

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE K. VINOD CHANDRAN

FRIDAY, THE 13TH DAY OF FEBRUARY 2015/24TH MAGHA, 1936

WP(C).No. 27490 of 2014 (I)

PETITIONER(S):

1. DR.K.VIJAYAKUMAR, AGED 57 YEARS,
S/O.K.KUTTAPPAN, BINDU NIVAS, AZHOOR
CHIRAYINKIL THIRUVANANTHAURAM
2. DR. R.VIJAYAKUMAR AGED 58 YEARS,
S/O.RAMAN NATARAJAN, GAYATHRI,
MANNANTHALA P.O. THIRUVANANTHAPURAM
3. GIRISH CHANDRAN, AGED 53 YEARS,
S/O.LATE RAGHAVAN NAIR, NANDANAM
KOLARAKKANDY EDAKKAULAM P.O, CALICUT-673 306

BY ADVS.SRI.P.S.SREEDHARAN PILLAI
SRI.T.K.SANDEEP
SRI.ARJUN SREEDHAR
SRI.ARUN KRISHNA DHAN
SRI.JOSEPH GEORGE(MULLAKKARIYIL)

RESPONDENT(S):

1. THE MAHATMA GANDHI UNIVERSITY
REP.BY ITS REGISTRAR, PRIYADARSHINI HILLS
P.O.KOTTAYAM-686 560
2. UNION OF INDIA
REP.BY ITS SECRETARY
MINISTRY OF HUMAN RESOURCE DEVELOPMENT
NEW DELHI-110 001.
3. THE STATE OF KERALA
REPRESENTED BY SECRETARY
DEPARTMENT OF HIGHER EDUCATION, SECRETARIAT
THIRUVANANTHAPURAM-695001
4. UNIVERSITY GRANTS COMMISSION
35, FERROZ SHAH ROAD, NEW DELHI-110 002.
- Addl.5.
5. THE ALL KERALA PRIVATE COLLEGE TEACHERS' ASSOCIATION
STATE COMMITTEE OFFICE, MATHRUBHUMI ROAD, VAMCHIYOOR
THIRUVANANTHAPURAM - 695 035
REPRESENTED BY SECRETARY, PROF. TOMICHAN JOSEPH
(ADDL.R5 IMPEADED AS PER ORDER DATED 12.11.2014 IN IA 14632/14)

WP(C).No. 27490 of 2014 (I)

-2-

R2 BY ADV. SRI.N.NAGARESH, ASSISTANT SOLICITOR GENERAL
R4 BY ADV. SRI.S.KRISHNAMOORTHY, CGC
ADDL.5 BY ADV. SRI.P.DEEPAK
R1 BY ADV. SRI.VARUGHESE M.EASO, SC, M.G.UNIVERSITY
BY GOVERNMENT PLEADER SRI. BIJU MEENATTOOR

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 29.01.2015
ALONG WITH WPC. 35231/2014 AND WPC. 1722/2015, THE COURT ON 13-02-2015
PRONOUNCED THE JUDGMENT.

APPENDIX

PETITIONER(S)' EXHIBITS

EXT.P1 -A TRUE COPY OF THE CERTIFICATE DATED 13-08-2002 ISSUED BY THE 1ST RESPONDENT UNIVERSITY

EXT.P2 -A TRUE COPY OF THE RENEWED MEMORANDUM OF UNDERSTANDING DATED 10-3-2010 ENTERED INTO BETWEEN 1ST RESPONDENT UNIVERSITY AND 2ND PETITIONER

EXT.P3 -A TRUE COPY OF THE LETTER NO.16284/D1/2000/H.EDN. DATED 29-06-2000 ISSUED BY PRINCIPAL SECRETARY, GOVERNMENT OF KERALA

EXT.P4 -A TRUE COPY OF THE E-MAIL DATED 16-6-2014 SENT BY THE 1ST RESPONDENT

EXT.P4(a) - A TRUE COPY OF THE E-MAIL DATED 18-09-2014 SENT BY 1ST RESPONDENT SEEKING THE DETAILS OF PROVISIONAL LIST OF STUDENTS COURSE WISE ADMISSION 2014-15 TO OFF CAMPUS COURSE

