IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 13134 OF 2025

Arvind Mohan Rao
Age 67 years,
Adult, Having his residence at 401,
DSK Nupuri, Shivaji Park, Dadar (W),
Mumbai – 400 028. ..Petitioner

Versus

1. Maharashtra Maritime Board
Indian Mercantile Chambers, 2nd Floor,
14, Ramjibhai Kamani Marg,
Ballard Estate, Mumbai 400 001.

2. Sandhya Gupta
Adult, Indian Inhabitant having its
residence at 4th Floor, Vaswani Gardens,
25 Sobani Road, Cuffe Parade,
Mumbai – 400 005.

3. TIK 158 Enterprises Pvt Ltd
A company incorporated under the Companies
Act, 1956 having registered office
at 401, 4th Floor, DSK Nupuri,
1867, Dr M.B. Raut Road, Shivaji
Park, Dadar (West), Mumbai
Maharashtra, India – 400 028. …Respondents

Mr. Prathamesh Kamat, with K. Zaiwala and Prachi Wasalwar, i/b Gurdeep Sachar, for the Petitioner.
Adv Nishigandh Patil, with Saraswati Gupta, for Respondent. No.1.
Mr. Ankit Lohia, with Yash Momaya, Neha Bhosale, Laveena Tejwani and Abdul Basit Kudalkar, i/b NDB Law, for Respondent No.2.

CORAM: N. J. JAMADAR, J.

DATE : 16th OCTOBER 2025

JUDGMENT:

1. Rule. Rule made returnable forthwith, and, with the consent of the learned Counsel for the parties, heard finally.

2. The challenge in this Petition is to the orders passed by the Regional Port Officer, Maharashtra Maritime Board (R1), thereby initially suspending the Certificate of Registration of S.B. AVIS ARK (Reg No. BDR-IV-01760) and Mama Mia (Reg No. BDR-IV-01547) and, subsequently, cancelling the same under the provisions of the Inland Vessels Act, 2021 ("the Act, 2021").

3. Shorn of unnecessary details, the background facts leading to this Petition can be stated as under:

3.1 TIK 158 Enterprises Pvt Ltd (R3) is a Private Limited Company registered under the Companies Act, 1956. The Petitioner claims to be a Director of the said Company, and to have 50% shareholding thereof. Ms. Sandhya Gupta (R2) has the balance 50% shareholding. The Respondent No.2 is also a Director of TIK 158 Enterprises Pvt Ltd (R3). The vessels S.B. AVIS ARK (Reg No. BDR-IV-01760) and Mama Mia (Reg No. BDR-IV-01547) are the assets of the Respondent No.3-Company. The vessels have been registered with Maharashtra Maritime Board (R1), since the year 2015.

3.2 In the wake of the disputes between Petitioner and Respondent No.2, Company Petitions have been filed before the National Company Law Tribunal. In the said proceedings the Respondent No.2 has alleged that she recently learnt that the abovenamed vessels, which are assets of Respondent No.3, have been registered in the name of the Petitioner.

3.3 The Respondent No. 2 made a grievance with the Respondent No. 1, regarding, *inter alia,* the ownership structure of the vessels, registration of vessels in the individual name of the Petitioner and the alleged disability of the Petitioner to hold the registration certificate in respect of inland vessels.

3.4 By a communication dated 26th June 2025, the Petitioner was called upon to submit clarifications on the points which were purportedly raised by the Respondent No.2. The Petitioner gave reply to the said letter dated 26th June 2025.

3.5 The Petitioner alleges, without providing an effective opportunity of hearing, the Regional Port Officer, Maharashtra Maritime Board (R1) passed an order dated 24th July 2025, suspending the registration of the abovenamed vessels under the provisions of the Inland Vessels Act, 1917, till further orders. The apparent reason ascribed therein was that a dispute has arisen over the ownership of the vessels between the two shareholders, i.e., Petitioner and the Respondent No.2, of the Respondent No.3-company.

3.6 By a further communication dated 5th August 2025, reasons were sought to be subsequently supplied for the said suspension order.

3.7 The Petitioner preferred an Appeal before the State Government. However, the Appeal was not heard as no Rules have been framed for hearing of the Appeals.

