

**WA No. 192 of 2025  
C/W CCC No. 66 of 2025  
WA No. 164 of 2025  
AND 1 OTHER**

**IN THE HIGH COURT OF KARNATAKA AT BENGALURU**

**DATED THIS THE DAY OF 01<sup>ST</sup> JUNE, 2026**

**PRESENT**

**THE HON'BLE MR. VIBHU BAKHRU, CHIEF JUSTICE**

**AND**

**THE HON'BLE MR. JUSTICE C.M. POONACHA**

**WRIT APPEAL NO. 192 OF 2025 (GM-RES)**

**C/W**

**CIVIL CONTEMPT PETITION NO. 66 OF 2025**

**WRIT APPEAL NO. 164 OF 2025 (GM-RES)**

**WRIT APPEAL NO. 187 OF 2025 (GM-RES)**

**IN WA No. 192/2025**

**BETWEEN:**

1. DIRECTOR GENERAL OF CIVIL AVIATION  
REPRESENTED BY ITS DEPUTY DIRECTOR  
GENERAL OF AIRWORTHINESS  
(OFFICIALY KONWN AS DEPUTY DIRECTOR  
GENERAL OF CIVIL AVIATION)  
OPP SAFDARJUNG AIRPORT  
NEW DELHI 110003
2. DIRECTOR OF AIRWORTHINESS  
O/O DEPUTY DIRECTOR GENERAL OF  
CIVIL AVIATION  
HAL AIRPORT TECHNICAL BLOCK  
VIMANAPURA POST  
BANGALORE 560 017

...APPELLANTS

(BY SRI. K. ARVIND KAMATH, ASGI FOR  
SRI. H. SHANTHI BHUSHAN, DSGI)



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C/W CCC No. 66 of 2025  
WA No. 164 of 2025  
AND 1 OTHER**

**AND:**

1. D A PALANIVELU  
S/O ARMUGHAN  
AGED ABOUT 72 YEARS
2. KUDIMADA SOMANNA SUBBAYYA  
S/O K B SOMANNA  
AGED ABOUT 57 YEARS

BOTH HAVING OFFICE AT  
SURYA RATHNA AVENUE  
NO. 51/25, RICHMOND ROAD  
BANGALORE 560 025  
(HEREINAFTER REFERRED TO  
AS PRIVATE RESPONDENTS)

3. GOVERNMENT FLYING TRAINING SCHOOL  
12TH KM BELLARY ROAD  
JAKKUR AERODROME  
BANGALORE 560 064  
REP BY ITS DIRECTOR
4. AIR TRAFFIC CONTROLLER  
12TH K M BELLARY ROAD  
JAKKUR AERODROME  
BANGALORE 560 064  
REP BY DUTY AIR TRAFFIC  
CONTROLLER 560 064  
REP BY DUTY AIR TRAFFIC  
CONTROLLER  
(HEREINAFTER REFERRED TO AS STATE  
RESPONDENTS )

...RESPONDENTS

(BY CAPT. ARVIND SHARMA, ADVOCATE A/W  
SRI. ARNAV A BAGALWADI, ADVOCATE FOR C/R1 & R2  
SMT. NAMITHA MAHESH, AGA FOR R3 & R4)

THIS WRIT APPEAL IS FILED U/S 4 OF THE KARNATAKA  
HIGH COURT ACT PRAYING TO SET ASIDE THE JUDGMENT

**WA No. 192 of 2025  
C/W CCC No. 66 of 2025  
WA No. 164 of 2025  
AND 1 OTHER**

AND ORDER DATED 16.12.2024 PASSED BY THE LEARNED SINGLE JUDGE IN WP No. 6098/2024 C/W WP 8690/2024 AND WP No. 14244/2024, IN THE INTEREST OF JUSTICE AND EQUITY.

