



W.P. No.1600 of 2020 and
W.M.P. No.1870 of 2020

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.07.2023

CORAM: JUSTICE N.SESHASAYEE

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W.M.P. No.1870 of 2020 & 4903 of 2021

Perunthalaivar Kamarajar
Institute of Maritime Science and Engineering
Rep. by its Chief Executive Officer
Thiru.Tamilarasu Sambandam
1069, Thirupaninatham, Keerapalayam Post
Chidambaram - 608 602
Cuddalore District

... Petitioner

Vs.

The Director General of Shipping
Training Branch
The Directorate General of Shipping
9th Floor Beta Building, I-Thinking Techno Campus
Kanjurmarg (East), Mumbai - 400 042

... Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for a writ of certiorarified mandamus calling for the records in Order No.F.No.3-TR(98)/99-STSDSD dated 06.01.2020 on the file of the respondent and quash the same as illegal, against law and without any evidence and direct the respondent to permit the petitioner to conduct the course based on the license given under the procedure established under law.



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For Petitioner : Mr.Richardson Wilson
For Respondents : Mr.AR.L.Sundaresan,
Assistant Solicitor General of India
Assisted by Venkatasamy Babu,
Senior Panel Counsel

ORDER

The petitioner has the approval to conduct two courses, namely the general purpose course and STCW course. The former course is for a duration of six months and the latter course is only for 12 days. Noticing certain serious deficiencies in the manner of conducting these courses, the respondent had issued the impugned proceedings dated 06.01.2020 withdrawing its approval permanently and also debarred the Trustees of the petitioner from conducting courses for five years. This is now under challenge before this court.

2. The learned counsel for the petitioner brought to the notice of this court the guidelines issued by the Directorate General of Shipping and more specifically to clause 5.5.3, which provides for permanent withdrawal of the approval. It reads as follows:

"5.5.3 - Permanent withdrawal of approval:

Permanent withdrawal means permanent discontinuation of the course after the current batch completes that particular course. Thereafter no batch shall be conducted and the



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approval to the course will be permanently withdrawn. If the deficiencies as a result of which the approval to the course was permanent withdrawn have been rectified to the satisfaction of the inspecting authority, then the course should be applied for once again, and after payment of non-refundable processing fees and the necessary inspections, approval may be granted but not in any case prior to the lapse of a period equal to three batches of that course."

He submitted that :

- (a) when deficiencies are rectified the approval can be sought again; and*
- (b) at any rate, the permanent approval can be withdrawn only for thrice the time of course.*

3. Inasmuch as the general purpose course which the petitioner offered was only for six months, the permanent approval earlier granted could be withdrawn for a maximum period of 18 months.

4. Per contra, Mr.AR.L.Sundaresan, learned Assistant Solicitor General of India



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refuting strongly to the interpretation given by the counsel for the petitioner submitted that

- (a) if clause 5.5.3 is dissected, it first requires rectification of the deficiencies earlier noted;*
- (b) it must be done to the satisfaction of the inspecting authority;*
- (c) there must be a re-application for approval; and*
- (d) there must be payment of non-non-refundable process fee.*

5. So far as duration during which the permanent withdrawal can be in operation, what the clause says is that, it cannot be restored prior to the completion of course by three batches and it does not set any upper limit.

6. The learned counsel for the petitioner made a fair statement that he may be permitted to re-apply as his client has rectified the defects/deficiencies spotted out in the impugned order and it may be considered.

7. Inasmuch as the petitioner makes a statement that he would re-apply, as



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according to him that the defects or deficiencies have been rectified, now it is upto the authority concerned to appreciate the same, and when such an application is made and once it is so done, they are required to act strictly in accordance with the guidelines.

8. Accordingly, the writ petition is disposed of. However, there is no order as to costs. Consequently, the connected writ miscellaneous petitions are closed.

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Asr

N.SESHASAYEE, J.,



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