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

**Date of Decision: 26<sup>th</sup> July, 2024**

+ W.P.(C) 3432/2024

HIMANSHU AND ORS

.....Petitioners

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

versus

DIRECTORATE GENERAL OF CIVIL AVIATION & ANR.

.....Respondents

Through: Ms. Anjana Gosain, Ms. Nippun Sharma, Advocates for R-1 & 2.  
Mr. Vedansh Anand, GP for UOI.

**CORAM:**

**HON'BLE MR. JUSTICE SANJEEV NARULA**

**JUDGMENT**

**SANJEEV NARULA, J. (Oral):**

**CM APPL. 42196/2024 (under Section 151 of the CPC seeking expedited hearing and final disposal of the matter)**

1. The Petitioner places reliance on the order dated 1<sup>st</sup> April, 2024, passed by the Division Bench in LPA 254/2024, wherein it has observed as under:

*“5. Accordingly, the present petition 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.”*

2. In view of the above, request is made that the writ petition be heard expeditiously. Although the pleadings are not fully complete, upon inquiry by the Court, counsel for the Petitioners has consented to proceed with the hearing based on the existing records, without the necessity of a rejoinder. Similarly, Ms. Anjana Gosain, representing Respondents No. 1 and 2, has also agreed to the final hearing of the matter at this stage.

3. In view of the above, the present application is allowed and disposed of. With the consent of the counsel for parties, the next fixed date of 24<sup>th</sup> September, 2024, stands cancelled, and the main writ petition is taken up for hearing today itself.

**CM APPL. 31715/2024** (*under Section 5 of Limitation Act, 1963 on behalf of Respondent No. 1*)

4. For the grounds and reasons stated therein, the present application is allowed. Delay of 68 days in filing counter affidavit on behalf of Respondent No. 1 stands condoned, and the counter affidavit enclosed with the application, along with annexures thereto, is taken on record.

5. The application is disposed of.

**W.P.(C) 3432/2024**

6. The present petition has been filed on behalf of five Petitioners:

6.1. Petitioner No. 4, Government Aviation Training Institute (GATI), is a Flying Training Organisation (FTO) having training centres across the country. It offers professional training to aspiring student pilots. They assert that they have been licensed by Respondent No. 1 for imparting ground



training and flight instructions to students for issuance of flying licenses, including Private Pilot's License (PPL), Commercial Pilot's License (CPL) and Airline Transport Pilot's License (ATPL). This is supported by approval No. 10/2016 dated 20<sup>th</sup> December, 2022 which is valid up to 27<sup>th</sup> December, 2027.

6.2. Petitioners No. 1, 2 and 3 are student pilots/ cadets enrolled at GATI for pursuing commercial pilot training to obtain Commercial Pilot's License (CPL). They assert that they have completed their training as per provisions of the Aircraft Act, 1934<sup>1</sup>, Aircraft Rules, 1937<sup>2</sup> and Civil Aviation Requirements, 2017<sup>3</sup>, under the aegis of Petitioner No. 4.

6.3. Petitioner No. 5, Global Avianautics Limited (GAL), is a company that was awarded a contract by the Government of Orissa on 21<sup>st</sup> July, 2007, to manage GATI and develop it into a state-of-the-art aviation academy.

7. The Petitioners invoke the jurisdiction of this Court under Article 226 of the Constitution of India, 1950, to seek judicial intervention for quashing notification dated 26<sup>th</sup> February, 2024<sup>4</sup> issued by Respondent No. 1, Directorate General of Civil Aviation (DGCA). This Impugned Notification, issued by the Directorate of Flying Training (DFT) on behalf of DGCA, has re-classified the 'Pipistrel VIRUS SW 121 Aircraft'<sup>5</sup>, which forms part of GATI's fleet of aircrafts, as a 'Light Sport Aircraft' (LSA). As a result, the Pipistrel Aircraft would fall under the "Restricted Airworthiness Standard" category, despite the said aircraft having earlier been classified under the "Normal" Category of Aircrafts and certified with a Certificate of

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<sup>1</sup> "Aircraft Act"

<sup>2</sup> "Aircraft Rules"

<sup>3</sup> "CAR"

<sup>4</sup> "Impugned Notification"

<sup>5</sup> "Pipistrel Aircraft"



Airworthiness by the DGCA itself, which deemed it fit for training of students for issuance of CPL. Consequently, on the basis of the Impugned Notification, the DGCA has either not processed or rejected the applications of Petitioners No. 1 to 3 for issuance of CPL.

