
(2010) 11 KL CK 0263
In the High Court Of Kerala
Case No : WA. No. 960 of 2010

Krishnanand S. Bhat and Another

APPELLANT

Vs

The Mahatma Gandhi University and The Principal, Siena
College

RESPONDENT

Date of Decision : 22-11-2010

Acts Referred:

Citation : (2010) 11 KL CK 0263

Hon'ble Judges : Thottathil B. Radhakrishnan, J;P. Bhavadasan, J

Bench : Division Bench

Advocate : K.V. Sadananda Prabhu, for the Appellant; N. James Koshy, for the Respondent

Judgement

Thottathil B. Radhakrishnan, J.—The five Appellants in this writ appeal joined the second Respondent institution for M. Sc course in InformationTechnology. Later, it turned out that the said establishment did not have affiliation for the course. The materials show that the first Respondent University had, however, continued to show in its official website that the second Respondent is an affiliated institution for the purpose of conducting M. Sc course in Information Technology. It also appears that in the University handbook published by the first Respondent, Annexure A1, the second Respondent is shown as an institution which has affiliation for the purpose of the course. The Appellants wrote the first and second semester examinations of the University. The third semester examination was to be held when they found Ext.P1 press release. Following that, they came to this Court. Learned single Judge, noticing that the writ petition filed by the second Respondent establishment, for the same relief, was not entertained, dismissed the writ petition from which this appeal arises.

2. At the stage of admission of this writ appeal, the Bench had granted an interim order on 14.6.2010, on the basis of which, the Appellants have written the third semester examination also.

3. To find out ways and means for resolving the matter by the intervention of the

appropriate Authority in the University, an order was issued by this Court on 20.9.2010. But the appropriate Authority of the University has not been able to come out with a decision in favour of the Appellants.

4. Under such circumstances, we have heard learned Counsel for the Appellants, for the University and for the college.

5. As is evident from Exts.P8, P9 and P11 in the writ petition, the materials of the University for the academic year in question stood to advise the situation that the college of the second Respondent is affiliated for the purpose of conducting M. Sc course in Information Technology. The students cannot be criticized for having acted on the basis of such representation by the first Respondent University. Learned Counsel for the Appellants is, therefore, contextually justified in referring the decision of the Apex Court in *A.P. Christians Medical Educational Society Vs. Government of Andhra Pradesh and Another*, and in *Guru Nanak Dev University Vs. Sanjay Kumar Katwal and Another*,] and of the High Court of Delhi in *Javed Akhtar and Anr. v. Jamia Hamdard and Anr.* [AIR 2007 Delhi 446]. The applicability of those precedents to the dispute in hand would show that while the Appellants have to be treated as innocent, the University is shown to have represented that the second Respondent has the necessary affiliation. In *A.P. Christians Medical Educational Society (supra)*, even in a case where the University was to criticize the action of the college in carrying out the courses which are not affiliated, the Apex Court held that the University ought to have acted rather than merely making public statements regarding the conduct of the institution.

6. Either way, on the facts of the case in hand, it is abundantly clear that the perilous situation to which the Appellants are placed is the making of the second Respondent. We do not find any ground on which the college could have acted in such a manner. It had received fees from the students. It had dealt with two years of their life, over which five semesters were spread out. Obviously therefore, it is a case where the second Respondent is the causative factor for the litigation in hand.

7. However, having regard to the contention of the University in having issued Exts.P8, P9 and P11, we find that the writ Appellants are justified in seeking the indulgence of the writ court to do complete justice between the parties and thereby order that they may be treated as having attended an appropriate affiliated course and their results be declared by treating them as students eligible for being considered for award of M. Sc degree in Information Technology, provided they satisfy the bench marks in the examinations.

8. In the result, we order that the first Respondent will treat the Appellants as having attended an appropriate affiliated course and their results be declared by treating them as students eligible for being considered for award of M. Sc degree in Information Technology, provided they satisfy the bench marks in the examinations. It is further ordered that each of the Appellants will be entitled to

an amount of Rs. 25,000/- from the college, of which the second Respondent is the Principal, as costs of this proceedings. The writ appeal is ordered accordingly.

9. The Appellants are students of the 2nd Respondent's college. There was some confusion as regards the students are concerned about the question of affiliation for a particular course. When the matter came up before the learned single Judge, it was noted that the writ petition filed by the college has been dismissed and therefore, nothing survives. The plea of the Appellants is that in the website of the University and also the handbook issued by the University for 2008-2010, there are entries which show that the University has recognised the courses in the 2nd Respondent's college. According to the students, (writ Appellants) they had bonafide acted on such material of the University in joining the 2nd Respondent's college and continuing their course. As of now, the students have come to the end of the course on the basis of the interim orders. Having regard to the peculiar facts and circumstances of the case of the Appellants, it is appropriate that any request made by them is independently considered by the University. Under such circumstances, we direct that notwithstanding the pendency of this writ appeal, the University will take up Exts.P5 and P6 in W.P(C).16576/10, place it before the appropriate Authority of the University and have a decision taken as regards the cases of the Petitioners only. Let such decision be placed before us within a period of six weeks from now. Until then, the parties will stand governed by the interim orders already issued. Post after four weeks. H/o. copy to both sides.

10. The Appellants are the writ Petitioners. They underwent a course of study for M. Sc. in Information Technology in the second Respondent's college. The materials tend to disclose that the Petitioners were guided by the website of the University which shows the second Respondent college as an affiliated college for the course in question. The University's contention before the learned single Judge was that there is a disclaimer clause in the publication in the website. The fact of the matter remains that the Manager and the Principal of the college had earlier moved this Court apparently in relation to the same issue and got worsted. That judgment is quoted in the impugned judgment. However, we are prima facie satisfied that we need to further examine the question as to whether a student, if appropriately guided by materials of the University, could be deprived of rights referable to education in terms of instructions obtained by him, unless he can be found fault with in the matter.

11. We find that on admitting the writ appeal, this Court had granted an interim order allowing the Appellants to write the third semester examination. This matter comes up today before us. There is paucity of time to finally dispose of the matter today, though we are clear in our mind that this issue needs to be decided expeditiously. We are told that the 4th semester examinations, consists of viva voci and submission of project reports, is scheduled to be held tomorrow and thereafter. We, therefore, direct that the Appellants would be permitted to take those examinations also on a purely provisional basis, similar to the terms

contained in order dated 14.6.2010. Let this be done and this writ appeal is listed for further consideration on 17.9.2010.

12. Learned Counsel for the University will inform the University authorities to do the needful in terms of the aforesaid order. H/o. copy to all sides.