

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.01.2022

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.Nos.35003 & 35005 of 2019

and

WMP.Nos.35792 & 35794 of 2019

Sri Nandhanam College of Engineering and Technology
Rep. by its Manager S. Sunderrajan
S/o Sundaramurthy
Nandhanam Nagar
Molagarampatti
Tirupattur Taluk,
Vellore Dist.

... Petitioner
in both the petitions

Vs.

The Director General of Shipping
Office of the Director General of Shipping
9th Floor Beta Building i-Think Techno Campus,
Kanjurmarg (East),
Mumbai, Maharashtra 400 042.

... Respondents in both
the petitions

Prayer in W.P.No.35003 of 2019 : The writ petition filed under Article 226 of the Constitution of India, to issue a writ of Mandamus, directing the Respondent to grant permanent approval for pre-sea training GP rating course pursuant to the temporary approval granted in approval no. TR / A / 0 / 2019 dated 15.1.2019 to the Petitioner Institute.

Prayer in W.P.No.35005 of 2019 : The writ petition filed under Article 226 of the Constitution of India, to issue a writ of Mandamus, directing the Respondent to grant permanent approval for (1) Six Months pre-sea Certificate Course in Maritime Catering in Application No. 100204 2) Four Months Pre-sea Electro Technical officer Course in Application No. 100055 3) One Year Pre-Sea Training for Graduate Marine Engineers in Application No. 100053 4) Two days STSDSD Course in Application

No. 100005 and 5) 10 Days Basic Safety training Course in Application No. 100191 to the Petitioner Institution by setting aside on-line web portal Course Approval Application Rejection Orders of the Respondents.

For Petitioner : M/s.K.M.Vijayan Associates
(in both the petitions)

For Respondent : Mr. T.V.Krishnamachari
(in both the petitions)

COMMON ORDER

These petitions have been filed seeking to grant permanent approval for pre-sea training GP rating course pursuant to the temporary approval granted in approval no. TR / A / 0 / 2019 dated 15.1.2019 to the Petitioner Institute and also to grant approval for (1) Six Months pre-sea Certificate Course in Maritime Catering in Application No. 100204 2) Four Months Pre-sea Electro Technical officer Course in Application No. 100055 3) One Year Pre-Sea Training for Graduate Marine Engineers in Application No. 100053 4) Two days STSDSD Course in Application No. 100005 and 5) 10 Days Basic Safety training Course in Application No. 100191 to the Petitioner Institution by setting aside on-line web portal Course Approval Application Rejection Orders of the Respondents.

2. The brief facts of the writ petitions are as follows:

The petitioner's college imparts engineering and technology subjects and from the year 2007, it has introduced maritime courses. The engineering college run by the petitioner has approved by AICTE and it is affiliated to Anna University. The petitioner college claims that it has AICTE approval for BE Marine Engineering Course along with approval issued by the respondent. The petitioner's college applied to grant of permission to teach courses like six months pre-sea certificate courses in Maritime Catering, four months Pre-sea Electro Technical Officer course, one year Pre-sea training for graduate Marine Engineers and 10 days basic safety training course. On inspection conducted by the respondent, which was found that the petitioner's college was lacking swimming pool. When the said anomaly was pointed out that the petitioner's college gave assurance that necessary swimming pool would be built within a period of six months. Based on such assurance, the respondent gave temporary approval for conducting the above said courses and also to grant permanent approval for pre-sea training GP rating course. Since the petitioner has reneged upon its

assurance, the temporary approval given to the petitioner was not made permanent. Seeking the direction upon the respondent to grant permanent approval for pre-sea training GP rating and also to grant permanent approval for conducting the above said courses, the present writ petitions have been filed by the petitioner's college.