3.8 In the meanwhile, by a further order dated 19th September 2025, Regional Port Officer, cancelled the registration purportedly on the ground that there was misrepresentation as regards the declaration of ownership of the vessels.

3.9 Asserting that the Petitioner has no efficacious remedy, the Petitioner has invoked the writ jurisdiction.

4. I have heard Mr. Prathamesh Kamat, the learned Counsel for the Petitioner, Mr. Nishigandh Patil, the learned Counsel for the Maharashtra Maritime Board (R1), and Mr. Ankit Lohia, the learned Counsel for the Respondent No.2. The learned Counsel for the parties took the Court through the material on record.

5. Mr. Kamat, the learned Counsel for the Petitioner would submit that the impugned orders are in teeth of the provisions contained in the Inland Vessels Act 2021. The provisions contained in Sections 31 and 32 of the Inland Vessels Act, 2021, do not empower the Registrar of the Inland Vessels to suspend or cancel the registration on the grounds on which the impugned orders have been passed. Mr. Kamat submitted that initially, the stated ground was that there was dispute inter se directors of Respondent No.3-company. That does not furnish a sustainable ground for the suspension of registration of the Vessels. According to Mr. Kamat, having realised the mistake, by a subsequent order dated 5th August 2025, reasons were sought to be ascribed by Regional Port Officer; which was an attempt to justify an ex-facie unsustainable suspension order. What exacerbates the situation, according to Mr Kamat, was the abrupt cancellation of the registration on the specious ground of misrepresentation as to declaration of ownership.

6. Laying emphasis on the text of the provisions contained in Sections 31 and 32 of the Act, 2021, Mr. Kamat forcefully submitted that the case of the Respondent No.1, even if taken at par, does not justify the action of cancellation of registration.

7. Mr. Nishigandh Patil submitted that the Regional Port Officer was constrained to cancel the registration of the Vessels on account of the dispute between the Petitioner and the Respondent No.2 and the discrepancies in the Application for registration and, in the event, the dispute is resolved and requisite documents in conformity with the provisions of the Act, 2021 and governing Rules are filed, the Respondent No.1 would restore the registration.

8. Mr. Lohia submitted that the Petitioner has made knowingly false declarations. The Petitioner has filed the proceeding before the NCLT for the same relief, which have been negatived. As the registration of the Vessels was obtained in the individual name of the Petitioner by making statements which were false to the knowledge of the Petitioner, especially the claim as regards the Indian Citizenship, the Respondent No.1 was justified in revoking the registration of the Vessels. Mr. Lohia further submitted that reference to the provisions contained in Sections 31 and 32 of the Act, 2021, is misconceived.

9. It is well-settled that if the registration is obtained by making false declaration, the registering Authority is not denuded of the power to cancel such registration. To buttress this submission, Mr. Lohia placed reliance on a decision of the Supreme Court in the case of **Indian National Congress (I) Vs Institute of Social Welfare and Ors.**[1]

10. Lastly alluding to the proceedings before the NCLT and the stand of the parties therein, Mr. Lohia submitted that the Petitioner who has taken an unreasonable stand does not deserve any discretionary relief.

11. Mr. Kamat joined the issue by canvassing a submission that, in the instant Petition, it is the legality and validity of the administrative action of the Authorities is questioned. The allegations and counter-allegations of the Petitioner and Respondent No.2 and the relative merit of their case is not germane to the determination of the controversy in hand.

12. Evidently, the Vessels were registered in the year 2016. The Vessels seem to have been registered in the name of the Petitioner in the

1 (2002) 5 SCC 685.

capacity of the director of the Respondent No.3-company. There is not much controversy over the fact that the Petitioner and Respondent No.2 have been the Directors and shareholders of the Respondent No.3-company. The genesis of the controversy appears to be in the disputes *inter se* Petitioner and the Respondent No.2 over the management and control of the Respondent No.3, or for that matter, the ownership over the Vessels.

13. As noted above, the first order of suspension dated 24th July 2025 explicitly records that due to dispute of ownership over the Vessels, the Certificate of registration stood suspended.

