



W.P.No.26637 of 2018

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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DATED: 23.03.2023

CORAM:
THE HON'BLE MR.JUSTICE **M.DHANDAPANI**

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1. D.Anand
2. G.N.Nikilesh
3. A.S.Sathish Kumar
4. M.Balu
5. A.D.Madan
6. V.Vishwak
7. Syed Taha Azmat
8. R.Vickneshwaran
9. Vineeth Wilson
10. C.S.Arjun
11. Vikash Prakash
12. R.Naveen Kumar
13. Amit Kumar Singh
14. Aman Pathak
15. H.K.Krishnaunni
16. Anand S Kumar
17. Pranoy Halder
18. C.Anish
19. Mohmmmed Rajique

...Petitioners

vs.

1. The International Maritime Academy,
Rep. by its Dean,
Having Admin Office at,
No.41, Giri Road, GNT Chetty,
T.Nagar, Chennai – 600 017.



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Having Academic Campus at No.41,
Jamin Korattur, Puduchatram,
Chennai – 602 107.

2. Manonmaniam Sundaranar University,
Rep. by its The Registrar,
Tirnelveli – 627 012, Tamil Nadu.
3. Karnataka State Open University,
Rep. by its The Registrar,
Mukthagan Gothri, Mysore-6.
4. The University Grants Commission,
Ministry of Human ResourceDevelopment,
Government of India,
Bahadur Shah, Jaffer Mark,
New Delhi – 110 002.
5. The Secretary,
Higher Education Department,
Chennai.

(R5 Suo motu impleaded vide order dated 02.11.2018 made in
W.P.No.26637 of 2018)

6. The Directorate General of Shipping,
9th Floor, BETA Building,
I-Think Techno Campus, Kanjurmarg (East),
Mumbai, Maharastra – 400 042. ...Respondents

(R6 Suo motu impleaded vide order dated 23.11.2022 made in
W.P.No.26637 of 2018)

Writ Petition filed under Article 226 of the Constitution of India,
to issue a Writ of Mandamus, directing the 4th respondent to initiate



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appropriate proceedings against the first respondent and to issue a Degree Certificate to the petitioners herein forthwith and consequently to direct the first respondent to compensate the petitioners herein.

For Petitioners : Mr.K.V.Dhanapalan

For Respondents : Mr.N.Muralikrishnan
for M/s.Mcgan Law Firm, for R1
: Mr.Kalvin Johnes
for M/s. Ajmal Associates, for R2
: Mr.N.Umapathi, for R3
: Mr.P.R.Gopinath, CGSC, for R4
: Mr.S.Balamurugan, GA, for R5
: Mr.C.Kulandaivel, for R6

ORDER

This Writ Petition has been filed seeking for a direction to the fourth respondent to initiate appropriate proceedings against the first respondent and to issue a Degree Certificate to the petitioners herein forthwith and consequently to direct the first respondent to compensate the petitioners herein.

2. The case of the petitioners is that they joined the Maritime course under the 1st respondent institution on the promise that they would be



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lucratively placed. However, the non-grant of affiliation by the respective University was not informed to the petitioners. The petitioners though completed the course and were issued with Mark sheets and Provisional certificates, however, the said certificates are not worth the paper on which they are printed as the said courses are not approved and recognized. Though the petitioners spent more than Rs.25 Lakhs towards course fees, however, they could not get themselves suitably placed and, the 1st respondent cheated all the students by collecting huge amount and also by conducting a course without any proper approval from the appropriate authority and by not giving the Degree Certificate to the petitioners. Hence, the present petition has been filed by the petitioners seeking direction to the 4th respondent to initiate appropriate proceedings against the 1st respondent and for a consequential direction for issuance of Degree Certificate and for payment of appropriate compensation to the petitioners.

3. Learned counsel appearing for the petitioners, though relied on the affidavit and addressed the Court on very many aspects, however, he curtailed his prayer to the effect that the amount paid towards the fees paid



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by the petitioners may be directed to be refunded to them.

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4. Per contra, learned counsel appearing for the 1st respondent submitted that the petitioners joined the course with open eyes and there were no promises made by the 1st respondent with regard to placement. It is the further submission of the learned counsel that the 1st respondent had not played any fraud on the petitioners and they have entered into a joint venture agreement with 2nd and 3rd respondents and they are taking earnest efforts to get the approval of the 4th respondent. It is the further submission of the learned counsel that the petitioners have completed the course in the 1st respondent institution and, therefore, they can either seek for disbursal of the course certificate or for compensation and cannot claim both. But the petitioners have come before this Court claiming both, which is wholly impermissible. To buttress the aforesaid contentions, an elaborate counter running to multiple pages have also been filed and the details of the fees received from the petitioners is also tabulated in addition to other facts relating to the petitioners.

