

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.5576 of 2021

1. Lalit Narayan Mithila University through its Registrar Kameshwar Nagar, Darbhanga.
2. Dr Mushtaque Ahmad Late Abdul Hakim, the Registrar Lalit Narayan Mithila University Kameshwar Nagar, Darbhanga.

... .. Petitioner/s

Versus

1. The Union of India through the Secretary, Ministry of Education, Government of India, New Delhi.
2. The University Grants Commission, through its Secretary, Bahadurpur Zafar Marg, New Delhi.
3. The Chairman, University Grants Commission, Bahadurshah Zafar Marg, New Delhi.
4. The Secretary, University Grants Commission, Bahadurshah Zafar Marg, New Delhi.
5. The Joint Secretary, University Grants Commission, Distance Education Bureau, 35, Firoz Dhah Road, New Delhi.
6. The National Assessment and Accreditation Council (NAAC) through its Director, Post Box No.-1075, Nagarbhavi, Bangalore-560072
7. The Chairman, National Assessment and Accreditation Council (NAAC), Post Box No.-1075, Nagarbhavi, Bangalore
8. The Director, National Assessment and Accreditation Council (NAAC), Post Box No.-1075, Nagarbhavi, Bangalore.

... .. Respondent/s

Appearance:

For the Petitioner/s : Mr. Md. Nadim Seraj, Adv.
Mr. Amish Kumar, Adv.
For the UGC : Mr. Amarendra Nath Verma, Adv.
For the Respondent Nos.6-8: Mr. Raju Kumar Singh, Advocate

CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH
CAV JUDGMENT

Date : 24-12-2021

The instant case has been taken up for consideration through the mode of Video conferencing in view of the prevailing situation on account of COVID 19 Pandemic,



requiring social distancing.

2. The present writ petition has been filed for quashing the public notice dated 12.10.2020 issued by the University Grants Commission (hereinafter referred to as the “UGC”), whereby and where under though the recognition of the higher educational institution named therein has been continued for a period of one year i.e. for the academic session 2020-2021 starting from July 2020 and January, 2021 for offering those programmes under ODL mode which were already recognized for the academic session 2019-2020, as per regulation 3 (A) of the UGC (Open and Distance Learning Programmes) Regulations, 2020 (hereinafter referred to as the “Regulations, 2020”) however, the name of the petitioner no. 1 institution has been left out. The petitioners have further prayed to direct the respondents no. 2 to 5 to allow the petitioner no.1 University to take admission for the Session beginning from July, 2020 onwards by relaxing the condition/ criteria mentioned in Part-II, Clause-3(A) of the Gazette notification dated 04.09.2020, as far as Open and Distance Learning Programme and Online Programmes for the Session 2020-2021 are concerned.

3. The brief facts of the case are that the petitioner no. 1 was established on 05.08.1972 by the State Government and



was subsequently recognized by the U.G.C. The petitioner no.1 University had then established the Directorate of Distance Education to provide Distance Education Programmes as per the Rules in the year 1998 and the same was recognized by the Apex Body of distance education namely Distance Education Council, New Delhi in the year 2007. Thereafter, the petitioner no.1 University had opened several professional/ traditional courses and has been awarding degrees to the successful candidates, duly recognized by the respective bodies under the scheme of U.G.C. The Directorate of Distance Education of the petitioner no.1 University was being regularly inspected by the Apex Body i.e. Distance Education Council/ Distance Education Bureau and extension and recognition to provide education through open and distance learning programme has been continuously granted to the petitioner no. 1 University since the year 2007. It has been stated that the petitioner no. 1 University had undergone NAAC accreditation in the year 2010 for five years and again in the year 2015 NAAC accreditation was conducted and it was awarded Grade-B with 2.46 CGPA points on 4 point scale which was to expire in the month of June 2020. It is submitted by the Ld. Counsel for the petitioner that on account of Covid-19 Pandemic, the NAAC accreditation had



been extended by a period of six months i.e. up to December 2020 by a notice dated 09.04.2020, issued by the respondent no.6. It is also the case of the petitioners that self studies report (hereinafter referred to as “SSR”) could not be submitted in time for further accreditation to the NAAC on account of Covid-19 pandemic, hence the Distance Education Bureau did not permit the Directorate of Distance Education of the petitioner no. 1 University to admit students from the academic session 2020-21 by conveying its decision to the petitioner no.1 University by an email dated 30.06.2020.

