

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.09.2018

CORAM :

THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM

W.P.Nos.42675 to 42687 and 42689 of 2016
and W.M.P.Nos.36604 to 36624, 36626 of 2016,
15181 to 15193 and 15195 of 2017

S.SIVAN	PETITIONER in WP.42675/2016
T.MOHANDOSS KARAMCHAND	PETITIONER in WP.42676/2016
P.PERIYASAMY	PETITIONER in WP.42677/2016
A.SUDHA	PETITIONER in WP.42678/2016
S.SATHEESHKUMAR	PETITIONER in WP.42679/2016
P.UMAMAHESWARI	PETITIONER in WP.42680/2016
M.SIVAKUMAR	PETITIONER in WP.42681/2016
P.ARUNA	PETITIONER in WP.42682/2016
K.MATHESWARAN	PETITIONER in WP.42683/2016
M.VISWANATHAN	PETITIONER in WP.42684/2016
F.NOORUL DHAHAR	PETITIONER in WP.42685/2016
V.BHARATHI	PETITIONER in WP.42686/2016
K.KRISHNAMOORTHY	PETITIONER in WP.42687/2016
U.M.RAJENDRAN	PETITIONER in WP.42689/2016

Vs.

- 1.The Regional Accounts Officer,
(Audit),
Department of School Education,
Coimbatore - 641 001.
- 2.The Director,
Directorate of School Education,
Chennai - 600 006. ...RR1 and 2 in all WPs.
- 3.The Chief Educational Officer,
Dharmapuri,
Dharmapuri District.

4.The Headmaster,
Government Higher Secondary School,
Bairnatham - 636 905,
Dharmapuri District.

5.The Registrar,
Vinayaka Missions University,
Salem - 636 308.

6.The Secretary,
University Grants Commission,
New Delhi - 110 002.

..Respondents

(R6 is suo motu impleaded as per order dated
09.12.2016 made in W.P.Nos.42675 to 42687 of 2016)

1THE REGIONAL ACCOUNTS RESPONDENTS in WP.42675/2016
OFFICER (AUDIT) DEPARTMENT OF
SCHOOL EDUCATION
COIMBATORE- 641001

2 THE DIRECTOR
DIRECTORATE OF SCHOOL EDUCATION
CHENNAI- 600006.

3 THE CHIEF EDUCATIONAL
OFFICER DHARMAPURI DHARMAPURI DISTRICT

4THE HEADMASTER
GOVERNMENT HIGHER SECONDARY SCHOOL
BAIRNATHAM - 636 905 DHARMAPURI DISTRICT

5THE REGISTRAR
VINAYAKA MISSIONS UNIVERSITY SALEM- 636 308

6 THE SECRETARY
UNIVERSITY GRANTS COMMISSION BAHADUR
SHAH ZAFAR MARG, NEW DELHI 110 002

R-6 IS IMPEADED AS PER ORDER DATED: 09/12/2016 IN
WP NOS.42675 TO 42687/2016.

1 THE REGIONAL ACCOUNTS[RESPONDENTS in WP.42676/2016
OFFICER (AUDIT) DEPARTMENT
OF SCHOOL EDUCATION
COIMBATORE- 641001

2 THE DIRECTOR
DIRECTORATE OF SCHOOL EDUCATION
CHENNAI-600006.

3 THE DISTRICT EDUCATIONAL
OFFICER TIRUPPUR TIRUPPUR DISTRICT

4 THE HEADMASTER
GOVERNMENT HIGH SCHOOL CHOLAMADEVI - 642 113
MADATHUKULAM, TIRUPPUR DISTRICT

5THE REGISTRAR
VINAYAKA MISSIONS UNIVERSITY SALEM- 636 308

6 THE SECRETARY
UNIVERSITY GRANTS COMMISSION
BAHADUR SHAH ZAFAR MARG
NEW DELHI 110 002

R-6 IS IMPEADED AS PER ORDER DATED: 09/12/2016 IN
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1 THE REGIONAL ACCOUNTS[RESPONDENTS in WP.42677/2016
OFFICER (AUDIT) DEPARTMENT
OF SCHOOL EDUCATION
COIMBATORE- 641001

2 THE DIRECTOR
DIRECTORATE OF SCHOOL EDUCATION
CHENNAI-600006.

3 THE CHIEF EDUCATIONAL
OFFICER NAMAKKAL NAMAKKAL DISTRICT

4 THE HEADMASTER
GOVERNMENT HIGHER SECONDARY SCHOOL
MANICKAMPALAYAM - 637 202 TIRUCHENGODE
TALUK NAMAKKAL DISTRICT

5 THE REGISTRAR
VINAYAKA MISSIONS UNIVERSITY SALEM- 636 308

6 THE SECRETARY
UNIVERSITY GRANTS COMMISSION BAHADUR
SHAH ZAFAR MARG NEW DELHI 110 002

R-6 IS IMPEADED AS PER ORDER DATED: 09/12/2016 IN
WP NOS.42675 TO 42687/2016.