EXT.P5 -A TRUE COPY OF THE ADMISSION NOTIFICATION FOR ACADEMIC YEAR 2014-15 ISSUED BY THE 1ST RESPONDENT UNIVERSITY PUBLISHED IN KERALA KAUMUDI DAILY DATED 10-10-2014

EXT.P6 -A TRUE COPY OF THE JUDGMENT DATED 23-7-2003 IN OP NO.26620/2002 OF THIS HON'BLE COURT

EXT.P7 -A COMPUTER COPY OF THE ORDER DATED 17-11-2003 IN SLP(CIVIL) NO.20753/2003 OF THE HON'BLE SUPREME COURT OF INDIA

EXT.P8 -A TRUE COPY OF THE ORDER DATED 13-12-2001 ISSUED BY CHANCELLOR OF 1ST RESPONDENT UNIVERSITY

EXT.P9 -A TRUE COPY OF THE OFFICE MEMORANDUM DATED 16-5-2013 ISSUED BY THE GOVERNMENT OF INDIA

EXT.P9(a) - A TRUE COPY OF THE LETTER DATED 28-5-2013 ISSUED BY THE SECRETARY UGC

EXT.P10 - A TRUE COPY OF THE ORDER DATED 01-12-2013 GRANTING PERMISSION TO AMITY UNIVERSITY TO OPEN INTERNATIONAL OFF CAMPUS CENTER IN THE U.K.

EXT.P10(a) - A TRUE COPY OF THE LIST OF INTERNATIONAL CAMPUS CENTRES OF AMITY UNIVERSITY AVAILABLE ON ITS WEBSITE

EXT.P11 -A TRUE COPY OF THE LETTER DATED 19-07-2014 SENT THROUGH EMAIL BY THE 1ST RESPONDENT UNIVERSITY

EXT.P12 - A TRUE COPY OF THE LETTER DATED 08-07-2014 ISSUED BY THE UNIVERSITY GRANTS COMMISSION

EXT.P13 - A TRUE COPY OF THE ORDER DATED 30-07-2014 ISSUED BY GOVERNMENT OF INDIA

EXT.P14- A TRUE COPY OF THE LETTER DATED 3.7.2014 ISSUED BY THE VICE CHANCELLOR, 1ST RESPONDENT UNIVERSITY

EXT.P15- A TRUE COPY OF THE REPRESENTATION DATED 17.9.2014 SENT BY DUBAI MALAYALEE SAMAJAM

EXT.P16- A TRUE COPY OF THE PRESS RELEASE DATED 26.2.2013

EXT.P17- A TRUE COPY OF THE ORDER DATED 21.10.2014 ISSUED BY DEPUTY REGISTRAR (SDE) 1ST RESPONDENT UNIVERSITY

EXT.P18- A TRUE COPY OF THE NOTIFICATION NO.SDE 11/2/105/2013-14 DATED 24.7.2013 ISSUED BY 1ST RESPONDENT UNIVERSITY

EXT.P19- A TRUE COPY OF THE OFF CAMPUS OPERATIONS MANUAL ISSUED BY R1, UNIVERSITY

ANNEXURES

R1(a)- TRUE COPY OF THE ORDER DATED 7.8.2014 IN WP(C).20365 OF 2014 OF THIS HONOURABLE COURT

R1(b)- TRUE COPY OF JUDGMENT DATED 14.8.2014 IN WP(c).20365 OF 2014 OF THIS HONOURABLE COURT

//True Copy//

P.A. To Judge

K.VINOD CHANDRAN, J

W.P.(C).Nos. 27490 & 35231 of 2014 and
1722 of 2015

Dated 13th February, 2015

JUDGMENT

Whether a University constituted by the State Legislature has the authority to commence and continue Off-Campus centres; in the present case, beyond the shores of the country, is the question raised.

2. The petitioners in W.P.(C).27490 of 2014 are Centre Co-ordinators of the Off-Campus centres of the Mahatma Gandhi University, the 1st respondent, established in the Middle east countries. The petitioners in W.P.(C).35231 of 2014 are students of one of such Off-Campus centres, being that of the 1st petitioner in the first case. The petitioners in W.P.(C).1722 of 2015, are students of another Off-Campus centre, affiliated to the M.G University. Since the same

question is urged, W.P.(C).27490 of 2014 is taken as the leading case and the documents referred to, unless otherwise specified, are those produced in the said writ petition.

