



**W.P(MD)Nos.27743, 27744, 27745, 27746, 27747 and 29635 of 2023**

**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT**

WEB COPY

DATED : 13.12.2023

CORAM

**THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN**

W.P(MD)Nos.27743, 27744, 27745,  
27746, 27747 and 29635 of 2023  
and

W.M.P.(MD)Nos.23850, 23855, 23858,  
23859, 23857 and 25561 of 2023

**W.P.(MD)No.27743 of 2023:-**

M.Maheswari

... Petitioner

Vs.

- 1.Alagappa University,  
Karaikudi - 630 003,  
Sivagangai District,  
Rep by its Registrar.
- 2.The Vice Chancellor,  
Alagappa University,  
Karaikudi - 630 003,  
Sivagangai District.
- 3.The Director of Distance Education,  
Alagappa University, Karaikudi - 630 003,  
Sivagangai District.
- 4.The Controller of Examination,  
Alagappa University,  
Karaikudi 630 003,  
Sivagangai District.



**W.P(MD)Nos.27743, 27744, 27745, 27746, 27747 and 29635 of 2023**

5.The Coordinator,  
Learners Support Centre of Alagappa University,  
K.S.Maniam College of Education,  
M/s.Sri Sangilikaruppannaswamy Educational Trust,  
SET Institute, Sri Karthik Complex,  
Opp. Velur Super Market,  
Bye Pass Road, P.Velur,  
Namakkal District – 638 182. ... Respondents

**Prayer :** Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, directing the 1st respondent Alagappa University, Karaikudi to permit the petitioner to continue to take the forthcoming semester examinations through the 5th respondent Learners Support Centre at P.Velur, Namakkal District.

For Petitioner : Mr.Isaac Mohanlal, Senior Counsel,  
For M/s.Isaac Chamber.

For Respondents : Mr.T.Cibi Chakarabarthi,  
Standing Counsel.

### **COMMON ORDER**

Heard the learned senior counsel for the writ petitioners and the learned standing counsel for Alagappa University.



W.P(MD)Nos.27743, 27744, 27745, 27746, 27747 and 29635 of 2023

2.The writ petitioners enrolled themselves in the distance education programmes conducted by Alagappa University through their respective learner support centres. The only question that arises for consideration is as to where the petitioners are to write their semester examinations. While the petitioners would contend that they would write semester examinations in the respective learner support centres, the University would contend that in view of the UGC regulations, the petitioners have to write the examinations only in the places identified by the University within its territorial jurisdiction ( ie., Districts of Sivagangai and Ramanathapuram).

3.I carefully considered the rival contentions and went through the relevant provisions. Clause 4(B)(i) of the University Grants Commission (Open and Distance Learning Programmes and Online Programmes) Regulations, 2020 is as follows:-

***“4. Requirements for Submission of Proposals.?”***

***(B) Provisions for Open and Distance Learning Mode:***

*(i) The Higher Educational Institution shall adhere to the policy of territorial jurisdiction as specified in Annexure-III;”*



W.P(MD)Nos.27743, 27744, 27745, 27746, 27747 and 29635 of 2023

4. Annexure III (I)(2) of the University Grants Commission (Open and Distance Learning Programmes and Online Programmes) Regulations, 2020 reads as follows:-

***“TERRITORIAL JURISDICTION AND REGULATING PROVISIONS FOR DIFFERENT TYPES OF HIGHER EDUCATIONAL INSTITUTIONS***

***I. Central Government and State Government University:***

*2. A University established or incorporated by or under a State Act shall offer programmes in Open and Distance Learning mode and operate all other related activities only within the territorial jurisdiction allotted to it under its Act and in no case beyond the territory of the state of its location.”*

5. Clause 15(A)(7) and 15(B) (1 to 3) of the University Grants Commission (Open and Distance Learning Programmes and Online Programmes) Regulations, 2020 is as follows:-

***“15. Evaluation\_***

*(7) The “Examination Centre” shall be established as per Annexure-I and Annexure-II with due approval of the statutory authority of the Higher Educational Institution, subject to the following:-*



W.P(MD)Nos.27743, 27744, 27745, 27746, 27747 and 29635 of 2023

*(i) The Examination Centre shall have proper monitoring mechanisms for Closed-Circuit Television (CCTV) recording of the entire examination procedure and biometric system and in case of non- availability of the Closed-Circuit Television facilities, the Higher Educational Institution shall ensure that proper videography be conducted and video recordings are submitted by particular in charge of examination centre to the concerned Higher Educational Institution.*

