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W.P.No.12063 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.03.2024

CORAM :

**THE HON'BLE MR.SANJAY V.GANGAPURWALA, CHIEF JUSTICE
AND
THE HON'BLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY**

Writ Petition No.12063 of 2021

Suganya Jeba Sarojini

.. Petitioner

Versus

1. The Tamil Nadu Dr.Ambedkar Law University
Represented by its Registrar
No.5, "Poompozhi" Dr.DGS Dinakaran Salai
Raja Annamalai Puram
Chennai – 600 028.

2.University Grants Commission (UGC)
Represented by its Secretary
Bahadur Shah Zafar Marg
New Delhi – 110 002.

.. Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Declaration, to declare that Regulation 3.1 of the Tamil Nadu Dr.Ambedkar Law University Ph.D Regulations, 2020 is *ultra vires* the Constitution and hence null and void to the extent that they prescribe possession of two years Master's Degree in law as eligibility criteria for



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admission to Ph.D., Degree in Law (Full-Time) and consequently directing the 1st respondent to permit the petitioner to apply for Ph.D admission (Full-Time) vide 1st respondent's Ph.D admission notification: 2021 – 2022 dated 10.05.2021.

For the Petitioner : Mr.M.Nirmal Kumar

For the Respondents : Dr.Thiyagarajan, Senior Counsel
for Mr.M.Nallathambi for R1
Mr.P.R.Gopinathan for R2

ORDER

(Order made by the Hon'ble Mr.Justice D.Bharatha Chakravarthy)

A.The Writ Petition:

This Writ Petition is filed for a declaration that Regulation 3.1 of the Tamil Nadu Dr. Ambedkar Law University Ph.D. Regulations, 2020 as *ultra vires* the Constitution to the extent they prescribe possession of ‘Two Years’ Master’s Degree in law as eligibility criteria for admission to PhD. Degree in Law (Full-Time) and consequently direct the 1st respondent to permit the petitioner to apply for Ph.D admission notification 2021-2022 dated 10.05.2021 and for such further or other orders.



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B. The Case of the Petitioner:

2. The petitioner graduated in Law from *Dr Ambedkar Government Law College, Chennai*, in May 2015. She completed her Post Graduation - LL.M. (Human Rights) Degree from *Amity Institute of Advanced Legal Studies, Amity University, New Delhi* in the year 2016 with a good academic record of CGPA 8.08. She had cleared the National Eligibility Test for Assistant Professor (Law) in December, 2018 and has been working in the 1st respondent university on contract basis from 01.07.2019.

2.1 In the year 2020, the 1st respondent University framed *Tamil Nadu Dr. Ambedkar Law University PhD Regulations, 2020*. Clause 3.1 of the Regulations makes only those who are possessing a 'Two Year LLM' alone eligible for admission to PhD in the respondent University and the same reads as follows:

“3. Eligibility Criteria For Admission:

3.1. PhD Degree in Law(Full-Time) :

Candidate's possessing a **Two Years Master's Degree** in Law from any recognised university through regular full-time study having secured a minimum of 55% of



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marks in the aggregate or an equivalent grade in point scale wherever grading system is followed.”

(Emphasis supplied)

2.2 The 1st respondent University also issued Notification 2021-2022 dated 10.05.2021, inviting applications from eligible candidates for Ph.D Research Programme against 110 vacancies. However, in view of the impugned regulations, the petitioner was not in a position to apply and hence the Writ Petition.

2.3 The University Grants Commission by the “Guidelines for Introduction of one-year LLM Degree Program, 2012” communicated vide letter dated 18.10.2013 bearing ref: UGC DO No.5-1/99 (CPP-II) the UGC had recognised the one year LLM programme, pursuant to which several Central and State Universities, National Law Schools and other premier Law Schools switched over to one year LLM Degree Course. It is valid even as per the *Bar Council of India Legal Education (Post Graduate, Doctoral, Executive, Occasional, Clinical and other Continuing Education) Rules, 2020*. Therefore, when the petitioner is eligible, the impugned regulations make her ineligible. The same is *ultra vires* and arbitrary.



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C. The Case of the Respondents:

3. The 1st respondent filed a counter affidavit resisting the writ petition. Paragraph No. 4 set out the syllabi of the one year and two year programmes and it is submitted that both programmes are not equal. The UGC Regulation permitting one year LLM Programme is only optional and not mandatory. The Bar Council of India regulations make it clear that one year Master Degree programs in Law shall remain operational and valid for temporary period. As per Clause-5 (b) of the Bar Council Regulations, the duration of LLM Degree shall be two years. Clause.6 seeks to abolish one year Master Degree and states that the same will be only valid upto the notification of the regulations. Therefore, in compliance of the Bar Council Rules, the present regulations are framed. It is only the 1st respondent university which has the jurisdiction to decide upon equivalence of degrees even as per the UGC communication dated 19.07.2016. The present regulations are duly framed after approval of the syndicate and the Hon'ble Governor-Chancellor. Thus, the petitioner being ineligible, cannot seek admission.