3. The additional 5th respondent being the Private College Teachers Association seek to resist the continuance of such Off-Campus centres. The University remains neutral insofar as it cannot disown the Off-Campus centres started under its aegis and cannot endorse its continuance for reasons of the regulatory body, the University Grants Commission, the 4th respondent herein having spoken against it. UGC stands by its orders which are challenged in the above writ petitions.

4. Both the opposing parties contend that the issue is no longer *res integra* and has been answered in their favour by binding precedents. The petitioners rely on Ext.P6, being a judgment

of the Division Bench of this Court in O.P.26620 of 2002 dated 23.07.2003. They also seek to distinguish the judgment of another Division Bench of this Court in W.P.(C).9779 of 2014 dated 20.12.2014, in which the very same issue, with respect to the Calicut University came up for consideration. The additional 5th respondent relies on the said decision and on the decisions of the Honourable Supreme Court reported in Prof.Yashpal and Another v. State of Chhattisgarh and Others (2005 (5) SCC 420), Rai University v. State of Chhattisgarh and Others (2005 (7) SCC 330), and Kurmanchal Institute of Degree and Diploma and Others v. Chancellor, MJP. Rohilkhand University and Others (2007 (6) SCC 35), to contend that the decision relied on by the petitioners and produced as Ext.P6 would be of no avail as of now.

5. The Off-Campus centres are said to have been commenced by the M.G University,

sometime in the year 2002, as is evidenced by Ext.P1 certificate issued by the University, appointing the 1st petitioner as co-ordinator of the Off-Campus Academic centre at Ajman, UAE. The memorandum of understanding was entered into separately with each of the Off-Campus centres, one of which is produced at Ext.P2. The stamp of approval of the Government of Kerala is urged on the basis of Ext.P3, which reflected its opinion, that the setting up of such centres would be helpful to the non resident Keralites for continuing their studies abroad.

6. That centres were commenced and continued under the aegis of the University and the students were also issued with certificates of the University, remains undisputed. In the case of the very same University, the additional 4th respondent had challenged the setting up of such centres, which eventually resulted in the challenge being negatived by a Division Bench of

this Court by Ext.P6. The source of power to conduct such Off-campus Centres was specifically traced to Section 2(12) of Chapter 42 of the M.G.University Statutes, 1997, which provided for setting up of Distance Education Departments, is the contention urged by the petitioners herein.

7. Petitioners contend that despite the responsibility of regulating Distance Education having been conferred on the UGC in the year 2013, till date they have not come out with any regulations. Ext.P13 was relied on to contend that measures had to be taken for effectively regulating Distance Education and On-line Education and the need for the same was emphasized therein. The M.G University too had sought for continuance of the Off-campus centres, which has even been brought to the notice of the Honourable Minister for Human Resources Development. The petitioners seek

continuance of the Off-Campus centres and seek setting aside of Ext.P12 direction of the UGC, and the consequent direction of the University at Ext.P11. They also challenge the admission notification (Ext.P5) for Off-Campus centres-2014-15, notified by the 1st respondent University, insofar as the same is confined to the Academic centres within the State of Kerala. The petitioners claim that admissions were carried on in June 2014 itself and hence the students, at least for the present academic year, cannot be prejudiced and the Off-Campus centres cannot be discontinued with immediate effect.

8. A reading of Ext.P6 does not disclose such power having been traced to any specific provision of the statutes. The Division Bench primarily noticed that, the petitioner therein was unable to refer to any statutory provision of law which debars the University from

imparting education through Off-campus institutions. Then, it was noticed that the franchisees, who would be adversely affected; despite being named in the writ petitions, were not impleaded. It was observed that the Division Bench had by its order dated 08.04.2002, directed the UGC to hear the University and the franchisees before taking appropriate decision. It was conceded by the counsel for the UGC, that no order as directed therein had been issued. Even a hearing was not granted and the Division Bench was considerably persuaded by the fact that the academic program of the University is kept under suspension indefinitely. In the interest of education especially since the program was not shown to be, in infraction of any rule or law, the challenge stood negatived and the Original Petition dismissed.