**IN CCC NO. 66/2025**

**BETWEEN:**

1. D A PALANIVELU  
S/O ARMUGHAM  
AGED ABOUT 72 YEARS
2. KUDIMADA SOMANNA SUBBAYYA  
S/O K B SOMANNA  
AGED ABOUT 57 YEARS

BOTH O/A SURYA RATHNA AVENUE  
NO.51/25, RICHMOND ROAD  
BANGALORE-560025

...COMPLAINANTS

(BY CAPT. ARVIND SHARMA, ADVOCATE A/W  
SRI. ARNAV A BAGALWADI, ADVOCATE)

**AND:**

1. SRI PAVITRAKAR  
DIRECTOR OF AIRWORTHINESS  
DGCA REGIONAL OFFICE  
HAL AIRPORT TECHNICAL BLOCK  
BANGALORE-560017
2. SRI BALAMURUGAN  
DEPUTY DIRECTOR OF  
AIRWORTHINESS  
DGCA REGIONAL OFFICE  
HAL AIRPORT TECHNICAL BLOCK  
BANGALORE-560017
3. RAJATHANGARAJA  
OFFICER OF AIRWORTHINESS

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AND 1 OTHER**

DGCA REGIONAL OFFICE  
HAL AIRPORT TECHNICAL BLOCK  
BANGALORE-560017

4. SANJAY BRAHMANE  
THE DEPUTY DIRECTOR GENERAL DGCA  
DGCA REGIONAL OFFICE  
HAL AIRPORT TECHNICAL BLOCK  
BANGALORE-560017
5. B BHASKAR  
AIRCRAFT MAINTENANCE ENGINEER  
C/O AASAA PVT LTD HANGAR  
NO.1, JAKKUR AERODROME  
12TH KM BELLARY ROAD  
BENGALURU-560064
6. M.K. SRIRAM  
DIRECTOR  
AGNI AERO SPORT ADVENTURE  
ACADEMY PVT,LTD (AASAA)  
HANGAR NO.1 JAKKUR AERODROME,  
12TH KM BELLARY ROAD,  
BENGALURU-560064.

...ACCUSED

(BY SRI. K. ARVIND KAMATH, ASGI A/W  
MR. VINAY V., & MR. UNNIKRISHNAN M., CGSC FOR A1  
TO A5;  
A6 SERVED AND UNREPRESENTED)

THIS CCC IS FILED UNDER SECTIONS 11 AND 12 OF  
THE CONTEMPT OF COURTS ACT, 1971, BY THE  
COMPLAINANT, PRAYING TO INITIATE PROCEEDINGS  
UNDER THE CONTEMPT OF COURTS ACT, 1971 AND  
PUNISH THE ACCUSED FOR WILLFUL DISOBEDIENCE OF  
THE ORDER OF THIS HONBLE COURT IN WP NO.14244/2024  
C/W WP NO.6098/2024 AND WP NO.8690/2024 DATED  
16/12/2024 IN ACCORDANCE WITH THE LAW.

**IN WA NO. 164/2025**

**BETWEEN:**

1. DIRECTOR GENERAL OF CIVIL AVIATION  
REPRESENTED BY ITS DEPUTY  
DIRECTOR GENERAL OF AIRWORTHINESS  
(OFFICIALLY KNOWN AS  
DEPUTY DIRECTOR OF GENERAL  
OF CIVIL AVIATION  
OPP SAFDARJUNG AIRPORT  
NEW DELHI 110003
2. DIRECTOR OF AIRWORTHINESS  
DGCA REGIONAL OFFICE  
HAL AIRPORT  
TECHNICAL BLOCK  
BANGALORE 560 017
3. DEPUTY DIRECTOR OF AIRWORTHINESS  
DGCA REGIONAL OFFICE  
HAL AIRPORT,  
TECHNICAL BLOCK  
BANGALORE 560017
4. OFFICER OF AIRWORTHINESS  
DGCA REGIONAL OFFICE HAL  
AIRPORT, TECHNICAL BLOCK  
BANGALORE 560017

...APPELLANTS

(BY SRI. K. ARVIND KAMATH, ASGI A/W  
MR. VINAY V, CGSC)

**AND:**

1. D A PALANIVELU  
S/O ARUMUGHAM  
AGED ABOUT 72 YEARS

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WA No. 164 of 2025  
AND 1 OTHER**

2. KUDIMADA SOMANNA SUBBAYYA  
S/O K B SOMANNA  
AGED ABOUT 57 YEARS

BOTH HAVING OFFICE AT  
SURYA RATHNA AVENUE  
NO. 51/25, RICHMOND ROAD  
BANGALORE 560 025

3. B BHASKAR  
AIRCRAFT MAINTENANCE ENGINEER  
C/O AASAA PVT LTD HANGAR  
NO.1, JAKKUR AERODROME  
12TH KM BELLARY ROAD  
BENGALURU 560064.

