



2024:DHC:901



\$~41

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **W.P.(C) 10990/2023**

**VENKATESHWARA OPEN UNIVERSITY
& ANR.**

..... Petitioners

Through: Mr. Amit Kumar, Sr. Adv. with
Mr. Avijit Mani Tripathi, Mrs. Rekha
Bakshi and Ms. Yoothica Pallavi, Advs.

versus

UNIVERSITY GRANTS COMMISSION Respondent

Through: Mr. Apoorv Kurup, Ms. Nidhi
Mittal, Mr. Akhil Hasija and Ms Muskaan
Gupta, Advs.

**CORAM:
HON'BLE MR. JUSTICE C. HARI SHANKAR**

J U D G M E N T (O R A L)

%

06.02.2024

1. The prayer in this writ petition is for issuance of an appropriate writ, quashing and setting aside the following communications dated 10 November 2020 and 24 August 2021 from the University Grants Commission (UGC) to the petitioner:

Letter dated 10 November 2020

“University Grants Commission
Bahadur Shah Zafar Marg
New Delhi -110002

No. F 8-32/2012 (CPP-I/PU)

10 Nov, 2020

The Registrar

Signature Not Verified

Digitally Signed By: AHT
KUMAR WP(C) 10990/2023
Signing Date: 07.02.2024
18:09:07



2024:DHC:901



Venkateshwara Open University
Lekhi Village, Distt. Papumpare,
Naharlagun
Itanagar-791110
Arunachal Pradesh

Sub: Status of Venkateshwara University, Arunachal Pradesh-
regarding

Sir,

With reference to your letter No. VOU/AP/2020/2021 dated 29 July 2020 on the subject cited above. I am directed to inform you that section 7(b) (Power of the University) of the Venkateshwara Open University Act, 2012 provides as under:

To impart and promote the study of science, engineering and technology, Bio and Medical Sciences, Dental Science, Pharmacy, Management Hotel and Hospitality Management, Law Nursing and other professional courses and also History, Culture, Commerce, Economics, Humanities, Philosophy, Art, etc. through in campus off-campus offshore campus and satellite centres or by conducting centres or by distant educational programmes etc.

Further, the University vide its letter No. VOU/AP/UGC/2015/28 dated 25.03.2017 submitted information to UGC for inspection purposes wherein it was informed that the University is offering courses in regular mode at its main campus in Management, Education, Information, Technology, Humanities & Social Sciences and Library Science. Apart from UG and PG programmes in these fields, Ph.D. was also mentioned under regular mode. The University also provided the number of students enrolled in the above programmes and also informed that no courses under distance mode are offered by the University.

After examination of the University Act, definition of Open University as provided in various UGC Rules/Regulations and information submitted by the University to UGC it is noted that the University is not exclusively established for offering ODL or On-Line Courses. The provisions of the Act state that it can offer courses in-campus, off-campus and off-shore campus. The University is not fitting into the definition of Open University as provided in the UGC ODL and Online Regulations, 2020. As per the provisions of the University Act, it is a dual mode University which means it can offer courses under regular mode as well as distance mode. However, courses under distance mode can be offered only with the prior approval of UGC in accordance with the

Signature Not Verified

Digitally Signed By: AHT
KUMAR WP(C) 10990/2023
Signing Date: 07.02.2024
18:09:07



2024:DHC:901



UGC Regulations, 2020. Moreover the University is already offering courses under regular mode which is evident from the information submitted to UGC. Only the name of the University is Open University and it is not an Open University in accordance with the definition of Open University in the UGC ODL Regulations, 2020. The University can offer courses in ODL/Online mode with the prior approval of UGC in accordance with the University Grants Commission (Open and Distance Learning Programmes and Online Programmes) Regulations, 2020.

In case the University intends to function exclusively as an 'Open University' (as defined in UGC (Open and Distance Learning Programmes and Online Programmes) Regulations, 2020 instead of 'Dual Mode University', it may approach the State Government for amendment of its Act.

Yours Faithfully,

Sd/-
(Dr. Naresh Kumar Sharma)
Under Secretary"

Letter dated 24 August 2021

"University Grants Commission
Distance Education Bureau
35-Feroz Shah Road
New Delhi-110001

Speed Post

F. No.12-I/2018 (DEB-I) pt file

24th August, 2021

The Registrar
Venkateshwara Open University
Lekhi village, Naharlagun
Dist-Papum Pale,
Itanagar-791 110
Arunachal Pradesh

Sub:- Request letter received from Venkateshwara Open University, seeking exemption from UGC-ODL Regulations regarding.