8. This reclassification has severely impacted the Petitioners, particularly Petitioners No. 1 to 3—being student pilots who have completed their requisite training on the aforementioned aircraft. The Impugned Notification has resulted in the non-processing or outright rejection of their CPL applications. The Petitioners collectively challenge the Impugned Notification’s validity, arguing that it was issued arbitrarily and without due consideration of its extensive adverse effects on both, the students and the FTO. Moreover, they contend that the DFT, tasked solely with supervisory duties over flight training, lacks the statutory authority to classify aircraft types, which they argue is a decision beyond the scope of its powers under DGCA regulations. The Petitioners assert that such a critical decision should rest with the primary regulatory body itself, not a subsidiary department with limited jurisdiction.

9. To substantiate their challenge against the Impugned Notification, Mr. Samudra Sarangi, counsel for the Petitioners, provided a detailed account of the events leading up to the present petition:

9.1. GATI selected the Pipistrel Aircraft for imparting training to student pilots as it is a “Type Certified” aircraft by the European Aviation Safety Agency (EASA) and is approved and used for flight training in Europe, including Advanced UPRT training for which a very selective number of aircrafts are certified. The DGCA had also listed this aircraft as “Type Certified” on its official website. On 29<sup>th</sup> November 2019, the DGCA issued



a notification (under Rule 49E of the Aircraft Rules) affirming that the Type Certification granted to the Pipistrel Aircraft under EASA TCDS No. EASA.A.573 (issued on 12<sup>th</sup> March 2018) was acceptable per the Civil Aviation Requirements (CAR), Section 6, Series A, Part II.

9.2. Based on this classification, GATI sought further clarification from the DGCA about the said aircraft's categorisation, particularly inquiring whether the Pipistrel Aircraft was type certified under the LSA category. The DGCA's response, through an email dated 16<sup>th</sup> July 2020, confirmed that the Pipistrel SW121 Aircraft was type accepted under EASA TCDS NO. EASA.A.573 Issue 03 as per the letter dated 29<sup>th</sup> November, 2019 and categorised under the "Normal" Airworthiness category, with a certification basis used as "CS-LSA". The email communication dated 16<sup>th</sup> July, 2020, reads as under:

*"Reference is made to the trailing mail. With respect to point no. 1 and 2, it is to state that this office has type accepted Pipistrel SW121 aircraft type certified vide EASA TCDS NO. EASA.A.573 Issue 03 vide this office letter no 7-43/2018-AED dated 29.11.2019 in accordance with CAR, Section 6, Series A, Part II.*



*As per the above said EASA TCDS, the subject aircraft is type certificated under the "Normal" Airworthiness category and the certification basis used is "CS-LSA".*

*Regarding point no 3 of trailing mail, you may have discussion with Directorate of flying training."*

9.3. In addition to the above confirmation of Pipistrel Aircraft being classified under "Normal" Airworthiness category, GATI also received assent from DGCA to import two Pipistrel SW121 Aircrafts on 23<sup>rd</sup> March, 2021 for the purpose of flying training, along with a No-Objection Certificate (NOC) for importing the said aircrafts on 12<sup>th</sup> April, 2021. Accordingly, GATI imported the said aircrafts from Slovenia in June 2021



and received the Certificate of Registration from DGCA on 9<sup>th</sup> July, 2021 along with DGCA's approval for maintenance plan of the Pipistrel Aircraft on 6<sup>th</sup> June 2022. Then, after going through the necessary rounds of approvals with DGCA and obtaining a valid registration, GATI received the Certificate of Airworthiness for the Pipistrel Aircrafts on 18<sup>th</sup> August, 2022 and 28<sup>th</sup> October, 2022 respectively. These certificates are represented hereinbelow:

