



भारत सरकार / GOVERNMENT OF INDIA  
पत्तन, पोत परिवहन और जलमार्ग मंत्रालय  
MINISTRY OF PORTS, SHIPPING AND WATERWAYS



नौवहन महानिदेशालय, मुंबई  
DIRECTORATE GENERAL OF SHIPPING, MUMBAI

**File No 20-17/5/2020-TRG-DGS**

**Date: 07.02.2022**

**DGS ORDER No. 4 of 2022**

Subject: Rejection of 4 Year Marine Engineering Students With 10+2 PCM with 45% (Prescribed by the DGS is minimum 60% in 10+2 PCM) by the Mercantile Marine Department to appear MEO Class IV Examinations and Hundreds of Students threat to Commit Suicide –Reg.

1. The Hon'ble High Court of Madras in its judgement Order dated 17.12.2021 in W.P.No.3555 of 2020 and W.M.P.No.4168 of 2020 directed as below

*"Court directs the second respondent to consider the petitioner's representation dated 18.01.2020 in the light of the order of this Court made in W.P.Nos.40370 of 2016 etc., batch dated 09.09.2019 (The Maritime Education and Training Institutes Association Vs. The Director General of Shipping) and pass appropriate orders, within a period of six weeks from the date of receipt of a copy of this order"*

2. The second Respondent i.e. the Directorate General of Shipping has examined the representation made by petitioner dated 18.01.2020 under the light of the order of Hon'ble High Court of Madras in W.P.Nos.40370 of 2016 etc., batch dated 09.09.2019.

3. The main contention of the Petitioner in the representation dated 18.01.2020 was *"The officials in the Mercantile Marine Departments functioning under the Directorate General of Shipping that the students of International Maritime Academy (Established in the year 1999 and one of the biggest Marine college in India) who have completed the BSc Nautical Science, Diploma Nautical Science and 4 year Marine Engineering students. The students who had been admitted as per the University's prescribed marks (Based on All India Council for Technical Education-AICTE and University Grants Commission recommendation-UGC as 45% PCM in 10+2 is the minimum eligibility criteria for all Technical (Professional courses) are not allowed to appear for their 2nd Mate Exam for Nautical stream students / MEO Class IV examinations for Marine engineering stream students even after completing the*

*University's prescribed marks (Based on All India Council for Technical Education-AICTE and University Grants Commission recommendation-UGC as 45% PCM in 10+2 is the minimum eligibility criteria for all Technical (Professional courses) are not allowed to appear for their 2nd Mate Exam for Nautical stream students / MEO Class IV examinations for Marine engineering stream students even after completing the requisite sea experience as prescribed by the International STCW conventions. The students are rejected by the MMD officers, stating that they have not scored 60% in PCM as suggested by the DG Shipping for all Nautical and Marine engineering students".*

4. The Directorate General of Shipping found that the Petitioner Institute i.e. International Maritime Academy, Chennai was fully aware of the terms and conditions of DGS approval for the maritime courses and the requirement to comply with the rules, orders & guidelines issued by the Respondent No.2 as a condition of the approval. The letter of approval issued to the Petitioner for conduct of DGS approved courses clearly states the conditions as follows;

*'Quote'*

***"7. Only such students as who meet the eligibility criteria in terms of orders of Directorate as applicable from time to time admitted by the institute will be entitled all benefits under M.S. (STCW) Examinations Rules and any violation by the institute will be dealt in terms of provisions of respective orders / guidelines of this Directorate and the Institute shall be debarred from further admissions without any notice.***

***8. The Directorate shall be indemnified from any responsibility legal, financial or otherwise, if any, arising out of admission of ineligible candidates by the institute and shall not be accountable/called in question and legally proceeded against by anybody and account of the same."***

*'Unquote'*

It is observed that, the Petitioner has repeatedly violated the conditions and has charged lakhs of rupees from innocent students with false promises and fraudulently admitted them to undergo the training in their institute with the full knowledge that the candidates are not meeting the eligibility requirements prescribed by the Directorate for joining such training courses, thereby jeopardizing the lives of the innocent students. It is also observed that the Petitioner on his own, with the sole motive of unjust profit filled up seats by admitting ineligible students in

the degree programmes without disclosing the full requirements of approved training programme formulated by Respondent No.2 for obtaining Certificate of Competency and thus cheated hundreds of innocent students aspiring to become officers in the Merchant Navy.