1 THE REGIONAL ACCOUNTS[RESPONDENTS in WP.42678/2016
OFFICER (AUDIT) DEPARTMENT
OF SCHOOL EDUCATION
COIMBATORE- 641001

2 THE DIRECTOR
DIRECTORATE OF SCHOOL EDUCATION
CHENNAI-600006.

3 THE CHIEF EDUCATIONAL
OFFICER TIRUPPUR, TIRUPPUR DISTRICT.

4 THE HEADMASTER
GOVERNMENT HIGHER SECONDARY SCHOOL
RAMACHANDRAPURAM 642 120, TIRUPPUR DISTRICT.

5 THE REGISTRAR
VINAYAKA MISSIONS UNIVERSITY, SALEM- 636 308

6 THE SECRETARY
UNIVERSITY GRANTS COMMISSION BAHADUR
SHAH ZAFAR MARG, NEW DELHI 110 002

R-6 IS IMPEADED AS PER ORDER DATED: 09/12/2016 IN
WP NOS.42675 TO 42687/2016.

1 THE REGIONAL ACCOUNTS[RESPONDENTS in WP.42679/2016
OFFICER (AUDIT) DEPARTMENT
OF SCHOOL EDUCATION
COIMBATORE- 641001

2 THE DIRECTOR
DIRECTORATE OF SCHOOL EDUCATION CHENNAI-600006.

3 THE CHIEF EDUCATIONAL OFFICER
NAMAKKAL NAMAKKAL DISTRICT.

4 THE HEADMASTER
GOVERNMENT HIGH SCHOOL CHETTIAMPALAYAM
P.VELUR TALUK NAMAKKAL DISTRICT.

5 THE REGISTRAR
VINAYAKA MISSIONS UNIVERSITY SALEM- 636 308

6 THE SECRETARY
UNIVERSITY GRANTS COMMISSION, BAHADUR
SHAH ZAFAR MARG, NEW DELHI 110 002

R-6 IS IMPEADED AS PER ORDER DATED: 09/12/2016 IN
WP NOS.42675 TO 42687/2016.

1 THE REGIONAL ACCOUNTS[RESPONDENTS in WP.42680/2016
OFFICER (AUDIT) DEPARTMENT
OF SCHOOL EDUCATION
COIMBATORE- 641001

2 THE DIRCTOR
DIRECTORATE OF SCHOOL EDUCATION CHENNAI-600006.

3 THE CHIEF EDUCATIONAL OFFICER
TIRUPPUR TIRUPPUR DISTRICT.

4 THE HEADMASTER
NCP MUNICIPAL HIGHER SECONDARY SCHOOL
DHARMAPURAM TIRUPPUR DISTRICT.

5 THE REGISTRAR
VINAYAKA MISSIONS UNIVERSITY SALEM- 636 308

6 THE SECRETARY
UNIVERSITY GRANTS COMMISSION BAHADUR
SHAH ZAFAR MARG, NEW DELHI 110 002

R-6 IS IMPEADED AS PER ORDER DATED: 09/12/2016 IN
WP NOS.42675 TO 42687/2016.

1 THE REGIONAL ACCOUNTS[RESPONDENTS in WP.42681/2016
OFFICER (AUDIT) DEPARTMENT
OF SCHOOL EDUCATION
COIMBATORE- 641001

2 THE DIRCTOR
DIRECTORATE OF SCHOOL EDUCATION
CHENNAI-600006.

3 THE CHIEF EDUCATIONAL OFFICER
NAMAKKAL NAMAKKAL DISTRICT.

4 THE HEADMASTER
GOVERNMENT HIGHER SECONDARY SCHOOL
BELUKKURICHI-637 402 NAMAKKAL DISTRICT.

5 THE REGISTRAR
VINAYAKA MISSIONS UNIVERSITY, SALEM- 636 308

6 THE SECRETARY
UNIVERSITY GRANTS COMMISSION BAHADUR
SHAH ZAFAR MARG, NEW DELHI 110 002

R-6 IS IMPEADED AS PER ORDER DATED: 09/12/2016 IN
WP NOS.42675 TO 42687/2016.

