

(2016) 12 MP CK 0006

In the Madhya Pradesh High Court

Case No : W.P. Nos. 4188, 5101 of 2016

Indore Christian College, Indore

APPELLANT

Vs

State of M.P.

RESPONDENT

Date of Decision : 01-12-2016

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (2017) AIR(MP) 4

Hon'ble Judges : Mr. P.K. Jaiswal and Mr. Virender Singh, JJ.

Bench : Division Bench

Advocate : None, for the Respondent No. 3/Bar Council of India; Shri S.C. Bagadiya, Learned Senior Counsel with Shri Anurag Baijal, Learned Counsel, for the Petitioner; Shri Pushyamitra Bhargava, Learned Dy. AG, for the Respondent No. 1/State; Shri Pradeep Gupta, Le

Final Decision : Disposed Off

Judgement

P.K. Jaiswal, J. - Both these writ petitions are heard together and being decided by one common order. For the sake of convenience the facts are being taken from W.P. No.4188/2016.

2. In W.P. No.5101/2016, the petitioner is praying for issuance of writ of mandamus directing the respondent No.2/University to withdraw the letter dated 14/07/2016 (Annexure-P/17) by which inspection committee was constituted on the ground that constitution of inspection committee is against the Statute.

3. In W.P. No.4188/2016, the petitioner is praying for the following reliefs:-

(a) A writ, direction or order in the nature of mandamus or as deemed fit to be issued directing the respondent no.2 to withdraw the deficiencies/queries in its entirety as the same were complied by petitioner college and further the respondent no.1 be directed to register the name of petitioner college in the portal of the website viz. www.highereducation.mp.gov.in as the respondent no.2 had not sent information with regard to the petitioner college to the respondent

no.1.

(b) Any other relief which this Hon"ble Court deems fit be issued in favour of the petitioner.

(c) This petition may kindly be allowed with costs.

4. Brief facts of the case are that the petitioner institution is a "minority institution" engaged in imparting education to its students since last 126 years. The petitioner college is run and controlled by it's Board of Governors and the Principal is Ex-officio Secretary of the Board of Governors. The Bar Council of India had given the affiliation of the LLB since 1955 and since then petitioner college is imparting education in the field of law. The petitioner college is also permanently affiliated with respondent No.2/Devi Ahilya Vishwavidyalaya, Indore.

5. The respondent No.1 is a statutory authority, engaged in the running and functioning of Colleges which are imparting higher education of the State of Madhya Pradesh and who allots the proforma on the website account for admissions of the students for academic session.

6. According to the writ petition, the respondent No.3 Bar Council of India had given deemed affiliation of the LLB(Hons.) since 1955 to the petitioner/college.

7. According to the petitioner, it had submitted affiliation and annual fees of Rs.4,25,250/- for academic year 2015-2016 vide Cheque No.104785 on 16/02/2016 which means that the amount of affiliation and annual fees were not deposited in time. The students of petitioner/college has submitted their examination fees in the month of December 2015. Thereafter, the respondent No.2 had issued examination schedule along with Examination Hall Tickets to the students of petitioner's college. The University conducted examination for the semesters 1st, 3rd and 5th in the month of February - March 2016.

8. On 7/04/2016, the respondent No.3 - Bar Council of India had sent a letter "regarding approval of affiliation for Indore Christian College, Indore, M.P." along with inspection report which was conducted on August, 2015 to the respondent no.2 stating therein that the sessions from 2011-2012 to 2014-2015 will be regularized on payment of the default amount of Rs. 8 lacs. The operative part of letter dated 7/04/2016 (Annexure-P/4) reads as under :-

"The Legal Education Committee considered the inspection report submitted by the inspection team. After consideration, the Committee finds that since the approval of affiliation by the Bar Council of India is only upto the academic year 2010-2011 and application has only made in January, 2015 and the session from 2011-2012 to 2014-2015 is without any approval by the Bar Council of India. Under Rule 14 of the Legal Education Rules 2008, serious consequences falls if the same is made applicable, but only to salvage the carrier of the students as per Sub-Committee report of Hon"ble Mr. Justice Kurian Joseph a principle is evolved to regularize the said years in question, the college has to pay the default amount of each such year of default i.e. 2,00,000 per year and a total of

Rs.8,00,000 to be paid. Office to communicate the said amount on depositing the same which should be submitted within six weeks for the said session to be regularized."

