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W.A.No.1893 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.04.2023

CORAM :

**THE HON'BLE MR.T.RAJA, ACTING CHIEF JUSTICE
AND
THE HON'BLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY**

W.A.No.1893 of 2022
and C.M.P.Nos.13876 and 13877 of 2022

1. Dr.MGR Educational & Research Institute
(Deemed to be University)
Represented by its Registrar
Dr.C.B.Palanivelu
2. Raja Rajeswari Medical
College and Hospital, Bengaluru
Represented by its Dean
Dr.B.Sathyamurthy

.. Appellants

Versus

1. The Union of India
by its Secretary,
Ministry of Education,
Department of Higher Education,
ICR Division, Shashtri Bhavan, New Delhi.
2. University Grants Commission (UGC)
by its Secretary,
Bahadur Shah Zafar Marg,
New Delhi – 110002.
3. State of Karnataka,
By its Principal Secretary,
Department of Medical Education,



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Government of Karnataka,
VidhanSoudha,
Bengaluru.

4. The Registrar,
Rajiv Gandhi University of Health Services,
rep. by its Registrar,
Karnataka, 4th T Block,
Jayanagar, Bengaluru – 560041.

R4 suomoto impleaded *vide* order of Court,
dated 20.04.2023 made in W.A.No.1893 of 2022 .. Respondents

Prayer : Writ Appeal filed under Clause 15 of the Letters Patent to set aside the order dated 18.08.2022 passed in W.P.No.17100 of 2022 and allow the Writ Petition of Certiorarified Mandamus quashing the impugned order and notification bearing No.10/4/2018-U.3(A) dated 24.05.2022, issued by the 1st respondent.

For Appellants : Mr.Vijay Narayanan, Senior Counsel
for Mr.B.Radhakrishnan

For Respondents : Mr.AR.L.Sundaresan,
Additional Solicitor General of India,
Assisted by Mr.Srinivasa Murthy,
for R1

: Mr.B.Rabu Manohar, for R2

: Mr.Krishna Ravindran, for RR-3 and 4



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JUDGMENT

(Made by the Hon'ble Mr.Justice D.Bharatha Chakravarthy)

Dr.M.G.R. Educational and Research Institute (deemed to be University) and *Raja Rajeswari Medical College and Hospital, Bengaluru* have filed this Writ Appeal against the order of the learned Single Judge, dated 18.08.2022 in W.P.No.17100 of 2022. The Writ Petition is filed by the appellants herein challenging the order dated 24.05.2022, passed by the Secretary to Government, Ministry of Education, Department of Higher Education, New Delhi. By the said order impugned in the Writ Petition, the Union of India, considering the advise of the University Grants Commission, rejected the request of the appellants to bring the second appellant, *Raja Rajeswari Medical College and Hospital, Bengaluru, Karnataka* under the ambit of *Dr.M.G.R. Educational and Research Institute* (deemed to be university), *Chennai, Tamil Nadu*.

2. The brief facts leading to the filing of this intra-court appeal are that the second appellant is a Medical College and Hospital run by a Trust and managed by the same Trustees as that of the first appellant (deemed to be University). The University Grants Commission framed UGC



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(Institutions Deemed to be Universities) Regulations, 2016 dated
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11.07.2016 and Regulation 13 of the said Regulations deals with the subject of “inclusion of other institutions under the ambit of institution deemed to be University”. As per Regulation 13.01, an institution deemed to be University may apply in the proforma prescribed by the Commission for inclusion of institutions existing under the same management as its constituent institution. The detailed procedure is prescribed in Regulations 13.01 to 13.16.

3. On 15.03.2018, the first appellant submitted a request to the first respondent for inclusion of the second appellant institution within its ambit. Pursuant thereto, on 05.10.2018, the second respondent namely, the University Grants Commission, informed the first appellant about the formation of an Expert Committee and their visiting to the second appellant College in order to process the proposal of the first appellant in pursuance of its proposal. The second respondent in its meeting held on 14.11.2018, considered the report of Expert Committee and the proposal. Thereafter, the second respondent, by a communication, dated 15.11.2018. sought for the views of the State of Karnataka on the subject. The State of Karnataka



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submitted its comments to the first respondent on 14.01.2019 rejecting the proposal. After consideration of the views of the State of Karnataka, by a notification dated 14.02.2019, the first respondent passed an order including the second respondent College within the ambit of the first appellant.

