

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on 13.08.2020
Delivered on 18.08.2020

CORAM

THE HONOURABLE MR. JUSTICE N.ANAND VENKATESH

WP.Nos.9050 & 9119/2020

&

WMP.Nos.11011, 11013, 11117 & 11118/2020

International Maritime Academy
represented by its Managing Director
J.Senthil Kumar
41, Jamin Korattur, Pudhuchathiram,
Chennai 600 124.

.. Petitioner
in WP.No.9050/2020

The Maritime Education and Training Institutes Association
represented by its Secretary,
Regus Business Centre, No.136, Arcot Road
Shyamala Towers,
3rd Floor, Saligramam,
Chennai 600 093.

.. Petitioner in
WP.No.9119/2020

Versus

1. The Government of India
represented by its Secretary
Ministry of Shipping,
Transport Bhawan, Sansad Marg,
New Delhi 110 001.

2. The Directorate General of Shipping
represented by the Assistant Director
General of Shipping, 9th Floor,
Beta Building, I-Think Techno Campus

Kanjurmarg [East], Mumbai 400 042. .. Respondents
in both the petitions

Prayer in WP.No.9050/2020:- Writ petition filed under Article 226 of the Constitution of India praying for issuance of a writ of certiorari calling for the records of the 2nd respondent in DGS Circular No.18 of 2020 in File No. TR/CIR/6[14]/2019 dated

24.04.2020 and the consequential DGS Circular No.20 of 2020 in File No.21-22011/1/2020-O/o.Trg-DGS dated 27.05.2020 and quash the same.

Prayer in WP.No.9119/2020:- Writ petition filed under Article 226 of the Constitution of India praying for issuance of a writ of certiorari calling for the records of the 2nd respondent in DGS Circular No.18 of 2020 in File No. TR/CIR/6[14]/2019 dated 24.04.2020 and the consequential DGS Circular No.20 of 2020 in File No.21-22011/1/2020-O/o.Trg-DGS dated 27.05.2020 and quash the same.

For Petitioner in
WP.No.9050/2020: Mr.Abishek Jenasen

For Petitioner in
WP.No.9119/2020: Mr.Ar.L.Sundaresan,
Senior counsel assisted by
Mr.Abishek Jenasen

For Respondents in
both Writ Petitions :Mr.R.Sankaranarayanan
Additional Solicitor General of
India-I assisted by
Mr.L.J.Venkatesh
Central Govt. Standing Counsel

COMMON ORDER

1 These writ petitions have been filed by an Association as well as by an individual Institution conducting Maritime Courses, challenging the Circular issued by the 2nd respondent dated 24.04.2020, wherein the 2nd respondent has mandated that an Approved Training Programme for the Pre-sea Training shall consist of Pre-sea Training and Ship Board Training and the Circular has been brought into effect from the academic year 2020-21.

2 The Institutions coming under the petitioner Association and also the individual Institution, offers various Maritime education courses at the Degree, Advance Diploma, Diploma and Certificate level. The Institutions are affiliated to various Universities and some are also Deemed Universities.

3 All the Institutions impart courses which are termed as pre-sea courses. The course duration ranges between six months to four years and the 2nd respondent used to grant approval to the Institutions only for the conduct of pre-sea courses. This is more in the nature of the first stage of training. The

candidates who successfully complete this stage, thereafter, go through on-board training. Thereafter, they go through post-sea training course and on successful completion of the same, a candidate is eligible to appear for Certificate of Competency examination. Once the candidate clears this exam, the 2nd respondent awards the Certificate of Competency and thereafter, the candidates are eligible to work on-board a ship in various grades and in various ships.

4 The 2nd respondent is an authority constituted by the Central Government under the provisions of Merchant Shipping Act, 1956, for the purpose of exercising the powers and discharging the duties conferred under the Act. The 2nd respondent, earlier issued a Circular dated 24.10.2019 wherein the Maritime Training Institutes offering pre-sea courses, were directed to admit students for whom there is a secured placement from a Shipping Company for on-board training. This was directed to be done by entering into a Memorandum of Understanding [MOU] with those Companies.

5 The above Circular came to be challenged before this Court in a batch of writ petitions in WP.No.40370 of 2016 etc., batch and the batch of writ petitions not only touched upon the Circular issued by the 2nd respondent but also the very authority of the 2nd respondent to issue such Circulars. It will be relevant to extract the portions of the final order passed by this Court on 09.09.2019 since the findings given by this Court will have a bearing in deciding the present writ petitions also. The relevant portions are extracted hereunder:-

65.All these writ petitions centers around the power of DGS in the matter of regulating marine education. The orders and circulars issued by DGS time to time has been challenged by way of Writ petition by the Maritime Training Institute or through its associations which has been narrated in nutshell in the above paragraphs.