*(ii) The Higher Educational Institution shall retain all such Closed-Circuit Television recordings in archives for a minimum period of five years.*

*(iii) There shall be an observer for each of the Examination Centre appointed by the Higher Educational Institution and it shall be mandatory to have observer report submitted to the Higher Educational Institution.*

***(B) Provisions for Open and Distance Learning Mode: (1) All end semester examinations or term end examinations for programmes offered through Open and Distance Learning mode shall be conducted through proctored examination (pen-paper or online or computer based testing) within Territorial***



WEB COPY



W.P(MD)Nos.27743, 27744, 27745, 27746, 27747 and 29635 of 2023

*Jurisdiction, in the examination centre as mentioned in these regulations. The Exams shall be under the direct control and responsibility of the Open and Distance Learning mode Institution.*

*(2) All Government Institutions like Kendriya Vidyalaya(s), Navodaya Vidyalaya(s), Sainik School(s), State Government Schools, etc. can also be identified as examination centre(s) under direct overall supervision of a Higher Educational Institution offering education under the Open and Distance Learning mode including approved affiliated colleges under the University system in the Country and no Examination Centres shall be allotted to private organisations or unapproved Higher Educational Institutions.*

*(3) The Learner Support Centres, as defined in the regulations and within the territorial jurisdiction, can also be used as examination centres provided they fulfill the criteria of an examination centre as defined in these regulations.”*

6.Clause 17 (1 and 2) of the University Grants Commission (Open and Distance Learning Programmes and Online Programmes) Regulations, 2020 read as follows:-

***“17. Learner Support Centre for Open and Distance Learning. (1) A Higher Educational Institution offering***



WEB COPY



W.P(MD)Nos.27743, 27744, 27745, 27746, 27747 and 29635 of 2023

*programme in Open and Distance Learning mode shall, ensure that a Learner Support Centre is established as per Annexure-VIII only in a college or institution affiliated to a University or in a Government recognised Higher Educational Institution offering programmes in the same broad areas having the necessary infrastructure and human resources for offering the programme:*

*Provided that a Learner Support Centre defined under these regulations shall not be the Learner Support Centre for more than two Higher Educational Institutions at a time to offer programmes in Open and Distance Learning mode:*

*Provided further that a Learner Support Centre of a State University should be in the same state in which the State University has been established:*

*Provided also that a Higher Educational Institution may establish a special Learner Support Centre for imparting instruction to persons referred to in the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995, the National Trust for Welfare of Persons with Autism, Cerebral Palsy, Mental Retardation and Multiple Disability Act, 1999 and other persons in difficult circumstances, including jail inmates:*

*Provided also that a Learner Support Centre shall not be set up under a franchisee agreement in any case.*



W.P(MD)Nos.27743, 27744, 27745, 27746, 27747 and 29635 of 2023

*(2) A Learner Support Centre shall be the contact point or centre managed by the Higher Educational Institution for providing academic as well as administrative support to its learners and shall perform such other functions as specified in Annexure-VIII.”*

7.Clause II (5) of Annexure VIII of the University Grants Commission (Open and Distance Learning Programmes and Online Programmes) Regulations, 2020 is as follows:-

### ***“LEARNER SUPPORT CENTRES***

#### ***II. Definition and Establishment of Learner Support Centre or Study Centre***

*5. A Higher Educational Institution shall submit an undertaking to the Commission to the effect that the academic and instructional facilities at its Study Centres or Learner Support Centres meet all the conditions of these regulations and guidelines issued from time to time, and are commensurate with the number of academic programmes and learners’ strength thereto- Provided that the Higher Educational Institution shall not carry out any of its activities related to the Open and Distance Learning mode at places other than Study Centres or Learner Support Centres under a different name such as Information Centre, Facilitation Centre, Nodal Centre,*



WEB COPY



W.P(MD)Nos.27743, 27744, 27745, 27746, 27747 and 29635 of 2023

*Knowledge Partner, Partner Institution, Multimedia Centres and similar such names:*

*Provided that, no Study Centre or Learner Support Centre shall be established beyond the territorial jurisdiction of the Higher Educational Institution or under any franchisee or outsourcing agreement, as described in these regulations:*

*Provided further that a Study Centre or Learner Support Centre shall not admit a learner to any programme in Open and Distance Learning mode for or on behalf of any other Higher Educational Institution.”*

8.The aforesaid provisions were considered by the Hon'ble Division Bench of the Madras High Court in the decision reported in **(2023) 2 MLJ 1 (University Grants Commission v. Annamalai University)**. Paragraph Nos.24, 49, 50 and 60 of the said decision read as follows:-