**5. Hon'ble High Court of Madras Order in W.P.Nos.40370 of 2016 etc., batch dated 09.09.2019:** the concluding para 92 of the judgement is reproduced below;

*92.To sum up the writ petitions are disposed of with the following findings and directions:-*

*(i) The Director General of Shipping is the authority vested with absolute power to regulate all training programmes leading to examinations for grant of certificates;*

*(ii) As far as Diplomas, Degrees and Post Graduate Diplomas offered by the Institutes affiliated to Universities, the policy of the Central Government binds the Universities and the Institutes affiliated to the Universities. DGS power to prescribe minimum eligibility marks for admission in Diploma and degree courses flows from Entry 25 in List I of Schedule VII of the Constitution of India.*

*(iii) Any order or regulation issued by DGS shall be with the object to enhance the quality of training and standard of education and not detrimental to the object;*

*(iv) MoU with Shipping company for onboard training for specified number of candidates and restricting the admission to that specified number alone is an onerous condition;*

*(v) Continuation of approval based on placement within specified periodis unconstitutional and ultra vires and*

*(vi) In superstition of orders and training circulars, the DGS is directed to frame a composite regulation for institutes offering Marine Education and training within four months from the date of this order. Till such time, except clauses regarding tie up for on board training and placement which is struckdown as unconstitutional all other clauses in the orders and circulars shall be in force.*

**6. The Directorate in compliance to Hon'ble High court Order dated 09.09.2019 passed the Composite regulations vide DGS Training**

Circular No. 12 of 2020 dated 01.04.2020 and DGS Training Circular No. 18 of 2020 dated 24.04.2020. It is noted that despite the Order of the Honourable Court dated 09.09.2019 in the batch of Writ Petitions, the Petitioner has again incorrectly contented that the Directorate General of Shipping (DGS) does not have the powers to prescribe the Training, Examination and Assessment Programme (TEAP) including eligibility marks. It is submitted that the TEAP was issued by the DGS only through the provisions of Merchant Shipping (Standards of Training, Certification and Watch-keeping for Seafarers) Rules, 2014, which was notified by the Central Government superseding the Merchant Shipping (Standard of Training, Certification and Watch Keeping for Seafarers) Rules, 1998. It is also submitted that the entry level eligibility criteria is not a new requirement prescribed by DGS. It is in existence for decades. It was also the requirement under the Merchant Shipping (Standard of Training, Certification and Watch Keeping for Seafarers) Rules, 1998 and under its previous rules, i.e., the 1989, as well. The eligibility criteria for candidates aspiring to pursue a career at sea, is being prescribed by DGS under the training and assessment programme for the DGS approved training courses only. Further, the training, assessment and certification is under the quality certification and it forms the part of assessment by International bodies such as IMO (India is a party to STCW Convention of IMO) and also by EU and UK who are employing Indian certified seafarers on board their ships.

7. It is to be noted that the Order of the Chief Bench of the Honourable High Court of Madras on 26.02.2010 in Writ Appeals has clearly specified in the concluding para of the Judgement as follows:

*"We clarify that as far as the Certificates of Competency for the grades under Section 78 of the Merchant Shipping Act, 1958 are concerned, the Director General of Shipping is the authority for the purpose of examining the qualifications of persons desirous of obtaining the certificates of competency there under, and has the authority to do all that is needful in respect of grant of these qualifications"*

But it has been noted that the Petitioner is trying to take shelter of the interim orders of the Honourable High Court issued on different context i.e. regarding issuance of CDC. The interim order of the Honourable High Court in WP No. 12670 of 2014 was pertaining to issuance of Continuous Discharge Certificate (CDC) to the candidates enrolled during the year 2013-2014. Accordingly, the DGS issued CDC to all the candidates based on the Interim Stay granted by the Honourable High

Court. Although, the Honourable High Court did not give any Judgement or order, till date, allowing the Petitioner to admit students in the approved training programme leading to issuance of Certificate of Competency, based solely on the University norms the Petitioner on his own, with the sole motive of unjust profit filled up seats by admitting ineligible students, for the DGS approved training course, in the degree programmes without disclosing the full requirements of approved training programme i.e., TEAP Part-A formulated by the DGS in accordance with the M.S. (STCW) Rules, 2014 for obtaining Certificate of Competency and thus cheated hundreds of innocent students aspiring to become officers in the Merchant Navy. Since, the petitioner has admitted innocent students without disclosing the entire training scheme prescribed by the DGS in TEAP Part-A the Petitioner needs to return the fees collected and also compensate the innocent students. Therefore, the attempt of the Petitioner to obtain remedy for the illegal act of admitting ineligible students cannot be considered and DGS/MMD has never denied permission to any student who meets the requirements of approved training programme (TEAP) for the applicable stream.

