

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23.07.2018

CORAM:

THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN

W.P.Nos.18460 to 18471 of 2018

and

W.M.P.Nos.21767 to 21790 of 2018

- 1 MUGAVARI SCHOOL OF BUSINESS
REP BY ITS DIRECTOR JEEVA M.K.
NO.11 197 MAMBAKKAM MAIN ROAD
MEDAVAKKAM CHENNAI 100
... PETITIONER in WP No.18460 of 2018
- 1 SHAKTHI INSTITUTE OF ARTS AND.
SCIENCE REP BY ITS DIRECTOR
DR.S.APPASWAMY
NO.1 OMSAKTHI NAGAR
K.P.N.COLONY EXTENSION
TIRUPUR 641 601
PETITIONER in WP No.18461 of 2018
- 1 SETHUPATHI INSTITUTE OF HIGHER -
STUDIES REP BY ITS COORDINATOR
MRS.VIMALA RAJENDRAN
NO. 469 R.V.COMPLEX PEELAMEDU
COIMBATORE 641 004
PETITIONER in WP No.18462 of 2018
- 1 INDIAN ACCU TOUCH MEDICAL
INSTITUTE REP BY ITS DIRECTOR V.
V.RAMALINGAM NO.10/85 SEDAN THOTTAM G.N.
G.M MILLS POST COIMBATORE 641 029
- PETITIONER in WP No.18463 of 2018
- 1 KUMARAN INSTITUTE OF HIGHER -
STUDIES REP BY ITS COOR.
R.KUMARA SETHUPATHI
NOS.10 & 11 SRI AARVEE HOTELS
COMPLEX NEAR THIRUVALLUVAR BUS STAND
GANDHIPURAM COIMABTORE 641 012
PETITIONER in WP No.18464 of 2018

1 SETHUPATHI INSTITUTE OF HIGHER -
STUDIES REP BY ITS COORDINATOR
A.RAJENDRAN
NO.2 PYKARA OFFICE ROAD TATABAD
COIMBATORE 641 012

PETITIONER in WP No.18465 of 2018

1 I.C.I.T. COMPUTER EDUCATION -
REP BY ITS COORDINATOR MR.JEEVA M.K.
NO.32 DURAISAMI PILLAI STREET
TAMBARAM WEST
CHENNAI-600 045.

PETITIONER in WP No.18466 of 2018

1 MADRAS INSTITUTE OF FASHION -
TECHNOLOGY REP. BY ITS COORDINATOR
MR.A.K. SENGUTTUVAN
NO.16A SASTRI NAGAR OPP: 100
FEET ROAD VADAPALANI CHENNAI-600 026.

PETITIONER in WP No.18467 of 2018

1 SRI VEL INSTITUTE -
REP. BY ITS DIRECTOR
MS.R.PRIYADHARSHINI
SUPARNA COMPLEX
1ST FLOOR NO.240
POLLACHI MAIN ROAD
IYER HOSPITAL BUS STOP
SUNDARAPURAM COIMBATORE-24.

PETITIONER in WP No.18468 of 2018

1 ACENET TECHNICAL ACADEMY -
REP. BY ITS CHIEF EXECUTIVE
MR.R.CHANDRAN
NO.56 1ST FLOOR
SATHY ROAD NEAR BUS STAND
ERODE 638 003.

PETITIONER in WP No.18469 of 2018

1 DR.NALLINI INSTITUTE OF ARTS -
AND SCIENCE REP. BY ITS DIRECTOR
DR.S.APPASWAMY
NO.68 RAM NAGAR PALANI BYEPASS
ROAD DHARAPURM-638 673.

PETITIONER in WP No.18470 of 2018

1 INFORMATICS EDU-ART -
CONSULTANCY TRUST REP. BY ITS PRESIDENT MR.
M.VETHASALAM NO.294 C.T.H. ROAD AVADI
CHENNAI-600 054.

PETITIONER in WP No.18471 of 2018

VS.

1. THE UNIVERSITY GRANTS COMMISSION,
BAHADUR SHA ZAFAR MARG,
NEW DELHI-110 002.

(RESPONDENTS 1 & 2 IN ALL THE PETITIONERS)

2. THE REGISTRAR,
BHARATHIAR UNIVERSITY,
COIMBATORE-641 046.

3. THE DIRECTOR,
SCHOOL OF DISTANCE EDUCATION,
BHARATHIAR UNIVERSITY,
COIMBATORE-641 046. . . 3rd

...3RD RESPONDENTS IN W.PS.NO. 18460
OF 2018, 18461, 18470/18

THE DIRECTOR - IN CHARGE,
SCHOOL OF DISTANCE EDUCATION,
BHARATHIAR UNIVERSITY,
COIMBATORE 641 046.

... 3rd RESPONDENT IN WP.NOS.18462 TO
18469 & 18471/2018

Writ Petitions No.18460, 18461, 18470 of 2018 filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Certiorari to call for the records comprised in Resolution in Item No.091-Sl.Nos.3 and 5 passed in the 304th Meeting of the Syndicate held on 18.05.2018 on the file of the second respondent and the consequential Circular Ref.BU/SDE/All Study Centres (TN)-Approval withdrawn/Notice/2018, dated 25.05.2018 on the file of the third respondent and quash the same.

