

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.07.2016

CORAM

The Hon'ble MR.SANJAY KISHAN KAUL, CHIEF JUSTICE
AND

The Hon'ble MR.JUSTICE R.MAHADEVAN

W.P.No.35082 of 2013

and

M.P.No.1 of 2013

Prof.I.Elangovan

.. Petitioner

-vs-

1.State of Tamilnadu,
rep. by its Secretary to Government,
Dept. of Higher Education,
Fort St. George,
Chennai-600 009.

2.The Teachers Recruitment Board,
rep. by its Secretary,
College Road, Chennai-600 006.

3.The University Grants Commission,
rep. by its Chairman,
New Delhi-110 002. Respondents

Writ Petition filed under Article 226 of the Constitution of India praying for issue of Writ of Declaration declaring the entire records connected with the first respondent's Government Order Ms.No.91, Higher Education (F2) Department, dated 03.04.2009 and declare the impugned Government Order ultra vires of the UGC Regulation.

For Petitioner : Mr.S.Sathia Chandran

For Respondents : Mr.T.N.Rajagopalan
Spl. G.P. for R1 and R2
Mr.P.R.Gopinathan for R3

ORDER

(Order of the Court was made by The Hon'ble Chief Justice)

The petitioner has filed the present petition as public interest litigation seeking to quash G.O.Ms.No.91, Higher

Education (F2) Department, dated 03.04.2009 and to declare the same ultra vires of the UGC Regulations. The Government Order reads as under:-

"ORDER

During the meeting of the Vice-Chancellors of Universities under the aegis of Higher Education Department held on 21.6.2006 under the Chairmanship of Hon'ble Minister for Higher Education, the Vice-Chancellors have informed that no Ph.D programme is available in Distance Education. Since the UGC has done away with acquiring of SLET/NET qualification for Ph.D and M.Phil candidates, it has become essential to improve the quality of M.Phil / Ph.D course. To strengthen this, it was suggested that from the academic year 2007-2008 onwards, M.Phil / Ph.D programme may not be offered through Distance Education and the same will be offered only in regular courses.

2. Based on the decision taken in the meeting, the Government in Letter (Ms) read above, directed all the Universities under the aegis of Higher Education Department that M.Phil / Ph.D courses should not be offered through distance education from the academic year 2007-2008 and they should be offered only in the regular stream.

3. The Government have now examined the matter in detail and hereby declare that the M.Phil and Ph.D degrees obtained through the Correspondence / Distance Education / Open University System are ineligible for Government appointments and appointment as Lecturers in Colleges / Universities including self-financing colleges. (emphasis supplied)

(BY ORDER OF THE GOVERNOR)

K.GANESAN

Principal Secretary to Government."

2. The contention of the petitioner is that it is not within the domain of the State Government to declare the qualifications acquired through Correspondence / Distance Education / Open University System as ineligible for Government appointments, as they are in conformity with the UGC Regulations, 2010. It is thus submitted that once these degrees are recognised by the UGC, what the State Government purports to do is to de-recognise these degrees for the purposes of employment.

3. The learned counsel for UGC submits that UGC is concerned with providing recognition and as per its regulation, it recognises such degrees. In substance, he states that the

State Government ought not to have adopted paragraph 3 of the impugned order, as it impinges the UGC Regulations.

4. On our query as to what are the consequences which would flow from impinging the UGC Regulation, the learned counsel points out that the same has already been discussed in W.P.Nos.22565 & 22566 of 2015 (Change India, rep. by its Director A.Narayanan; Dr.M.Anandakrishnan v. Government of Tamilnadu and others), decided on 06.04.2016. He, thus, submits that the consequences envisaged under the Regulations would follow and the UGC would apply its mind to this issue now when the present petition has come up and take a decision within three months from today.

5. The learned Special Government Pleader (Education) appearing for the State Government, however, points out that there is an earlier adjudication on the very same G.O. in W.P.No.19736 of 2013 filed by the same petitioner, wherein a Division Bench of this Court rejected the challenge to the said G.O. by order dated 22.07.2013. The copy of this order has been filed along with the present petition.

6. The learned counsel for the petitioner submits that though that writ petition was dismissed, it was observed as under:-

"In view of the above, the writ petition is dismissed. However, if the petitioner has got any further grievance, he is always at liberty to approach the Government."

He states that the petitioner has made a representation on 12.09.2013 with a reminder on 13.11.2013. He further states that there is a larger issue involved and thus we should entertain this public interest litigation.

7. We are afraid such a course will not be permissible for us. There is already a opinion of the Division Bench on the particular Government Order and a different opinion would not be possible. However, we do believe that it does not preclude the UGC from examining this issue and if it is of the view that as per the UGC regulations, there is some violation, that is a matter for the UGC to decide.

8. We, thus, close the present writ petition in terms aforesaid. No costs. Consequently, M.P.No.1 of 2013 is also closed.

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

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To

- 1.The Secretary to Government,
Dept. of Higher Education,
Fort St. George,
Chennai-600 009.
- 2.The Secretary,
Teachers Recruitment Board,
College Road, Chennai-600 006.
- 3.The Chairman,
University Grants Commission,
New Delhi-110 002.

- 1 cc to M/s.S.Sathia Chandran, Advocate, sr.37839
1 cc to M/s.P.R.Gopinathan, Advocate, sr.38053
1 cc to The Government Pleader, sr.38175

W.P.No.35082 of 2013

mp co
kra 23.07.2016



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