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W.P.No.12324 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04.04.2024

CORAM:

THE HONOURABLE MR. JUSTICE **G.K.ILANTHIRAIYAN**

W.P.No.12324 of 2021 and
WMP.No.13108 of 2021

McGan's Ooty School of Architecture,
Represented by its Chair Person E.Sumathy,
No.5/635, Perar Road,
Kotagiri, The Nilgiris 632 002

... Petitioner

Vs.

1.The Registrar,
Anna University,
Sardar Patel Road,
Guindy, Chennai 600 025

2.Director,
Centre for Affiliation of Institution,
Anna University,
Sardar Patel Road,
Guindy, Chennai 600 025

... Respondents

PRAYER: Writ Petition is filed under Article 226 of Constitution of India praying to issue a Writ of Certiorarified Mandamus calling for the entire records relating to the impugned letter dated 19.01.2021 in Lr.No.013/CAI/AU/2021/07 of the second respondent and quash the same and consequently direct the respondents to reconsider the application dated 07.12.2020 of the petitioner – Institution, by affording an opportunity of hearing to the petitioner institution and pass fresh



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orders within a time limit.

For Petitioner : Mr.R.Gopinath

For Respondents : No appearance

ORDER

This writ petition has been filed challenging the letter dated 19.01.2021 of the second respondent thereby rejected the request made by the petitioner seeking affiliation on the ground that the course offered by the petitioner did not qualify the criteria for grant of permanent affiliation in the academic year 2020-2021.

2. The petitioner institution is running a full time undergraduate programme i.e. B.Arch. in Architecture with an intake of 80 students duly approved by the Regulating Body the Council of Architecture. It is also running full time Masters programme in Architecture with an intake of 20 in M.Arch.-Environmental Architecture. The respondents University had granted affiliation to all the said courses upto academic year 2020-2021.

2.1 As per Section 5 (ac), the University is given the power to



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affiliate Colleges under conditions prescribed and to withdraw such affiliation. Further, the word "prescribed" mentioned in Section 5 (ac) is defined in Section 2(h) as "means prescribed by the Statutes, Ordinances or Regulations made under this Act". Therefore it is clear from the Act that affiliation to be granted to the Colleges by the Respondents University is as per Statutes, Ordinances or Regulations. The Respondents University has Statutes for affiliation 2004 and Regulations for affiliation 2004. In the Statutes for affiliation 2004, Section 7 deals with procedure for grant/withdrawal of affiliation to a programme and there are two categories of affiliation namely Provisional Affiliation and Permanent Affiliation and the same is found in Section 7.6.1 and 7.6.2. The corresponding Regulations are R20, 21, 22, 23, 24, 25 and 26 and the format for application for affiliation is found in Annexure 13. Further the conditions to be satisfied by Colleges for affiliation is found in Section 5 of the Statutes of affiliation and prerequisite for applying for affiliation is found in Section 6. As per Section 7.6.2, a provisionally affiliated academic programme shall be considered for Permanent affiliation only after 3 consecutive batches of students have completed their academic



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programme from the College. The consideration for Permanent affiliation is subject to satisfactory compliance of all the conditions prescribed by the University for the said Programme during the periods of Provisional Prescribed here will again mean as what is stated supra. Therefore the criteria for Permanent affiliation are to satisfy the conditions laid down in Section 7.6.2 of the Statutes for affiliation.

2.2 However, the Respondents-University has neither amended the Statutes for affiliation or Regulations for affiliation as on 21.02.2007 and thereafter there has been no amendment till date. Whereas, the University has been issuing instructions on criteria for the grant of Permanent affiliation every academic year. The said instruction does not contain any whisper relating to any of the sections of the Statutes for affiliation and Regulations for affiliation.

