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W.A.No.1273 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.05.2024

CORAM

THE HON'BLE MR. JUSTICE R.MAHADEVAN

and

THE HON'BLE MR. JUSTICE MOHAMMED SHAFFIQ

Writ Appeal No. 1273 of 2023

Dr. S. Murugesan
Assistant Professor
Department of Tamil
Loganatha Narayanasamy Government College
Ponneri - 601 204

.. Appellant

Versus

1. The Registrar
University of Madras
Chepauk, Chennai - 600 005
2. The Controller of Examination
University of Madras
Chepauk, Chennai - 600 005
3. R. Dhandapani
Son of V.C. Rajamanickam
No.62/69, Kamala Nagar 2nd Street
Thiruvottiyur, Chennai - 600 019

.. Respondents

Appeal filed under Clause 15 of The Letters Patent against the order



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dated 21.02.2023 passed in Writ Petition No. 4504 of 2023 on the file of this Court.

For Appellant : Mr. R. Balaguruswamy

For Respondents : Mrs. V. Sudha for RR1 and 2

Mr. M. Kamalanathan for R3

JUDGMENT

[Judgment of the Court was delivered by R.Mahadevan, J]

Education is a potent tool that can sculpt, shape as well as change the future of a nation. The quality of education imparted will have a direct impact on the development of the country, both sociologically as well as economically. In fact, its progress will be gauged by the level of literacy and education. An educated and informed citizen will be a major contributor to the growth and progress of the nation in every sphere. With this brief prelude on the significance and importance that we must attach to education, we proceed to discuss the facts of the present appeal.

2. This appeal has been filed by the appellant aggrieved by the



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order dated 21.02.2023 passed by the learned Judge dismissing Writ Petition No. 4504 of 2023 filed by him.

3. The appellant has filed the above Writ Petition No. 4504 of 2023 praying to issue a Writ of Mandamus, directing the respondents 1 and 2 to consider his representation dated 12.12.2022 and to pass orders on merits and consequently direct the respondents 1 and 2 to enquire with the third respondent by perusing the educational qualifications certificates and consequently, pass an order revoking and recalling the Ph.D., degree awarded to the third respondent with immediate effect, within a stipulated time, as prescribed by this Court.

4.(i) In the affidavit filed in support of the writ petition, the appellant stated that he is working as an Assistant Professor, Department of Tamil, Loganatha Narayanasamy Government College, Ponneri. He was also appointed as the Supervisor for the third respondent herein to pursue his Ph.D. Programme on a part time basis for a period of four years from 24.05.2013 by the University of Madras, through a letter dated 21.06.2013 under the broad field of research topic "Thiruvаса Pathika Kotpadu".



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According to the appellant, the thesis of Ph.D. programme should be submitted on or before 23.05.2019 and the research topic has to be submitted before him for verification with the prescribed fees. When the thesis was submitted by the third respondent, it was noticed that there are several typographical errors committed by the third respondent and therefore, he returned the thesis and advised the third respondent to produce the same after rectification. However, the third respondent has given a representation dated 03.08.2017 to the respondents 1 and 2 to change the Supervisor (appellant) and to appoint one Dr.K. Venkatesan, Principal, Head of Tamil, Kanchi Sri Krishna Arts and Science College, Kancheepuram by alleging that the appellant did not approve the records submitted by him. On the basis of such representation, the respondents 1 and 2 changed the appellant as the Supervisor of the third respondent and appointed another Supervisor, through whom Ph.D. degree was awarded to the third respondent. It was further submitted that the third respondent is not eligible for conferment of Ph.D. Degree and the degree conferred on him is liable to be revoked. The appellant also referred to SHRC No. 1941 of 2019 filed by the third respondent against him and one Dr.S. Saravanan, Saiva Siddhantha Department, Head of Department, University of Madras before the State



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Human Rights Commission, Chennai alleging that the appellant harassed him by using his caste name and also demanded a bribe of Rs.5 lakhs for approving the records submitted by him. The appellant also submitted that ultimately, SHRC No. 1941 of 2019 was dismissed, against which, no appeal was filed by the third respondent.

