

* IN THE HIGH COURT OF DELHI AT NEW DELHI
+ W.P.(C) 11602/2022

Date of Decision: 19.04.2023

IN THE MATTER OF:

MAA SARASWATI PVT. ITI, VILLAGE-DEORIA, POST
OFFICE- BHULANI, DISTRICT- DEORIA, UTTAR
PRADESH, THROUGH THE PRESIDENT PETITIONER
NO.2 TRUST PETITIONER NO.1

LAKSHMINA DEVI SHIKSHA SEWA SAMITI, AZAD
NAGAR, SECTOR - 4, GORAKHNATH, DISTRICT -
GORAKHPUR - 273015, UTTAR PRADESH, THROUGH
ITS PRESIDENT PETITIONER NO.2

Through: Mr.Amitesh Kumar, Ms.Priti Kumari
and Mr.Mrinal Kishor, Advocates.

Versus

DIRECTORATE GENERAL OF TRAINING, MINISTRY
OF SKILL DEVELOPMENT AND ENTREPRENEURSHIP,
KAUSHAL BHAWAN, B-2, PUSA ROAD, NEW DELHI-
01, THROUGH ITS SECRETARY RESPONDENT NO. 1

Through: Mr.Sushil Kumar Pandey, SPC and
Mr.Kuldeep Singh, Advocate.

HON'BLE MR. JUSTICE PURUSHAINDRA KUMAR KAURAV

J U D G M E N T

PURUSHAINDRA KUMAR KAURAV, J. (ORAL)

1. This petition under Article 226 of the Constitution of India seeks to

challenge the impugned decision taken by the respondent-Directorate General of Training (DGT) in its 1st meeting of the Revised Standing Committee on Accreditation and Affiliation (SCAA) held on 5th and 6th April, 2022. The petitioners have also prayed for the direction to respondent-DGT to process and decide the application submitted by them for grant of extension of affiliation for 4 (2+2) Units of Electrician Power Distribution and 4 (2+2) Units of Early Childhood Educator from the Academic Session 2022-23 in a time bound manner.

2. Learned counsel appearing on behalf of the petitioners has taken this court through the impugned decision to indicate that certain deficiencies were noted therein, with respect to the petitioners and without providing a copy of the inspection report or an opportunity to explain the deficiencies, the impugned decision has been taken.

3. Learned counsel appearing on behalf of respondent-DGT has opposed the submissions made by the petitioners and he states that the decision has been taken strictly in accordance with law and the deficiencies, as have been noted, clearly indicate that the petitioners were not fulfilling the applicable norms. According to him, even the decision with respect to the deficiencies was communicated to the petitioners, which has been stated in their counter-affidavit. Additionally, he states that even otherwise, the instant writ petition has been rendered infructuous for the reason that the application for affiliation was for the Academic Year 2020-2021 and at this stage, the petitioners cannot be granted any affiliation.

4. I have heard learned counsel appearing on behalf of the parties and perused the record.

5. The impugned decision taken by the respondent with respect to the

petitioners records the following deficiencies:-

Maa Saraswati Pvt ITI Bhaluani Deoria, Bhaluani Deoria. TMPOLD312	New	ELECTRICAN 4(2+2) Power Distribution Early Childhood educator - 4(2+2) Power Distribution Early Childhood educator - NR Power Distribution Early Childhood educator - 4(2+2)	ELECTRICAN - NR Power Distribution Early Childhood educator - NR	1. BCC not available 2. Building plan not approved by any government authority 3. Power not adequate for proposed trade. 4. Annexure 3 not 5. Machinery partially available 6. Hand tools available only for one (1 + 1) unit. 7. Details of teaching staff not available.	Not recommended.
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6. The respondent-DGT in its counter-affidavit in paragraph Nos.2 and 3 has stated as under:-

"2. That the deponent most respectfully submits that the case of the Petitioner ITI has already been considered in the Minutes of Meeting of the Revised SCAA held on 05/04/2022 and 06/04/2022 and owing to certain deficiencies mentioned in the Minutes of

Meeting, the application of the Petitioner ITI for additional trades/units was "Not Recommended" .

3. That the deficiencies discovered in the Petitioner Institute, subsequent to inspection, were communicated on the NCVT portal through an order no. DGT-AFFO11 (51)/10/2022 O/o Dir (TC) dated 22.04.2022. It is submitted that the deficiencies highlighted in the aforesaid order, included the unavailability of the Building completion certificate and details of the teaching staff, inadequate power supply and machinery tools, unapproved building plan etc. The copy of the order dated 22.04.2022 has been annexed herewith as Annexure R-1."

7. It is seen that there is no averment made in the counter affidavit of the respondent-DGT to indicate that before taking the impugned decision, the deficiencies were pointed out to the petitioners. It only states that the deficiencies discovered in the petitioners in the inspection, were communicated/uploaded on the National Council for Vocational Training portal through an order dated 22.04.2022. It is thus seen that before taking an impugned decision on 5th and 6th April 2022, the deficiencies were not communicated to the petitioners. The communication of the deficiencies, after taking a decision, will have no bearing in the instant case.

8. This court in W.P.(C) 13306/2021, in terms of the order dated 09.02.2022, has held that any decision without granting an opportunity to the petitioner is unsustainable. Paragraph No.3 to 5 of the order dated 09.02.2022 (Annexure P-8) reads as under:-

" 3. Though counter affidavit has been filed by the respondent opposing the petition, learned counsel for the respondent are not in a position to dispute the petitioners' averments that the impugned decision has been taken without granting any opportunity to the petitioners to explain their stand before rejecting the request for affiliation.

4. I am therefore of the view that the impugned decision, having been taken without following the principles of natural justice, cannot be sustained and are, therefore, set aside. The matters are remanded back to the respondent for reconsideration of the petitioners' applications by granting an opportunity to the petitioners to cure the deficiencies, if any, found in the inspection report. The said decision would be taken within 8 weeks from today.

5. Needless to state, this Court has not expressed any opinion on the merits of the petitioners' claim and, in case, the petitioners are aggrieved by the inspection report or any order that may be passed by the respondent, it will be open for the petitioners to seek legal recourse, as permissible in law."

9. In view of the aforesaid discussion this court is of the considered opinion that the deficiencies noted by the respondent-DGT were not pointed out to the petitioners before the impugned decision was taken. It is for this reason, the impugned decision is unsustainable. The same is, therefore, set aside. The matter is remitted back to the respondent-DGT for its fresh consideration, in accordance with the law.

10. Needless to state that once the decision taken by the respondent-DGT is set aside, the respondent-DGT would consider the case of the petitioners for grant of affiliation with respect to the next Academic Year i.e. 2023-2024 and shall take a decision as per the applicable norms.

11. Respondent-DGT is directed to take the decision within two months from the date of receipt of the copy of this order.

12. Accordingly, the instant petition is disposed of.

PURUSHAINDR KUMAR KAURAV, J

APRIL 19, 2023/MJ