9. The conduct of Off-Campus centres beyond the territorial jurisdiction of the

University was found to be, without power and authority in W.P.(C).9779 of 2014. The distinction drawn by the petitioners is insofar as the above binding precedent of the Division Bench having not considered the issue of the UGC imposing a total ban on conducting Off-Campus centres, when it acts only as a regulatory body. The mere fact that the UGC has not come out with the norms and regulations to govern the Distance Education program cannot, by that reason alone, stand against the University conducting the Off-Campus Centres, is the argument. As was noticed by the earlier Division Bench, the interest of education which is amply protected by the University itself, cannot wait till the UGC chooses to come out with such regulations, urges the learned counsel appearing for the different petitioners.

10. Earlier, Distance Education in the various Universities, was regulated by the

Distance Education Council (DEC) of the Indira Gandhi National Open University (IGNOU) constituted under the statute 28 of the IGNOU Act. However, on repelling of statute 25, the DEC was dissolved and the Ministry of Human Resources Development, Government of India, directed the UGC and All India Council of Technical Education (AICTE) to take up the role and responsibility of DEC of IGNOU, as envisaged in the respective acts. The aforesaid decision is evidenced from Ext.P9 issued on 16.05.2013.

11. As early as on 28.05.2013, the UGC had come out with a communication to the Universities to ensure that no further affiliation/approvals be granted to any new centre to open distance learning programme/courses till regulations are notified by the UGC. Specific directions were issued by the UGC on 08.07.2014 by Ext.P12, regulating conduct of Distance Education Programmes outside

the territorial jurisdiction of the respective Universities. By Ext.P12, it was specifically directed that the M.G University close down its Off-Campus centres in India as well as abroad. Ext.P11 was the communication issued by the University dated 19.07.2014 to all the Off-Campus centres including those of the petitioners', prohibiting admission of students for the year 2014-15 academic year in the Off-Campus centres.

12. The legal position stands considerably illumined, subsequent to Ext.P6 by the decisions of the Honourable Supreme Court placed before this Court by the learned counsel for the additional 5th respondent. **Prof.Yashpal** (supra) dealt with the establishment of Self Financing Private Universities for higher education. Legislation, under challenge before the Honourable Supreme Court, by section 5 empowered incorporation and establishment of a

University by issuance of a notification in the gazette. Section 6 permitted affiliation of any college or institution and setting up of more than one campus with the prior approval of the State Government. The legislation itself was challenged *inter alia* for having completely done away with the control of the various regulatory authorities like UGC, AICTE etc. The conferment of a legal status to such Universities which were carried on; even from a single room premises, was assailed.

13. In the present case, no challenge against the constitution of the University is raised nor can the competence of the University, to conduct courses and award certificates, be considered in the present writ petition. In **Prof. Yashpal** (supra), Section 5 and 6 were struck down and the Universities so notified were held to be not properly constituted. Though in that respect there is a specific distinction,

what assumes significance is the findings of the Honourable Supreme Court that, despite the power for incorporation of Universities being conferred on the State Legislature, the co-ordination and determination of standards of higher education would be in the exclusive premise of the Parliament.

14. Paragraph 33 of **Prof.Yashpal** (supra) reads as under :-

The consistent and settled view of this Court, therefore, is that in spite of incorporation of universities as a legislative head being in the State List, the whole gamut of the university which will include teaching, quality of education being imparted, curriculum, standard of examination and evaluation and also research activity being carried on will not come within the purview of the State Legislature on account of a specific entry on co-ordination and determination of standards in institutions for higher education or research and scientific and technical education being in the Union List for which Parliament alone is competent. It is the responsibility of Parliament to ensure that proper standards are maintained in institutions for higher

education or research throughout the country and also uniformity in standards is maintained.

The power to be so exercised was traced in the following manner, in paragraph 46 :-

Entry 66 which deals with coordination and determination of standards in institutions for higher education or research and scientific and technical institutions is in the Union List and Parliament alone has the legislative competence to legislate on the said topic. The University Grants Commission Act has been made with reference to Entry 66.

It is the duty and responsibility of the University Grants Commission, which is established by Section 4 of the UGC Act, to determine and coordinate the standard of teaching curriculum and also level of examination in various universities in the country.

