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

+ **LPA 82/2024 & CM APPL. 5674/2024**

SHANTI DEVI PRIVATE ITI

..... Appellant

Through: **Mr. Sanjay Sharawat and Mr. Ashok Kumar, Advocates**

versus

DIRECTORATE GENERAL OF TRAINING & ANR.

..... Respondents

Through: **Mr. Farman Ali, SPC with Mr. Abhishek Khanna, (G.P) for R-1**

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Date of Decision: 31st January, 2024

CORAM:

HON'BLE THE ACTING CHIEF JUSTICE

HON'BLE MS. JUSTICE MANMEET PRITAM SINGH ARORA

J U D G M E N T

MANMOHAN, ACJ: (ORAL)

CM APPL. 5675/2024 (for exemption)

Allowed, subject to all just exceptions.

Accordingly, the present application stands disposed of.

LPA 82/2024 & CM APPL. 5674/2024

1. The present appeal has been filed under Clause X of the Letters Patent Act, 1865 assailing the judgment dated 12th September 2023 ('Impugned Judgment') passed in W.P (C) 8857/2023 whereby the learned Single Judge dismissed the writ petition filed by the Appellant-Institution challenging the



Office Memorandum (OM) dated 19th January, 2023 issued by Respondent no.1, Directorate General of Training (DGT).

1.1. Vide OM dated 19th January, 2023, the Appellant's application for seeking affiliation under the Multi Skill Training Institute (MSTI) Scheme was not recommended by Respondent No. 1. The Appellant had applied for seeking affiliation for four (4) units in Electrician Trade in the unserved block of *Tharthari* Block, Nalanda, Bihar under MSTI category. An unserved block has been categorised by Respondent No. 1 as a geographical area, where no active affiliated ITIs exists. The affiliation norms for setting up ITIs Year 2018 in an unserved block has been relaxed by Respondent No. 1.

1.2. Respondent No. 1 held that the Appellant [despite opportunity] failed to produce a certificate from concerned State Authorities to the effect that the (geographical) area of *Tharthari* block is an 'unserved block'.

1.3. The Respondent No. 2 contested the writ proceedings and confirmed that only *Katrisarai* Block in the Nalanda District is an unserved block. It filed a counter affidavit and relied upon a letter dated 27th August, 2022 confirming the said fact. It is therefore undisputed that *Tharthari* block is not an unserved block.

1.4. After considering the rival claims of the parties in the pleadings, learned Single Judge dismissed the writ petition and upheld the order of Respondent No. 1 declining recommendation for affiliation on the finding that the Appellant's application was not filed with respect to an unserved block. The Court held that it is the obligation of the applicant-Institute to furnish requisite document which would evidence that on the date of consideration of the Institute's application the area in question is an



unserved block. Aggrieved by the Impugned Judgment, the Appellant has preferred the present appeal.

2. The learned counsel for the Appellant states that the Appellant Institute cannot be made liable to produce a NOC from the concerned State Directorate certifying that the block in question is an unserved block. He states this is not the purport of Clause 2 (iv) of the revised Guidelines applicable for setting up MSTI as issued by Respondent No. 1 on 07th October, 2019. He states that the Appellant Institute does not have the wherewithal to obtain the said information. He states that in fact, it is Respondent No. 1, which has the data of all the existing affiliated ITI's available on its portal and is in the better position to ascertain the said fact.; i.e., whether a block is served or unserved.

2.1 He states that Appellant was led to believe that *Tharthari* is an unserved block on the basis of the list uploaded by Respondent No. 1 on its website in December, 2019, which list is annexed as Annexure P-5 to the writ petition. He states that it was on the basis of the said published list, the Appellant submitted an application for affiliation on 15th February, 2020.

2.2 He states that on merits the learned Single Judge has wrongly concluded that *Tharthari* is a served block. He states that as per Clause 6 of the Guidelines set out in Office Memorandum dated 08th March, 2019, upto two (2) ITIs can be permitted in an unserved block. He states that even assuming Sai Private ITI is already functioning in *Tharthari* block, the Appellant could have also been granted affiliation as the 2nd ITI.

3. In reply, learned counsel for the Respondent No. 1 states that the document filed by the Appellant as Annexure P-5 to the writ petition is specifically denied. He states that the said list had not been published by



Respondent No. 1 on its website as alleged.