3. The same issue has already been dealt with by this Court in WP.No.24797 of 2022 by an order dated 29.09.2022 and the relevant portion of the order is extracted hereunder:

11. Insofar as the power vests with the UGC for independently considering the application submitted by



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the management/colleges or institutions concerned for getting autonomous status is concerned, the issue had already engaged this Court in an earlier writ petition i.e. in W.P.No.7377 of 2021 in the matter of Annapoorana Engineering College Vs. Anna University and another, where, this Court having considered the power vests with the UGC under its regulations called University Grants Commission (Conferment of Autonomous Status Upon Colleges and Measures for Maintenance of Standards in Autonomous Colleges) Regulations, 2018 (in short -2018 Regulations-) has passed the following order:

?4. In this regard, it is to be noted that, as per the UGC (Conferment of Autonomous Status upon Colleges and Measures for Maintenance of Standards in Autonomous Colleges) Regulations, 2018 (in short ~2018 Regulations~), various procedures have been contemplated as to how an application has to be submitted by the institution seeking autonomous status and to be processed by the UGC.

5. In this context, Clause 7(3) of the Regulations is pertinent, which reads thus,

?7.3 The College shall submit the proposal to the Parent/Affiliating University which may forward the



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same to UGC within 30 days of the receipt of proposal. In case the proposal is rejected by the University, the decision shall be communicated to the college and University Grants Commission through a ?Speaking Order?..?

6. As per Regulation 7(3) of the 2018 Regulations, the petitioner institution submitted its application to the respondent Anna University to be forwarded to the respondent UGC. The said application having been considered by the respondent Anna University, was rejected by a speaking order dated 08.03.2021, wherein the said application of the petitioner was rejected on the ground that, the student enrollment for the last three years was 30% against the requirement of 60% and the examination results for the last three years was 39.5% as against the requirement of 70%. On these two reasons, the application which was submitted by the petitioner to the respondent Anna University to be forwarded to the UGC has been rejected through the order dated 08.03.2021.

7. Unmindful of the said rejection order made by the first respondent Anna University, the petitioner has further made an independent application on 12.03.2021 to the respondent UGC to independently consider the



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request of the petitioner for grant of autonomous status to the petitioner institution in the light of the law having been declared by this Court in a related case in W.A.No.51 of 2020, which judgment of this Court has already been confirmed by a decision of the Honourable Supreme Court dated 24.07.2020 made in SLP (Civil) Nos.8324 and 8325 of 2020. Therefore, at this juncture the institution has filed the present writ petition to challenge the order of rejection made by the respondent University dated 08.03.2021 and consequently direct the second respondent UGC to consider the application dated 12.03.2021 submitted independently in the light of the judgment referred to above passed by this Court in W.A.No.51 of 2020 etc., That is how this writ petition has come before this Court with the aforesaid prayer.

8. Mr.Kandhan Doraisami, learned counsel appearing for the petitioner has submitted that, no doubt as per 2018 Regulations, the application to be submitted by any institution like the petitioner to the UGC seeking for autonomous status has to be routed through the affiliating university. Here in the case in hand, Anna University being the affiliating university therefore the said application was submitted to the



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petitioner on 15.02.2021 to the first respondent University and the same has been rejected through the impugned order 08.03.2021 on the alleged reason that, the required number of pass percentage and required number of enrollment is not met by the institution.

9. Learned counsel would further submit that, in this context it is the requirement of the UGC, as per the norms prescribed in this regard as to on what basis an institution has to be conferred the autonomous status. In this regard since the application has to be routed through the University, only for that purpose the petitioner has submitted the application to the first respondent University and an advanced copy already was sent to the UGC. Merely because the University has rejected it for the aforesaid reason, that will not ipso facto preclude the petitioner's application to be considered by the UGC for conferment of autonomous status.

