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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 17.06.2022

CORAM

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

WP (MD) No.9641 of 2022

and

WMP (MD) Nos.6914 & 6916 of 2022

Bharathidasan Institute of Management,
Rep.by its Director,
Tiruchirappalli - 620014.

... Petitioner

vs.

1.The Vice Chancellor,
Bharathidasan University,
Tiruchirappalli - 620 014.

2.Bharathidasan University,
Rep.by its Registrar,
Tiruchirappalli - 620 014.

3.The Controller of Examinations,
Bharathidasan University,
Tiruchirappalli - 620 014.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, to call for the records relating to the impugned order passed by the second respondent in his proceedings in Na.Ka.No.BIM/D5/2021 dated 19.08.2021 and quash the same as illegal and contrary to the provisions of the Bharathidasan University (BDU) Statutes and consequently directing the respondents to accept the applications to issue degree certificates submitted by the petitioner for the years 2018-2020 and 2019-2021 and issue degree certificates within the time period that may be stipulated by this Court.

For Petitioner	: Mr.M.Ajmal Khan, Senior Counsel M/s.Ajmal Associates for Mr.C.Venkatesh Kumar
For Respondents	: Mr.V.R.Shanmuganathan

ORDER

Heard the learned Senior Counsel appearing for the petitioner and the learned standing counsel for the university. The petitioner questions the impugned communication bearing Na.Ka.No.BIM/D5/2021 dated 19.08.2021 issued by the second respondent to the petitioner whereby it has been declared that the petitioner is no longer attached or affiliated with the Bharathidasan University. It has

also been declared that the Bharathidasan University will not issue certificates to the students of the petitioner. The petitioner institution was formed on 27.08.1982 as a School of Excellence under Bharathidasan University. The learned Senior Counsel appearing for the petitioner categorically asserts that the petitioner continues to consider itself as a School of Excellence as defined in Section 2(k) of the Bharathidasan University Act, 1981. Citing the amendment made to the by-laws of the petitioner, the impugned communication has been issued.

2. It is seen that the amendments which are now objected to were made way back on 03.07.2003. The amendments had also been duly approved by the Hon'ble Chancellor. Letter indicating the Chencellor's approval issued on 04.08.2003 was enclosed in the typed set of papers. More than anything else, as late as on 04.04.2016, the then Registrar, Bharathidasan University had written to the AICTE as follows :

பாரததாசன் பல்கலைக்கழகம்
பாடகாலபேடு - 600 004

BHARATHIDASAN UNIVERSITY
PAIKALAIPEETHU
TIRUCHIRAPPALLI-600 004
TAMIL NADU



PH : 2431-2407082
2431-2407099 (F)
2431-2407045
FAX : 2431-2407045
E-MAIL : reg@bdu.ac.in
Website : www.bdu.ac.in

Dr. C. THIRUCHIVAN, P.D.
REGISTRAR

No. BU/Registrar - 1/2016 Date: 04-04-2016

To
The Regional Officer
AICTE Southern Regional Office,
Shyam Bhowan
26, Haddow Road,
CHENNAI - 600 006.

Sir,

**Sub: Bharathidasan Institute of Management (BIM), Tiruchirappalli,
a school of excellence sponsored and affiliated to
Bharathidasan University - Reg.**

**Ref: Lr No.BIM/AICTE/2016-17 dt. 03.04.2016 from Director, BIM,
Tiruchirappalli.**

In his letter in the reference cited (copy enclosed) the Director, Bharathidasan Institute of Management (BIM), Tiruchirappalli, has requested the Registrar, Bharathidasan University to issue a letter to AICTE mentioning the status of the affiliation of BIM to Bharathidasan University as to enable the AICTE to renew the approval of the MBA programme for the years 2016 - 2019.

