

**(2013) 06 MP CK 0070**

**In the Madhya Pradesh High Court**

**Case No : Writ Petition No. 10794 of 2012**

|                                                  |            |
|--------------------------------------------------|------------|
| Khajuraho Industrial Training Centre and Another | APPELLANT  |
| Vs                                               |            |
| State of Madhya Pradesh and Others               | RESPONDENT |

**Date of Decision : 17-06-2013**

**Acts Referred:**

Constitution of India, 1950 — Article 226, 227

**Citation : (2013) 06 MP CK 0070**

**Hon'ble Judges : Rajendra Menon, J;A.K. Sharma, J**

**Bench : Division Bench**

**Advocate : Anil Khare and Mr. H.S. Chhabra, for the Appellant; Rahul Jain, Learned D.A.G. for Respondent No. 1 and Shri S.A. Dharmadhikari, Learned Counsel for Respondent Nos. 3 to 5, for the Respondent**

**Final Decision : Dismissed**

## **Judgement**

Rajendra Menon, J.—Petitioner institute has filed this writ petition challenging the orders dated 13-10-2010 and 29-04-2011, passed by the appropriate committees of the National Council for Vocational Training (NCVT) in rejecting the application submitted by the institute for grant of affiliation to the institute for conducting various vocational courses in the trades of Electrician, Mech. Diesel, COPA, Fitter and Computer Hardware. Shardanchal Society, Satna is a society registered under the provisions of Madhya Pradesh Society Registrickaran Adhiniyam, 1973, as is evident from the registration certificate Annexure P-1. The society has established various educational institutes in the district of Satna and in other various places for the purpose of imparting technical education in vocational trades. One of the institute established by the said society is a Industrial Training Institute at Chhatarpur, named as Khajuraho Industrial Training Centre. Initially this training institute was known as Madhav Industrial Training Centre, Chhatarpur which has been subsequently renamed as Khajuraho Training Centre, Chhatarpur.

2. The institute, in the year 2007-2008 applied for grant of affiliation in the office

of the Director General of Employment and Training and recommendation was made vide Annexure P-2 on 30-03-2007 for granting recognition/affiliation to the institute. However, when nothing was done, it seems that the matter came to this court in a writ petition and contempt proceedings, these matters were disposed of by this court with a direction to the competent authorities to consider the claim of the petitioner and take action in the matter. Accordingly, for the academic session 2009-10, recommendation was made by the State Committee. The State Committee inspected the institute on 04-04-2009 and recommended for running of two shifts in courses for 5 trades, namely Electrician, Diesel Mechanic, COPA, Fitter and Computer Hardware. Annexure P-3 is the recommendation made. The matter went to the National Council for Vocational Training and when the same has been rejected by the council, the petitioner has filed this writ petition.

3. Shri Anil Khare, learned Senior Counsel appearing for the petitioners took us through the documents and material available on record and emphasized that when the inspection was conducted and the State Committee recommended for grant of affiliation vide Annexure P-3, the said committee did not find any defect or deficiency in the matter for granting affiliation. He emphasized that the appropriate State Committee having inspected the institute on 04-04-2009 and when it gave a recommendation to the competent authority that affiliation can be granted to the institute in question, there was no reason for the competent authority to reject the same. It is pointed out that vide Annexure P-5 a second inspection was done on 24-07-2010 and the recommendation made was that the institute was entitled for affiliation and in the report Annexure P-8 dated 24-07-2010, no defect or deficiency was pointed out at the time of inspection by the said Standing Committee. It was argued by Shri Khare that after 24-07-2010, the matter was kept pending but in the website of the competent council vide Annexure P-9 on 13-10-2010, application of the petitioner for affiliation has been rejected for various reasons indicated in the remark column. It was argued by Shri Anil Khare, learned counsel for the petitioner that the reasons given in the remark column for rejecting the request for affiliation is wholly arbitrary, illegal and an unjustified action which cannot be upheld. It is indicated by him that in the inspection conducted and in the report submitted by the members of the Standing Committee vide Annexure P-8 dated 24-07-2010, no such defects or deficiency were pointed out but inspite of the same by giving totally uncalled for reasons the application has been rejected. By filing certain additional documents vide interlocutory application I.A. No. 9593/2012, the petitioner has brought on record various documents to show that the reasons given for rejecting the application in the impugned order Annexure P-9 is wholly unsustainable. Shri Khare, learned counsel for the petitioner took us through the documents filed alongwith I.A. No. 9593/2012 and pointed out that each and every reason given in the remark column of Annexure P-9 is rebutted, based on the documents filed alongwith the application. Referring to the map of the institute and its campus filed at page no. 5 of I.A. No. 9593/2012, Shri Khare,