(ii) The appellant referred to the deposition of the third respondent in his cross-examination in SHRC No. 1941 of 2019 and submitted that the third respondent is not qualified for appointment as B.T. Assistant (Tamil) in the respondents/University. The third respondent does not possess the qualification of 10 + 2 + UG Degree + Post Graduate Degree and therefore, he is not eligible to be conferred with a Ph.D. degree. Therefore, the respondents 1 and 2 ought not to have appointed the third respondent in the post of B.T. Assistant (Tamil) when he did not possess the requisite qualification for holding the post. To be specific, it was contended that the third respondent failed in Mathematics subjects in Higher Secondary (Plus Two) examination conducted during March 1995 and passed the same after two years during March 1997. It was also contended that the third respondent had pursued Bachelor of Literature in Tamil through Open University and therefore, he is not entitled to be admitted to Ph.D.



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programme at all as per G.O. Ms. No.107, Education Department dated 18.08.2009. The appellant also referred to the decision of the Honourable Supreme Court in the case of *Annamalai University vs. Secretary to Government, Information and Tourism Department and others* reported in 2009 (4) SCC 590 to contend that the Open University degree obtained by the third respondent will not entitle him to be conferred with a Ph.D. degree as per the norms of the University Grants Commission. Therefore, the appellant preferred the writ petition for the above said relief.

5. On 21.02.2023, when the writ petition was listed for admission, the learned Judge held that under Service Law Jurisprudence, a Mandamus cannot be issued under Article 226 of The Constitution of India, at the instance of a third party, to an employer to take action against an employee. Referring to the decision of the Division Bench of this Court in the case of **Sudalaikannu vs. The Principal Secretary to Government, Municipal Administration and Water Supply Department, Secretariat, Chennai and others** in WP (MD) No. 8871 of 2018 dated 26.04.2018, the learned Judge concluded that a third party cannot stand in the way between an employee and employer in matters of service disputes, especially in the



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context of disciplinary proceedings. Accordingly, it was held by the learned Judge, that the writ petitioner- appellant, who is a third party, cannot maintain the writ petition and dismissed the writ petition filed by him. Therefore, this writ appeal.

6. Assailing the above order dated 21.02.2023 passed by the learned Judge in WP No. 4504 of 2023, the learned counsel for the appellant submitted there is no service dispute involved in the writ petition filed by the appellant. Similarly, the appellant was not a third party to the writ proceedings. The appellant was the supervisor appointed for the Ph.D. programme pursued by the third respondent and therefore, he has *locus standi* to maintain the writ petition against the third respondent. The controversy raised in the writ petition relates to the eligibility and/or prescribed qualification possessed by the third respondent to get admitted in Ph.D. programme. According to the learned counsel for the appellant, the third respondent has made several omissions and commissions while submitting the Ph.D. thesis and therefore, the appellant returned the same. The appellant is fully aware of the capability, potential and eligibility of the third respondent and that he is not entitled for being conferred the Ph.D.,



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Degree. However, the third respondent was conferred with Ph.D. degree and questioning the same, the writ petition was filed. The learned Judge did not take note of the fact that before filing the writ petition, a representation dated 12.12.2022 was submitted by him highlighting the fact that the third respondent is ineligible to be conferred with a Ph.D. degree and requested the respondents 1 and 2 to conduct an enquiry thereof. But the said representation was not considered. Therefore, the appellant has no other alternative except to approach this Court with a Writ Petition for a Mandamus. The learned counsel also submitted that the relief sought for by the appellant is only to direct the respondents 1 and 2 to conduct an enquiry in which the third respondent can also participate. However, the learned Judge, without considering the nature of relief sought for by the appellant in the writ petition, dismissed it on the ground of *locus standi* of the appellant to maintain the writ petition and therefore, he prayed for allowing this appeal.

7. Per contra, the learned counsel for the contesting third respondent, by placing reliance on the counter affidavit dated 23rd January 2024 of the third respondent, submitted that the third respondent is in possession of the requisite qualification of 10+2+3+2 and he is fully qualified



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for registration to the Ph.D. programme. According to the learned counsel for the third respondent, when the Ph.D. programme was in the final stage, the appellant did not approve the thesis submitted by the third respondent and demanded Rs.5 lakhs as bribe besides making remarks against the caste to which the third respondent belonged. Therefore, he had filed a complaint before the State Human Rights Commission. Thereafter, the Principal of Loganatha Narayanasamy Government College, Ponneri issued No Objection Certificate for change of Supervisor. Accordingly, the respondents 1 and 2 allowed the change of Supervisor and the third respondent was conferred with Ph.D. degree in accordance with the norms.