 भारत सरकार / GOVERNMENT OF INDIA नागर विमानन महानिदेशालय / DIRECTORATE GENERAL OF CIVIL AVIATION उड़न योग्यता प्रमाण पत्र / CERTIFICATE OF AIRWORTHINESS		CA 23 / CA 23A
सी / No: 7562		
राष्ट्रीयता और पंजीकरण चिह्न / Nationality and Registration Mark:	विमान निर्माता द्वारा तथा निर्माता द्वारा दिया गया नाम / Manufacturer and Manufacturer's Designation of Aircraft	विमान क्रम संख्या / Aircraft Serial No.:
VT-DPA	PIPISTREL, Slovenia, Virus SW 121	VSW1210083
वर्ग / Category:	NORMAL	
उपप्रभाग / Sub-Division:	PASSENGERS	
आवश्यक न्यूनतम कर्मीर् दल / Minimum Crew Necessary:	ONE	
अधिकतम कुल / Maximum All-Up-Weight Authorized:	600 Kg	
<p>इस विमान का परिचालन इस विमान के संबंध में जारी की गयी अनुमोदित उड़ान-नियमावली तथा उसमें किये गए संशोधनों के अनुसार किया जाएगा। यह उड़ान-नियमावली इस उड़न-योग्यता प्रमाण-पत्र का एक भाग समझी जाएगी तथा विमान में जाएगी।</p> <p>This aircraft is to be operated in accordance with the approved Flight Manual and its subsequent amendments, issued in respect of this aircraft. The Flight Manual shall form a part of this C of A and shall be carried on board.</p> <p>यह उड़ान-नियमावली इस उड़न-योग्यता प्रमाण-पत्र, उपरोक्त विमान, जिसके पृष्ठक शतक एवं संबंध परिचालन परीक्षाओं के अनुरूप साधारण और दृष्टिगत किये जाने पर उड़ान-योग्यता प्राप्त की जाती है; उसके लिए 08 दिसंबर, 1988 को अंतरराष्ट्रीय नागर विमानन विषयक अभिसमय तथा सम्प्रसमय पर यथा संशोधित विमान-नियमावली, 1983 के अनुसार किया जाता है।</p> <p>This Certificate of Airworthiness is issued pursuant to the Convention on International Civil Aviation dated the 7<sup>th</sup> December, 1944, and the Aircraft Rules, 1937 as amended from time to time, in respect of the above mentioned aircraft which is considered to be airworthy when maintained and operated in accordance with the foregoing and the pertinent Operating Limitations.</p> <p>यदि उपरोक्त विमान पर धरे पूरी कर दी गयी है तो यह प्रमाण-पत्र उड़न-योग्यता पुनरावलोकन प्रमाण-पत्र की वैधता रहने तक वैध रहेगा बशर्ते कि इस प्रमाण-पत्र को वापस नहीं लिया जाता अथवा निरस्त नहीं किया जाता।</p> <p>This certificate of Airworthiness shall remain valid, subjected to the above compulsory conditions being fulfilled along with valid Airworthiness Review Certificate, unless withdrawn, or suspended.</p>		
जारी करने का दिनांक / Date of Issue: 18-08-2022 नई दिल्ली / New Delhi		 हस्ताक्षर / Signature ( M DEVULA ) DEPUTY DIRECTOR (AIRWORTHINESS)

TRUE COPY



सं / No: 7607

CA 23 / CA 23A



सत्यमेव जयते

भारत सरकार / GOVERNMENT OF INDIA

नागर विमानन महानिदेशालय / DIRECTORATE GENERAL OF CIVIL AVIATION

उड़ान योग्यता प्रमाण पत्र / CERTIFICATE OF AIRWORTHINESS

राष्ट्रीयता और पंजीकरण चिह्न / Nationality and Registration Mark:	विमान निर्माता द्वारा तथा निर्माता द्वारा गया नाम / Manufacturer and Manufacturer's Designation of Aircraft	विमान क्रम संख्या / Aircraft Serial No.:
VT-DPB	PIPISTREL, Slovenia, Virus SW 121	VSW1210084
वर्ग / Category:	NORMAL	
उपवर्ग / Sub-Division:	PASSENGERS	
आवश्यक न्यूनतम कर्मी दल / Minimum Crew Necessary:	ONE	
अधिकतम कुल / Maximum All-Up-Weight Authorized:	600 Kg	

इस विमान का परित्यागन इस विमान के संबंध में जारी की गयी अनुमोदित उड़ान-नियमावली तथा उसमें किये गए संशोधनों के अनुसार किया जायेगा। यह उड़ान-नियमावली इस उड़ान-योग्यता प्रमाण-पत्र का एक भाग समझी जाएगी तथा विमान में जाएगी।

This aircraft is to be operated in accordance with the approved Flight Manual and its subsequent amendments, issued in respect of this aircraft. The Flight Manual shall form a part of this C of A and shall be carried on board.

