

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.4.2019

CORAM

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

AND

THE HONOURABLE MRS.JUSTICE V.BHAVANI SUBBAROYAN

WRIT APPEAL NOS.1430, 1432, 1438, 1448,
1452, 1453, 1457 and 1460 of 2019 &
CMP.Nos.9869, 9879, 9891, 9920, 9954, 9957, 9970 & 9976 of 2019

The Registrar, Bharathiar
University, Maruthamalai
Main Road, Coimbatore-46.

...Appellant in
all the WAs

Vs

- 1.Sree Narayanaguru Institute of
Science & Management, rep.by its
Director Mr.Shijiu Issac ...R1 in WA.No.
1430/2019
- 2.The TIPS Global Institute (a unit of
Tips Tech Pvt.Ltd.), rep.by its
Director D.Karthikeyan ...R1 in WA.No.
1432 of 2019
- 3.Indian Institute of Logistics, rep.by
Director Captain V.J.Pushpa Kumar ...R1 in WA.No.
1438 of 2019
- 4.Nehru College of Aeronautics &
Applied Sciences, rep.by Director
Dr.P.Krishna Kumar ...R1 in WA.No.
1448 of 2019
- 5.Rex Group of Institutions, rep.by
its Principal Mr.R.Arivalagan ...R1 in WA.No.
1452 of 2019
- 6.Kasturi Institute of Management
Studies, rep.by its Principal Mr.M.
Selvaraj ...R1 in WA.No.
1453 of 2019
- 7.The TIPS Global Institute, rep.by its
Authorized Signatory D.Karthikeyan ...R1 in WA.No.
1457 of 2019
- 8.Oscar Institute of Management,
rep.by its Authorized Signatory
N.Narman Blinn ...R1 in WA.No.
1460 of 2019

9.The State of Tamil Nadu, rep.by its
Principal Secretary, Higher Education
Department, Fort.St.George,
Chennai-9.

...R2 in all the WAs

10.The Secretary, University Grants
Commission, Bahadur Sha Zafar
Marg, New Delhi-110002.

...R3 in WA.Nos.
1430, 1432, 1438,
1452, 1453, 1457 &
1460 of 2019

APPEALS under Clause 15 of the Letters Patent to set aside the common order dated 24.7.2018 made respectively in W.P.Nos.13845, 14406, 13036, 15135, 14410, 13089, 14407 and 13153 of 2018.

W.P.No.13845 of 2018:- Forbearing the 2nd respondent from cancelling the Memorandum of Understanding dated 24.04.2017 which could be renewed up to 23.04.2020 and consequently direct the 2nd respondent to permit the petitioner Institute to admit students for the programmes B.Sc. (Optometry) B.Sc. (Interior design) B.Sc. (Forensic Science) B.Sc. (Health Safety Environment) M.B.A (Agriculture and Food Business Management) B.Sc. (Renewable Energy) for the academic year 2018- 2019 within the territorial jurisdiction of State of Tamil Nadu.

W.P.No.14406 of 2018:- Directing the 2nd respondent to renew the Memorandum of Understanding for a period of 3 years from 21.5.2018 and consequently direct the 2nd respondent to permit the petitioner College to admit students for the programmes B.Com. (Finance) B.Com. BBA B.Sc. (Human Biology) B.Sc. (Textile and Fashion Design) MBA (Entrepreneurship Management) 5 year Integrated M.Sc. in Health Care Systems and Life Science Interior and Building Design and Fashion Design and 5 Year Integrated MBA in Technical Entrepreneurship for the Academic Year 2018-2019 within the territorial jurisdiction of State of Tamil Nadu.

W.P.No.13036 of 2018:- Forbearing the 2nd respondent from cancelling the memorandum of understanding dated 22.02.2012 renewed subsequently till 21.02.2021 and consequently direct the 3rd respondent to permit the petitioner Institute to admit students for the programmes BBA- Logistics and Shipping B.Com Logistics & Shipping B.Sc. (IT and Logistics) MBA- Logistics and Shipping and Advanced Diploma Logistics and Shipping for the academic year 2018-2019 within the territorial jurisdiction of State of Tamil Nadu.