4. AASAA PVT LTD  
HANGAR NO. 1  
JAKKUR AERODROME  
12TH K M BELLARY ROAD  
BENGALURU 560 064

...RESPONDENTS

(BY CAPT. ARVIND SHARMA, ADVOCATE A/W  
MR. ARNAV A BAGALWADI, ADVOCATE FOR R1 & R2)

THIS WRIT APPEAL IS FILED U/S 4 OF THE KARNATAKA  
HIGH COURT ACT PRAYING TO SET ASIDE THE  
JUDGEMENT AND ORDER DATED 16/12/2024 PASSED BY  
THE LEARNED SINGLE JUDGE IN WP NO.14244/2024.

**IN WA NO. 187/2025**

**BETWEEN:**

1. DIRECTOR GENERAL OF CIVIAL AVIATION  
REP BY ITS DEPUTY DIRECTOR  
GENERAL OF AIRWORTHINESS (OFFICIALLY  
KNOWN AS DEPUTY DIRECTOR  
GENERAL OF CIVIL AVIATION)  
OPP. SAFDARJUNG AIRPORT  
NEW DELHI 110003

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AND 1 OTHER**

2. DIRECTOR OF AIRWORTHINESS  
O/O DEPUTY DIRECTOR GENERAL  
OF CIVIL AVIATION HAL AIRPORT  
TECHNICAL BLOCK VIMANAPURA  
POST BANGALORE 560017

...APPELLANTS

(BY SRI. K. ARVIND KAMATH, ASGI A/W  
MR. VINAY V., AND MR. UNNIKRISHNAN M., CGSC)

**AND:**

1. M/S AGNI AERO SPORTS  
ADVENTURE ACADEMY (P) LTD  
A COMPANY INCORPORATED UNDER THE  
COMPANIES ACT 1956  
HAVING OFFICE AT JAKKUR  
AERODROME 12TH  
K M BELLARY ROAD  
BANGALORE 560064  
REFERRED TO AS PRIVATE RESPONDENT
2. GOVERNMENT FLYING TRAINING SCHOOL  
12TH KM BELLARY ROAD  
JAKKUR AERODROME  
BANGALORE 560064  
REP BY ITS DIRECTOR
3. AIR TRAFFIC CONTROLLER  
12TH KM BELLARY ROAD  
JAKKUR AERODROME  
BANGALORE 560064  
REP BY DUTY AIR TRAFFIC CONTROLLER  
(REFERRED TO AS STATE RESPONDENTS)

...RESPONDENTS

(BY CAPT. ARVIND SHARMA, ADVOCATE A/W  
MR. ARNAV A BAGALWADI, ADVOCATE FOR R1  
SRI. K.S. HARISH, GA FOR R2 & R3)

THIS WRIT APPEAL IS FILED U/S 4 OF THE KARNATAKA HIGH COURT ACT PRAYING TO SET ASIDE THE JUDGEMENT AND ORDER DATED 16/12/2024 PASSED BY THE LEARNED SINGLE JUDGE IN WP NO.6098/2024.

THESE APPEALS HAVING BEEN HEARD AND RESERVED FOR JUDGMENT, COMING ON FOR PRONOUNCEMENT THIS DAY, JUDGMENT WAS PRONOUNCED AS UNDER:

CORAM: HON'BLE MR. VIBHU BAKHRU ,CHIEF JUSTICE  
and  
HON'BLE MR. JUSTICE C.M. POONACHA

**CAV JUDGMENT**

(PER: HON'BLE MR. JUSTICE C.M. POONACHA)

1. The present *intra court* appeals are filed by the Director General of Civil Aviation [**DGCA**] and other officials of the DGCA calling in question the order dated 16.12.2024 [**impugned order**] passed by the learned Single Judge in a batch of writ petitions (W.P. Nos.6098/2024 and 8690/2024 and 14244/2014). Vide the impugned order, the learned Single Judge allowed the writ petitions filed by the private respondents.

