



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 29.11.2024

CORAM:

THE HONOURABLE **MRS. JUSTICE V.BHAVANI SUBBAROYAN**

W.P.No.35464 of 2024

and

W.M.P.No.38366 and 38367 of 2024

P.Alexander

.. Petitioner

Versus

1. The Regional Accounts Officer(Audit)
Department of School Education,
Madurai District.

2. The Chief Educational Officer,
Thiruvarur District,
Thiruvarur

3. The District Educational Officer,
Thiruvarur District,
Thiruvarur.

4. The Headmaster,
Government High School,
Edamealaiyur,
Thiruvarur District.

5. Vinayaka Mission University,
rep by its Manger,
NH-47, Sankari Main Road,
Ariyanoor, Salem District 636 308.

...Respondents



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Prayer: This to issue a Writ of Certiorarified Mandamus calling for the records of the first respondent in proceedings having Ref. No.Na.Ka.No.1703/A3/2018, dated 14.05.2018 raising audit objection to the grant of incentive to the petitioner who is working as PG Assistant in the Government Higher Secondary School, Edamelaiyur, Thiruvarur District, from 2017 for the M.Phil Degree obtained from the 5th respondent University through distance mode and ordering recovery of the incentive granted to the petitioner from 2017, from the salary of the petitioner and quash the same as arbitrary and consequently direct the 4th respondent to continue to pay the incentive amount to the petitioner for having acquired M.Phil Degree through Distance Mode from the 5th respondent University along with petitioner's salary and pass orders.

For Petitioner : Mr.R. Venkata Varathan

For Respondents : Mrs. S. Mythreye Chandru
Special Government Pleader

ORDER



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By consent of both parties, this writ petition is taken up for final disposal at the stage of admission itself.

2. This petition is filed to issue a Writ of Certiorarified Mandamus calling for the records of the first respondent in proceedings having Ref. No.Na.Ka.No.1703/A3/2018, dated 14.05.2018 raising audit objection to the grant of incentive to the petitioner who is working as PG Assistant in the Government Higher Secondary School, Edamelaiyur, Thiruvarur District, from 2017 for the M.Phil Degree obtained from the 5th respondent University through distance mode and ordering recovery of the incentive granted to the petitioner from 2017, from the salary of the petitioner and quash the same as arbitrary and consequently direct the 4th respondent to continue to pay the incentive amount to the petitioner for having acquired M.Phil Degree through Distance Mode from the 5th respondent University along with petitioner's salary and pass orders.

3. The case of the petitioner is that he has completed M.Phil Degree from the 5th respondent/Vinayaga Missions University through Distance Mode and working as P.G.Assistant in Government Higher



Secondary School, Edamelaiyur, Thiruvavarur District. It is the further case of the petitioner that the petitioner was granted first incentive for passing the M.Phil Degree with effect from 2017-2018 and he had been receiving the same continuously along with his salary. While so, the 1st respondent has passed the impugned order raising Audit Objection to the grant of incentive to the petitioner on the ground that he M.Phil Degree obtained from the 5th respondent University is not proper and that the incentive already granted to the petitioner should be recovered and remitted to the Treasury. Challenging the same, the present writ petition has been filed.

4. The impugned order mainly proceeds on the ground that the petitioner is not entitled to grant of incentive, since he has obtained M.Phil Degree through Distance Education Mode from the 5th respondent/Vinayaga Missions University, which is a Deemed University.

5. This issue is no longer res intergera. This Court while dealing with the identical facts of the case in ***W.A.Nos.2328 of 2018, etc. batch /S.Sivan v.The Regional Accounts Officer (Audit), Department of***



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School Education, Coimbatore and others] wherein, the Division

Bench, by judgment dated 04.08.2023, has held as follows :

“17.Mr.B.Rabu Manohar, learned Standing Counsel appearing for the UGC, on instructions would submit that, initially the DEC, IGNO was the authority to grant approval or recognition to deemed to be Universities or any other University to conduct Distance Education programs. Subsequently, that has been taken at the hands of the University Grant Commission i.e., UGC.

18.He would also submit that, so far as the relevant period of time since it was in the realm of DEC,IGNO, the order passed by the IGNO dated 28.02.2007 granting such recognition/approval to the Vinayaka Missions University to run the Distance Education Courses for five years period is institution based approval or recognition.

...

23.In this context, it is to be noted that the stand of the UGC counsel was that, insofar as the approval that has been given by the DEC, IGNO in respect of the University or deemed to be University are concerned to have such Distance Education Course only at the head quarters and not beyond which, which means, the study centres that had been run by various Universities like the present University were not approved or recognized by the UGC.

24.During the relevant period i.e., from 2007 to 2012, the University was given institution wise recognition as stated by the learned counsel appearing for the UGC and from 2011 - 2012 ,



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2013-2014, the program wise recognition was given by the UGC.

25. Therefore, insofar as these teachers are concerned, they joined in the course either in the year 2007 or in the year 2008 and they completed either in the year 2008 or 2009 respectively. Since the course is one year duration they joined in 2007 and completed in 2008 and those who joined in 2008 had completed in 2009.

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35. In the result, the following orders are passed in these writ appeals:

*That the impugned order passed by the writ Court dated 06.09.2018 is set aside. As a sequel, the impugned order that was challenged before the Writ Court in the respective petitions is also set aside to the extent **that those teachers who had studied in the Vinayaka Mission's University during the relevant point of time i.e., 2007 to 2009 since had acquired the qualification during the period which the University also enjoyed the approval or recognition from the DEC, IGNO, the said objection raised by the audit Department would not be sustained. Therefore, on that ground, the incentive increment already allowed to these teachers need not be disturbed. If the increment already been allowed to these teachers have been cancelled or stopped by virtue of the order, which is impugned herein, the same shall be restored and the arrears to that effect shall be calculated and be paid to the teachers/appellants. To that extent, all these writ appeals are allowed. No costs. Connected miscellaneous petitions are closed***



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6. In the light of the judgment of the Division Bench of this Court cited supra, when the petitioner has obtained her M.Phil Degree from the 5th respondent/Vinayaga Missions University during the relevant point of time, i.e., 2007 to 2009, the time during which the University had approval and recognition as per the said judgment of the Division Bench, the impugned order passed by the 1st respondent in No.Na.Ka.No.1703/A3/2018, dated 14.05.2018 cannot be sustained and therefore, the impugned order stands quashed.

7. In view of the above facts, this writ petition is allowed. No Costs. Consequently the connected miscellaneous petitions are closed.

29.11.2024

Speaking order : Yes/No

Neutral citation : Yes/No

Index : Yes/No

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V.BHAVANI SUBBAROYAN, J.

smn

To

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