
(2010) 02 OHC CK 0038
In the Orissa High Court

Biju Patnaik University of Technology

APPELLANT

Vs

Sairam College

RESPONDENT

Date of Decision : 10-02-2010

Acts Referred:

Citation : (2010) 110 CLT 148

Hon'ble Judges : I.M. Quddusi, Acting C.J.; Sanju Panda, J

Bench : Division Bench

Final Decision : Dismissed

Judgement

Sanju Panda, J.—In this writ appeal, challenge has been made to the Order Dated 26.10.2009 passed by a Learned Single Judge of this Court in W.P.(C) No. 1771 of 2009.

2. The brief facts of the case are as follows:

Sairam College represented through its Chairman filed W.P.(C) No. 1771 of 2009 before this Court with a prayer to issue a writ of mandamus directing Biju Patnaik University of Technology (in short, "BPUT") to issue degree certificates to 67 students of the College, who had already appeared in the University Examinations within a reasonable period & to act in terms of the decision of All India Council for Technical Education (in short, "AICTE") for One Time Approval in respect of the said students. Sairam College was earlier affiliated to Kalinga University of Chhatisgarh, The aforesaid 67 students were prosecuting their studies in 8. Tech (Bio Technology) from the session 2003 onwards. In the year 2005, the Apex Court in the case of Prof. Yashpal and Another Vs. State of Chhattisgarh and Others, held Chhattisgarh Niji Kshetra Vishwavidyalaya (Sthapana Aur Viniyaman) Adhiniyam, 2002 as ultra vires & in order to protect the interest of the students who may be actually studying in the Institutions established by such University directed that the Institutions established by such private University may take appropriate measures to get such institutions affiliated to the already existing State University in Chhattisgarh. Subsequently in

SLP (C) No. 10506 of 2005 filed by one Ray University against the State of Chhatisgarh & Ors. the Apex Court clarified the earlier order & observed that the affiliation must necessarily be sought only with an already existing State University at Chhatisgarh. The Institutions of the erstwhile private University, if otherwise eligible, may apply & seek affiliation with any other University which has jurisdiction over the area where the institution is functioning & is empowered under the relevant Rules & Regulations & other provisions of law applicable to the said University to grant affiliation. (Emphasis supplied). In pursuance of the said decision of the Apex Court, AICTE issued a policy for grant of approval to the different private Universities of Chhatisgarh wherein the Category-I relates to grant of approval for proposed new institutions & Category-II relates to grant of One Time Approval to protect the interest of the students already reading in such educational institutions"/study centres. On 10.1.2006 the Registrar, BPUT issued a letter to the Regional Officer, AICTE about joint inspection to be conducted by the Director, Technical Educational & Training, Orissa. The Registrar, BPUT, for verification of enrolment of the students in various streams in Sairam College, Bhubaneswar which was the Study Centre of the erstwhile Kalinga University, intimated that BPUT had no objection to allow the students already admitted to Sairam College to complete their courses under the University, subject to the rider that certain terms & conditions had to be fulfilled. The terms & conditions contained in the said letter dated 14.1.2006 are as follows:

(i) the college has to get one time AICTE approval for allowing the students who have already been admitted by the above college to Engineering, MBA, & MCA programme to complete the programme under BPUT.

(ii) It will be one time measure & no such provision be allowed for any student or any college in future.

(iii) An equivalence committee will be constituted for each programme & the students have to follow BPUT syllabi to complete the rest part of the course (both theory & practical) as recommended by the equivalence committee.

(iv) In case it is found that the college does not provide adequate infrastructure for laboratory or computer facility for any subject the students may be required to complete the course in any of the other affiliated colleges of BPUT on payment basis.

(v) They have to fulfil any other condition stipulated by the University to maintain good academic standard before award of the final degree.

3. As per the aforesaid terms & conditions, the Senior Professors visited the college & submitted the report to the Vice-Chancellor, BPUT giving suggestion for prosecution of further studies of 67 students of the said college. Accordingly, BPUT" provisionally allowed the said 67 students of the College to appear at a special examination conducted from 19th June to 10th July, 2006 in respect of 4th & 6th semesters in the discipline of B. Tech, Information Technology & B. Tech, Bio Technology. Since there were two batches, one batch of students was

allowed to appear in 4th semester & Anr. batch of students was allowed to appear in 6th semester examinations. On 25th September, 2006, AICTE intimated BPUT that one time approval had been accorded to Sairam College & the period of approval was mentioned as 2003-2007 & in toto the intake capacity was stated to be 67 subject to the following conditions:

(a) The Institution shall obtain affiliation from the concerned affiliating University for the above mentioned courses/intake for the period till the students are pass out.

