

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on 10.03.2020	Delivered on 16.03.2020
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CORAM:

THE HONOURABLE MR. JUSTICE N. ANAND VENKATESH

W.P.Nos.1603 and 1834 of 2020
and
WMP Nos.2139, 1881, 1879 of 2020

Sengunthar Charitable Trust,
Rep. By its Secretary and Correspondent,
1/311-1, Sengunthar Nagar,
Kosavampalayam,
Thiruchengode - 637 205.
Namakkal District .. Petitioner in WP No.1603 of 2020

Coimbatore Institute of Engineering and Technology,
Rep. By its Principal,
Narasipuram (P.O),
Thondamuthur (via),
Vellimalaipattinam, Coimbatore - 641 109
..Petitioner in WP No.1834 of 2020

सत्यमेव जयते
.Vs.

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

2. The University Grants Commission,
Rep. By its Chairman,
Bahadur Shah Zafar Marg,
New Delhi -110 002

..Respondents in both WPs

PRAYER in WP No.1603 of 2020: Writ petition has been filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari to call for the records of the first respondent comprised in the resolution passed at the 256th Syndicate meeting of the first respondent University held on 20.11.2019 as communicated in Letter No.167/AU/CAC/Autonomous/2020 dated 13.01.2020 issued by the first respondent and quash the same as being arbitrary, illegal, wholly without jurisdiction and violative of the University Grants Commission (Conferment of Autonomous Status upon Colleges and Measures for Maintenance of Standards in Autonomous Colleges) Regulations, 2018, which is binding on the first respondent.

PRAYER in WP No.1834 of 2020 : Writ petition has been filed under Article 226 of the Constitution of India, to issue a Writ of certiorarified Mandamus to call for the records of the 1st respondent in Letter No.166/AU/CAC/Autonomous/2020 dated 13.01.2020 and the order in Letter No.047/CAI/AU/2020 dated 20.01.2020 and quash the same and consequently direct the 1st Respondent University to continue the Coimbatore Institute of Engineering and Technology, Narasipuram (P.O), Thondamuthur (via), Vellimalaipattinam, Coimbatore - 641 109 as Autonomous Institution in the light of the order of this Court in WP No.29486 of 2019 dated 26.11.2019.

For Petitioner in WP No.1834 of 2020 : Mr.Kanddhan Duraisami

For Petitioner in WP No.1603 of 2020 : Mr.R.Parthasarathy

Mr.Rahul Balaji

For Respondents
in both WPs

: Mrs.Narmatha Sampath
Additional Advocate General
Assisted by
Mr.M.Vijayakumar
Standing Counsel for R1
Mr.B.Rabu Manohar
Standing Counsel for R2

COMMON ORDER

The subject matter involved in both the writ petitions are common and therefore, both the writ petitions are taken up together and disposed of through this common judgment.

2. The petitioner in WP No.1603 of 2020 is a trust, which is running a Engineering College named as Sengunthar Engineering College at Namakkal District. Initially this college was affiliated to Periyar University and thereafter, it was affiliated to the Anna University. The said college applied for Autonomous status before the University Grant Commission. The University Grant Commission granted the autonomous status to the college from the academic year 2019-2020 to 2028-2029 and the same was communicated to the petitioner by letter dated 24.06.2019. Before

this status was conferred, an inspection was conducted and it also contained a representative from the Anna University. Thereafter, the 1st respondent by proceedings dated 13.01.2020 has withdrawn the autonomous status on the basis of a resolution passed in the Syndicate Meeting. The same has been put to challenge in this writ petition.

2. The petitioner in WP No.1834 of 2020 was established in the year 2001 after getting necessary approval and affiliation from the All India Council for Technical Education (AICTE) and Anna University. The petitioner institution submitted an application on 19.06.2018 to the 1st respondent seeking for autonomous status to the petitioner institution. Simultaneously, application was also submitted to the University Grant commission. An inspection was conducted by an expert committee on 28th and 29th January 2019. This committee contained a representative from the Anna University. Thereafter, the University Grant Commission conferred Autonomous status to the petitioner institution for a period of 10 years with effect from 2019 - 2020 to 2028-2029 and this was communicated to the petitioner by letter dated 14.03.2019. This was also cleared by the Syndicate of the Anna University by letter dated

20.05.2019.

3. The petitioner institution received a communication from the 1st respondent University, recommending for cancellation of the Autonomous status. The impugned letter dated 13.01.2020 stated that the Autonomous status is revoked by virtue of the resolution passed in the Syndicate meeting. Aggrieved by the same, the present writ petition has been filed before this Court.

