



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

RESERVED ON : 14.03.2017
DELIVERED ON : 04.04.2017

WEB COPY

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THE HONOURABLE MR.JUSTICE V.PARTHIBAN

W.P(MD)No.2830 of 2017
and W.M.P. (MD) No.2319 of 2017

1.Rasmita Kumari Panigrahi
2.Sanjaya Kumar Panda
3.Mamata Kumari Biswal
4.Pradipta Kumar Behera
5.Ajit Kumar Mishra
6.Raghab Patro
7.Ramarao Patro
8.Dhiraj Kumar Patro
9.Prabahar Sahu
10.Bishnu Prasad Patro
11.Namita Prusty
12.Amarnath Bisoyi
13.Meenakshi Mishra
14.A.Dhanalakxmi
15.Pinki Kumari Muni
16.Binaya Kumar Padhi
17.Devi Prasad Acharya

.. Petitioners

Vs

Alagappa University,
Rep. by its Registrar,
Karaikudi,
Sivagangai District.

.. Respondent

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, directing the respondent to continue to conduct examinations for its distance education programme in centre No.111, Berhampur, Odisha State till completion of courses by students enrolled before 29.09.2015 as per its notification in AU/DDE/DEB/LC/D5/2015 dated 29.09.2015.

For Petitioners : Mr.V.Paneerselvam
For Respondent : Mr.J.Viswanathan

O R D E R

The Petitioners have approached this Court seeking a direction to the respondent to continue to conduct examinations for its distance education programme in centre No.111, Berhampur, Odisha



State till completion of courses by students enrolled before 29.09.2015 as per its notification in AU/DDE/DEB/LC/D5/2015 dated 29.09.2015.

2. The petitioners herein are all students enrolled in various courses offered by the respondent University through its distance education programme. According to the petitioner, the distance education programme was originally started in 1992 and the courses in the distance education programme were offered through the Learning Centres of the University. The Learning Centres were functioning as per the rules and regulations of the University as notified from time to time. The examination for students enrolled through the Learning Centres was also conducted at the centre under the supervision of the staff from the University with examination material sent by the University.

3. The distance education programme conducted by the respondent University had attracted a large number of students from all over country, who had no access to higher education and were not in a position to pursue higher studies directly in colleges. Since the respondent University is one of the reputed Universities in the country, the petitioners herein who were interested in pursuing the higher studies had enrolled themselves as students in the respondent University. The distance education programme was offered to the petitioners herein in the Learning Centre, namely, National Institute of Management, Berhampur, Oddissa having centre Code No.111. According to the petitioner, the said centre had been functioning for long years continuously and the petitioners joined for courses only because of the reputation of the University and were fervently hoping to get their degrees through the distance education programme.

4. While the matter stood thus, the respondent University vide its communication dated 29.09.2015, had directed closure of all the Learning Centres of Alagappa University in States other than Tamil Nadu with immediate effect and the existing students were directed to be attached to the Directorate of Distance Education as direct students. On the same day, i.e., on 29.09.2015, the respondent University issued another instruction stating that the students already enrolled and studying in II and III year may be continued till the completion of the duration of their study. The closure notification issued by the University is purported to be under the direction from the University Grants Commission (UGC) as referred in their communication dated 29.09.2015.

5. The petitioners would submit that in furtherance of the communication dated 29.09.2015, in respect of the II year and III year students, the University continued Learning Centres, Academic Activities and Personal Contact Programmes in respect of the Centres outside the State of Tamil Nadu. In fact even after the notification, examinations were conducted at the existing examination centres located outside the State of Tamil Nadu.



6. While so, the petitioners subsequently learned that the U.G.C. has also issued further notification on 19.07.2016, directing closure of such Learning/Examination Centres outside the State of their location or beyond their territorial jurisdiction and off-campus/study centres. The said UGC notification further directed the students to ascertain the territorial jurisdiction of the institution before seeking their admission and instructed the students to restrain from studying in those institutions which violate the norms of the University Grants Commission. It appears that after the said instruction issued by the UGC the respondent University had abruptly discontinued all the examination centres located outside the State of Tamil Nadu, resulting in depriving the petitioners participating in the examinations which were conducted in December, 2016. Since the petitioners who were already pursuing their higher education before the issuance of the latest UGC notification and the notification issued by the University dated 29.09.2015, ordering closure of the Examination Centres located outside the State of Tamil Nadu, they were legitimately dismayed at the abrupt action by the respondent University in discontinuing the Personal Contact Programmes and Examination Centres located outside the State of Tamil Nadu. Since the University itself had issued a communication on the same date i.e., on 29.09.2015 that the closure action would not affect the students pursuing II and III year, they were hoping that they would be allowed to continue their study as per the programmes conducted by the respondent University. However, it appears that without any notice to the petitioners and giving effect to their instruction dated 29.09.2015, the petitioners herein are not likely to be allowed to continue the courses as per the Distance Education Study Programme in the learning/examination centre in which they were originally enrolled as students. Therefore, the petitioners were constrained to approach this Court with the prayer stated supra.

