

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Special Original Jurisdiction)

Thursday, the Seventeenth day of November Two Thousand Sixteen

PRESENT

THE HON'BLE MR.JUSTICE B.RAJENDRAN

WMP Nos.34441 & 34443 of 2016

in WP Nos.40370 & 40371 of 2016

THE MARITIME EDUCATION AND
TRAINING INSTITUTES ASSOCIATION,
REP BY ITS SECRETARY,
108, EAST MADHA CHURCH STREET,
ROYAPURAM, CHENNAI-600 013

[PETITIONER IN WMP.34441/2016
IN WP.40370/2016]

THE MARITIME INSTITUTES ASSOCIATION, [PETITIONER IN WMP.34443/2016
REP BY ITS SECRETARY, IN WP.40371/2016]
NO.41, GIRI ROAD,
T.NAGAR, CHENNAI 600 017.

Vs

THE DIRECTOR GENERAL OF [RESPONDENT IN BOTH the PETITIONS]
SHIPPING THE DIRECTORATE GENERAL OF SHIPPING,
9TH FLOOR, BETA BUILDING, I-THINK TECHNO
CAMPUS, KANJURMARG (EAST) MUMBAI- 400 042

Petitions praying that in these circumstances stated therein and in the respective affidavits filed therewith the High Court will be pleased to issue an order of interim stay staying the operation of the impugned DGS order No.4 of 2016 issued by the Respondent in File No.TR/ CIR/ 6(6)/ 2012 of the Training Branch dated 12.09.2016, (in WMP.34441 & 34443/2016) respectively pending WP.Nos.40370 & 40371 of 2016.

Order :These petitions coming on for orders upon perusing the petitions and the respective affidavits filed in support thereof and upon hearing the arguments of MR.R.MUTHUKUMARASAMY ADVOCATE GENERAL Assisted by M/S.A.JENASENAN, Advocate for the petitioner in each of the petitions the court made the following order:-

The learned Senior Counsel appearing for the petitioner would contend that the petitioner institution is a Maritime Training Institute and it offers various degree and diploma courses by its members for which approval has been accorded by the respondent herein through its academic council consisting of technical officers of the Mercantile Marine Department as well as the external members from the shipping industry. While so, the respondent, by an order dated 01.01.2014 directed that the institutes like the petitioner has to be graded/rated by an independent and reputed body, who are third party private entities. Thereafter, by a notification dated 31.12.2013, the respondent sought to revamp the entire inspection process by introducing a Comprehensive Inspection Programme. Here again, according to the learned Senior counsel for the petitioner, the respondent delegated the inspection, gradation and certification of the maritime institutes to third parties. According to the learned Senior counsel for the petitioner, when the respondent has been delegated with certain powers under the Act and Rules, he has no power to sub-delegate such power to third parties for the purpose of inspection and approval of maritime institutions. In such circumstances, earlier, WP No. 10685 of 2014 was filed by M/s. Maritime Institutes Association, Chennai challenging the circular dated 31.12.2013 of the respondent. By order dated 15.04.2014, this Court granted interim stay of operation of the order dated 31.12.2013 of the respondent and it is still in force inasmuch as it was not vacated.

2. The learned Senior counsel for the petitioner would vehemently contend that the order dated 12.09.2016, which is impugned in this writ petition, is akin to the order dated 31.12.2013 which was stayed by this Court on 15.04.2014. The present order dated 12.09.2016 has been passed by the respondent to circumvent the order of interim stay granted by this Court on 15.04.2014. As far as the present order dated 12.09.2016 is concerned, the respondent authorised the very same private parties for the purpose of conducting Comprehensive Inspection Programme (CIP). Therefore, according to the learned Senior counsel for the petitioner, there is no substantial difference between the earlier order dated 31.12.2013 and the present order dated 12.09.2016 passed by the respondent. The learned Senior counsel for the petitioner further contended that though the impugned order dated 31.12.2013 was stayed by this Court on 15.04.2014, the respondent has issued the present order stating that revised guidelines have been formulated on the basis of extensive stakeholder consultations, however, the petitioner and their members have not been consulted or given notice of the proposed amendment or before the amendment. The learned Senior counsel for the petitioner, however, would contend that if the Academic Council conducts any inspection of the institution, the petitioner is ready to subject themselves to such inspection. Therefore, the learned Senior counsel for the petitioner prayed for granting interim stay.

3. Having regard to the above submissions of the learned Senior counsel for the petitioner, there will be an interim stay of operation of the order dated 12.09.2016 passed by the respondent, for a period of four weeks. However, it is made clear that if any inspection is to be conducted by the Academic Council or any other authorities, i.e. the Director General of Shipping, it shall not be resisted or obstructed by the petitioner or their Association Members. Notice returnable in four weeks.

-sd/-
17/11/2016

/ TRUE COPY /

For *V.R. Chandrasekhar* 2.12.16.
Sub Assistant Registrar (Statistics / C.S.)
High Court, Madras - 600 104.

TO

1 THE DIRECTOR GENERAL OF
SHIPPING THE DIRECTORATE GENERAL OF SHIPPING,
9TH FLOOR, BETA BUILDING, I-THINK TECHNO
CAMPUS, KANJURMARG (EAST) MUMBAI- 400 042

C.C. to M/S.A.JENASENAN Advocate SR.NO.15882

Order

in
WMP.34441 & 34443/2016

in
WP.40370 & 40371/2016

Date :17/11/2016

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