4. Heard the learned counsel appearing for the respective petitioners and the learned Additional Advocate General, appearing on behalf of the respondents.

5. This Court does not want to venture into the merits of the case, since the main focus of the arguments was on the very power and jurisdiction of the 1st respondent to withdraw or cancel or revoke the autonomous status of the institution, which was given / conferred by the University Grant Commission. The learned counsel appearing on behalf of the petitioners relied upon the recent judgment of the Division Bench of this Court in **[The Anna University**

Vs. Mahendra Institute of Technology and another] in WA No.51 of 2020 dated 14.02.2020.

6. The relevant portions in the judgement is extracted hereunder :-

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 re accreditation 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.

7. It is clear from the above judgment that where an exercise has been undertaken by the University Grants Commission for carrying out an inspection by an expert committee, which also included a nominee of Anna University and thereafter, the autonomous status was granted to the institution, the same cannot be withdrawn by the Anna University. The Division Bench has held that under the 2018 regulations, the University Grants Commission is the sole body which is empowered to take a final decision with regard to the grant of Autonomous status and the University Grants Commission Act, 1956, governs the field and therefore, the Anna University will not have the power or jurisdiction to withdraw the status.

8. Mr.Rabu Manohar, learned Standing Counsel, appearing on behalf of the 2nd respondent viz., the University Grants Commission submitted that it is only the University Grants Commission which has the exclusive power and jurisdiction to grant or cancel the Autonomous status and the Anna University does not have any power to revoke the Autonomous status of any institution, which has been conferred such a status by the University Grants Commission.

9. In view of the above, this Court is left with no other option except to interfere with the impugned letter of the 1st respondent revoking the Autonomous status of the Institution. The law on this issue has been settled by the Judgment of the Division Bench of this Court referred supra.

10. In the result, the impugned letter of the 1st respondent dated 13.01.2020, issued to each of the petitioner is hereby quashed. In view of the above, the Autonomous status of the institution shall continue and the Anna University shall accordingly recognize this status. Both the writ petitions are accordingly allowed.

Consequently, the connected miscellaneous petitions are closed.

16.03.2020

Index: Yes
Internet:Yes
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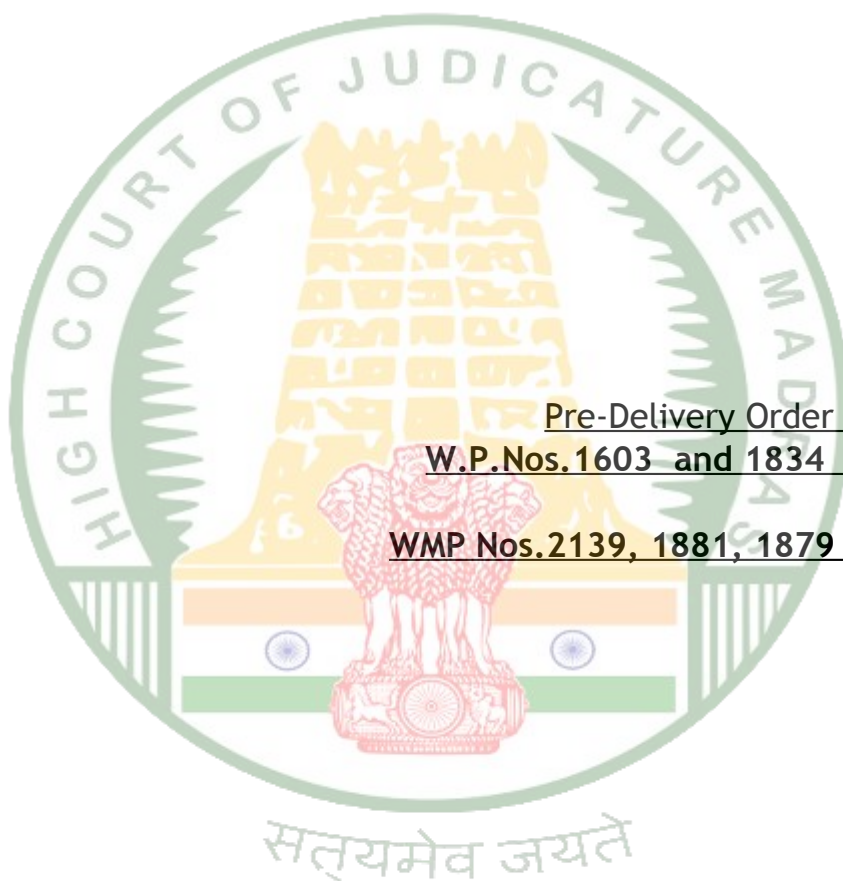
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