5. Learned counsel for the 6th respondent submitted that, the course



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conducted by the 1st respondent was not approved by the 6th respondent and the same is invalid.

6. This Court paid its careful attention to the submissions advanced by the learned counsel on either side and perused the materials available on record.

7. It is borne out by record and not disputed that the course conducted by the 1st respondent does not have the approval of any University as on date and it is also not approved by the 4th respondent. It is the case of the 1st respondent that it had the affiliation of 3rd respondent University, which was subsequently withdrawn and for which the 1st respondent has taken necessary action to obtain affiliation. Though the 1st respondent claims that the petitioners joined the course knowing fully well that it has no approval, which is disputed by the petitioners, this Court is not entering into the said controversy.

8. Be that as it may. The 1st respondent has enrolled the petitioners for a course which has no approval and continuing affiliation with any



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University. Further, it is to be pointed out that even the affiliation granted to the 1st respondent is only for the purpose of running a centre outside the State where the University, from which affiliation is alleged to have been obtained by the 1st respondent at the initial point of time, is located. Such being the case, it is nothing but a fraud played on the petitioners. The 1st respondent cannot conduct such a course without approval, more so, when the affiliation granted to the 3rd respondent from which the 1st respondent draws residual power to conduct the course and examination itself was cancelled by UGC. That being the case, receiving fee for the said course for which the petitioner has no affiliation and approval is wholly impermissible. Further, the 1st respondent being a franchisee of the 3rd respondent and is conducting a study centre and conducting exams, cannot claim that it has any authority to do so, when the affiliation granted to the 3rd respondent itself was cancelled.

9. Further, similar issue has already been considered by the Hon'ble Division Bench of this Court in ***W.A.No.606 of 2015 and etc., batch of cases***, wherein the Division Bench has held as under :-



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“3. Under the said communication dated 21.08.2012, while recognising the distance education programmes offered by Annamalai University, the University Grants Commission had imposed a condition to the effect that the territorial jurisdiction for offering programmes through distance mode will be as per the decision of the Council taken in its 40th Distance Education Council (DEC) meeting. The said decision was to the effect that the territorial jurisdiction of the State Universities (both the Government funded and private) will be as per their Acts and Statutes, but not beyond the boundaries of their respective states. In order to give effect to the above decision, the same was put in a form of condition for recognition and clause B(8) which incorporates the said condition reads as follows:-

8. The territorial jurisdiction for offering programmes through distance mode will be as per the decision of the Council taken in its 40th DEC Meeting. As per decision taken in 40th meeting of the Distance Education Council, the territorial jurisdiction of State Universities (both govt. funded & private) will be as per their Acts and Statutes but not beyond the boundaries of their respective states. Thus the territorial jurisdiction of your university being a State University will be as per the Act and Statutes but not beyond the boundaries of the State of Tamil Nadu. ...

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58. *The writ petitions filed by the franchisees viz., W.P.Nos.7513 of 2017, 3784 of 2018 and 3889 to 3892 of 2018 will stand dismissed, since there is a direct prohibition in the University Grants Commission Regulations regarding establishment of learner support centre through franchisee.*

59. *The writ petitions filed by the Association of affiliated colleges will stand closed as no further orders are necessary.*

60. *In fine, we conclude that the University Grants Commission Regulations will prevail in view of the primacy given to the University Grants Commission under the University Grants Commission Act as well as the Entry 66 of List 1 of the 7th Schedule of the Constitution. While the Universities established by the State enactment and other private Universities can enrol students from outside the State, their other activities viz., establishment of learner support centres, conduct of the examination etc., must be within the State only. Insofar as the deemed to be universities are concerned, they can conduct online distance education programmes in compliance with the Regulations of the University Grants Commission upon having recognition from the University Grants Commission.*

61. *The writ appeal and the writ petitions stand*



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disposed of on the above terms. No costs. Consequently, connected miscellaneous petitions are closed.”

10. In view of the aforesaid decision, the issue being no longer *res integra*, but the relief of the petitioners as sought for in this Writ petition for a direction to the 1st respondent to issue their Degree certificates cannot be granted, as the said course, which the petitioners allege they have completed does not have the approval of the 4th respondent and cannot be said to be a properly completed course in the eye of law. Therefore, the certificates sought for by the petitioners cannot be granted, but necessarily, the petitioners should be granted the relief of compensation so that they do not suffer for the act of the 1st respondent.

11. In view of the above, this Writ petition stands dismissed in terms with the order passed by the Division Bench of this Court above. However, knowing fully well that the course is not approved, the 1st respondent has collected fees from the petitioners, which is not sustainable. Therefore the 1st respondent is directed to return the tuition fees collected from the petitioners back to them within a period of four weeks from the date of



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receipt of a copy of this order. No Costs.

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NCC : Yes/No

Index : Yes/No

Speaking order : Yes/No

To:

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M.DHANDAPANI., J.

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