

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 14.02.2020

CORAM :

THE HON'BLE MR.AMRESHWAR PRATAP SAHI, CHIEF JUSTICE

AND

THE HON'BLE MR.JUSTICE SUBRAMONIUM PRASAD

W.A.No.51 of 2020

The Anna University,
rep. by its Registrar,
Anna University Campus,
Guindy, Chennai - 600 025. ... Appellant/1st Respondent

vs.

1. Mahendra Institute of Technology,
rep. by its Principal,
Salem-Tiruchengode Highway,
Mahendhirapuri,
Mallasamudram,
Namakkal - 637 503. ...1st Respondent/Petitioner

2. The University Grants Commission,
rep. by the Secretary,
University Grants Commission,
Bahadur Shah Zafar Marg,
New Delhi - 110 001. ...2nd Respondent/2nd Respondent

Prayer: Writ Appeal filed under Clause 15 of the Letters Patent against the order dated 26.11.2019 passed by the learned Single Judge in W.P.No.29486 of 2019.

W.P.No.29486 of 2019:

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 1st 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 1st 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 Honourable Supreme Court in Civil Appeal No.5835 - 5836 of 2019 dated 24/07/2019.

For Appellant : Ms.Narmada Sampath
Addl. Advocate General
assisted by
Mr.M.Vijaya Kumar
Addl. Government Pleader

For Respondents : Mr.G.Masilamani
Senior Counsel
for Mr.Kandhan Duraisami
for respondent No.1

Mr.B.Rabu Manohar
Standing Counsel
for respondent No.2

JUDGMENT

(Delivered by The Hon'ble Chief Justice)

Heard learned Additional Advocate General for the appellant; learned Senior Counsel for the first respondent and learned counsel for the second respondent.

2. This appeal questions the legality of the impugned judgment of the learned Single Judge dated 26.11.2019, whereby the writ petition filed by the first respondent to declare it as an autonomous College has been allowed and the communication issued by the appellant University has been quashed.

3. The University has come up in this appeal contending that the Syndicate of the appellant University in the Minutes of Meeting, as recorded in the 231st meeting, empowers the University to impose conditions and has incorporated guidelines for the purpose of granting an autonomous status to a College affiliated to it, where one of the conditions is that the overall pass percentage of the students in the University examinations shall be not less than 70% of the average over the last three years. It is the case of the appellant University that the results of 2015-16; 2016-17 and 2017-18, which were the three years for consideration did not cross the bar of 70% as imposed by the Syndicate and therefore the College was not entitled to seek an autonomous status.

4. It is also the contention of the University, that the University Grants Commission (Conferment of Autonomous Status Upon Colleges and Measures for Maintenance of Standards in Autonomous Colleges) Regulations, 2018 (for brevity "2018

Regulations") promulgated with effect from 12.02.2018 for conferment of autonomous status upon Colleges and measures for maintenance of standards in autonomous Colleges empower the University only to take a decision and inform the University Grants Commission through a speaking order, and therefore, the University was well within its jurisdiction to take a decision in accordance with the conditions as prescribed by the Syndicate which should be read in addition to the 2018 Regulations not being contrary to any of the provisions therein.

5. It is the argument of learned counsel for the appellant that the imposition of such conditions or guidelines for the purpose of screening the Institutions to grant them autonomous status do not in any way impinge the Regulations framed by the University Grants Commission and they being conditions in addition thereto cannot be said to be violating either the procedure or in any way diminishing the powers of the affiliating University to impose such conditions. On the strength of the letter dated 29.05.2019, the appellant University contends that this information had been furnished to the University Grants Commission, which, without considering the same, has proceeded to take a decision awarding the autonomous status to the first respondent Institute thereby violating the conditions of eligibility as fixed by the University and its role in the grant of autonomous status as provided for in the 2018 Regulations.

6. It is further pointed out that the 2018 Regulations provide that upon submission of a proposal by the College, the University may forward the same to the University Grants Commission within thirty days. But, in the present case, the University chose to reject the same and the decision has been communicated to the Institution as well as to the University Grants Commission through a speaking order. It is stated that the information that was tendered on 29.05.2019 came to be supplemented by a letter dated 31.07.2019, where the University communicated its speaking order on the basis of the facts earlier tendered on 29.05.2019 that the College in question had failed to maintain the standard of performance for the past three years as stipulated by the University and referred to in the letter dated 29.05.2019. Consequently, on account of this average performance, the University had decided not to grant autonomous status to the Institution.