2. The private respondents had filed the writ petitions (W.P.No.6098/2024 and W.P.No.8690/2024) impugning the communication/notification dated 14.02.2024 passed by the Deputy

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Director General of DGCA [**first impugned communication**].  
Vide the first impugned communication which was issued to, *inter alia*, Government Flying Training School, Jakkur Aerodrome, Bengaluru [**GFTS, Jakkur**] and All Microlight/Powered Hang Glider operators, Bengaluru Region, the use of Indian MoGas by Indian Registered Aircraft was prohibited with immediate effect. In W.P.No.8690/2024, the letter/communication dated 22.02.2024 [**second impugned communication**] issued by the Director, GFTS, Jakkur, of the Government Flying Training School, Jakkur Aerodrome, to the Air Traffic Controller [**ATC**], GFTS, Jakkur, not to give clearances for any Microlight flying operations in the said GFTS, Jakkur, was impugned. The first and second impugned communications shall also be collectively referred to as the impugned communications. Various shortfalls that have been found consequent to the impugned communications have also been called in question in W.P.No.14244/2024. The writ petitioners are stated to be the owners/operators of Microlight Aircraft bearing registration No.VT-USP (Certificate No.UL 88/2) as well as Microlight Aircraft bearing registration No.VT-USH.

3. The learned Single Judge allowed the writ petitions and quashed the impugned communications as well as the shortfalls. The learned Single Judge also directed renewal of the special certificate of air worthiness in respect of the petitioners in W.P.No.14244/2024. However, liberty was reserved to the appellants to proceed in accordance with law in adherence with the principles of natural justice. The learned Single Judge had quashed the impugned communications on the ground that they were unreasonable and vague. The learned Single Judge also found that the writ petitioners were not given a fair opportunity of hearing before the impugned communications were issued.

**Background facts:**

4. The relevant facts in a nutshell are that the writ petitioners are operators and users of Microlight Aircrafts and have been conducting their flying activities at GFTS, Jakkur. The first impugned communication was called in question on various grounds. First that the Deputy Director of the DGCA did not have the authority to issue the same; second that it has been issued without hearing the petitioner; third that the same does not pertain to any matter as specified under Section 5(2) of the Aircraft Act,

1934 [**Act**]; fourth that any directions must be issued as Civil Aviation Requirements [**CARs**] under Rule 133A(1) of the Aircraft Rules, 1937 [**Rules**]; fifth that before the CARs are issued in accordance with Rule 133A(2) of the Rules, they must be first published on the DGCA website for a period of thirty days calling for objections/suggestions from the affected persons, which admittedly had not been done; last that the directions are issued in respect of the Aircraft fitted with Rotax 912 'S' series engines, which are different from Rotax 912 'UL' series installed in the Aircrafts of the petitioners.

5. The appellants, who were the respondents before the learned Single Judge had justified issuance of the impugned communications as well as subsequent action of issuing shortfalls by contending, *inter alia*, that under Section 5(A) of the Act, the DGCA or the officer empowered for the said purpose, is entitled to take action. Further, under Rule 29C of the Rules, they are empowered to prescribe standards and procedures for air safety and issue directions in the nature of CARs.

6. The learned Single Judge had framed the following issues for consideration:

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- "i. Whether the impugned notification dated 14.02.2024, passed by respondent No. 4, exceeds the jurisdiction conferred on it by the Aircraft Act, 1937?
- ii. Whether the impugned notification dated 14.02.2024 is liable to be quashed on the grounds that it is vague, excessive, and arbitrary, as it is purportedly inapplicable to the petitioners, considering that the petitioners' aircraft are fitted with engines different from those referred to in the impugned notification?
- iii. Whether the impugned letter/email dated 22.02.2024, issued by respondent No. 1, pursuant to the directions issued by respondents No. 2 and 3, stopping the petitioners from flying their aircraft without affording them a reasonable opportunity to be heard, is violative of the principles of natural justice?
- iv. Whether the shortfalls raised by the respondents regarding the non-renewal of the certificate of airworthiness for the petitioners' aircraft on 08.04.2024, 19.04.2024, and 21.05.2024, are excessive and plagued with arbitrariness and unreasonableness?
- v. What order?"

7. The learned Single Judge had accepted the challenge made to the impugned communications, *inter alia*, holding as under:

"40. Under Section 5A of the Aircraft Act, 1934, the Director General of Civil Aviation (DGCA) has the authority to regulate specific matters. This power can only be delegated to a subordinate officer who has been specially empowered by the Central Government. If a subordinate officer, who is not specially empowered, issues directions on these matters, it creates a fundamental legal issue and undermines their jurisdiction. Any action taken without proper jurisdiction is open to challenge.

41. Additionally, Rule 133A(2) of the Aircraft Rules, 1937 requires the publication of Civil Aviation

Requirements (CAR) before they take effect, except in urgent cases where a written order can justify skipping the publication. Therefore, since the Aircraft Act only allows the DGCA to delegate authority to specially empowered officers, a subordinate officer cannot exercise this power unless explicitly authorized.