15. The power of the University to establish an Off-Campus centre was examined as follows in paragraph 60:-

Dr.Dhavan has also drawn the attention of the Court to certain other provisions of the Act which have effect outside the State of Chhattisgarh and

thereby give the State enactment an extraterritorial operation. Section 2 (f) of the amended Act defines "off-campus centre" which means a centre of the university established by it outside the main campus (within or outside the State) operated and maintained as its constituent unit having the university's complement of facilities, faculty and staff. Section 2(g) defines "off-shore campus" and it means a campus of the university established by it outside the country, operated and maintained as its constituent unit, having the university's complement of facilities, faculty and staff. Section 3(70) says that the object of the university shall be to establish the main campus in Chhattisgarh and to have study centres at different places in India and other countries. In view of Article 245(1) of the Constitution, Parliament alone is competent to make laws for the whole or any part of the territory of India and the legislature of a State may make laws for the whole or any part of the State. The impugned Act which specifically makes a provision enabling a university to have an off-campus centre outside the State is clearly beyond the legislative competence of the Chhattisgarh Legislature.

16. The three Judges bench in **Prof. Yashpal** (supra) having struck down Section 5 and 6 of the impugned Act as ultra vires; was concerned with protection of students who were admitted to

different academic programmes under the notified "Private Universities". The State Government was directed to take appropriate measures, to have the institutions, the validity of which stood extinguished by the judgment, to be affiliated to the already Existing State Universities (ESU) in Chhattisgarh. The Government hence, made amendment to the Legislation wherein such institutions were permitted to be admitted to the privileges of an ESU subject, however, to the territorial jurisdiction of such Universities.

17. One of the said Universities as also certain students challenged the said amendment insofar as restriction was provided to affiliation on the basis of the jurisdiction of the ESUs. That was again considered by the very same three-judge bench in which it was clarified that no University could affiliate a centre or institution outside the jurisdiction

conferred on such University. The challenge against the amendment was negatived upholding the affiliation, only on the basis of the jurisdiction of the ESUs in **Rai University v. State of Chhattisgarh and Others (2005 (7) SCC 330).**

18. The question of jurisdiction with respect to opening an Off-Campus centre again came up before the Honourable Supreme Court in **Kurmanchal Institute of Degree and Diploma** (supra), which held that -

Although we are inclined to agree with the learned counsel appearing on behalf of the appellants that for all intent and purport the requirements of law for making an ordinance by the Executive Council of the University had been done pursuant whereto new courses could be opened, we are, however unable to persuade ourselves to accept the contention that such study centres should be permitted to be operated beyond the territorial jurisdiction of the University. Section 5 of the Act clearly states in regard to the territorial jurisdiction of the University. In terms of the Schedule appended to the Act, the

territorial jurisdiction of the University is confined only to seven districts, Nainital not being one of them. Each university in the country which is recognized under the University Grants Commission Act must have their own territorial jurisdiction save and except for the Central Universities or specified in the legislative or parliamentary Act.

The submission of the learned counsel that for the purpose of running a distance education course, extraterritorial activities must be carried out may not be entirely correct. It is one thing to say that the university takes recourse to the correspondence courses for conferring degrees or diplomas but it would be another thing to say that study centres would be permitted to operate which requires close supervision of the university. In a study centre, teachers are appointed, practical classes are held and all other amenities which are required to be provided for running a full-fledged institution or college are provided. Such an establishment, in our opinion, although named as a study centre, and despite the fact that the course of study and other study materials are supplied by the university cannot be permitted to be established beyond the territorial jurisdiction of the University. In fact, it is not situated in the State of U.P and thus, is beyond the provisions of the Act.

A statutory authority, it is well known, must act within the four corners of the statute. A fortiori it has to operate within the boundaries of the territories within which it is to operate under the statute. Such territorial jurisdiction of the university must be maintained as otherwise chaos would be

created. If distance education of such a nature is to be encouraged, the only course would be to suitably amend the provisions of the Act.

19. On the basis of the authoritative pronouncement of the Honourable Supreme Court one has to look at the power conferred on the University, to carry on such Off-campus centres. The Division Bench in Ext.P6 proceeded on the premise that what is not prohibited could be carried on and considerable departure from such a reasoning is available, on the precedents of the Honourable Supreme Court noticed above.