66.The legislations which deals with marine education are the Merchant Shipping Act 1958 and Rules framed there under. More particularly, the Merchant Shipping (Standard of Training, Certification and Watch keeping for Seafarers) Rules 1998 followed by the Merchant Shipping (Standards of Training, Certification and Watch Keeping for Seafarers) Rules, 2014 and the Merchant Shipping (Continuous Discharge Certificate - cum Seafarers Identity Document) Rules 2017. The International Maritime University Act and the Circulars and orders passed by the DGS time to time. The contention

of the petitioners that, the Circulars and orders passed by the DGS is not in consonance with respective acts and rules.

67.As pointed out earlier, Section 7 of Merchant Shipping Act, 1958 deals with appointment of DGS by the Central Act. His Appointment and power of DGS emanates from Section 7 of Merchant Shipping Act, 1958. Under Section 7 by general or special order, the power and jurisdiction of Central Government shall be exercised by the DGS. Accordingly, the Central Government has conferred its power substantially to the DGS vide order dated 17.12.1960. The most important power regarding training, examination and grant of certificate which is conferred with Central Government under Section 79 of the Merchant Shipping Act, 1958 is delegated by the Central Government to the DGS under the order dated 17.12.1960. The several types of training and certificate courses are mentioned in Section 78 of Merchant Shipping Act, 1958 and the same deals with grades of certificate of competency (COC). Yet another certificate referred under the Act itself is Continuous Discharge Certificate (CDC).

68.Time and again in exercise of power conferred under Section 457 of Merchant Shipping Act, 1958, guidelines rules were framed for issuance of Continuous Discharge Certificate (CDC), the latest rule is of the year 2017. For obtaining Continuous Discharge Certificate (CDC), the candidate has to complete the basic modular course such as transfer survival techniques, fire prevention and fire fighting etc. Those basic courses referred in Rule 4 of the Merchant Shipping (Continuous Discharge Certificate - cum Seafarers Identity Document) Rules 2017. Every person who is desirous of obtaining Continuous Discharge Certificate (CDC) and fulfills eligibility criteria prescribed in Rule 4 shall apply to the shipping master as per Rule 3(1) and every such application shall be in form I appended to the Rules and in the manner as may be specified by DGS as per sub Rule 2(3). Further, under Rule 9 of the said Rules, the power of cancellation, withdrawal and issuance of CDC is vested with DGS.

69.The petitioners herein are Institutes mostly providing basic training course and pre sea training. The duration of basic training

courses varies from few days to six months. The pre-sea training ranges from six months to four years. This includes certificate/diploma/degree. Some of the popular pre sea training courses conducted by these Institutes are G.P rating course, Diploma in Nautical Science degree in Nautical science B.E /B.Tech Marine Engineering and Post Graduate Diploma in graduate Marine Engineering Advanced Diploma Course in Marine Engineering for diploma holders.

70. Section 5 of the Indian Maritime University Act, 2008, demarcated the domain of the university and the domain of DGS. As far as the training diploma and degrees, it is conferred by the University CDS and CDC certificates are issued by DGS. In this connection, this Court has also held earlier that the powers of University and DGS is compartmentalized in respect of diploma/degree, post graduate degrees. At the same time, the Court cannot loose sight of Section 50 of the Indian Maritime University Act, 2008 which recognises the role of the Central Government and the DGS as the authority to take policy decisions regarding the manner in which the provisions of the Indian Maritime University Act would be discharged and their decision will be final.

71. As pointed out the Central Government, under Section 7(2) of the Merchant Shipping Act, 1958 has delegated most of its power to DGS including the matter relating to regulating training programmes. The statute itself has conferred certain powers of DGS regarding training and issuance of certificates. So, it is highly preposterous to contend that DGS has no power to issue orders or circulars in connection with training. In fact, the provisions of Merchant Shipping Act and the Rules framed there under clearly indicate that the intention of the Central Government is to provide qualified man power for shipping industry and for that purpose, the DGS has been conferred with power to regulates the Marine training.

72. Above all, unlike the other education, marine education being a specialized education involving international community and India being the member of International Maritime Organization, they are bound by the Code and the reforms which are brought in by the Central

Government in consequence to the international convention. The DGS is the authority and through him, the Central Government implement its policy. Hence, the attack on the DGS circulars and orders questioning his competency and jurisdiction is untenable and liable to be rejected.

