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IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved Date : 26.03.2021

Pronounced Dated : 27.04.2022

CORAM

THE HONOURABLE THIRU JUSTICE B.PUGALENDHI

W.P.No.1046 of 2021

and

W.M.P.No.1148 of 2021

S.Mony

... Petitioner

Vs.

1. The Director,
School of Distance Education,
Tamil Nadu Physical Education and Sports University,
Melakottaiyur Post,
Vandalur,
Kelambakkam Road,
Chennai - 127.

2. The Director,
Jananam Yogalaya,
No.5, 2nd Main Road,
Natesan Nagar (Near Indira Gandhi Statue),
Puducherry - 5.

3. The Director,
Power Research Institute of Varma and Yoga Science,
Rajendra Hospital Campus,
Moolachal,
Mekkamandapam Post,
Kanyakumari District - 629 166.

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

... Respondents

[R.4 suo-motu impleaded vide order dated 10.02.2021]

PRAYER:- Writ Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Mandamus directing the 1st respondent to conduct Practical examination to the petitioner for the M.Sc (Varma) Thokkanam Massage Science Post Graduation course in any of the recognized study centre of the University, other than the study centres of the 2nd and 3rd respondents and enable the petitioner to complete Post Graduation.



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For Petitioner : Mr.C.K.M.Appaji
For Respondents : Mrs.G.Thilagavathi
Senior Advocate
for D.Kanagasundaram for R1

Mr.P.Sam Japa Singh for R.3

Ms.V.Sudha
Standing Counsel for R.4

ORDER

The petitioner, a student under the 1st respondent University has filed this writ petition for a direction to conduct practical examination for M.Sc (Varma) Thokkanam Massage Science Post Graduation Course in any of the recognized study centres of the University, other than the study centres of the 2nd and 3rd respondents.

2. According to the petitioner, the 1st respondent University is offering M.Sc (Varma Thokkanam Massage Science - Post Graduate) Course. He was admitted in the year 2017 to the said course. The 2nd and 3rd respondents are the recognized study centres of the 1st respondent University and the petitioner appeared for the first year examinations through these study centres. He completed 2nd and 3rd year in the 2nd respondent study centre and also submitted thesis and internal papers before the 3rd respondent. Due to administrative reasons, the petitioner was directed to appear before the 2nd respondent study centre for the purpose of examinations. However, he faced some difficulties with the Director of the 2nd respondent, who demanded bribe to forward the internal marks. According to the petitioner, he has even paid the amount demanded by the Director of the 2nd respondent and even then, his marks was not forwarded and as such, he could not complete the course. Therefore, he has moved the instant writ petition.

3. Learned Counsel for the private respondents entered appearance and of course, disputed the allegations levelled by the petitioner.

4. Varmam - Varma kalai is a Tamil word, meaning "art of vital points". It is the branch of Siddha system of medicine which involves a special kind of therapy based on vital points called varma points present in the body. Though it is closely related to the ancient martial art 'varma kalai', it was



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developed and used by Siddhars as a healing science. This healing application called 'Varma Vaidhiya' is used to treat patients suffering from paralysis, nervous disorder, spondylitis and other joint disorders. According to this theory, there are points in the body which are vital energy storing points through which vital energy is transmitted to various parts of the body and all the functions of the body are mediated. Totally, 108 varma points are defined and are used to stimulate energy, heal disease or stimulate the immune mechanism.

4.1.Thokkanam - It is a combination of 'Thokku', meaning skin and 'anam', meaning support or tone or heat. Thokkanam is one of the 32 external remedies in Siddha system. It is a structured massage technique mainly used in treatment of chronic rheumatic ailments. [Inputs from National Health Portal of India]

5.This Court was little bit curious as to how such courses could be conducted through open and distance mode, with limited practical sessions. Such courses need to be conducted in conventional mode, so that the students can understand the courses, acquire the knowledge and skills and thereafter, implement in the real world. If unqualified students came out in half-baked manner and start practicing, it would play havoc on the society. Therefore, this Court directed the 1st respondent University to file a report as to the permission obtained from the competent body to conduct such courses through distance mode.

6.The Director, School of Distance Education, Tamil Nadu Physical Education and Sports University / first respondent filed a counter affidavit that Board of Studies for the said courses forwarded the syllabus and recommended to offer these courses through distance mode to the Academic Council. The syllabus recommended by the Board of Studies was placed before the Academic Council, which granted the approval. Based on the approval granted by the Academic Council, the subject was placed before the Syndicate - apex body of the University, which granted the further approval on 13.08.2012. However, the Post Graduate Course of Varma and Thokkanam (Massage) Science was offered through distance mode till 2018 only.

7.Though the first respondent University has filed a detailed counter affidavit, it does not answer the direct question of this Court as to the approval granted by the competent body, namely, University Grants Commission, to conduct the course through distance mode. This Court has even adjourned the matter a couple of times, even then, the efforts taken to see the approval granted by the competent body ended in vein. Therefore, this Court, by order dated 10.02.2021, suo-motu impleaded the University Grants Commission.



