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

DECIDED ON: 29.04.2009

+ W.P. (C) 2838/2008

DRIVING SKILL INSTITUTE & RESEARCH Petitioner
Through: Mr. Ashwal Vadera, Advocate.

Versus

GOVT. OF N.C.T. OF DELHI & ANR. Respondents
Through: Ms. Zubeda Begum, Advocate.

**CORAM:
HON'BLE MR. JUSTICE S. RAVINDRA BHAT**

1. Whether the Reporters of local papers may be allowed to see the judgment? YES
2. To be referred to Reporter or not? YES
3. Whether the judgment should be reported in the Digest? YES

S.RAVINDRA BHAT, J. (OPEN COURT)

% The petitioner is aggrieved by the respondents' order dated 13.11.2007 whereby the authorization granted on 8.8.2007 to it to conduct driving skill evaluation preliminary tests through its special software was revoked.

2. The petitioner society was established with the object *inter alia* for managing a Motor Training Driving Skill (MTDS) facility. It claims to have developed specialized software to facilitate driving skills to assist those unfamiliar with it. Apparently, it approached the GNCTD which in exercise of

its powers under the Motor Vehicle Act read with Central Motor Vehicle Rules issued an authorization on 8.8.2007 in the following terms: -

OFFICE ORDER

"A presentation was made by M/s Driving Skill Institute & Research (NGO) on 18.07.07 regarding Driving Skill Evaluation (Preliminary Test) through software. On the basis of presentation made by M/s Driving Skill Institute & Research (NGO), Commissioner (Tpt.) is pleased to authorized Driving Skill Institute & Research (NGO) to issue computerized L/L in r/o of the members of their society. M/s Driving Skill Institute & Research (NGO), is an authorized MDTs by Transport Department and in accordance with Section 8 (II) of MV Act 1988 & Rule 11 (2) (D) of CMVR 1989 is authorized to conduct the preliminary driving skill test on computer and issue a certificate to the successful trainees of the society.

All the MLOs are directed to accept the computerized certificate in Form 3 of CMVR 1989 issued by M/s Driving Skill Institute & Research (NGO) till the finalization of smart card based D/L (SARTHI) Project. However, the successful trainees are required to submit the relevant papers & fees in accordance with CMVR 1989 in the zonal offices.

This issue with the prior approval of Commissioner (Tpt.)."

3. The petitioner claims to have trained several candidates and also issued 62 certificates to such successful trainees enabling them to apply for a learner's license without a test, to the concerned authority. On 13.11.2007, GNCTD issued the following order, which is impugned in the present case: -

"No.F.MLO/NWZ/1/88/TPT/07/21084-98

Dated: 13.11.2007

OFFICE ORDER

"Office Order No.MLO/NWZ/1/88/TPT/07/1947-62 dated: 08.08.2007 authorizing M/s Driving Skill Institute & Research (NGO), Training

Centre, 85-89, GTB Nagar, Delhi – 110009 to conduct the Preliminary Driving Test on computer in accordance with Rule 11 (2) (D) of CMVR, 1989 is hereby revoked with immediate effect.”

It is contended that the GNCTD could not have adopted the course that it did by issuing the impugned order, since it had, in the first instance, determined the petitioner to be eligible for issuance of authorization, after duly verifying its credentials. The petitioner also refers to GNCTD's letter of 13.11.2007 requiring it to comply with certain requirements such as disclosure of authorized signatories, holding a recognized diploma in automobile engineering or mechanical engineering with five years' service. The petitioner contends that such abrupt order has serious financial implications because it had invested considerable skill and labour in developing its software and other expertise.

4. The GNCTD's contention is that the authorization granted initially on 8.8.2007 was on the basis of development of the software by the petitioner. It refers to Section 8 (6) and (7) of the Motor Vehicles Act and Rule 11 to contend that for a Institute to receive authorization as in the petitioner's case, it should be recognized and also notified by the State Government. The respondent – GNCTD contends that the norms of recognition have not yet been evolved and in any event, the petitioner was not notified under the Rules.

