

**Petitioner Vs. Respondent**

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**Court :** Chennai Madurai

**Decided On :** Jul-29-2016

**Judge :** M. Venugopal

**Appeal No. :** W.M.P.(MD).No. 10012 of 2016 in W.P.(MD).No. 13383 of 2016

**Appellant :** Petitioner

**Respondent :** Respondent

**Judgement :**

Heard the Learned Counsel for the Petitioner and the Learned Government Advocate for the respondents 1 and 2.

2. The Petitioner has preferred the main writ petition before this Court in calling for the records of the 2<sup>nd</sup> respondent/Regional Joint Director of Employment and Training, Tirunelveli Region, Tirunelveli, pertaining to his proceedings in e.f.vz;.2516/ ifg/2016 dated 15.07.2016 and to quash the same.

3. According to the petitioner, the petitioner/Valanar Academy of Vocational Training, Kuruvikulam Post, Tirunelveli District was started with an object to uplift the poor and backward youths in the vicinity of Kuruvikulam. As a matter of fact, the Institution got recognition and affiliation under No.DGET 6/22/25/97 TC in the year 1997 itself. The Institution, at present, has seven trades with respective sanctioned seats and the details of the same are as under:

Sl.No.	Name of Trade	Number of Units	Intake	Actual Admission	
				Govt.	Manag.
1.	Fitter	2+2	42	16	26
2.	Mechanic Ref and AC	1+1	26	10	16
3.	Mechanic Motor Vehicle	1+1	21	8	13
4.	Electrician	2+2	42	16	26
5.	Welder (Gas and Electrician)	2	42	16	26
6.	Mechanic Diesel	1	21	8	13
7.	Computer Operator and Programming Assistant	1	26	10	16
	Total		220	84	136

4. The stand of the petitioner is that on receiving some complaints purported to have been sent to the 2<sup>nd</sup> respondent/Regional Joint Director of Employment and Training, Tirunelveli Region, Tirunelveli, by the students and teachers, the second respondent, caused an inspection of the Institution, on 09.04.2016, who pointed out certain lack of requirements and called for explanation. At this stage, it is represented on behalf of the petitioner that the Principal of the Institution submitted an explanation before the second respondent and the second respondent, further requested the Principal of the Institution to arrange for a meeting immediately with the petitioner. Therefore, the petitioner went to the Office of the second respondent, on 13.04.2016 to meet him and in fact, he appreciated the steps taken by him to improve the standard of the Institution both administratively and educationally.

5. The plea of the petitioner is that the second respondent/Regional Joint Director of Employment and Training, Tirunelveli Region, Tirunelveli, sent a communication dated 25.04.2016 to the petitioner/Institution that the Institution was collecting

tuition fees even from trainees, who secured admission through counselling and as such, the name of the Institution would not be recommended for counselling in the year 2016. In this connection, the clear cut stand of the petitioner/Institution is that it never collected any tuition fees from the trainees, who secured admission through counselling and further really, if any students paid tuition fees before their admission, through their counselling, the same was returned by the Institution subsequently and in this regard, a reply dated 04.05.2016 was sent by the petitioner/Institution to the second respondent.

6. However, the grievance of the petitioner is that the second respondent/Regional Joint Director of Employment and Training, Tirunelveli Region, Tirunelveli, had not given opportunity to the petitioner/Institution thereafter. In the meanwhile, the schedule for counselling was announced and the list of Institutions for counselling was also published. But, to the shock and surprise of the petitioner/Institution, it came to light that the name of the Institution was not there in the list. Therefore, the petitioner/Institution presented a detailed letter dated 12.07.2016 in person to the 2<sup>nd</sup> respondent/Regional Joint Director of Employment and Training, Tirunelveli Region, Tirunelveli, to permit the petitioner/Institution to participate in the counselling. Also, it is learnt that the first respondent/the Director of Employment and Training, Guindy, has sent a memo to the 2<sup>nd</sup> respondent/Regional Joint Director of Employment and Training, Tirunelveli Region, Tirunelveli, on 14.07.2016 and that communication was not received by the first respondent till date.

