



2024:0070-4283



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

+ **CONT.CAS(C) 835/2017**

BRAJESH SINGH

..... Petitioner

Through: Petitioner in person.

Email:

singhadvocatebrajesh@gmail.com

versus

PROFESSOR TARUN KR DAS & ORS.

..... Respondents

Through: Ms. Seema Dolo, Adv. for R-1 and 2.

Email: seemadolo.law@gmail.com

Mr. Chetan Sharma, ASG with Mr. Apoorv Kurup, CGSC, Mr. Amit Gupta, Ms. Gauri and Mr. Vikramaditya Singh, Advocates for respondent/UGC.

+ **CONT.CAS(C) 156/2018**

HARPAL SINGH SANGWAN

..... Petitioner

Through: Petitioner in person.

(M): 8076028939

Email: h_sangwan@yahoo.com

versus

UNIVERSITY GRANTS COMMISSION & ORS. Respondents

Through: Mr. Chetan Sharma, ASG with Mr. Apoorv Kurup, CGSC, Mr. Amit Gupta, Ms. Gauri and Mr. Vikramaditya Singh, Advocates for respondent/UGC.

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Ms. Seema Dolo, Adv. for R-2.

Email: seemadolo.law@gmail.com

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Date of Decision: 22nd May, 2024

CORAM:

HON'BLE MS. JUSTICE MINI PUSHKARNA

J U D G M E N T

MINI PUSHKARNA, J: (ORAL)

1. The present petitions have been filed alleging willful disobedience of the order dated 3rd February, 2017 passed by Division Bench of this Court in *W.P.(C) No. 10176/2015*. By way of the aforesaid order, directions had been issued to the University of Delhi to take necessary steps forthwith and appoint an ombudsman in terms of the provisions of the University Grants Commission (Grievance Redressal) Regulations, 2012, as expeditiously as possible.

2. Directions issued in the aforesaid order, read as under:

"1. The petitioner who claims to be a former student of law in the University of Delhi filed this Public Interest Litigation petition raising the issue of the alleged non-compliance of the provisions of University Grants Commission (Grievance Redressal) Regulations, 2012 with regard to appointment of 'Ombudsman' by the universities, in particular, the University of Delhi.

2. University Grants Commission (Grievance Redressal) Regulations, 2012 (for short 'the Regulations of 2012') have been made by UGC in exercise of the power conferred under 26(1) of the UGC Act, 1956. Regulation 4 provides that each university shall appoint an Ombudsman for redressal of grievances of students under the said Regulations. Regulation 4(5) provides for the constitution of Search Committee for appointment of the Ombudsman in a State university and Regulation 4(6) provides for the constitution of the Search Committee for appointment of the Ombudsman in a Central University and institution deemed to be university. The Ombudsman shall be a part-time officer appointed for a period of three years or until he attains the age of 70 years whichever is earlier.

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3. That apart, as per Regulation 5, Grievance Redressal Committee has to be constituted by the Vice Chancellor of the affiliating university for an individual college or a group of colleges. The constitution of such Grievance Redressal Committee has been provided under Regulation 5(2). The tenure of such Committee shall be two years and against the decision of the said Committee an appeal is provided to the Ombudsman under Regulation 5(5).

4. On a perusal of the provisions of the Regulations of 2012, it appears to us that appointment of an Ombudsman for every university and constitution of a Grievance Redressal Committee for every college or group of colleges is mandatory for the purpose of grievance redressal of the aggrieved students. The- UGC is empowered under Regulation 9 to take the actions specified therein in respect of any institution which willfully contravenes or repeatedly fails to comply with the orders of the Ombudsman or the Grievance Redressal Committee.

5. It is alleged in the present petition that the Delhi University failed to appoint an Ombudsman as mandated under Regulation 4. The short affidavit filed on behalf of the respondent Nos.3 to 6 shows that though in terms of Regulation 5, the Grievance Redressal Committees have been constituted vide notification dated 03.12.2014, no Ombudsman has been appointed till date as mandated under Regulation 4.. We also found from the counter affidavit filed on behalf of UGC that a Search Committee has already been constituted vide Office Memorandum dated 06.08.2014 for appointment of Ombudsman in terms of Regulation 4(6) and all the Central universities/State universities were informed of the same vide letter dated 12.08.2014.

6. Having heard the petitioner appearing in person and the learned counsel appearing for the respondents, it appears to us that failure of the universities to appoint Ombudsman or to constitute Grievance Redressal Committees for the colleges would defeat the very object of the grievance redressal mechanism provided under the Regulations.

7. We, therefore, direct that the University of Delhi shall take the necessary steps forthwith and appoint the "Ombudsman" in terms of the provisions of the UGC (Grievance Redressal) Regulations, 2012 as expeditiously as possible preferably within a period of four months from today. Having regard to the fact that except Delhi University, no other University is made a party to this petition we also direct the UGC to ensure appointment of "Ombudsman" in all the Central/State Universities following due process of law within four months from today.

