

(2015) 04 DEL CK 0161

In the Delhi High Court

Case No : Writ Petition (C) 4280 of 2015

Ashok Goel (Architect)

APPELLANT

Vs

Union of India and Others

RESPONDENT

Date of Decision : 29-04-2015

Acts Referred:

Constitution of India, 1950 — Article 226

National Capital Region Planning Board Act, 1985 — Section 10

Citation : (2015) 04 DEL CK 0161

Hon'ble Judges : G. Rohini, C.J;Rajiv Sahai Endlaw, J

Bench : Division Bench

Advocate : Shiv Charan Garg and Imran Khan, for the Appellant; Navin Chawla, Nidhi Parashar, Ketan Paul and Aditya, Advocates for the Respondent

Final Decision : Dismissed

Judgement

Rajiv Sahai Endlaw, J.

C.M. No. 7764/2015 (for exemption)

Allowed, subject to just exceptions.

The application is disposed of.

W.P.(C) No. 4280/2015

1. This petition under Article 226 of the Constitution of India, filed as a Public Interest Litigation (PIL), seeks a direction to the respondent No. 3 Guru Gobind Singh Indraprastha University (GGSIPU) to forthwith stop giving affiliation to colleges beyond its territorial jurisdiction. The petition also impugns Section 4(1) of the Indraprastha Vishwavidyalaya Act, 1998 (whereunder GGSIPU has been established) to the extent the same mentions the area within which GGSIPU shall exercise its power as of the National Capital Territory of Delhi and seeks a clarification that the area of operation of GGSIPU is Delhi only. Certain other ancillary reliefs are also claimed in the petition.

2. It is the case of the petitioner:

(i) that GGSIPU has granted affiliation to the respondent No. 6 "The Delhi Technical Campus" situated at Greater Noida in the State of Uttar Pradesh;

(ii) that the grant of such affiliation by GGSIPU to the respondent No. 6 is arbitrary, illegal and unjustified and in violation of the University Grants Commission Act, 1956;

(iii) that GGSIPU being a university established by the Legislature of Delhi, cannot grant affiliation to an institution situated beyond the territory of Delhi;

(iv) that a university established or incorporated by or under a State Act is to operate only within the territorial jurisdiction allotted to it under its Act and in no case beyond the territory of the State of its location;

(v) that the respondent No. 2 University Grants Commission (UGC) has in its public notice dated 27th June, 2013 clarified that a university established or incorporated by or under a State Act shall operate only within the territorial jurisdiction allotted to it under its Act and in no case beyond the territory of State of its location;

(vi) that a large number of students studying in the respondent No. 6 College are presuming that their degree has been approved by the UGC;

(vii) that UGC in reply dated 2nd September, 2014 to a query under the Right to Information Act, 2005 also has stated that if any student joins a college located outside the territorial jurisdiction of a university established under a State Act and to which university it is affiliated, his/her Degree would not be recognized;

(viii) that the respondent No. 5 All India Council of Technical Education (AICTE) has granted approval to the respondent No. 6 under the AICTE Act;

(ix) that GGSIPU and respondent No. 6 College, by indulging in such illegality, are putting the future of the students at stake.

3. GGSIPU has been established under the Indraprastha Vishwavidyalaya Act, 1998 enacted by the Legislative Assembly of National Capital Territory of Delhi. As per Section 4(1) thereof, the limits of the area within which it exercises power are those of the National Capital Region (NCR) as defined in the National Capital Region Planning Board (NCRPB) Act, 1985. The NCRPB Act was enacted to establish the National Capital Region Planning Board inter alia to prepare the regional plan and functional plans for the NCR comprising of whole of the Union Territory of Delhi and certain parts of Haryana, Uttar Pradesh and Rajasthan. The definition, in Section 10 of the NCRPB Act, of regional plan is wide enough to include within its ambit the subject of "education".

4. We have thus enquired from the counsel for the petitioner, whether not GGSIPU as per Section 4(1) (supra) of the Indraprastha Vishwavidyalaya Act would be entitled to grant affiliation to a college, though situated outside Delhi,

but within the NCR.

5. The counsel for the petitioner states that though Greater Noida where the respondent No. 6 College is situated is in the NCR but the fact that the Legislative Assembly of Delhi was/is not competent to legislate for outside the territory of Delhi, it could not have empowered GGSIPU to exercise powers anywhere outside Delhi. Reliance in this regard is placed on Prof. Yashpal and Another Vs. State of Chhattisgarh and Others, AIR 2005 SC 2026 : (2005) 2 ESC 129 : (2005) 2 JT 165 : (2005) 5 SCC 420 : (2005) 3 SCR 23 : (2005) AIRSCW 1168 : (2005) 2 Supreme 322 .

6. We have enquired from the counsel for the petitioner whether he has examined the provisions of the NCRPB Act in the light of the aforesaid.

7. No answer is forthcoming.

8. The counsel for GGSIPU appearing on advance notice states that GGSIPU has granted affiliation to several other colleges also situated outside Delhi but in NCR and the petitioner has picked the respondent No. 6 College only. On our enquiry whether any regional plan within the meaning of NCRPB Act has been prepared and which has to be prepared with the consent of not only Delhi but also Haryana, Uttar Pradesh and Rajasthan and whether the said regional plan empowers GGSIPU to grant affiliation outside Delhi also, in the NCR, the counsel for GGSIPU states that though he has no instructions in this regard but has instructions to inform this Court that before GGSIPU had granted affiliation to the respondent No. 6 College situated in Greater Noida, the State of Uttar Pradesh within whose territorial jurisdiction Greater Noida falls, has given a No Objection Certificate (NOC) for affiliation thereof to GGSIPU.

9. We are satisfied that once the State of Uttar Pradesh has granted NOC for affiliation of the respondent No. 6 College though situated in the State of Uttar Pradesh but within NCR, it cannot be said that the future of the students admitted to the respondent No. 6 College on the faith of affiliation thereof with the GGSIPU is in danger in any way or that the affiliation granted by GGSIPU is wrong.

10. The counsel for the UGC clarifies that Prof. Yashpal (supra) was in the context of study centres of the university outside the State and not in the context of the grant of affiliation. He further states that if State of Uttar Pradesh has granted NOC to GGSIPU to grant affiliation to the respondent No. 6 College, it may not be violation of the UGC Act and/or any rules made thereunder.

11. In the circumstances, we do not feel the need to entertain this petition which is accordingly dismissed.