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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

Date of decision: 01.05.2019

+ W.P.(C) 7075/2018 & CM APPL. 32223/2018
SYMBIOSIS INTERNATIONAL & ORS. Petitioners
versus

ALL INDIA COUNCIL FOR TECHNICAL EDUCATION
..... Respondent

+ W.P.(C) 8389/2018 & CM APPL. 32223/2018
THE GANDHI INSTITUTE OF
TECHNOLOGY AND MANAGEMENT (GITAM) Petitioner
versus

ALL INDIA COUNCIL FOR TECHNICAL
EDUCATION (AICTE) AND ORS. Respondents

Counsel for the petitioner:

Mr. Anupam Lal Das, Senior Advocate with Mr. Ravi Bhardwaj, Mr. Krishanu Barua, Advocates in Item 12.
Mr. Anil Sapra, Senior Advocate with Mr. Rajesh Gupta, Mr. Harpreet Singh, Mr. Pranjal Saran, Mr. Rudra CVR, Ms. Akanksha Chaudhary, Advocate in Item 13

Counsel for the respondent:

Mr. Anil Soni, Standing Counsel AICTE with Mr. Abhinav Tyagi Advocate for respondent No. 1 in Item 12 to 14.
Mr. Apoorv Kurup, Ms. Nidhi Mittal, Mr. Bhaibhaw Gahlaut, Advocate for respondent No. 2 UGC in Item 12.
Mr. Vijay Joshi, Advocate for UOI in Item 13.

CORAM:

HON'BLE MR. JUSTICE S. RAVINDRA BHAT
HON'BLE MR. JUSTICE PRATEEK JALAN

ORDER

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S. RAVINDRA BHAT, J.

1. On the previous date of hearing, this Court had recorded an order in the following terms:

“Prima facie by reading of the AICTE's affidavit, it appears to this court that the claim of the petitioners in W.P.(C) No. 7075/2018 and 8389/2018 appears to be satisfied because of the AICTE's clarification and also having regard to the CGPA score, of these two petitioner Institutions (i.e. in excess of 3.51 on a scale of 4).

List on 01.05.2019.

Interim orders to continue.”

2. Both the petitioners have sought relief declaring the Approval Process Hand Book 2018-19 and Public Notice dated 20.12.2017 for approval process 2018-19, to be ultra-vires to the provisions of the All India Council for Technical Education (AICTE) Act, 1987. The petitioner University/Institute sought declaration that these provisions were not applicable to them and sought consequential directions to AICTE to forbear from requiring the petitioner University/Institution to obtain approval of AICTE for conducting courses/programmes in technical education.

3. During the pendency of these proceedings, the University Grants Commission (Categorisation of Universities (only) For Grant of Graded Autonomy) Regulations, 2018, was brought into force on 12.02.2018. Various terms such as “University” and “Cumulative

Grade Point Average (CGPA) system, followed by the National Assessment and Accreditation Council [Regulation 2] and other terms, were defined. Regulation 3 categorised universities for grant of graded autonomy into three classes i.e. Category-I, II and III. Regulation 3(1)(a) declares that the University would be placed in Category-I, if it has a CGPA of 3.51 or more and has received corresponding accreditation grade/score from a reputed accreditation agency or was ranked among top 500 of reputed world rankings.

4. Regulation 4 and 9, to the extent relevant, are extracted below:

“4. Dimensions of Autonomy for Category-I Universities

4.1 Universities shall be automatically deemed to be under section 12B of the University Grants Commission Act, 1956 and no inspections by the Commission shall be required for the same.

4.2 Universities may start a new course/programme/department/school/centre in disciplines that form a part of its existing academic framework without approval of the UGC, provided no demand for fund is made from the government on account of starting the new course/programme/department/school/centre. Degree programs shall be consistent with the approved nomenclature of the UGC. Diploma and certificate courses approved by its Statutory Authorities or Statutory Regulatory Authorities wherever required, may be started in new and innovative areas that are relevant to local, national or international needs, with information to the UGC :

Provided that for Government owned Deemed to be Universities, approval shall be taken from the Government if funding is sought from the Government for starting a new course/programme/department/school in self-financing mode.

- 4.3 *Universities may open constituent units/off-campus centers within its geographical jurisdiction, without the approval of the UGC, provided it is able to arrange both recurring and non-recurring revenue sources and does not need any assistance for the same from the UGC or the Government.”*

xxx xxx xxx xxx

- “9. *Graded Autonomy Regulations vis-a-vis other Regulations.*

The provisions mentioned in the clause 4 and 5 of the Regulations i.e. dimensions of autonomy for Category-I Universities and Category-II Universities respectively, shall prevail in case of any inconsistent/conflicting provisions in the other UGC Regulations.”

5. On the previous date of hearing i.e. on 25.03.2019, it was noted that both the petitioner Universities/Institutes had secured more than minimum CGPA, i.e., 3.51 to be classified as Category-I. In the case of the petitioner in W.P.(C) No. 7075/2018, the material on record shows that the CGPA score was 3.58 out of 4, and in the case of W.P.(C) No. 8389/2018, the score was 3.53 out of 4. Clearly, therefore, these petitioner Universities/Institutes are entitled to be treated as Category-I Universities.

6. The AICTE in its counter affidavit has stated as follows:

“14. ...

All the deemed to be Universities notified by UGC as Category-I Institutions as per UGC (Categorisation of Universities (only) for grant graded Autonomy) Regulations, 2018 shall be exempted from seeking approval from AICTE for the programs in MBA, MCA, and Diploma/Degree in Travel and Tourism. However, such deemed to be Universities shall have to adhere to norms and standards of AICTE and an Affidavit stating that the deemed to be university is observing norms and standards of AICTE, must be submitted to the UGC. For all such UGC notified Category-I Deemed to be Universities, the AICTE approval shall be considered as deemed to have been accorded for running ODL program in MBA, MCA and Diploma/Degree in Travel and Tourism. However, in case of violation of AICTE norms, AICTE shall conduct inspection and submit its observations and recommendations to the UGC to initiate action including withdrawal of program recognition and take further action as per provisions of UGC [ODL] Regulations 2017 as amended from to time....”

7. It is apparent from the above discussion that the petitioner Institutions are entitled to be treated as Category-I Universities and therefore, are not compelled to seek a separate approval from the AICTE in respect of the courses which the AICTE's affidavit mentions. At the same time, the affidavit which the petitioners have filed, appears to be in line with the UGC Regulations; it has to be furnished to the UGC to facilitate supervision and whenever needed, inspection by the concerned expert bodies. Subject to the furnishing of such affidavit, the petitioners' claim has to succeed and direction is

accordingly issued that the petitioners shall be deemed to be Category-I Institutions/Universities entitled for the benefit of University Grants Commission (UGC) (Categorisation of Universities (only) for Grant of Graded Autonomy) Regulations, 2018. The writ petition is partly allowed in the above terms.

S. RAVINDRA BHAT, J

PRATEEK JALAN, J

MAY 01, 2019

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