

(2010) 07 CHH CK 0004
In the Chhattisgarh High Court
Case No : W.A. No. 250 of 2009

Navin Adarsh Audyogik Prasikshan Kendra	APPELLANT
Vs	
State of Chhattisgarh and Others	RESPONDENT

Date of Decision : 02-07-2010

Acts Referred:

Citation : (2011) 2 MPJR 16

Hon'ble Judges : Manindra Mohan Shrivastava, J; I.M. Quddusi, J

Bench : Full Bench

Final Decision : Dismissed

Judgement

These two writ appeals have been filed against the common judgment and order dated 21-07-2009 passed by the learned single judge in w.p. no.3313/ 2003 & W.P. (C) No. 3060/2009. Both the writ petitions were taken up together as in W.P. (C) No. 3313/2008, the writ petitioner sought for quashing of the order dated 29th Feb. 2008 and in subsequent petition i.e. W.P. (c) No. 3060 of 2009 sought for quashing of the order dated 6th Feb. 2009 with a further direction to the respondents of the writ petition to register the names of the students and issue admission cards so as to enable the students to appear in the final examination. Writ appeal No. 250/2009 has been filed by the institution namely Navin Adarsh Audyogik Prashikshan Kendra whereas W. A. No. 272/2009 by the State.

The reason for filing the writ appeal by the institution is that the learned single judge has imposed a cost of Rs. 50,000/- for violation of the instructions issued by the respondents and the students were admitted in spite of the fact that two units of electrician trade was sanctioned to it by the National Council for Vocational Training (NCVT).

The State has filed the writ appeal being aggrieved that the learned single Judge has directed that the students who were allowed to participate in the examination, their results be declared despite the fact that they were not

recognized by NCVT.

The facts which are very relevant to the cases on the hand are that the writ appellant of W.A. no. 250/2009 is a registered affiliated technical institute for providing training to the students of electrician trade. The erstwhile state of Madhya Pradesh granted permission to run two units of electrician trade vide order dated 30th February, 1993 but vide order dated 28.07.1994, the said two electrician trade units sanctioned were reduced to one. Thereafter, on 01.10.1998 an advertisement/memo was issued by the Department of Training and Employment of the erstwhile M.P. government in which it was mentioned that the Directorate of Employment and Training, Government of India, Labour Ministry, New Delhi, directed that no units should be allowed to run without permission and for the year 1998, only some recognized institutes mentioned therein including Navin Adarsh Technical Institute were granted permission to run certain trades by Directorate, New Delhi as well as by Employment and Training Department, Madhya Pradesh, Jabalpur. The name of the appellant institution finds place at Serial No. 4 and the following trades and their units were mentioned against it.

S.No.

Name of the private institute

Name of the trade, recognition of which granted

No. of units

04

NavinAdasrsh Technical Institute, Dhanora, Distt. Durg

Fitter

Electrician

4

4

Thereafter, again on 11.02.2004, a letter was issued by the Directorate of Employment and Training, Chhattisgarh addressed to Principal/Superintendent, Navin Adarsh Technical Institute, Dhanora District Durg, in which, it was mentioned that in the institution the following trade/units are affiliated to NCVT.

S.No.

Name of trade

No. of Units

No. of units granted affiliation

1

Fitter

04

4

2

Electrician

04

4

In the said letter, it was also expected from the institute that the recognition shall continue in future also, for this the institution shall maintain the norms fixed and the inspection can also be made by the duly constituted permanent standing committee to see whether the training is imparted continuously or not. The institution shall co-operate with the Committee and in case the infrastructure facility is not found in conformity with the fixed standard, the recognition shall be withdrawn. On 18.10.2007 the institution sent a letter to the Director of Employment and Training Centre, C.G. for registration of the trainees. A list of 17 persons was annexed to the said letter. Again a letter was sent on 06.02.2009 by the Directorate of Employment and Training, Chhattisgarh, instructing to fill up the proforma for the purpose of registration of the trainees admitted in their institution. The instructions to fill up the forms was also sent in July, 2009 as indicated in the annexures to the writ petition. Annexure 4 of Appendix XIX of the Training Manual for Industrial Training Institutes and Centres provides that the institute will be affiliated to the National Council for Vocational Training through the State Director, to whom it should look for guidance and instructions in all matters relating to training.

In view of the above, when the Director of Employment and Training has informed twice to the institution that the Government of India, Labour Ministry, through National Council for Vocational Training has sanctioned 4 units, it cannot be said that the institution had not acted in good faith. Further the institution was permanently affiliated to the NCVT. Only the question remained was regarding sanction of units and if the sanction of units was informed by the Director of Employment and Training of the erstwhile Government of Madhya Pradesh as also the State of Chhattisgarh, after reorganization of the State that 4 units have been sanctioned in the trade of Electrician and the students were admitted, it cannot be said that the admission of the students was made due to the fault committed by the Director of Employment and Training, Govt. of Chhattisgarh. The learned Single Judge had permitted the students to appear in the examination as the students were not at fault, they got proper training and as such they were allowed to appear in the examination conducted by the NCVT. The above annexure provides for the affiliation and examination etc., to be given and conducted by the NCVT but through the Director of Employment and Training of the concerned State. The terms and conditions of affiliation to National Council

for Vocational Training have been made in Training Manual for Industrial Training Institutes and Centres, which are quoted as under: -

1. The institute should adopt the standards laid down by the National Council for Vocational Training in the matter of syllabi, scale of tools and equipment, shop layouts, methods of training and trade testing in force from time to time.

The requisite number of instructional staff and supervisory staff should be provided. They should be qualified and should possess experience for their posts.

Training sessions will have to conform to the All India dates as laid down for starting sessions.

Trainees of the affiliated institutes will appear in the All India Trade test to be conducted by the NCVT.

Trade Test will be conducted in the institute premises or any other centre approved by the State Director in accordance with the procedure prescribed by the NCVT.

The institute will provide facilities for regular inspections by the officers of the State and Central Government and implement any recommendations made by them for improvement of training standards.

The Institute is not allowed to start any new trade or Unit without the prior approval of State Director in Charge of Training. While permitting any institute to discontinue the trade for which affiliation is already given, intimation should be given by the State Director to DGE&T at least 6 months in advance giving reasons for closure.

In case, it is found that the Institute fails to maintain prescribed standards or in any way fails to adopt the standards prescribed by NCVT, the affiliation shall be withdrawn on the basis of recommendation of the Standing Committee and its acceptance by NCVT.

The Institute will be affiliated to the National Council for Vocational Training through the State Director, to whom it should look for guidance and instructions in all matters relating to training.

In case of non - availability of trained instructors, the untrained instructors must be trained within a period of 3 years from their appointment failing which the affiliation granted is liable to be withdrawn.

Cost of raw materials for the trade test to be conducted for the trainees of private institutes/Centres would be borne by the private institutes/Centres concerned.

Examination fee as prescribed under the Craftsmen Training Scheme would be collected by the State Director from the trainees of private Institutes/Centres.

In view of the above mentioned facts and circumstances, we allow the appeal

filed by the institution. The cost imposed upon the institution by the learned single Judge is set aside. The institution need not pay any cost. The rest of the order of the learned Single Judge is upheld. The writ appeal filed by the State is dismissed.