4. Thereafter, the second appellant brought to the knowledge of the *Rajiv Gandhi University of Health Services*, the fourth respondent herein, by its letter dated 16.08.2019 requesting to issue Disaffiliation Certificate. The fourth respondent University refused to disaffiliate the second respondent *vide* its communication dated 07.03.2020. Aggrieved by the same, one *Moogambigai Charitable and Educational Trust*, which is the Trust which runs the second appellant institution and the appellants herein jointly filed W.P.No.7482 of 2020 before the High Court of Karnataka. The State of Karnataka and the Directorate of Medical Education, Government of Karnataka also filed W.P.No.9236 of 2020, challenging the order of the Central Government, dated 14.02.2019 bringing the second appellant within the ambit of the first appellant. By a common order dated 03.11.2020, while dismissing the Writ Petition filed by the appellants herein, allowed the Writ Petition filed by the State of Karnataka quashing the order dated



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14.02.2019. It is necessary to extract the order passed in the Writ Petitions
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which reads as follows:-



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“In the above circumstances, this Court enters the following order:

(i) the case in W.P.No.7482/2020 filed by Moogambigai Charitable & Educational Trust, Bengaluru and two others, being devoid of merits is liable to be dismissed and accordingly its; the companion case in W.P.No.9236/2020 filed by the State of Karnataka & another being meritorious, is entitled to be allowed and accordingly it is;

(ii) a Writ of Certiorari issues quashing the impugned Inclusion Notification issued by the Central Government whereby Raja Rajeshwari Medical College & Hospital, Bengaluru was included in the ambit of Dr.MGR Educational & Research Institute, Chennai (a Deemed to be University), and consequently the said Inclusion stands undone;

(iii) a Writ of Mandamus issues to the Central Government and the Medical Council of India, to take within eight weeks, all steps as are required for restoring the position of the parties i.e., College, State Health University and Deemed to be University, inter se, as before, subject to the rider that such steps or the restoration shall not affect the admission of students to the undergraduate & post-graduate medical courses hitherto done by Dr MGR Educational and Research Institute, post impugned notification and, only to that limited extent, Regulations 13.03 & 13.12, shall be invokable.”

5. The appellants herein, along with *Moogambigai Charitable and Educational Trust*, running the second respondent College, carried the matter on appeal in W.A.Nos.549 and 550 of 2020. While the Hon'ble



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Division Bench of the High Court of Karnataka, agreeing with the learned Single Judge on some issues, found that it is was necessary to remand the matter back to the Central Government to pass a speaking order after considering the comments of the State Government and therefore, disposed off the Writ Appeals by remitting the matter back to the Central Government. It is necessary to extract the operative portion of the judgment of the Hon'ble Division Bench of the High Court of Karnataka dated 30.11.2021 which reads as hereunder:-

“ 15. In our considered opinion, the learned Single Judge after having recorded the aforesaid finding, ought not to have dealt with the other issues namely whether Moogambigai Trust and MGR Trusts are administered by separate managements, whether lease of Rajarajeshwari Medical College by Moogambigai trust to MGR Trust is in accordance with law as well as the issue with regard to validity of Section 5 of the Act. Needless to state that Central Government is the competent authority to deal with the issue with regard to the inclusion of other institutions under the ambit of the institutions deemed to be universities. Therefore, the aforesaid issues have to be adverted by the Central Government in Regulation 13 of the Regulations.

16. In view of preceding analysis, we affirm the finding recorded by the learned Single Judge that notification dated 14.02.2019 has been issued in violation of Regulation 13.09 of the Regulations. Therefore, the notification dated



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14.02.2019 cannot be sustained in the eye of law. The finding on the issue of maintainability of the jurisdiction is affirmed. In the fact situation of the case, it is not necessary for us to deal with the issue with regard to the validity of the Section 5(1) of the Act which is kept open to be agitated in appropriate case. The findings on the remaining issues namely – whether Moogambigai Trust and MGR Trusts are administered by separate managements and whether lease of Rajarajeshwari Medical College by Moogambigai trust to MGR Trust in accordance with law are set aside.

In the result, the matter is remitted to the UGC as well as the Central Government with a direction to comply with the mandate contained in Regulation 13.09 of the Regulations and to take a decision with regard to the inclusion of the Appellant No.2 under the ambit of the Appellant No.3 by a speaking order after taking into account the views of the State Government within a period of two months from the date of receipt of the certified copy of this order.”

6. In compliance thereof, the order impugned in the present Writ Petition was passed, whereby, the Central Government, this time, refused the prayer of the appellants. It is imperative to extract the operative portion of the order impugned in the Writ Petition which reads as hereunder:-

“ 8. And whereas, pursuant to the Order dated 30.11.2021 of the Hon'ble Court, UGC was asked to consider the views of State Government of Karnataka as per Clause 13.09 of the UGC



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this Court lacked territorial jurisdiction and dismissed the Writ Petition.