learned counsel for the petitioner emphasized that permission for starting trade of electrician was rejected mainly on the ground that the workshop and class room for this trade is not in the same campus. By referring to the map available at page no. 5 of I.A. No. 9593/2012, Shri Khare, learned counsel for the petitioner emphasized that this is an incorrect finding, as the map does show that the campus is in the same building. On the contrary both the work shop and class room for electrician trade are situated in the same building, accordingly, he tried to emphasize that this map goes to show that the finding recorded with regard to electrician trade is incorrect. Similarly with regard to rejection for the trade of Mech. Diesel and the reasons given for purchase of equipments like Diesel Pump & Generator and the defects in the bills pointed out, Shri Khare argued that the deficiencies have been manufactured only for the purpose of rejecting the application. Learned counsel for the petitioner accordingly submits that the reasons given for rejecting the request for affiliation is wholly arbitrary, illegal and an unjustified action which cannot be upheld. He emphasized that the decision has been taken in an illegal manner only to deprive benefit to the petitioner institution. It is stated that the action of the respondents is unsustainable and there is no provision in the Manual and guidelines issued by the National Council for Vocational Training which contemplates purchase of equipments from authorized dealers and the requirement of equipments which are brand new, it is argued by him that even secondhand equipments which are in the working conditions are sufficient enough to meet the requirements of the guidelines issued by the National Council for Vocational Training and when the Standing Committee has found in its report Annexure P-8 that the affiliation can be granted, the action of the respondents in rejecting the claim of affiliation on the grounds indicated in Annexure P-9 is wholly unsustainable, accordingly he submits that the right of the petitioner institute to conduct the trade courses have been taken away in an illegal manner, the same be quashed and the mandamus be issued for granting affiliation to the institute.

4. Shri Rahul Jain, learned Deputy Advocate General for the respondent No. 1 and Shri S.A. Dharmadhikari, learned counsel for respondent nos. 3 to 5 refuted each and every allegations made and submitted that the Standing Committee is only a recommendatory body, its decisions are not binding on the NCVT and the recommendation of the Standing Committee is scrutinized by the appropriate committee in accordance to the procedure contemplated in the Training Manual for Industrial Training Institutes and Centers (Annexure P-10) and when it was found that the petitioner institute does not meet the requirement as indicated in the guidelines, it is stated that the application has been rejected. Shri S.A. Dharmadhikari took us through the documents and material available on record to highlight as to what was the reason given for rejection of the application and submitted that the society runs various institutes and instead of providing infrastructural facilities separately for each institute the infrastructural facilities available with one institute is shown for obtaining requirement for the other institute, particularly with regard to commercial vehicle and other equipments.

As the institute in question was found to be lacking in the matter of existence of appropriate infrastructural facilities, the decision taken in the matter is proper. It was argued by him that when an expert body has scrutinized the matter and the decision is based on requirements contemplated by the NCVT, in the absence of any statutory provisions shown to be violated or any breach committed, interference into the matter by this court is not called for. It was submitted by this court that this court does not sit as an appellate authority over the decision of the expert body, the decision of the expert body is not subjected to the judicial scrutiny, it is only the decision making process and the reasons given which are subject to judicial scrutiny and as the reasons given and decision taken meets the requirement of law, Shri Dharmadhikari argues that no interference be made.

5. We have heard the learned counsel for the parties and perused the record. It is clear that even though the Standing Committee had recommended vide Annexure P-8 for grant of permission to affiliate the institute in 5 trades as are indicated in the recommendation but the expert authority which is authorized under law to take a final decision found various discrepancies and defect in the institute and for the reasons given in the remark column of Annexure P-9, the claim has been rejected. The moot question warranting consideration now in this writ petition is as to whether the reasons given by the appropriate authority can be interfered with by this court. From the documents that have been brought on record, it is seen that the following reasons have been given by the NCVT in the matter of rejecting the prayer of the petitioner for grant of affiliation:

(A) Electrician.

