

IN THE HIGH COURT OF BOMBAY AT GOA

WRIT PETITION No. 194 OF 2018

1. M/s. Francon's Marine Academy, having office at H. No. 590/3A, Bandfoll, Chinchinim, Salcete, Goa, Through its Directors, Mr. Franco Berne Martins.
2. Francon's Marine Academy For Schedule Caste and Tribes Educational, Social And Cultural Development Charitable Trust, having office at H. No. 590/3A, Bandfoll, Chinchinim, Salcete, Goa, Through its Trustee Mr. Franco Berne Martins.

... Petitioners

Versus

1. Director General of Shipping, Through the Director General of Shipping, Government of India, having office at 9th Floor, Beta Building, I-Think Techno Campus, Kanjur Marg (East), Mumbai – 400 042.

2. The Assistant Director
General of Shipping, having
office at 9th Floor, Beta
Building, I-Think Techno
Campus, Kanjur Marg (East)
Mumbai – 400 042.

... Respondents

Mr. Gaurang D. Panandiker, Advocate for the Petitioner.

Mr. Mahesh Amonkar, Advocate for Respondent No. 1 and 2.

***Coram : N.M. Jamdar &
Prithviraj K. Chavan, JJ.***

Date : 14 March 2018

Oral Judgment(Per. N. M. Jamdar, J):

Rule. Rule made returnable forthwith. Learned Counsel for the Respondents waives service.

2. The Petitioner is challenging the Order passed on 9 January 2018 by the Respondent no. 2-Assistant Director General of Shipping. The Petitioner had earlier filed a Writ Petition no. 1107 of 2017. The Writ Petition was disposed of on 20 December 2017 directing the Respondent no. 1-Director General of Shipping to decide the representation of the Petitioner. Thereafter, the representation of the Petitioner was considered and an order was passed by Respondent no. 2-Assistant Director General of Shipping

on 9 January 2018, which is impugned in this Petition.

3. The learned Counsel for the Petitioner submitted that in the order dated 20 December 2017 this Court had directed that the Respondent no. 1-Director General of Shipping shall give hearing to the Petitioner, however, the Engineer & Ship Surveyor-cum-Dy. Director General (Technical), gave hearing to the Petitioner and thereafter the order has been passed by the Assistant Director General of Shipping. It was submitted that this course of action is completely in contravention of the order dated 20 December 2017. Learned Counsel for the Petitioner submitted that the order dated 20 December 2017 be set aside and the matter be sent to the Director General of Shipping and the Director General of Shipping should give hearing to the Petitioner and pass the order.

4. On 12 February 2018, time was sought on behalf of the Respondent to file reply. On 26 February 2018 further time was granted till today by way of last chance. Till date no reply is filed. While passing the order on 20 December 2017, we had directed the Director General of Shipping to decide the matter within fifteen days. We had given reasons in that order as to why short time of fifteen days was being granted. We had recorded in the order the submission of the Petitioner that career of various students was

dependent on the decision of the Respondent authorities. In that backdrop, on 26 February 2018, we had directed the Respondent no. 1 to file reply by way of last chance.

5. The hearing was not given by the Director General of Shipping but was given by Dy. Director General (Technical) and thereafter order was passed by the Assistant Director General of Shipping. This course of action is bad in law on two counts. Firstly, the order dated 20 December 2017 specifically directs the Director General of Shipping to give hearing to the Petitioner. Secondly, the impugned order is passed by authority other than the one who has given the hearing. There is absolutely no reason forthcoming as to this course of action adopted and whether the rejection was warranted.

6. In these circumstances we are left with no option but to set aside the Order dated 9 January 2018 and to direct the Director General of Shipping to give hearing to the Petitioner. We are of the opinion that a strict time schedule needs to be maintained as in the order dated 20 December 2017. Accordingly, the Writ Petition is disposed of as under:

a). The order dated 9 January 2018 passed by the Respondent no. 2 is set aside.

b). The representation made by the Petitioner dated 11 August 2017 and 16 October 2017 shall be decided by the Director General of Shipping within a period of thirty days from today.

c). The Director General of Shipping will give hearing to the Petitioner on the date specified by the Director General of Shipping.

7. We make it clear that we have not looked into the merits of the matter and the order will be passed by the Director General of Shipping on its own merits.

8. Rule is made absolute in above terms. No costs.

Prithviraj K. Chavan , J.

N.M. Jamdar, J.