7. At this juncture, the Learned Counsel for the Petitioner brings it to the notice of this Court that the respondents 1 and 2 had refused to include the name of the petitioner/Institution and other private Industrial Training Institutes for the counselling held during the year 2015, on the basis of requirement of renewal of affiliation. In this regard, the petitioner/Institution and other Institutions filed W.P.No.17965 of 2015 before the Principal Seat of this Court to quash the proceedings of the respondents 1 and 2 and projected a miscellaneous petition in M.P.No.1 of 2015, seeking for issuance of direction to the first respondent/Director of Employment and Training, Guindy, to include the names of the Institutions in the list of eligible private Institutes, for the District wise counselling for the academic

year 2015-2016 and this Court, by an order dated 29.06.2015 in W.P.No.17965 of 2015 and M.P.No.1 of 2015, at paragraph Nos.5 and 6, had passed the following order:

5. Considering the facts and circumstances of the cases and in the light of the Notification dated 10.06.2015, there shall be an order of ad-interim direction directing the 2<sup>nd</sup> respondent to include the petitioners' institutions in the list of eligible private Industrial Industries (ITI's) for the District wise counselling for the academic year 2015-2016 subject to fulfilment of the other requirement in accordance with norms and regulations.

6. It is made clear that the above said interim direction is subject to the result of the main writ petition.

Notice of motion returnable on 04.07.2016.

8. The Learned Counsel for the Petitioner urges before this Court that the petitioner/Institution is one of the members in the association viz., Private ITI (Industrial Training Institutes) Welfare Association and that the respondents passed an order on 15.07.2016 in utter disregard to the order passed by this Court in W.P.No.17965 of 2015 and M.P.No.1 of 2015, dated 29.06.2015. That apart, the Learned Counsel for the Petitioner/Institution invites the attention of this Court to the order dated 11.07.2016 passed by this Court, in W.P.Nos.22119 and 23750 of 2016 and W.M.P.Nos.18868 and 20344 of 2016, between

1. Kennedy Industrial Training

Institute, By its Correspondent,

Odapillaiyar Kovil (Stop),

Katpadi Main Road,

Vellore-6, Vellore District.

2. Thamizhaga Industrial Training

Institute by its Correspondent,

Abdullaburam, Vellore-10, Vellore District.

3. Kamatchi Industrial Training

Institute By its Correspondent

Sekkupettai Saliya Street

Kancheepuram-631 501

Kancheepuram District.

4. Vinayaka Industrial Training

Institute, by its Correspondent

Kullur Santhai Road, Periyavallikulam

Virudhunagar-626 004.

Virudhunagar District.

5. Private ITI (Industrial Training Institutes)

Welfare Association,

(Regn.No.140/2015), Rep. By the

President,

No.260/3-2, Tiruchendur Road,

V.M.Chathiram, Tirunelveli 627 011.

Vs.

The Director of Employment and Training, Guindy, Chennai-32 and 5 others, whereby and whereunder, this Court at paragraph Nos.5 to 7, it is observed as

follows:

5. It is not in serious dispute that the petitioners' institutions are affiliated with NCVT and in order to avail the benefits conferred under G.O.Ms.No.115, Labour and Employment (S1) Department, dated 19.07.2012, it has to fulfill certain norms as per paragraph No.4 (iii) and according to the learned Government Advocate, on instructions, the petitioners' institutions found to be lacking certain basic and necessary infrastructure and communication in this regard would be issued to the petitioners' Institutions. If at all the petitioners' Institutions do not fulfill the criteria in terms of the above said Government Order, it may not be entitled to get the reimbursement of the training cost and that apart, being self finance institutions, they are entitled to participate in the counselling for the purpose of admission for the current academic year.