With regard to this trade, it is seen that building plan submitted by the petitioner and verified by the Standing Committee showed that the workshop and the class rooms for the electrician trade are not in the same campus. It is indicated that as per ITI Training Manual of the NCVT, all the different units of a particular trade are to be located in one campus and not away from the main campus. This is the reasons given for rejecting the claim for affiliation with regard to electrician trade.

(b) Mechanical(Diesel) Trade:

With regard to this trade, it is pointed out that in the matter of purchase and establishment of Diesel Pump and Generator, it is found that particular equipments have not been purchased, original bills showing proof of purchase has not been annexed instead hand written bills have been produced from some local dealers and the names of the seller and purchaser are not indicated in these documents. It is stated that the petitioner has produced hand written bills on a piece of paper which does not disclose the seller and therefore the same is not acceptable.

(c) Fitter Trade:

With regard to Fitter trade, claim is rejected again on the ground that old lathe machinery is shown to have been purchased for an amount of Rs. 9000/- from a

local purchaser and the bill for the same does not show that it has been purchased from the authorized dealer. It is indicated in the report that the actual market value of new machine is more than Rs. 1,00,000/- but the document and the bill produced by the petitioner at the time of inspection shows that the machine has been purchased for a sum of Rs. 9,000/-. It is found that the same cannot be accepted and the matter is rejected.

(d) COPA Trade:

With regard to COPA trade, it is found that there are 8 computers and as per requirement the software licence for each computer has to be obtained separately. On the contrary, it was found that for each of 8 computers improper and incomplete software licence has not been produced and therefore, on the ground that defect is fatal, the claim is rejected.

6. Based on these findings recorded by the council Shri S.A. Dharmadhikari emphasized that Shardanchal Society, Satna has established various industrial training institutes and at the time of inspection by producing the equipments and machinery of some other items presence of infrastructural facilities was made but as proper material to how its existence was not produced and other requirements of law was not fulfilled, the claim has been rejected.

7. As far as documents filed to show compliance of the requirement vide I.A. No. 9593/12 is concerned, Shri Dharmadhikari has emphasized that these documents are not correct.

8. We have already indicated the discrepancies pointed out by the appropriate committee in the matter and if the documents filed by the petitioner alongwith I.A. No. 9593/12 are perused, the fact that emerges goes to show that in the matter of submitting building plan showing existence of work shop and class rooms for Electrician trade, learned counsel for the petitioner produced a map which is available at page no. 5 of I.A. No. 9593/12. This map is shown to have been prepared and inspected by Shri P.K. Shrivastava. Deputy Director, however, the map is shown to be dated 10-04-2011, the rejection order Annexure P-9 was passed much earlier to that on 13-10-2010 and in the rejection order and in the reasons given reference is made to map produced at the time of inspection by the State Committee in the year 2010. It is, therefore, seen that the map now produced alongwith I.A. No. 9593/12 is the map which is prepared much later to the inspection on 10-04-2011. Similarly, other documents produced as already indicated hereinabove are bills prepared in the blank papers of various motor workshops and establishment of Chhatarpur, they are hand written and do not show actual particulars of purchases made. In this regard if the Training Manual for Industrial Training Institutes and Centers filed by the petitioner as Annexure P-17 is taken note of, it is seen that in accordance to the requirement of para 42(b) of the Manual, Appendix XIX has been issued by the competent authority and in this Appendix various requirement for grant of affiliation, procedure to be followed and the documents to be produced at the time of inspection are

indicated. Annexure-III at page 25 is a document which indicates the particulars to be furnished to Secretary, NCVT for the purpose of considering grant of affiliation to the institute and the required proforma in which the report of the Standing Committee is to be prepared. Page No. 148, sub para-IV of this document deals with tools, equipments and machinery required to be procured under the head of infrastructural facilities in a tabulated form. In this form it is indicated as to what are the bills with regard to tools, equipments and machinery which are to be furnished at the time of seeking affiliation. The tabulated form consists of 7 columns, first column is serial no., second column is name of the tools, equipments and machinery as per syllabus, third column is number of unit required as per norms and various other numbers available are indicated. In para-2 of this annexure, the details of the material purchased for each trade separately has to be furnished in a tabulated form consisting of 8 columns. In this also column no. 1 is serial number, column no. 2 is name of the item, column no. 3 is quantity purchased, item no. 4 is number and date of purchase, column no. 5 is address of supplier, column no. 6 is date of supply, column no. 7 is cost and column no. 8 is the number and date of DD/cheque or cash receipt. Similar details with regards to power supply and various and various other material are contemplated in this Training Manual.

