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

+ **W.P.(C) 6415/2017**

CNS OFFICERS GUILD (REGD) THROUGH
ITS SECRETARY

..... Petitioner

Through: Mr Ashish Dixit, Advocate.

versus

AIRPORTS AUTHORITY OF INDIA Respondent

Through: Mr Digvijay Rai, Advocate for AAI.

CORAM:

HON'BLE MR. JUSTICE VIBHU BAKHRU

ORDER

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28.07.2017

VIBHU BAKHRU, J

CM No. 26576/2017

1. Allowed, subject to all just exceptions.
2. The application is disposed of.

W.P.(C) 6415/2017 & CM No. 26575/2017

3. The petitioner, CNS Officers Guild (Regd.) is a cadre based association of CNS employees (officers employed in the departments of Communication, Navigation and Surveillance) of the respondent (hereafter 'AAI'). The AAI is a body constituted under the Airports Authority of India Act, 1994, responsible for discharging the functions as specified under the said Act.

4. The petitioner has filed the present petition *inter alia* praying as

under:-

- "a. Issue an appropriate Writ, Direction or Order in the nature of a Mandamus directing the Respondent to conduct the verification membership undertaking via ERP-SAP module/method as it is expedient for ensuring that genuine memberships are considered whilst recognizing the associations;
 - b. Issue an appropriate Writ, Direction or Order in the nature of a Mandamus directing the Respondent to adhere to DOPT Office Memorandum No. 02/10/80-JCA dated 31.01.1994 laying down the procedure for verification of membership of associations for the purpose of recognition;
 - c. Issue an appropriate Writ, Direction or Order in the nature of a Mandamus directing the Respondent to adopt mechanism, wherein the association adhere to their Constitution and By-laws while applying for recognition as uni-cadre/ multi cadre or as the case may be;"
5. AAI has formulated a policy on recognition of officers' association operating in AAI, which was circulated on 13.01.2017. The said policy provides for recognition of separate cadre based associations in the cadres of "(i) ATC; (ii) CNS; and (iii) Engineering". The officers belonging to ATC, CNS and Engineering cadre who do not opt for being a member of their respective cadre based association could become members of a non-cadre based association. However, each officer is entitled to be a member of only one association and cannot hold membership of two associations.
6. In terms of paragraph 6 of the aforesaid policy, the associations who

fulfil the conditions as laid down therein can apply for recognition in the manner as specified in the policy. Such applications are required to be accompanied by documents as specified in paragraph 6(a) of the policy which reads as under:-

- “a) The application shall be accompanied with copy of valid Registration Certificate of the said Association; its Memorandum of Association; its Constitution/By-Laws along with a certified Copy of the last Returns submitted to the Registrar of Societies and the names of its Members (as on 01st January) alongwith a duly signed and dated undertaking/declaration from each member stating that he/she is a member of such Association, including any other information as may be required from the Association by the management, for the purpose. The Association shall submit its list of members, alongwith a duly signed and dated undertaking/declaration from each member stating that he/she is a member of such Association, in the following proforma, duly attested by President/Secretary of said Association, on each page:-

Sl. no.	Employee Number	Name of Officer	Designation of Officer	Grade of Officer (indicate E1 to E9)	Present place of posting
A	B	C	D	E	F

”

7. The learned counsel for the petitioner referred to the judgment of this Court in *C.N.S. Officer's Guild (Regd.) v. Chairman, Airport Authority of India & Ors.: W.P.(C) 5820/2007, decided on 23.12.2015* wherein this Court had given directions to the AAI to formulate a transparent policy for recognition of associations as the Court had found the decisions being taken

by AAI were unguided and without following any set parameters. The above referred policy has been formulated pursuant to the above order passed by this court.

8. The petitioner had suggested that in order to verify genuine membership, an undertaking should be submitted by the employees through their employee code and by paying subscription as a deduction from their salaries. The learned counsel for the petitioner states that this procedure is also mandated by an Office Memorandum issued by DOPT and the said practice has also been followed by government departments. It was earnestly contended that such procedure would eliminate the possibility of duplicate and/or false memberships. AAI has not accepted the aforesaid suggestion and had issued a letter dated 27.06.2017, which reads as under:-

**"Sub : Recognition of Officers' Association in AAI -
Extension of time for submission of documents -
other General Guidelines - reg.**

Sir,

In continuation to this office letter of even number dated 01.03.2017, the issue regarding mode of submission of membership undertakings was under consideration, after necessary deliberations, it is decided that all the Officers' Associations shall submit the membership undertakings, as detailed under *'Policy on Recognition to Officers' Association operating in AAI'*.