(b) The Institution is liable to fulfil the conditions which may be prescribed by the concerned affiliating University and/or State Govt. in respect of conduct of the courses/programme.

(c) The Sairam College, Bhubaneswar Near Fire Station, Baramunda, Bhubaneswar-3 off Campus Centre of erstwhile Kalinga University, Chattisgarh shall not make any fresh admissions to the course/programme & the present approval is limited to the students who are already admitted & are undergoing the courses of study.

(d) The Council shall have the right to inspect the center/institution/ with or without prior intimation to ascertain the maintenance of the norms & standard, prescribed by the Council from time to time during the period of approval of the programme.

4. The said students having successfully passed the examination, their results were declared & mark-sheets were issued. Since the degree certificates had not been issued to the said 67 students of the Sairam College, W.P.(C) No. 1771 of 2009 was filed by the Sairam College before this Court wherein the present Appellant-BPUT filed its counter affidavit stating therein that in the 11th Board of Management Meeting held on 10.6.2008 it was decided for examining the course contents already done by the students of the Petitioner's college (Sairam College) prior to their association with BPUT. Thereafter, an Equivalence Committee was constituted by BPUT to find out the course which the students had completed & the courses which were required to be completed. The Committee submitted its report on 5.8.2008 after considering the syllabus of both the Universities & recommended to appear the condensed/ Bridged course. Finding that the students had not completed the condensed/Bridged course, it was decided by BPUT that the said 67 students cannot be issued with degree certificates as it will violate the academic regulation of the BPUT.

5. The Learned Single Judge considering the facts & circumstances of the case, held that the students had already been permitted to appear at the University examinations by way of conducting a special examination & declared their results wherein they were declared successful. Thereafter, mark-sheets had already been issued to them. It was further held that in view of such circumstances, the BPUT was estopped in that juncture from withholding their degree certificates & BPUT was directed to grant the degree certificates to the 67 students who were

permitted to appear in the University examination & had been declared successful & such certificates was to be issued within a period of three weeks from the date of the order.

6. Being aggrieved, the Appellant has filed this writ appeal challenging the said Order Dated 26.10.2008 of the Learned Single Judge on the ground that as per the terms & conditions, the students had to appear in the examination according to the syllabus prescribed by BPUT. Since they had not appeared in the examination as per the prescribed syllabus of BPUT, it rightly took a decision to hold another examination in which the students would clear the courses of studies & appear in the examination as per the syllabus.

7. Learned Counsel for the Respondents submitted that BPUT had taken such decision after the students were permitted to appear in the examination & the examination was over & the result thereof has been declared. He submitted that the students appeared in the semester examination with the permission of BPUT & it was within the knowledge of BPUT. Since BPUT is the competent authority before allowing the students to appear in the examination, it should have considered under which syllabus the students will have to appear in the examination. He further submitted that BPUT permitted the students to appear in the examination & they were declared successful in the said examination & their mark sheets were issued. Thereafter BPUT should not have taken a decision to further examine the students with some further additional subject.

8. From the above contentions of the parties, it is clear that Sairam College was given one time approval after a joint inspection made by the Joint Committee constituting the representatives of AICTE, BPUT & the State with regard to the 67 students. BPUT permitted the said 67 students to appear in the University examination by conducting a special examination & declared their results. The students were successful in the said examination & the mark sheets were issued to them. The University is therefore clearly estopped from taking a decision not to issue degree certificate after the students appeared in the examination, their results were declared & mark sheets were issued to them & raising objection to the so-called examination & the syllabus recommending for another condensed/ Bridged course to appear further examination.

9. The Apex Court in the case of Sanatan Gauda Vs. Berhampur University and others, has held that after the University had granted the Petitioner therein the admit card for appearing at the examination & the candidate had appeared in the examination, at that stage the University was estopped from refusing to declare the result of the candidate or preventing him from pursuing further studies.

10. In view of the above, we are of the opinion that the Learned Single Judge has rightly directed BPUT to declare the result of the 67 students of the college in question & hence we decline to interfere with the same.

11. In the result, the writ appeal has no merit & the same is accordingly dismissed.

I.M. Quddusi, A.C.J.

12. I agree.

13. Writ appeal dismissed