1 THE REGIONAL ACCOUNTS[RESPONDENTS in WP.42682/2016
OFFICER (AUDIT) DEPARTMENT
OF SCHOOL EDUCATION
COIMBATORE- 641001

2 THE DIRECTOR
DIRECTORATE OF SCHOOL EDUCATION
CHENNAI-600006.

3 THE CHIEF EDUCATIONAL OFFICER
NAMAKKAL NAMAKKAL DISTRICT.

4 THE HEADMASTER
GOVERNMENT BOYS HIGHER SECONDARY SCHOOL
TIRUCHENGODE-637 211 NAMAKKAL DISTRICT.

5 THE REGISTRAR
VINAYAKA MISSIONS UNIVERSITY SALEM- 636 308

6 THE SECRETARY
UNIVERSITY GRANTS COMMISSION BAHADUR
SHAH ZAFAR MARG NEW DELHI 110 002

R-6 IS IMPEADED AS PER ORDER DATED: 09/12/2016 IN
WP NOS.42675 TO 42687/2016.

1 THE REGIONAL ACCOUNTS[RESPONDENTS in WP.42683/2016
OFFICER (AUDIT) DEPARTMENT
OF SCHOOL EDUCATION,
COIMBATORE- 641001

2 THE DIRECTOR
DIRECTORATE OF SCHOOL EDUCATION
CHENNAI-600 006

3 THE CHIEF EDUCATIONAL
OFFICER NAMAKKAL, NAMAKKAL DISTRICT

4 THE HEADMASTER
GOVERNMENT HIGHER SECONDARY SCHOOL
KOZHIKKALNATHAM TIRUCHENGODE TALUK
NAMAKKAL DISTRICT

5 THE REGISTRAR
VINAYAKA MISSIONS UNIVERSITY SALEM- 636 308

6 THE SECRETARY
UNIVERSITY GRANTS COMMISSION BAHADUR
SHAH ZAFAR MARG, NEW DELHI 110 002

R-6 IS IMPEADED AS PER ORDER DATED: 09/12/2016 IN
WP NOS.42675 TO 42687/2016.

1 THE REGIONAL ACCOUNTS[RESPONDENTS in WP.42684/2016
OFFICER (AUDIT) DEPARTMENT
OF SCHOOL EDUCATION
COIMBATORE- 641001

2 THE DIRECTOR
DIRECTORATE OF SCHOOL EDUCATION
CHENNAI-600 006

3 THE CHIEF EDUCATIONAL OFFICER
ERODE ERODE DISTRICT

4 THE HEADMASTER
GOVERNMENT HIGHER SECONDARY SCHOOL
VELLOTTAMPARAPPU ERODE DISTRICT

5 THE REGISTRAR
VINAYAKA MISSIONS UNIVERSITY SALEM- 636 308

6 THE SECRETARY
UNIVERSITY GRANTS COMMISSION BAHADUR
SHAH ZAFAR MARG, NEW DELHI 110 002

R-6 IS IMPEADED AS PER ORDER DATED: 09/12/2016 IN
WP NOS.42675 TO 42687/2016.

1 THE REGIONAL ACCOUNTS[RESPONDENTS in WP.42685/2016
OFFICER (AUDIT) DEPARTMENT
OF SCHOOL EDUCATION
COIMBATORE- 641001

2 THE DIRECTOR
DIRECTORATE OF SCHOOL EDUCATION
CHENNAI-600 006

3 THE DISTRICT EDUCATIONAL
OFFICER TIRUPPUR TIRUPPUR DISTRICT

4 THE HEADMASTER
NCP MUNICIPAL HIGHER SECONDARY SCHOOL
DHARAPURAM TIRUPPUR DISTRICT

5 THE REGISTRAR
VINAYAKA MISSIONS UNIVERSITY SALEM- 636 308

6 THE SECRETARY
UNIVERSITY GRANTS COMMISSION BAHADUR
SHAH ZAFAR MARG NEW DELHI 110 002

R-6 IS IMPEADED AS PER ORDER DATED: 09/12/2016 IN
WP NOS.42675 TO 42687/2016.

1 THE REGIONAL ACCOUNTS[RESPONDENTS in WP.42686/2016
OFFICER (AUDIT) DEPARTMENT
OF SCHOOL EDUCATION
COIMBATORE- 641001

2 THE DIRECTOR
DIRECTORATE OF SCHOOL EDUCATION
CHENNAI-600 006

3 THE CHIEF EDUCATIONAL
OFFICER TIRUPPUR TIRUPPUR DISTRICT

4 THE HEADMASTER
GOVERNMENT HIGH SCHOOL MADATHUKULAM
TIRUPPUR DISTRICT

5 THE REGISTRAR
VINAYAKA MISSIONS UNIVERSITY SALEM- 636 308

6 THE SECRETARY
UNIVERSITY GRANTS COMMISSION BAHADUR
SHAH ZAFAR MARG, NEW DELHI 110 002

R-6 IS IMPEADED AS PER ORDER DATED: 09/12/2016 IN
WP NOS.42675 TO 42687/2016.

