

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.03.2020

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THE HONOURABLE Mrs. JUSTICE PUSHPA SATHYANARAYANA

W.P.No.17258 of 2013
and M.P.Nos.1 and 2 of 2013

R.Sethuraman @ SaiSedhuram

... Petitioner

Vs.

1. The Directorate General of Shipping,
Ministry of Shipping,
Government of India,
Jahaz Bhavan, Walchand Hirachand Marg,
Mumbai-400 001.
2. The International Maritime Academy,
41, Jamin Korattur,
Puduchatram,
Chennai-602 107.
3. Suriyaa Diagnostics,
No.81, Broadway Main Road,
Chennai-600 108.
4. Indian Bank
Rep. By its Manager,
Puducherry University Branch,
R.Venkatraman Nagar,
Puducherry, Kalapet-605 014.
5. Puducherry Backward Classes and
Minorities Development Corporation Ltd.,
Rep. by its General Manager,
No.5, Zamindar Garden,
Puducherry-605 012.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Mandamus to second and third respondents to adequately compensate the petitioner with a sum of Rs.20 lakhs towards the loss of education and career opportunities suffered by him due to the invalid B.Tech. (Marine Engg) Degree and the Continuous Discharge Certificate-cum-Seafarer's Identity Card (CDC) issued to him.

For Petitioner : Mr.K.M.Ramesh

For Respondents: Mr.K.Gunasekar,
SPCCG for R1

Mr.N.Murali Kumaran
for M/s.McGAN Law Firm for R2

Mr.V.Subramanian for R3

Mr.V.Ravi for R4

Mr.W.M.Abdul Majeed
for Ms.G.Sumitra for R5

O R D E R

A writ of Mandamus is sought for by the petitioner directing the second and third respondents to adequately compensate him with a sum of Rs.20 lakhs towards the loss of education and career opportunities suffered by him due to the invalid B.Tech. (Marine Engg) Degree and the Continuous Discharge Certificate-cum-Seafarer's Identity Card (CDC) issued to him.

2. The petitioner, though got admission in an Engineering College under the Mechanical Engineering stream, had discontinued the same on his own volition attracted by the lucrative prospects in the Marine Engineering and joined the said course with the second respondent. After satisfaction of the norms required for admission, the petitioner was also admitted on payment of the required fees. The petitioner had paid the fees for the four-years Marine Engineering Degree Course by taking loans from the Indian Bank/fourth respondent and also the Puducherry Backward Classes and Minorities Development Corporation Limited/fifth respondent.

3. It is stated that under the Merchant Shipping Act, 1988, medical examination of the Seamen is mandatory and unless the Seaman is in possession of the certificate in the prescribed form granted by the prescribed authority, he cannot be engaged as a Seaman. One of the necessary eligibility criteria for the Marine Engineering Degree Course is that the candidate should not have colour blindness. The second respondent had availed the service of the third respondent to come to the campus for such eye examination. The petitioner subjected himself for the eye examination by the third respondent and was certified as 'normal' on 01.09.2007. The third respondent is a designated institution as per the Merchant Shipping (Medical Examination

Rules) and Medical Examination (Sea Farer Convention) under ILO Convention 147.

4. The petitioner was admitted in the college on 27.08.2017. The petitioner had completed his course in the year 2011 and a certificate was also issued to him by the second respondent Academy. The petitioner had also registered his name with the Indian National Database of Seafarers and got himself administered necessary vaccination as per the World Health Organisation (WHO). The petitioner also has got several certificates for Elementary First Aid, Fire Prevention and Fire Fighting, etc. After successfully completing the Degree in Marine Engineering, when he applied for jobs, it came as a rude shock to him as his applications were rejected by the prospective employers on the ground that he was colour blind.

5. In the above background, it is alleged by the petitioner that the second and third respondents had not done proper medical examination at the time of admission into the College. He has blamed the third respondent that for the test they hardly took time for each of the candidate and the test was done in a mechanical manner only to fulfill the compliance of furnishing a certificate.

6. According to the petitioner, though he had completed his Degree Course by studying hard for four years, his future is bleak due to the colour blindness. As mentioned earlier, the petitioner had availed loans from two of the financial institutions, which are also to be repaid.

7. Learned counsel for the fourth respondent stated that the fourth respondent had already obtained a decree against the petitioner and it is in the process of execution. In this situation, the petitioner has filed this writ petition seeking compensation from the second and third respondents for the loss of education and career opportunities suffered by him, despite his qualification in the Marine Engineering Degree.

8. Heard the learned counsels on either side and perused the materials placed before this Court.

9. It is not understandable as to how this writ petition is maintainable against the second and third respondents, as the petitioner had joined the degree course and completed the same successfully. It is not the case of the petitioner that he was unable to complete the education due to the colour blindness. Learned counsel for the fourth respondent contended that in order to avoid the payment of the loan extended to the petitioner, the writ petition has been filed by him. Even presuming that the writ petitioner is entitled for any

compensation, he can only go for common law remedy and cannot invoke Article 226 of the Constitution, particularly, against the third respondent, which is a private diagnostic centre.

10. In the result, this writ petition is dismissed as devoid of merits. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

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To

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3. The General Manager,
Puducherry Backward Classes and
Minorities Development Corporation Ltd.,
No.5, Zamindar Garden,
Puducherry-605 012.

+1cc to Mr.K.Gunasekar, Advocate Sr.21846
+1cc to Mr.K.M.Ramesh, Advocate Sr.22596
+1cc to M/s.G.Sumitra, Advocate Sr.22318
+1cc to McGan Law Firm, Advocate Sr.21938

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