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W.P.No.3298 of 2020

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on : 31.07.2023

Pronounced on : 11.08.2023

CORAM : JUSTICE N.SESHASAYEE

W.P.No.3298 of 2020
and WMP.No.3817 of 2020

International Maritime Academy
Represented by its Managing Director
J.Senthil Kumar
41, Jamin Korattur, Pudhuchatram
Chennai - 600 124.

... Petitioner

Vs.

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



W.P.No.3298 of 2020

PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying for a Writ of Certiorari calling for the records of the second respondent dated 30.04.2019 in Training Circular No.08 of 2019 in No.TR/CIR/6(6)/2019, quash the same and pass such further or other orders.

For Petitioner : Mr.Abishek Jenasen

For Respondents : Mr.K.Gunassekar
Senior Panel Counsel for R1 & R2

ORDER

The petitioner herein is an educational institution that offers (a) 4 years B.Tech Marine Engineering Course (b) 3-year B.Sc. Nautical Science Course (c) 1-year Diploma in Nautical Science leading to 3 years B.Sc. Nautical Science and (d) General Purpose Ratings Course. It now challenges the circular of the Directorate General of Shipping, Government of India, Mumbai dated 30.04.2019. This circular envisages issuance of a single 'Indian National Database of Seafarers (INDoS) number, which is a unique number issued to a seafarer, and it is required for every aspiring seafarer to undertake a pre-sea course in any Maritime Training Institute (MTI). The



W.P.No.3298 of 2020

petitioner challenges Clause 9.1.1. of the said circular which mandates that every candidate who seeks any admission to any of the Maritime Courses shall have a valid passport. The petitioner's contention are two-fold:

- (a) that the minimum eligibility criterion required for some of the courses offered by the academy is 10th standard, and to insist that a candidate shall have a passport even for joining the academy will cause considerable hardship both to the students and also to the academy;
- (b) that the Directorate General of Shipping does not have any authority.

3. Developing his arguments further, the learned counsel for the petitioner submitted that:

- a) India is one of the members of International Maritime Organization and has adopted the Standards of Training, Certification and Watch keeping for Seafarers (hereinafter STCW), and has come out with its own set of Rules vide Notification of the 1st respondent, dated 30.07.2014. The said notification spells out its objective in Rule 3, which in essence signifies that it is principally intended for prescribing



W.P.No.3298 of 2020

WEB COPY

the course structure of the curriculum and matters associated therewith. Under Rule 75, the Director General of Shipping is vested with the supervisory powers but it is limited to prescribing the nature of curriculum for different maritime courses. This apart, on 14.07.2017, the 1st respondent has come out with Merchant Shipping (Continuous Discharge Certificate) Rules, 2017, which prescribes the minimum qualification or eligibility criteria required by a candidate for joining any of the maritime courses. The minimum qualification required to join the lowest category of maritime course is a bare pass in 10th Standard. Neither Clause 4 of Merchant Shipping (Continuous Discharge Certificate) Rules, 2017, nor Merchant Shipping (STCW) Rules, 2014 authorize the Director General of Shipping to develop his own criterion in insisting that a student or a candidate joining the maritime course should possess his/her passport even at the time of joining the course.

- b) Every category of maritime courses has a four-phased structure: (i) Pre-Sea training; (ii) On Board training; (iii) Post-Sea training; and (iv) taking a certificate of competency examination. In all the courses,



W.P.No.3298 of 2020

WEB COPY

the pre-sea training period is relatively longer. Therefore, irrespective of whether the Director General of Shipping has the authority to issue a notification insisting a candidate / student of a maritime course to have a passport at the time of admission, the same can be obtained even after joining the courses.

- c) This apart, it is not necessary that every seafarer who passed the competency examination necessarily need to travel abroad. Therefore, if a student chooses not to go abroad but only chooses to work within Indian waters need not necessarily possess the passport. Therefore, the decision to insist on a passport at the time of admission is arbitrary and it does not bear any nexus to the objective sought to be achieved.

Reliance was placed on the judgment of a Division Bench of this Court in W.A.Nos.151 to 154 of 2010, dated 26.02.2010, wherein it is held that the Indian Maritime University does not have any exclusive prerogatives to prescribe the eligibility criteria.

4. In response, the counsel for the respondents submitted:



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W.P.No.3298 of 2020

- a) The purpose for which the circular was issued, and this is made evident in the very circular. The objective is to do away with multiple INDoS number, and to have one number which may consolidate all the relevant information of a seafarer.
- b) As to the authority of the Directorate General of Shipping to issue circular is concerned, Sec. 50 of the Maritime University Act, 2008, and also Sections 75, 75(A), 76, 77 and 78 (1) and Sec.79 of the Merchant Shipping Act, 1958, vests the Director General of Shipping with requisite authority to issue the notification that he has issued. The authority of the Director General of Shipping in prescribing the eligibility criterion has already been considered by two learned Judges of this Court in W.P.No.40370 of 2019 batch of cases, dated 21.08.2019 and W.P.No.9050 of 2020 batch of cases, dated 13.08.2020.
- c) Till date no student has challenged this notification so far, and that W.P.No.20653 of 2019 which the Association of Maritime Education and Training Institutes had filed challenging this notification was withdrawn by it vide order dated 12.02.2022.