W.P.No.15135 OF 2018:-Forbearing the 2nd respondent from cancelling the memorandum of Understanding dated 29.06.2015 and consequently direct the 2nd respondent to renew the Memorandum of Understanding enabling the petitioner Institute to admit students for the programmes B.B.A (Aviation Management) B.Sc. (Aircraft Maintenance Science) and Diploma in Airport Ramp Services for the academic Year 2018-2019 within the territorial jurisdiction of State of Tamil Nadu.

W.P.No.14410 of 2018 :- Forbearing the 2nd respondent from terminating the Memorandum of Understanding dated 19.9.2016 and consequently direct the 2nd respondent to permit the petitioner institute to admit students for the programmes B.Sc. (Clinical Laboratory) B.Sc. (Visual Communication) B.Sc. (Physician Assistant) and MBA (Finance Human Resource Management and Event Management) within the territorial jurisdiction of State of Tamil Nadu.

W.P.No.13089 of 2018:-calling for the records comprised in resolution in Item No. 091-SI.Nos 3 and 5 passed in the 304th Meeting of the syndicate held on 18.5.2018 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 3rd respondent quash the same.

W.P.No.14407 of 2018:- Forbearing the 2nd respondent from cancelling the Memorandum of Understanding dated 14.7.2017 and consequently direct the 2nd respondent to permit the petitioner institute to admit students for the programmes B.Sc. (Textile and Fashion Design) for the Academic Year 2018-2019 within the territorial jurisdiction of State of Tamil Nadu

W.P.No.13153 of 2018 :- Forbearing the 2nd respondent from cancelling the Memorandum of Understanding dated 06.09.2010 renewed up to August 2019 and consequently direct the 2nd respondent to permit the Petitioner Institute to admit students for the Programmes B.Sc. (Catering Science and Hotel Management) B.Sc. Clinical Lab Technology) B.Sc. (Optometry) and B.Sc. (Physician Assistance) for the academic year 2018-2019 within the territorial jurisdiction of State of Tamil Nadu.

For Appellant : Mr.C.Vigneswaran

For State : Ms.R.Janaki, SGP

For UGC : Mr.P.R.Gopinath

For Respondent-1 in
WA.Nos.1452, 1438, 1457,
& 1460 of 2019 :Mr.Jayesh B.Dolia for M/s.Aiyer & Dolia

For Respondent-1 in WA.No.1452 of 2019 : Mr.P.Paul Selvam

COMMON JUDGMENT

(Judgment was delivered by T.S.SIVAGNANAM,J

We have heard Mr.C.Vigneswaran, learned counsel for the appellant, Mrs.R.Janaki, learned Special Government Pleader accepting notice for the State, Mr.P.R.Gopinath, learned Standing Counsel for the University Grants Commission (UGC), Mr.Jayesh B.Dolia, learned counsel appearing for the some of the institutions and Mr.Paul Selvam, learned counsel appearing for the first respondent in WA.No.1452 of 2019.

2. These appeals are filed by the appellant challenging the common order dated 24.7.2018 made respectively in W.P.Nos.13845, 14406, 13036, 15135, 14410, 13089, 14407 and 13153 of 2018.

3. The said writ petitions were filed by various institutions, which had entered into a Memorandum of Understanding (MOU) with the appellant University, by virtue of which, the writ petitioner institutions were authorized to conduct various courses for the degrees being awarded by the appellant University.

4. We are shocked to find that under graduate courses in human biology, health care systems, life sciences and various other courses are being conducted by the writ petitioner institutions. The Regulations framed by the UGC make it abundantly clear that no university is entitled to enter into any MOU with any other third party for the purpose of authorizing them to conduct a course by distance education mode on and after coming into force of the University Grants Commission (Open and Distance Learning) Regulations, 2017 with effect from 23.6.2017.