8. As regards the qualification, as per Clause 2 of eligibility conditions mentioned in the prospectus for admission to Ph.D. programme for the year 2012-2013, those who completed Masters Degree with 50% marks are entitled to register for Ph.D. Programme. Further, as per Check List provided in appendix H of Clause I of the Admission procedure to Ph.D., programme, even those with Open University Degree in postgraduation are eligible for registration for Ph.D., programme. In this case, the third respondent pursued B.Litt Degree through Institute of Correspondence Education, University of Madras. As per Clause (1) Regulation 2 of



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University Grants Commission, 1985, without +2 qualification, he can also join the three year degree course and complete it subject to the condition that he shall be eligible for admission if he has passed an entrance test conducted by the University. As per the above Regulation, the third respondent was admitted to Ph.D. programme and such admission is proper. Thus, according to the learned counsel, the third respondent is fully qualified for provisional registration of Ph.D. programme during the year 2012-2013 as per the University Grants Commission Regulations and that the writ petition has been filed by the appellant only with an oblique motive to wreck vengeance and taking note of the same, the learned Judge has rightly dismissed the writ petition. Therefore, the learned counsel prayed for dismissal of the writ petition.

9. We have heard the learned counsel for the appellant, the learned Standing counsel for the respondents 1 and 2 and the learned counsel for the third respondent and also perused the records.

10. On 02.06.2023, when this appeal was taken up for hearing , after hearing the counsel for the appellant as well as the learned Standing counsel



for the respondents 1 and 2, we passed an order with certain observations,

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which can be usefully reiterated in this judgment, as follows:-

"

4. *We do not intend to get into any of the allegations made by the appellant against the third respondent for the present.*

5. *Yet, we find that this is one of those instances, where the University of Madras, one of the oldest and premier Institute entering its 164th year of existence, has grossly failed in its obligation to even verify the eligibility criteria while admitting the 3rd Respondent for the Ph.D. Programme. The eligibility for admission to Ph.D. programme, in terms of Clause 2.1 of the Revised Ph.D. Regulations based on UGC regulations, is that the candidates shall have passed SSLC (10th or 11th class/grade and PUC or higher secondary (12th grade) before joining undergraduate (UG) programme (3 or more years) and UG before joining PG degree programme. It appears that the 3rd respondent herein had appeared for the Higher Secondary Course Certificate (Vocational Education) in March 1997 and failed in Mathematics scoring only 24 marks as would be evident from the Mark statement issued by the Government of Tamil Nadu dated 23.05.1997. Subsequently, he had passed B.A. Literature in Tamil in October 2004 and cleared Tamil Pandit Training Certificate Course from Periyar University in January 2007. Thereafter, the 3rd Respondent had appeared for the Higher Secondary Board Exams and cleared Mathematics by scoring 70 marks i.e., 35% in March 2012. It thus prima facie appears that the third respondent does not satisfy the eligibility criteria in terms of the Ph.D. regulations of the University of Madras. However, he was provisionally admitted to the Ph.D. programme vide proceedings dated 21.06.2013. At this juncture, it is submitted by the learned counsel for the*



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appellant that the 3rd respondent has since been awarded Ph.D. Degree.

6. *We find that prima facie there has been complete apathy on the part of the respondent University, while examining the eligibility of the 3rd respondent for even being admitted for the Ph.D. Programme, that is extremely disturbing to put it mildly. We say so since Ph.D. is known and treated as a terminal degree. It is often the highest level of formal education, a student can earn through Universities and Colleges. Ph.D is a doctoral degree in education which sets apart the holder of such degree from other professionals. It is normally where international level of talent is made, thus Educational Institutions cannot afford to be lethargic nor can decisions be permitted to be influenced by extraneous consideration. It would then result in compromising on the merit and quality at the highest level of education. The consequence is, we would producing Midgetry, where Summitry is the desideratum, that is dangerous/perilous. Any complacency would have serious repercussions having an adverse bearing not only on the individual, but on the University and more importantly, the esteem/admiration/respect earned by the genuine Ph.D Degree holders through dint of hard work would give way to distrust/skepticism /suspicion, which we would not rather cannot tolerate.*

7. *We find that the learned Single Judge has strangely proceeded to dismiss the writ petition on a gross misconception as to the very issue before him. He has proceeded to dismiss the writ petition on the premise that the appellant/writ petitioner is a third party and that, in a dispute between an employee and employer, a third party would have no role. The following passage is relevant:*

“As such the petitioner herein, who is not an employee and is a third party, cannot maintain the present Writ Petition.”

