

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated :22.07.2019

Coram:

THE HONOURABLE DR.JUSTICE G. JAYACHANDRAN

Writ Petition No.19864 of 2019

and

W.M.P.No.19400 of 2019

GEMS B School
Rep.by its Chairman,
S.Irfan,
No.46H, KRN Complex,
1st Floor "K" Theatre Road,
Near IOB,
Krishnagiri 635 001.

.. Petitioner

/versus/

1.Bharathiar University,
Rep.by its Registrar,
Coimbatore 641 046.

2.The Director,
Centre for Participation Programme,
Bharathiar University,
Coimbatore 641 046.

3.The Controller of Examinations,
Bharathiar University,
Coimbatore 641 046.

.. Respondents

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus directing the respondents to allot registration numbers to the 1st year students admitted in B.A(Tamil), M.A.(English) and M.Sc(Physics) courses in the petitioner-Institute in the academic year 2018-2019, permit them to appear for all the examinations, declare results and complete their courses.

For Petitioner :Mr.R.M.Makesh Kumaravel

For Respondents :Mr.L.P.Shanmugha Sundaram, Spl.GP

O R D E R

The prayer in the writ petition is to issue a Writ of Mandamus directing the respondents to allot registration numbers to the 1st year students admitted in B.A(Tamil), M.A.(English) and M.Sc(Physics) courses in the petitioner-Institute in the academic year 2018-2019, permit them to appear for all the examinations, declare results and complete their courses.

2.The case of the petitioner is that as per the Memorandum of Understanding entered between the petitioner's College with the Bharathiar University, they are entitled to admit the students for the following Courses:

Sl.No.	Programmes	Duration
01	BBA	3 years
02	B.Com	3 years
03	BCA	3 years
04	MCA	3 years
05	MBA (General, Marketing Management, Financial Management, Human Resource Management, Information System Management)	2 years

Accordingly, they have admitted the students and running the programmes, whereas, in anticipation of affiliation and approval from the University, they have admitted the students in the following Courses:

Sl.No.	Programmes	No of students
01	B.A.Tamil	2 students
02	M.A. English	4 students
03	M.Sc., Physics	3 students
	Total	9 students

3. The petitioner herein, pursuant to the Memorandum of Understanding entered with the University, is conducting certain courses under Centre for Participatory Programmes(CPP) and Centre for Collaboration of Industries and Institutions (CCII)

Programmes. The petitioner-Institute under the said programme, offering the courses viz., B.B.A., B.Com., B.C.A., M.C.A., M.B.A., (General, Marketing Management, Financial Management, Human Resource Management, Information System Management) for the students. The approval of the 1st respondent for the petitioner-Institute is still in force and the petitioner-Institute has admitted the students for the academic year 2018-2019 offering the courses as approved by the University. On 20.11.2017, the petitioner-Institute has applied for approval to start new courses viz., B.A. (Tamil), M.A. (English) and M.Sc (Physics). The 1st respondent-University has inspected the petitioner-Institute and recommended to grant approval to start the above new courses for the academic year 2018-2019. In anticipation and as per the practice, the petitioner-Institute has admitted two students in B.A., (Tamil); four students in M.A. (English); and three students in M.Sc.(Physics). At the end of the first year, the students have also remitted tuition fees and examination fees. However, the University have not issued Hall Tickets for the above students to appear for the first and second semester examinations of the academic year 2018-2019.

4. According to the petitioner-Institute, the University Grant Commission(UGC) has restrained the University from operating the Distance Education Study Centres and franchise Institutes and grant of affiliation and also recommendation regarding the Distance Education to conduct outside State of Tamil Nadu from the academic year 2018-2019. However, this restrain order of University Grant Commission(UGC) will not apply to the petitioner-Institute since they do not offer distance education or Study Centres but the courses offered by the petitioner-Institute fall under Centre for Participatory Programme (CPP) and Centre for Collaboration of Industries and Institutions (CCII) programmes. Under the said premises, the writ petition is filed seeking Mandamus to direct the respondents to allot registration number to the students admitted in B.A.(Tamil), M.A(English) and M.Sc., (Physics) by the petitioner-Institute. सत्यमेव जयते