14. The Act, 2021 was enacted to promote economical and safe transportation and trade through inland waters, to bring uniformity in application of law relating to inland waterways and navigation within the country, to ensure transparency and accountability of administration of inland water transportation, to strengthen procedures governing the inland Vessels, their construction, survey, registration manning, navigation and such other matters connected therewith or identical thereto.

15. The Act, 2021 contains a fasciculus of provisions to achieve the aforesaid objects. Chapter V of the Act, 2021 deals with Registration. Section 17 of the Act, 2021 provides for registration of any mechanically propelled inland vessel, which is wholly owned by, a citizen of India, or the entities described under Clause (b) to (g) thereof. Under Section 25, the certificate of registration issued under the said Chapter shall be conclusive proof of ownership and title, as declared by the Applicant and as entered in the book of registry by the Registrar of Inland Vessels.

16. Section 31 of the Act provides for the suspension of certificate of Registration. Section 32 deals with cancellation of Registration.

17. In the context of the controversy at hand Sections 31 and 32 deserve to be extracted. They read as under:

> **"31.** (1) The Registrar of Inland Vessels may at any time, require any mechanically propelled inland vessel within the local limits of his jurisdiction to be inspected by such authority as the State Government may, by general or special order, appoint in this behalf.
>
> (2) As a result of such inspection, if the Registrar of Inland Vessels has reason to believe that after the granting of the certificate of registration, the mechanically propelled inland vessel became unfit to ply in inland waters, order suspension of the certificate of registration of the said vessel for such period as he may deem fit.
>
> (3) The Registrar of Inland Vessels shall, before suspending a certificate of registration, provide to the owner, operator or master an opportunity of being heard, and record the reasons for such suspension.
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> (4) The Registrar of Inland Vessels who suspends the certificate of registration under sub-section (2), shall issue a notice of suspension to the registered owner stating the reasons for suspension and the conditions to be complied

within such period, as may be prescribed by the State Government, for withdrawal of such order of suspension.

(5) Where the registration of a mechanically propelled inland vessel is suspended under sub-section (2) by any Registrar of Inland Vessels, other than the Registrar of Inland Vessels who has originally issued the certificate of registration, the former shall intimate the latter, regarding such order of suspension or withdrawal of such order of suspension; and the latter shall enter such order in the book of registry in which the registration of the vessel is originally recorded.

(6) The Registrar of Inland Vessels suspending the certificate of registration, shall confiscate such certificate and return the certificate to the owner or master only upon withdrawal of the order of suspension.

32. (1) If any mechanically propelled inland vessel registered under this Act is declared missing, destroyed, lost, abandoned or has been rendered permanently unfit for service or destined for scrapping or dismantling or sold abroad; the owner of the vessel shall, within such time as may be prescribed by the Central Government, report the fact to the Registrar of Inland Vessels of the place where the vessel is registered and shall also forward to that authority, along with the report, the certificate of registration of the vessel and thereupon such Registrar of Inland Vessels shall have the certificate of registration cancelled.

(2) Any Registrar of Inland Vessels may at any time require that any mechanically propelled inland vessel within the local limits of his jurisdiction may be inspected by such designated authority as the State Government may, by general or special order, appoint in this behalf and, if as a result of such inspection, such Registrar of Inland Vessels is

> satisfied that the vessel is in such a condition that it is not fit to ply in any inland water, the Registrar of Inland Vessels may, after giving the owner of the vessel an opportunity of being heard, cancel the registration of the vessel and require the owner thereof to surrender forthwith to him, the certificate of registration in respect of that vessel, if it has not already been so surrendered."

18. Section 31(1) of the Act, 2021 empowers the Registrar of Inland Vessels, to require any mechanically propelled inland vessel to be inspected by such authority as the State Government may, by general or special order, appoint. Sub-Section (2) of Section 31 empowers the Registrar to order suspension of certificate of registration if, as a result of such inspection, he has reason to believe that after granting of the certificate of registration, the mechanically propelled inland vessel became unfit to ply in inland waters. Under sub-Section (3) of Section 31, a duty is cast on the Registrar before suspending a certificate of registration to provide to the owner/operator/ master of the vessel an opportunity of being heard. The Registrar is also enjoined to record the reasons for such suspension.