10. In this context, the learned counsel appearing for the petitioner has relied upon the following observations made by the Division Bench of this Court in the above referred case (W.A.No.51 of 2020), which reads thus,

?14. In the said background, we are of the



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opinion that the 2018 Regulations framed by the University Grants Commission in exercise of the powers conferred under Section 12(f), (g), (j) read with Section 26(1) of the University Grants Commission Act, 1956 govern the field, inasmuch as the same is clearly saved as being a Regulation duly authorized having its source in Entry 66 of List I of the Constitution of India. There is no law for the time being relating to the Regulation of grant of autonomous Colleges running contrary to the same either framed under Entry 66 of List I or Entry 25 of List II. In the absence of any such legislation to the contrary, we are of the clear opinion that the 2018 Regulations clearly hold the field exclusively in the matters of grant of autonomous status to affiliated colleges. The resolution of the Syndicate dated 27.05.2014 cannot in any way be said to have an overriding effect or even supplementary effect to the 2018 Regulations, inasmuch as the method of grant of an autonomous status is clearly defined under the 2018 Regulations and the eligibility to obtain such status is also governed by the same.?

11. By relying upon this decision, the learned counsel appearing for the petitioner would contend that, since the law having been declared by the



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authoritative pronouncement of this Court, which has been confirmed by the orders passed by the Honourable Supreme Court as stated supra, it is for the UGC to consider the application to be submitted by institution like the petitioner with regard to the conferment of autonomous status unmindful of the rejection made in this regard by the affiliating University.

12. In other words, it is not mandated that, unless the affiliating University forwards the application with recommendation, the application submitted by the institution cannot be considered by the UGC independently for the purpose of conferment of autonomous status.

13. Therefore, the learned counsel appearing for the petitioner, by relying upon the said judgment as well as explaining the legal position, would seek the indulgence of this Court to pass suitable orders to give direction to the respondent UGC to consider the application of the petitioner independently on its own merits and to decide the same within a time frame that may be stipulated by this Court.

14. I have heard Mr.Vijayakumar, learned Standing Counsel for the first respondent University who would submit that, the UGC itself has passed the



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2018 Regulations under its Regulation making power under the UGC Act, wherein Regulation 7(3) as quoted herein above, would state that, the college shall submit proposal to the affiliating university, which may forward the same to the UGC within 30 days of the receipt of the proposal. It is further stated in the Regulation 7(3) that, in case the proposal is rejected by the University, the decision shall be communicated to the college and UGC through a speaking order.

15. By relying upon this Regulation, Mr.Vijayakumar, learned Standing Counsel appearing for the University would contend that, as per the said Regulation, the application of the petitioner having been considered, was rejected by the impugned order dated 08.03.2021 and as per the requirements under the Regulations, the said rejection order also had been communicated to the Secretary, UGC, that means, the requirement under Clause 7(3) of the Regulations has been complied with by the University. Therefore, with that, the application submitted by the institution has come to a close and that cannot be further considered by the UGC, he contended.

16. With regard to the Division Bench judgment,



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which was heavily relied upon by the learned counsel for the petitioner is concerned, the learned Standing Counsel appearing for the University would contend that, the said judgment cannot be taken as a judgment in rem, instead, the said judgment can be treated as a judgment in personam, as what has been stated in the judgment would apply only to the parties to the said case and not to any other institution like the petitioner.

17. Learned Standing Counsel appearing for the University would further submit that, if at all the UGC wants to consider the further application made directly by the petitioner as has been sought for in this writ petition, the UGC cannot independently decide the same on its own merits of the application, but before considering the same, the affiliating University ie., the first respondent shall be consulted by the second respondent UGC, which is mandatory. Without having such consultation, the UGC cannot consider the application of the petitioner for conferment of autonomous status.

18. By making all the above submissions, the learned Standing Counsel appearing for the University wants to sustain the order passed by the respondent University and also seeks the indulgence of this Court



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to reject the writ petition, as according to him, it does not have any deserving reason to be considered.

19. On the other hand, Mr.Rabu Manohar, learned Standing Counsel appearing for the second respondent ie., UGC, on instructions, would submit that, the University Grants Commission is the creature of the Central Legislation called University Grants Commission Act., 1956. The provisions of the said Act confers the power to the UGC to do various acts including recognizing or declaring Deemed Universities and also to declare the autonomous status of various institutions.

