



W.P.(MD)Nos.14624 to 14628 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 21.10.2024

CORAM:

THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

W.P.(MD)Nos.14624 to 14628 of 2024

and

W.M.P.(MD)Nos.12824, 12830, 12825, 12833 & 12826 of 2024

K.Ponnala

... Petitioner in
W.P.(MD)No.14624/2024

S.Naveen Charles

... Petitioner in
W.P.(MD)No.14625/2024

R.Radha

... Petitioner in
W.P.(MD)No.14626/2024

K.Rajasekar

... Petitioner in
W.P.(MD)No.14627/2024

V.Marimuthu

... Petitioner in
W.P.(MD)No.14628/2024

Vs.

1.The State of Tamil Nadu,
Department of Higher Education,
Fort St. George,
Chennai 600 009
Rep by its Secretary.



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2.The University Grants Commission,
Bahadur Shah Zafar Marg,
New Delhi.
Rep by its Secretary.

3.Alagappa University,
Karaikudi 630 003
Sivagangai District,
Rep by its Registrar.

4.The Vice Chancellor,
Alagappa University
Karaikudi - 630 003
Sivagangai District.

5.The Director of Distance Education,
Alagappa University
Karaikudi 630 003
Sivagangai District.

6.The Controller of Examination,
Alagappa University
Karaikudi 630 003
Sivagangai District.

.. Respondents 1 to 6
in all W.Ps.

7.The Programme Coordinator,
Learners Support Centre of Alagappa University
Jeya Polytechnic College,
Vignesh Entrepreneurial Training and
Rehabilitation Institute (Vetri) Trust,
176/1, Palai Road, Muthumalai Building,
Opp. Rajaji Park, Thoothukudi – 628 003.

.... 7th Respondent in
W.P.(MD)Nos.14624, 14626/2024



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7.The Programme Coordinator,
Learners Support Centre of Alagappa University
San International College of Arts and Science
M/s.Sri SangilikarupannaSwamy
Educational Trust,
SET Institute, Royal Towers, 1-A, 1st Floor,
No.190, Big Bazar Street,
Coimbatore – 641 008.

.... 7th Respondent in
W.P.(MD)No.14625/2024

7.The Programme Coordinator,
Learners Support Centre of Alagappa University
PEE GEE College of Arts and Science
M/s.Sri SangilikarupannaSway
Educational Trust,
4/149H, Opp. Kalabairavarkovil,
Adhiyamankottai – 636 807,
Dharmapuri District.

.... 7th Respondent in
W.P.(MD)No.14627/2024

7.The Programme Coordinator,
Learners Support Centre of Alagappa University
Bhavani Polytechnic College,
M/s.NIRD's Trust,
NIRD Campus, 334 Mettur Road,
Vijaya Bank Upstairs, Erode – 638 011,
Erode District.

.... 7th Respondent in
W.P.(MD)No.14628/2024

COMMON PRAYER: Writ Petitions filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Mandamus, directing the 3rd respondent Alagappa University to continue to offer the Distance Education Programmes within the State of Tamil Nadu through its recognized Learners Support Centres in terms of the University Grants Commission Regulations, 2020



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by considering the petitioners' representations to the University dated 21.05.2024 and 20.05.2024.

For Petitioners
(In all W.Ps)

: Mr.Issac Mohanlal, Senior Counsel
for M/s.Issac Chambers

For Respondents
(In all W.Ps)

: Mr.T.Amjadkhan,
Govt. Advocate for R1
Mr.V.Maharajan,
Standing Counsel for R2
Mr.T.Cibi Chakraborty for R3
No Appearance for R4 to R7

COMMON ORDER

Since the issue involved in these Writ Petitions are one and the same, these Writ Petitions are taken up together, heard and disposed of by way of this common order.

2. These Writ Petitions have been filed seeking for issuance of a Writ of Mandamus, directing the 3rd respondent Alagappa University to continue to offer the Distance Education Programmes within the State of Tamil Nadu through its recognized Learners Support Centres in terms of the University Grants Commission Regulations, 2020 by considering the petitioners' representations to the University dated 21.05.2024 and 20.05.2024 respectively.