73.The next point for consideration is 'whether the eligibility criteria prescribed by DGS in his order for appointment of candidates into sea training course more particularly, the placement recruitment and tie up with shipping company for on board training is arbitrary and illegal'.

74.The intention of imposing tie up with shipping company for on board training is stated in paragraph 1.2 of part I of the order No.7 of 2016. As a follow up, training circular No.30/2018 has been issued which again indicate that the reason for insisting on board training programme and MOU with shipping companies for providing on board training.

75.From reading of the above clauses (extracted at paragraph No.34 of this order), the intention of the DGS to insist upon a minimum prescribed approved sea going service for each individual candidates making him to eligible to apply for assessment and/or examination for obtaining Certificate of Competency (COC) or Certificate of Proficiency examination as the case may be cannot be doubted and it is in consonance with STCW Code Convention 1978 as stated in the training circular No.30/2018. But insisting the maritime training institutes to have an advance MOU with shipping company having office in India or RPSL for providing onboard training towards achieving the required period of approved seagoing service for their entire intake capacity as contemplated under Clause 1.12.4 appears to be an onerous condition on the Marine Training Institutes. More so, when the DGS reserves the right to disprove any MOU for on board training without citing any reason to the maritime training institute as found in clause 1.12.5. Therefore, this Court is of the opinion to the extend that the condition imposed in training Circular No.30/2018 which has been issued in superstition of Section 16 of DGS Training circular No.1/2018 dated 22.01.2018

insisting advance MoU is liable to be quashed.

76. Apart from offending clauses relating to MoU, yet another contentious issue in this batch of writ petitions is that, the guidelines relating to placement. As pointed out by the learned counsel for the petitioners, placement of candidates is outside the scope and control of training institutes. First of all, not all candidates successfully completed the training and obtain certificates may opt for a job in shipping company, or may get a job in a shipping company immediately. It all depends upon the candidates aptitude, inclination and requirement of man power by the shipping industry.

77. The object as stated by the Central Government, while enacting Merchant Shipping, 1958 is to ensure the efficient maintenance of an Indian Indian Mercantile Marine in the manner best suited to serve the national interests. The Merchant Shipping (Standards of Training, Certification and Watch Keeping for Seafarers) Rules, 2014, has been framed with an object to give full and complete effect of implementation to the provisions of International Convention on Standards of Training, Certification and Watch Keeping for Seafarers (STCW), 1978, as adopted by conference of parties to STCW convention in Manila 2010, taking into consideration the relevant national requirements.

78. Therefore, it is not the inland requirement of sea farers alone to be taken into consideration. If the DGS is going to restrict the intake based on the inland requirement and placement, the object of training Seafarers to cater the need of the world, and for a supremacy intended in marine power may get curtailed. Therefore, while DGS is fully empower to regulate the standard of education and training the regulations should be pragmate and of training by imposing restrictions which are not practical and detrimental to the object.

79. Yet another contention raised by the learned counsel for the petitioners is that, the Combined Inspection Programme (CIP), introduced by the DGS amounts to delegation of power which has already been delegated by the Central Government to DGS. Further, it is contended that DGS cannot engage third party experts to assess the performance of the institute.

80. According to the petitioners, the DGS is exercising the power on delegation by the Central Government so, he cannot further delegate his power to third parties to assess ISO upgradation and bench mark rating. Therefore, the DGS order No.25 of 2013 dated 31.12.2015 introducing Comprehensive Inspection Programme (CIP) and subsequent order passed on 12.09.2016 superseding the order No.25 of 2013 but with effect of further delegation is unconstitutional and ultra vires.

81. The intention of DGS as found from this order is to have three different mode of inspection of training institutes to enhance the quality of training. The said three mode of inspection are (1) Inspection by Academic Council; (2) Inspection for ISO upgradation and (3) Inspection for bench mark rating.

82. According to the second respondent, the purpose of CIP is to integrate all the three inspection process and to streamline it. The main objection by MTI's is employment of third party as a recognised organization (RO) for the purpose of inspection. According to the petitioners, this will undermine the autonomy of the institute and will put the institutes under multiple scanners, some of them not Government Agencies. Whereas, the DGS order No.4 of 2016 dated 12.09.2016 issued exercising the powers conferred under Rule 75 of the Merchant Shipping (Standards of Training, Certification and Watch Keeping for Seafarers) Rules, 2014 indicates that the institute have the option to approach any of the RO authorised by the Ministry of Shipping, Government of India, to get the service of inspection gradation and certification of the institute.