8. It may also be noted that the Petitioner is trying to confuse the matter regarding prescribed standards of admission to different streams for obtaining Certificate of Competency to work on merchant ships with university degree / diploma education. It is again reaffirmed that DGS/MMD has never denied permission to any student complying with the requirements of approved training programme (TEAP) for the applicable stream. It is to be noted that the TEAP Part-A has several streams of entry into seafaring profession. Each stream has been formulated in accordance with MS (STCW) Rules, 2014 based on varying entry qualifications of the candidates. Therefore, the sea service requirements also vary from one stream to another stream. Further the Petitioner due to his lack of understanding does not have the liberty to formulate training scheme of his own towards issuance of Certificate of Competency. Also, the overall training programme as specified in TEAP Part-A includes pre-sea training, onboard training, post sea training assessment and certification of seafarers. Therefore, it is to be noted that the pre-sea training is an integral part of the overall training plan. Hence the attempt of the petitioner to delink the pre-sea training from the overall programme cannot be accepted.

9. The Director General of Shipping has the responsibility and authority to ensure that training, examination, assessment and certification of seafarers are conducted in accordance with the STCW Convention and the M.S. (STCW) Rules, 2014. The DGS in order to ensure that all training and assessment of seafarers for certification is administered,

supervised and monitored in accordance with the STCW Convention and its Code, and STCW rules framed under Merchant Shipping Act, 1958, approves the Maritime Training Institutes, training programmes & issues various guidelines, training circulars, orders, Merchant Shipping Notices from time to time, so as to monitor & regulate such Institute as per the above legislations. The relevant provisions of the STCW rules are given hereunder;

The Rule 4 of the STCW Rules, 2014 provides definitions as follows;

*'Quote' Rule 4: Definitions*

*Sub-para (4) - "Approved" means approved by the Director General of Shipping or the Chief Examiner concerned as the case may be;*

*Sub-para (6) - "Approved training course" means a course approved by the Director General of Shipping conducted in a training institute for the purpose of issuance of certificate of competency, certificate of proficiency, endorsement, upgradation and revalidation;*

*Sub-para (7) - "Approved training, examination and assessment programme" means the programme of training and assessment of seafarers as approved by the Director General of Shipping specifying the complete scheme of training and standards including examination and assessments for the purpose of issuance of certificates or endorsements under these rules;*

*Sub-para (8) - "Approved training institute" means a training institute approved by the Director General of Shipping;*

*Sub-para (9) - "Assessment centre" means a centre designated by the Director General of Shipping responsible for assessment of candidates and maintaining records for the purpose of assessment*

*"Training and assessment"*

*Rule 9.1: - The Director General of shipping shall designate assessment centres which shall, -*

- a. *Assess and maintain records of candidates with regard to their sea-going service, ashore and on- board training, courses attended, examinations and completed and certificates held by the seafarers;*
- b. *Examine the documentary evidence that the candidate has fulfilled the eligibility criteria for joining an approved training and assessment programme;*

- c. Assist the Chief Examiner or Examiner concerned, as the case may be, in the conduct of online, written, oral and practical examinations and completion of the training and assessment programme for each function.

Rule 9.2: - The Chief Examiner concerned shall ensure the-

(a) The training and assessment of seafarers, including e-learning and distance learning, as required under the STCW Convention and these rules are administered, supervised and monitored in accordance with the provisions of section A-I/6 of the STCW Code; and

(b) Persons responsible for imparting training and assessment of competence of seafarers, as required under the STCW Convention and these rules, are appropriately qualified in accordance with the provisions of section A-I/6 of the STCW Code for the type and level of training or assessment involved.

Rule 75 of the STCW rules states as under;

'Supervision by the Director General of Shipping'.

Director General of Shipping shall supervise that all training and assessment of seafarers for certification is –

1. Structured in accordance with written programmes including such methods and media of delivery, procedure and course material as are necessary to active the standard of competence as specified in Chapters II to VIII of the STCW Code;
2. Conducted, monitored, evaluated and supported by persons qualified in accordance with paragraphs 4 to 6 of the section A-I/6 of the STCW Code.

10. It is to be noted that the Central Government and the DGS has formulated the standards of training programme for seafarers entering into maritime profession under the provisions of section 78 & 87 of Merchant Shipping Act, 1958 and the Merchant Shipping (Standards of Training, Certification and Watch-keeping for Seafarers) Rules, 2014. Therefore, the contention of the petitioner questioning the authority of DGS vis-à-vis University is *malafide* and without basis. The Judgement dated 09.09.2019 of the Honourable High Court in batch of Writ Petitions filed by the Petitioner has once again re-iterated the powers of the DGS in all matters of Maritime Training.

11. Also, it is stated that the Petitioner has obtained the approval for conducting maritime courses from the Director General of Shipping based on an undertaking that all the requirements stipulated by the DGS including the entry criteria will be complied with for conducting these courses and subsequently violated the conditions of approval and started enrolling candidates who were not meeting the eligibility criteria with the intention of filling up the seats by admitting ineligible students without disclosing the full requirements of approved training programme formulated by DGS for obtaining Certificate of Competency and cheated innocent students aspiring to become officers in the Merchant Navy.