*“24. The main question that arises in all these proceedings is as to whether the University Grants Commission, a body which has the power to recognize distance education programmes by various Universities, can impose restrictions on the territorial jurisdiction of various Universities?*



**W.P(MD)Nos.27743, 27744, 27745, 27746, 27747 and 29635 of 2023**

49. *As pointed out by the Hon'ble Supreme Court in Professor Yash Pal's case (supra) Article 245(1) of the Constitution of India enables the States to legislate only for their territories. All the State Universities which are established under various State enactments with a particular area of operation or a territorial jurisdiction will have to limit their functions only to such jurisdiction. We are not suggesting that these State run Universities cannot enrol students form outside the State for their programmes, but their activities cannot span beyond the State.*

50. *The University Grants Commission's Regulations framed in the year 2020 viz., University Grants Commission (Open and Distance Learning Programmes Online Programmes) Regulations 2020 provide for territorial jurisdiction and the activities should be as per the territorial jurisdiction allotted to the University under the Act. The Regulations also provide for enrolment of learners on the open and distance learning mode from any part of the country. But Regulation 23(3) restricts all other activities such as admissions, contact programmes, examinations etc., to be conducted within the territorial jurisdiction. As far as the online education programmes there is no such territorial restrictions.*



**W.P(MD)Nos.27743, 27744, 27745, 27746, 27747 and 29635 of 2023**

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 7<sup>th</sup> 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.”*

9.The learned standing counsel for Alagappa University was at pains to point out that as per the Alagappa University Act, 1985, the territorial jurisdiction of the University is confined to districts of Ramanathapuram and Sivagangai and that is why the University is insisting that the petitioners should write their semester examinations in any of the venues identified by the University within its territorial jurisdiction.



W.P(MD)Nos.27743, 27744, 27745, 27746, 27747 and 29635 of 2023

WEB COPY

10.I am of the view that the University is taking such a restrictive stand on the apprehension that University Grants Commission may take an adverse view of the matter.

11.This apprehension in my view appears to be misplaced. This is because the Principal Secretary to Government, Higher Education Department vide letter No.937/H1/2023 – 1, dated 06.03.2023 had written to the Registrar of Alagappa University in the following terms:-

*“I am directed to invite attention to the reference cited, wherein the permission of the Government has been requested to conduct courses through Distance Education from the year 2022-2023 throughout the State of Tamil Nadu as the UGC has requested to submit a letter from Government of Tamil Nadu to offer courses through Distance Education mode throughout the State of Tamil Nadu.*

*2.In this regard, I am to inform you that Alagappa University is permitted to offer courses through Distance Education mode throughout the State of Tamil Nadu.”*



W.P(MD)Nos.27743, 27744, 27745, 27746, 27747 and 29635 of 2023

WEB COPY

12. Admittedly, Alagappa University had imparted distance education to the petitioners herein through learner support centres located in the districts of Erode, Namakkal, Tirupur, Virudhunagar, Thoothukudi and Krishnagiri. All these centres are very much located within the State of Tamil Nadu. The emphasis in University Grants Commission Regulations is that the State University should not conduct its operations outside the State of Tamil Nadu. Even students outside the State of Tamil Nadu can enroll. This limitation imposed by the UGC has not at all been breached in this case. More than anything else, the regulations clearly stipulate that a student who had undergone distance education in a given support centre must write the examinations in the said support centre only.

13. Calling upon the students who had studied in various districts to come down to Sivagangai or Ramanathapuram to write their semester examinations would also cause immense hardship to them. It is in this view of the matter, I hold that the writ petitioners are entitled to the relief sought for.



W.P(MD)Nos.27743, 27744, 27745, 27746, 27747 and 29635 of 2023

WEB COPY

14.I however make it clear that this direction and arrangement is confined only for this calender year and academic year. In future, it is always open to Alagappa University to seek specific clarification / advice from UGC.

15.The writ petitions are allowed on these terms. No costs. Consequently, connected miscellaneous petitions are closed.

**13.12.2023**

NCC : Yes/No  
Index : Yes / No  
Internet : Yes/ No  
ias

***Issue order copy on 21.12.2023.***



WEB COPY



**W.P(MD)Nos.27743, 27744, 27745, 27746, 27747 and 29635 of 2023**



WEB COPY



**W.P(MD)Nos.27743, 27744, 27745, 27746, 27747 and 29635 of 2023**

**G.R.SWAMINATHAN, J.**

ias

**W.P(MD)Nos.27743, 27744, 27745,  
27746, 27747 and 29635 of 2023**

**13.12.2023**