83. The relevant portion of the Comprehensive Training Programme (CIP) for pre sea maritime institutes as found in DGS order No.4 of 2016 issued in partial modification of earlier DGS order and circulars including DGS order No.25 of 2013 reads as below:-

"4. Inspecting Authority:

4.1. Any classification society authorized by the Government of India as Recognized Organization (RO) vide Govt. of India, Ministry of Shipping Notification,

S.O.2044 (E) dated 06.09.2011 having entered into agreement with DGS may offer their services for the inspection, gradation and certification of the institutes. The inspection team shall comprise of auditors with atleast 50% of them holding the Certificate of Competency (CoC) as Master (Foreign Going) or Chief Engineer (Unlimited power) issued and/or recognized by Indian Maritime Administration.

4.2.The institute shall have the option of approaching any of the above mentioned Ros for the inspection and certification. However, once the certificate is issued, the annual inspections shall be undertaken by the same RO, during the validity period of the Certificate, unless there are pressing reasons to the contrary, to be explained in writing to the Directorate. In case, the institute desires to change the inspecting agency during the validity of the certificate necessary permission in this regard may be obtained from the Directorate and the institute shall undergo a complete initial inspection for the purpose of this change. "

84.Further, there is also right of appeal provided under this DGS order No.4/16 in Rule 16. While so, the apprehension of the Institutes regarding the Comprehensive Inspection Programme (CIP) is dispelled in view of sub clause (4) of Clause 16.

85.Regarding objections to the minimum mark prescribed for admission in degree and diploma offered by the Institutes affiliating with, this Court find that it does not amounts to interfering the field occupied by the university.

86.According to the learned counsel for the petitioners, determination of standard of any institutes for higher education falls under entry 66 of list I and entry 25 of list III in the VII schedule of Constitution of India. Therefore, the DGS appointed by the Central Government under the Merchant Shipping Act, cannot regulate the subject occupied by another Central Legislation namely Indian Maritime University Act, 1958. The fallacy in the above argument could be easily understood on reading the relevant entries in schedule 7 of the Indian

Constitution. List I of entry 25 of List I in the VII schedule of the Constitution of India reads as below:-

"25. Maritime shipping and navigation, including shipping and navigation on tidal waters; provision of education and training for the mercantile marine and regulation of such education and training provided by States and other agencies."

Whereas, the entry 66 of List (I) and Entry 25 of List (III) of VII Schedule of Constitution of India read as below:-

"66. Co-ordination and determination of standards in institutions for higher education or research and scientific and technical institutions.

.....
[25. Education, including technical education, medical education and universities, subject to the provisions of entries 63, 64, 65 and 66 of List I; vocational and technical training of labour.] "

87.While Entry 66 to List I of Schedule VII of Constitution of India is general in nature covering higher educations Entry 25 to List I of Schedule VII of the Constitution of India is specific to marine education and training. Therefore, both the Merchant Shipping Act, 1958 and the Indian Maritime University Act, 2008 get their source of legislation only under entry 25 list I of Schedule VII of the Constitution of India. While under Section 7 of Merchant Shipping Act, 1958 speaks about appointment of DGS, the role of DGS is spoken in Section 50 of Indian Maritime University Act. Hence, the prescription of minimum mark for admission in diploma or degree course offered by the university by DGS have persuasive value. If any University other than Indian Maritime University offers degree or diploma shall be subject to the test of Entry 25 of List I of VII Schedule to the constitution.

88.This Court on an earlier occasion while dealing with the powers of DGS in context of some specific averments have made certain observations about powers of DGS. After the Merchant Shipping (Continuous Discharge Certificate - cum Seafarers Identity Document) Rules 2017 and the Merchant Shipping (Standard

of Training, Certification and Watch keeping for Seafarers) Rules 2014, the power of the DGS to issue circular and orders has to be understood in the light of the provisions of these two rules framed in exercise of power conferred under Merchant Shipping Act, 1958. Further, one should also bear in mind that the international conventions regarding the Seafarers and the Code framed there under.

89. On a cumulative appreciation of these provisions, this Court come to the irresistible conclusion that the DGS has got the power to regulate training courses on marine education which includes diplomas, degrees and post graduate diplomas. However, it shall be subjected to the rules and code. There cannot be any fetter in his power to prescribe qualification norms which are reasonable and in consonance with rules and code. Except diploma, degree, post graduate degree and higher degrees offered by the universities, the DGS is the absolute authority to impose conditions for qualification and training programmes. As far as diplomas, degrees and Post Graduate Diploma etc., granted by Universities, the Central Government decisions conveyed through the DGS carry persuasive effect on the universities.

