

(2010) 12 UK CK 0179

In the Uttarakhand High Court

Case No : Writ Petition No. 2135 of 2010 (M/S) and Stay Application No. 10555 of 2010

Canadian Computer Management Center (CCMC)

APPELLANT

Vs

State and Others

RESPONDENT

Date of Decision : 23-12-2010

Acts Referred:

University Grants Commission (Establishment of and Maintenance of Standards in Private Universities) Regulations, 2003 — Regulation 5.1, 5.2
University Grants Commission Act, 1956 — Section 2, 24

Citation : (2010) 12 UK CK 0179

Hon'ble Judges : Brahma Singh Verma, J

Bench : Single Bench

Judgement

B.S. Verma, J.—Learned Counsel for the Petitioner has filed amendment application today in the Court.

2. Heard on amendment application.

3. Application is allowed. Let the amendment be incorporated during the course of the day and amended copy of writ petition be filed today itself.

4. Amended copy of writ petition has been filed. The same be taken on record.

5. By means of this writ petition, the Petitioner has sought following reliefs:

(i) A writ order or direction in the nature of certiorari quashing the decision taken by the State of Uttarakhand through their letter No. 115/XXIV(6)/2010 dated 8th December, 2010 conveyed by the Director, Higher Education (Annexure No. 11 of the writ petition) for closure of the Learning Centers of the Petitioners providing counseling and other assistance required by the students registered with the Sikkim Manipal University for the courses run by them under Distance Education Mode.

(ii) Issue a writ, order or direction in the nature of mandamus directing the

Respondents not to forcibly close or seal the Learning Centers of the Petitioners providing counseling and other assistance required by the students registered with the Sikkim Manipal University for the courses run by them under Distance Education Mode.

(iii) Issue a writ, order or direction, which this Hon"ble Court may deem fit and proper under the circumstances of the case.

(iv) Award the cost of the petition.

6. According to the Petitioner, State Government on the basis of Apex Court's judgment reported in AIR 2005 SCW 1168, Prof. Yashpal and Anr. v. State of Chattisgarh and others, has passed the impugned order dated 08.12.2010 (Annexure No. 11 to the writ petition), wherein direction was given for closure of learning centers of distance education, running in the State of Uttarakhand.

7. Petitioner has assailed the validity of the impugned order, issued by the State Government mainly on two grounds. Firstly, the State Government has no role to play and University Grants Commission (U.G.C.) is the body to monitor the learning centers of distance education and secondly, learning centers for distance education do not require recognition of the State Government when already recognized by U.G.C. and by Distance Education Council (DEC), created under Indira Gandhi National Open University Act.

8. Learned Counsel for the Petitioner has referred Regulation 5.1 and 5.2 of UGC (Establishment of and Maintenance of Standards in Private Universities) Regulations, 2003. Regulations 5.1 and 5.2 are being reproduced below:

5.1 After inspection and assessment of a private university providing first degree and/or post graduate degree/diploma courses, the UGC may indicate to the university any deficiency and non-confirmity with the relevant UGC Regulations and give it reasonable opportunity to rectify the same. If the Commission is satisfied that the private university has, even after getting an opportunity to do so, failed to comply with the provisions of any of the Regulations, the Commission may pass an order prohibiting the private university from offering any course for the award of the first degree and / or the post-graduate degree/diploma, as the case may be, till the deficiency is rectified.

5.2 The UGC may take necessary action against a private university awarding a first degree and / or a post-graduate degree/diploma, which are not specified by the UGC, and inform the public in general through a public notification. A private university continuing such programme(s) and awarding unspecified degree(S) shall be liable for penalty u/s 24 of the UGC Act.

9. Having gone through the above regulations, it is clear that only UGC is empowered to take necessary action against a private university for any violation of provisions of any of the Regulations.

10. Learned Counsel for the Petitioner further submitted that in the case of Prof.

Yashpal (Supra), Apex Court has dealt only with the validity of creation of universities without any infrastructure and not with the distance education learning centers, run by the Universities.

11. It is stated in para-3 of the writ petition that Sikkim Manipal University is duly recognized by the University Grants Commission of India u/s 2(f) of the University Grants Commission Act, 1956 and by the Amending Act, 2006 (Act No. 6 of 2006), the University has been authorized its academic programme through Distance Education Mode and for this purpose to establish and collaborate with resource centers in various parts of the country and abroad.

12. Having considered submissions of learned Counsel for the Petitioner, this Court is of the view that till the next date of listing, operation of the impugned order dated 08.12.2010 (Annexure-11 to the writ petition) shall remain stayed, so far as it relates to the Petitioner. (Stay application stands disposed of).

13. Learned Counsel for the Respondents prays for and is allowed four weeks" time to file counter affidavit.

14. List thereafter along with writ petition No. 2158 of 2010 (M/S) after winter vacation.

15. Certified copy of this order be issued by 24.12.2010 to learned Counsel for the parties on payment of usual charges.