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W.P. No.9222 of 2018

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 15.03.2023

CORAM:

THE HON'BLE MR. JUSTICE M.DHANDAPANI

W.P. No.9222 of 2018

and

W.M.P. No.11042 of 2018

S.S.K. College,
Rep. By its Trustee,
Ms.Keshavan

...Petitioner

vs.

1. University Grants Commission,
Rep. By its Secretary
Bhadur Shah Zafar
Marg,
New Delhi – 110 002.

2. Karnataka State Open University,
Through its Registrar,
Mukhtagangotri,
Mysuru,
Karnataka – 570 006.

3. M/s.Scope
Formerly Known as Sandhip Foundation
Rep. By its Chairman Sandhip Jha,
2nd Floor,
Koteswar Plaza,
Nehru Road,
Mulund (VV),
Mumbai – 400 080.

... Respondents



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Prayer : Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus directing the 2nd respondent University to issue the Provisional, Convocation, Migration Certificates of the students who had already completed their courses in the years 2011, 2012 & 2013

For petitioner : Mr.V.M. Sivanthi
for M/s.Fox Mandal & Associates
For respondents : Mr.P.R. Gopinath for R1
Mr.N.Umapathi for R2
No appearance for R3

ORDER

The relief sought for in this writ petition is for a direction to the 2nd respondent University to issue the Provisional, Convocation, Migration Certificates of the students who had already completed their courses in the years 2011, 2012 & 2013.

2.It is the case of the petitioner that the 3rd respondent entered into a Memorandum of Understanding with the 2nd respondent and thereby, the 3rd respondent given an authorisation letter to the petitioner to provide Counselling, Advising and Practical classes to the students enrolled in various courses of the University. Later, the 2nd respondent published a Notification stating they have decided to withdraw gate



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course, bridge course, degree bridge course in house programmers of Karnataka State Open University and other para medical programmes conducted by the Collaborative institutions. That being so, students who have already completed and passed the courses since 2013 onwards have submitted their applications for convocation / provisional certificate with the University through 3rd respondent / study centre, which in turn were forwarded to the 2nd respondent. Though applications were received and verified by the 2nd respondent, they returned the same without assigning any proper reasons. Hence, the petitioner/Institution has approached this Court by invoking the extraordinary jurisdiction under Article 226 of the Constitution of India with the aforesaid prayer.

3. Learned counsel for the petitioner / Institution vehemently argued that the applications were forwarded to the respondents for issuance of provisional / convocation / Migration certificate in respect of students who have completed their courses between 2011 and 2014, whereas public notice was issued by the 2nd respondent with regard to their discontinuance from all Programmes with its Collaborative Institutions / Franchisee only on 19.01.2016, pursuant to law laid down by the Hon'ble Supreme Court in the case of *Prof. Yashpal and others Vs. State of Chattisgarh and another reported in AIR 2005 SC 2026*.



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Further, the issue relating to territorial jurisdiction would not arise, as the study centres are duly authorised to conduct its courses in Tamil Nadu.

He further argued that similarly placed collaborators have filed writ petition before the Hon'ble High Court, Kerala and directions were issued on 19.06.2017 in WP(C) No.12540 of 2017(N) for issuance of necessary certificates to the students, who have pursued distance education programme through the petitioner therein. Hence, he prays before this Court for appropriate directions in the above regard.

4. Replying to the contention raised by the learned counsel for the petitioner, Mr. P.R. Gopinath, learned counsel appearing for the 1st respondent submitted that the issue involved herein has already been dealt with by the Division Bench of this Court in W.A. No.606 of 2015, wherein it has been recorded that the territorial jurisdiction would apply only for regular courses and not for distance education courses in the light of the decision of the Hon'ble Supreme Court in *Prof. Yashpal's case* referred to supra.

5. Reiterating the counter affidavit filed by the 1st respondent, he submitted that the 2nd respondent University, being a State Open University can operate within its State only, whereas in the instant case, it is operating beyond the territorial jurisdiction of the State. He



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vehemently opposed the contention raised by the learned counsel for the petitioner with regard to issuance of public notice. Prior to issuance of such notice, series of letters were issued by UGC regarding territorial jurisdiction, study centres, off campus and not to franchise higher education since 2001, which is a mandated one to be followed by all the Universities including the respondent University. He further submitted that without recognition offering courses is invalid, which is unsustainable and hence, he prays for dismissal of this writ petition.

6. This Court bestowed its best attention to contentions advanced by the learned counsel on either side and perused the materials available on record.

7. On a perusal of materials placed before this Court, it is not in dispute that the applications forwarded by the petitioner for issuance of necessary certificates through the 3rd respondent have been returned by the 2nd respondent. Admittedly, the 2nd respondent University is beyond the territorial jurisdiction and thereby they cannot operate outside the limit for any matter including the conduct of examinations. The norms fixed by UGC pertaining to jurisdiction is mainly to protect the students from the attempts made by some of the Universities/franchisee agreements, who are in the intention of making money out of education.



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A perusal of entire records reveal that the petitioner / Institution has failed to follow the norms prescribed under the UGC. In such view of the matter, this Court is not inclined to issue any positive direction to the respondents. However, the plight of the students, who studied in the petitioner / Institution requires to be compensated for the sufferings they have endured and, definitely this Court has to invoke its extraordinary jurisdiction to render substantial justice.

8. In such view of the matter, while the present petition is dismissed, considering the plight of the students, which is attributable to the petitioner, this Court, invoking its inherent jurisdiction under Article 226 of the Constitution, directs the petitioner to return the fees collected from the respective students of the petitioner/Institution, who have been inducted into the courses, without any due authorisation. No costs. Consequently, connected miscellaneous petition is closed.

15.03.2023

Index: Yes/No
Internet: Yes/No
Speaking Order/Non-Speaking Order
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M.DHANDAPANI, J.

vsi2

To

1. The Secretary
University Grants Commission,
Bhadur Shah Zafar
Marg,
New Delhi – 110 002.

2. The Registrar,
Karnataka State Open University,
Mukhtagangotri,
Mysuru,
Karnataka – 570 006

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