90. As far as the reliefs sought in this batch of writ petitions, except the condition regarding on board training and placement, this Court finds no other provisions are contrary to rules and code. Therefore, the clauses which impose on board training compulsorily tie up with shipping companies and placement as pre-condition for admitting candidates in basic training programme alone struck down.

91. It is advised that the DGS shall come out with a composite order based on International Convention on Standards of Training, Certification and Watch Keeping for Seafarers (STCW), 1978 ; Merchant Shipping (STCW) Rules 2014 and the Merchant Shipping (Continuous Discharge Certificate - cum Seafarers Identity Document) Rules 2017 so that, the maritime institutes offering training programmes will also be properly guided to conduct their institutes in consonance with the Act and Rules issued in exercise of the power under the statute referred. Such an endeavour shall be completed, within a period of four months from

today.

92.To sum up the writ petitions are disposed of with the following findings and directions:-

(i)The Director General of Shipping is the authority vested with absolute power to regulate all training programmes leading to examinations for grant of certificates;

(ii)As far as Diplomas, Degrees and Post Graduate Diplomas offered by the Institutes affiliated to Universities, the policy of the Central Government binds the Universities and the Institutes affiliated to the Universities. DGS power to prescribe minimum eligibility marks for admission in Diploma and degree courses flows from Entry 25 in List I of Schedule VII of the Constitution of India.

(iii)Any order or regulation issued by DGS shall be with the object to enhance the quality of training and standard of education and not detrimental to the object;

(iv)MoU with Shipping company for onboard training for specified number of candidates and restricting the admission to that specified number alone is an onerous condition;

(v)Continuation of approval based on placement within specified period is unconstitutional and ultra vires and

(vi)In superstitution of orders and training circulars, the DGS is directed to frame a composite regulation for institutes offering Marine Education and training within four months from the date of this order. Till such time, except clauses regarding tie up for on board training and placement which is struck down as unconstitutional all other clauses in the orders and circulars shall be in force.

No costs. Consequently, connected miscellaneous petitions are closed.''

6 It is clear from the above order that this Court had recognised the authority of the 2nd respondent to regulate all training programmes and granting of Certificates and this Court interfered with the Circular only insofar as imposing the condition of entering into an MOU with the Shipping Company for on-board training which was made as a pre-requisite for admission of candidates. This Court found that the said condition is onerous. This Court also directed the 2nd respondent to frame a composite Regulation for all Institutes offering Maritime education and training within a period of four months from the date of the order. This Court also made it

clear that except the clauses regarding entering into an MOU for on-board training and placement, all the other clauses in the Orders and Circulars were held to be valid and in force.

7 The 2nd respondent issued the impugned Circular dated 24.04.2020, mandating that the Approved Training Programme for the pre-sea training shall also consist of ship board training. This stipulation made in the Circular, has been questioned by the petitioners in these writ petitions and the petitioners have also questioned the consequential Circular dated 27.05.2020.

8 Mr.Ar.L.Sundaresan, learned Senior Counsel assisted by Mr.Abishek Jenasen, learned counsel appearing on behalf of the petitioner in WP.No.9119 of 2020, made the following submissions:-

- The 2nd respondent has imposed certain conditions which is more onerous than the conditions imposed in the earlier Circular and the impugned Circular has been issued only with a view to circumvent the orders passed by this Court in the earlier batch of writ petitions.
- The Maritime training is imparted in distinct stages, namely, [i]pre-sea training ; [ii]on-board training ; [iii] post-sea training ; and [iv] Certificate of Competency examination. The 2nd respondent has granted approval to the Institutions to offer pre-sea courses and the on-board training is the second stage of training which can be provided only by the Shipping Companies. Therefore, to impose the requirement of on-board training on the petitioners Institutions is an impossible condition imposed by the 2nd respondent which is entirely onerous and illegal.
- The pre-sea training Institutes strictly offer the courses in compliance with the conditions imposed by the 2nd respondent with regard to syllabus, infra-structure, staff requirements etc., and they are affiliated to the respective Universities. The placement of candidates for on-board training is entirely out of the scope of these Institutions.
- The Institutions themselves make it clear to the candidates that what is provided is only a pre-sea training and on completion, they have to necessarily join the on-board training in a Shipping Company and therefore, the candidates are not misled by any of the Institutions as claimed by the respondents.
- The imposition of such a condition by the 2nd respondent is beyond the power and authority of the 2nd respondent that has been delegated to the 2nd respondent by the 1st respondent.
- The 2nd respondent, by imposing such a condition, has virtually foreclosed the options for the Institutions in

admitting any candidate during this academic year since none of the Institutions have the facility to conduct the on-board training to the candidates.