42. x x x x

43. A perusal of sub-section (2) of Rule 133A of the Aircraft Rules, 1937 reveals that the Executive has envisaged procedural safeguard in mandating placing of the draft of CAR on the website of the DGCA prior to their publication so to enable those who may be prejudiced by the issue of CAR be given a reasonable opportunity to raise objections and make suggestions. By applying the principle of contextual interpretation of text, any instance of exercise of authority in contravention of the procedural safeguard in sub-section (2) or the proviso thereunder justifying the issue of CAR without issuing order in writing, would render such statutory safeguards nugatory. Therefore, exercise of authority in contravention of the statutory framework would be vitiated by an incurable procedural irregularity and render it liable to be quashed."

(emphasis supplied)

8. The learned Single Judge had also held that the impugned notifications were vague. The relevant portion of the order of the learned Single Judge, is as under:

"44. Furthermore, in a judicial review of administrative actions, Courts try to find out the dominant purpose which impelled the impugned administrative action. A perusal of the impugned notification dated 14.02.2024 reveals that in light of the unavailability of 2008 MoGas (which contained a percentage blend of 5% ethanol) on account of stoppage in production of the same and the fact that the Oil Manufacturing Companies were producing only the 2017 MoGas (which contained a

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percentage blend of 10% - 20% of Anhydrous Ethanol and for use in Automobiles only), the issuing authority had deemed it expedient to order the overhaul of engines of the aircraft models Tecnam P2006T and Tecnam 2008 8JC fitted with Rotax 912 series engines - which were certified for the use of only the 2008 MoGas, with MSN 9139850 and MSN 9140358. However, in the instant case, the petitioners have sworn to an affidavit that the fuel used in their aircraft does not contain any percentage blend of ethanol. Furthermore, the respondents have not adduced any evidence to the contrary.

45. Hence, this Court is of the opinion that the impugned notification dated 14.02.2024 is inapplicable to the case of the petitioners. It is pertinent to note at this stage that non-compliance with the impugned order dated 14.02.2024 and letter dated 22.02.2024 would have led to the detention of the aircraft of the petitioners under Section 8 of the Act, 1934 and exposed the petitioners under Section 10 of the Act to imprisonment for a period which may extend to two years, or with fine may extend to one crore rupees, or with both. Moreover, the engines fitted on to the aircraft of the petitioners belong to the 'UL' series - uncertified, and have a more leeway in seeking exemption from compliance with conditions that may otherwise have been imposed on other engines in the Rotax 912 series. Thus, the impugned notification and order were unreasonable and vague, and any such condition of compliance imposed upon the petitioners would be unsustainable in law."

(emphasis supplied)

9. The learned Single Judge had also held that the impugned communications were liable to be quashed even on the ground of violation of principles of natural justice.

**DISCUSSION AND REASONING:**

10. The Directorate General of Civil Aviation is constituted under Section 4A(1) of the Act. Section 5 of the Act empowers the Central Government to make rules "regulating the manufacture, possession, use, operation, sale, import or export of any aircraft or class of aircrafts and for securing the safety of aircraft operations." Section 5A of the Act empowers the DGCA (Director General of Civil Aviation) or any other officer specifically empowered in this behalf by the Central Government to issue directions, *inter alia*, to "person/s using any aerodrome or engaged in aircraft operations, air traffic control, maintenance and operation of aerodrome, communication, navigation, surveillance and air traffic management facilities and safeguarding civil aviation against acts of unlawful interference", where the DGCA or said officer is "satisfied that in the interest of safety of India or for securing the safety of aircraft operations, it is necessary to do so."

11. It is also necessary to notice certain provisions of the Rules.

Rule 3A of the Rules reads as under:

**3A. Delegation of Powers** - (1) Any power or duty conferred or imposed by these rules on the Central Government may be exercised or discharged by the

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Central Government or by any person authorised by it in that behalf;

(2) Any power or duty conferred or imposed by these rules on the Director-General may be exercised or discharged by the Director-General or by any other person authorised by the Central Government in that behalf;

(3) The exercise or discharge of any power or duty conferred or imposed by the rule 19 or part V or part VI of these rules on the Central Government by an authority outside India specified by the Central Government in that behalf, shall have effect in India as though the powers have been exercised or the duty discharged by a person authorised in this behalf under sub-rule(1) of this rule."