7. The respondent University has filed a counter resisting the claim of the petitioners herein. The principal ground on which the claim of the petitioners is rejected is that on the direction of the University Grants Commission only the notification dated 29.09.2015 was issued, ordering the closure of the Learning Centres located outside the State of Tamil Nadu. However, in the counter statement, it appears there is no explanation as to the University Letter dated 29.09.2015, stating that the effect of closure of the learning centre located outside the State of Tamil Nadu would not affect the existing II year and III year students. It is pertinent to mention here that in this writ petition all the petitioners were enrolled prior to 29.09.2015 and they were pursuing II year and III year classes. According to the counter statement filed on behalf of the University, it is always open to the petitioners to opt for any of the studying centres located at Tamil Nadu and therefore, the petitioners have not been denied their opportunity to complete the studies undertaken by them. While resisting the claim of the petitioners on the one hand, the University in its counter at

paragraph 26 has stated as follows:

"26.I humbly submit that the University has requested the University Grants Commission to permit to conduct distance program examinations at identified exam centres outside Tamilnadu upto May 2020. But, so far, no permission is received from the University Grants Commission. In this regard, many students and learning centres have been again and again requesting the University to conduct the exams at centres outside Tamilnadu so as to enable them to complete their studies."

According to the respondent University, the UGC has been approached for conduct of the distance education programmes in the examination centres identified which are located outside the State of Tamil Nadu upto May 2020. This was made based on the request made by several hundreds of students, who had the benefit of distance education programme conducted by the University and who had expressed the inability to travel all the way to Tamil Nadu for completing the academic programme.

8.Heard the learned counsel appearing for the petitioner and the learned counsel for the respondent.

9.Mr.V.Panneer Selvam, the learned counsel appearing for the petitioners would strenuously submit that the petitioners herein who were admitted as students of II and III years on the date when instructions were issued on 29.09.2015 cannot be denied their opportunity of availing the benefit of the learning centres and examination writing centres in their home State, which is located outside the State of Tamil Nadu. The petitioners had joined the programme only because of the fact that the programme has been conducted through the study centres located in their place where they have easy access. When such is the situation their right to participate in the learning centres as provided originally to them and the right to write the examinations in that centres cannot be abruptly taken away by any subsequent action by the University. In any event the University itself recognized the said right and therefore, was constrained to issue the instruction dated 29.09.2015 in favour of the students like the petitioners herein notwithstanding the closure order issued through the communication of the same date 29.09.2015.

10.The learned counsel appearing for the petitioners would also submit that several other Universities who had to face a similar situation on the basis of the directives issued by the University Grants Commission had approached various High Courts and obtained stay of such orders. Unfortunately, according to the learned counsel for the petitioners, the present respondent University has not chosen to challenge the directives of the University Grants Commission for protecting the interest of its own students like the petitioners herein. In the absence of challenge by the respondent University, the petitioners were compelled to approach this Court for seeking the relief to enable them to complete their academic

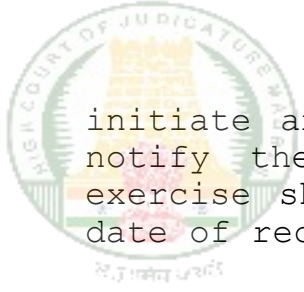


programme successfully.

11.The learned counsel appearing for the petitioners would further contend that the petitioners have been promised about the study centre and the examination centre at the place of their choice in their home town, as identified by the University, cannot be deprived of by any subsequent action by the University. Such action would be violative of the principle of promissory estoppel or equitable estoppel. In fact the contention raised on behalf of the respondent would be fortified by the very act of the University in requesting the University Grants Commission for grant of exemption in respect of its students and requested the University Grants Commission for conducting the examinations upto May 2020 in the existing centres located outside the State of Tamil Nadu as mentioned in paragraph 26 of the counter affidavit.

12.The learned counsel appearing for the respondent made an elaborate submission and reiterated his contention based on the averments contained in the counter statement. However, the learned counsel appearing for the respondent is not in a position to explain the specific query raised by this Court as to the instruction issued by the University itself on 29.09.2015 in respect of the II and III years students, who would be allowed to continue their studies in the existing learning centres. In the absence of valid explanation from the University and also in view of the fact that University itself has gone to the University Grants Commission seeking grant of exemption to the students, this Court is of the view that there is considerable force in the submission raised on behalf of the petitioners for grant of relief to the writ petitioners. Moreover, it has to be seen that the petitioners, who are students enrolled in the distance education programme during the middle of their academic programme cannot be compelled to complete the studies only within the State of Tamil Nadu. If the students were put on notice at the time of joining the programme probably several hundreds or thousands would not have joined the course and the same would not have been as attractive as it was originally. Therefore, in all fours the balance of convenience is in favour of the petitioners and the petitioners ought to be allowed to continue and complete their studies as envisaged under the distance education programme in the centres identified by the respondent University and where the petitioners can undergo personal contact programme and participate in the written examinations.

13.In the above circumstances, the respondent University is directed to provide personal contact programme in the same learning Centre, namely, National Institute of Management, Berhampur, Odisha having centre Code No.111 and allow the petitioners to write the examinations in the said Centre in the ensuing years till the completion of the studies of the petitioners herein. The respondent University shall take all necessary steps in that regard to enable the petitioners to undertake and complete the studies in the said centre as stated above. The respondent University is directed to



initiate and complete the action as expeditiously as possible and notify the process of examinations and the centres. The said exercise shall be completed within a period of two weeks from the date of receipt of a copy of this order.

14. This Writ Petition is allowed to the extent as indicated above. Consequently, connected Miscellaneous Petition is closed. There shall be no order as to costs.

Sd/-
Assistant Registrar (Protocol)

/True Copy/

Sub Assistant Registrar

To

The Registrar,
Alagappa University,
Karaikudi,
Sivagangai District.

+ 1 CC TO Mr.V.PANEERSELVAM, ADVOCATE IN SR No. 50261

SJ

TE/SV-MMS/SAR-II : 13/04/2017 : 6P/3C

Pre-delivery order made in
W.P (MD) No.2830 of 2017
and W.M.P. (MD) No.2319 of 2017
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04.04.2017