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The operative portion of the order is extracted hereunder:-

“ 27. For the foregoing reasons, on the ground of lack of territorial jurisdiction for the Madras High Court to entertain this writ petition, the same is dismissed. Registry is directed to return the writ petition along with the impugned notification and the order both dated 24.05.2022 to the petitioners to enable them to either file a fresh writ petition before the Karnataka High Court on the same cause of action or to represent this writ petition before the Karnataka High Court. No costs. MPs are Closed.”

Aggrieved by the same, the present Writ Appeal is filed.

8. Heard *Mr.Vijay Narayanan*, learned Senior Counsel appearing on behalf of the appellants; *Mr.A.R.L.Sundaresan*, learned Additional Solicitor General of India appearing on behalf of the first respondent; *Mr.B.Rabu Manohar*, learned Counsel appearing on behalf of the second respondent and *Mr.Krishna Ravindran*, learned Counsel appearing on behalf of the respondents 3 and 4.

9. *Mr.Vijay Narayanan*, learned Senior Counsel appearing on behalf of the appellants, would contend that originally, by the earlier order of the year 2019, the second appellant has been brought within the ambit of the first appellant, which is within the territorial jurisdiction of this Court.



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Thereafter, four batches of students were also admitted by the first appellant. Thus, it can be seen that part cause of action arose within the territorial jurisdiction of this Court and part cause of action arose within the territorial jurisdiction of the High Court of Karnataka. The appellants being the *dominus litus*, are entitled to seek remedy in any one of the two High Courts. This apart, the matter is also pending before this Court from 25.06.2022 and the students are passing out and their degrees have to be awarded and further admissions for the ensuing year is about to start and therefore, there is a grave urgency to decide the matter.

10. *Mr.Vijay Narayanan*, learned Senior Counsel would further submit that when the High Court of Karnataka had remitted the matter to the UGC as well as to the Central Government with a direction to comply with the mandate under Section 13.09 of the *UGC (Institutions Deemed to be Universities) Regulations, 2016*, in which, the UGC has to take into account the view of the State Government before making recommendation to the Ministry of Human Resource Development, Government of India. When the UGC had once again forwarded its views after taking into account the views of the Government of Karnataka and based on the said fresh view, the



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first respondent had proceeded to pass an order taking a decision opposite to the earlier decision of bringing the second appellant within the ambit of the first appellant, the said order certainly visits the appellants with civil consequence. Therefore, while a different view is taken by the UGC and the same is considered by the Central Government, the Central Government ought to have given an opportunity of being heard to the appellants herein.

11. He would further submit that the only prayer which is made in this appeal is to remand the matter back to the first respondent so as to give an opportunity to the appellants herein to put-forth their views on the fresh recommendations of the University Grants Commission and if an opportunity is granted, they can certainly canvass before the first respondent as to the reasonableness of the request and as to the entitlement of the second respondent to be within the ambit of the deemed to be University to provide better educational prospects to the students and for the betterment of the institution as such.

12. In support of his propositions, learned Senior Counsel would rely upon the following judgments:-



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Srl No.	Name of the citation
1.	Lt. Col. Khajoor Singh Vs. Union of India [<i>AIR 1961 SC 532</i>]
2.	Kusum Ingots & Alloys Ltd. Vs. Union of India [(2004) 6 SCC 254]
3.	Om Prakash Srivastava Vs. Union of India [(2006) 6 SCC 207]
4.	Sun TV Ltd. Vs. Tata Sky Ltd. [2007 (3) LW 401]
5.	Sanjos Jewellers Vs. Syndicate Bank [2007 (5) CTC 305]
6.	Bipromasz Bipron Trading Sa Vs. Bharat Electronic Ltd. [(2012) 6 SCC 384]
7.	Nawal Kishore Sharma Vs. Union of India [(2014) 9 SCC 329]
8.	Shanti Devi Alis Shanti Mishra Vs. Union of India [(2020) 10 SCC 766]
9.	Calcutta Gujarati Education Society & Others Vs. Regional Provident Fund Commissioner & Others [(2020) 19 SCC 380]
10.	Sri Lakshmi Narayana Institute of Medical Sciences & Others Vs. Union of India & Others [2022 SCC OnLine Del 248]

13. Opposing the above submissions, *Mr.A.R.L.Sundaresan*, learned Additional Solicitor General of India appearing on behalf of the first respondent, would submit that originally, the intra-court appeal was filed with a prayer only to remand the matter back to the learned Single Judge by deciding the territorial jurisdiction. However, it was thereafter amended to canvass on the merits also. As far as the merits are concerned, the only point which is argued is that the principles of natural justice are violated on the ground that the order in their favour is withdrawn and therefore, they are entitled for a hearing. In this regard, it can be seen from the judgment of the High Court of Karnataka that the order in their favour was quashed by the



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High Court of Karnataka itself and therefore, as on date of the issuance of the order by the Central Government, there was no order in their favour which was withdrawn and therefore, they cannot plead for any opportunity of hearing.