9 Mr.Abishek Jenasenan, learned counsel appearing on behalf of the petitioner in WP.No.9050 of 2020 adopted the arguments made by the learned Senior counsel appearing for the petitioner in WP.No.9119 of 2020.

10 The 2nd respondent has filed a counter affidavit in both the writ petitions.

11 Mr.R.Sankaranarayanan, learned Additional Solicitor General of India-I assisted by Mr.L.J.Venkatesh, learned Central Government Standing counsel appearing on behalf of the respondents, made the following submissions:-

- ◆ The power and authority of the 2nd respondent has already been upheld by this Court while passing the final orders in the earlier batch of writ petitions and in fact, a writ appeal has been filed by the petitioners therein as against the findings of the learned Single Judge at paragraph No.92 [ii] of the order and the appeal is pending. Therefore, this Court need not once again go into the said issue in the present writ petitions.
- ◆ The STCW Code Convention 1978 as amended and the relevant Rules, 2014, specify the minimum eligibility requirements for acquiring the Certificate of Competency or Certificate of Proficiency which is required for jobs on ships. The intention of the Directorate was to provide eligible, qualified and competent seafarers to the world Maritime Industry and therefore, it was thought fit to train the seafarers properly as per the Norms so as to be eligible, qualified and competent for seeking employment on ships.
- ◆ The candidates are lured for admissions in pre-sea Maritime courses by promising them employment on ships with high salaries and the candidates also join without understanding that mere completion of pre-sea training will be of no use without undergoing the on-board training. The candidates are left in lurch and many are not able to acquire the Certificate of Competency or Certificate of Proficiency due to non-completion of the ship board training. After accepting a huge fees, the candidates are left high and dry.
- ◆ The impugned Circular issued by the 2nd respondent provides for guidelines for an Approved Training Programme consisting of pre-sea training and on-board training, which is a pre-requisite to appear in the examination for Certificate of Competency or Certificate of Proficiency and the attempt made by the petitioners to compartmentalize the entire course, is completely misleading.

- ◆ The findings given by this Court in the earlier batch of writ petitions makes it very clear that the DGS is the authority which has been conferred with the power to regulate the Maritime training by the Central Government and questioning the Circulars and Orders issued by the DGS on this ground, is untenable.
- ◆ This Court has also held that the attempt made by the DGS to insist upon the minimum prescribed approved sea going Certificates for the candidates to make them eligible to take the examination and obtain the Certificate, is in consonance with the STCW Convention. The only reason why the Circular was intervened was that this Court found the pre-requisite of entering into a MOU with the Shipping Companies, to be onerous.
- ◆ This Court also directed the 2nd respondent to frame a composite Regulation for Institutions offering Maritime education and training within four months. Pursuant to the same, the present Circular has been issued and the same cannot be questioned by the petitioners since it is well within the power and authority of the 2nd respondent.
- ◆ The learned Additional Solicitor General of India also placed reliance upon the additional counter affidavit filed by the 2nd respondent and by pointing out to paragraph No.5 of the additional counter, submitted that the present Circular will be applicable to all the students who will be admitted in any of the pre-sea courses mentioned in the Circular on or after the date of issue of the Circular and for the students who are already undergoing the courses, previous Circulars concerning the conduct of such training courses will be applicable.
- ◆ The interest of the candidates who join the courses was taken into consideration and it was ensured that they undergo an Approved Training Programme which will consist of both pre-sea training and on-board training and it is the look-out of the Institutions to prepare themselves to give on-board training to the candidates who join in their Institution.
- ◆ There are absolutely no merits in these writ petitions and the same is liable to be dismissed.

12 This Court has carefully considered the submissions made on either side and the materials placed on record.

13 The STCW Convention does not mandate any Degree or Diploma courses in order to become an officer/rating on-board ships. The Convention only mandates "'Approved Training Programme'" which may be formulated by the administration to meet the competence standards prescribed in the Convention. The

Convention also categorically states that the Approved Training Programme shall include the prescribed minimum period of on-board training. India is a signatory to this Convention. If Maritime training is not in accordance with the STCW Convention, the Certificate of Competency issued by the Maritime administration may not be recognized world-wide.

14 A careful look at the scheme of the course provided by the 2nd respondent shows that it has divided the courses into various stages as pre-sea training, on-board training, post-sea training and finally, taking the examination in order to obtain the Certificate of Competency or Certificate of Proficiency. The candidate becomes qualified only after obtaining this Certificate.