We don't think that the issue arises for consideration even remotely in the Writ Petition filed to enquire whether



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the 3rd respondent who has been awarded Ph.D degree is even eligible to be admitted to the Ph.D. programme.

8. *Taking into account the gravity of the issue, which prima facie involves remissness at the highest level in the field of education, we are inclined to call for a report from the authorities concerned. Accordingly, as an interim measure, we direct the respondent University to conduct an enquiry on the representation submitted by the appellant, after issuing due notice to both the parties, viz., the appellant and the third respondent, and submit its report within a period of four weeks.*

9. *Post the matter after four weeks. Notice to the third respondent through court as well as privately by then."*

11. Pursuant to the above order dated 22.06.2023, passed by this court, the respondents 1 and 2 have constituted a two member committee presided by Justice P. Jyothimani, former Judge of this Court and Dr. E. Murugesan, Professor and Head and Dean (Research) Department of Physical Chemistry, University of Madras. According to the learned Standing Counsel for the respondents 1 and 2, the committee met on 27.07.2023 and 23.08.2023 and after enquiring the appellant as well as the third respondent, a report dated 30.08.2023 was submitted by the two member committee. A copy of the report was furnished before this Court by the learned Standing counsel for the respondents 1 and 2 and we have gone through the same. The findings of the enquiry committee are relevant for being considered by us in



this appeal, which read as follows:-

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"1. As per the University guidelines, Mr. R. Dhandapani lacked the prescribed qualification for admission to Ph.D., in 2013, as he has not complied with the requirement of 10 + 2 + 3 + 2 pattern in spirit as he has not completed his HSC by passing all papers before going to the three years degree course, which is the requirement for admission into Ph.D., course. His undergoing foundation case in the degree programme as per the Statute may save his B.Litt., degree. But for admission to Ph.D., he should have passed all papers in HSC at the time of joining B.Litt. But equally the Departmental Selection Committee with Dr. S. Murugesan, heading it, recommended the name of Mr. R. Dhandapani, which should have been after verifying the certificates of the candidate, as per Appendix-H (a) and (b) extracted above. Having failed in his duty while recommending the name of Mr. R. Dhandapani, as early as on 26.09.2012, it is too late for him to make a complaint to the Controller of Examinations of the University on 20.09.2018, after the relationship between him and Mr. R. Dhandapani has become strained. This is mere approbation and reprobation not expected of the category of teachers. If only he had complained of this at the earliest point of time, the entire damage to the institution would have been averted. The University officials relying upon the prospectus simply believed the Departmental Selection Committee that they would have verified the certificates of the candidates. Therefore, in our view fault cannot be attributed wholly on the University staff, even though it is true that they could have cross checked the candidates.

2. There is no flaw in the assessment of the research work of the candidate, Mr. R. Dandapani, by the University in all stages either by the Doctoral Committee, evaluation by the external and internal examiners, including the vivo voice conducted resulting in the conferment of Ph.D. degree to him.



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3. *A perusal of the Madras University Act and the Statutes made thereunder by the Authorities of the University, shows that there is no power to the University to cancel the degree already awarded as per the Statute. In any event, we are of the view that after placing all the facts, we should follow the decision that may be given by the Honourable High Court. We also recommend that in order to avoid repetition of this sort unwanted problems in future, particularly relating to admission of candidates in Ph.D., programmes, an internal circular may be issued by the Authority of the University that the concerned section should also verify the certificates of the candidate apart from the correctness of the same before granting provisional registration to any candidate."*

12. At the outset, we are inclined to deal with the question of *locus standi* of the appellant to file the writ petition. According to the third respondent, the writ petition has been filed only as a litigation to settle personal scores and wreck vengeance against him. There is nothing for being adjudicated in the writ petition at the instance of the appellant-writ petitioner especially when the third respondent had obtained Ph.D. degree after following all the procedures in place. Merely because the appellant was appointed as Supervisor to assist the third respondent to obtain Ph.D. degree, it will not give rise to any *locus standi* to file the writ petition.