3. The respondent has filed a detailed counter affidavit wherein the respondent has traced the history and the need for certain facilities that are mandatory in the petitioner's college. The respondent has stated in the counter affidavit that India is a party to the International Convention on standards of training, Certification and watch keeping for seafarers, 1978 as amended (STCW Convention, 1978)

4. For better appreciation and monitoring of the maritime education and training in India, in exercise of powers conferred under Section 87, 98, 457 and 458 of the merchant Shipping Act, 1958 has vide Gazette Notification GSR. 191(E) dated 20.04.1998, notified the Merchant shipping (Standards of Training, Certification and Watch keeping for seafarers) Rules, 1998 and updated in 2014, which deals with various aspects of the maritime education, training & certifications in the country. Therefore, the respondent is the competent authority to approve the diploma and degree courses as per the above provisions and as per the mandate of STCW convention, so that candidates passed out from the approved institutes can become eligible for examination of certificate of competencies which are statutory certificates under Section 78 of Merchant Shipping Act, 1958 read with Rule 5 of STCW Rules, 2014. In paragraph 10 of the counter affidavit, the respondent has elaborately stated in what circumstances temporary approval was granted to the petitioner's college. It is mentioned that the petitioner's college made a power point presentation at the office of the respondent prior to the approval to general purpose rating course. During presentation, the chairman of the college assured to the committee that he would construct the swimming pool within six months. Based on the assurance given by the Chairman, vide approval letter dated 01.01.2018 temporary approval was given with a condition that the GP rating batch will be valid till 30.06.2018. It would clearly explained to the petitioner that further approval would be considered only after the construction of the swimming pool by the petitioner's college.

5. It is the case of the respondent that even after passage of two years, no steps have been taken by the petitioner's college to construct swimming pool. The Mercantile

Marine Department (MMD), Chennai carried dated 01.08.2019 conducted inspection in the petitioner's college and filed report. The MMD has observed as follows:

a. Swimming pool facility is yet to be completed by the institute, but is having a tie-up with another MTI, which however is of almost 2.5 hours travel distance from the institute.

b. No fire detection system.

c. No air conditioning in class rooms.

d. Third and fourth floor of the hostel block is yet to be made ready.

e. on availability of Tie-up letter for placement of pre-sea candidates.

f. Few of the faculties/instructors have not done the VICT course.

g. Catering training block is having only asbestos roofing.

h. The institute has submitted reply requesting for more time to comply with the requirement of swimming pool, fire detection system, AC units in class room, readiness of third and fourth floor of Hostel block and VICT course for faculties/instructors.

Since the petitioner's college failed to satisfy the minimum requirements for initiating the above said maritime courses, the respondent has refused to grant permanent approval. Hence, the learned counsel prays to dismiss these writ petitions.

6. Heard both sides, and perused the materials available on record.

7. It is not a simple case to grant approval in an early basis. The courses that are sought to be offered by the petitioner's college relates to maritime duties. The successful candidates will be deployed in ships. Life at sea is always unpredictable. In case, if any mishap occurs, a sailor should be equipped with skills so as to extricate him/her. Unless the students are imparted with the basic training in swimming, it is very unlikely that they will be able to withstand the rigor of rough sea. Therefore, this Court is not inclined to accept the arguments advanced by the petitioner in the affidavit. Literally, the lives of students who completed the course in the petitioner's college, are at stake. No chance can be taken will be lives of the students. The requirements imposed by the respondent cannot be stayed to be out of space. If the petitioner needs permanent approval for the courses conducted by

it with regard to the maritime subjects, definitely, the college has to satisfy the basic requirement of constructing a swimming pool in the dimension and as per the requirements state by the respondent. It is also pertinent to mention that the Chairman of the College assured that the swimming pool would be constructed within a period of six months. However, despite the passage of many years, no attempt has been made by the petitioner to construct a swimming pool. This Court should record that a false assurance has been given to obtain temporary approval. Under the guise of having obtained temporary approval, the petitioner has sought for permanent approval. The attitude of the petitioner is highly condemnable. The learned counsel for the petitioner submitted that the petitioner's college has to satisfy the minimum requirements of constructing a swimming pool if it truly aspires to have permanent approval for the courses viz., maritime courses conducted by them.

8. In view of the above discussions, this Court has no hesitation to affirm the counter of the respondent in refusing to grant permanent approval as sought for by the petitioner's college.

9. In the result, the writ petitions are dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

rli
To

The Director General of Shipping
Office of the Director General of Shipping
9th Floor Beta Building i-Think Techno Campus,
Kanjurmarg (East),
Mumbai, Maharashtra 400 042.

+2 CC to Mr.T.V. Krishnamachari, Advocate sr 490,491

W.P.Nos.35003 & 35005 of 2019
and WMP.Nos.35792 & 35794 of 2019

RK(CO)
SP(11/04/2022)