3.1 He states that the Appellant has applied for affiliation in *Tharthari* block under the MSTI Scheme, which are applicable to unserved blocks alone. He states that in view of the admitted position on record that *Tharthari* is a served block since the year 2018, the Appellant cannot seek benefit of the Scheme for setting up MSTI in unserved blocks.

3.2 He states that the obligation to furnish requisite documents to prove that the area in question is served or unserved block lies with the Appellant-Institute. He states that in the facts of this case, the Appellant was granted sufficient opportunity to prove its contention.

4. This Court has considered the submissions of the parties and perused the record.

5. Respondent No. 1, DGT announced the Guidelines for the Scheme of setting up of MSTI in unserved blocks vide office memorandum dated 8th March, 2019, which was further revised on 7th October, 2019 ('Scheme'). An ITI applying for affiliation under the said Scheme was to be titled as MSTI. Under the said Scheme, relaxation of affiliation norms for establishing ITI's in unserved block was granted to ITI applicants. The stated object of this Scheme is to facilitate setting up of training institutes in unserved blocks to impart technical skills to the local youth in order to improve their prospects for gainful employment. The said Guidelines were framed in pursuance of the decision taken by the sub-Committee of Respondent No. 1 at its meeting dated 30th January, 2019 as communicated by its letter dated 26th February, 2019.

6. The aforesaid Scheme offering relaxation in the affiliation norms is an exception to the affiliation norms introduced in April 2018 for setting up



new ITIs with stringent requirement of land, minimum number of courses etc. The Scheme extending relaxation of the affiliation norms for setting up MSTI is therefore, exclusively available in an unserved block.

7. The unserved block has been identified as the geographical area in a State where there is no existing ITI. The criteria for identifying the unserved block is duly mentioned in the Scheme and further clarified by Respondent No. 1 in its letter dated 26th August, 2022 addressed to all the States and Regional Directorates.

8. The Appellant herein applied on 15th February, 2020 under the Scheme seeking permission to set up a MSTI for four (4) units in electrician trade in *Tharthari* Block, Nalanda, Bihar on the premise that *Tharthari* is an unserved block. The said application has been dismissed by Respondent No. 1 by its Office Memorandum dated 19th January, 2023 on the ground that the Appellant has failed to produce a certificate from the State authorities certifying that *Tharthari* is an unserved block.

9. In the writ proceedings before the learned Single Judge, Respondent No. 2, the State Directorate stated that *Tharthari* is a served block since an ITI i.e., Sai Private ITI established on 21st January, 2016 was granted affiliation by Respondent No. 1, DGT on 15th February, 2018; and the said ITI is active in the said block.

10. In these admitted facts, since *Tharthari* is a served block as opposed to an unserved block; ex facie the Appellant's application for affiliation under the Scheme applicable to unserved blocks was misconceived.

11. The Appellant has, however, contended before this Court that the obligation to ascertain whether a block is 'served' or 'unserved' does not rest with the applicant ITI and in fact, is to be determined by the State



Directorate. It is stated Appellant herein applied on 15th February, 2020 for affiliation and its application was processed by the State Directorate i.e. Respondent No. 2 and an inspection as well was carried out in the year 2022. It is stated that at no stage, the Appellant was informed about the non-maintainability in applying for an MSTI in the said block (*Tharthari*) and therefore, Respondent No. 1 is estopped from rejecting the application of the Appellant. We are of the considered opinion that the submission of the Appellant is misconceived in facts and law; and it has been rightly rejected by the learned Single Judge.

12. The existence, active status and affiliation of Sai Private ITI by Respondent No. 1 in *Tharthari* Block is in public domain and available on the NCVT MIS Portal as is evident from Annexure A-16 to this appeal. The said fact was therefore, accessible, verifiable and ascertainable by the Appellant as on the date of its affiliation application in the year 2020.

13. Further, it is opposed to common prudence that the applicant ITI (Appellant) who is desirous of availing the (relaxation norms) Scheme would be unaware of an existing functional ITI in a geographical area (Block) wherein it intends to set up for MSTI. Any prudent applicant would first carry out a reconnaissance (recce) of the geographical area before selecting the same for setting up an institute. We are therefore of the opinion that it is improbable that the Appellant herein was unaware of the existence of Sai Private ITI, when it applied Respondent No. 1 in year 2020. Therefore, the submission of the Appellant that it was unaware about the existence of SAI Private ITI does not appear to be in good faith.