5. The facts are not in serious dispute; the petitioner was initially granted authorization in August, 2007 to conduct the tests, which were a prelude to the issuance of drivers' learner license. Rule 11 of the Central Motor Vehicle

Rules, 1989 is in the following terms: -

“Rule 11 “Preliminary test: -

- (1) Save as otherwise provided in sub-rule (2), every applicant for a learner’s license shall present himself before the licensing authority on such date, place and time, as the licensing authority may appoint, for a test and satisfy such authority that the applicant possesses adequate knowledge and understanding of the following matters, namely: -*
 - (a) The traffic signs, traffic signals and the rules of the road regulations made under Section 18.*
 - (b) The duties of a driver when his vehicle is involved in an accident resulting in the death or bodily injury to a person or damage to property of a third party.*
 - (c) The precautions to be taken while passing unmanned railway crossing and*
 - (d) The documents he should carry with him while driving a motor vehicle.*

In determining as to whether an applicant possess adequate knowledge and understanding of the matters referred to in sub-rule (1), the licensing authority shall put to the applicant questions of objective type such as specified in Annexure VI.

Explanation: - For the purpose of this sub-rule, “adequate knowledge” means answering correctly at least 60 per cent of the questions put to him.

- (2) Nothing contained in sub-rule (1) shall apply to the following class of applicants, namely: -*
 - (a) The holder of an effective driving licence.*
 - (b) The holder of a driving license which has expired but five years have not elapsed.*

- (c) *The holder of a learner's license issued or renewed after the commencement of these rules.*
- (d) *The holder of a certificate to the effect of the possession of adequate knowledge and understanding of the matters referred to in sub-rule (1), issued by any institution recognized and notified in this regard by the State Government. "*

6. The normal rule under Section 8 is that every applicant has to present himself before the designated statutory authority in order to obtain licenses including learners' license. Section 8 (7) provides an exemption, pursuant to which Rule 11 enables the authority some flexibility in regard to personal exemption. Apparently, the GNCTD was initially of the opinion that the petitioner could be issued the authorization and did so on 8.8.2007. The relevant notings upon which it place reliance reveals that some re-thinking took place subsequently when it dawned on the authorities that the rules require recognition of the Institution and proper Notification in that regard by the State Government. At that stage, they issued the impugned order.

7. Whilst the petitioner's grievance about an unfounded or unjustified order revoking the authorization may be facially attractive and seemingly justified, at the same time, the respondents' concern in prescribing the necessary norms for recognition under Rule 11 (2) (b) (d) cannot be altogether brushed aside. No doubt, in this case, the petitioner was issued authorization in August, 2007 and apparently did function for three months. However, the moment the respondents' notice was drawn to the need for following a proper procedure, they revoked the authorization. In normal

circumstances, undoubtedly the authorities have to adopt some fair procedure. The question is whether in this case their action in issuing the impugned order was justified.

8. Now a facial reading of Rule 11 (2) (b) would show that there are two requirements mandated by it i.e. that the Institution should be recognized and secondly that it should be notified “in this regard” by the State Government. It is nobody’s case that the petitioner fulfils both these qualifications. However, it is urged that the petitioner is deemed to have been recognized by the State Government for the purpose, for which the authorization was given on 8.8.2007; though it was not “notified” for that purpose.

9. The State Government had indicated in its affidavit filed during the proceedings that recognition norms are yet being evolved. That was also the position in the internal notings which ultimately led to the issuance of the impugned order in November, 2007. The impugned order, therefore, cannot be faulted as illegal, as the authorities acted as they did, in accordance with the dictates of law. In these circumstances, the GNCTD is hereby directed to complete the formalities and evolve the norms for recognition as early as possible and preferably within twelve weeks from today. Thereafter, in the light of such norms GNCTD shall consider the petitioner’s case for recognition. This order, however, not be construed as an impediment to the GNCTD’s action, if any, in proceeding to recognize the petitioner on the basis of any relevant criteria applicable having regard to the objectives of the

enactment and the consequent Notification of the petitioner's Institution under Rule 11 (2) (d), if such recognition is deemed appropriate.

9. Writ Petition is disposed of in the above terms. Order dasti.

**S. RAVINDRA BHAT
(JUDGE)**

APRIL 29, 2009
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