2. Accordingly, the following is submitted for kind information and necessary action: -

- (a) The last date for submission of desired documents alongwith undertakings is **extended till 1800 hrs. of 31.07.2017 (Monday)** for grant of Recognition upto

31.03.2019.

- (b) The two (02) Associations [AAOA(I) and IAAIOA] may also submit the supplementary list of its members alongwith the additional undertakings in respect of their left over members, if any, latest by 31.07.2017. Further, it is made clear that documents and undertakings already submitted by these two (02) Associations shall be valid and considered.
- (c) It is for information of all the Associations that in case of any duplicate membership or disputed membership, the said undertakings / membership etc. shall automatically become '*provisionally invalid*'. In such cases, the management may obtain a fresh membership undertaking through ERP-SAP module in respect of those members, and the memberships, as be confirmed by the concerned officer through SAP module, shall be treated as final and binding. In case the said officer(s) shall not submit the membership undertaking through ERP-SAP module, upto the last date (as be decided by the management), the said name shall be treated as '*cancelled*' from all the lists of the Officers' Associations.
- (d) Further, all the existing Officers' Associations in AAI are requested to submit an open letter (as per the enclosed specimen) confirming that they have applied for grant of Recognition under which cadre / category viz ATC, CNS, Engg., or Multiple cadre, latest by 31.07.2017.
- (e) In case any Officers' Association applies for grant of Recognition under three (03) '*cadre based Association*' category, they have to submit an undertaking (proforma enclosed) that in case the said Association has any member out of the cadre of the *cadre based Association*, those names may

automatically be treated as deleted from the members list of the said individual *cadre based Association*, without obtaining any confirmation from the Association and those members may also be considered as '*provisionally invalid*'.

It is for information of all Officers' Associations that said officers /members shall be given a chance to re-submit their membership undertaking through ERP-SAP module stating that they belong to which multiple cadre Officers' Association, or as the case be. In case the said officers / members shall not submit the membership undertaking through ERP-SAP module, latest by the last date (as be decided by the management), their membership shall not be counted under any head of Officers' Associations.

- (f) Further, it is informed that in case, any officer who shall not submit any undertaking for any of the Officers' Associations, they will be treated under 'NOTA category'.
- (g) Accordingly, the attention of all the Officers' Associations about the condition stipulated under Para 2 of Chapter 6 of the Policy, the meaning of the same shall be read as stated under Para (d) &(e) above.
- (h) It is also requested to all the Officers' Associations to circulate the above guidelines / clarifications to all its members for their awareness at the time of recognition process.

3. In the last, it is submitted that **no extension of time shall be granted after 31.07.2017** and if any of the Officers' Association shall not submit the desired documents / membership undertakings etc., the said Association shall not be considered for grant of Recognition till 31.03.2019.

4. Further, all the Chapters / Guidelines mentioned under '*Policy on Recognition of Officers' Association operating in AAI*' (except as narrated herein above) stands confirm.

5. This issues with the approval of Competent Authority."

9. The learned counsel appearing for AAI stoutly contended that the present petition is not maintainable inasmuch as it seeks to challenge a policy of AAI, which is neither perverse nor unreasonable.

10. The method of recovering subscription through pay roll accounting to ensure that each employee opts for membership of only one association may be a better system than the one as adopted by AAI, however, that would not warrant any interference by this Court in AAI's policy matters. There may be several methods for verifying that each employee only opts for membership of only one association, as specified in the aforementioned policy and merely because the petitioner perceives the method suggested by it to be more effective, does not entitle the petitioner to seek a writ of mandamus from this Court. The petitioner has no legal right to impose its suggestions in policy matters of AAI.

11. It is well settled that a petition under Article 226 of the Constitution of India can be maintained only to enforce a legal right. In ***Calcutta Gas Company (Proprietary) Ltd. v. State of West Bengal and Ors.: AIR 1962 SC 1044***. Justice K. Subba Rao, speaking for the Constitution Bench of the Supreme Court had observed as under:

“The article in terms does not describe the classes of persons entitled to apply thereunder; but it is implicit in the exercise of the extraordinary jurisdiction that the relief asked for must

be one to enforce a legal right. In *The State of Orissa v. Madan Gopal Rungta*: [1952] 1 SCR 28, this Court has ruled that the existence of the right is the foundation of the exercise of jurisdiction of the court under Article 226 of the Constitution.”

12. In this case, it is difficult to accept that the petitioner has any legal right to enforce its suggestion as to the method of verification of membership. This Court is also unable to accept that the policy as laid down by AAI is perverse or unreasonable and/or fails the *wednesbury* test (that is, no sensible person could have ever adopted the said course). No fundamental rights of the petitioner or its members have been violated.

13. The petition and the application are, accordingly, dismissed.

JULY 28, 2017
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VIBHU BAKHRU, J