13. The learned Judge, accepting the plea of the third respondent and by placing reliance on the decision of the Division Bench of this Court in



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Sudalaikannu case, held that the appellant is a third party to the dispute *inter se* and he is not entitled to maintain the writ petition. The learned Judge also held that in matters of service dispute, a litigation engineered by a third party cannot be entertained and accordingly, dismissed the writ petition filed by the appellant.

14. On perusal of the affidavit filed in support of the writ petition as also the Memorandum of grounds of writ petition, it is clear that what is sought to be adjudicated at the instance of the appellant does not involve any service dispute. The appellant has not raised any claim with reference to the appointment, seniority or promotion conferred to the third respondent. What was questioned is the breach of certain norms required to be followed for pursuing the Ph.D. programme by the third respondent. Above all, the appellant also specifically contended that the third respondent is unsuitable to possess a Ph.D. Degree. Having regard to the above submissions made on behalf of the appellant, when this writ appeal was taken up for hearing, we directed the respondents-University to conduct an enquiry on the representation made by the appellant, and submit its report, after affording opportunity of hearing to the third respondent to put forth his defence. Accordingly, a committee was appointed and an enquiry was conducted in



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which the appellant as well as the third respondent participated. After conclusion of the enquiry, the committee also submitted a report dated 30.08.2023 which was taken on record by this Court. In such circumstances, the question of maintainability of the writ petition has lost significance for our consideration, particularly because the appellant has raised serious allegations as against the third respondent with reference to the manner in which he has breached certain norms and/or parameters laid down for pursuing Ph.D. programme. This Court cannot shut its eyes to the illegalities brought to its notice, by citing technical reasons on the *locus standi* of the petitioner, as the sweep of this Court's powers under Article 226 is wide. Therefore, without adopting a hyper-technical approach, especially in view of the glaring facts that the Court cannot turn a Nelson's eye to, we are inclined to examine the allegations levelled by the appellant in the light of the report dated 30.08.2023 submitted by the Committee constituted by the respondents 1 and 2 as per the directions issued by us.

15. On perusal of the report submitted by the 2 Member Enquiry Committee on 30.08.2023, it is evident that the third respondent, without the prescribed qualification, was admitted to the Ph.D. programme. The said



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also suggests that before admitting the third respondent, the educational testimonials ought to have been thoroughly verified. The report also blamed the appellant for having recommended the name of the third respondent at the first instance, without even verifying his credentials. The report proceeds to state that if the appellant had complained about the credentials of the third respondent at the earliest stage, much damage to the reputation of the University could have been averted. Ultimately, it was concluded by the 2 Member Enquiry Committee that as per the Statutes of the University, there is no provision to cancel the degree already conferred on the third respondent. However, the 2 Member Enquiry Committee also recommended that in order to avoid admitting an ineligible person to Ph.D. programme in future, the certificates of the candidate as well as the veracity of the certificates has to be thoroughly verified before according provisional registration to any candidate.

16. It is further revealed that the 2 Member Enquiry Committee verified all the documents provided to substantiate the educational qualification and/or academic standard of the third respondent before submitting the report. The report of the enquiry committee discloses that the



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third respondent was ineligible for being recommended or appointed to pursue Ph.D. programme in the respondents University. It was the categorical finding of the 2 Member Enquiry Committee that the third respondent has not fulfilled the requirements of 10 + 2 + 3 +2 pattern of education and therefore, he is ineligible for admission to Ph.D. programme. When such a categorical finding has been rendered by the committee, which is not disputed by the third respondent, we are of the view that the admission of the third respondent to Ph.D. programme is a flaw committed by the respondents 1 and 2 and therefore, the Ph.D., degree conferred on the third respondent has to be declared as void. We are also in agreement with the 2 Member Enquiry Committee on the aspect that the appellant should have raised the issue regarding the ineligibility of the third respondent at the earliest point in time. A stitch in time could have saved nine. Here, it is seen that the first time when the appellant raised this issue was on 12.12.2022, much after some personal battles were fought between him and the third respondent. This also put his allegations under a cloud at first blush. However, while placing the above on record, we must also state that delay cannot defeat the factum of the third respondent's ineligibility once proved true.