20. The territorial jurisdiction of the respondent University is defined in Section 4 of the M.G.University Act, 1985, which reads as under -

(4). Territorial limits

(1). The jurisdiction of the University shall extend to the Kottayam,

Ernakulam, and Idukki revenue districts, the Kuttanad taluk of the Alleppey revenue district and the Kozhencherry, Mallappally, Thiruvalla and Ranni taluks of the Pathanamthitta revenue districts of the State.

(2). No education institutions constituted beyond the territorial limits of the University shall, save with the sanction of the Chancellor and the Government, be affiliated to the University and no educational institution within the territorial limits of the University shall, save with the sanction of the Chancellor and the Government, seek or continue affiliation to any other University established by law.

21. The mere fact that the University has the power to establish a Distance Education Department does not enable it; under Chapter 42 of its Statutes of 1997, the power to exercise its jurisdiction, essentially of imparting training and awarding degrees, beyond the territorial limits as stipulated in the Act; a creature of which the University is. The mere fact that the Off-campus centres were established and continued in the earlier years cannot lead to an inference that the same was established properly and on appropriate

authority.

22. **Prof.Yashpal** (supra) noticed the establishment of Off-Campus centres outside the State; the legislature of which State had constituted the University. Any co-ordination of education, beyond a particular State, was held to be the exclusive premise of the Union Parliament. The Division Bench in W.P.(C). 9779 of 2014 considered the identical issue of Off-Campus centres, established on the basis of MOUs entered into between the Calicut University and third parties. The Division Bench specifically noticed a communication of the UGC to all Universities after the pronouncement of the Honourable Supreme Court in **Prof.Yashpal** (supra); which deprecated the establishment of private Universities of the State Governments and the opening up of Off-Campus Study Centre in the name of Distance Education Programs, outside the State. Such action on the part of the State

Universities also, beyond the territorial jurisdiction of the respective State Governments, was held to be incompatible in the light of the observations made by the Honourable Supreme Court.

23. The setting up of Off-Campus centres over-seas, by the Calicut University, was considered in W.P.(C).9779 of 2014; by the Division Bench of this Court on the same set of background facts; in a public interest litigation. The attendant circumstances were similar insofar as the cause of action of the challenge, was the orders of the UGC, challenged herein too. The Division Bench of this Court considered the orders of the DEC under the IGNOU as also the orders of the UGC after dissolution of the DEC; keeping in mind the authoritative pronouncement of the Honourable Supreme Court in **Prof.Yashpal** (supra). It was found that Calicut University does not have the power under its

statutes to open Off-Campus centres outside the territorial jurisdiction conferred on it.

24. The action initiated by the UGC, after the dissolution of the DEC, which is also impugned herein, was considered by the Division Bench elaborately and the running of Off-Campus centres overseas, by the Calicut University was found to be against the statutory provisions of the Act, which constituted the University. The provisions are in *pari materia* and the jurisdiction of the respondent University is akin to that of the Calicut University, both having different areas of jurisdiction within the State itself; and none outside the State.

25. The contention that UGC being a regulatory body cannot ban the conduct of the Off-Campus centres, is not at all relevant since this Court, following the aforesaid Division Bench decision, has found that the Statute does

not authorize the University to conduct such Off-Campus centres. Even if the UGC brings in regulations for conduct of Off-Campus centres; the Universities could do it under such Regulations only if there is power available to the University under the statute, for establishing such Off-campus centres.

26. The remaining question is with respect to the continuance of the students on grounds of equity. Students urged that they were not at fault insofar as seeking admission in a recognized course, in a validly constituted Off-Campus centre, and could not be faulted for having got themselves admitted to such Off-Campus centres which were continued for long, in the Middle East countries. The petitioners/students had been carrying on studies outside the country. Even when exercising its equitable jurisdiction this Court would not endeavour to tread upon academic

matters and issue directions which would be contrary to the statutory provisions. The Honourable Supreme Court has oftener than ever declared the said position and restrained itself, as also cautioned the Courts subordinate to it, from embarking on such equitable exercise in violation of the statutory prescription.