7. We may point out at this stage that the said letter dated 31.07.2019 has been signed by the Registrar on 02.8.2019 and the learned Single Judge, while dealing with the status of the said letter, observed that the said letter was served on the Institution on 06.8.2019 and reached the University Grants Commission on 16.8.2019.

8. Learned counsel for the appellant has therefore urged that in the wake of these facts and the admitted position that the Institution had not reached the mark of excellence, that was required for grant of an autonomous status, in the examinations for the past three years, the decision of the University dated 31.07.2019 was justified and that the learned Single Judge has committed an error in allowing the writ petition.

9. In short, the submission is that the University is not denuded of its authority in denying autonomous status to the Institution in the exercise of its own powers, being the affiliating University of the first respondent Institution.

10. In response, we had called upon learned counsel for the second respondent - University Grants Commission to inform us as to whether the letter dated 29.05.2019 had been taken into consideration by the University Grants Commission or not and the learned counsel has placed before us the proceedings dated 25.11.2019, wherein it stands recorded that the Standing Committee of the University Grants Commission, in its 39th meeting held on 01.10.2019, had resolved that in view of the sanctity of the Regulations framed by the University Grants Commission, the Vice-Chancellor of the University is requested to honor the decision of the University Grants Commission for granting an autonomous status to the College and a copy of the same was dispatched to the Chief Secretary of Tamil Nadu.

11. Learned Senior Counsel for the first respondent Institution contends that once the 2018 Regulations are in force, a decision through a resolution of the Syndicate cannot override the specific provisions contained in the 2018 Regulations, which do not grant any authority to the University to take a final decision with regard to grant of autonomous status to an Institution which now squarely rests under the 2018 Regulations with the University Grants Commission itself. He, therefore, submits that the Syndicate resolution dated 27.05.2014 is neither compulsive nor binding nor does it authorize the University to take a decision in the matter. In order to clarify the same, the 2018 Regulations, according to him, clearly provide for an objection which can be taken by the University through a reasoned and speaking order within the time limit as prescribed therein, which is thirty days, and in the event of any such default, the 2018 Regulations itself provide that the University will be deemed to have no objection in the matter, whereupon the University Grants Commission itself is empowered to take a decision through the Standing Committee, which is the only statutory body now enjoined and empowered to take a decision with regard to the grant of autonomous status to an affiliated College of the University.

12. The contention is that if the procedure prescribed in the 2018 Regulations has given a role to the University to pass a reasoned and speaking order and if the said procedure has not been followed within the time prescribed, the University Grants Commission is not bound to take notice of any action taken subsequently. For this, he submits that the communication dated 29.05.2019 is not an order in accordance with the 2018 Regulations or a decision by the University not to grant the autonomous status. Thus, the University had not taken the decision to refuse the autonomous status, but it rather forwarded the recommendations to the University Grants Commission for its consideration mentioning the exception of the 70% bench mark fixed by it. He then contends that the University Grants Commission after having waited for the statutory period of thirty days and there being no decision available, the University proceeded to get the College inspected through a Committee, a Member whereof is of the University itself. It is after the submission of the report of the Committee, which also comprises a Member from the University, that the University Grants Commission took a decision on 05.8.2019 to grant autonomous status to the Institution and which the University Grants Commission was empowered to do and was not obliged to wait any further. He submits that as an afterthought, the letter dated 31.07.2019 was prepared, which was signed on 02.8.2019, and ultimately reached the University Grants Commission on 16.8.2019 with an information to the College on 6.8.2019, long after the expiry of the period of thirty days of the submission of the proposal by the Institution. In such a situation, the said decision is also vitiated on account of being in violation of the 2018 Regulations itself.

13. He further submits that even otherwise the University Grants Commission is under no obligation in law to be bound by the orders passed by the University, inasmuch as the University Grants Commission has been given the authority under the 2018 Regulations to undertake this exercise itself and then grant or refuse the autonomous status to an affiliated College. The 2018 Regulations are not subservient to any other law time being in force and consequently, by operation of law, the University Grants Commission is the sole body now empowered to take a final decision with regard to the grant of autonomous status after getting an opinion of the University and the State Government, if any. The contention therefore is that any resolution of the Syndicate has absolutely no legal sanctity and even if it has some persuasive value, the same is not binding on the University Grants Commission.