8. Writ petition is accordingly disposed of.”





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(Emphasis Supplied)

3. Mr. Chetan Sharma, learned Additional Solicitor General (“ASG”) of India along with Mr. Apoorv Kurup, learned Standing Counsel of Union of India appearing for the University Grants Commission (“UGC”) in the present matter, have handed over a copy of an additional affidavit dated 22nd May, 2024. The said additional affidavit is taken on record.

4. The relevant portions of the said additional affidavit, read as under:

“xxx xxx xxx

2. *That the Answering Respondent has already filed its Compliance Affidavit on 25.09.2023, in respect of the order dated 03.02.2017 passed by this Hon'ble Court in WP (C) No. 10176/2015. However, the Answering Respondent seeks to apprise this Hon'ble Court of the subsequent measures taken by the Commission.*

3. *That the Answering Respondent acknowledges that students are central to the higher education system and therefore, had established a mechanism to address their grievances for ensuring the quality of education and research in higher education institutions. The appointment of Ombudspersons by universities provides an independent forum for redressal grievances of the students. It is submitted that UGC's persistent efforts have led to the appointment of Ombudspersons in all 45 UGC-funded Central Universities.*

4. *That on 05.12.2023, Secretary, UGC issued a letter D.O. No. F.1-13/2022(CPP-II) to the Vice Chancellors of Central, State, Private and Deemed to be Universities to appoint Ombudspersons by 31.12.2023 failing which the defaulting Universities' names were to be published on the UGC website. A copy of the letter dated 05.12.2023 is annexed herewith and marked as **Annexure-R-3/1**.*

5. *That on 17.01.2024, UGC issued a public notice declaring the names of the defaulting Universities which had not appointed an Ombudsperson(s) as provided in the University Grants Commission (Redressal of Grievances of Students) Regulations, 2023 (**Regulations**). A copy of the public notice dated 17.01.2024 is annexed herewith and marked as **Annexure-R-3/2**.*

6. *That on 31.01.2024, the Secretary, UGC issued a letter No. F. 1-13/2022(CPP-II) to the Heads of State Higher Education Councils and to the Principal Secretaries Higher Education of State/UT Governments, to impress upon the Universities to appoint the*

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Ombudsperson without any further delay so that their names could be removed from the list of defaulting Universities. A copy of the letter dated 31.01.2024 is annexed herewith and marked as **Annexure- R-3/3**.

7. That on 05.02.2024, UGC conducted a virtual meeting with Ombudspersons appointed by the Universities to discuss various provisions of the Regulations. It may be noted that 665 Ombudspersons across the country participated in the meeting which was chaired by the Hon'ble Chairman, UGC.

8. That on 13.02.2024, the Secretary, UGC issued a request letter No. F. 1-13/2022 (CPP-II) to the Vice Chancellors of the Universities to make the students aware of the implementation of the UGC Student Grievance Redressal Regulations, 2023 in their respective Universities and to organise at least one meeting with the Ombudsperson every six months at the beginning of the semester to review the implementation of Regulations, 2023. A copy of the letter dated 13.02.2024 is annexed herewith and marked as **Annexure-R-3/4**.

9. That on 12.03.2024 and 15.04.2024, UGC published an Updated list of defaulting Universities who had not appointed Ombudsperson(s) as provided in the Regulations, 2023 on the UGC website. A copy of the list of defaulting universities as on 15.04.2024 is annexed herewith and marked as **Annexure-R-3/5**.

10. **Further, as of 15.04.2024, 976 Universities have reported that they have appointed Ombudsperson(s) in accordance with the UGC Regulations, 2023. The same is as follows:**

Appointment of Ombudspersons constituted in Universities as on 15.04.2024			
<i>Category of University</i>	<i>Total No. of Universities</i>	<i>No. of Universities appointed Ombudsperson</i>	<i>No. of Defaulting Universities</i>
<i>Central Universities</i>	45	45	---
<i>Private Universities</i>	462	430	32
<i>State Universities</i>	481	379	102
<i>Deemed to be Universities</i>	124	122	2
<i>Total</i>	1112	976	136





11. That, in view of the above, it is submitted that the Answering Respondent has actively sought for ensuring Ombudsperson(s) is appointed, Therefore, this Hon'ble Court may be pleased to dispose of the present contempt petition as the Answering Respondent has already purged itself of the contempt.

xxx xxx xxx''

(Emphasis Supplied)

5. By referring to the aforesaid, learned ASG submits that all the 45 UGC funded Central Universities have already appointed Ombudspersons in terms of the relevant Regulations.

