

(2005) 11 PAT CK 0016
In the Patna High Court
Case No : CWJC No. 7061 of 2005

Priya Institute of Electronics and Technology	APPELLANT
Vs	
Union of India	RESPONDENT

Date of Decision : 23-11-2005

Acts Referred:

Citation : (2006) 1 PLJR 278

Hon'ble Judges : Mridula Mishra, J

Bench : Single Bench

Advocate : Ganesh Pd. Singh and Dudhnath Singh, for the Appellant; Lalit Kishore, for the Respondent

Judgement

Mridula Mishra, J.—Heard counsel for the petitioners, counsel appearing for respondent Nos. 1 to 4. Petitioner No. 1 Priya Institute of Electronics and Technology is a registered private institution under the Companies Act, 1956 and a certificate of incorporation bearing No. U80903 BR 2003 RTC./0050 has been issued in favour of petitioner No. 1 under the signature of Registrar of Companies, Bihar. Petitioner No. 2 is the Director of Priya Institute of petitioner No. 1 (hereinafter referred to as the Institute).

2. Petitioners have filed this application for allowing the candidates admitted in the Sessions 2003-05 in various trades to appear in All India Trade Test which was scheduled to be held in July, 2005.

3. During the pendency of this application by order dated 19.7.2005 respondent Nos. 2 to 4 were directed to permit the students of the petitioner's institution to appear at the examination commencing from 22.7.2005 on provisional basis subject to the result of this writ application.

4. Admitted facts of both the cases are that a notice was published in daily newspaper Dainik Jagran dated 17.12.2002 inviting application for opening private institution. The petitioners submitted their application on 10.1.2003 in pursuance to that notice. The provisional approval for opening the institute was

granted to the petitioners by the Director, Employment and Training, Bihar, Patna and application for granting affiliation to the institute was submitted by the petitioners. The Director, Employment and Training, Bihar, Patna directed the institution of the petitioner to send all relevant information regarding their institution for the purposes of inspection. The Director General of Employment and Training (D.G.E. and T) granted affiliation to the institute vide letter No. DGE & T12/1/2004TC dated 19.10.2004. (Annexure-8) with effect from August, 2003 in following trades.

1. Electrician, 2. Fitter, Mechanical Electronics Mech. R&AC. The institute was informed by the Directorate regarding its affiliation vide letter No. 2028 dated 30.11.2004 and was directed to submit the admission position of the students of Sessions 2004-2006 but the institute submitted the information of admission of the students in Sessions 2003-05 in addition to the admission position of Sessions 2004-06. The petitioners institution has submitted all information regarding the institute for inspection by the Standing Committee of the State Government. It did not mention the admission position of Sessions 2003-05 in its Annexure-3. So this was the reason that the directorate was not clear regarding the admission status of the institute. The institution submitted list of trainees of the Sessions 2003-05 only on 20.2.2004 after a lapse of more than one year of start of sessions 2003-2005. Although the institute was supposed to inform the directorate earlier since the admission was taken by the institute earlier and Session started in August, 2003.

5. Petitioners case is that the inspection of the institute was done by the Standing Committee on 27.9.2003 and only thereafter the admission of the trainees for the Sessions 2003-05 in different trades was taken. The trainees were admitted in between 6.10.2003 to 9.10.2003. Since the admission of the trainees was late as such special classes were taken for the trainees and the required hours of training were completed. The list of trainees was submitted on 20.12.2004 giving all details.

6. Counter affidavit has been filed on behalf of respondent Nos. 3 and 4 from which it transpires that the anxiety of the Directorate is regarding the proper training of the trainees as per provision/guidelines of training manual. Since the institute submitted the list of trainees of the Sessions 2003-05 only on 20.12.2004, after a lapse of one year of the start of Sessions 2003-05, there was Probability that the trainees admitted in the institute for The Sessions 2003-05 have not completed proper training as per provision/guidelines of training manual. In this regard a notice vide letter No. 417 dated 10.3.2005 and 1045 dated 25.5.2005 was issued to the Institute. The Institute submitted the clarifications to the Directorate and after examination of clarification submitted by the institute, it was decided to get the institute inspected by a team of technical experts in these trades to ascertain whether the trainees have been given proper training according to training manual. Thereafter the technical team was constituted which conducted enquiry and submitted technical report to the

Directorate. The enquiry report revealed that the essential training of admitted candidate has not been completed. The Directorate instructed the institution to complete the training course of the students, thereafter, if it is found satisfactory, the students will be allowed to appear in either the supplementary examination in January, 2006 or in the final examination of 2006. This decision was taken for the reason that the students should not have been debarred from appearing in the examination. Accordingly the institution has simply been instructed to complete the training course of the students of Sessions 2003-05.

7. The petitioner has filed a reply to the counter affidavit and the supplementary counter affidavit stating that as per the training manual weekly 28 hours training is essential in all specialities chart of the training, given to the candidates have been annexed from which it transpires that the training has been accorded as per the training manual. Counsel for the petitioner submits that only on consideration of the oral statements of the students the members of the Inspection team came to the conclusion that the requisite number of practical training hours have not been completed. The Enquiry Committee failed to consider the records of the institution.

8. During the pendency of the writ application this Court had allowed the students of Sessions 2003-2005 to appear provisionally for the examination in July, 2005 and in compliance of the order the Directorate instructed the examination controller to allow such candidates provisionally to appear in the said examination. All students have already appeared in the Examination only then result has not been published.

9. In course of argument counsel appearing for the petitioner as well as the counsel appearing for the respondents have agreed to adopt middle way. The petitioner institution is ready to give undertaking that the shortage of practical training of 380 hours as per enquiry report shall be completed by the students and institution will make all necessary arrangement for the same. The respondents will publish the result of the trainees for the Sessions 2003-05 who have already appeared in examination in compliance of the direction of this Court. Even after publication of the result, the necessary 380 hours of training will be completed by the trainees within three months of the publication of the result and only after completion of the necessary hours of training the certificate/degree will be issued in favour of the trainees. So far the result of the students of the Sessions 2004-06 is concerned it has already been published.

10. Considering the undertaking given by the petitioner's institute and the consent given to this undertaking by the respondents, these two writ applications are being decided on these very terms. The result of Sessions 2003-05 will be published by the respondents within two weeks from the date of this order. The trainees of 2003-05 Sessions will complete the requisite 380 hours of practical training which is short as per the enquiry report, within three months from the date of publication of the result. The mark-sheet as well as the certificate will be issued in favour of the trainees only after production of certificate of completion

of training of 380 hours of practical training. Accordingly these two applications are disposed of.