

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.08.2023

CORAM: JUSTICE N.SESHASAYEE

W.P. No.33973 of 2022 and W.M.P. No.33456 of 2022

Marine Officers Training Academy (MOTA)
Represented by its Director, Mr.M.Govindan
No.1, Anbu Nagar, Thuthipet
Puducherry - 605 502

... Petitioner

Vs.

- 1.Union of India
Ministry of Ports, Shipping & Waterways
Through its Secretary
Government of India
Parivahan Bhavan, 1, Parliament Street
New Delhi - 110 001
- 2.The Director General of Shipping,
Office of the Directorate General of Shipping
(Ministry of Ports, Shipping & Waterways,
Government of India)
9th Floor, Beta Building, I-Think Techno Campus
Kanjur Marg [East]
Mumbai - 400 042
- 3.The Deputy Director General of Shipping (Training)
Office of the Directorate General of Shipping
(Ministry of Ports, Shipping & Waterways,
Government of India)
9th Floor, Beta Building, I-Think Techno Campus
Kanjur Marg [East]
Mumbai - 400 042

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for a writ of certiorari calling for the records of the respondents in proceedings ordering withdrawal of approval and re-recognition of the petitioner Institute in File No.3-TR(18)/98-PSCRB-Pt dated 12.02.2020 of the 2nd respondent and confirmed in File No.20-17/6/2022-TRG-DGS (Comp. No.17752) dated 30.09.2022 of the 3rd respondent by rejecting representation dated 12.04.2022 of the petitioner to reconsider de-recognition and quash the same.

For Petitioner	:	Mr.A.K.Sriram, Senior Counsel for Mr.R.Ravi
For Respondents	:	Mr.P.G.Santhoshkumar for R2 and R3

ORDER

The petitioner academy has been imparting curriculum in multiple maritime courses since 1999. Even the International Organisation vide its report dated 05.04.2019 has given credit to the module of education of the petitioner and the infrastructure facility provided by it.

2.While so, on 01.05.2019, the second respondent herein caused a surprise inspection in terms of the power it has, and made a report on the same date. Broadly, it was an adverse report against the petitioner. Subsequently, on

05.07.2019, the second respondent issued a show-cause notice on the petitioner. Both the inspection report of the second respondent and also the show-cause notice, were separately challenged by the petitioner in W.P. Nos.17118 of 2019 and 19525 of 2019. This court, vide its common order dated 14.08.2019 has held that there is violation of principles of natural justice and therefore has directed the second respondent to issue a fresh show-cause notice.

3. On 29.09.2019, the second respondent issued a fresh show-cause notice and this was responded to by the petitioner with his reply dated 10.10.2019. The second respondent however, stuck to his position and withdrew the approval granted to the petitioner for conducting maritime courses vide its proceedings dated 12.02.2020. The petitioner, thereafter, required the second respondent to reconsider its earlier decision vide his communication dated 12.04.2022. As nothing happened, the petitioner moved this court in W.P. No.19770 of 2022 for a direction to the second respondent to consider petitioner's representation dated 12.04.2022 to reconsider its earlier decision to withdraw the approval vide the latest proceedings dated 12.02.2020. Thereafter, the second respondent passed his proceedings dated 30.09.2022 indicating his unwillingness to reconsider petitioner's request for reconsideration.

4.Mr.A.K.Sriram, the learned senior counsel appearing for the petitioner submitted that :

- Soon after the report dated 01.05.2019, the petitioner held an internal enquiry and proceeded against those who have responsible for certain breach of rules. The significant part of the inspection report was that petitioner's academy had accommodated more students in excess of the sanctioned strength;
- After the initial inspection dated 01.05.2019, the second respondent has never chosen to cause another inspection till 30.09.2022 and appears to have been guided only by the only report dated 01.05.2019. In fitness of things, the second respondent, ought to have made another inspection along with an independent person in terms of Clause 5.2.1 of DGS Order No.5 of 2016 and should have made a perfect assessment of the petitioner's case for reconsideration of his earlier decision to withdraw the approval.

5. So far as those who are termed as students who are admitted beyond the sanctioned strength is concerned, the petitioner had taken the responsibility to have them admitted in other maritime schools and they have also finished their courses successfully.

6. Heard the learned counsel for the respondents and the learned counsel for the respondents submitted how maritime impart very sensitive knowledge on maritime courses and if any compromise is made in the quality of the education, then it will cause a slur on the quality of seafarers that this country produce.

7. This court appreciates the sensitivity of the issue. However, what is significant is that the second respondent cannot assume an inflexible stand. A bad apple is a bad apple but that does not mean that all apples must be bad eternally. When rectifications are done by the petitioner, the second respondent should also display the mind to evaluate if correctives are correctly brought in. That precisely is the nature of responsibility the second respondent has to perform. Therefore, this court cannot appreciate the stand of the second respondent and hence sets aside the proceedings of the second respondent dated 30.09.2022. He is now required to hold a fresh inspection touching on all

aspects strictly in accordance with the rules and is required to take a fresh decision, based on his observation during the inspection which this court now directs him to undertake.

8.In conclusion, this petition is allowed. No costs. Consequently, the connected miscellaneous petition is closed.

18.08.2023

Index : Yes/No
Speaking/Non-speaking order
Asr

Note:

Issue order copy on or
before 28.08.2023

N.SESHASAYEE, J.,

Asr

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