यह उड़ान-नियमावली इस उड़ान-योग्यता प्रमाण-पत्र, उपयुक्त विमान, जिसे पूर्वीक शर्तों एवं संबंध परिचालन परिधिमाओ के अनुरूप साधारित और प्रचालित किये जाने पर उड़ान-योग्य समझा जाता है; उसके लिए ०७ दिसंबर, १९४४ के अंतरराष्ट्रीय नागर विमानन विषयक अभिसमय तथा समयसमय पर यथा संबंधित विमान-नियमावली, १९३७ के अनुसार किया जाता है।

This Certificate of Airworthiness is issued pursuant to the Convention on International Civil Aviation dated the 7<sup>th</sup> December, 1944, and the Aircraft Rules, 1937 as amended from time to time, in respect of the above mentioned aircraft which is considered to be airworthy when maintained and operated in accordance with the foregoing and the pertinent Operating Limitations.

यदि प्रत्येक अनिवार्य शर्तों पूरी तरह से पूरी हैं तो यह प्रमाण-पत्र उड़ान-योग्यता पुनरावलोकन प्रमाण पत्र की वैधता रहने तक वैध रहेगा बशर्ते कि इस प्रमाण-पत्र को वापस नहीं लिया जाता अथवा निरंकित नहीं कर दिया जाता।

This certificate of Airworthiness shall remain valid, subjected to the above compulsory conditions being fulfilled along with valid Airworthiness Review Certificate, unless withdrawn, or suspended.

जारी करने का दिनांक / Date of Issue: 28-10-2022  
नई दिल्ली / New Delhi

हस्ताक्षर / Signature

(JAYANTA GHOSH)

DEPUTY DIRECTOR (AIRWORTHINESS)



9.4. As per the Aircraft Rules, no aircraft can be flown unless it possesses a valid Certificate of Airworthiness or Special Certificate of Airworthiness. The DGCA is empowered to issue a Certificate of Airworthiness after conducting a thorough review of documents, technical data, inspection of



the aircraft and a flight test. Thus, in view of the “Normal” classification along with the sub-division “Passengers” mentioned in the above certificates, the Pipistrel Aircrafts could be appropriately deployed for training of students for issuance of CPL and PPL. Moreover, the DGCA issued a Certificate of Airworthiness, as opposed to a Special Certificate of Airworthiness, which made the Pipistrel Aircraft an appropriate aircraft to conduct flying training. In this regard, reliance is placed on Section A of Schedule II of the Aircraft Rules, relevant portion whereof reads as follows:

*“2. Flying Experience - (a) The evidence normally required as proof of flying experience shall consist of the production of a personal log book certified by the appropriate authority specified in Sub-Rule (4) of Rule 67A, or of a certified extract therefrom in the form which may be prescribed by the Director-General. Such flying experience shall be to the satisfaction of the Director-General.*

***(b) The flying experience required for the issue of Private Pilot's Licence and Commercial Pilot's Licences shall be acquired under the supervision of a Flight Instructor and shall be on aircraft having valid Certificate of Airworthiness, maintained in accordance with Rules 57-60 except Rule 59A and entered in the Aircraft Rating of Pilot's licence currently held by him.***

*Provided that the flying experience on an aircraft having a valid special certificate of airworthiness issued by the Director-General, may also be counted if so provided in the relevant section of this Schedule and subject to conditions specified therein.*

*(c) The flying experience required for issue of Private Pilot's and Commercial Pilot's Licences shall be acquired at the flying training organisations approved/recognised by the Director-General except in respect of the applicants qualifying for exemption under Rule 41.*

*(d) The flying experience acquired for the issue of various categories of flight crew licences shall be counted in the manner set out in Rule 67A*