14. In the said background, we are of the opinion that the 2018 Regulations framed by the University Grants Commission in exercise of the powers conferred under Section 12(f), (g), (j) read with Section 26(1) of the University Grants Commission Act, 1956 govern the field, inasmuch as the same is clearly saved as being a Regulation duly authorized having its source in Entry 66 of List I of the Constitution of India. There is no law for the time being relating to the Regulation of grant of autonomous Colleges running contrary to the same either framed under Entry 66 of List I or Entry 25 of List III. In the absence of any such legislation to the contrary, we are of the clear opinion that the 2018 Regulations clearly hold the field exclusively in the matters of grant of autonomous status to affiliated Colleges. The resolution of the Syndicate dated 27.5.2014 cannot in any way be said to have an overriding effect or even supplementary effect to the 2018 Regulations, inasmuch as the method of grant of an autonomous status is clearly defined under the 2018 Regulations and the eligibility to obtain such status is also governed by the same.

15. We may gainfully extract Clauses 6, 7 and 8 of the 2018 Regulations that are relevant Clauses for the purpose of the present controversy:

"6. ELIGIBILITY

6.1 Colleges (of any discipline) whether aided, partially aided and unaided/self financing are eligible provided they are under Section 2(f) of the UGC Act.

6.2 The college should have at least 10 years of existence.

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.

Provided further, the existing autonomous colleges will be required to comply with this eligibility condition within a maximum period of five years from the date of notification of these Regulations.

The constituent colleges shall also undergo separate accreditation by NAAC/NBA/UGC empanelled accreditation agency to be considered eligible.

6.4 (i) Colleges accredited with a score of 3.0 and above, up to 3.25 on a 4 point scale of NAAC/corresponding NBA score / corresponding accreditation score from a UGC empanelled accreditation agency at the time of application shall be considered for grant of autonomous status with an on-site visit of the duly constituted Expert Committee.

(ii) Colleges which have a NAAC score of 3.26 and above, up to 3.50 or a corresponding NBA score or a corresponding accreditation Grade/score from a UGC empanelled accreditation agency for one complete cycle and also accredited accordingly in the second cycle, shall be considered for grant of autonomous status without onsite visit by the Expert Committee.

(iii) Colleges with 3.51 and above in a 4 point scale of NAAC or a minimum of three programmes have been accredited by NBA with a minimum score of 750 individually or a corresponding accreditation Grade/score from a UGC empanelled accreditation agency at the time of application shall be considered for grant of autonomous status without onsite visit by the Expert Committee.

However, the colleges are required to adhere to University Grants Commission's Regulations like (a) curbing the menace of ragging in Higher Education Institutions Regulations 2012; (b) UGC (Promotion of Equity in Higher Educational Institutions) Regulations 2012; (c) UGC (Grievance Redressal) Regulations 2012, etc. in letter and spirit.

The application of colleges covered under 6.4 (ii) and (iii) above shall be considered as the report of the Expert Committee for consideration of the Commission and its approval thereof.

6.5 If an autonomous college has obtained the score of 3.51 and above on a 4-Point scale from NAAC or a minimum of three programmes have been accredited by NBA with a minimum score of 750 individually or a corresponding accreditation Grade/score from a UGC empanelled accreditation agency, the college shall be granted extension of autonomous status for further ten years without on-site visit.

(Colleges which apply for reaccreditation within the stipulated six months before the end of the cycle of accreditation period as mentioned in the Accreditation Certificate issued by National Assessment and Accreditation Council/NBA/UGC empanelled accreditation agency, the gap period between two consecutive accreditations shall be condoned. In case of other institutions which have not applied as per the guidelines mentioned above, the maximum period for condonation would be one year between the two accreditation cycles)

7. CONFERMENT/EXTENSION OF AUTONOMOUS STATUS

7.1 A College intending to become autonomous shall make an application in the format specified by the Commission any time during the year.

7.2 The college shall forward an advance copy of the proposal to University Grants Commission indicating the date of receipt of the proposal by the parent university for the record of the UGC.

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".

7.4 If the University and State Govt. 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.

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.

7.6 The decision for conferment /extension of autonomous status shall be taken by the Standing Committee (comprising of three Commission members)

on autonomous colleges after due consideration of the recommendations of the Expert Committee. The approval letters may be issued on the basis of the decision of the standing committee. The decisions may be ratified by the Commission subsequently.

