

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

Decided on: 30.09.2016

1. CR No.3004 of 2014 (O&M)

Punjab Technical University and anotherPetitioners

Versus

Quest Infosys Private Limited and othersRespondents

2. CR No.6660 of 2014 (O&M)

Punjab Technical UniversityPetitioner

Versus

M/s. Lally Infosys Private LimitedRespondent

CORAM: HON'BLE MRS JUSTICE REKHA MITTAL

Present : Mr. Puneet Sharma, Advocate
for the petitioner (in both the petitions)

Mr. Manjit Singh Khaira, Sr. Advocate
with Mr. B.S. Sewak, Advocate
for the respondents (in CR No.3004 of 2014)

Mr. Vinish Singla, Advocate
for the respondent (in CR No.6660 of 2014)

REKHA MITTAL, J.

This order will dispose of CR Nos.3004 of 6660 of 2014 as common questions of law and facts are involved for adjudication.

Counsel for the petitioners has submitted that a show cause notice was issued to the respondents by invoking Section 9 of the Memo of Understanding (in short 'the MOU') dated 26.03.2012 (Annexure P1) that prescribes a complete procedure to terminate authorization to the Regional Centre or to modify/restrict/terminate its

zone of operation created under Section 7 of the MOU. It is further argued that the respondents instead of responding to the show cause notice within the stipulated period had rushed to the Court by way of filing civil suits, therefore, the plaint is liable to be rejected being without any cause of action. In support of his contention, he has referred to decisions of this Court in CWP No.17993 of 2013 decided on 19.08.2013 titled *M/s. Vidya Infosys vs Punjab Technical University, Jalandhar and others* and CWP No.17223 of 2012 decided on 08.10.2012 *Matrix Infosys vs Punjab Technical University, Jalandhar and others*. It is argued that in *M/s. Vidya Infosys case (supra)*, the petitioner was supplied copies of the documents i.e. complaints mentioned in the list and the writ petition was disposed of with liberty to the petitioner to file reply to the show cause notice that was issued by invoking Section 9 of the MOU, as applicable in the present cases. In addition, it is submitted that in one of the cases filed before the Civil Court, the petitioners have already supplied copies of the documents, find reference in the show cause notice, therefore, plaint is liable to be rejected, may be, with liberty to the respondent/plaintiff to file response to the show cause notice as provided for in Section 9 of the MOU.

Counsel for the respondents, on the contrary, would urge that the respondents/plaintiffs have expressed their grievance with regard to non-supply of documents despite communication in this regard having been sent to the Punjab Technical University well before expiry of the stipulated period to file response to the show cause notice and even allegations of *mala fide* have been levelled against the representative of the University. The disputed questions raised in the

plaint are to be decided by the Court on the basis of evidence, therefore, the trial Court has rightly dismissed the application for rejection of plaint.

I have heard counsel for the parties, perused the paperbook and various annexures.

Before advertng to the rival submissions made by counsel for the parties, it is appropriate to extract Section 9 of the MOU, admittedly, entered into between the parties, reads thus:-

“Section 9: Exit Clause and provision of Natural Justice:

The RC agrees that the PTU reserves the right to terminate the present authorization to the RC or to modify/restrict/terminate its zone of operation operated under Section 7 of this MOU, by following the process of natural justice. It is clearly stipulated herein, and accepted and agreed to by the RC, that in case of any breach by the RC of any of the foregoing terms and conditions contained in this MOU, or for its unsatisfactory performance, or for non-performance, or for abandonment of the project or for any other reason or issue to be felt or determined by the PTU, a show cause notice will be served to the RC concerned with details of deficiencies and a written reply shall be sought within 15 days. The reply to the show cause notice shall then be considered by the DEP Council, and if required, the RC concerned shall be asked to defend their case before the DEP Council. The matter with the recommendations of the DEP against the RC concerned or termination shall be decided by the BOG. The punitive action may include modification/restriction/termination of the zone of RC under this MOU, as per decision of the BOG and such decision shall be final and binding on the

RC. The decision so taken may be represented against by the concerned RC and the Board may consider appointing a committee to reconsider the decision after giving an opportunity of being heard in the matter to the RC concerned. The decision so taken shall be final”.

A plain and careful reading of the aforesaid extract leaves no manner of doubt that it prescribes a complete set procedure to be followed by the Punjab Technical University to terminate the authorization to the RC or to modify/restrict/terminate its zone of operation created under Section 7 (Validity of authorization period and the re-allotted zone) of the MOU. It is an undisputed position in law that an application for rejection of plaint on any of the grounds envisaged under Rule 11 of Order 7 CPC is to be decided on the basis of averments made in the plaint and none else. The cause of action is a bundle of facts alleged by the plaintiff in order to claim a relief, prayed for. In the suit for injunction instituted by Quest Infosys Private Limited and others, the respondents/plaintiffs in paras 15 to 17 of the plaint have raised certain allegations with regard to failure of the petitioners to respond to their queries raised in response to the show cause notice and intention of the petitioners to scuttle the remedies of the plaintiffs before taking final decision on the show cause notice served upon them. Similarly, in the suit filed by M/s. Lally Infosys Private Limited, the plaintiff has expressed its grievance with regard to there being no response to its demand for supply of documents, basis of the notice, and *mala fides* have been attributed to the Vice Chancellor of the University to terminate the Regional Centres. Keeping in view the allegations

raised in the plaint, it is difficult to accept contentions of the petitioners that the averments set up in the plaint do not disclose any cause of action and the plaint is liable to be rejected by invoking Clause (d) of Rule 11 of Order 7 CPC. In view of the above, the petitioners cannot derive any advantage to their contention from the orders passed in civil writ petitions wherein the procedure prescribed in CPC is not strictly followed. In view of the above, no fault can be found in the impugned orders warranting intervention.

For the foregoing reasons, the petitions fail and are accordingly dismissed. However, nothing stated in this order shall be construed as an expression of opinion on merits of the case.

30.09.2016
yakub

(REKHA MITTAL)
JUDGE

Whether speaking/reasoned:	Yes/No
Whether reportable:	Yes/No