12. Rule 29C of the Rules, reads as under:

**"29C. Adoption of the Convention and Annexes.-** (1) The Director-General may lay down standards and procedures not inconsistent with the Aircraft Act, 1934 (22 of 1934) and the rules made thereunder to carry out the Convention and any Annex thereto.

(2) The Director-General shall formulate the State Safety Programme and oversee its implementation.

Explanation: For the purposes of this sub-rule, "State Safety Programme" means an integrated set of requirements and activities aimed at improving safety. "

13. Rule 50 of the Rules deals with the issue of certificate of airworthiness. Rule 50A of the Rules stipulates the conditions

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necessary for the certificate of airworthiness and overall inspection of aircraft. Rule 55 of the Rules deals with suspension or cancellation of a certificate of airworthiness. Rule 133A of the Rules stipulates the directions that may be issued by the DGCA.

The same reads as under:

**"133A. Directions by Director-General-** (1) The Director-General may, through Notices to Airmen (NOTAMS), Aeronautical Information Publication, Aeronautical Information Circulars (AICs), Notices to Aircraft Owners and Maintenance Engineers and publication entitled Civil Aviation Requirements), issue special directions not inconsistent with the Aircraft Act, 1934 (22 of 1934) or these rules, relating to the operation, manufacture, use, possession, maintenance or navigation of aircraft flying in or over India or of aircraft registered in India.

(2) The Civil Aviation Requirements under sub-rule(1) shall be issued after placing the draft on the website of the Directorate General of Civil Aviation for a period of thirty days for inviting objections and suggestions from all persons likely to be affected thereby;

Provided the Director General may, in the public interest and by order in writing, dispense with the requirements of inviting such objections and suggestions or reduce the period for submitting such objections and suggestions.

(3) Every direction issued under sub-rule(1) shall be complied with by the person or persons to whom such direction is issued.

(4) The Director-General may, by general or special order in writing, exempt any aircraft or class of aircraft or any person or class of persons from the operation of the directions given in the publication entitled Civil Aviation Requirements under this rule, either wholly or partially,

subject to such conditions, if any, as may be specified in such order."

14. Reliance is placed by the appellants on the Gazette Notification dated 04.10.1994 issued by the Ministry of Civil Aviation and Tourism under sub-rule (2) of Rule 3A of the Rules. In the said notification, the officers authorized by the Central Government to exercise such powers of the DGCA have been set out. A perusal of the said notification indicates that the powers under Rule 3A of the Act can be exercised by various officers i.e., Deputy Director General of Civil Aviation (except Deputy Director General of Civil Aviation Research and Development), Chief Flight Operations Inspector, Deputy Flight Operations Inspector, Senior Flight Operations Inspector, Flight Operations Inspector and Director of Operations (Flight Standards).

15. The appellants had placed reliance on a communication dated 12.02.2024 issued by the Deputy Director General, which has been issued for the DGCA. The said communication dated 12.02.2024 has been produced as Annexure-R5 along with the statement of objections filed in W.P.No.6098/2024. It is clear that the communication dated 12.02.2024 has been issued by the

Deputy Director General for DGCA who is duly authorized to issue the said communication. The first impugned communication has been issued by the Assistant Director of Airworthiness for the Deputy DGCA. It is clear and forthcoming that the first impugned communication merely states what has been mentioned in the communication dated 12.02.2024.

16. One of the primary contentions put forth by the learned counsel for the writ petitioners is that the first impugned communication has been issued by the Assistant Director of Airworthiness, who is not empowered to issue the said communication. It is forthcoming from the first impugned communication that it has been signed by the Assistant Director of Airworthiness for the Deputy DGCA. The action to be taken which has been mentioned in the first impugned communication dated 14.02.2024 is in terms of the communication dated 12.02.2024. Hence, it cannot be stated that the first impugned communication has been issued by an authority which did not have the power to do so.

17. It is the contention of the writ petitioner as well as the finding recorded by the learned Single Judge that the direction issued by

the appellants were not in compliance of Rule 133A(1) of the Rules.

18. As noticed above, Rule 133A(1) of the Rules entitles the DGCA to issue directions consistent with the provisions of the Act. Such directions could be issued to Airmen, aircraft owners, maintenance engineers etc., relating to the 'operation, manufacture, use, possession, maintenance or navigation of the aircraft flying in or over India or of aircraft registered in India'. Admittedly, the aircraft owned and operated by the petitioners are registered in India and the DGCA is entitled to issue directions which bind the writ petitioners. However, the directions issued under Rule 133A of the Rules are in the nature of Civil Aviation Requirements [**CAR**].