1 THE REGIONAL ACCOUNTS[RESPONDENTS in WP.42687/2016
OFFICER (AUDIT) DEPARTMENT
OF SCHOOL EDUCATION
COIMBATORE- 641001

2 THE DIRECTOR
DIRECTORATE OF SCHOOL EDUCATION
CHENNAI-600 006

3 THE DISTRICT EDUCATIONAL
OFFICER ERODE ERODE DISTRICT

4 THE HEADMASTER
GOVERNMENT HIGH SCHOOL NAGAPALAYAM ERODE
DISTRICT

5 THE REGISTRAR
VINAYAKA MISSIONS UNIVERSITY SALEM- 636 308

6 THE SECRETARY
UNIVERSITY GRANTS COMMISSION BAHADUR
SHAH ZAFAR MARG, NEW DELHI 110 002

R-6 IS SUO-MOTU IMPEADED AS PER ORDER DATED: 09/12/2016
IN WP NOS.42675 TO 42687/2016.

1 THE REGIONAL ACCOUNTS[RESPONDENTS in WP.42689/2016
OFFICER (AUDIT) DEPARTMENT
OF SCHOOL EDUCATION
COIMBATORE- 641001

2 THE DIRECTOR
DIRECTORATE OF SCHOOL EDUCATION
CHENNAI-600006.

3 THE CHIEF EDUCATIONAL
OFFICER TIRUPPUR TIRUPPUR DISTRICT

4 THE HEADMASTER
GOVERNMENT HIGHER SECONDARY SCHOOL
MADATHUKULAM TIRUPPUR DISTRICT

5 THE REGISTRAR
VINAYAKA MISSIONS UNIVERSITY SALEM- 636 308

Writ Petitions under Article 226 of the Constitution of India praying that in these circumstances stated therein and in the respective affidavits filed therewith the High Court will be pleased to

(1) Issue writ, order or direction specifically writ in the nature of certiorarified mandamus Calling for the records relating to the impugned order dated 03.10.2012 made in Na.Ka. NO. 3271/ E11/ 2012 passed by the 1st respondent, quash the same, consequently direct the respondents 1 to 4 continue the payment of incentive for qualifying M.Phil., degree granted by the 5th respondent (in WP No.42675 of 2016)

(2) Issue writ, order or direction specifically writ in the nature of certiorarified mandamus Calling for the records relating to the impugned order dated 07.04.2014 made in Na.Ka. NO. 1064/ E5/ 2014 passed by the 1st respondent, quash the same, consequently direct the respondents 1 to 4 to continue the payment of incentive for qualifying M.Phil., degree granted by the 5th respondent (in WP No.42676 of 2016)

(3) Issue writ, order or direction specifically writ in the nature of certiorarified mandamus Calling for the records relating to the impugned order dated 27.06.2014 made in Na.Ka. NO. 7/14-15 passed by the 4th respondent, quash the same, consequently direct the respondents 1 to 4 to continue the payment of incentive for qualifying M.Phil., degree granted by the 5th respondent (in WP No.42677 of 2016)

(4) Issue writ, order or direction specifically writ in the nature of certiorarified mandamus Calling for the records relating to the impugned order dated 08.12.2014 made in Na.Ka. No.6098/ E5/ 2014 passed by the 1st respondent, quash the same, consequently direct the respondents 1 to 4 continue the payment of incentive for qualifying M.Phil., degree granted by the 5th respondent (in WP No.42678 of 2016)

(5) Issue writ, order or direction specifically writ in the nature of certiorarified mandamus Calling for the records relating to the impugned order dated 06.01.2015 made in Na.Ka. No.6584/ E8/ 2014 passed by the 1st respondent, quash the same, consequently direct the respondents 1 to 4 continue the payment of incentive for qualifying M.Phil., degree granted by the 5th respondent (in WP No.42679 of 2016)

(6) Issue writ, order or direction specifically writ in the nature of certiorarified mandamus Calling for the records relating to the impugned order dated 27.01.2015 made in Na.Ka. No.23/2015 passed by the 4th respondent, quash the same, consequently direct the respondents 1 to 4 continue the payment

of incentive for qualifying M.Phil., degree granted by the 5th respondent(in WP No.42680 of 2016)

(7)Issue writ, order or direction specifically writ in the nature of certiorarified mandamus Calling for the records relating to the impugned order dated 11.02.2015 made in Na.Ka. No.199/ E8/ 2014 passed by the 1st respondent, quash the same, consequently direct the respondents 1 to 4 continue the payment of incentive for qualifying M.Phil., degree granted by the 5th respondent(in WP No.42681 of 2016)