D. The Stand of the Bar Council :



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4. Considering the nature of the contentions, we requested *Mr S.R. Raghunathan*, the Learned Standing Counsel for Bar Council of *Tamil Nadu & Puducherry* to place the Rule position. The Learned Counsel on instructions would submit that, even though the Bar Council proposed to make LLM a Two Year Programme, the said Rule was notified according to an undertaking before the Hon'ble Supreme Court of India in a connected matter and to date the rule position is that one year LLM Degree is valid.

E. The Submissions :

5. We heard *Mr Nirmal kumar* the Learned Counsel for Petitioner reiterating the grounds raised in the writ petition, would submit that the impugned regulations encroach upon the powers of the 2nd respondent UGC to make regulations regarding the validity of a degree programme and minimum standards of eligibility. The Bar Council regulations proposing strictly two years alone never came into force. The plea of the University regarding the equivalence of both programmes is untenable.



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5.1 *Dr.Thiyagarajan*, the Learned Senior Counsel appearing on behalf of the first respondent would submit that the impugned regulations are framed in compliance with the UGC Regulations and with the approval of the Board of Research Studies of the 1st respondent University. As per the public notice dated 19.07.2016, it is for the Universities to decide upon the equivalence of degrees. Even the Service Rules of the Tamil Nadu Government require two-year LLM programme. The 1st respondent University is entitled to prescribe a higher qualification of two year LLM. As per Rule 6 of the Bar Council Rules, one year LLM has to be abolished.

5.2 The Learned Senior Counsel would rely upon the order of this Court in ***W.P. No.6316 of 2019 dated 08.08.2019*** to contend that the Government is entitled to prescribe qualifications for the posts and G.O.Ms. No. 164, Law (LS) Department dated 07.08.2019 prescribes two year LLM course. Considering the syllabus, equivalency and provisions of the *Tamil Nadu Government Servants (Conditions of Service) Act, 2016*, the petitioner is not entitled to admission.



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5.3 *Mr P.R. Gopinathan*, the Learned Counsel appearing on behalf of UGC would submit that as per the UGC regulations, one year LLM is valid and candidates possessing the same are eligible to enrol for Ph.D programme. *Amity University* and the course had the recognition at the relevant point of time and the LLM degree is valid in law.

F. The Discussion & Findings :

6. We have considered the rival submissions made on either side and perused the material records of the case.

6.1 At the outset, the contention on behalf of the respondents is that the impugned regulations are framed in compliance with Clause.5 & 6 of the *Bar Council Regulations*, will not hold water because (i) the regulations have not come into force till today; (ii) even as per the regulations, the one-year degree will be valid till the notification and such notification was not even there in the year 2012 when the petitioner completed her course. In the absence of any Bar Council Rule to the contrary, the respondent University has to abide by the standards of eligibility as fixed by the UGC.



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6.2 There is no quarrel that one year LLM is a valid qualification as per UGC. The entire arguments of the respondents on equivalency by placing reliance on the Public Notice of the UGC dated 19.07.2016 is fallacious. The said communication will come into play if only the candidate does not possess the qualification as mandated by the UGC and is claiming some other qualification as equivalent. In the instant is a contra case as the candidates such as the petitioner possess whatever is prescribed by the UGC. The Degree is the same. The argument based on the rules of the government relating to employment is entirely not relevant. The case is at present concerned only with admission into PhD, where one wants to undertake a research study.

6.3 The 1st respondent's next contention is that it has prescribed higher qualifications. There can be no quarrel over the proposition that it is for the UGC or AICTE as the case may be to prescribe the minimum standards of eligibility for higher education, which has to be mandatorily observed by the Universities / States in matters of admission. It would be open for Universities / States or any other authority to prescribe a higher standard. The Hon'ble Supreme Court of India, in *A.P.J. Abdul Kalam Technological University v.*



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Jai Bharath College of Mngt. & Engg. Technology¹, in a similar context

where the qualifications are laid down by the AICTE held that,

“The law is now fairly well settled that while it is not open to the Universities to dilute the norms and standards prescribed by AICTE, it is always open to the Universities to prescribe enhanced norms.”

Further useful reference in this regard can be made to the Judgment of the Supreme Court of India in ***State of Tamil Nadu v. S.V. Bratheep²***, as also to the Judgment in ***Prof. Yashpal v. State of Chhattisgarh³***.

