



W.P.No.1805 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.03.2024

CORAM :

THE HON'BLE MR.SANJAY V.GANGAPURWALA, CHIEF JUSTICE

AND

THE HON'BLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY

W.P.No.1805 of 2024

K.Mohamed Jamshad

.. Petitioner

Vs.

1. The Secretary to Government
Department of Higher Education
Fort St. George, Chennai 600 009.

2. Bharthiyar University
Marudhamalai Road
Coimbatore, rep. by its Registrar.

3. Nehru College of Arts and Science
Nehru Gardens
TM Palayam
Coimbatore 641 105.

4. University Grants Commission
Rep. by its Chairman
Bahadurshah Zafar Marg
New Delhi 110 022.

.. Respondents

[R4 impleaded vide order dated
30.01.2024]



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Prayer: Petition filed under Article 226 of the Constitution of India seeking a writ of Declaration to declare Clause 3 of Ph.D Admission Regulation 2023-2024 issued by the 2nd respondent as illegal and consequently direct the 2nd respondent to consider the petitioner's application dated 21.11.2023 for registration to the Ph.D Programme in the available vacancy of the 3rd respondent college.

For the Petitioner : Mr.R.Sivakumar

For the Respondents : Mr.P.Harish
Government Advocate
for Respondent-1

Mr.K.J.Parthasarathy
for Respondent-2

No appearance
for Respondents 3 & 4

ORDER

(Made by the Hon'ble Chief Justice)

We have heard Mr.R.Sivakumar, learned counsel for the petitioner, Mr.P.Harish, learned Government Advocate for the first respondent and Mr.K.J.Parthasarathy, learned counsel for the second respondent.



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2. The petitioner possesses the qualification of B.Sc. and M.Sc. in the branch of Computer Science from the University of Calicut, Kerala State. The petitioner also possesses the qualification of M.Phil. from SNG College of Arts and Science, Coimbatore affiliated to the second respondent University. The petitioner is working as an Associate Professor in EMEA College of Arts and Science, Kondotty, Malappuram District, Kerala.

3. The second respondent University issued a prospectus inviting applications from the candidates aspiring to join Ph.D. Program for December 2023 session. The prospectus was issued. The petitioner applied for the Ph.D. Program in Computer Science (Part time - regular stream. The candidature of the petitioner is rejected. Aggrieved thereby, the present petition.

4. Learned counsel for the petitioner submits that the candidature of the petitioner is rejected only on the ground that the petitioner is working in the institution in Kerala not recognised by the second respondent University. According to learned counsel, the said



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Regulation is illegal. The same was not notified in the prospectus. The prospectus did not contain a clause that the candidates from outside Tamil Nadu should be working in a institution recognised by the second respondent. The prospectus was silent in respect of the same. On the contrary, the prospectus invited applications from the candidates Pan India. The said Regulation is unreasonable and ultra vires. The UGC Regulation also nowhere specifies that the person applying for Ph.D. Program has to work in an institution recognised by the second respondent. Reliance is placed by the learned counsel on Clause 5(3) of the UGC Regulations, 2022.

5. Per contra, learned counsel for the second respondent University submits that the Regulations governing the applicants are issued by the second respondent and the same are notified on 20.07.2023 much prior to the petitioner making an application. The said Regulations were in fact part of the proceedings. According to learned counsel for the second respondent, the admission cannot be given de hors the Regulation.



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6. We have considered the submissions.

7. In educational matters, this Court cannot substitute its own view for the view of the experts of the educational institution. The policy decision taken by the institution in its academic expertise cannot be interfered with by the Courts. Reliance can be had to the judgment of the Apex Court in the case of *Maharashtra State Board of Secondary and Higher Secondary Education v. Paritosh Bhupesh Kumar Sheth* [AIR 1984 SC 1543].

8. The UGC norms and Regulations provide guidelines regarding the procedure for admission. Clause 5(3) relied by the petitioner states that the Universities and Colleges which are eligible to conduct Ph.D. program shall notify a prospectus well in advance on the institution's website specifying the number of seats for admission, subject/discipline-wise distribution of available seats, criteria for admission, the procedure for admission and all other relevant information for the candidates.



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9. The Regulations, according to the second respondent, were already notified on 20.07.2023 and were also placed on its website. The petitioner does not attribute mala fide as against the second respondent nor the second respondent can have animus against the petitioner. There is no reason to disbelieve the statement of the second respondent on affidavit that the said Regulations were notified on 20.07.2023.

10. It appears that in the prospectus, the Regulation relied on by the second respondent was not mentioned.

11. Clause 3 of the Regulations states thus:

"Candidates from outside Tamil Nadu working in National Institutes – DRDO, NIT, CSIR, DST, ICMR as well as research institutes recognised by Bharathiar University (Refer Annexure 1 – Research Institutes recognised by BU) are allowed to register for part-time Ph.D. Programme subject to the production of a 'No Objection Certificate' from their respective Head of the Institution and payment of Rs.5,000/- as special fee in addition to the fee



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prescribed for the programme. Such candidates shall fulfil the required eligibility conditions for admission into the programme.”

12. The aforesaid clause is ample clear. It states that candidates from outside Tamil Nadu working in National Institutes as well as research institutes recognised by Bharathiyar University are allowed to register for part-time. The institution where the petitioner is working is not recognised by Bharathiyar University. The University certainly can restrict the recognition of the institutions as the program is a Ph.D. part-time programme and outside Tamil Nadu, it will be required to have a tie up with the said institution. The said clause cannot be said to be unreasonable or arbitrary.

13. The institution where the petitioner is working is not recognised. Regulations certainly would be binding. The prospectus cannot override the Regulations.

14. In the light of the above, the case of the petitioner cannot be



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considered on merits.

15. The writ petition is disposed of. There shall be no order as to costs. Consequently, W.M.P.Nos.1867 and 1868 of 2024 are closed.

(S.V.G., CJ.)

(D.B.C., J.)

22.03.2024

Index : Yes/No
Neutral Citation : Yes/No

kpl

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THE HON'BLE CHIEF JUSTICE
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