9. In the reply filed by the respondent nos. 1 and 2, it has been clearly indicated that the purpose for producing such bills for purchase etc is to ensure that proper and standard equipments are purchased, they are new and in working condition and are available in the campus at all time. It is seen from the record that various documents are filed by the petitioner to show existence of infrastructural facilities. The documents produced show that certain old lathe machinery has been purchased from various Engineering establishment from Chhatarpur. For example at page no. 26 of I.A. No. 9593/2012 is a letter of one Sardar Motor Works, it is a hand written receipt issued on 07-11-2008 and it indicates that 3 items mentioned there in have been given to the Principal of the institute and it is stated that all the materials are old but are in the working condition. The amount received from the Principal is indicated in this document. According to the inspection team name of the material purchased is a secondhand lathe machinery for Rs. 9500/-. It is indicated that the market value of this material is more than Rs. 1 lac. Similar is the position with regard to various other purchase made and the receipt filed in the matter. It is also pointed out that as per requirement of the condition for affiliation, the institute should have commercial transport vehicle purchased and registered in its name. It is pointed out that in the documents produced, a receipt with regard to purchase and insurance of vehicle from M/s Tata Motors is produced. The tax invoice is in the name of M/s Shardanchal Society Samiti and the insurance is in the name of the said society and it is stated that the vehicle in the name of the society is used by various other institutes of the society situated in Satna and therefore, it does not meet the requirement of an exclusive commercial transport vehicle being available for the institute seeking affiliation. Accordingly, from the documents available on

record, it is seen that the respondents have given various justification for not affiliating the institute and the documents produced by the petitioner in support thereof do not meet the requirement as contemplated in the guidelines issued.

10. As already indicated and submitted by Shri S.A. Dharmadhikari, it is a settled principle of law that in the matter of seeking recognition/affiliation to an educational institute the conditions stipulated and to be fulfilled are determined and considered by the expert body and the expert body is the sole and final authorities to determine the question of fulfillment of the conditions required and for grant of recognition or affiliation, a writ court exercising limited jurisdiction in a writ court under Article 226 /227 of the Constitution of India does not sit over the decision of the expert body by exercising in a further appellate jurisdiction. It only evaluates the decision making process and the reasons given for allowing or rejecting the claim. If the reasons given are found to be proper, not contrary to or inconsistent to any statutory rule or regulation the reasonable judgment made by the expert body is not interfered with. In the present case various discrepancies are found in the matter for providing infrastructural facilities in the institute and finding the deficiencies to be fatal, the claim has been rejected. Except for contending that an arbitrary decision is taken and the institute is being harassed, nothing is brought to the notice of this court based on principle of law or statutory provisions to show that the decision is vitiated due to non fulfillment of the requirement of law. On the contrary the guidelines and the Appendix to the manual does show that the various requirement are to be fulfilled which include the address of the supplier, date of the purchase, date of supply, cost of equipment etc. and the requirement stipulated do show that the equipments purchased should be new and in working condition. The expert body of the respondent council found that the infrastructural facilities are not sufficient to grant recognition to the institute, this decision is taken on the basis of proper scrutiny of the facilities available, therefore, the impugned action taken cannot be termed as perverse, arbitrary or illegal warranting interference by this court. It is seen that a reasonable decision has been taken by the competent expert body. That being so, we see no reason to interfere into the matter. The documents filed by the petitioner vide I.A. No. 9593/12 to show that the reasons given by the expert body is not correct are not of such of a nature that based on the same a mandamus can be issued for granting affiliation to the institute. On the contrary the nature of documents produced do not influence confidence on this court to take cognizance of the same and grant benefit to the petitioner. As a reasonable finding based on material available is taken by the expert bodies, we do not deem it appropriate to reverse such finding of the expert body. Accordingly, in the facts and circumstances of the case, we see no error in the action of the respondents in rejecting claim of the petitioner. The petition being devoid of substance is therefore, rejected.

11. During the course of hearing Shri S.A. Dharmadhikari indicated that if the petitioner again submits an application for seeking affiliation and if infrastructural facilities now available are sufficient, respondents have no objection for

reconsidering the matter. That being so, if the petitioner feels that now they fulfill the requirement of having infrastructural facilities they may approach the competent authority of the respondents for seeking affiliation afresh in accordance with law. With the aforesaid, for the present no case is made out for interference, the petition is dismissed.