27. In the present case, one other fact assumes significance. Petitioners in W.P.(C). 27490 of 2014 had, just prior to the present writ petition, moved W.P.(C).20365 of 2014 for the very same relief, sans the challenge to Ext.P5 notification. Exts.P12 and P11 were produced as Exts.P3 and P4 in the said writ petition and a *certiorari* sought for. It was asserted in the said writ petition also, that admissions were made even for the academic year 2014-15, in June 2014 itself. An interim order was passed in the said writ petition staying

Exts.P11 and P12 (Exts.P3 and P4); however restrictig the stay to the students admitted in the Academic years prior to 2014-15. Hence no admission of 2014-15 could be continued even as per the interim order.

28. The said writ petition was filed on 06.08.2014 and the interim order was passed on 07.08.2014. This Court has called for the JP's in the said case. Specific contention in paragraph 10 was that :

“Moreover, the 5th respondent vide Ext.P4 has directed not to admit students for 2014-15 academic year under distance education mode, even though students already took admission through these overseas Centres in June 2014 itself before going for summer vacation (July-August).”

29. The said writ petition was withdrawn with liberty; presumably to raise a challenge at the appropriate time. The present writ

petition has been filed purportedly on the separate cause of action of a notification, published by the University, at Ext.P5, for admission to the year 2014-15 in which only Off-campus centres within the State are included. Ext.P5 notification is a necessary consequence of Exts.P11 and P12 and cannot in fact, raise any fresh cause of action on the petitioner. The earlier writ petition, in which by the interim order, admissions to 2014-15 were restricted; was withdrawn with liberty. What is the consequence of such liberty reserved, is a question to be examined.

30. Evidently withdrawal of the said writ petition was due to the fact that the interim order, specifically prohibited admission for the year 2014-15. It is also to be noticed that the memorandum of understanding at Ext.P2 itself provides that admissions are to be made as per the University Admission Calender (clause 10).

The admissions to the Off-Campus centres in the University opened only by Ext.P5 in October 2014. It is not clear as to why Off-campus centres, who are the petitioners herein, admitted students prior to that. The students having got themselves admitted before the summer vacation in "July-August" cannot seek any equitable consideration for themselves nor for the Off-Campus centres.

31. Admittedly, admissions were conducted even prior to the admission calendar of the University and an interim order of this Court dated 07.08.2014 by the restriction made, prohibited the admissions in the academic year 2014-15. If at all registrations were carried on in June, students could be admitted only on commencement of the admission by the University. Rightfully, on the tenor of the interim order, the Off-campus centres should have turned back the students on their

returning, after the summer vacation to join the Off-Campus centres. This Court is of the opinion that the petitioners had sought for withdrawal of the writ petition without any *bona fides*, which is the only conclusion possible on the basis of the specific facts disclosed. The deemed restriction in the interim order, for conducting admissions in the year 2014-15; was sought to be effaced and erased, by the withdrawal of the earlier writ petition.

32. On facts too, Ext.P5 public notice was issued on 27.06.2013, by the University cautioning every Universities established or incorporated by or under a State Government, not to operate outside its territorial jurisdiction under the Act and restraining the offering of its programmes through franchise agreements with private coaching institutions, for the purpose of conducting course in distance mode. The said public notice is produced as Ext.P5 in W.P.(C).

35231 of 2014. Ext.P12 in W.P.(C).27490 of 2014, which is impugned in all the writ petitions, is the communication of the University Grants Commission dated 08.07.2014 based on which, the University had issued communications to the international and national Off-Campus centres not to admit students for the academic year 2014-15. The said communication is dated 19.07.2014, which is produced at Ext.P12 in W.P. (C).27490 of 2014. It is not clear as to why subsequent to this, the Director of the Distance Education issued E-mails at Exts.P4 and P4(a). Ext.P4(a) is dated 18.09.2014, later to Exts.P11 and P12. The students obviously have been misled by the Off-Campus centres, but the continuance of such centres would not be permissible on principles of equity since on the binding precedents of the Honourable Supreme Court and the Division Bench of this Court cited herein above, the University has no power to carry on such Off-Campus centres.

The writ petitions would stand dismissed.
Parties are left to suffer their respective
costs.

Sd/ -

K.VINOD CHANDRAN
Judge

Mrcs

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