*(e) Flying training shall be completed in accordance with the syllabus prescribed by the Director-General.*





*(f) A holder of a Private pilot's licence (Aeroplanes) who has availed of any credit for flying done on a microlight/ glider/ light sport aircraft as per the provisions of Section E shall be entitled to get full credit for the same for the issue of next higher pilot licence.”*

9.5. After issuance of Certificates of Airworthiness for the two Pipistrel Aircrafts, the same were deployed for training of the student pilots. Petitioners No. 1 to 3, amongst other students of GATI, started flying the said aircrafts for training purpose. Thereafter, on completion of training and compliance with other requisite formalities provided under Section J of Schedule II of the Aircraft Rules, Petitioners No. 1, 2 and 3 submitted their documents for issuance of CPL to DGCA via e-GCA portal on 29<sup>th</sup> November, 2023, 30<sup>th</sup> November, 2023 and 3<sup>rd</sup> December, 2023 respectively. However, DGCA did not issue any approvals for their CPLs.

9.6. Petitioners No. 1, 2 and 3 urge that despite meeting all regulatory and training requirements set forth under the Aircraft Act and associated Civil Aviation Requirements, their progression towards obtaining a CPL has been unjustly halted. The re-classification of the Pipistrel Aircraft to a Light Sport Aircraft (LSA) has rendered their substantial flight training hours ostensibly insufficient for CPL qualification under DGCA guidelines. After raising various arbitrary objections and queries and without considering Petitioner's responses, the DGCA has rejected their requests for grant of CPL. The rejection for the Petitioners' request for CPL is rooted on the classification of the Pipistrel Aircrafts. DGCA has informed the Petitioners that since the Pipistrel SW 121 Aircraft had been classified as a LSA as per the 'List of DGCA Approved Flying Training Organisations (as on 31<sup>st</sup> August, 2022), Petitioners flying experience on such an aircraft would not be considered for grant of CPLs.



10. In the above background, Mr. Sarangi strongly emphasises that the action of the Respondents relating to reclassification of the Pipistrel Aircraft was arbitrary. He detailed the extensive communications between GATI and the DGCA prior to and following the importation of the Pipistrel Aircrafts, emphasising their initial classification under the “Normal” category in the Certificate of Airworthiness. This classification was crucial for GATI’s training programs. He argues that the DGCA’s sudden reclassification of these aircrafts as LSAs, with retrospective effect, undermines the training and future career prospects of the student pilots trained on these aircrafts. Mr. Sarangi contends that this abrupt policy change, without clear justification or prior notification, not only disregards the legitimate expectations of the student pilots but also places an undue burden on their professional advancement. He urges the Court to recognise the severe implications of such arbitrary regulatory changes and consider the adverse impact on the students’ investment in their training and future careers in aviation.

11. Further elaborating his argument, Mr. Sarangi argues that even assuming that DGCA is vested with the power to revisit and reclassify aircraft types, such reclassification should adhere to principles of fairness and predictability. He emphasises that the DGCA’s retrospective reclassification of the Pipistrel Aircrafts contradicts its prior assurances and approvals that explicitly supported the aircraft’s use for commercial pilot training. Mr. Sarangi contends that rescinding a previously granted certification without substantial grounds or procedural fairness not only disrupts the training pathways for aspiring pilots but also infringes upon principles of equity and reasonable expectation. This act by the DGCA, he



argues, is not only arbitrary but also undermines the trust and reliance placed by aviation training institutions and their students on the regulatory frameworks governing aviation training. Therefore, the Impugned Notification represents a breach of administrative fairness.

12. Mr. Sarangi also seeks to canvass the differences between the “Normal” category and “LSA” category by detailing the various features of the Pipistrel Aircraft as follows:

	CRITERIA	NORMAL CATEGORY	LIGHT SPORT AIRCRAFT	PIPISTREL SW121
1	Performance Category	Undefined	“Light Sport Aircraft” means a fixed wing aircraft with maximum certificated take off mass exceeding 450 Kgs. but not exceeding 600 Kgs. and stalling speed <b>not exceeding 45 knots;</b>	Maximum Takeoff Mass 600kg, <b>Stalling Speed 53Kts</b>
2	Governing Rule	<b>Rule 49E</b> of Indian Aircraft Rules 1937	<b>Rule 491</b> of Indian Aircraft Rules 1937	Rule 49E of Indian Aircraft Rules 1937
3	Civil Aviation Requirement	Section II Series F Part III	Section II Series Part XXII	Section II Series F Part III
4	Accepted Airworthiness Standard Type Certificate	UNRESTRICTED (TC) under 49E	1. RESTRICTED (RTC) under 49E	UNRESTRICTED (TC) under 49E