12. It is to be noted that in accordance with the provisions of Merchant Shipping (STCW Rules), 2014 and the definition of "Approved training, examination and assessment programme" in Rule 4.7 of the STCW Rules mentioned hereinabove, it is clear that the Director General of Shipping, GOI is competent and empowered by the Central Government to specify the complete scheme of training and standards including entry standards, course curriculum etc. of all the courses leading to issuance of Certificate of Competency/Certificate of Proficiency which includes the marine diploma & degree courses as per the mandate of STCW Convention, so that candidates passed out from the approved Institutes can become eligible for examination for Certificate of Competencies which are statutory certificates under section 78 of Merchant Shipping Act, 1958 read with Rule 5 of STCW Rules, 2014. Accordingly, in accordance with the provisions of STCW Rules, 2014 and the STCW Convention, the DGS has framed the 'Training, Examination and Assessment Programme' (TEAP) which needs to be complied with by all the maritime training institutes in order to meet the requirements of STCW Convention towards issuance of Certificate of Competency / Certificate of Proficiency. Also, the Rule 9.1 of the said STCW Rules, 2014 mandates the Director General of shipping to designate assessment centres (MMDs) which shall, examine the documentary evidence that the candidate has fulfilled the eligibility criteria for joining an approved training and assessment programme. Therefore, the MMDs have the obligation to verify the eligibility criteria of the candidates prior to allowing them to appear for the Competency Examination. It is to be noted that the requirements of on-board training vary based on the pre-sea training as specified in the TEAP Part-A. Therefore, the claim of the petitioner seeking equality between students meeting the prescribed entry criteria and others who are not meeting the minimum eligibility criteria is not justified.

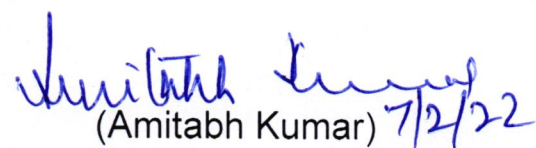
13. It is to be noted that the Respondent No.2 i.e. DGS has granted approval to impart maritime training courses to several maritime training

institutes situated across India. All the institutes conducting these courses are strictly complying with the specified entry criteria. It is also to be noted that the application for grant of approval for courses are processed only when the institute accepts the entry criteria prescribed by the DGS. In the instant case, the Petitioner complied with the entry criteria prescribed by DGS in the initial years. Subsequently, after a few years of obtaining approval for conduct of course from DGS, the Petitioner violated the specified conditions and charged hefty fees from innocent students and admitted ineligible students in clear violation of the conditions of approval for conduct of course, thereby, playing with the lives and the future of innocent students. Because of this act of the Petitioner, innocent candidates entering into maritime profession were cheated as the details of the conditions of the approval were not disclosed to the innocent students prior their taking admission to the course.

14. Further, it is to be noted that the Petitioner has conducted B.E. Marine Engineering programme under the affiliation of Annamalai University without the approval of the AICTE. Therefore, the engineering degree granted by the Annamalai University is not recognized by the AICTE and UGC. The petitioner did not disclose these facts to the innocent candidates at the time of admission. Nevertheless, the University's power to issue degree and diploma has not been interfered with by the Respondents. It is also to be noted that the grant of such degrees and diploma will not *ipso facto* entitle any person to automatically obtain a Certificate of Competency under provisions of the Merchant Shipping Act, unless all the requirement stipulated in the STCW Convention and Merchant Shipping (STCW) 2014 Rules are complied with. It is therefore to be noted that candidates desiring to obtain a Certificate of Competency in accordance with the STCW Convention will need to fulfill the appropriate training programme formulated by the Respondents in totality.

15. Moreover, it is to be noted that Petitioner while seeking relief for ineligible candidates admitted fraudulently during the period between the years 2014-2019, is still continuing to admit the ineligible students during the years 2020, 2021 and till date by taking an undertaking in Rs.100 stamp paper that candidates are made aware of the DGS requirements to appear for competency examination with the sole motive of filling up seats and cheating the innocent students. In view of continued violations of DGS guidelines, the Directorate has already issued show cause notice to the Petitioner and suitable action is being initiated in accordance with the law.

16. In view of the facts and circumstances explained hereinabove, the Directorate General of Shipping taking cognizance of the fact that International Maritime Academy, Chennai without having mandate, intentionally admitting innocent candidates for the approved maritime training courses below the prescribed minimum eligibility criteria set by the Directorate General of Shipping, therefore dismissing the representation dated 18.01.2020 as it is devoid of any merit. Also, the Petitioner is hereby directed to refund the fees collected from the candidates along with applicable interest and also pay compensation to the innocent students for the hardship suffered by them due to the deliberate suppression of information by the Petitioner.

  
(Amitabh Kumar) 7/2/22

Director General of Shipping &  
Additional Secretary to the GOI

To,

J. Senthilkumar

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Copy to: All the stakeholders and to display in DGS website.