19. The aforesaid statutory regime empowering the Registrar to suspend the registration of vessel, would reveal that the suspension of the registration of the vessel can only be on the count that the vessel has become unfit to ply in inland waters, after the grant of such certificate. The Registrar must have reason to believe that the vessel has become so unfit. Such belief must be based on the inspection of the vessel which the Registrar is empowered to order under sub-Section (1) of Section 31. Sub-section (3) of Section 31 incorporates the fundamental principles of natural justice in the decision making process. First, an opportunity of hearing is required to be given to the person likely to be affected by an order of suspension. Second, the Registrar is required to record reasons so that the justifiability of the action can be tested. Cancellation of registration under Section 32(1) of the Act, 2021 can also be for the reasons spelt out by Section 32(1), namely, the vessel is declared missing, destroyed, lost, abandoned or has been rendered permanently unfit for service or destined for scrapping or dismantling or sold abroad.

20. In the light of the above statutory framework, if the legality, propriety and correctness of the impugned orders is tested, it become evident that the impugned orders suffer from multiple infirmities. First and foremost, none of the orders seems to have passed on the ground that the vessels in question have been rendered unfit to ply in the inland waters. The first order of suspension dated 24th July 2025, as noted above, refers to the dispute of ownership over the vessels between the two shareholders.

21. The Respondent No.1, has no statutory authority to delve into the said dispute i*nter se* the shareholders of a vessel registered under the

Act, 2021 and suspend or cancel the registration of the vessels on account of the dispute between the shareholders or directors of the company or the entity which owns the vessels. Thus, the order of suspension was for a totally extraneous consideration.

22. Secondly, under the provisions of Section 31(2) and (3), an in-built mechanism of opportunity of hearing before the suspension of registration of vessel has ben provided. Issue of notice where there is a statutory mandate to provide an opportunity to make a representation (against proposed action) stands on a higher pedestal than a case where the observance of principles of natural justice is considered to be implicit. Where the statute mandates that the authority shall provide an opportunity to make a representation, and also consider the representation so made, the obligation to give notice before taking an action can only be construed as an obligation to give such notice as to enable the noticee to make an effective representation. A notice which is bereft of the consequences which may follow either expressly or by necessary implication, may not satisfy the statutory requirements.

23. In the case at hand if the communication dated 26th June 2025 is perused, it becomes evident that the Petitioner was called upon to submit clarifications on the point enumerated therein. The notice does not indicate the consequence that would ensue in the event of failure to offer the clarification. In this context, a useful reference can be made to a decision of the Supreme Court in the case of **Gorkha Security Services Vs Government (NCT OF Delhi) And Ors,**[2] wherein the Supreme Court adverted to the adequacy of contents of the show-cause notice. The observations of the Supreme Court in paragraphs 21 and 22, read as under:

> "21. The Central issue, however, pertains to the requirement of stating the action which is proposed to be taken. The fundamental purpose behind the serving of Show Cause Notice is to make the noticee understand the precise case set up against him which he has to meet. This would require the statement of imputations detailing out the alleged breaches and defaults he has committed, so that he gets an opportunity to rebut the same. <u>Another requirement, according to us, is the nature of action which is proposed to be taken for such a breach. That should also be stated so that the noticee is able to point out that proposed action is not warranted in the given case, even if the defaults/ breaches complained of are not satisfactorily explained. When it comes to black listing, this requirement becomes all the more imperative, having regard to the fact that it is harshest possible action.</u>
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> 22. The High Court has simply stated that the purpose of show cause notice is primarily to enable the noticee to meet the grounds on which the action is proposed against him. No doubt, the High Court is justified to this extent. However, it is equally important to mention as to what would be the

2 (2014) 9 SCC 105.