3. The case of the petitioners is that after completing their Higher Secondary School Examination, they were unable to do higher studies in the regular mode, due to their poor economic status. While so, they came to know about the Distance Education Courses offered by the 3rd respondent “Alagappa University, Karaikudi” (hereinafter referred to as “the University”) through its “Learners Support Centres” (hereinafter referred to as “LSC”). The LSCs are affiliated with the 3rd respondent University. Further, it is stated that the University as well as the LSCs enters into an agreement annually for offering courses under Distance Education Programme. The LSCs are responsible for promoting the Distance Education Programme offered by the University and the expenditures for running the LSCs will be met by the University. As per the agreement, the University shall prescribe the programme fee, eligible candidates to various approved programmes, confirming admissions, issuing admission cards, prescribing syllabus conducting examinations and award of mark statement and decree through the LSCs. The petitioners have completed their respective courses through the respective 7th respondent LSCs and thereafter, they wanted to pursue their higher Course through the respective 7th respondent LSCs. They are under the *bona fide* impression that the University would continue to offer the respective courses through the respective 7th respondent LSC. However, it is brought to the



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knowledge of the petitioners that the University has decided not to give permission to the LSCs beyond the Territorial Jurisdiction of the University ie., Sivagangai and Ramanathapuram Districts. It is also learnt that such decision was taken in view of the “University Grants Commission (Open and Distance Learning Programmes and Online Programmes) Regulations, 2020” (hereinafter referred to as “the UGC Regulations 2020”). According to the petitioners, the UGC Regulations, 2020 does not put any embargo upon the Universities to offer the Distance Education Programmes beyond the territorial jurisdiction of the concerned University and it only restricts its operation beyond the territory of the concerned State. In this regard, the petitioners have also made representations dated 21.05.2024 and 20.05.2024 to the University, requesting to continue to offer the Distance Education Programmes within the State of Tamil Nadu through its recognized Learners Support Centres in terms of the UGC Regulations, 2020. Since the same were not considered by the University, the petitioners have filed these Writ Petitions.

4. The respondents 3 to 6 have filed their counter affidavit, in which it is stated that the University is a State University and it was initially established as a Unitary Type University by an Act of State Legislature viz., Alagappa University



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Act, 1985. Later, by virtue of TN Universities Law (Amendment Act) 2002, dated 14.09.2002, the respondent University became an affiliating Type University and the jurisdiction of the University was extended to the Districts of Sivaganga and Ramanathapuram. Further, it is stated that the University started Open/Distance mode of education from the year 1992 with the aim of providing continuing education to the uneducated mass, working people and to the people, who were denied formal education. The Distance Education Council was the statutory authority under the Indira Gandhi National Open University Act, 1985 responsible for the permission/recognition, promotion, co-ordination and maintenance of the standards of the courses conducted in various Universities under Open and Distance Learning (ODL) programme and the Distance Education Council granted continuous provisional recognition to the Open and Distance Learning Programme conducted by the respondent University.

5. Further, it is stated that in the year 2012, the Distance Education Council informed all the State Universities that all the Universities should operate their respective Open and Distance Learning programmes as per their respective Acts and Statutes and not beyond the boundaries of their respective States. The UGC Regulations, 2020 mandates that the University shall adhere to the policy of



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territorial jurisdiction as specified in Annexure III of the said Regulations.

Therefore, it is the contention that the UGC has restricted the operations of the Open and Distance learning mode of this respondent University within the territorial jurisdiction allotted to the University under its Act, ie., Sub-Section (4) of Section 3 of the Alagappa University Act, 1985, which deals with the territorial jurisdiction of the University viz., the jurisdiction of the University shall extend to the whole area comprising the Districts of Sivaganga and Ramanathapuram in the State of Tamil Nadu. The respondent University has to act only as per the instructions of the UGC Regulations.