Sir/Madam,

Signature Not Verified

Digitally Signed By: AHT
KUMAR WP(C) 10990/2023
Signing Date: 07.02.2024
18:09:07



2024:DHC:901



With reference to the letter received from Vice Chancellor, Venkateshwara Open University, Itanagar (Arunachal Pradesh) on the subject cited above, I am directed to inform that the matter was placed before the Commission in its 551st meeting held on 01.07.2021 . The decision of the Commission is as under:

"The Commission observed that UGC vide F.No. 8-32/2012 (CPP-I/PU) dated 10th November 2020 has communicated to the University that it is not an Open University and in case the university intend to function exclusively as an 'Open University' instead of Dual Mode University, it may approach the State Government for amendment of its Act. Accordingly, the Commission decided that the request of the University for exemption from UGC (ODL) Regulations, 2017 can't be considered and the matter stands closed."

This issues with the approval of Competent Authority.

Yours faithfully,

sd./-

(Neethu S. Thulaseedharan)
Education Officer"

2. On a reading of the aforesaid communications, it is seen that the letter dated 10 November 2020 merely states that the petitioner was a Dual Mode University, which did not qualify the definition of "Open University" as contained in the University Grants Commission (Open and Distance Learning Programmes and Online Programmes) Regulations 2020 ("the 2020 UGC Regulations" hereinafter).

3. The expression "Open University" is defined in Clause (w) of Regulation 2 of the said UGC Regulations which reads thus:

(w) "Open University" means a Higher Educational Institution which imparts education only through Open and Distance learning mode and/or Online mode using variety of media including print, electronic, online, information and communication technology educational aids including Open Educational Resources (OERs) or Massive Open Online Courses (MOOCs) etc. and is not having any

Signature Not Verified

Digitally Signed By: AHT
KUMAR WP(C) 10990/2023
Signing Date: 07.02.2024
18:09:07

Page 4 of 7



2024:DHC:901



provision for offering higher education in conventional mode in its Act or Memorandum of Association or other statutory documents governing the Higher Educational Institution;”

4. The impugned communication dated 10 November 2020 further states that, as a Dual Mode University, the petitioner can offer courses both under regular as well as distance mode, subject to prior approval of the UGC being obtained in the latter case.

5. Mr. Amit Kumar, learned Senior Counsel for the petitioner, does not join issue on either of these findings as contained in the order dated 10 November 2020.

6. The second communication dated 24 August 2021 deals with a request of the petitioner for exemption from the UGC (Open and Distance Learning) Regulations, 2017 and merely states that, as per the Act under which the petitioner was constituted, the petitioner could not be regarded as an “Open University”. As such, if the petitioner desired to function as an Open University, the communication required it to approach the State Government and have its parent Act amended.

7. The actual grievance of the petitioner appears to be with respect to obtaining of recognition for running Open and Distance Learning and Online Programs w.e.f. 2023-24.

8. From the submissions of Mr. Amit Kumar, it appears that the petitioner has approached the Court because there was some



2024:DHC:901



uncertainty as to whether the respondent would treat the petitioner as an Open University or a Dual Mode University.

9. Mr. Apoorv Kurup, learned Counsel for the respondent, UGC, submits that, in W.P.(C) 13005/2022 (*Venkateshwara Open University v. University Grant Commission*), earlier instituted by the petitioner, seeking that it be treated as an Open University, the UGC has already adopted a stand that the petitioner is not an Open University but a Dual Mode University, which is what is stated in the impugned communication dated 10 November 2020 as well. He submits that, if the petitioner applies for running the ODL or Online course as a Dual Mode University, the UGC would consider the application on its own merits.

10. Mr. Amit Kumar is agreeable to this writ petition being disposed of in the said terms.

11. As such, the UGC is directed that, if the petitioner applies for running the Open and Distance Learning and Online Programmes, the application would be considered on its own merits, treating the petitioner as a Dual Mode University.

12. This Court is not expressing any opinion on the entitlement of the petitioner to run the Open and Distance Learning and Online Programme, regarding which it would be for the petitioner to satisfy the UGC.



2024:DHC:901



13. This writ petition stands disposed of in the aforesaid terms.

C. HARI SHANKAR, J.

FEBRUARY 6, 2024

dsn

Click here to check corrigendum, if any

Signature Not Verified

Digitally Signed By: AHT
KUMAR WP(C) 10990/2023
Signing Date: 07.02.2024
18:09:07

Page 7 of 7