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17. A person who holds a Ph.D. degree will act as a mentor for others to pursue such degree. The holder of a Ph.D., degree will act as a catalyst for many other students to obtain such degree. The guidance, briefing, counselling and sharing of the experience by the holder of a Ph.D. degree to his peers will be emulated by them. The “academic integrity” is the intellectual honesty and originality in proposing, performing and reporting any activity, which leads to the creation of intellectual property. While so, the person who acts as a mentor must be free from any blameworthy conduct as otherwise it will spell disastrous consequences for several others to be emulated. In this case, when the Ph.D. degree conferred on the third respondent is not proper as it is apparent now that he had flouted and breached several norms for obtaining such degree, the wrong committed cannot be allowed to be perpetuated any further. Above all, the appellant, who was his counsellor for pursuing the Ph.D. degree has made serious allegations with reference to his competitiveness and competence to pursue the degree, and the various omissions and commissions made in submitting the thesis during such programme. Taking note of the above and the specific reasoning assigned by the 2 Member Enquiry Committee in its report dated



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30.08.2023, we are of the view that the learned Judge ought to have allowed the writ petition filed by the appellant herein by issuing a Mandamus as prayed for, instead of hinging on technicality that the appellant has no *locus standi* to file the writ petition.

18. In the present case, it is glaringly evident that the Ph.D. degree awarded to the third respondent is a result of illegality as he was not eligible even to be admitted into the University. Now, in the report of the 2 Member Enquiry Committee, it is stated that the university lacks power to canceling the degree awarded to a candidate. Therefore, the question arises as to what are the circumstances under which the Ph.D. degree conferred on a candidate can be cancelled, who is authorised to cancel the Ph.D. degree awarded to the candidate and whether the University or the University Grants Commission is not competent to pass appropriate orders for cancellation of the degree already conferred.

19. In India, there is no direct authority provided to the University to cancel the Ph.D. degree awarded to a candidate by the University Grants Commission irrespective of the fact whether such degree was conferred by



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following the norms or not. The role of the UGC mainly deals with the setting and maintaining academic standards and guidelines for the Universities and Colleges in India. However, if there are concerns about the validity or legitimacy of a PhD programme awarded by the University, the UGC can interfere through (i) recognition and approval (ii) guidelines and Regulations and (iii) investigation and recommendations. The University Grants Commission is the sole authority to grant recognition and approval to Universities and Colleges. If there has been an established fact found that the university has been consistently awarding degrees fraudulently or in any forms of illegality, the UGC can withhold or revoke the recognition granted to the university and not the degree already conferred on a candidate. The UGC is the authority which issues guidelines and Regulations to be followed by the Universities and Colleges. This includes the awarding of a PhD degree, eligibility criteria, evaluation procedures and standards for thesis evaluation. If there is any deviation found by the UGC, then disciplinary action can be taken which may include withholding recognition. In any case, there is a recognition of academic fraud/misconduct, the UGC may appoint a committee or conduct investigations to inquire into the matter. The UGC can recommend appropriate actions to the concerned universities, government



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authorities or regulatory bodies if there is any form of illegality found. The UGC serves as an advocate for academic integrity and quality in higher education. The definition of academic integrity is defined in section 2(a) of the University Grants Commission (Promotion of Academic Integrity and Prevention of Plagiarism in higher educational institutions) Regulations, 2018. In this context, the Honourable Supreme Court, in ***Osmania University Teachers Association vs. State of Andhra Pradesh & Anr.*** [(1987) 4 SCC 671, has issued certain guidelines and it can be useful to refer to the same as under:

“30. The Constitution of India vests Parliament with exclusive authority in regard to coordination and determination of standards in institutions for higher education. The Parliament has enacted the U.G.C. Act for that purpose. The University Grants Commission has, therefore, a greater role to play in shaping the academic life of the country. It shall not falter or fail in its duty to maintain a high standard in the Universities. Democracy depends for its very life on a high standard of general, vocational and professional education. Dissemination of learning with search for new knowledge with discipline all round must be maintained at all costs. It is hoped that the University Grants Commission will duly discharge its responsibility to the Nation and play an increasing role to bring about the needed transformation in the academic life of the Universities.”