2] In this regard, we would like to state that Bharathidasan Institute of Management (BIM) was established in the year 1984 as an autonomous Business School registered under the Societies Registration Act and governed by a separate Board of Governors and sponsored by and affiliated to the

All Communications are to be addressed to the Registrar only
Please quote our reference in all your replies



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Bharathidasan University. This school was designated as a School of Excellence under the Definition of Section 2(k) of Bharathidasan University statute which states as follows:

'School of Excellence' means an institution, governed by a separate Board of Governors and registered under the Societies Registration Act, sponsored by and affiliated to the University for post-graduate Study and Research

3) Since Bharathidasan Institute of Management is recognized as a school of excellence, **sponsored by and affiliated to Bharathidasan University, in the university statute itself**, no separate affiliation is granted to this School periodically, as was required for other autonomous schools/colleges.

4) In the above circumstances, we recommend that the necessary approval for the MBA programme may be continued to be granted to BIM by the AICTE for the year 2016-2017 and also for the subsequent years, as was done earlier.

[Signature]
4/4/16.
REGISTRAR

✓ Copy to: Director, Bharathidasan Institute of Management,
Tiruchirappalli, for information.

This communication was sent with full knowledge of the amendments made to the by-laws. Since there is no subsequent development, there is no justification for issuing the impugned communication. The learned Senior Counsel draws my attention to the Regulation No.8 of UGC (Affiliation of Colleges by Universities) Regulations, 2009. It reads as under :

"Withdrawal of affiliation.-

8.1. The privileges conferred on a college by affiliation may be withdrawn in part or in full, suspended or modified, if the college, on due enquiry, is found to have failed to comply with any of the provisions of the Act, the Statutes, the Ordinances, the Rules and Regulations or any other direction or instruction of the UGC/University/Statutory/Regulatory body concerned, or failed to observe any of the conditions of affiliation, or has conducted itself in a manner prejudicial to the academic and administrative standards and interests of the University.



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8.2. If an affiliated college ceases to function or is shifted to a different location or is transferred to a different Society, Trust, individual or a group of individuals without the prior approval of the University, the affiliation granted to the college shall lapse automatically on such ceaser, shifting or transfer as the case may be, and it shall be treated as a new college for the purposes of future affiliation. The University/Government shall have the duty to alleviate the educational future of the affected students in an appropriate manner as per its decision.

8.3. Without prejudice to the Regulations, the Commission on its own, or on the basis of any complaint or any other information or report from any other source, can cause an enquiry by the University in respect of a college, and after giving the college a reasonable opportunity of being heard, may pass an order under Section (12A)(4) of the UGC Act prohibiting such college from presenting any student then undergoing such specified course/programme of study therein to an university for the award of the qualification concerned and the affiliation of the college shall stand terminated as per Section (12A)(5) of the UGC Act.

8.4. If the University decides to withdraw the affiliation of the college, or "the affiliation stands terminated by the order of the University, temporarily or permanently, such decision shall not affect the interests of the students of the college who were on its rolls at the time of issue of the order till they pass out the normal duration of programmes to which they are registered at that time. The University/Government shall have the duty to alleviate the educational future of the affected students in an appropriate manner as per its decision."

The respondent university would be justified in withdrawing affiliation granted to the petitioner only if any of the conditions set out above are violated. I am more than satisfied that none of the conditions set out above were violated by the petitioner management. In this view of the matter, the impugned communication is quashed and this writ petition is allowed. The petitioner continues to consider itself as a School of Excellence affiliated to the respondent University. The respondent university is directed to process the applications received by the petitioner pursuant to the interim order given by this Court and award degrees in the name of



the university in the ensuing convocation. No costs. Connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (CS III)

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/07/2022

Sub Assistant Registrar (CS)

skm

To

- 1.The Vice Chancellor,
Bharathidasan University,
Tiruchirappalli - 620 014.
- 2.The Registrar,
Bharathidasan University,
Tiruchirappalli - 620 014.
- 3.The Controller of Examinations,
Bharathidasan University,
Tiruchirappalli - 620 014.

+1 CC to M/s.AJMAL ASSOCIATES, Advocate (SR-26892[F] dated 20/06/2022)

+1 CC to M/s.VR. SHANMUGANATHAN, Advocate (SR-27241[F] dated 21/06/2022)

WP (MD) No. 9641 of 2022

and

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17.06.2022

MGJ(04.07.2022) 5P 6C