			2. A document stating that the design standard has been accepted by DGCA under Rule 46I	
5	Airworthiness Certificate	Certificate of Airworthiness	Special Certificate of Airworthiness	Certificate of Airworthiness
6	Maintenance Group	Group 3	Aircraft other than Aeroplanes and Helicopters	Group 3
7	Maintenance Personnel CAR 66	Subpart A	Subpart B	Subpart A

13. Lastly, Mr. Sarangi emphasises that the Pipistrel Aircraft has been internationally considered to be suitable for one-year training of pilots for CPLs, and pilots that have been trained on such an aircraft have been issued CPLs and are permitted to fly over the Indian Airspace. Thus, he argues that the regulatory framework for the airspace must be crafted harmoniously with international standards, and the Impugned Notification has the effect of placing Indian student pilots who have received similar training a disadvantage.

14. *Per contra*, Ms. Anjana Gosain, counsel for DGCA, strongly opposes the present petition. She submits that GATI was all throughout aware of the classification of the Pipistrel Aircrafts as LSA. She submits that the DGCA regularly updates its website with information relating to the classification of aircrafts. The ‘List of DGCA Approved Flying Training Organisations (as



on 8<sup>th</sup> May, 2023)’, which was published on 26<sup>th</sup> May, 2023, unambiguously showed the Pipistrel VIRUS SW 121 Aircraft, being the aircraft in GATI’s fleet, as LSA. She also points out that the previous updated ‘List of DGCA Flying Training Organisations (as on 31<sup>st</sup> August, 2022)’ was published by DGCA on its website on 22<sup>nd</sup> September, 2022, whereas the revision to the Training and Procedure Manual for addition of Pipistrel VIRUS SW 121 aircraft was approved only after 31<sup>st</sup> August, 2022. Thus, despite being aware of this classification, GATI has misled its students by offering them training on an aircraft which would not entitle them to CPL. Furthermore, Ms. Gosain has also pointed out that the applications submitted by Petitioners No. 1 to 3 also suffer from other shortcomings, such as failing to meet the requirements under the Aircraft Rules, and accordingly the same have been rejected.

15. Furthermore, Ms. Gosain underscores that the DGCA is an expert body, and therefore, it is well entitled to revisit the issue of classification of the aircraft from time to time, as the same is constantly updated on the basis of new research and information gathered relating to the safety of aircraft. The Respondents, therefore, cannot be nailed down to a particular classification for all times to come. In such circumstances, considering the issue of public interest in question, Ms. Gosain argues that while it may be harsh for Petitioners No. 1 to 3, this Court ought not to intervene in this issue of classification.

### **Analysis and Findings**

16. The Court has considered the aforementioned contentions and perused the documents on record. It is noted DGCA had publicly announced the revised



classification on its website in September 2022. This action by the DGCA placed the reclassification within the public domain and thus well within the knowledge of the Petitioners from the date on which it was published. It is pertinent to note that while one of GATI's Pipistrel Aircrafts was granted Certificate of Airworthiness on 18<sup>th</sup> August, 2022, the other received its Certificate of Airworthiness on 26<sup>th</sup> October, 2022—after the reclassification was publicised in September 2022. Consequently, any training received by Petitioners No. 1 to 3 on this aircraft post-reclassification does not meet the eligibility criteria for the issuance of a Commercial Pilot License (CPL) as per the DGCA's standards. Pertinently, while the petition lacks specific details regarding the commencement of the Petitioners No. 1 to 3's training on the Pipistrel Aircrafts, it is not the case of the Petitioners that the student pilots had completed their entire flying experience prior to DGCA publicising the revised classification. Thus, GATI continued to offer flying training on the Pipistrel Aircrafts even after it was within their knowledge that their classification as LSA would affect the students' eligibility for CPL.

