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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ LPA 254/2024 & C.M.Nos.18967-18970/2024

HIMANSHU AND ORS

..... Appellants

Through: Mr.Samudra Sarangi with Ms.Nitya
Jain and Ms.Priyal Sarawagi,
Advocates.

versus

DIRECTORATE GENERAL OF CIVIL AVIATION & ANR.

..... Respondents

Through: Mr.Anjana Gosain with Ms.Rathika
Chopra, Advocates for R-1 & 2 with
Mr.Ajit Kumar Yadav, Deputy
Director and Mr.Surender Kumar
Pandia, Asst. Director.

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Date of Decision: 01st April, 2024

CORAM:

HON'BLE THE ACTING CHIEF JUSTICE

HON'BLE MS. JUSTICE MANMEET PRITAM SINGH ARORA

JUDGMENT

MANMOHAN, ACJ : (ORAL)

1. Present letters patent appeal has been filed challenging the ad-interim order dated 06th March, 2024 passed by the learned Single Judge of this Court in W.P(C) No.3432 of 2024, whereby the notice of the writ petition challenging communication dated 26th February, 2024 was issued to the respondents but no interim relief was granted to the appellants. The appellants are aggrieved by the communication dated 26th February, 2024, whereby the respondent no. 1/DGCA has certified Pipistrel VIRUS SW 121

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aircraft (“Pipistrel”) as a Light Sport Aeroplane (“LSA”) and the rejection of appellant nos. 1 to 3’s application for Commercial Pilot License (‘CPL’).

2. Learned counsel for the appellants states denial of interim relief has affected appellants nos. 1 to 3, who are unable to obtain a valid license despite undergoing requisite training. He states the same is also affecting rights of appellant nos. 4 and 5 to carry on their business, which is leading to loss of revenue. He states that the communication/notification dated 26th February, 2024 is *ex facie* illegal as it is retrospective in operation. He states that DGCA has suddenly and arbitrarily changed the classification of Pipistrel from “Normal” to “LSA”. He states that the communication fails to take into account students who have already trained on the Pipistrel aircraft on the basis of the certification and approval granted by the DFT and DGCA.

3. Having heard learned counsel for the appellants, this Court is of the view that the appellants’ contention is that the classification of Pipistrel aircraft has been changed from Normal to LSA vide communication dated 26th February, 2024. However, the communication dated 26th February, 2024 itself states that the Pipistrel aircraft was initially classified as LSA on 08th May, 2023. The communication dated 26th February, 2024 was issued in response to the objections/queries raised by the appellants against the initial classification dated 08th May, 2023.

4. The paper book also reveals that a communication dated 23rd March, 2021 had been issued by DGCA stating that it is not liable if the subject aircraft is not suitable for flight training. Moreover, the order under challenge is an interim order and does not determine any rights of the parties. No prejudice has been caused to the appellants as appropriate relief



can be granted if they succeed in the writ petition.

5. Accordingly, the present appeal along with pending applications is dismissed. The rights and contentions of all the parties are left open. This Court has no doubt that the learned Single Judge shall make an endeavour to decide the writ petition itself on the next date of hearing.

ACTING CHIEF JUSTICE

MANMEET PRITAM SINGH ARORA, J

APRIL 1, 2024
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