

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

206

**CWP-12869-2013 (O&M)
Date of Decision: 23.11.2023**

Dr. Bhagat Singh Rathee**...Petitioner(s)****Versus****Maharshi Dayanand University and Others****...Respondent(s)****CORAM: HON'BLE MR. JUSTICE TRIBHUVAN DAHIYA**

Present:- Mr. Sardavinder Goyal, Advocate for the petitioner

Mr. Karan Singh, Advocate for respondents No.1, 2 and 4

Mr. D.S. Patwalia, Senior Advocate with Ms. Rishu Bajaj,
Advocate for respondent No.3

TRIBHUVAN DAHIYA, J. (Oral)

This petition has been filed, *inter alia*, seeking a writ of *certiorari* quashing the decision of the Executive Council, dated 28.03.2013, accepting recommendations of the Screening-cum-Evaluation Committee for promotion of the third respondent as Professor and grant him benefits under Career Advancement Scheme (CAS).

2. Learned counsel for the petitioner has contended that the third respondent could not have been promoted as Professor since the Ph.D. degree dated 05.12.2012, which has been awarded to him by the CMJ University, Shillong, Meghalaya (hereinafter referred to as 'the CMJ University'), is fake.

He has referred to a letter dated 04.10.2013, Annexure P-29, sent by the Director General, Higher Education to the respondent University requesting to

cancel all admissions/appointments made on the basis of degrees from the CMJ University, by following the legally prescribed procedure. The letter was issued pursuant to the order, dated 13.09.2013, passed by the Supreme Court in SLP (Civil) No.19617/2013 titled *CMJ Foundation and Others v. State of Meghalaya and Others*, wherein recommendations of the Visitor-cum-Governor, dated 12.06.2013, for dissolution of the University on the grounds of mismanagement, mal-administration, indiscipline and failure have been referred to. Two of the recommendations relied upon by the learned counsel, are the following:

6. Total students enrolled by CMJ University as per information submitted by the University in 2010-11: 176, 2011-12: 469, 2012-13: 2734. All these admissions are illegal as all its actions are ab initio void in absence of a legally appointed Chancellor.

7. All these established facts clearly indicate mismanagement, mal-administration, indiscipline and failure in the accomplishment of the objectives of the University, apart from criminal liability. In the interest of maintaining proper standards of higher education it would be desirable that the CMJ University be wound up. The state government is accordingly being addressed to consider Dissolution of the CMJ University in terms of Section 48 of the CMJ University Act, 2009.

Considering the same, the Supreme Court held as under:

In terms of the recommendations made by the Visitor-cum-Governor, the State Government is required to take action under Section 48 of the 2009 Act.

Shri Ranjan Mukherjee, learned counsel appearing for the Government of Meghalaya says that he is not in a position to make a statement whether the State Government has taken action in furtherance of the recommendations made by the Visitor-cum-Governor.

In view of the above, we feel that ends of justice will be served by directing the State Government to take an appropriate action under Section 48 of the 2009 Act after giving notice and reasonable opportunity of hearing to the petitioners.

The special leave petitions are accordingly disposed of with a direction that within three months from today the State Government shall, after giving an opportunity to the petitioners to show cause against the action proposed to be taken, pass a speaking order under Section 48 of the 2009 Act.

The students whose admissions and degrees were declared illegal may also make representation to the State Government and seek an opportunity of hearing from it. The request made by them shall be sympathetically considered by the State Government.

3. It is further contended that despite this order and the consequent government letter, dated 04.10.2013, the respondent University has not taken any final decision on validity of the third respondent's Ph.D. degree on the petitioner's complaints. Instead, the Executive Council vide its resolution dated 29.03.2016, resolved that decision in the matter be deferred till final outcome of instant petition, which is not justifiable.

4. Learned counsel for the respondents, on the contrary, contend that the third respondent's Ph.D. degree was never cancelled. The petitioner has made false complaints against him due to personal *mala fides*, and all his allegations are baseless. There is no material on record to establish the same, nor that the degree was ever cancelled. The respondent-University got the degree verified from the CMJ University by writing letters thrice over, and as per its response, dated 10.01.2013 and 16.07.2013, Annexure R-16 & Annexure R-19, respectively, the degree stands verified as per records of the University. He further contends that the Supreme Court has not declared the degrees in question to be invalid. Instead, the State Government was directed to take appropriate decision in the matter after giving due notice and reasonable opportunity of hearing to the petitioners as well as the respondents concerned, which was required in terms of the recommendations made by the Visitor-cum-Governor.

5. Learned counsels for the parties have been heard.

6. It is apparent on record that genuineness of the third respondent's Ph.D. degree is under a cloud. However, decision in this regard has not been taken by the respondent University, as concededly, vide EC Resolution dated 29.03.2016, it resolved to take a decision after final outcome of the instant petition. The verification of degree done by the CMJ University is prior to the Supreme Court order dated 13.09.2013, whereby the State Government was directed to take appropriate decision on the recommendations made by the Visitor-cum-Governor regarding cancellation of degrees and admission of students for different academic years, including for the year 2011-12, when the third respondent was enrolled there for award of the degree in question.

Learned counsel for the petitioner could not point out any document on record

indicating that the third respondent’s Ph.D. degree was ever cancelled on the recommendation of the Visitor-cum-Governor of the CMJ University. And the respondent university has also not taken any decision with regard to validity of the degree on the pretext of pendency of the instant petition.

7. In view thereof, this petition is disposed of by directing the respondent University to take final decision on validity of third respondent’s Ph.D. degree in the light of order, dated 13.09.2013, passed by the Supreme Court and the consequent action taken by the State Government concerned in terms of the recommendations by the Visitor-Cum-Governor, after hearing the petitioner as well as the third respondent, within a period of three months from receiving a certified copy of this order. In case the degree is found invalid, the resultant action on that basis shall also be taken by the University, in accordance with law, within a period of six weeks therefrom.

8. Pending miscellaneous application(s), if any, stand(s) disposed of as having been rendered infructuous.

(TRIBHUVAN DAHIYA)
JUDGE

23.11.2023
Payal

<i>Whether speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether reportable</i>	<i>Yes/No</i>