5. None of the writ petitioner institutions challenged the Regulations issued by the UGC. Therefore, as on date, the said Regulations are applicable to all universities including the appellant University. It may not be necessary for us to set out the details the various stringent conditions in the said Regulations issued by the UGC, as it is not in dispute that no such MOU could have been entered into by the appellant University with the writ petitioner institutions on and after 23.6.2017.

6. The contention of the appellant University before the learned Single Judge was that they had entered into the MOU with various institutions much prior to 2017 and that they continue to remain in force till 2019.

7. If the MOU is directly in conflict with the said Regulations of the UGC, obviously those MOU have no legal force. Therefore, the UGC is fully justified in initiating appropriate action against the appellant University or the institutions, with whom, they had entered into the MOU.

8. Before the learned Single Judge, the appellant University made a submission that they had filed an affidavit of undertaking before another learned Single Judge of this Court on 08.12.2017 in the earlier round of litigation that they will not operate the distance education study centres and will not grant affiliation and recognition relating to distance education to be conducted outside the State of Tamil Nadu from the academic year 2018-19. It appears that regardless of the said undertaking, students were admitted by the writ petitioner institutions for the academic year 2018-19 as well.

9. Mr.P.R.Gopinath, learned Standing Counsel for the UGC is fully right in his submission that the degrees that may be issued to the students or obtained by the students, who had enrolled themselves in the writ petitioner institutions, are invalid and that they are of no consequence.

10. However, neither before the learned Single Judge nor before us, the students, who have been admitted, are made parties. Therefore, in our considered view, if, in the opinion of the UGC, the appellant University violated the terms of the said Regulations, then, they are liable for action being initiated against them.

11. According to the learned Standing Counsel appearing for the UGC, the writ petitioner institutions have also acted contrary to the said Regulations.

12. It is always open to the UGC to take appropriate action. However, we are concerned about the innocent students, who have enrolled themselves in various courses conducted by the writ petitioner institutions and in all probabilities, those students would have been unaware of the present legal position. In the considered view of this Court, interests of those students, who are not before court, should not be put to jeopardy. This factor also weighed in the mind of the learned Single Judge, who permitted to operate the study centres outside the State of Tamil Nadu only for the academic year 2018-19. In the light of

the above, we are of the view that the order and direction issued by the learned Single Judge and more particularly in paragraph 4 of the impugned order, do not call for any interference. At the same time, we make it clear that this order does not, in any manner, exonerate the appellant University, which had violated the said Regulations of the UGC; so also the writ petitioner institutions. It is well open to the UGC to initiate appropriate action in this regard. We also make it clear that no fresh admissions shall be made by any of the writ petitioner institutions from the academic year 2019-20. It is further made clear that if any of the students were enrolled in any of the courses, which are of more than one year duration, the students should be permitted to complete the courses. The writ petitioner institutions shall issue necessary paper publication that their study centres will be closed and the appellant University shall also give public notice as to the closure of the study centres outside the State of Tamil Nadu.

13. The writ appeals are dismissed with the above observations. No costs. Consequently, the connected CMPs are also dismissed.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

To

1.The Principal Secretary to
Government of Tamil Nadu, Higher Education
Department, Fort.St.George,
Chennai-9.

2.The Secretary,
University Grants Commission,
Bahadur Sha Zafar Marg,
New Delhi-110002.

3. The Registrar,
Bharatiyar University,
Maruthamalai Main Road,
Coimbatore - 46.

+3cc to M/s.Aiyar & Dolia, Advocate, SR.No.40745
+1cc to M/s.P.R.Gopinathan, Advocate, SR.No.40329
+2cc to M/s.C.Vigneswaran, Advocate, SR.No.39211
+1cc to M/s.P.Paul Selvam, Advocate, SR.No.39552

WA.No.1430 of 2019
etc. cases

Kak (30/04/2019)



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