

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 14.11.2019

PRONOUNCED ON : 26.11.2019

CORAM

THE HONOURABLE DR.JUSTICE G.JAYACHANDRAN

Writ Petition No.29486 of 2019 and
W.M.P.Nos.29340 & 29342 of 2019

Mahendra Institute of Technology,
Rep. By its Principal,
Salem - Tiruchengode Highway,
Mahendhirapuri,
Mallasamudram,
Namakkal - 637 503. Petitioner

Vs

1.The Anna University,
Rep. By its Registrar,
Anna University Campus,
Guindy,
Chennai - 600 025.

2.The University Grants Commission,
represented by the Secretary,
University Grants Commission,
Bahadur Shah Zafer Marg,
New Delhi - 110 001.

... Respondents

Prayer :- This Writ Petition is filed under Article 226 of the Constitution of India for a writ of Certiorarified mandamus calling for the records of the first respondent in letter No.2170/AU/CAC/Autonomous / 2019 dated 31.07.2019 and subsequent order in letter No.2170/AU/CAC/Autonomous/2019 dated 16.08.2019 and quash the same and consequently direct the first respondent to issue necessary notification / orders with reference to Autonomous Status of the Mahendra Institute of Technology, Mallasamudram, Namakkal District in the light of the order of the Hon'ble Supreme Court in Civil Appeal No.5835-5836 of 2019 dated 24.07.2019.

For Petitioners :Mr.Muthumani Doraisami

For 1st Respondent :Mr.M.Vijayakumar, Standing Counsel

For 2nd Respondent :Mr.B.Rabu Manohar, Standing Counsel

ORDER

The petitioner Institute of Technology established in the year 2007 is affiliated to the first respondent university. Currently, it offers eight UG courses and three PG courses in Engineering and Technology with students strength of 2087. The petitioner Institute applied for autonomous status to the University Grant Commission (UGC) through online on 12/04/2019. As per the procedure, hard copy of the application was routed through the first respondent with an advance copy to the second respondent. Pursuant to the application, the Inspection Committee of the first respondent inspected the petitioner Institute on 08/05/2019 and forwarded its remarks.

2. Thereafter, the Second respondent (UGC) constituted an Expert Committee consisting an officer from the Southern East Regional Office of UGC, nominee of State Government and a nominee of the affiliating university (Anna University). On 20th and 21st July, 2019 the Expert Committee conducted inspection of the petitioner Institute and submitted its recommendation to the UGC. The Standing Committee constituted by the UGC, met on 31/07/2019 and conferred autonomous status to the petitioner Institute for a period of 10 years (2019- 2029) and communicated to the petitioner vide letter dated 05/08/2019.

3. After the conferment of autonomous status by UGC, the first respondent which is expected to issue necessary notification/orders regarding grant of Autonomous status as per Conferment of Autonomous Status Regulations, 2018 has wrote to UGC stating that, it reject the request of granting autonomous status to the petitioner Institute since, it does not fulfill the minimum examination performance prescribed.

4. In the counter affidavit filed by the first respondent it is stated that,

"4. It is submitted that Anna University in its Syndicate meeting held on 27.05.2014

(231st meeting) has formulated some guidelines for forwarding the applications received from the colleges to UGC for award of fresh autonomous status or for extension of autonomous status. According to para (a) 7 of these guidelines for awarding fresh autonomous status "The overall pass percentage of the students in the University examinations shall be not less than 70% on an average over the last three years". But the petitioner college has secured only 52% of pass percentage during the last three consecutive years. This has been pointed out by the Inspection Committee who inspected the petitioner's college on 08.05.2019. In para 7 "Criteria for granting autonomy to colleges" under "UGC Guidelines for autonomous colleges" it has been emphasized in clause 8.1 that "Academic reputation and previous performance in university examination and its academic/co-curricular/extension activities in the past". Based on these, University has sent a letter of rejection for granting autonomy to the petitioner college.