4. The learned counsel for the petitioner has next submitted that the academic session 2020-21 was yet to start from July 2020, however, in the meantime NAAC, by its notification dated 09.04.2020 had extended the period of NAAC accreditation by a further period of six months, hence, since the NAAC accreditation of the petitioner no.1 University, which was to expire in the month of June, 2020, had stood extended up to December, 2020, the respondent UGC ought to have considered the same and permitted the petitioner no.1 University to admit students in the ODL Programme for the Session 2020-21 especially considering the fact that petitioner no.1 University is imparting education in remote/ backward



areas of Bihar and Open and Distance Learning Programme are running since the year 1998 under the collaboration of Indira Gandhi National Open University, New Delhi and w.e.f. the year 2007 under the recognition granted by the Distance Education Council and thereafter from 2018 under the recognition granted by Distance Education Bureau. It is submitted that without considering the grace period granted by NAAC regarding accreditation already granted to the petitioner no. 1 University, the respondent UGC by the impugned notice dated 12.10.2020 has all of a sudden directed the petitioner no.1 not to take admission for the academic session 2020-21, starting from July 2020/ January 2021, respectively. It is also submitted that the Vice-Chancellor of the petitioner no. 1 University had requested the Chairman, UGC, New Delhi that in the peculiar facts and circumstances, the Directorate of Distance Education of the petitioner no. 1 University deserves and qualifies for continuation of recognition for a period of one year i.e. for the academic session 2020-2021 as per Regulation 3(a) of the Regulations, 2020. It is thus submitted that the petitioner no. 1 University be permitted to run the recognized 24 different programmes under the ODL mode for one year in view of the fact that if recognition is not granted, lacs of student would



suffer. The learned counsel for the petitioners has next relied upon a judgment rendered by the Hon'ble Apex Court in the case of **Hindustan Sugar Mills Ltd. Vs. The State of Rajasthan & Ors.**, reported in (1980) 1 SCC 599, relevant paragraph whereof is reproduced herein below:-

“We hopefully expect that the Central Government will not try to shirk its legal obligation by resorting to any legal technicalities for we maintain that in a democratic society governed by the rule of law, it is the duty of the State to do what is fair and just to the citizen and the state should not seek to defeat the legitimate claim of the citizen by adopting a legalistic attitude but should do what fairness and justice demand.”

5. Per contra, the learned counsel for the UGC has submitted that the petitioner no. 1 University, which is a State University, was accorded recognition for offering open and distance learning programmes for the academic years 2018-19 to 2019-20 vide notification dated 16.08.2018 and vide letter dated 01.11.2018, as per the UGC (Open and Distance Learning) Second Amendment Regulation, 2018. It is submitted that in the UGC (Open and Distance Learning) Regulations, 2017, by the UGC (Open and Distance Learning) Second Amendment Regulation, 2018, sub-clause (a) in Regulation 3 in



Sub- regulation 1, for clause (viii), the following clause has been substituted:-

“(viii) The Higher Educational Institution has valid accreditation from National Assessment and Accreditation Council with minimum Cumulative Grade Point Average of 3.26 on a 4 point scale and has completed five years of existence: Provided that the Higher Educational Institutes that are either State or Central or State Private Universities and were given permission by the University Grants Commission to offer programmes in open and distance learning mode for the academic session 2017-18 will be allowed to impart Open and Distance Learning education till the academic session 2019-20 to enable them to reach the prescribed quality National Assessment and Accreditation Council benchmark.

Provided further, that the Higher Educational Institutes falling in the above category but currently not accredited with National Assessment and Accreditation Council shall apply for National Assessment and Accreditation Council accreditation within three months from the date of issue of this regulation.

Provided further, that this clause shall not be applicable to Open Universities till the time they become eligible for National Assessment and Accreditation Council accreditation and it shall be



mandatory for Open Universities to get National Assessment and Accreditation Council accreditation within one year of their becoming eligible for the same.”

6. It is further submitted by the learned counsel for the UGC that the petitioner no. 1 University had also submitted an affidavit dated 10.04.2018, duly notarized, through its Registrar mentioning therein that “the University shall scrupulously abide by UGC (ODL) Regulations, 2017 and its amendments while imparting education through open and distance learning mode after getting the approval of UGC. In fact, Ministry of Human Resources Development had also decided that all such Higher Education Institutions which are without NAAC accreditation or with NAAC Score < 3.26 and are having recognition from Directorate of Distance Education, UGC to offer ODL Programmes till June, 2020, should apply / re-apply for NAAC accreditation before 31.01. 2020 and to this effect, an mail was also sent to the petitioner no. 1 University on 13.12.2019, whereafter vide email dated 31.01.2020 all the recognized Higher Education Institutions, offering ODL programme, were informed that as per the decision of NAAC, communicated vide letter dated 13.01.2020, the Higher Education Institutions may opt for General University Manual or ODL Mode Universities



Manual for assessment of Accreditation by NAAC. The Higher Education Institutions were also permitted to short close the current accreditation period as a one-time measure. The above relaxation of applying either in General University Manual or Dual Mode Universities Manual and short closing of the accreditation was applicable only until June 2020 and thereafter, the Higher Education Institutions had to apply in Dual Mode University Manual. It is also informed that Dual Mode Universities have to apply for accreditation latest by 10.02.2020 and the decision/ result on all such applications received will be announced by the NAAC by 1st June, 2020. Last date for applying for accreditation was extended by NAAC till 29th February, 2020 vide notification dated 03.02.2020.