15 The learned Single Judge who was dealing with the earlier batch of writ petitions, took efforts to understand the entire scheme of the Merchant Shipping Act, 1958 and the Rules made thereunder and the learned Single Judge also took into consideration, the STCW Convention. The learned Single Judge while drawing the conclusions, specifically framed a question with regard to the power of DGS to issue Orders and Circulars in the matter of regulating the Maritime education. The learned Single Judge specifically answers this question at paragraph Nos.71 and 72 of the order and holds that DGS has been conferred with the power to regulate the Maritime training and questioning competency and jurisdiction of DGS is untenable and liable to be rejected . This has been further reiterated while concluding the judgment at paragraph Nos.89 and 92. The learned Single Judge further directed DGS to frame a composite Regulation for all the Institutions offering Maritime education and training within four

months. As a result of this direction issued by the learned Single Judge, the 2nd respondent has now come up with the fresh Circular dated 24.04.2020.

16 For the purposes of deciding the issue, it will be relevant to extract Clause 25.1 of the Circular which reads hereunder:-

25.1 - Approved Training Programme

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- 25.1.1 In compliance with STCW Convention, 1978, as amended and M.S. [STCW] Rules, 2014, the approved training programme for the pre-sea training listed in Table-1 given below shall consist of pre-sea training and the shipboard training.
- 25.1.2 The shipboard training defined for each pre-sea training shall be mandatory for successful completion of the approved pre-sea training and subsequent issuance of certificate for successful completion of approved training programme for the pre-sea training. Upon successful completion of the approved training programme [pre-sea training and shipboard training], the Maritime Training Institute [MTI] shall carry out assessment of the 'Training and Assessment Record' [TAR] book or the 'Cadet Record Book' [CRB] and issue course completion certificate to the candidate. The format for course completion certificate for each pre-sea training shall be issued by the Directorate.
- 25.1.3 The degree or the diploma that may be issued after completion of a pre-sea course prior to undertaking shipboard training is given in the table below. Any course certificate issued only after the pre-sea training approved by the Directorate prior to undertaking shipboard training shall be considered only as partial completion of the approved training programme for the subject pre-sea training.
- 25.1.4 The following is the Table giving the pre-sea training course, pre-sea course duration, certificate to be issued after completion of pre-sea training, shipboard training duration and the total training duration required for issuance of the course completion certificate.

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SN	Pre-Sea Course	Pre-Sea Course Duration	Certificate to be issued	Shipboard training duration	Total Training duration for issuing course completion certificate
1	BE/B-Tech Marine Engineering	4 Years	Degree	6 months	4.5 years
2	Graudate Marine Engineer	1 year	-	6 months	1.5 years
3	B.Sc [Nautical Science]	3 years	Degree	1 year	4 years
4	Diploma in Nautical Science [DNS]	1 year	Diploma	1.5 years	2.5 years
5	Electro-Technical Officer [ETO]	4 months	-	8 months	1 year
6	Training in General Purpose Rating	6 months	-	6 months	1 year
7	Certificate Course in Maritime Catering	6 months	-	6 months	1 year

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- 25.1.5 The eligibility requirements for the various CoC examinations shall be amended accordingly include certificate for successful completion of training.
- 25.1.6 The Guidelines issued for the pre-sea courses as mentioned in the Table above shall henceforth be called Part - A of the Guidelines. The applicable TAR Book/CRB issued for the pre-sea training as mentioned in Table shall henceforth be called Part - B of the Guidelines.
- 25.1.7 The MTIs may continue to issue degree to the candidates for BE / B-Tech in Marine Engineering, B.Sc [Nautical Science] and Diploma in Nautical Science as per the existing procedures. However, such degree/diploma shall only be considered as partial completion of the approved training programme and shall not be considered for eligibility for any examinations of CoC or CoP conducted by the Directorate unless the shipboard training is successfully completed.

17 The above clauses mandates the Maritime Training Institutes to provide all those candidates who have completed pre-sea training, to be given an opportunity for the commencement of their shipboard training within twelve months of passing of the pre-sea course.

18 In the considered view of this Court, the Approved Training Programme is a combination of pre-sea training and on-board training and a candidate merely completing the pre-sea training will not in any way be benefited without the on-board training. The new guidelines prescribed by the 2nd respondent is fully in accordance with the STCW Convention and the STCW Rules, 2014. This Court does not find the stipulation made by the 2nd respondent to be illegal. The Institutions have been given one year time to ensure that the candidates who join the pre-sea training get their on-board training also. By making it a mandatory condition, the 2nd respondent has only brought the Circular in line with the STCW Convention which mandates Approved Training Programme.

