

Shephali

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 7543 OF 2022**

Captain Niranjan Kumar Basak & Anr ...Petitioners
Versus
Assistant Director General of Shipping & Ors ...Respondents

**Mr Mayur Khandeparkar, with Gaurangi Patil & Parth Mehta, i/b
GP & Associates, for the Petitioners.**
Mr Rui Rodrigues, with DP Singh, for Respondents Nos. 1 to 4.

**CORAM G.S. Patel &
 Neela Gokhale, JJ.**
DATED: 26th April 2023

PC:-

**SHEPHALI
SANJAY
MORMARE**

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1. Mr Rodrigues has taken instructions and we believe it is appropriate and well advised that he has not merely made a statement across the bar. Instead there is an Affidavit at pages 282 to 283. This is taken on record. We note that it has been e-filed. The Affidavit is by the Assistant Director General of Shipping, currently holding charge in the Directorate General of Shipping. The statement is that the Respondents undertake to withdraw the show cause notice in question and the resultant order of 9th June 2022. We treat the show cause notice and the order as withdrawn immediately.

2. In every Affidavit, the Respondents have reserved their right to “find out about the systematic misuse of the online exit system by the various stakeholders in accordance with law.” Mr Khandeparkar for the Petitioner submits that this qualification should not be used to justify a second round of what he describes is an unsustainable and utterly malafide witch hunt against the Petitioner. That is not our understanding of this sentence at all. We note that the sentence is not specific to the Petitioners. When it refers to various stakeholder, we understand that reference to be to all institutes and organisations similar to the Petition. What the Respondents are saying is that it is their responsibility to ensure the integrity of the online exit system and to prevent its misuse. We agree that this is undoubtedly the task of the Respondents. Even in the present manner, our concern was with the process that was adopted, not the reason behind the process. If there is any form of an examination or an online test or an online exit system, it is obviously for the agency that is administering the test to ensure that it is done in a fair manner such that no participant or student gains an unfair advantage by a “gaining the system”.

3. Mr Khandeparkar also submits that the action of the Respondents has caused the Petitioner considerable financial loss. We make no observations in that regard. He states that the Petitioners might well be advised to file a civil action in a jurisdictionally competent court for that claim. We note the statement but we keep all contentions open. We specifically note and record that we have not, in making this order, addressed the matter on merits in view of the Affidavit that Mr Rodrigues has now filed.

4. The Petition is disposed of in these terms.

(Neela Gokhale, J)

(G. S. Patel, J)