5. The learned Special Government Pleader appearing for the Bharathiar University would submit that the petitioner-Institute entered into the Memorandum of Understanding with the University on 04.05.2012 to start B.B.A., B.Com., B.C.A., M.C.A., and M.B.A programmes and the same were approved by the University. Apart from the above five courses, two more courses viz., B.A., (English Literature) and B.Sc., (Mathematics) were also approved by the University for the year 2013 vide, letter dated 24.10.2013. As far as B.A.(Tamil), M.A.(English) and M.Sc., (Physics) are concerned, the University never approved the petitioner-Institute to admit the students and it is incorrect to say that it is in practice and in anticipation, the

petitioner-institute has admitted the students for the unapproved courses. If any fee is paid for the students, it will be refunded to the petitioner-Institute. Without approval on their own, they made applications for payment of examination fee. This will not entitle them to participate in the examination.

6. Heard the learned counsel appearing for the petitioner and the learned Special Government Pleader appearing for the respondents.

7. On considering the averments made in the affidavit and information furnished by the learned Special Government Pleader appearing for the Bharathiar University, it is clear that the petitioner-Institute was never permitted by the University to admit the students for B.A.(Tamil), M.A.(English) and M.Sc., (Physics) courses. While so, it cannot admit the students for examination. After admitting the students, the petitioner-Institute seeks approval by ratification for the above said courses. More so, such admission of the students, without proper approval of the University, is contrary to the University Grant Commission (UGC) Regulations.

8. In such circumstances, the prayer sought for by the petitioner in this writ petition is unsustainable. Hence, this Writ Petition is dismissed. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

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To

1.Bharathiar University,
Rep.by its Registrar,
Coimbatore 641 046.

2.The Director,
Centre for Participation Programme,
Bharathiar University,
Coimbatore 641 046.

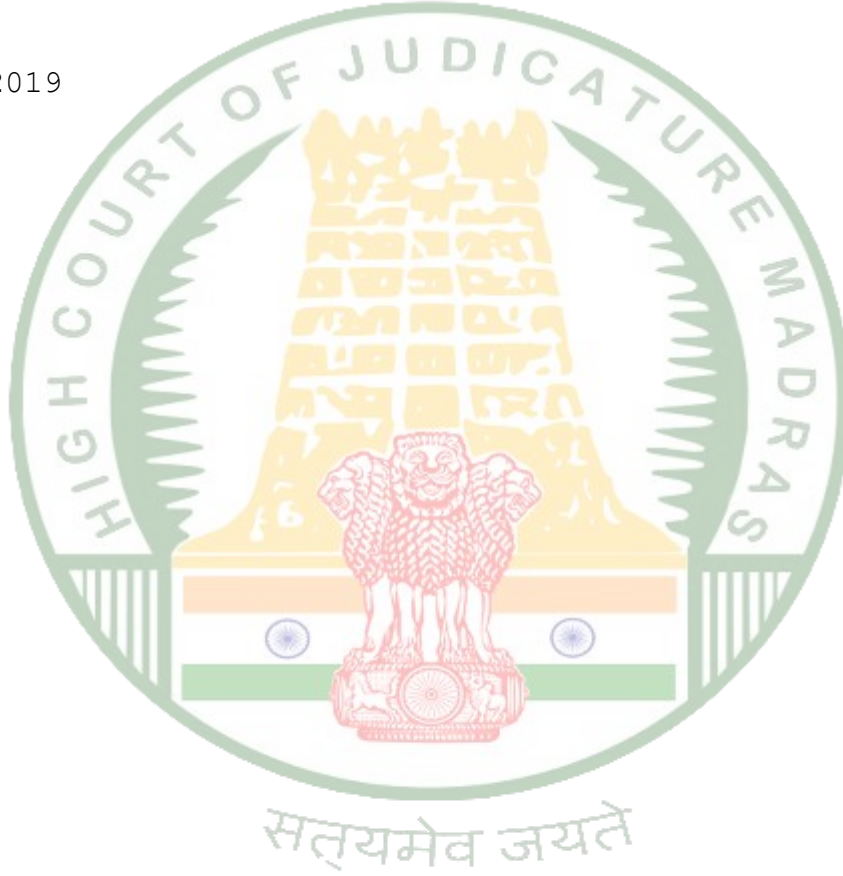
3.The Controller of Examinations,
Bharathiar University,
Coimbatore 641 046.

+1cc to Mr.P.Paul Selvam, Advocate sr.62844

+1cc to Mr.L.P.Shanmugha Sundaram, Advocate sr.62824

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nr 04/09/2019



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