6. The learned Senior Counsel appearing for the petitioners would submit that the UGC Regulations has not restricted for opening of the LSCs throughout the State of Tamil Nadu. Further, the State Government also vide its letter dated 06.03.2023, in Letter No.937/H1/2023-1, permitted the third respondent University to offer courses through Distance Education mode throughout the State of Tamil Nadu. Therefore, the contention of the third respondent that UGC Regulations restricts for opening of the LSCs throughout the State of Tamil Nadu is ill-founded and cannot be countenanced.



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7. Whereas, the learned counsel appearing for the third respondent University would submit that as per the UGC Regulations, the Open and Distance Learning Programme should only operate within the territorial jurisdiction allotted to it under the Act. According to sub-section (4) of Section 3 of the Alagappa University Act, 1985, the territorial jurisdiction of the University is confined to Districts of Ramanathapuram and Sivagangai. It is relevant to note that Clause 4(B)(i) of the UGC Regulations, 2020, is as follows:

“4. Requirements for Submission of Proposals.-

(B) Provisions for Open and Distance Learning Mode:

(i) The Higher Educational Institution shall adhere to the policy of territorial jurisdiction as specified in Annexure-III;”

8. Annexure III (I)(2) of the University Grants Commission (Open and Distance Learning Programmes and Online Programmes) Regulations, 2020 reads as follows:-

***“TERRITORIAL JURISDICTION AND REGULATING
PROVISIONS FOR DIFFERENT TYPES OF HIGHER
EDUCATIONAL INSTITUTIONS***

I. Central Government and State Government University:

2. A University established or incorporated by or under a State Act shall offer programmes in Open and Distance Learning mode and operate all other related activities only within the territorial



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jurisdiction allotted to it under its Act and in no case beyond the territory of the state of its location.”

9. Clause 15(A)(7) and 15(B) (1 to 3) of the University Grants Commission (Open and Distance Learning Programmes and Online Programmes) Regulations, 2020 is as follows:-

“15.Evaluation_

(7) The “Examination Centre” shall be established as per Annexure-I and Annexure-II with due approval of the statutory authority of the Higher Educational Institution, subject to the following:-

(i) The Examination Centre shall have proper monitoring mechanisms for Closed-Circuit Television (CCTV) recording of the entire examination procedure and biometric system and in case of non-availability of the Closed-Circuit Television facilities, the Higher Educational Institution shall ensure that proper videography be conducted and video recordings are submitted by particular in charge of examination centre to the concerned Higher Educational Institution.

(ii) The Higher Educational Institution shall retain all such Closed-Circuit Television recordings in archives for a minimum period of five years.

(iii) There shall be an observer for each of the Examination Centre appointed by the Higher Educational Institution and it shall be mandatory to have observer report submitted to the Higher Educational Institution.

(B) Provisions for Open and Distance Learning Mode: (1) All end semester examinations or term end examinations for programmes offered



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through Open and Distance Learning mode shall be conducted through proctored examination (pen-paper or online or computer based testing) within Territorial Jurisdiction, in the examination centre as mentioned in these regulations. The Exams shall be under the direct control and responsibility of the Open and Distance Learning mode Institution.

(2) All Government Institutions like Kendriya Vidyalaya(s), Navodaya Vidyalaya(s), Sainik School(s), State Government Schools, etc. can also be identified as examination centre(s) under direct overall supervision of a Higher Educational Institution offering education under the Open and Distance Learning mode including approved affiliated colleges under the University system in the Country and no Examination Centres shall be allotted to private organisations or unapproved Higher Educational Institutions.

(3) The Learner Support Centres, as defined in the regulations and within the territorial jurisdiction, can also be used as examination centres provided they fulfill the criteria of an examination centre as defined in these regulations.”