9. Thereafter, after grant of affiliation and renewal, the team of respondent No.2 inspected the petitioner's college and during inspection they found four deficiencies and directed the petitioner/college that only after rectifying the aforesaid deficiencies, University will grant permission for admission of students for the academic session 2016-17. The petitioner college had deposited the default amount of Bar Council of India by way of demand draft on 18/05/2016 and the respondent No.3 - Bar Council of India had issued "Penalty Fee receipt" on 25/05/2016 to the petitioner college. On 12/07/2016, the respondent No.3 Bar Council of India issued a letter to respondent No.2 intimating the university that Bar Council of India granted extension of approval of affiliation for running three years LLB law course with an intake existing strength of students for a period of two years i.e., for the academic year 2015-2016 and 2016-2017. The Bar Council of India had observed that final letter will follow having other conditions and the recommendation will be subject to approval by the Legal Education Committee and Bar Council of India.

10. Leaned Senior Counsel for the petitioner college has submitted that 25% additional fee has been deposited by the college. On 2/06/2016, a letter has been issued by respondent No.1 for appointment of teaching staff as per College Code No.28 and directed the following:-

"3- vr% ;g funsZf"kr fd;k tkrk gS fd vkids fo"fo?kky; ls lEc) lHkh futh egkfo?kky;ksa esa dkyst dksM+ 28 ls lacaf/kr lfevr dk dBu ,oa lfevr ds }kjk p;u dh dk;Zokgh fnuakd 31@7@2015 rd iw.kZ izfrosnu izsf"kr djus dk d"V djsaA

4- d`i;k le; lhek esa mijksDr dk;Zokgh dj p;u lfevr xBu ds vkns"k ,oa fo"fo?ky; lsa lacaf/rk futh egkfo?ky;ksa ds fy;s p;fur f"kdksa dh lwph fnukad 31@7@2016 rd fo"fo?kky; ds osclkbZV ij izdkf"kr djuk lqfuf"pr djsaA"

11. It is also alleged by the petitioner-college that the result of 1st, 2nd and 5th semesters has not been declared by the university. The petitioner college has duly complied with all the queries raised by respondent No.2 vide letter dated 23/04/2016 and further also deposited the default fee (penalty fee) as per Clause 13(3) (iii) of Statute No.27 but then also the respondent No.2 had not declared the results of the students and are further not accepting the forms of new students. In respect of queries dated 10/06/2016, it is submitted that those queries had duly been complied with by the petitioner college.

12. This Court by order dated 5/07/2016 directed the University to permit the students, who have been granted admission till 2014-15 to appear in the examination as per timetable, but they will not claim any equity. On 28/07/2016, we permitted all the students to appear in the examination/admissions in the LLB three years course subject to decision of the present writ petition.

13. Learned Senior Counsel has submitted that the petitioner college has complied all the necessary formalities as required under the provisions of M.P. Vishwavidyalaya Adhiniyam 1973 and Regulations framed there under and are ready to comply with any further conditions as may be imposed by the University and respondent be directed to declare the results of 1st, 3rd and 5th Semesters.

14. On 7/11/2016, this Court directed the University to declare the results of 5th and 6th Semesters.

15. The stand of the respondent No.2 University that no requisite/mandatory fees was paid by the petitioner college. The respondent No.2 University accepted the examination fees in the month of December 2015 and further conducted examination of Semester 1st, 3rd and 5th LLB course (3 years) in the month of February 2016. It is also submitted that no affiliation was given to the petitioner college for academic session of 2015-16 and similarly no affiliation was granted to the petitioner college by the respondent no.2 after the academic year 2014-15. In respect of academic session 2013-14, a writ petition bearing W.P. No. 2131/2014 was filed which was disposed of by order dated 13/03/2014 by directing the official respondent/State and the University to allow the students of the petitioner/college to appear in the ensuing examinations.

