991 and also obtained provisional permission from the State Director. In fact, the Standing Committee inspected the institute and recommended for grant of permanent affiliation as early as on 28.8.1991. This was



communicated to the Director of Training and Secretary to NCVT by the State Director on 31.12.1991. A further reminder has also been sent on 9.9.1993 and as no response was received, further communication was also made by the State Director to the Director of Training and Secretary to NCVT on 19.6.1997. There has been total failure on the part of the Director of Training and Secretary to NCVT in disposing of the applications. It is not as if that the institute did lack of any infrastructural facilities and instructors as well. The candidates had been admitted on the strength of provisional affiliation granted by the State Director and in fact, those candidates have also been issued with Provisional National Trade Certificates. By virtue of those certificates, the candidates have also secured employment.

13.The procedure for complying with the disposal of affiliation application is time bound and in the event such application is made and the Standing Committee also recommends such an application, it is expected from the National Council for Vocational Training to consider and dispose of the application in time, as otherwise the candidates who are admitted on the strength of the provisional affiliation would be certainly deprived of. It is seen that the application for affiliation made in the year 1991 was considered by the DGE&T only in the year 1997 and the same was not recommended. In our view, certainly such an attitude of the officers who are obligated to dispose of the application in time keeping the interest of the candidates admitted in the institute cannot be a ground for later on denying the benefit of the course by the candidates. The candidates, who were admitted, would certainly have



legitimate expectation that they would be issued with National Trade Certificate. It is in these peculiar facts and circumstances of the case, equity requires to make the candidates entitled for National Trade Certificate, particularly when they have been issued with a provisional National Trade Certificate and on the strength of such certificate, they were also given employment. In this context, we may also refer to the observations of the Division Bench made in W.A.Nos.735 to 737 of 2006 that the candidates are not from any affluent background and they had come from downtrodden status and they should not be deprived of at this stage.

14. For our foregoing conclusion, we confirm the order of the learned Judge made in W.P.No.6209 of 2007 dated 13.12.2007 and dismiss the writ appeals. No costs. Consequently, connected M.Ps. are also dismissed.”

11. Much prior to the above decision, a Division Bench of this Court in ***R.M.Somasundaram v. Director General of Employment and Training, New Delhi and Others*** [W.A.No.801 of 2006 dated 07.08.2009], while issuing a direction for issuance of National Trade Certificate, has held as follows:-

“12. The learned senior counsel for the appellant submitted that the matter in issue is covered by an order in W.P.No.21113 of 2006 dated 03.01.2007. The learned counsel for the respondents also not disputed the said decision, but the contention of the first respondent is that the



students admitted for the respective trades were not granted affiliation by the National Council for Vocational Training (N.C.V.T.). Hence they are entitled to get the certificate issued by the State Council for Vocational Training only and are not entitled to get the certificate from the first respondent. 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



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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. "

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 WP.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.”

12.The aforesaid decision in W.A.No.801 of 2006 was also challenged before the Hon’ble Supreme Court in Special Leave Petition No.3596 of 2010 and the same was dismissed by the Hon’ble Supreme Court on 15.03.2010.

13.In view of the above position and considering the fact that the petitioner is also similarly placed person, this writ petition is allowed with a direction to the



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first respondent to issue the National Trade Certificate to the petitioner within a period of three months from the date of receipt of copy of this order. No costs.

Internet : Yes
Index : Yes / No
NCC : Yes / No
gk

14.03.2023

To

- 1.The Director General of Employment and Training,
Shramsakthi Bhavan,
New Delhi.
- 2.The Director,
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Guindy, Chennai – 600 032.
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B.PUGALENDHI, J.

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