7. It is further submitted by the learned counsel for the UGC that subsequently, UGC vide its letter dated 13.08.2020 had requested NAAC to provide the names of such Higher Education Institutions which have submitted applications to NAAC by 29th February, 2020. In response to UGC letter dated 13.08.2020, NAAC vide its letter dated 18th September, 2020 had furnished a list of 26 Higher Education Institutions which had applied to NAAC from 1st January 2018 to 29th February 2020. As per the list, Lalit Narayan Mithila University,



Darbhanga, Bihar is not in the list. Thus continuation of recognition for the academic session 2020-2021 has not been given to Lalit Narayan Mithila University, Darbhanga, Bihar as it has not been reflected in the list of Higher Education Institutions furnished by the NAAC. It is also stated that the impugned actions have been taken with respect to a host of universities on the basis of the facts and situations and as such cannot be faulted with. Moreover, the petitioner seeks the relief of relaxing the criteria mentioned in the notification dated 04.09.2020 and then permitting it to take admission for the Session beginning from July, 2020 onwards, which do not fall within the powers of the answering respondents.

8. The learned counsel for the respondent UGC has further submitted that the petitioner no. 1 University has not only failed to comply with the criteria laid down in the Regulation of the UGC but has also failed to apply for NAAC accreditation within time, hence, adverse consequences are bound to befall. The learned counsel for the respondents has also submitted that as per the UGC (Open and Distance Learning) second and third Amendment Regulations, 2018, Higher Educational Institutions are required to attain a NAAC score of 3.26 on a 4- point scale before the end of academic



session July 2019- June 2020, failing which the UGC shall not accord any approval to the ODL programme of the Higher Educational Institutions. It is submitted that considering the Covid-19 pandemic situation, the UGC vide UGC (Open and Distance learning Programme and Online Programme), Regulation, 2020, under Regulation 3(A) (i), has relaxed the criteria by lowering the NAAC score from 3.26 to 3.01 on a 4-point scale for the academic session 2020-21 beginning from July 2020 and January, 2021, however, not only the petitioner no.1 University has obtained a score of 2.46 but has also not even bothered to apply for NAAC accreditation, which has now stood lapsed long back, hence it does not deserve any sympathy because any relaxation to the petitioner no. 1 University would lead to jeopardising the career of the students. Lastly, it is submitted that there is no provision in UGC Regulations to relax the criteria or the minimum NAAC score required for the purposes of granting recognition for running full-fledged ODL programme.

9. I have heard the learned counsel for the parties and perused the materials on record from which it is apparent that admittedly, the petitioner no.1 University has a NAAC score of 2.46, which though was valid up to the month of June 2020 but



its validity appears to have been extended up to the month of December, 2020 by NAAC's notification dated 09.04.2020. Though the petitioner no. 1 University claims that it should be considered for grant of recognition for the session 2020-21 starting from the month of July, 2020, this Court finds that as per the UGC (Open and Distance learning) 3rd Amendment Regulations, 2018, the Regulations, 2017 have been amended and the higher educational institutions are required to attain NAAC score of 3.26 on a 4 point scale before the end of academic session July 2019- June 2020, failing which the U.G.C. would not grant approval to the ODL Programme of the Higher Educational Institutions. Thereafter, the U.G.C. has framed the UGC (Open and Distance Learning Programme and Online Programme) Regulations, 2020 and now in Clause 3(A) (i), thereof, has provided that only such higher educational institutions which are NAAC accredited with minimum score of 3.01 on a 4 point scale shall be eligible to apply for offering ODL programme for the academic sessions 2020-21. Thus, it is apparent that neither the petitioner no.1 University has obtained a NAAC score of 3.26 much less 3.01 nor it had applied to the NAAC for necessary accreditation till 29.02.2020 and merely on the strength of the NAAC accreditation score of 2.46, which



was only valid up to June, 2000, as extended up to the Month of December, 2020, seeks recognition from the UGC for running the ODL programme for the academic sessions 2020-21, starting from the month of July, 2020, which, in view of this Court, is contrary to the UGC Regulations, 2017, Regulations 2018 and the Regulations, 2020, hence, this Court finds that there is no infirmity in the notice issued by the UGC dated 12.10.2020 wherein the name of the petitioner no. 1 University has been omitted and it has not been granted recognition to conduct programmes under the ODL mode for the Academic Session 2020-21 inasmuch as the petitioner no. 1 University has not only failed to comply with the criteria laid down in the Regulations of the UGC, as aforesaid, but has also failed to apply for NAAC accreditation within time, hence, adverse consequences are bound to befall.

10. However, considering the prevailing Covid-19 pandemic situation, which has taken a toll on each and every one of us apart from the fact that the petitioner no.1 University is imparting education in remote/ backward areas of Bihar and the same is being run since the year 1998 continuously, as also taking into account the fact that the petitioner no.1 is a State University, this Court is of the view that the University Grant



Commission, New Delhi may take a sympathetic view of the matter for which the petitioner no.1 University is granted liberty to approach the respondent U.G.C.

11. The writ petition stands disposed of on the aforesaid terms.

(Mohit Kumar Shah, J)

Tiwary/-

AFR/NAFR	NAFR
CAV DATE	27-08-2021
Uploading Date	24-01-2022
Transmission Date	N/A