(8)Issue writ, order or direction specifically writ in the nature of certiorarified mandamus Calling for the records relating to the impugned order dated 10.03.2015 made in Na.Ka. No.4085/ E8/ 2014 passed by the 1st respondent, quash the same, consequently direct the respondents 1 to 4 continue the payment of incentive for qualifying M.Phil., degree granted by the 5th respondent(in WP No.42682 of 2016)

(9)Issue writ, order or direction specifically writ in the nature of mandamus Forbearing the respondents 1 to 4 from initiating action to recover the payment of incentive increments paid from the month of December 2009, for qualifying M.Phil., degree from the 5th respondent, whereupon direct the respondents 1 to 4 to continue the payment of incentive increments in future(in WP No.42683 of 2016)

(10)Issue writ, order or direction specifically writ in the nature of mandamus Forbearing the respondents 1 to 4 from initiating action to recover the payment of incentive increments paid from the month of January 2010 for qualifying M.Phil., degree granted by the 5th respondent whereupon direct the respondents 1 to 4 to continue the payment of incentive increments in future(in WP No.42684 of 2016)

(11)Issue writ, order or direction specifically writ in the nature of mandamus Forbearing the respondents 1 to 4 from initiating action to recover the payment of incentive increments paid from the month of February 2013, for qualifying M.Phil., degree from the 5th respondent and whereupon direct the respondents 1 to 4 to continue the payment of incentive increments in future(in WP No.42685 of 2016)

(12)Issue writ, order or direction specifically writ in the nature of mandamus Forbearing the respondents 1 to 4 from initiating action to recover the payment of incentive increments paid from the month of February 2013, for qualifying M.Phil., degree granted by the 5th respondent, whereupon direct the respondents 1 to 4 to continue the payment of incentive increments in future(in WP No.42686 of 2016)

(13) Issue writ, order or direction specifically writ in the nature of mandamus forbearing the respondents 1 to 4 from initiating action to recover the payment of incentive increments paid from the month of February 2013, for qualifying M.Phil., degree from the 5th respondent, whereupon direct the respondents 1 to 4 to continue the payment of incentive increments in future (in WP No.42687 of 2016)

(14) Issue writ, order or direction specifically writ in the nature of mandamus forbearing the respondents 1 to 4 from initiating action to recover the payment of incentive increments paid from the month of February 2013, for qualifying M.Phil., degree from the 5th respondent, whereupon direct the respondents 1 to 4 to continue the payment of incentive increments in further (in WP No.42689 of 2016)

For Petitioner: Mr.N.Manokaran

For Respondent: Mr.K.Karthikeyan,
Government Advocate (For R1 to R4)

Mr.R.Parthasarathy (For R5)

Mr.P.R.Gopinathan (For R6)

C O M M O N O R D E R

The impugned order dated 03.10.2012 has been issued by the 1st respondent/Regional Accounts Officer on the basis of the audit objection raised by the audit party that the incentive increment cannot be granted in respect of the degrees which are all not valid as per the University Grants Commission Act and its Regulations. Aggrieved from and out the said order dated 03.10.2012, the writ petitioners are constrained to move these Writ Petitions.

2.The learned counsel for the petitioner in W.P.No.42675 of 2016 states that the petitioner was appointed as B.T. Assistant and completed his M.Phil degree in the year 2009 from the 5th respondent/Vinayaka Missions University at Salem. The learned counsel for the petitioner in all the Writ Petitions states that based on the applications submitted by the writ petitioners for grant of incentive increment, the same was granted initially to them. However, the incentive increment granted for acquiring the higher educational qualification of M.Phil degree, the Audit Officer raised an objection on the ground that the degree possessed by the writ petitioners were not a valid degree as per

the University Grants Commission Act and its Regulations. Thus, the grant of incentive increment was objected by the Regional Accounts Officer, based on that, the incentive increment granted was cancelled and the consequential recovery was issued. Undoubtedly, the incentive increment was granted based on the applications submitted by the writ petitioners. This apart, the degree of M.Phil possessed by the writ petitioners were from the 5th respondent/Vinayaka Missions University which is a Deemed University under Section 3 of the University Grants Commission Act.

3.The learned Government Advocate informed this Court that the degree of M.Phil obtained by the writ petitioners are invalid degree and therefore, the writ petitioners are not entitled for grant of any incentive increment as per the Government Orders in force.

4.In order to ascertain the status of the 5th respondent University and to ascertain the legal validity of the degrees granted by the Deemed University under the University Grants Commission Act, the University Grants Commission has been impleaded as a party in these Writ Petitions.

5.The learned counsel appearing on behalf of the University Grants Commission relying on the counter affidavit filed by the University Grants Commission has stated that the Deemed Universities declared under Section 3 of the University Grants Commission Act are not empowered to conduct any courses through distance education mode without the permission of the Government of India/University Grants Commission. The said position has been enumerated in paragraphs 13, 14 and 21 of the counter affidavit filed by the University Grants Commission and the same is extracted hereunder:

"13.It is further submitted that the erstwhile Regular - Distance Education Council (DEC) had granted Ex-post facto Institutional Recognition to the Deemed University for the programs offered by it through Distance Mode upto the Academic Year 2005.