10. Clause 17 (1 and 2) of the University Grants Commission (Open and Distance Learning Programmes and Online Programmes) Regulations, 2020 read as follows:-

“17. Learner Support Centre for Open and Distance Learning. (1)
A Higher Educational Institution offering programme in Open and Distance Learning mode shall, ensure that a Learner Support Centre is established as per Annexure-VIII only in a college or institution affiliated to a



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University or in a Government recognised Higher Educational Institution offering programmes in the same broad areas having the necessary infrastructure and human resources for offering the programme:

Provided that a Learner Support Centre defined under these regulations shall not be the Learner Support Centre for more than two Higher Educational Institutions at a time to offer programmes in Open and Distance Learning mode:

Provided further that a Learner Support Centre of a State University should be in the same state in which the State University has been established:

Provided also that a Higher Educational Institution may establish a special Learner Support Centre for imparting instruction to persons referred to in the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995, the National Trust for Welfare of Persons with Autism, Cerebral Palsy, Mental Retardation and Multiple Disability Act, 1999 and other persons in difficult circumstances, including jail inmates:

Provided also that a Learner Support Centre shall not be set up under a franchisee agreement in any case.

*(2) A Learner Support Centre shall be the contact point or centre managed by the Higher Educational Institution for providing academic as well as administrative support to its learners and shall perform such other functions as specified in **Annexure-VIII.***

11. Clause II (5) of Annexure VIII of the University Grants Commission (Open and Distance Learning Programmes and Online Programmes) Regulations,



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2020 is as follows:-

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“LEARNER SUPPORT CENTRES

II. Definition and Establishment of Learner Support Centre or Study Centre

5. A Higher Educational Institution shall submit an undertaking to the Commission to the effect that the academic and instructional facilities at its Study Centres or Learner Support Centres meet all the conditions of these regulations and guidelines issued from time to time, and are commensurate with the number of academic programmes and learners’ strength thereto- Provided that the Higher Educational Institution shall not carry out any of its activities related to the Open and Distance Learning mode at places other than Study Centres or Learner Support Centres under a different name such as Information Centre, Facilitation Centre, Nodal Centre, Knowledge Partner, Partner Institution, Multimedia Centres and similar such names:

Provided that, no Study Centre or Learner Support Centre shall be established beyond the territorial jurisdiction of the Higher Educational Institution or under any franchisee or outsourcing agreement, as described in these regulations:

Provided further that a Study Centre or Learner Support Centre shall not admit a learner to any programme in Open and Distance Learning mode for or on behalf of any other Higher Educational Institution.”

12. The aforesaid provisions were considered by the Hon'ble Division Bench of this Court in the decision reported in **(2023) 2 MLJ 1 (University**



Grants Commission Vs. Annamalai University). Paragraph Nos.24, 49, 50 and

60 of the said decision read as follows:

“24. The main question that arises in all these proceedings is as to whether the University Grants Commission, a body which has the power to recognize distance education programmes by various Universities, can impose restrictions on the territorial jurisdiction of various Universities?

49. As pointed out by the Hon'ble Supreme Court in Professor Yash Pal's case (supra) Article 245(1) of the Constitution of India enables the States to legislate only for their territories. All the State Universities which are established under various State enactments with a particular area of operation or a territorial jurisdiction will have to limit their functions only to such jurisdiction. We are not suggesting that these State run Universities cannot enrol students from outside the State for their programmes, but their activities cannot span beyond the State.

50. The University Grants Commission's Regulations framed in the year 2020 viz., University Grants Commission (Open and Distance Learning Programmes Online Programmes) Regulations 2020 provide for territorial jurisdiction and the activities should be as per the territorial jurisdiction allotted to the University under the Act. The Regulations also provide for enrolment of learners on the open and distance learning mode from any part of the country. But Regulation 23(3) restricts all other activities such as admissions, contact programmes, examinations etc., to be conducted within the territorial jurisdiction. As far as the online education programmes there is no such territorial restrictions.