20. In order to process such kind of applications being made by various Institutions from time to time, seeking conferment of autonomous status, the UGC has framed a Regulation called 2018 Regulations and as per the Regulations, the procedure has been contemplated as to how the application has to be filed by the institution to the UGC and in this regard, as has been pointed out by the learned counsel appearing for the University, the application has to be routed through the affiliating University as per Regulation 7(3).

21. Once the application filed by the institution is considered and rejected, the rejection order should be



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forwarded to the UGC for its consideration. That is also mandated in Regulation 7(3).

22. Thereafter, if the institution still insists the UGC to consider the application independently as per the law having been declared by this Court in a recent judgment, since the UGC is the centralized authority to control all these institutions under the provisions of the UGC Act and the Regulations made therein from time to time, it would independently consider the application of the institution by taking into account the inputs supplied by the affiliating University by way of a speaking order / rejection order made in this regard.

23. Therefore, the learned Standing Counsel appearing for the UGC would contend that, even though a speaking order / rejection order has been made by the University dated 08.03.2021, and the same having been forwarded to the UGC, certainly that input also would be taken into account as per the law having been declared by this Court in the said judgment cited by the learned counsel for the petitioner, as has been confirmed by the Honourable Supreme Court, consequently, the application submitted by the petitioner dated 12.03.2021 to the UGC would be considered independently, of course on its own merits



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and while considering the same, the inputs supplied by the affiliating University ie., the first respondent through the impugned order dated 08.03.2021 also would be taken into account.

24. I have considered the rival submissions made by the learned counsel appearing on either side and have perused the materials placed on record.

25. Insofar as the legal position as to the powers and functions of the second respondent UGC is concerned, absolutely there can be no quarrel, as the law has been well settled by number of pronouncements by the Honourable Supreme Court as well various High Courts, including this Court.

26. In this context, the recent judgement of the Division Bench of this Court as has been quoted by the learned counsel appearing for the petitioner, made in W.A.No.51 of 2020 has thrown a light, where, the legal position has been explicitly stated as to the status of the UGC for considering the application submitted by the institution concerned independently for the purpose of declaring it as an autonomous institution. In this context, Para 14 of the judgment, where, the legal position has been declared by the Division Bench, has already been quoted herein above and the said



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judgment since has been confirmed by the orders of the Supreme Court, the judgment has become final. Therefore, the legal position as laid down in the said judgment, especially in Para 14 quoted herein above, will govern the field.

27. When that being the position, there can be no impediment for the UGC to independently consider the application submitted by the institution like the petitioner for the purpose of conferment of autonomous status.

28. In this regard, in order to reconcile the Regulation 7(3) of the Regulation, which has been quoted herein above, where, the application initially has to be routed through the affiliating University, then the University can either forward the same to the UGC with its recommendation or the University can reject the same with reasons.

29. Even if it is rejected, according to the Regulation 7(3), it has to be forwarded only to the UGC for further action at the end of the UGC. That is what intended by the Regulation making authority, who made the Regulations 2018.

30. In other words, if any pedantic view is taken, as projected by the learned Standing Counsel for the



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University, that once the application is rejected by the affiliating University, it cannot be decided subsequently either independently or otherwise by the UGC, then the power conferred on the UGC under the UGC Act and the Regulations made thereunder would become otiose and that kind of interpretation cannot be expected to be given by any Court of Law.

31. Further, insofar as the merits of the application is concerned, certainly it has to be decided by the UGC on its own merits. Unless the institution, who files the application seeking autonomous status, fulfills the conditions imposed in this regard by the UGC such institution is not entitled to get such a declaration from the UGC.

32. Here in the case in hand, two reasons have been stated by the Anna University for rejecting the application of the petitioner. One is that, enrollment of students in the last three years and another is pass percentage in the last three years.