5. It is submitted that nonetheless a nominee from the University was in the expert committee constituted by the UGC for inspecting the petitioner college the report of the committee is being kept as confidential by UGC and did not disclose to the University. As such it is not known what were the recommendations recommended by the expert committee during the inspection. It is understood that the Standing committee constituted by the UGC in its meeting held on 31.07.2019 conferred the autonomous status to the petitioner institution for the period of 10 years of its own ignoring the criteria emphasized in point no.1 in para 7 of the guidelines of autonomous colleges of Anna University. This conferment of autonomous status to the petitioner college should not preclude the rights of the University granting /non granting autonomous status to the college.

6.It is submitted that according to the existing guidelines of the University, University has rejected the request of the petitioner college as there had been no requisite pass percentage as contemplated in para 7 of the guidelines for awarding fresh autonomous status to the colleges and communicated the same to the petitioner college vide letter No.2170/AU/CAC/Autonomous/2019 dated 31.07.2019 which has also been communicated to the UGC by the University. Notwithstanding the proposals for granting autonomous status to the college was rejected by the University, UGC has granted autonomous status suo moto devoid of considering the rejection letter issued by this University."

5.The contention of the University is that regardless of UGC granting the autonomous status to the petitioner college, University is not prevented from taking action in the matters of granting autonomous status to the college. Though a representative of the university was a member in the Expert Committee of UGC, it does not estop from declining grant of autonomous status. The university has issued orders based on the guidelines issued by the University which was approved by the Syndicate this is not contrary or repugnant to the guidelines issued by the UGC. Without rectifying the deficiencies pointed out by the inspection committee and distorting all facts, the authority of petitioner college is trying to get autonomous status for their college which is not consonance with law.

6.Referring in para 6 conferment/extension of autonomous status point 3 "In case the proposal is rejected by the University, the decision shall be communicated to the college and University Grants Commission through a 'Speaking order'", the University contents that, the proposal of the college was rejected by the University through a speaking order dated 16.08.2019.

7.Further in paragraph Nos.14 and 15 of the counter affidavit the first respondent has asserted that the university has every right to stipulate more and above the condition prescribed by UGC and the court has limited power in the matter of education. For better appreciation of the respondent contention those paragraphs are also reproduced below:-

"14The powers of the University is covered by Entry 15 being the concurrent list therefore the standards set by the UGC is bare minimum, the University has every right to stipulate more and above the condition prescribed by UGC.

15.It is submitted that, in the case All India Council for Technical Education vs. Surinder Kuman Dhavan and others (2009 (11) SCC 726) the Apex Court indicated the role of statutory and expert bodies for education and the limited role of court in such matters. The relevant paragraph reads:-

"The Courts are neither equipped nor have the academic or technical background to substitute themselves in place of statutory professional technical bodies and take decisions in academic matters involving standard and quality of technical education. If the Courts start entertaining petitions from individual institutions or students to permit courses of their choice, either for their convenience or to alleviate hardship or to provide better opportunities, or because they think that one course is equal to another, without realizing the repercussions on the field of technical education in general, it will lead to chaos in education and deterioration in standards of education."

8.The petitioner has filed a rejoinder pointing out the error and fallacy found in the submission of the first respondent counter. The learned counsel for the petitioner's submission is that, the UGC Regulation 2018 will have primacy over the university syndicate resolution of the year 2014. The University aware of its resolution and the subsequent regulation of the UGC had forwarded the proposal to UGC on 29/05/2019. As per clause 7.3 of the UGC Regulation, 2018 the college shall submit the proposal to the Parent/Affiliating University. The said proposal to be forwarded to the UGC within 30 days of the receipt of proposal. In case proposal is rejected by the University, the decision shall be communicated to the college and UGC through a speaking order. In this case, the petitioner's

application was received by the university on 22/04/2019. The University inspection team visited the college on 08/05/2019 and forwarded its remarks to UGC on 29/05/2019. It never exercised its discretion under clause 7.3 within 30 days. Only after UGC granted autonomous status, the registrar of the first respondent vide his letter dated 31/07/2019 but signed on 02/08/2019 was served to the petitioner on 06/08/2019 and on 16/08/2019 wrote letter to the UGC to cancel the autonomous status.