14. Learned Additional Solicitor General of India would strongly oppose the filing of the present Writ Petition before this Court. Firstly, he would contend that no part of cause of action arose within the State of Tamil Nadu to file the present Writ Petition. According to him, all facts will not and cannot be termed as “forming part of cause of action”. Only the necessary bundle of facts which are required to decide the issue should be treated as cause of action. Except for the location of the first appellant, the entire cause of action arose only within the State of Karnataka where the second appellant College is located. Therefore, there is no territorial jurisdiction to file the present Writ Petition before this Court. In any event, when the appellants themselves have, in respect of the very same subject matter, earlier approached the High Court of Karnataka, now they cannot approach this Court for the second round of litigation as the High Court of Karnataka will only be the *forum conveniens*. This apart, when the order



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impugned in the Writ Petition is passed only in compliance of the direction of the High Court of Karnataka, proprietary demands that the present Writ Petition should also be only before the High Court of Karnataka. Further, it is not as if the appellants are not poor litigants who unable to travel to Karnataka. They have their establishment itself in Bengaluru and therefore, this is not a fit case where this Court should entertain the present Writ Petition.

15. In support of his contention, learned Additional Solicitor General of India would rely upon the judgment of this Court in ***Bhanu Constructions Co. Pvt. Ltd., rep. by its Managing Director, Sri B. Venkateswara Rao and Ors Vs. Andhra Bank, rep. by its Chief Manager, Bala Nagar Branch, Hyderabad and Ors***¹; the judgment of the Hon'ble Supreme Court of India in ***Kusum Ingots & Alloys Ltd. Vs. Union of India and Anr***² and also the Full Bench judgment of this Court in ***Sanjos Jewellers rep. by M.J.Jose and Ors Vs. Syndicate Bank rep. by its Assistant General Manager and Anr***³.

1 2005 (5) CTC 721

2 (2004) 6 SCC 254

3 2007 (5) CTC 305



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16. *Mr.Krishna Ravindran*, learned Counsel appearing on behalf of the respondents 3 and 4, would submit that first of all, only considering the necessity for the students in the State of Karnataka to undergo the course, the Essentiality Certificate itself is given by the State of Karnataka. Their rights, fees structure, merit list everything will be affected if the College is affiliated to the deemed to be University as the admission will be done by the Director General, on all India basis in case of deemed to be Universities. Therefore, the State had every right to oppose the proposal. This apart, the entire issue is squarely covered by *The Rajiv Gandhi University of Health Sciences Act, 1994*. Under Section 5 of the *Act*, no College in the State of Karnataka imparting education in Health Sciences shall, save with the consent of the University and the sanction of the Government, be associated in any way with or seek admission to any privileges of any other University in India or abroad. Therefore, the fourth respondent University rightly turned down the request of disaffiliation. He would also once again reiterate the submissions relating to territorial jurisdiction and would submit that the learned Single Judge has considered the question of territorial jurisdiction in detail and dismissed the Writ Petition and therefore, would pray that the appeal be dismissed.



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17. We have considered the rival submissions made on either side and perused the material records of the case. At the outset, firstly, on a perusal of the judgments submitted on either side, it would be clear that while entertaining a Writ Petition, this Court has to go by the mandate of Article 226(2) of the Constitution of India which reads as hereunder:-

“226. Power of High Courts to issue certain writs

(1)...

(2) The power conferred by clause (1) to issue directions, orders or writs to any Government, authority or person may also be exercised by any High Court exercising jurisdiction in relation to the territories within which the cause of action, wholly or in part, arises for the exercise of such power, notwithstanding that the seat of such Government or authority or the residence of such person is not within those territories.”

Therefore, if part cause of action arises within the territorial jurisdiction of this Court, certainly, this Court would also have jurisdiction.