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60. *In fine, we conclude that the University Grants Commission Regulations will prevail in view of the primacy given to the University Grants Commission under the University Grants Commission Act as well as the Entry 66 of List 1 of the 7th Schedule of the Constitution. While the Universities established by the State enactment and other private Universities can enrol students from outside the State, their other activities viz., establishment of learner support centres, conduct of the examination etc., must be within the State only. Insofar as the deemed to be universities are concerned, they can conduct online distance education programmes in compliance with the Regulations of the University Grants Commission upon having recognition from the University Grants Commission.*”

13. That apart, Annexure – III (I)(2) of the UGC Regulations, 2020, does not restrict the territorial jurisdiction alone. The very sentence that “*A University established or incorporated by or under a State Act shall offer programmes in Open and Distance Learning mode and operate all other related activities only within the territorial jurisdiction allotted to it under its Act and in no case beyond the territory of the State of its location*”, makes it clear that the UGC Regulations, 2020 in fact is not intended to restrict the operation only within the territorial jurisdiction allotted to it under the concerned University Act, but they restricted beyond the territory of the State. Therefore, it cannot be said that merely because, a territorial jurisdiction of the University is confined, as per the Alagappa



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University Act, 1985, to Ramanathapuram and Sivagangai, the LSCs should be only in those Districts.

14. The learned counsel appearing for the third respondent mainly would submit that the only apprehension of the University is that the UGC may take action against them. It is relevant to note that the apprehension of the University is unwarranted because in the judgment of the Division Bench of this Court referred above, the University Grants Commission was also a party and the said judgment reached finality and therefore, the said judgment is binding on the University Grants Commission. That apart, it is also stated that now there is a proposal for amendment of the Alagappa University which is pending before the Tamil Nadu Government. The Government of Tamil Nadu has not placed any restrictions so far. In fact, the Principal Secretary to the Government, Higher Education Department vide letter No.937/H1/2023-1, dated 06.03.2023, had written a letter to the Registrar of Alagappa University in the following terms:

“I am directed to invite attention to the reference cited, wherein the permission of the Government has been requested to conduct courses through Distance Education from the year 2022-2023 throughout the State of Tamil Nadu as the UGC has requested to submit a letter from Government of Tamil Nadu to offer courses through Distance Education mode throughout the State of Tamil Nadu.



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2.In this regard, I am to inform you that Alagappa University is permitted to offer courses through Distance Education mode throughout the State of Tamil Nadu.”

The same clearly indicates that the Government of Tamil Nadu has permitted to offer Courses throughout the State of Tamil Nadu. Further, sub-section (4) of Section 3 of the Alagappa University Act, 1985, shows that jurisdiction of the University shall extend to the whole area comprising the Districts of Sivaganga and Ramanathapuram in the State of Tamil Nadu. Sub-clause (2-a) of Section 5-A of the Alagappa University Act, 1985, reads as follows:

“(2-a) to hold examinations and to confer degrees, titles, diplomas and other academic distinctions on persons who shall have pursued an approved course of study by correspondence, whether residing within the University area or not and to provide such lectures and instructions for persons not being residents within the University are under conditions prescribed.”

The said sub-clause (2-a) makes it clear that even for Learners support Centres could be beyond the two Districts for the persons not being residents within the University area under conditions prescribed. The above amendment already introduced in the Act and the same also makes it clear that there is absolutely no



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restrictions in opening the Learners Support Centres within the Tamil Nadu. In this regard, a learned Single Judge of this Court also in a batch of Writ Petitions in ***W.P.(MD)Nos.27743 of 2023, etc., [M.Maheswari Vs. Alagappa University and Ors), by order dated 13.12.2023,*** has considered the said Rule and passed an order.

15. In view of the said judgment and also the judgment of the Hon'ble Division Bench of this Court referred above, this Court is of the view that the apprehension of the third respondent is unwarranted and the UGC Regulations itself has not restricted for opening of the LSCs throughout the State of Tamil Nadu as held above.

16. In such view of the matter, all these Writ Petitions are allowed as prayed for. There shall be no order as to costs. Consequently, connected miscellaneous petitions are closed.

21.10.2024

NCC : Yes/No
Index : Yes/No
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To

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1. The Secretary,
State of Tamil Nadu,
Department of Higher Education,
Fort St. George,
Chennai 600 009.
2. The Secretary,
University Grants Commission,
Bahadur Shah Zafar Marg,
New Delhi.
3. The Registrar,
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Karaikudi 630 003
Sivagangai District.
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