9. The University Grant Commission is the statutory body which coordinate and determine the standards of higher education in universities. In exercise of the power conferred under Clauses 12 and 26, of the UGC (Conferment of Autonomous Status upon Colleges and Measures for Maintenance of Standards in Autonomous Colleges) Regulations, 2018 (hereinafter referred to as "the Regulations") was notified on 12/01/2018. Clause 6 of the said regulation deals with eligibility for getting autonomous status. Clause 7 prescribes the procedure to apply for seeking autonomous. Clause 8 set out the criteria for granting autonomy to colleges. The role of the parent university is set out in clause 4 in general and in clause 7.3 specifically.

10. For the purpose of this case, the clauses relevant in Regulations, 2018, is extracted below, for appreciation of this case:-

"Clause 4.1: To forward the application of the college for autonomous status/provide nominee on the Expert Committee/various statutory bodies and issue notification within 30 days for a college to function as an autonomous entity once autonomous status is conferred on the college.

Clause 4.2: If the University does not forward the proposal/provide nominee within 30 days, it shall be presumed that the University has no objection to the processing of the proposal of the UGC for conferment of autonomous status.

.....

Clause 6.3: The colleges must be accredited by either NAAC with minimum 'A' Grade or by NBA for at least three programme(s) with a minimum score of 675 individually or a corresponding accreditation Grade/score from a UGC empanelled accreditation agency. However, if the number of programme(s) being run by the Institution is less than three, then each of the programmes should secure 675 or more marks. Accreditation status must be valid at the time of application.

.....

Clause 7.3: The college shall submit the proposal to the Parent/Affiliating University which may forward the same to UGC within 30 days of the receipt of proposal. In case the proposal is rejected by the University, the decision shall be communicated to the college and University Grants Commission through a "Speaking Order".

Clause 7.4: If the University and State Government fail to provide the nominees for the UGC Expert Committee, the UGC may proceed with the on-spot visit and take decision on the proposal of the college.

Clause 7.5: If the college is found eligible as per the guidelines, the Commission shall examine the proposal for conferment/extension of autonomous status with an onsite visit by an Expert Committee constituted by the Chairman of the Commission consisting of three expert members (preferably at the level of Professor/Principal of an autonomous college) out of which one shall be the Chairperson, nominees from the Parent/Affiliating University and the State Government. A UGC official may be nominated to coordinate the visit."

11. When the petitioner Institute applied for autonomous status, the University has provided a nominee to the Expert Committee constituted by UGC. Independently it has conducted inspection of the college and forwarded its report to the second respondent on 29/05/2019 for consideration and necessary action with the following remarks:-

"After due verification of guidelines for autonomy prescribed by Anna University, the college satisfies all the eligibility criteria , except the following:

i) The Examination results for the last 3 years is 52% (Minimum requirements 70%) ."

12. This remarks were considered by the UGC Standing Committee and taking into consideration the 'A' Grade accreditation granted by NAAC which is the eligibility requirement under clause 6.3 of the Regulations, the UGC has granted autonomous status to the petitioner College. Once UGC has conferred autonomous status to a college under clause 4.1 of the Regulations, the role of the parent university is to issue within 30 days for the college to function as an autonomous entity. UGC Regulations is a subordinate legislation having statutory force. The University cannot rely upon its syndicate resolution passed in the year 2014 after the UGC regulation 2018 came into force, to defy the UGC direction.

13. When UGC which is the statutory Body conferred with power to grant autonomous status to colleges has granted the Autonomous status after due inspection, the parent university cannot have a overriding power under the new Regulation 2018. The scheme of Regulation speaks the role of parent University as below:-

'It can place its objection within 30 days from the date of receipt of the application (Clause 7.3). In all other cases, it has to provide a nominee to the Expert Committee (clause 7.5) and once autonomous status is conferred, shall notify the same within 30 days (Clauses 4.1 and 4.2).'