33. These two reasons whether would stand in the way of the UGC to independently consider the application based on the other inputs supplied by the institution, is the question to be decided only by the UGC and not by the affiliating university ie., the first



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respondent.

34. Therefore, this Court has no hesitation to hold that, unmindful of the impugned order dated 08.03.2021 issued by the first respondent University, certainly the second respondent UGC can independently decide the application dated 12.03.2021 submitted by the petitioner on its own merits and in accordance with law and in that case, it is for the UGC to take the inputs supplied by the University by way of a speaking order dated 08.03.2021, which includes the two reasons cited therein for the purpose of rejecting the application of the petitioner.

35. In that view of the matter, this Court has no hesitation to hold that, even without quashing the order dated 08.03.2021 of the first respondent University, it may be directed that, it can only be treated as an input supplied by the affiliating University to the UGC within the meaning of the second limb of Clause 7(3) of the 2018 Regulations and accordingly, the application submitted by the petitioner dated 12.03.2021 can very well be considered by the UGC on its own merits.

36. In view of the aforesaid discussions, this Court is inclined to dispose of this writ petition with the following orders.



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(a) That there shall be a direction to the second respondent UGC to consider the application submitted by the petitioner dated 12.03.2021 seeking autonomous status for the said institution. While considering the said application independently on its own merits, the input supplied by the first respondent through the speaking order dated 08.03.2021, which is impugned herein, also can be taken into account.

(b) That apart, the law declared by this Court in the Division Bench judgment in W.A.No.51 of 2020 in the matter of ?The Anna University -Vs- Mahendra Institute of Technology and another? as confirmed by the Honourable Supreme Court in S.L.P(Civil) Nos.8324 and 8325 of 2020 shall be borne in mind and accordingly the UGC can decide the application of the petitioner dated 12.03.2021 and pass final orders thereon within a period of two months from the date of receipt of a copy of this order.?

12. Therefore, whether the affiliating University who forward the reasoned order with their report/recommendations either way would reach within the period given to them i.e. 30 days or not, it is for the UGC to decide the application submitted by the management /college concerned and independently



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process the same and pass orders thereon on merits and in accordance with law within a reasonable period.

13. In view of the said legal position and by taking into account of the factual matrix in this case, where, the University counsel has submitted that the reasoned order with a positive note would be forwarded soon to the UGC within a period of one week and having recorded the same, this Court is inclined to dispose of this writ petition with the following orders:

That there shall be a direction to the 1st respondent University Grants Commission to complete the process of the application of the petitioner dated 08.08.2022 and pass orders thereon, with regard to the plea of the petitioner for getting autonomous status for its college i.e. V.S.B. Engineering College for the academic year 2022-2023 after completion of the inspection in this regard by the UGC and after taking into account of the report and reasoned order to be submitted by the 2nd respondent Anna University, which the Anna University would forward to the UGC within a period of one week from the date of receipt of a copy of this order, on merits and in accordance with law within a period of four weeks thereafter. In this regard, if any further input is required from the



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petitioner by the UGC, that can also be sought for and after getting such further input, the needful as indicated above shall be completed within outer time limit of four weeks and orders shall be passed by the UGC.

4. Therefore, the respondents are directed to forward its decision to University Grants Commission to complete the process on the application of the petitioner seeking affiliation within a period of two weeks from the date of receipt of copy of this order.

5. With the above direction, this writ petition is disposed of. Consequently, connected miscellaneous petition is closed. There shall be no order as to costs.

04.04.2024

Neutral Citation: Yes/No
Index: Yes/No
Speaking/Non-speaking order
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G.K.ILANTHIRAIYAN, J.

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To

- 1.The Registrar,
Anna University,
Sardar Patel Road,
Guindy, Chennai 600 025
- 2.Director,
Centre for Affiliation of Institution,
Anna University,
Sardar Patel Road,
Guindy, Chennai 600 025

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