6. It is also brought to the knowledge of this court that in similar facts and circumstances this Court, vide interim order, dated 29.06.2015, made in W.P.No.17965 of 2015 and M.P.No.1 of 2015 has granted interim injunction.

7. In the result, there shall be an order of ad-interim direction as prayed for, subject to the condition that the petitioners complying with the appropriate norms and regulations of NCVT and that this interim order is subject to the result of these writ petitions and it is also passed without prejudice to the rights and contentions of the official respondents. The petitioners' institutions as well as students admitted in the current academic session shall not claim any equity by taking advantage of the interim order at the time of final disposal of the writ petitions.

9. The Learned Counsel for the Petitioner proceeds to take a legal plea that the second respondent/Regional Joint Director of Employment and Training, Tirunelveli Region, Tirunelveli, had issued a show-cause notice to the petitioner/Institution, calling for explanation as to why proceedings to cancel the recognition of the Institution would not be initiated on certain 7 grounds mentioned in the notice and in deed, the said notice was signed on 16.07.2016 by the second respondent, which was received by the petitioner/Institution, on 18.07.2016.

10. The Learned Counsel for the Petitioner strenuously contends that the petitioner/Institution was directed to submit its explanation before 22.07.2016 and in fact, the petitioner/Institution submitted its explanation dated 21.07.2016 to the second respondent, and but no enquiry or order was passed. In this connection, the categorical stand of the petitioner/Institution is that the recognition and affiliation of the Institution is very much in force and as such, in terms of the observations of this Court made in paragraph No.5 of the order dated 11.07.2016 in W.P.Nos.22119 and 23750 of 2016 and W.M.P.Nos.18868 and 20344 of 2016, the name of the petitioner/Institution has to be displayed in the eligible list of Institution for counselling at the District Level for the academic year 2016-17.

11. In view of the above, the Learned Counsel for the Petitioner submits that the order of the second respondent/ Regional Joint Director of Employment and Training, Tirunelveli Region, Tirunelveli, dated 15.07.2016, refusing to permit the petitioner/Institution to participate in the counselling for the academic year 2016-2017 is illegal. Further, insofar as W.M.P.(MD).No.10012 of 2012 in W.P.(MD).No.13383 of 2016 is concerned, the petitioner/Institution, prays for passing of an order by this Court, in directing the respondents to include the name of the petitioner/Valanar Academic Vocational Training Institution, Kuruvikulam and to display its name in the list of eligible Institutions for counselling in the District Level for the academic year 2016-2017, pending disposal of the writ petition.

12. Per contra, it is the submission of the Learned Government Advocate for the respondents that in terms of the ingredients of G.O.(Ms).No.115, Labour and Employment (S1) Department, dated 19.07.2012, the private training institutes are instructed to comply with the following conditions to get eligible for reimbursement in subsequent years, in addition to the other stipulated conditions:

1. The duration of training programme for each trade is as fixed by NCVT.
2. NCVT syllabus should be adhered to in the training programme with sufficient soft skill programme as required.

3. The Training Institute should arrange the trainees to appear for the All India Trade Test conducted by NCVT every year at the end of training period.
4. The institute should not collect any kind of fee from the students covered under this scheme.
5. Campus interview should be arranged by the training institute at the end of training.
6. No excess candidate other than the sanctioned strength is admitted by the Institute.

and therefore, from the aforesaid condition No.4, it is abundantly and lucidly quite clear that 'an Institute' should not collect any kind of fees from the students covered under this scheme. However, the petitioner/Institution, in the instant case, had collected the fees from the concerned students and therefore, the action of the petitioner/Institution is in negation to the aforesaid G.O.(Ms).No.115, Labour and Employment (S1) Department, dated 19.07.2012.