18. In this case, it can be seen that the subject matter of the litigation is vesting on the second appellant College whether it should be within the ambit of *Rajiv Gandhi University of Health Sciences* which is located in



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Bengaluru or the first appellant namely, *Dr.M.G.R. Educational Research and Institute* which is located in Chennai. Earlier, an order is passed in favour of the deemed to be University in Chennai and the admissions are made for a few years by the first appellant. Thus, it can be seen that the cause of action had arisen both in the territorial jurisdiction of the High Court of Madras as well as the High Court of Karnataka.

19. That being the situation, it cannot be contended that this court does not have territorial jurisdiction to entertain the Writ Petition. However there is force in the submission that having approached the High Court of Karnataka earlier, it would have been more proper on the part of the appellants to have approached the same High Court. But at this stage, we do not want to decide the issue on the place of suing alone for two reasons: (a) Firstly, the limited question that is argued is whether the matter requires remanding to the first respondent once again for giving an opportunity of hearing to the parties. Regarding the said question, all parties have addressed us on merits; (b) Secondly, in matters like this relating to Medical College involving in medical admission, which involves the students who are already undergoing the course, their degrees, and when admission to the

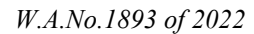


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ensuing academic year is also fast approaching and when the matter has traveled from the learned Single Bench to the Division Bench of this Court and having been in the consideration of this Court from the date of filing of the Writ Petition from 25.06.2022 for almost a year, now, relegating the parties to the High Court of Karnataka on this technical objection make the parties run from pillar to post and would not serve the purpose and therefore, we reject the objection as to lack of territorial jurisdiction and proceed to consider the other arguments which are addressed on either side on the merits of the matter.

20. The contention of learned Additional Solicitor General of India is that already the order in favour of the first appellant, bringing the second appellant within its ambit, has been quashed by the High Court of Karnataka. Therefore, no opportunity of hearing further need to be given. We are unable to accept the said submission. The operative portion of the Hon'ble Division of the High Court of Karnataka is extracted above. Even though the earlier order has been quashed, the matter is remanded back to the first respondent as well as to the University Grants Commission. The remit of the University Grants Commission is to take into consideration the



Thereafter, on the basis of the recommendations, the first respondent has to pass fresh orders. When the University Grants Commission, this time, altered its view and changed its position and when the said view is accordingly being taken into consideration, it goes without saying that the appellants, in whose favour the earlier order was made accepting their proposal, is now being rejected, certainly the impugned order visits the appellants with civil consequence and therefore, it goes without saying that they have to be heard.

21. Therefore, since the prayer made before us is only limited in nature and considering the scope of the order passed, we are inclined to allow this Writ Appeal by setting aside the order of the learned Single Judge as well as the order impugned in the Writ Petition dated 24.05.2022 and to remand the matter back to the first respondent to hear not only the appellants, but, also the other respondents and to take a decision afresh in accordance with law as the same would take care of the submissions on behalf of the respondents 3 and 4 also. It is for the first respondent which is the appropriate authority to take a final decision in this regard as per



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Regulation 13 of the UGC (*Institutions Deemed to be Universities*) Regulations, 2016 dated 11.07.2016.

22. In the result,

(i) The Writ Appeal in W.A.No.1893 of 2022 stands allowed;

(ii) The order of the learned Single Judge dated 18.08.2022 in W.P.No.17100 of 2022 is set aside;

(iii) The Writ Petition in W.P.No.17100 of 2022 stands allowed on the following terms:-

(a) The order passed by the first respondent dated 24.05.2022 bearing notification No.10/4/2018-U.3(A) is set aside and the matter is remanded back to the first respondent to consider the matter afresh after giving due opportunity of hearing to the appellants 1 and 2 as well as the respondents 3 and 4 and pass orders in any event not later than four weeks from the date of receipt of a copy of this order;

(iv) There shall be no order as to costs.

(v) Consequently, connected miscellaneous petition is closed.

(T.R., ACJ.)

(D.B.C., J.)



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28.04.2023

Index : yes/no

Speaking order/Non-speaking order

Neutral Citation : yes/no

grs

To

1. The Secretary,
Ministry of Education,
Department of Higher Education,
ICR Division, Shashtri Bhavan, New Delhi.
2. The Secretary,
University Grants Commission (UGC)
Bhadhur Shah Zafar Marg,
New Delhi – 110002.
3. The Principal Secretary,
Department of Medical Education,
Government of Karnataka,
VidhanSoudha,
Bengaluru.
4. The Registrar,
Rajiv Gandhi University of Health Services,
Karnataka, 4th T Block,
Jayanagar, Bengaluru – 560041.



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**T.RAJA, ACJ.,
AND
D.BHARATHA CHAKRAVARTHY, J.,**

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