W.P.No.3298 of 2020

5. The issue involved is short : Whether the Director General of Shipping, the second respondent herein has the authority to issue a Circular No.8 of 2019, dated 30.04.2019 requiring that the students who apply for any maritime courses, must possess a passport. The reasons are categorically stated in the opening paragraphs of the circular, and they read :

1. *Whereas "Indian National Database of Seafarers" (INDoS) number is a unique number issued to a seafarer and this number is required by every aspiring seafarer desiring to undertake any pre-sea course in any Maritime Training Institute (MTI) approved by the Directorate.*
2. *Whereas an aspiring seafarer should readily have the information of the various maritime courses and the Maritime Training Institute (MTI) approved by the Directorate (DGS) for conducting such maritime courses.*
3. *Whereas the current procedure for issuance of INDoS requires submission of substantial documents and payment of fees by demand draft to the INDoS cell.*
4. *Whereas there have been many cases where a seafarer has applied for multiple INDoS number which created lot of confusion and improper data.*
5. *Noting that a large number of corrections were required pertaining to the personal details of an aspiring seafarer like name, date of birth, passport number, father's name etc., Also noting that all these corrections caused inconvenience to the seafarer and the MTI while*



W.P.No.3298 of 2020

generating certificates for the conducted courses.

6. *Noting that several corrections essentially require the passport details for verification. Additionally, the name of seafarer in all the certificates require to be as mentioned in the passport.*
7. *Noting also that INDoS number is required for a seafarer and has no significance if the aspiring seafarer does not join maritime courses.*
8. *Taking cognizance of the above, the Directorate has developed the following simplified online procedure for registration of candidate for admission in Maritime Training Institute and issuance of INDoS number to facilitate the seafarers and the MTI.*

Under Clause 9.1 instructions are given to the candidates for application for registration for admission in Maritime Training Institute. The first among them requires that the candidate must have a valid passport. The issue is about the authority of the second respondent insists on this requirement.

6. Section 50 of the Indian Maritime University Act, 2008, reads as below :

'50. Role of Central Government and Director-General of Shipping

:-

- (1) The University shall, in discharge of its functions under this Act, be bound by such directions on question of policy as the*



W.P.No.3298 of 2020

Central Government may give in writing to it from time to time.

(2) The decision of the Central Government as to whether a question is one of policy or not shall be final.'

This implies that the Indian Maritime University Act subordinates its functions to the directions or questions of policy that the Central Government may give in writing to it from time to time. Now, if the Merchant Shipping Act, 1958 is considered, vide Sections 78 and 79, it mandates that every seafarer must have a certificate of competency, and this will be issued by the Central Government through the person it authorises. The person so authorised by the Central Government is the Director General of Shipping.

7. The authority of the Director General of Shipping on matters relating to curriculum of shipping has already been upheld in the judgment of a Division Bench of this Court in W.A.Nos.151 to 154 of 2010, dated 26.02.2010 [***The Secretary, Ministry of Shipping, Road Transport and Highways (Department of Shipping) and another Vs. Maritime Institutes Association & another***].

8. It is in this backdrop, the challenge raised by the petitioner needs to be



W.P.No.3298 of 2020

considered. The principal contention of the petitioner is that the second respondent has not been vested with the authority prescribed to issue a circular requiring a candidate to have the passport. This now stands negated for the reasons stated above. The next contention raised was, not every seafarer opts to travel beyond the Indian waters, and therefore, to insist that every student needs to obtain a passport is arbitrary. This Court is not in agreement with this contention, and the reasons are :

- a) If at all someone is aggrieved, it must be the student, and no student is before the Court;
- b) The reason why a passport is insisted upon has been disclosed in Clause 9.1.1. of the circular. It is not in dispute that every seafarer must possess a INDoS number, which is a sort of identity number for the seafarer, and the authority considers it appropriate to collect all the data and to issue INDoS number in one go.
- c) These are all policy decisions of the Government and this Court does not want to interfere with the same.

9. In view of the above observations, this petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.



W.P.No.3298 of 2020

11.08.2023

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Index : Yes / No

Speaking order / Non-speaking order
anu/ds



W.P.No.3298 of 2020

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WEB COPY

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W.P.No.3298 of 2020

N.SESHASAYEE.J.,

ds

Pre-delivery order in
W.P.No.3298 of 2020

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