19 Insofar as the power and authority of the 2nd respondent in issuing the Circular is concerned, this Court concurs with the findings of the earlier order dated 09.09.2019 passed by the learned Single Judge in the batch of writ petitions. Therefore, this Court is not inclined to once again go through the exercise of determining the power and authority of the 2nd respondent, more particularly, since the Institution has challenged that portion of the order by filing a writ appeal.

20 The only other issue that is left to be decided is with regard to the Circular issued by the 2nd respondent wherein it has been mandated that a Approved Training Programme for a pre-sea training shall consist of pre-sea training and shipboard training. This condition imposed by the 2nd respondent through the impugned Circular cannot be found fault with since it is in line with the STCW Convention and it has been done to safeguard the interest of the candidates who join the course with the hope that they will ultimately take up the examination to obtain the Certificate of Competency or the Certificate of Proficiency. Providing the candidates with only pre-sea training without ensuring the on-board training will be of no use and therefore, the 2nd respondent has rightly formulated the Approved Training Programme to consist of both pre-sea training and shipboard training. Just because the Institutions may find it difficult to provide for on-board training, that by itself cannot be a ground to interfere with the Circular issued by the 2nd respondent. The Institutions have been given time to make arrangements to ensure that the candidates are also guaranteed with the on-board training. This stipulation made by the 2nd respondent cannot be termed as an onerous condition since the 2nd respondent has merely made the Approved Training Programme fall in line with the STCW Convention.

21 In view of the above discussion, this Court does not find any ground to interfere with the impugned Circular dated 24.04.2020 issued by the 2nd respondent herein.

22 Accordingly, the writ petitions stand dismissed. No costs. Consequently, the connected miscellaneous petitions stand closed.

-s/d-

Assistant Registrar

True Copy

Sub-Assistant Registrar

AP
To

1.The Secretary,

Government of India

Ministry of Shipping, Transport Bhawan, Sansad Marg,

New Delhi 110 001.

2. The Directorate General of Shipping
represented by the Assistant Director
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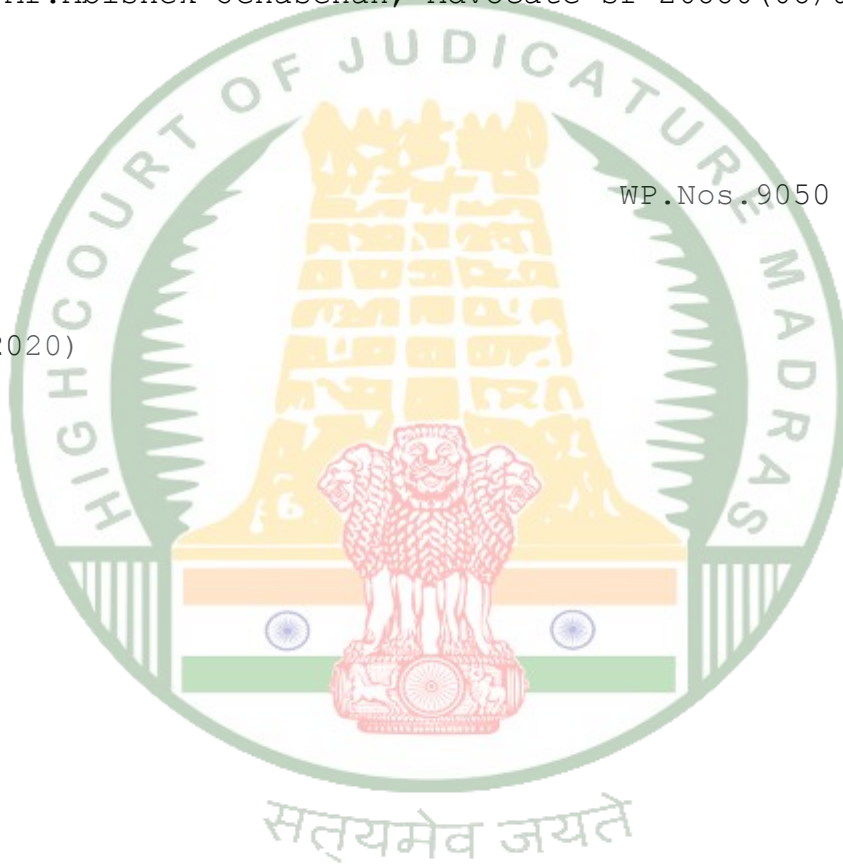
+2 Ccs to Mr.Abishek Jenasenan, Advocate sr 26879

+2 Ccs to Mr.Abishek Jenasenan, Advocate sr 26880 (08/09/2020)

PVS (CO)

SP (02/09/2020)

WP.Nos.9050 & 9119/2020



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