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20. In the case of *Annamalai University rep. by Registrar v. Secretary to the Government of Information and Tourism Department and ors.* (Civil Appeal no. 4173 of 2008) it was held as under:-

"32. We, therefore, are of the opinion that the High Court is correct in rendering the opinion in the manner it did in its judgment.

33. It is also not a case as has been contended by Mr. K. Parasaran as also Mr. R.V. Kameshwaran, that we should invoke our jurisdiction under Article 142 of the Constitution of India. Writ petitioners - respondents have moved the High Court at the earliest possible opportunity. It is a case of promotion. It is not a case of fresh entry in services. Our judgment would not affect the service of appellant Ramesh. He cannot only be promoted to the post of Principal of the Institute. Even in the earlier round of litigation, the Madras High Court opined:

"9. When all these reasons have been given by the Government for appointing the appellant as the Principal, we see no arbitrariness in the appointment and in particular, when the stand of the University Grants Commission is clear that on the date when the appellant obtained his M.A. Degree, it was possible for a person who did not have the basic degree to obtain the M.A. degree, the order appointing the appellant as the principal cannot be quashed."

21. Thus, the UGC cannot directly interfere in the case, but on looking at the seriousness of the irregularities committed by the third respondent as well as by the respondents 1 and 2 in admitting the third



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respondent, there has to be some measure to be taken for cancellation of the Ph.D degree awarded to the third respondent and it cannot be buried under the carpet.

22. Similarly, National Assessment and Accreditation Council (NAAC) also is not empowered to cancel the PhD degree awarded to a candidate. But the action of NAAC can influence the University's academic qualification and integrity. In the present case, though the NAAC cannot directly interfere with the issue, it can interfere as the institutions with NAAC accreditation may be more motivated to uphold academic standards and address instances of academic misconduct to maintain their accreditation status and reputation.

23. Even in the absence of the respondents-University or the NAAC to cancel the Ph.D degree awarded to the third respondent, this Court cannot allow the irregularity to be perpetuated. This Court, under Article 226 of The Constitution of India, has enormous power to set right an irregularity and it cannot shut its eyes to the illegalities perpetuated by anyone.



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24. As per the statute of the University, the sole authority who can cancel the Ph.D degree awarded to the Respondent No. 3 is the University of Madras but due to limitation, the University lacks the right to revoke the degree awarded. Therefore, when it is brought to our notice regarding the irregularities committed in the matter of award of Ph.D., degree to the third respondent, it is our duty to interfere to uphold the standard of education imparted in the respondents University. In this regard, useful reference can be made to the decision of the Kerala High Court in ***Sheeja Vs. Principal Secretary (O.P. No. 12108 of 2001)*** wherein it was held thus:-

“17. Courts Are not infrequently faced with a dilemma between breach of the rules of natural justice and the Court's discretion to refuse relief even though rules of natural justice have been breached, on the ground that no real prejudice caused to the affected party.”

If therefore, we interfere with the order on the ground of failure to follow the rule of natural justice, the result would be that certain persons who have been prima facie appointed illegally would be enabled to retain their allegedly ill-gotten benefits. Rule of natural justice is not a shield to protect illegality. The court should not be party to perpetuating illegality by means of issuance of writ of certiorari.”

25. In the present case, this Court finds it appropriate to invoke and exercise its inherent powers in the backdrop of the application of the



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principles of natural justice and the principle of Wednesbury reasonableness.

On an application of the Wednesbury Principle, it can be stated that even if the court lacks the authority to directly interfere in the present case, it can order the governmental agencies and concerned authorities to act as per the decision. If the cancellation of the degree is challenged on the grounds of regulatory oversight, courts may review the actions of regulatory bodies such as the University Grants Commission (UGC) or the National Assessment and Accreditation Council (NAAC) to determine if they have acted within their legal authority.

26. The instant case is a classic example of a case where this Court can well exercise its authority to interfere with the illegality that has been brought before it and it would not be fair if this court ignores the illegality. The concept of public interest has to be given more importance. If the fraudulently gained Ph.D. degree is left alone without taking any proper action by the authorities on the ground that they are incompetent to do so as per the statute, it will lead to a situation where such illegalities would galore which would collapse the system of education in our country. In the case of **S.P. Gupta vs. Union of India and Another, 1981 (Supp) SCC 87**, the



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Honourable Supreme Court analyzed the importance of public interest and

Justice Bhagwati observed that:

".. It is for this reason that in public interest litigation litigation undertaken for the purpose of redressing public injury, enforcing public duty, protecting social, collective, 'diffused' rights and interests or vindicating public interest, any citizen who is acting bona fide and who has sufficient interest has to be accorded standing.."