19. Sub-rule (2) of Rule 133A of the Rules mandates the CARs issued under sub-rule (1) of Rule 133A shall be issued 'after placing the draft on the website of the DGCA for a period of 30 days for inviting objections'. The proviso to sub rule (2) of Rule 133A enables the DGCA 'in public interest and by an order in writing' to dispense with the requirements of inviting such

objections and suggestions or reduce the period for submitting such objections and suggestions.

20. Admittedly, in the present case, no such order in writing has been passed/issued by the DGCA, either dispensing with the requirement of inviting of such objections or reducing the period for submitting the objections. In the present case, admittedly, the drafts of the various CARs issued having not been placed on the website of the DGCA before the same was issued to the writ petitioners. Under the circumstances, the drafts of the impugned communications which are in the nature of CARs, not having been published in the website of the DGCA, or no order dispensing the requirement of inviting objections having been passed by the DGCA, it cannot be said that the impugned communicators have been issued in compliance if the stipulations contained under 133A of the Rules. Hence, the decision of the learned Single Judge quashing the impugned communications cannot be faulted.

21. It is also relevant to notice the operative portion of the finding of the learned Single Judge. The same reads as under:

**ORDER**

- i. The instant petitions are allowed.
- ii. The impugned orders dated 14.02.2024 and bearing No.BLR-11011(19)/1/2024-DAW-BLR and 22.02.2024 - bearing No. FTS/51/ADM/2011-12/788 are hereby quashed.
- iii. The shortfalls raised by the respondents on 08.04.2024, 19.04.2024, 21.05.2024 are hereby quashed.
- iv. The shortfalls raised by the respondents at Sl. Nos. 1, 2, 3 and 4 of the memo dated 01.07.2024 are hereby quashed.
- v. The respondents are hereby directed to renew the special certificate of airworthiness in respect of the aircraft of the petitioner in W.P. 14244/2024, within two weeks from the date of receipt of this order.
- vi. In light of the submissions made by the learned ASG that the impugned notification demanded prompt compliance in the interests of safety of all stakeholders involved in the civil aviation operations, liberty is nevertheless reserved with the respondents to proceed in accordance with law, and more particularly, in adherence to the principles of natural justice.

22. It is to be noticed that the learned Single Judge has, apart from quashing the impugned communications and the shortfalls has also directed renewal of special certificate of airworthiness in respect of Writ petitioner in W.P. No.14244/2024. It is further relevant to note the prayers sought for by the writ petitioners in the writ petitions. They are as under:

(i) Prayer in W.P. No.8690/2024

"i) Issue a writ of certiorari or any other writ, order or direction quashing the notification dated 14.02.2024 bearing No. BLR-11011(19)/1/2024-DAW-BLR (Annexure A) passed by the Respondent No.4.

ii) Issue a writ of certiorari or any other writ, order or direction quashing the notification/letter issued by the Respondents No. 1 dated 22.02.2024 bearing No. FTS/51/ADM/2011-12/788 (Annexure C).

iii) Direct the respondents to pay appropriate damages for the injuries caused to it and the cost incurred for this petition.

(iv) Direction for an inquiry to be initiated against the arbitrary actions of the errant officers of the respondents.

v) Any such order, directions as may deem fit in the interest of justice and equity."

(ii) Prayer in W.P. No.14244/2024

"i) Issue a writ of certiorari or any other writ, order or direction quashing the shortfall dated 8.04.2024 (Annexure K) passed by the Respondent No.1-3.

ii) Issue a writ of certiorari or any other writ, order or direction quashing the shortfall dated 19.04.2024 (Annexure M) passed by the Respondent No. 1-3.

iii) Issue a writ of certiorari or any other writ, order or direction quashing the shortfall dated 21.05.2024 (Annexure P) passed by the Respondent No. 1-3.

iv) Direct the respondents to renew of special certificate of airworthiness in favour of the petitioners microlight aircraft is concerned.

v) Direct the respondents to pay appropriate damages for the injuries caused to it and the cost incurred for this petition.

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vi) Direction for an inquiry to be initiated against the arbitrary actions of the errant respondents 1-3 officers.

vii) Any such order, directions as may deem fit in the interest of justice and equity."