14. For this reason, the reliance placed by the Appellant on the list of unserved blocks uploaded by Respondent No. 1 on its website in December,



2019 is of no assistance. Without adjudicating on the claim of Respondent No. 1 that the said list does not exist on its website, it would have been apparent to the Appellant that *Tharthari* Block is a served block due to the existence and functionality of Sai Private ITI. Therefore, in the facts of this case since *Tharthari* Block was a served block Appellant could not have per-se maintained an application on 15th February, 2020.

15. With respect to the alternate contention of the Appellant that Sai Private ITI is to be excluded from consideration for determining whether the *Tharthari* block is served or not, as it was granted affiliation by Respondent No. 1 prior to the new affiliation norms published in April, 2018 is incorrect and misconceived. The said argument is without any basis in law. Respondent No. 1's letter dated 26th February, 2019 expressly stipulates that there should be no functional ITI in the block for it to be considered as an unserved block. It has been correctly held by the learned Single Judge that for the implementation of the Scheme, all existing active ITIs have to be taken into consideration while assessing if the block is a served or unserved block. This has been reiterated and clarified beyond doubt by Respondent No. 1 in its letter dated 26th August, 2022. The arguments to the contrary by the Appellant are without any merit. The distinction between a served and an unserved block has been correctly explained by the learned Single Judge at paragraphs 11 to 13, which reads as under and the same merits, no interference:

“11. It is pertinent to establish the distinction between a served and an unserved block, based on the applicable policy and norms of the DGT. For the sake of clarity, the relevant portion of the policy dated 26.02.2019 is reproduced hereunder:

“1. An unserved block is one, which is listed on latest Local Government Directory (LGD) & does not have a single functional Govt. or Pvt. ITT.”



12. *The definition has also been reiterated in OM dated 03.08.2019 (Annexure P-3) as under:*

"1. An unserved block is one, which is listed on latest Local Government Directory (LGD) (www.lgd.gov.in) which is maintained by Ministry of Panchayati Raj) & does not have a single functional Govt. or Pvt. ITI. The LG directory maintains the complete list of latest States, Districts, Sub- Districts, Blocks and villages across country. For Andhra Pradesh and Telangana, it has been observed that the LG Directory shows the list of Mandals in the districts, rather than traditional blocks/tehsils. Thus, the list of unserved blocks/tehsils in both the states will be finalized after discussion with these States. "

13. *A perusal of the aforesaid explanations clearly shows that for a block to be considered as an unserved block, two conditions have to be fulfilled: First, that it is listed on the latest Local Government Directory (LGD) and second, that it does not have a single functional Govt. or Pvt. ITI. By logical extension, the same would mean that fulfilment of one condition alone cannot be construed to mean that the block is an unserved block. Even if the concerned block is listed on the LGD, it should not have any functional institution as well for it to be considered as an unserved block."*

16. With respect to the last contention of the Appellant that despite existence of Sai Private ITI, the Appellant's application should have been considered in terms of clause '6' of Office Memorandum dated 8th March, 2019 so as to permit the Appellant as the second ITI in the said block is patently erroneous. The said Clause '6' is attracted in case of an unserved block. With the existence of Sai Private ITI, the block *Tharthari* ceases to be an unserved block. The latitude to grant affiliations upto two (2) ITIs is available with Respondent No. 1 only for the blocks which are 'unserved'. The objective of permitting upto two (2) ITIs in an unserved block is also apparent from the object set out in the Office Memorandum dated 8th March, 2019. The object behind permitting upto two (2) ITIs in an unserved block is to compensate the local youth of the concerned block, which has lost out historically due to the absence of an ITI. The said clause has no application



to a served block.

17. The mischief in the arguments of the Appellant is that it is seeking to take advantage of the relaxed affiliation norms applicable to MSTIs in an unserved block, while seeking to set up its proposed ITI in a served block; which ordinarily would have required it to comply with the strict affiliation norms of April, 2018 applicable to applicants proposing to set up ITIs in a served block.

18. In view of the aforesaid observations, we find no merit in this appeal and the same is dismissed alongwith pending applications.

ACTING CHIEF JUSTICE

MANMEET PRITAM SINGH ARORA, J

JANUARY 31, 2024/hp/ms

Click here to check corrigendum, if any