27. The limitation within which the Court must act, and the caution against the abuse of the same is referred to by Bhagwati J. at page 219 as follows:-

"24. But we must be careful to see that the member of the public, who approaches the court in cases of this kind, is acting bona fide and not for personal gain or private profit or political motivation or other oblique consideration. The Court must not allow its process to be abused by politicians and others to delay legitimate administrative action or to gain a political objective. Andre Rabie has warned that "political pressure groups who could not achieve their aims through the administrative process" and we might add, through the political process, "may try to use the courts to further their aims". These are some of the dangers in public interest litigation which the court has to be careful to avoid. It is also necessary for the court to bear in mind that there is a vital distinction between locus standi and justiciability and it is not every default on the part of the State or a public authority that is justiciable. The court must take care to see that it does not overstep the limits of its judicial



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function and trespass into areas which are reserved to the Executive and the Legislature by the Constitution. It is a fascinating exercise for the court to deal with public interest litigation because it is a new jurisprudence which the court is evolving a jurisprudence which demands judicial statesmanship and high creative ability. The frontiers of public law are expanding far and wide and new concepts and doctrines which will change the complexion of the law and which were so far as embedded in the womb of the future, are beginning to be born.

25. Before we part with this general discussion in regard to locus standi, there is one point we would like to emphasise and it is, that cases may arise where there is undoubtedly public injury by the act or omission of the State or a public authority but such act or omission also causes a specific legal injury to an individual or to a specific class or group of individuals. In such cases, a member of the public having sufficient interest can certainly maintain an action challenging the legality of such act or omission, but if the person or specific class or group of persons who are primarily injured as a result of such act or omission, do not wish to claim any relief and accept such act or omission willingly and without protest, the member of the public who complains of a secondary public injury cannot maintain the action, for the effect of entertaining the action at the instance of such member of the public would be to foist a relief on the person or specific class or group of persons primarily injured, which they do not want.”

28. In the case of **Coimbatore District Central Coop. Bank v. Employees Assn.** reported at **(2007) 4 SCC 669**, this Court held that the



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doctrine of proportionality has not only arrived in our legal system but is here to stay. With the increasing presence and visibility of administrative law and the need to control possible abuse of discretionary powers by various administrative authorities, certain principles have been evolved by reference to which the action of such authorities can be judged. If any action taken by an authority is contrary to law, improper, irrational or otherwise unreasonable, a court competent to do so can interfere with the same while exercising its power of judicial review. The above mentioned principles are applicable to this case. Though the appellant/writ petitioner has no direct connection to institute the writ petition and when some irregularity has been brought to our notice, necessary action has to be taken to curb the practice of illegal award of degrees in educational institutions. Education stands as one primary source of the future and this cannot be taken for granted by any authority, including the judicial bodies.

29. For all the above reasons, the order dated 21.02.2023 passed by the learned Judge in W.P. No.4504 of 2023 is set aside. As a sequitur, the Ph.D. Degree conferred on the third respondent by the respondents 1 and 2 is declared as void and the respondents/University are directed to take necessary



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action against the third respondent.

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30. Before bringing the curtains down, bearing in mind, the decline in the educational standard and taking a cue from the report of the 2 Member Enquiry Committee, and also in view of the fact that the University is powerless to cancel a degree awarded as per the statute, we suggest that the respondent University shall issue a circular to the officer concerned to initially verify the genuineness of the certificates of the candidates before granting provisional registration to them to any degree in future.

31. With the above observation and direction, this writ appeal stands allowed. No costs.

[R.M.D., .J.] [M.S.Q, J.]
17.05.2024

Internet : Yes / No
Neutral Citation : Yes/No

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To

1. The Registrar
University of Madras
Chepauk, Chennai - 600 005
2. The Controller of Examination
University of Madras
Chepauk, Chennai - 600 005



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R.MAHADEVAN, J
and
MOHAMMED SHAFFIQ, J

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