14.The UGC vide its letter dated 05/08/2019 has conveyed to the Anna University (first respondent) its decision to confer autonomous status to the petitioner college and requested the university to notify it. The letter of UGC dated 05/08/2019 reads as below:-

"The standing committee constituted by University Grants Commission, in its meeting held on 31.07.2019 decided to grant autonomous status to Mahendra Institute of Technology, Salem to Tiruchengode, Highway Mallasamudram - 637 503 Namakkal affiliated to Anna University, Chennai for a period of ten years w.e.f 2019-2020 to 2028-2029.

The University is requested to issue necessary notification/order regarding the grant of autonomous status to the college as per UGC (Conferment of Autonomous Status Upon Colleges and Measures for Maintenance of Standards in Autonomous Colleges) Regulations, 2018 for Autonomous Colleges. The College, if eligible, shall apply for autonomy grant as per the norms laid down in the Regulations."

15.This Court holds that as per the scheme of the Regulations regarding grant of autonomous status to college, after the decision of UGC, the parent university can have no over-riding power unless there is suppression of vital information/fact which has come to light subsequently.

16.As a result, the impugned communication of the first respondent dated 31/07/2019 is quashed. The first respondent is directed to act upon the letter of the second respondent (UGC) dated 5/08/2019 in tune with clause 4.1 of the Regulations and pass appropriate order within a period of 30 days from today. Accordingly, the writ petition is disposed of with the above direction. No costs. Consequently, connected Miscellaneous petitions closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

To

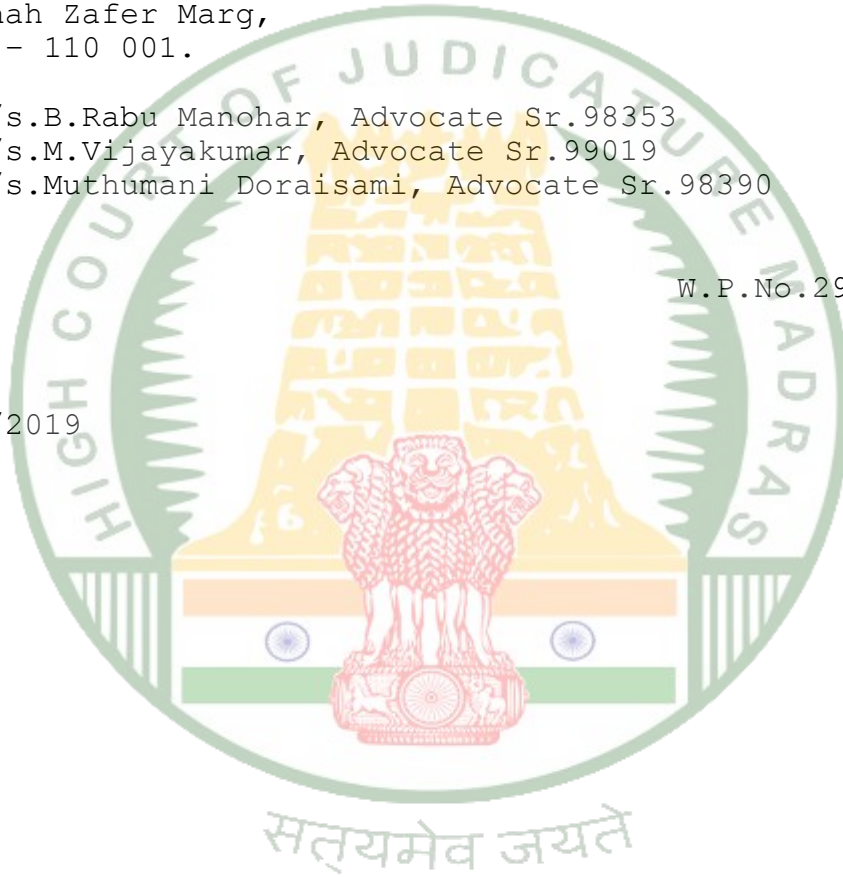
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+1cc to M/s.B.Rabu Manohar, Advocate Sr.98353
+1cc to M/s.M.Vijayakumar, Advocate Sr.99019
+1cc to M/s.Muthumani Doraisami, Advocate Sr.98390

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