13. It is to be noted that as per G.O.(Ms).No.115, Labour and Employment (S1) Department, dated 19.07.2012, the petitioner/Institute should not collect any kind of fee from the students covered under this scheme. In this regard, even though a categorical plea is taken on behalf of the petitioner/Institution, at paragraph No.6 of the affidavit of the writ petition to the effect that it never collected any tuition fees from the trainees, who got admission through counselling and really if any student paid tuition fees before admission through their counselling, the same was returned by the Institution subsequently, this Court is of the considered view that the petitioner/Institution first of all is not to collect any kind of fee from the student(s) covered under the scheme mentioned in the G.O.(Ms).No.115, Labour and Employment (S1) Department, dated 19.07.2012. In case, if it had collected the tuition fee from any student(s) before their admission through counselling, the same is directed to be returned by it to the said student(s) immediately, in the considered opinion of this Court.

14. Be that as it may, at this stage, one cannot brush aside a very important fact that in W.P.No.17965 of 2015 and M.P.No.1 of 2012, this Court at the Principal Seat, on 29.06.2015, had passed necessary orders, which are already extracted supra at paragraph No.7 of this order.

15. Besides this, the Principal Seat of this Court in W.P.Nos.22119 and 23750 of 2016 and W.M.P.Nos.18868 and 20344 of 2016, on 11.07.2016, had passed necessary orders at paragraph Nos.5 to 7, which are already extracted by this Court in this order at paragraph No.8.

16. In the instant case on hand, notwithstanding the fact that on behalf of the respondents, a specific plea is taken that already an enquiry was conducted on 09.04.2016 in the subject matter in issue, by the second respondent/ Regional Joint Director of Employment and Training, Tirunelveli Region, Tirunelveli, this Court, taking note of the fact that the 2<sup>nd</sup> respondent had issued a notice to the petitioner/Institution, on 16.07.2016, requiring it to submit its explanation as to why the recognition of petitioner's Industrial Training Institute should not be cancelled and that the petitioner/Institution was required to submit its explanation before 22.07.2016, in fact, the petitioner/Institution had submitted its explanation on 21.07.2016 before the second respondent/ Regional Joint Director of Employment and Training, Tirunelveli Region, Tirunelveli, it appears that no order was passed, based on the aforesaid explanation till date.

17. At this stage, it is represented on behalf of the respondents that the explanation of the petitioner/Institution dated 21.07.2016 was forwarded to the first respondent/Director of Employment and Training, Guindy. But the fact of the matter is that in the notice dated 16.07.2016, issued by the second respondent/ Regional Joint Director of Employment and Training, Tirunelveli Region, Tirunelveli, addressed to the petitioner/Institution, the petitioner was required to submit its explanation on 22.07.2016. At the risk of repetition, this Court very relevantly points out that the petitioner/Institution had submitted its explanation on 21.07.2016. Till date, either an enquiry is held or no order is passed, based on the explanation submitted by the petitioner/Institute, dated 21.07.2016, for the notice dated 16.07.2016, issued by the second respondent.

18. Considering the fact that the petitioner/Institute's detailed explanation, dated 21.07.2016, in the subject matter in issue, is still pending before the respondents 1 and 2 and also this Court, bearing in mind, the primordial fact of earlier orders passed by this Court in W.P.No.17965 of 2015 and M.P.No.1 of 2015, dated 29.06.2015 and the order dated 11.07.2016 in W.P.Nos.22119 and 23750 of 2016 and W.M.P.Nos.18868 and 20344 of 2016, this Court, pending disposal of the writ petition, directs the respondents to include the name of the petitioner/Institution viz., Valanar Academic Vocational Training Institution, Kuruvikulam and to display the same in the list of eligible Institutions for counselling in the District level for the academic year 2016-2017.

19. It is abundantly made clear that this interim order is passed by this Court, subject to the result of the writ petition and also passed without prejudice to the rights and contentions of the official respondents to be taken in the main writ petition. Furthermore, it is ordered that the petitioner/Institution as well as students admitted in the current academic session 2016-2017 shall not claim any equity by taking advantage of the interim order, at the time of final disposal of the writ petition. Notice.

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