14.It is submitted that the DEC had given Institutional Recognition to the Deemed University for a period of 5 years with effect from 28.02.2001 and further the Programme-wise Recognition was accorded to the Deemed University for 3 years from the Academy Session 2011-12 to 2013-14 for offering specific programmes and thereafter no further Recognition had been granted to the Deemed University either by DEC or by this Respondent/University Grants Commission to offer any programme through Distance mode.

....

21. It is further respectfully submitted that this Respondent/University Grants Commission, prior to the Notification cited supra, had issued a Circular to Vice Chancellors of all deemed Universities vide DO No.F.6-7/2003 (CPP-I) dated 16.03.2004 to comply with the directions issued by University Grants Commission with regard to opening of study centres/academic centres, offer of new programmes and opening of off-campuses and clarified that all the degrees awarded by deemed universities in violation of instructions issued by University Grants Commission, will be regarded as unspecified. The copy of letter/circular No.F.6-7/2003 (CPP-I) dated 16.03.2004 is annexed herewith as Annexure R-6/2, Vide these Guidelines, the following observations and stipulations were made:

"The Government on the recommendations of the University Grants Commission has conferred the status of deemed to be university on your institution. As it is, all such institutions are expected to bring about qualitative improvement in higher education by way of realizing excellence of the highest order in their chosen fields.

Over the time, however, it has been observed that some of the deemed to be universities are not functioning as per well-defined objectives and limits and are introducing new courses, opening study centre/academic centre/off campuses etc. without taking any approval from the University Grants Commission. At time these centres are opened even in the absence of proper physical and academic infrastructure.

The University Grants Commission has taken a serious note of it. In keeping with the University Grants Commission's mandate to maintain the standard of teaching and research in universities, it has been decided that the Deemed to be Universities will have to obtain the prior approval of the University Grants Commission for starting new courses, for opening academic centres/study centre/off campuses etc. All those deemed to be Universities which are already engaged in such kinds of activities shall solicit University Grants Commission's approval within six months to issue of this letter failing which the courses/centres run by the Universities shall be declared unrecognized by the University Grants Commission. A copy of the University Grants Commission guidelines and

procedure to be adopted for establishing new departments within the campus, setting up off campus centre(s)/Institution(s) off-shore campus (es) and starting distance education programme, is enclosed along with the prescribed performa. You are requested to follow these guidelines in letter and spirit for establishing new centres and for already established centres. The proposals in the prescribed performa shall be sent to the University Grants Commission for new as well as continuing courses/centres for consideration/ex-post-facto approval of the Commission.

It may please be noted that the degrees award by the deemed universities in violation of the instruction contained in the enclosed guidelines shall be regarded as unspecified and render the deemed universities to be punishable under relevant provisions of the University Grants Commission Act, 1956."

6.This Court is of an opinion that grant of incentive increment is a concession granted to the teaching staff in the Department of School Education. In order to encourage the morale of the teachers, incentive increments are granted for acquisition of higher educational qualifications. Thus, the said concession is not part and parcel of the regular scale of pay and pay rules. Grant of incentive increment is only applicable to the teaching staff of the Education Department and the same has not been granted to the staff working in all other departments in the State Government. Such being the special nature of concession provided especially to encourage the teachers to acquire the higher qualification, the same is to be regulated strictly in accordance with the terms and conditions of the orders in force. There cannot be any undue advantage in respect of grant of incentive increment even by the authorities concerned.

7.The acquisition of higher educational qualification by the respective teachers must be certainly utilised for the welfare of the students and to impart better education to the students who are studying in schools and colleges. Such being the purpose and object of the grant of incentive increment, the degrees obtained from the universities must be a valid degree in the eye of law. Teachers cannot acquire degrees from open Universities and from unrecognised Universities or unrecognised courses conducted by the recognised Universities cannot be considered for grant of incentive increment. At the outset, the degrees granted only in accordance with law alone can be taken into account for the purpose of granting incentive increment, failing

which the very object of grant of incentive increment would be defeated.