7.7 If the proposal of a College for the conferment of autonomous status is rejected for any reason whatsoever, the college shall be eligible to reapply, but not before one year from the date of rejection of its earlier proposal.

7.8 The autonomous College shall apply in the prescribed format to University Grants Commission for extension of autonomous status six months prior to expiry of the autonomy cycle.

7.9 In case of expiry of accreditation cycle, the College seeking extension of autonomous status must submit a proof of having applied for accreditation by NAAC/NBA to be eligible for extension.

7.10 Till the extension of autonomous status is awarded by the UGC, the College shall continue to avail the autonomous status. The UGC shall also consider the interim period while granting extension of autonomous status to the College.

7.11 If an Autonomous College wishes to surrender the autonomous status, it shall follow due process of forwarding the resolution by the Governing Body through the University concerned to UGC for consideration. However, such withdrawal shall take effect only after the last batch of students then enrolled under autonomy passes out.

8. CRITERIA FOR GRANTING AUTONOMY TO COLLEGES

8.1 Academic reputation and previous performance in university examinations and its academic/cocurricular/extension activities in the past.

8.2 Academic/extension / research achievements of the faculty.

8.3 Quality and merit in the selection of students and teachers, subject to statutory requirements in this regard.

8.4 Adequacy of infrastructure in terms of class rooms, library books and e-resources, laboratories and equipments, sports facilities, facilities for recreation activities, residential accommodation for faculty and students, transport facilities etc.

8.5 Quality of institutional management.

8.6 Financial strength of the institution.

8.7 Responsiveness of administrative structure.

8.8 Motivation and involvement of faculty in the promotion of innovative reforms."

16. In the instant case, it appears that when the forwarding letter dated 29.05.2019 reached the University Grants Commission, an exercise was undertaken by the University Grants Commission for carrying out an inspection through an Expert Committee. This Expert Committee undisputedly also included the nominee of the appellant University. The inspection was carried out and upon a submission of the report, the Standing Committee, which is authorized under the 2018 Regulations aforesaid, proceeded to make its recommendations for grant of the autonomous status to the first respondent Institution culminating in the passing of the order by the University Grants Commission dated 05.8.2019.

17. We find this entire exercise to be in conformity with the aforesaid 2018 Regulations and therefore, the appellant University now cannot raise any grievance, more so, in the background that its own nominee had participated in the said proceedings that remains undisputed.

18. We need to mention another fact at this stage that the letter dated 29.05.2019 was in the knowledge of the University Grants Commission and it is thereafter that the University Grants Commission constituted an Expert Committee consisting of one of the nominees of the University to undertake a fresh exercise of inspection. It is thereafter that the University Grants Commission has taken a decision. Accordingly, with this exercise having been undertaken afresh by the University Grants Commission, we find no such infirmity, much less a legal infirmity, in the procedure adopted by the University Grants Commission to award the autonomous status to the first respondent Institute.

19. Learned Additional Advocate General urged that while taking a decision to grant the autonomous status, the University Grants Commission has nowhere mentioned about the fact of the objection taken by the University as noted in the letter dated

29.05.2019. In our considered opinion, once we have come to the conclusion that any decision taken by the Syndicate in the year 2014 no longer binds the University Grants Commission, then the said argument deserves rejection.

20. For all the reasons as indicated by the learned Single Judge and in addition thereto in view of the observations made herein above, we find no reason to interfere with the impugned judgment.

21. The appeal lacks merit and is accordingly rejected. No costs. Consequently, C.M.P.No.658 of 2020 is closed.

s/d-
Assistant Registrar (CS-III)

True Copy

Sub-Assistant Registrar

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To

1. The Registrar,
Anna University,
Anna University Campus,
Guindy, Chennai - 600 025.
2. The Secretary,
University Grants Commission,
University Grants Commission,
Bahadur Shah Zafar Marg,
New Delhi - 110 001.

+1 CC to Mr. Muthumani, Advocate sr 12482.
+1 CC to Mr.B. Rabu Manohar, Advocate sr 12490.
+2 Ccs to Mr.M. Vijaya Kumar, Advocate sr 12544.

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W.A.No.51 of 2020

MR(CO)
SP(24/02/2020)