17. Additionally, the Court finds merit in Ms. Gosain's contention that the DGCA had consistently informed the Petitioner that the Pipistrel Aircraft was classified as LSA, having expressly pointed out the same in their communication dated 16<sup>th</sup> July, 2020, which has been extracted above. Given this classification, while the student pilots' flying experience completed on LSA could still be considered for obtaining a Private Pilot's License (PPL) or other certifications such as Pilot's Licence (Light Sport Aircraft), however, the same cannot be reckoned for issuance of CPL. Given these facts, the Court finds no legal basis to compel the Respondents, by



issuing a writ of Mandamus, to count the hours flown on this Pipistrel Aircraft towards the grant of CPLs to Petitioners No. 1 to 3.

18. The DGCA, as an expert regulatory authority, holds the statutory mandate to classify and periodically reassess aircrafts based on evolving safety standards and technological advancements. This authority is explicitly conferred by Section 5A of the Aircraft Act, which empowers the DGCA to issue directives necessary to ensure the safety of aircraft operations. Furthermore, Rule 29C of the Aircraft Rules elaborates on the DGCA's role in establishing standards and procedures that align with the International Civil Aviation Organization (ICAO) standards, ensuring global compliance and safety in aviation operations. Rule 133A reinforces this by empowering the DGCA to formulate and issue Civil Aviation Requirements, which are essential for maintaining regulatory control over aviation activities within national borders. Additionally, Rule 50 of the Aircraft Rules grants DGCA the authority to specify conditions and standards for the issuance of Certificates of Airworthiness or Special Certificates of Airworthiness. This includes setting stringent criteria based on the operational limitations and technical specifications of different types of aircrafts to safeguard both, the integrity of the aircraft and the safety of its occupants. The exercise of these powers by the DGCA is aimed at ensuring that the aircrafts engaged in aviation activities within India meet the highest safety and operational standards.

19. In the case at hand, the classification of the Pipistrel VIRUS SW 121 Aircraft as a 'Light Sport Aircraft' (LSA) under the Impugned Notification is a direct exercise of these statutory powers. The DGCA's decision to reclassify is rooted in its responsibility to continuously monitor and update



aircraft classifications as per current safety evaluations and the evolving understanding of aircraft capabilities and limitations. This action is consistent with the DGCA's mandate to adapt regulatory measures to current safety needs and technical assessments. No evidence suggests an overreach of authority or a deviation from the procedural norms established under the relevant aviation regulations. Therefore, the Impugned Notification by the DGCA is well within its jurisdiction, and the challenge raised by the Petitioners concerning the DGCA's authority to effectuate such a reclassification does not hold.

20. Furthermore, the determination of eligibility criteria for the issuance of CPLs inherently involves considerations of public safety, which are paramount in the aviation industry. The specific type of aircraft that student pilots are required to train on, along with the requisite number of training hours to be completed, are crucial factors that must be meticulously regulated to ensure the highest standards of safety and competence in future pilots. Such determinations are best made by the DGCA, an expert body endowed with the technical expertise and statutory authority to make informed decisions about aviation training standards, considering the public safety that is at stake.

21. The decisions of the DGCA regarding aircraft classification and pilot training eligibility are deeply entrenched in considerations of aviation safety and regulatory compliance. Such decisions are within the expertise and jurisdiction of this regulatory body. It is crucial to recognize the technical nature of the Impugned Notification and the expertise required to make such determinations. The jurisprudence under Article 226 of the Constitution dictates that the Court's jurisdiction to intervene in matters involving expert





bodies is circumspect and limited. This is particularly true in sectors like aviation, where safety and technical standards are paramount. The well-established legal principle of judicial restraint mandates that the Court should not usurp the functions of expert bodies or substitute its judgment in areas where technical expertise is essential. Therefore, intervention in the decision-making process of the DGCA, an expert body, is not warranted unless there is a clear demonstration of arbitrariness or abuse of power that directly contradicts the legal framework governing aviation safety.

22. In light of the above, the Court does not find any ground to intervene in the present petition. Accordingly, the present petition is disposed of along with pending application(s).

**JULY 26, 2024**  
**ab**

**SANJEEV NARULA, J**