8. The Hon'ble Supreme Court of India also time and again reiterated that for securing public employment and for grant of such concessions by the State Government, the degrees possessed by the candidates must be a valid degree. In the absence of establishing the validity of the degrees possessed by the candidates, they are not entitled to get the public employment and other benefits granted by the Government. It is a primary rule that the courses conducted by the respective universities must be approved by the University Grants Commission under the provisions of the University Grants Commission Act and its Regulations. There cannot be any violation in respect of the University Grants Commission Regulations for grant of degrees. Various nature of degrees can be granted are enumerated in the University Grants Commission Act and its Regulations. Thus, the degrees only approved by the University Grants Commission alone can be considered as a valid degree for the purpose of securing public employment and to receive all other Government concessions and benefits. This being the principle to be followed, this Court is of an opinion that the degree of M.Phil now possessed by the writ petitioners are invalid one in view of the fact that the 5th respondent/Vinayaka Missions University is not authorised to conduct courses through distance education mode.

9. In paragraph No.21 of the counter affidavit, the University Grants Commission categorically stated that they had issued a circular to Vice Chancellor of all Deemed Universities in DO No.F.6-7/2003 (CPP-I) dated 16.03.2004 to comply with the directions issued by them with regard to opening of study centres/academic centres, offer of new programmes and opening of off-campus and clarified that all the degrees awarded by the Deemed Universities in violation of instructions issued will be regarded as unspecified. This apart, the circular is comprehensive in nature in respect of courses to be conducted by the Deemed Universities. Thus, the course of M.Phil conducted by the 5th respondent/Vinayaka Missions University through distance education mode is certainly in violation of the circular issued by the University Grants Commission. In this regard, the University Grants Commission is empowered to initiate appropriate penal actions under the provisions of the University Grants Commission Act and its Regulations. It is left open to the University Grants Commission to initiate appropriate action in view of the fact that the poor students are exploited in this manner by such Deemed Universities for their personal gains. In the event of serious irregularities by such Deemed Universities, the University Grants Commission is competent to initiate all appropriate action, even to cancel the status of Deemed

University. However, such actions are rarely taken by the University Grants Commission for the reasons not known to the Court. The University Grants Commission is the authority to regulate the courses to be conducted by various Universities across the country. Such being the status of the University Grants Commission under the statute, they are duty bound to inspect and vigil over such illegal activities of the Universities so as to ensure that the interest of the students, who all are studying in the Universities are protected. The students who may not be aware of such approval or recognition to be obtained from the University Grants Commission. Ultimately after completion of the degree, they came to know that such courses are not approved by the University Grants Commission. Thus, the University concerned must be accountable and answerable and the authorities of the University Grants Commission and the U.G.C. are also duty bound to initiate all appropriate actions against such Universities which are all conducting the courses not approved by the University Grants Commission or through its Regulations.

10. The learned counsel for the petitioners states that though the incentive increment was granted based on the application submitted by the writ petitioners, there was no suppression of fact or otherwise on the part of the writ petitioners. Thus imposing recovery will cause hardship to the writ petitioners. The learned Government Advocate in this regard made a submission that based on the judgment of the Hon'ble Supreme Court of India in the matter of imposing recovery, the Government also issued orders in G.O.Ms.No.286 Finance (Pension Department) dated 28th August 2018. While imposing recovery in respect of Government servants, the judgment of the Hon'ble Supreme Court as well as the Government Order issued based on the judgment of Hon'ble Supreme Court is to be followed scrupulously and appropriate decisions ought to be taken in this regard. It is needless to state that the guidelines issued in this regard by the Government in Government Order cited supra should be followed before imposing recovery on the Government servants including the writ petitioners. In this view of the matter, this Court is of an opinion that the writ petitioners are not entitled for grant of any incentive increment for the qualification of M.Phil degree obtained by them from the 5th respondent/Vinayaka Missions University, which are not approved. In respect of recovery, the respondents are directed to pass appropriate orders in the light of the Government Order issued in G.O.Ms.No.286 Finance (Pension Department) dated 28.08.2018 within a period of twelve (12) weeks from the date of receipt of a copy of this order.

11. Accordingly, these Writ Petitions stand disposed of. However, there shall be no order as to costs. Consequently, connected Miscellaneous Petitions are closed.

gsa/v

Sd/-

Assistant Registrar(CS IX)

//True Copy//

Sub Assistant Registrar

To

1. The Regional Accounts Officer,
(Audit),
Department of School Education,
Coimbatore - 641 001.
2. The Director,
Directorate of School Education,
Chennai - 600 006.
3. The District Educational Officer,
Gobichettipalayam,
Erode District.
4. The Secretary,
University Grants Commission,
New Delhi - 110 002.
5. The Headmaster,
Government Higher Secondary School,
Bairnatham - 636 905,
Dharmapuri District.
6. The Chief Educational Officer,
Dharmapuri,
Dharmapuri District.
7. THE HEADMASTER
GOVERNMENT HIGHER SECONDARY SCHOOL
RAMACHANDRAPURAM 642 120, TIRUPPUR DISTRICT.
8. THE HEADMASTER
GOVERNMENT HIGH SCHOOL CHETTIAMPALAYAM
P.VELUR TALUK NAMAKKAL DISTRICT.