6.4 As such, prescribing minimum standards for higher education is in the realm of the Central Government and for this purpose has enacted the University Grants Commission Act, 1956 and the qualifications have to be approved by the UGC as per Section 22. The UGC has the power to frame regulations defining the minimum standards of instruction for the grant of any degree by any University as per Section 26(f). In the exercise of the said powers, the 2nd respondent considered the issue and framed the Guidelines for

1 (2021) 2 SCC 564

2 (2004) 4 SCC 513

3 (2005) 5 SCC 420



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introduction of one-year LLM Degree Programme, 2012. It is essential to extract the preamble of the guidelines, which reads as follows:

“Preamble:

1.The National Knowledge Commission while examining the quality of legal education and research in the country recommended several steps to revamp the system towards achieving academic and professional excellence. Following it, a Round Table on Legal Education set up by the Ministry of Human Resources Development asked the UGC to examine the reform the LL.M Degree programme and making it one year course like in all developed countries. An Expert Committee appointed by the UGC in 2010 submitted a report proposing LLM one year programme. These guidelines are therefore being circulated so that universities fulfilling the conditions therein may prepare themselves to change over to the revised one year LLM Degree course from academic year 2013-14”

6.5 Thus, it can be seen that a change is introduced to make the curriculum in tune with other jurisdictions across the globe. It is pertinent to note here that one has to undergo a minimum of 5 years of college study (in case of 5-year law) or 6 years of college study (in case of 3-year law / 3 year UG + 3-year law) to enter into LL.M. Therefore, when the duration has been fixed by the UGC and the one year LLM is recognised by the UGC, the net effect for admission to full-time Ph.D, 10+2+5(or 3+3)+1 (or +2) would be



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eligible. The 1st respondent is bound by the same and cannot prescribe a different set of eligibility. If the 1st respondent wants to prescribe higher standards that would mean greater standards in the qualifications of 10+2+5(or 3+3) +1 (or +2), such as having 60% etc., and would not mean knocking off any or all of the qualifications from eligibility. Thus, the rule does not prescribe greater qualification, as the two year LLM is not a higher qualification than the one year LLM as both get the same degrees. Prescribing higher standards would be in 'addition to' and not in 'derogation to'. It can be supplementing and not supplanting.

6.6 When UGC standards approve two sets of UG and PG qualifications, that is 5-year law course and a 3-year law course(which is after 3 years of undergraduate in any discipline) and 1 Year LLM and 2 Year LLM, if by an admission regulation, the Universities mandate that they will admit candidates with only 3-year law or 5-year law alone or 1 year LLM or 2 Year LLM alone, then that does not mean 'Higher Standards' but would be impinging upon the jurisdiction of the University Grants Commission and would accordingly be *ultra vires*.



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6.7 The impugned regulation is otherwise in order, except for prescribing 'two years'. The fallacy is severable and the regulation is workable even in the absence of the said words and is accordingly read down.

6.8 By an interim order dated 20.05.2021, a Co-ordinate Bench of this Court had permitted the petitioner to apply for the Ph.D programme and ordered that such application be accepted and processed subject to the result of the Writ Petition. Accordingly, if the petitioner is otherwise eligible, the 1st respondent shall further permit the petitioner to undertake the Ph.D programme as per their rules.

G. The Result:

7. In the result, the W.P. No. 12063 of 2021 is allowed on the following terms :

(i) Clause 3.1 of the Tamil Nadu Dr Ambedkar Law University Ph.D Regulations, 2020 is read down without the words 'Two Years' and shall read as follows:



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“3.1 Ph.D. Degree in law (Full-Time):

Candidates possessing a Master’s Degree in Law from any recognised university through regular full-time study having secured a minimum of 55% of marks in the aggregator any equivalent grade in point scale wherever grading system is followed”

(ii) consequently, the 1st respondent is directed to admit the petitioner in Ph.D. programme pursuant to her application and allow her to pursue the research in accordance with their rules and procedure;

(iii) No Costs. Consequently connected W.M.P.No.12834 of 2021 stands closed.

(S.V.G., C.J.,)

(D.B.C., J.,)

12.03.2024

Index : Yes / No

Speaking order / Non-speaking order

Neutral Citation : Yes / No

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To

1. The Registrar
Tamil Nadu Dr.Ambedkar Law University
No.5, “Poompozhi” Dr.DGS Dinakaran Salai
Raja Annamalai Puram
Chennai – 600 028.

2.The Secretary
University Grants Commission (UGC)
Bahadur Shah Zafar Marg
New Delhi – 110 002.



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**THE HON'BLE CHIEF JUSTICE
AND
D.BHARATHA CHAKRAVARTHY, J.,**

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