

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Special Original Jurisdiction)

Thursday, the Fourth day of July Two Thousand Nineteen

PRESENT

THE HON`BLE DR JUSTICE G. JAYACHANDRAN

WMP No.16860 of 2019

IN WP.No.14567/2019

SOUTHERN ACADEMY OF MARITIME [PETITIONER]
STUDIES, REP BY DIRECTOR, MARITIME
EDUCATION PRIVATE LTD.,
NO.108, EAST MADHA CHURCH STREET,
ROYAPURAM, CHENNAI -13

Vs

1 A.M.AKASH, [RESPONDENTS]

2 ALAN K. JOY

3 S.SHABAZ KHAN,

4 T.ANTONY XAVIER THILMAN,

5 J.SURENDHER

6 R.VINITH

7 SHRIYASH YOGESH SHRIDHARAN,

8 R.ARJUN RAJ,

9 N.MOHAMMED THARIQ

10 MOHAMMED RASHID,

11 SANJU VARGHESE

12 THE DIRECTOR GENERAL OF SHIPPING
O/O. DIRECTORATE GENERAL OF SHIPPING,
9TH FLOOR, BETA BUILDING, I- THINK TECHNO
CAMPUS, KANJUR MARG (EAST), MUMBAI - 400 042

13 THE STATE OF TAMIL NADU
REP BY ITS PRINCIPAL SECRETARY TO
GOVERNMENT, HIGHER EDUCATION DEPARTMENT,
SECRETARIAT FORT. ST.GEORGE, CHENNAI-9

14 THE VICE CHANCELLOR,
INDIAN MARITIME UNIVERSITY, EAST COAST
ROAD, UTHANDI, CHENNAI -600 119

15 THE REGISTRAR,
BHARATHIAR UNIVERSITY, MARUDHAMALAI ROAD,
COIMBATORE - 641 046

16 THE REGISTRAR,
BHARATHIAR UNIVERSITY
KARAIKUDI 630 003.

17 SOUTHERN ACADEMY OF MARITIME
STUDIES, REP.BY PROPRIETOR, NO.82,
PANAPAKKAM, CHENNAI TIRUPATI ROAD, NEAR
PERIYAPALAYAM, UTHUKOTTAI TALUK,
THIRUVALLUR DISTRICT - 601 102.

18 SAMS MARITIME BUSINESS SCHOOL
REP.BY PROPRIETOR, NO.82, PANAPAKKAM,
CHENNAI - TIRUPATI ROAD, NEAR PERIYAPALAYAM,
UTHUKOTTAI TALUK, THIRUVALLUR
DISTRICT - 601 102.

Petition praying that in the circumstances stated therein and in the affidavit filed therewith the High Court will be pleased to Vacate the Interim Direction which was granted by this Honourable Court on 17.05.2019 in WP No. 14567 of 2019 as against this Petitioner /6th Respondent to return the original documents of the Respondents 1 to 11 / Petitioners. (WMP.16860/2019)

Order : This petition coming on for orders upon perusing the petition and the affidavit filed in support thereof and upon hearing the arguments of M/S.GANESH AND GANESH, Advocate for the petitioner and of MR.G.SANKARAN, Advocate for the 1 to 11 Respondents and of MRS.SWARNALATHA, CGSC, for the 12th Respondent and of MR.V.KATHIRVELU, Special Government Pleader for the 13th Respondent and of MR.L.P.SHANMUGA SUNDARAM, Advocate for the 16th Respondent and of MR.C.P.PALANISAMY, Advocate for the 17 & 18 Respondents the court made the following order:-

The Writ Petition in W.P.No.14567 of 2019 has been filed by 11 students of Southern Academy of Maritime Studies, Maritime Education Private Ltd, represented by its Director, situated at No.108, East Madha Church Street, Royapuram, Chennai - 600 013, who is the 6th respondent in main Writ Petition, alleging that the 6th respondent Institute has misled them by issuing paper publication and prospectus that their Institute is approved by the Director General of Shipping, Government of India and admitted them into their Institute for B.Sc (Nautical Science) course, for the academic year 2018-2019, though the Institute is not approved by

the Director General of Shipping.

2. The Writ Petitioners/students, on verification found that they were completely cheated by the Institute/6th respondent in main Writ Petition, at the time of admission by believing the misrepresentation made by the Institute that the course offered by them is approved by Director General of Shipping. So, the Writ Petitioners/students wanted to discontinue the course and get back their certificates and fees paid to the Institute towards admission fee, tuition fee for the first year.