9.The District Educational Officer
Tiruppur, Tiruppur District

10. THE HEADMASTER
GOVERNMENT HIGH SCHOOL CHOLAMADEVI - 642 113
MADATHUKULAM, TIRUPPUR DISTRICT

11.The Chief Educational Officer
Namakkal, Namakkal District

12.The Chief Educational Officer,
Tiruppur, Tiruppur District

13.THE HEADMASTER
GOVERNMENT HIGH SCHOOL CHETTIAMPALAYAM
P.VELUR TALUK NAMAKKAL DISTRICT.

14. THE HEADMASTER
GOVERNMENT HIGHER SECONDARY SCHOOL
BELUKKURICHI-637 402 NAMAKKAL DISTRICT.

15. THE HEADMASTER
GOVERNMENT HIGHER SECONDARY SCHOOL
KOZHICKALNATHAM, TIRUCHENGODE TALUK
NAMAKKAL DISTRICT

16. THE HEADMASTER
GOVERNMENT HIGHER SECONDARY SCHOOL
VELLOTTAMPARAPPU, ERODE DISTRICT

17. THE HEADMASTER
NCP MUNICIPAL HIGHER SECONDARY SCHOOL
DHARMAPURAM, TIRUPPUR DISTRICT.

18.The District Educational Officer
Erode, Erode District

19. THE HEADMASTER
GOVERNMENT HIGH SCHOOL NAGAPALAYAM
ERODE DISTRICT

20. THE HEADMASTER
GOVERNMENT HIGH SCHOOL MADATHUKULAM
TIRUPPUR DISTRICT

+14cc to M/s.N.Manokaran, Advocate SR.NOs.61948,61947,61946,
61945,61944, 61943,61942,61941,61940,
61939,61938,61932,61933 and 61934

+1cc to Government Pleader SR.NO.62135

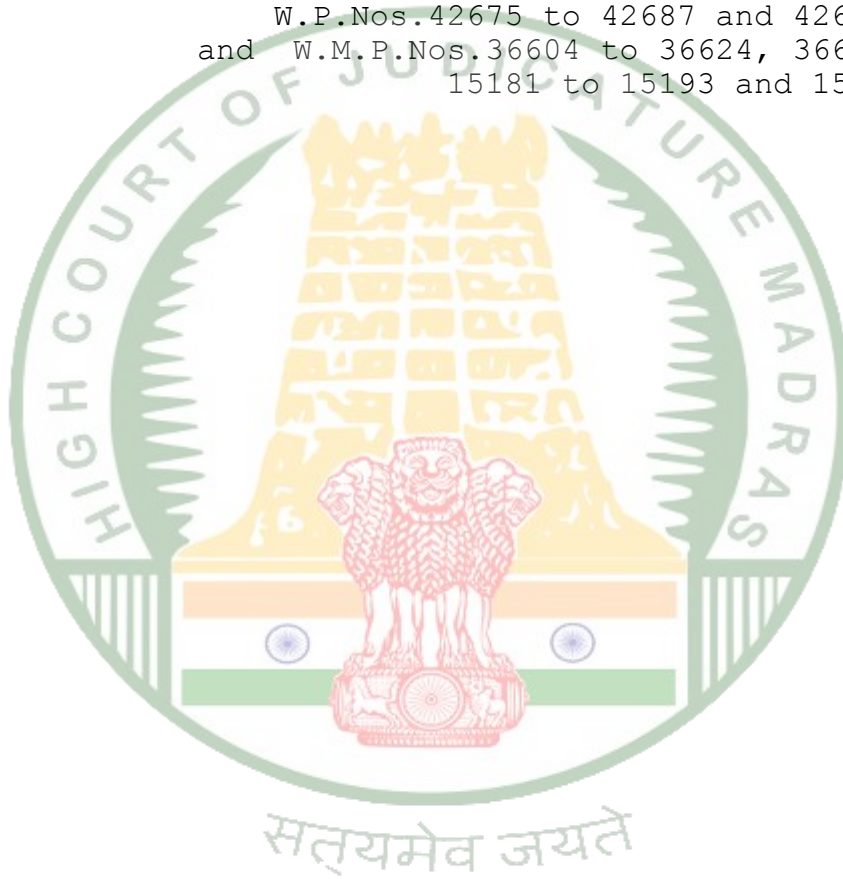
+1cc to M/s.P.R.Gopinathan, Advocate SR.NO.62503

+1cc to M/s.R.Parthasarathy, Advocate SR.NO.61629

RGN(CO)

sm:26.9.2018

W.P.Nos.42675 to 42687 and 42689 of 2016
and W.M.P.Nos.36604 to 36624, 36626 of 2016,
15181 to 15193 and 15195 of 2017



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