(iii) Prayer in W.P. No.6098/2024

"i) Issue a writ of certiorari or any other writ, order or direction quashing the order dated 14.02.2024 (Annexure A-1) and the subsequent directions and orders issued by the Respondents No. 2 and 3 at Annexure A-3 and Annexure A-4.

ii) Direct the respondents to pay appropriate damages for the injuries caused to it and the cost incurred for this petition.

iii) Direction for an inquiry to be initiated against the arbitrary actions of the errant officers of the respondents.

iv) Any such order, directions as may deem fit in the interest of justice and equity."

23. The primary relief sought for in WP.No.8690/2024 and WP.No.6098/2024 is with regard to the impugned communication. In the said writ petitions, apart from seeking for quashing of the impugned communications, the writ petitioners have asked for specific reliefs to enable them to operate the aircrafts. The shortfalls which have been impugned in WP.No.14244/2024 were issued after passing of the interim order dated 25.03.2024 in WP.No.8690/2024. It is the case of the writ petitioner that despite the interim order dated 25.03.2024 passed in WP.No.8690/2024,

the DGCA and its officials issued the said shortfalls, which prevented them from flying/operating their aircraft.

24. In justification of the prayers made to enable the writ petitioners to operate the aircraft, detailed submissions have been made by both the parties with regard to the stipulations regarding the use of Mogas in various aircrafts which are the subject matter of the impugned communications as well as various short falls issued by the appellants. In this context, it is relevant to note that the nature of fuel to be used in the aircraft vis-à-vis the type of aircraft are highly technical in nature.

25. As noticed above, the appellants are empowered under the provisions of the Act and Rules to issue CARs. However, the impugned communications have been issued in violation of Rule 133A(1) of the Rules. Although the learned Single Judge has directed renewal of the Special Certificate of airworthiness in respect of the writ petitioners in WP No.14244/2024, while leaving it open to the appellants to proceed in accordance with law, it is clear that the authorities, who issued the impugned communications are empowered under Section 5A of the Act to issue directions for securing the safety of aircraft operations. The

learned Single Judge has rightly held that the directions are to be issued in accordance with Rule 133A of the Rules. Hence, as noticed above, the impugned communications which are in the nature of CARs have not been issued by complying with the procedural requirements as contemplated under Rule 133A of the Rules.

26. Whilst it is the vehement contention of the writ petitioners that the stipulations with regard to the use of MoGas in the aircraft operated by them, as has been specified by the appellants, are not required to be followed and various aspects/reasons have been pointed out in justification of the same, it would not be appropriate for this Court, in exercise of its jurisdiction under Article 226 of the Constitution of India to adjudicate upon the said aspect of the matter, without the concerned authorities first having examined the same. This is more so in view of the fact that the concerned authorities, by virtue of Section 5A of the Act read with Rule 133A of the Rules, have the requisite power to issue directions as may be necessary for the safety of aircraft operations. The relief for quashing of the impugned communications having rightly been granted, since the procedure as required under Rule 133A of the

Rules not having been followed, it is expedient that the relief as sought for by the writ petitioners with regard to the use of aircrafts not be granted until the concerned statutory authorities consider the grievance of the petitioners with regard to the use of MoGas in their aircraft.

27. In view of the aforementioned, the order of the learned Single Judge quashing the impugned communications dated 14.02.2024 and 22.02.2024 are affirmed. Further, the order of the Single Judge quashing the shortfalls is also affirmed. However, the direction of the learned Single Judge to renew the certificate of airworthiness in respect of aircraft of the petitioner in W.P.No.14244/2024 is set aside. The concerned authorities shall consider the grievance of the writ petitioner with regard to the specifications mentioned regarding use of the fuel as stated in the impugned communications. The writ petitioners shall also be entitled to put forth their objections as to the specifications for the use of fuel as mentioned in the impugned communications within two weeks from the date of receipt of a copy of this order. The concerned authorities shall pass appropriate orders (which are to be construed

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as CARs under Rule 133A of the Rules) within a period of two weeks from the date of receipt of said objections.

28. The writ appeals are disposed of by modifying the order passed by the learned Single Judge to the extent as ordered hereinabove. In view of the same, the contempt petition stands closed.

29. Pending Interlocutory Applications, if any, stand disposed of.

**SD/-  
(VIBHU BAKHRU)  
CHIEF JUSTICE**

**SD/-  
(C.M. POONACHA)  
JUDGE**

BS/nd