8.Learned Standing Counsel appearing for the University Grants Commission (hereinafter referred to as UGC), on instructions, categorically stated that the first respondent University was not granted any approval by the UGC for conducting the course - Master of Science (Varma and Thokkanam Massage Science), in any point of time. She has produced before this Court the Notification of the UGC dated 23.06.2017 and further submitted that the first respondent University has made a representation on 26.08.2019 for approval of courses / programmes and the UGC, after due deliberations, recognized certain courses and not recognized certain courses. One such programme which was not recognized by the UGC is Master of Science (Varma and Thokkanam Massage Science) for the reason it was not being offered in conventional mode. This was communicated to the first respondent University by letter dated 23.10.2019 and a copy of such communication was also produced before this Court.

9.This Court paid its anxious consideration to the rival submissions and also perused the materials placed on record.

10.Regulation No.3 of the Notification of the University Grants Commission dated 23.06.2017, which was referred to by the learned Standing Counsel for the UGC is extracted as under:-

"3.Recognition of Higher Educational Institutions offering programmes in Open and Distance Learning mode -

(1) Every Higher Educational Institution offering a programme in Open and Distance Learning mode in pursuance of an approval granted to it for the purpose by the then Distance Education Council or by the Commission or by any other regulatory authority or intending to offer a programme in Open and Distance Learning mode from the academic session immediately after the notification of these regulations shall, for grant of recognition, make an application to the Commission in such form
"

11.From the above, it is clear that prior to 2017, approval has to be obtained from the Distance Education Council or from the Commission or from any other regulatory body and after 2017, such approval has to be obtained from the Commission (UGC). But, in this case, the first respondent University appears not to have obtained any such permission from any of the aforesaid bodies, instead granted approval by its own Syndicate and started conducting courses. Only in the year 2019, they have made an application before the UGC for approval, which was also rejected by the Commission in the following lines:-

"Master of Science (Varma and Thokkanam Massage Science) - Not being offered in conventional mode."
Therefore, it is clear that at no point of time, approval was



12. On a query posed by this Court as to the number of students who have obtained M.Sc., (Varma and Thokkanam Massage Science) Degree on distance mode from the University, the first respondent has stated that for the academic years 2012 - 2014, 2013 - 2015, 2014 - 2016, 2015 - 2017, 2016 - 2018 and 2017 - 2019; 108, 42, 49, 30, 65 and 12 students, respectively, in total, 306 students, have obtained the Degree.

14. In view of the foregoing discussions, this Court, in the interest of the society, is passing the following directions:-

ii) The Secretary to Government of Tamil Nadu, Higher Education Department, Secretariat, Chennai, shall take necessary steps to identify the 306 students, who were granted M.Sc., (Varma and Thokkanam Massage Science) Degree by the first respondent University. If any of those 306 students are practicing Varma / Thokkanam using this Degree, the Secretary shall take necessary steps to verify their eligibility to practice, by a team of experts and in the event of them not having the required standards / eligibility to practice, they shall not be permitted to practice using the Degree. The aforesaid direction is issued considering the seriousness involved in quackery, since priceless lives are being dealt with.

<https://hcservices.ecourts.gov.in/hcservices/>



the Secretary to Government of Tamil Nadu, Higher Education Department, Secretariat, Chennai, shall ensure that the Colleges / Universities throughout the State are conducting courses, that are approved by the competent regulatory body.

iv) Insofar as the relief for the petitioner is concerned, this Court, in view of the above discussions, is not inclined to pass any orders. However, the petitioner and / or similarly placed other persons are at liberty to approach the appropriate forum claiming damages, as against the first respondent University.

15. Since the Hon'ble Governor of Tamil Nadu is the Chancellor of all Universities in the State, Registry is also to mark a copy of this order to The Secretary to the Hon'ble Governor of Tamil Nadu, Raj Bhavan, Chennai.

16. With the above observations and directions, this writ petition stands disposed of. No costs. Consequently, connected miscellaneous petition is also closed.

For compliance, list the matter on 10.10.2022.

Sd/-
Assistant Registrar (CS-III)

//True Copy//

Sub Assistant Registrar

mrm/gk

To

1. The Director,
School of Distance Education,
Tamil Nadu Physical Education and Sports University,
Melakottaiyur Post, Vandalur,
Kelambakkam Road, Chennai - 127.
2. The Secretary,
University Grants Commission,
Bahadur Shah Zafer Marg,
New Delhi - 110 001.
3. The Secretary to Government of Tamil Nadu,
Higher Education Department,
Secretariat, Chennai.



4. The Secretary to the Hon'ble Governor of Tamil Nadu,
Raj Bhavan,
Chennai.

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+1cc to Mr.D.Kanagasundaram, Advocate, S.R.No.29076

+1cc to Mr.P.Sam Japa Singh, Advocate, S.R.No.29526

W.P.No.1046 of 2021

SS (CO)
SU (17/05/2022)