WP Nos.18462 of 2018 to 18469/18 & 18471/2018:

Writ petition filed under Article 226 of the Constitution of India, praying for issuance of Writ of Certiorari to Calling for the records on the file of the third respondent in relation to the impugned communication bearing Ref. BU/RR/080618/Close

down the Study Centre/2018 dated 11.6.2018 quash the same

For petitioners : Mr.R.Krishnamoorthi, Senior Counsel for
Mr.G.RM.Palaniappan

For respondents : Mr.P.R.Gopinathan for R-1
Mr.V.Selvaraj for RR-2 and 3

COMMON ORDER

The challenge in all these Writ Petitions is with regard to the removal of private franchisees/withdrawal of the approval of the study centres/closure of the study centres, etc. The petitioner-institutions have been conducting various courses/programmes affiliated under the respondent-Bharathiyar University. They have necessary class rooms, seminar halls and other facilities for imparting education and that the students have joined the courses. The petitioner-institutions act as Franchisees and the students have been given opportunity to enrol the programmes offered, register them and allow them to qualify and secure employment based on the Degrees obtained. It is the contention of the petitioner-Institutions that the Syndicate members, under the wrong impression, have passed a Resolution, thereby the future of the young students are affected.

2. It is to be noted that if the Memorandum of Understanding entered into between the petitioner-Institutions and the University, is in force, as per the agreement entered into between the parties, the study centre shall continue to exist till the agreement lapses by efflux of time or terminated. Those students who have joined the course through the Study Centres that has valid Memorandum of Understanding, can write the examination only in any of the Study Centres in Tamil Nadu, in case they joined after the academic year 2016-2017. If they have joined earlier and in case the Memorandum of Understanding is in force, they can take up the examination in the other State that will be notified by the University.

3. The Resolution which is the subject matter of issue in these Writ Petitions, cannot be held to be bad, as the Syndicate has passed a Resolution (304th Syndicate) in its meeting held on 18.05.2018, vide item No.091, as follows:

"S.No.3. No private franchise in any form be entertained within the State of Tamil Nadu as Study Centres of BU-SDE from the Academic Year 2018-19 and onwards."

S.No.5. As some private franchisees are undertaking the process of admission for this

year, this resolution has to be acted upon immediately."

4. It is the contention of the petitioner-Institutions that no proper reasons are given by the University in its proceedings. "No reason" given itself is a valid reason, as the Franchisees like the petitioner-Institutions would like to continue the admission of students after obtaining the interim order from this Court, knowing that the Writ Petitions will not be disposed of at an early date and that the litigation moves in a snail's pace. There is no embargo to curtail the mushrooming growth of institutions and that the respondents are perfectly right in stopping the new admissions.

5. As stated supra, where there is valid Memorandum of Understanding, that cannot be withdrawn without any reason. For renewal, it is left to the discretion of the parties, and the petitioner-Institutions cannot as a matter of right, compel the respondent-University from entering into the Memorandum of Understanding and permit them to continue the course on the ground that all the facilities are made available, and that if it is withdrawn, they will be put to hardship, and the hardship cannot be a ground for non-renewal of the Memorandum of Understanding.

6. In a similar matter, this Court, by order dated 25.06.2018 passed in W.P.No.9000 of 2018, held that the Study Centres situated outside the Tamil Nadu, should not have admitted the students from the academic year 2016-2017. That being the case, even assuming that these petitioner-Institutions herein, cannot be termed as Franchisees, still they have no legal right or vested right to continue/seek renewal of approval. When once there is no approval given to the Study Centre, in view of the non-renewal of the Memorandum of Understanding, there is automatic withdrawal of approval on and from the date of expiry of the Memorandum of Understanding. The discretion exercised by the Bharathiyar University is based on the Memorandum of Understanding already entered into between the parties and wherever the same is there, the Study Centre(s) shall continue to exist till the expiry of the Memorandum of Understanding. In the said case in W.P.No.9000 of 2018, this Court further held that the students therein having given the declaration, and knowing that they cannot take up the examinations in any other Study Centre, other than the one in Tamil Nadu, need to write the examination again at the Centre prescribed within the State of Tamil Nadu.

7. In the case on hand, based on the said Memorandum of Understanding, the students who have joined the course(s) and if the said Memorandum of Understanding is still in force, then those students alone will be entitled to write the examination in any Centre in Tamil Nadu.

8. With the above observations, the Writ Petitions are disposed of. No costs. Consequently, W.M.Ps. are closed.

Sd/-
Assistant Registrar(CS VII)

//True copy//

Sub Assistant Registrar

CS

TO

1. THE DIRECTOR,
SCHOOL OF DISTANCE EDUCATION,
BHARATHIAR UNIVERSITY,
COIMBATORE 641 046.
2. THE DIRECTOR-IN CHARGE,
SCHOOL OF DISTANCE EDUCATION
BHARATHIYAR UNIVERSITY,
COIMBATORE 641 046.

+12cc to Mr.G.RM.Palaniappan, Advocate SR.No.48726 to 48737
+1cc to Mr.P.R.Gopinath, Advocate SR.No.48774
+1cc to Mr.V.Selvaraj, Advocate SR.No.49012

W.P.Nos.18460 to 18471 of 2018

NRL (CO)
GN(20/08/2018)

WEB COPY