3. After considering the averments made in the Affidavit filed by the Writ Petitioners/students, this Court passed an interim order dated 17.05.2019, directing the 6th respondent Institute to return the original certificates on or before 17.06.2019 and report compliance.

4. After service, the 6th respondent has filed WMP No.16860 of 2019, to vacate the direction issued by this Court. A detailed affidavit has been filed, in support of the vacate direction petition.

5. Heard the learned counsel representing the students/ the petitioners in main Writ Petition and the learned counsel appearing for the Institute / 6th respondent in main Writ Petition, who is the petitioner in the vacate direction petition.

6. The main contention raised by the Writ petitioners/students is that when they joined the 6th respondent Institute, they published Brochure, Advertisement indicating that the course offered by the Institute is duly approved by Director General of Shipping. Later, when they came to know that the Institute does not have the approval of Director General of Shipping, they made representation to the authorities concerned, to refund the fees and return their original certificates retained by them. The Institute has denied the allegation and refused to return the certificates as well as refund of money.

7. According to the Institute, Southern Academy of Maritime Studies is conducting several Institutes connected with marine studies. One of such Institute is Southern Academy of Maritime Studies, which is approved by Director General of Shipping, whereas the SAMS Maritime Business School is approved and affiliated to Alagappa University. The minimum educational qualification to pursue B.Sc (Nautical Science) is 60% in Physics and Chemistry, for the courses approved by Director General of Shipping. Whereas, the students who have not secured the minimum educational qualification, they were admitted in the SAMS Maritime Business School, affiliated to Alagappa University. Hence, they have not mislead the students at any point of time.

8. Further, the learned counsel submitted that ineligibility of the students to pursue their course from the Institute, approved by Director General of Shipping, for want of requisite mark was made known to them, even at the time of admission. The students have given undertakings to the Institute on 31.08.2018, stating that they are willing to pursue their course, in SAMS Maritime Business School, affiliated to Alagappa University. Hence, the learned counsel appearing for the 6th respondent Institute stated that at any point of time, there was no mis-representation on their part and therefore the allegations made by the Writ petitioners/ students in their affidavit are erroneous.

9. As far as the contention of the Institute that the students were made known about the position and they have given undertakings on 31.08.2018, the learned counsel appearing for the Writ Petitioners/ students have filed Affidavits saying that the said documents are forged documents. Since, the allegation of forgery, which is serious in nature, this matter has to be considered in detail, after affording opportunity to the Institute.

10. As far as the return of certificates is concerned, since the Writ Petitioners/students are not interested in continuing the course with the 6th respondent Institute, they have made their intention very clearly and sought for Transfer Certificate, and other original certificates. There is no justification on the part of the 6th respondent Institute, for filing the petition to vacate the direction, directing them to return the original certificates on or before 17.06.2019.

11. Hence, without advertng to the allegations on misrepresentation and forgery made by the students against the Institute, this Court directs the 6th respondent Institute that the interim order passed by this Court on 17.05.2019 has to be complied forthwith. The petition to vacate the direction has no merits and hence dismissed with the following directions.

- i. The 6th respondent Institute, who is the petitioner in WMP No.16860 of 2019, shall return the original certificates to the Writ Petitioners/students forthwith and report the compliance to this Court on 08.07.2019.
- ii. Regarding the allegation of forgery liberty is granted to the Institute/6th respondent to file a Reply / Counter Affidavit for the Affidavit filed by the students, alleging forgery.

Call the matter on 11.07.2019.

-sd/-
04/07/2019

/ TRUE COPY /

TO

1 THE DIRECTOR GENERAL OF SHIP
PING, O/O. DIRECTORATE GENERAL OF SHIPPING,
9TH FLOOR, BETA BUILDING, I- THINK TECHNO
CAMPUS, KANJUR MARG (EAST), MUMBAI - 400 042

2 PRINCIPAL SECRETARY TO GO
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5 THE PROPRIETOR, SOUTHERN
ACADEMY OF MARITIME STUDIES, NO.82,
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6 THE PROPRIETOR,
SAMS MARITIME BUSINESS SCHOOL NO.82,
PANAPAKKAM, CHENNAI - TIRUPATI ROAD, NEAR
PERIYAPALAYAM, UTHUKOTTAI TALUK, THIRUVALLUR
DISTRICT - 601 102.

7 THE REGISTRAR,
ALAGAPPA UNIVERSITY,
KARAIKUDI 600 119.

C.C. to M/S.GANESH AND GANESH Advocate SR.NO.8325

C.C. To G.SANKARAN, Advocate SR.NO.8392

WEB COPY Order
in
WMP.16860/2019

in
WP.14567/2019

Date :04/07/2019

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RRI 05/07/2019