6. He further draws the attention of this Court to the fact that in order to implement the directions passed in the Public Interest Litigation, as aforesaid, the UGC has introduced new Regulations in place of the earlier Regulations of 2012.

7. Thus, it is submitted that earlier, new Regulations were introduced in the year 2019, i.e., UGC (Redressal of Grievances of Students Regulations), 2019. Subsequently in supersession of 2019 Regulations, the current and latest Regulations viz. UGC (Redressal of Grievances of Students Regulations), 2023, were brought about. The said 2023 Regulations have been duly placed on record, along with the notification dated 11th April, 2023 notifying the said Regulations.

8. This Court notes the submission made by the learned ASG, assisted by Mr. Apoorv Kurup, that the aforesaid 2023 Regulations hold the field as of now, and Ombudspersons have been appointed in various Universities under these Regulations.

9. At this stage, the petitioner, who appears in person, submits that Ombudspersons were required to be appointed in terms of the 2012





Regulations and that the appointment done by the respondents now, is not in terms of the order dated 3rd February, 2017 passed by Division Bench of this Court.

10. The aforesaid submission made by the petitioner cannot be countenanced. There is nothing on record to show that the UGC cannot introduce new Regulations to cater to the changing needs and requirements. It is apposite to state here that the current and the latest Regulations, which are in vogue, will hold the field, on the basis of which requisite actions have to be taken. Thus, appointment of Ombudspersons, have to necessarily be made in terms of the 2023 Regulations, which are prevalent, as of today. The order dated 3rd February, 2017 passed by the Division Bench cannot be taken to mean that appointment of Ombudspersons had to done only under the 2012 Regulations, which were prevalent at the time of passing of the said order. It is well established that once a new Rule or Regulation is introduced, the previous Rules or Regulations cease to have effect, unless saved by specific provisions for specific purposes. Any action, which is required to be taken, has to be taken in terms of the prevalent Rule or Regulation. No authority can be directed to act in terms of a Rule or Regulation, which no longer is in force.

11. This Court also takes note of the submission made on behalf of the respondents that the new Regulations have been amended in order to cater to the needs of students as per changing times. It is to be noted that UGC is a statutory body under Department of Higher Education, Ministry of Education, under the Government of India. The UGC has every authority to introduce new Regulations in order to keep up with the changing times and to cater to the latest requirements that the current situation, demands.



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12. Therefore, considering the fact that new 2023 Regulations have been introduced by the UGC and that Ombudspersons have been appointed on the basis of the 2023 Regulations, which hold the field as of today, this Court is of the view that the respondents have substantially complied with the order dated 3rd February, 2017 passed by Division Bench of this Court.

13. Once there is substantial compliance by the respondents, there is no occasion for this Court to proceed in contempt proceedings against the said parties. Thus, the Supreme Court in the case of ***Bihar State Govt. Secondary School Teachers Assn. Versus Ashok Kumar Sinha, (2014) 7 SCC 416***, has held as follows:

“xxx xxx xxx

24. At the outset, we may observe that we are conscious of the limits within which we can undertake the scrutiny of the steps taken by the respondents, in these contempt proceedings. The Court is supposed to adopt cautionary approach which would mean that if there is a substantial compliance with the directions given in the judgment, this Court is not supposed to go into the nitty-gritty of the various measures taken by the respondents. It is also correct that only if there is wilful and contumacious disobedience of the orders, that the Court would take cognizance. Even when there are two equally consistent possibilities open to the Court, case of contempt is not made out. At the same time, it is permissible for the Court to examine as to whether the steps taken to purportedly comply with the directions of the judgment are in furtherance of its compliance or they tend to defeat the very purpose for which the directions were issued. We can certainly go into the issue as to whether the Government took certain steps in order to implement the directions of this Court and thereafter withdrew those measures and whether it amounts to non-implementation. Limited inquiry from the aforesaid perspective, into the provisions of the 2014 Rules can also be undertaken to find out as to whether those provisions amount to nullifying the effect of the very merger of BSES with BES. As all these aspects have a direct co-relation with the issue as to whether the directions are implemented or not. We are, thus, of the opinion that this Court can indulge in this limited scrutiny as to whether provisions made in the 2014 Rules frustrate the effect of the judgment and attempt is to achieve those results which were the arguments raised by the respondents at the time of hearing of CAs Nos. 8226-27 of 2012 but

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rejected by this Court. To put it otherwise, we can certainly examine as to whether the 2014 Rules are made to implement the judgment or these Rules in effect nullify the result of merger of the two cadres.

xxx xxx xxx”

(Emphasis Supplied)

14. Thus, in view of the aforesaid, no further orders are required to be passed in the present case.

15. The present petitions are disposed of, in the aforesaid terms.

MINI PUSHKARNA, J

MAY 22, 2024

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