



WEB COPY



WP.No.21517 of 2014

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 11.01.2023

CORAM

THE HONOURABLE **DR. JUSTICE ANITA SUMANTH**

WP.No.21517 of 2014 and
MP.No.1 of 2014

Indian Maritime College,
Represented by its authorized Signatory,
10A, Masilamani Street, T.Nagar,
Chennai-600 017.

... Petitioner

Vs

The Director General of Shipping,
The Directorate General of Shipping,
9th Floor, Beta Building, I-Think Techno Campus,
Kanjur Village Road,
Kanjurmarg (East), Mumbai – 400042.

... Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari, calling for the records of the Respondent with respect to the impugned orders dated 20.6.2014 in No.3-TR(135)/98-LCHS and 21.7.2014 in No.3-TR(135)/98-LCHS/384, quash the same.

For Petitioner : Mr.Abishek Jenasenan

For Respondent : Mr.Venkatasamy Babu
Senior Panel Counsel



WP.No.21...

ORDER

WEB COPY

The petitioner is the Indian Maritime College that was set up in the year 1997 with the intent of imparting maritime education. The petitioner received a show cause notice on 03.01.2014 proposing to withdraw the approval granted to it for conduct of Liquid Cargo Handling Simulator Course (LCHS course) at the Management level, on the basis that the petitioner did not confirm with the requisite guidelines issued in this regard. Specifically show cause notice dated 03.01.2014 states that the petitioner institute has not complied with training Circular No.29 of 2005 and IMO model course 2.06 (Oil Tanker Cargo and ballast handling simulator).

2.The petitioner on 15.01.2014 responded in detail expressing the lack of clarity in the notice itself as to what components of the Circular and the model training course had not been complied with. This was followed by impugned orders dated 20.06.2014 and 21.07.2014. On 20.06.2014, the approval was withdrawn confirming the proposal contained in the show cause notice. On 21.07.2014, the petitioner was permitted to continue with the conduct of the LCHS operational level course, though as a value added course, for which there was no approval granted by the Director General in terms of training Circular No.23 of 2013.

3. The counter of the respondents refers to the basis of the impugned proceeding



as being an inspection that was held on 27.08.2013 and hence the respondents were called upon on several previous hearings, to produce a copy of the inspection report in order to pin down the exact areas where there was non-compliance by the institute. Despite several opportunities having been afforded to the respondent, this direction was not complied with, leading this Court to put the respondents to terms on 19.12.2022, when the following order was passed:

‘The respondent, despite specific directions for production of the Inspection report on 23.11.2022 and 02.12.2022 has still not produced the same.

2. When the matter was called in the forenoon today, since the Court was of the view that it was incumbent on them to produce the report as the Writ Petition has been pending from 2014, learned counsel for respondent sought a pass over of the matter.

3. When the matter is called in the afternoon, an e-mail is placed wherein, they state that the file is of more than 8 years vintage and has been archived in its storage facility. Based on this, learned counsel for the respondent seeks more time. The respondent is put to terms seeing as more than sufficient opportunity has been granted to them to produce the report, based on which, the impugned order has been passed.

4. To be noted that in light of the interim protection granted to this petitioner in 2014 at the time of admission, the petitioner has been carrying on the Liquid Cargo Handling Simulator Course. It is thus necessary that a quick decision be taken in regard to whether the petitioner is in fact approved to offer and run the LCHS Course as in the interim, several batches of students have completed the same.

5. A final opportunity to produce the inspection report with an advance copy served upon the petitioner, list on 11.01.2023.

6. Costs of an amount Rs.5,000/- (Rupees five thousand only) payable



to the Cancer Institute, Adyar, Chennai 600020 is imposed. Proof of compliance of the direction at paragraph 3 be filed.'

4.The direction at paragraph 6 of order dated 19.12.2022 has been complied with by the respondents and a copy of the inspection report has also been produced. The report is a one pager dated 04.11.2013, which is extremely cryptic.

5. That apart, the inspection is stated to have been conducted on 27.08.2013 and the report is dated 04.11.2013, which itself leads to some apprehension in regard to the integrity of the report. It is normally expected that a report of inspection must be issued proximate to the conduct of the inspection.

6.Be that as it may, the observations contained in the report are as follows:

Observation: *Both the institutes conducted LCHS course on Personal computer or the training imparted is PC based which is contrary to the IMO guidelines for Full Mission Simulator.'*

The observation provide no clarity whatsoever as to the specific area of non-compliance/violation and learned counsel appearing for the respondent is also unable to throw any light on what the observation means.

7.For the aforesaid reasons, this Court remains unconvinced with the basis upon which the approval has been rejected. Learned counsel for the respondent would seek another opportunity to re-visit the aspect of non-compliance, if any, by the petitioner and this request is acceded to. The impugned order is set aside and this writ petition is



WP.No.21.....

allowed.

WEB COPY

8.Liberty is granted to the respondents to initiate proceedings afresh, if they continue to hold of the view that the petitioner is not compliant with the requirements for conduct of the LCHS courses. Such proceedings, if at all proposed to be initiated, will be concluded within a period of eight (8) weeks from the date of initiation of the proceedings, after hearing the petitioner and in accordance with law. No costs. Connected miscellaneous petition is closed.

11.01.2023

vs

Index : Yes / No

Speaking Order

To

The Director General of Shipping,
The Directorate General of Shipping,
9th Floor, Beta Building, I-Think Techno Campus,
Kanjur Village Road,
Kanjurmarg (East), Mumbai – 400042.



WEB COPY



WP.No.21517 of 2014 and
MP.No.1 of 2014

Dr.ANITA SUMANTH,J.

VS

WP.No.21517 of 2014 and
MP.No.1 of 2014

11.01.2023