> consequence if the noticee does not satisfactorily meet the grounds on which an action is proposed. <u>To put it otherwise, we are of the opinion that in order to fulfil the requirements of principles of natural justice, a show cause notice should meet the following two requirements viz:</u>
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> > <u>i) The material/ grounds to be stated on which according to the Department necessitates an action</u>;
> >
> > <u>ii) Particular penalty/action which is proposed to be taken. It is this second requirement which the High Court has failed to omit.</u>
>
> <u>we may hasten to add that even if it is not specifically mentioned in the show cause notice but it can be clearly and safely be discerned from the reading thereof, that would be sufficient to meet this requirement.</u>"
>
> (emphasis supplied)

24. The Supreme Court has, thus, in terms, observed that in order to fulfill the requirement of principles of natural justice, a show cause notice ought to satisfy two requirements. First, the alleged breaches and defaults which constitute the material / ground necessitating the action. Second, the nature of the action which is proposed to be taken so that the noticee is in a position to point out that the proposed action is not warranted, even if there is no satisfactory explanation regarding the alleged breaches/defaults

25. The submission of Mr. Kamat that the supply of the reasons subsequently does not constitute compliance of the statutory requirement to record reasons, carries some substance. The legality of an order passed by an administrative/quasi judicial authority has to be decided on the basis of the reasons which are self-evident from the impugned order. Those reasons cannot be subsequently supplied.

26. In the case of **Mohinder Singh Gill & Anr Vs The Chief Election Commissioner, New Delhi & Ors,**[3] the Constitution Bench of the Supreme Court enunciated in clear terms that when the statutory functionary makes the order based on certain ground, its validity must be judged by the reasons so mentioned and cannot be supplemented by fresh reasons in the shape of affidavit or otherwise. Lest the impugned order may get validated by additional grounds brought out subsequently. The observations in paragraph 8 are instructive and hence extracted below.

> "8. The second equally relevant matter is that when a statutory functionary makes an order based on certain grounds, its validity must be judged by the reasons so mentioned and cannot be supplemented by fresh reasons in the shape of affidavit or otherwise. Otherwise, an order bad in the beginning may, by the time it comes to court on account of a challenge, get validated by additional grounds later brought out. We may here

3 (1978) 1 SCC 405.

> draw attention to the observations of Bose, J. in Gordhandas Bhanji (AIR 1952 SC 16) Public orders, publicly made, in exercise of a statutory authority cannot be construed in the light of explanations subsequently given by the officer making the order of what he meant, or of what was in his mind, or what he intended to do. Public orders made by public authorities are meant to have public effect and are intended to affect the actings and conduct of those to whom they are addressed and must be construed objectively with reference to the language used in the order itself."

27. In the light of the aforesaid enunciation of law, the communication dated 5th August 2025 whereby reasons were sought to be furnished for the earlier action of suspension of registration cannot be countenanced.

28. Reliance by Mr Lohia on the decision in the case of **Indian National Congress (I) (Supra)** does not advance the cause of the submission on behalf of the Respondent No.2, in view of the express statutory mandate contained in sub-Sections (2) and (3) of Section 31 of the Act, 2021.

29. An effort was made by Mr. Lohia to draw home the point that the Petitioner had made an incorrect declaration in the Application for registration and in the Affidavit filed in support of the Application. In the light of the aforesaid infirmities in the impugned orders, this Court need not delve deep into the thickets of the facts. Suffice to note that certificate of registration stands in the name of the Petitioner in the capacity of Director of TIK 158 Enterprises Pvt Ltd. The disputes *inter se* Petitioner and Respondent No.2 cannot furnish a sustainable ground to revoke the registration certificate of the vessels. Petitioner and Respondent No.2 will have to workout their remedies before the appropriate forums. The action of the Respondent No.1 to first suspend and then cancel the registration certificate on the said ground, or at any rate, as a consequence of the dispute between the Petitioner and the Respondent No. 2, is not legally sustainable. The impugned orders are clearly in excess of the jurisdiction vested in the Registrar to suspend or cancel the certificate of registration.

30. Consequently, the Petition deserves to be allowed.

31. Hence the following order:

Petition stands allowed.

The order dated 24th July 2025, suspending certification of registration and the order dated 19th September 2025, cancelling certificate of registration of the abovenamed vessels stand quashed and set aside.

Rule made absolute in abovesaid terms.

No costs.

[N. J. JAMADAR, J.]