16. For the academic session 2015-2016, the students were admitted by the petitioner college without there being any affiliation either by the respondent no.3 or by the respondent no.2.

17. The present petition is in respect of declaration of result of the students of petitioner college for the 1st, 3rd, and 5th Semester of LLB and conduction of examination of students of 2nd, 4th and 6th semesters belonging to petitioner college which covers only session till 2015-2016.

18. The stand of the University is that the petitioner college is not complying with the regulations and norms nor they are providing the basic amenities including proper teaching staffs. The petitioner college is taking undue advantage within ulterior motive by admitting students prior to obtaining the requisite affiliation. He also placed reliance on the decision of Nazir Ahmad v. King Emperor [AIR 1936 Privy Council 253(2)], National Council For Teacher Education & Anr. v. Venus Public Education Society & Ors. [(2013) 1 SCC 223] and Clause XXIV of Section 4 and Clause XXV to XXVII of Section 24 of M.P. Vishwavidyalaya Adhiniyam 1973 and submitted that the petitioner is the author of situation. The petitioner college has to obey the command of law in letter and spirit. There cannot be any deviation. Petitioner college flagrantly violated the norms with adamant audacity and seek indulgence of the court either in the name of mercy or sympathy for the students. The interim relief were granted to the petitioner college on the basis of sympathy of the students. They are not having proper teaching staffs nor applied in time for renewal of affiliation from the respondent No.2 as well as from the Bar Council of India. From the date of events which has been narrated in the preceding paras, the contention of the

learned counsel for the university appears to be correct.

19. It is well settled that without recognition and affiliation from the respondents, the Educational Institutions cannot admit the students. As submitted, the petitioner college is imparting education to its students since last 126 years and looking to the vast experience, it is expected to be aware of the law. The students are also expected to look whether the institution has recognised staffs. It seems that the petitioner has forgotten their accountable to law.

20. Shri A.K. Chitale, learned Senior Counsel, who is appearing on behalf of students has submitted that the Bar Council of India had never disaffiliated the petitioner college. The Bar Council of India had given affiliation to the petitioner college in the year 1955 and since then the petitioner college is imparting education to the students. The Bar Council of India had asked the petitioner college to deposit default amount for the sessions 2011-12 to 2014-15 and thereafter the petitioner college had deposited the default amount in the month of May, 2016. The Bar Council of India has also approved the affiliation of petitioner college for the sessions 2016-17 but still the respondent no.2 is not declaring the results of intervener. He has also drawn our attention to the decision of the Apex Court in the case of Medical Council of India v. M.G.R. Educational & Research Institute University & Anr. [(2015) 4 SCC 580] and submitted that the students have spent three years in pursuing their LLB course, now to tell the students that they have simply wasted their time would hardly be a just and fair view to take for the academic year 2011-12 to 2014-15 simply because the next batch of students has been recognised and approved by the respondent Nos. and 3.

21. In pursuance to the order passed by this court, the result of 5th and 6th Semester has been declared and, therefore, at this stage, no fruitful purpose will be served in not approving the application of respondent No.2 university and, therefore, we dispose of the writ petition by directing the respondent no.2 university to declare the result and take appropriate action as per college code no.28 and regulations framed under the M.P. Vishwavidyalaya Adhiniyam 1973 and in case it is found that there are some deficiencies then after show cause notice and explanation, some time be granted to the petitioner college to rectify the aforesaid deficiencies in time and in future, an application for every academic year be filed in time as prescribed under the law and as per schedule and terms issued by the respondents, failing which, the respondent no.2 university is free to take appropriate action against petitioner college, in accordance with law. We also direct the respondent university to declare the result of the students for the semester 1st 3rd and 5th .In case, any adverse order is passed, then all the students of the petitioner college be transferred to any other college with the approval of the university.

22. In view of the aforesaid, no case to direct the respondent No.2/University to withdraw the letter dated 14/07/2016, as prayed is made out.

23. With the aforesaid, both the writ petitions stands disposed of. All the pending IAs stands disposed of. No costs.