
(2014) 07 MAD CK 0124

In the Madras High Court

Case No : Writ Petition (MD) No. 5788 of 2012 and M.P. (MD) No. 1 of 2012

M. Sadasivan

APPELLANT

Vs

The Manonmaniam Sundaranar University

RESPONDENT

Date of Decision : 17-07-2014

Acts Referred:

Citation : (2014) 07 MAD CK 0124

Hon'ble Judges : S. Nagamuthu, J

Bench : Single Bench

Judgement

S. Nagamuthu, J.—Manonmaniam Sundaranar University, Tirunelveli, during the year 2010, proposed to extend the activities of the Directorate of Distance and Continuing Education to non-resident Indians residing/working in the UAE. The petitioner had agreed to co-operate with the University for the extension of Distance Education programme offered through the Directorate of Distance and Continuing Education in Ras A1 Khaimah, UAE. The petitioner was then running a centre in UAE known as Science Information Technology Centre. In this regard, an agreement was entered into between Manonmaniam Sundaranar University and the petitioner on 11.06.2010, by which the University authorised the petitioner to conduct classes and programmes offered by Manonmaniam Sundaranar University under Distance Mode through its Directorate of Distance and Continuing Education. The University authorised the petitioner to admit students for B.Com, B.B.A and B.C.A courses.

2. During the Academic Year 2010-2011, accordingly the petitioner admitted three students, by name, Eva, Amal and Sayooj in B.Com, B.B.A and B.C.A courses respectively. For the next Academic year, the petitioner admitted the following 17 students in the courses as detailed below:-

Sl. No.

Student Names

Course Name

1.

Shamnad

B.Com 1st Year

2.

Sreejith

B.Com 1st Year

3.

Aromal Sadananadan

B.Com 1st Year

4.

Job Varghese

B.Com 1st Year

5.

Saud Khan

B.Com 1st Year

6.

Anish

B.Com 1st Year

7.

Shanija

B.Com 1st Year

8.

Shahala

B.Com 1st Year

9.

Vijesh

B.B.A 1st Year

10.

Rajeena Nadeer

M.B.A 1st Year

11.

Sheeja Sugathakumar

M.B.A 1st Year

12.

Farah Khalifa Nacer Eliass

M.B.A 1st Year

13.

Ajmala Ibrahim

M.B.A 1st Year

14.

Renjith Kuruvilla

M.B.A 1st Year

15.

Thamar Mon

M.B.A 1st Year

16.

Ayman Abdo

M.B.A 1st Year

17.

Vinod Krishnan

M.B.A 1st Year

3. When the petitioner was conducting these courses, to the shock of the petitioner, the University citing the Judgment of the Honourable Supreme Court in Kurumanchal Institute of Degree and Diploma Vs. Chancellor, M.J.P Rohilkhand University and in Prof. Yashpal Sharma Vs. State of Chhattisgarh reported in Appeal (Civil) No. 2698 of 2007, terminated the agreement and issued a direction to the petitioner to discontinue the centre. Based on the syndicate resolution and the consequent communication, the students mentioned above namely, 20 students, were not allowed to participate in the University examinations.

4. In those circumstances, the petitioner filed the present Writ Petition seeking a direction to the respondents to permit the above 20 students to write their

examinations for the year 2011-2012.

5. When the Writ Petition came up for hearing on 25.04.2012, this Court, having regard to the interest and welfare of the students, issued a direction to the respondents to permit all the twenty students to write the examinations, but with a further direction not to publish the results until further orders. Accordingly, during the year 2011-2012, all the twenty students were permitted to write the examinations, but the results have not been so far published. It is also stated by the learned counsel on either side, having collected examination fee from the students, the petitioner has not paid the same to the University. For the subsequent years also, based on the interim orders of this Court, all the twenty students were permitted to write the examinations. Now the students have completed their respective courses and they have also written all the examinations, but the results have not published awaiting orders from this Court. Today, the Writ Petition has come up for final hearing.

6. I have heard the learned Counsel appearing for the petitioner and the learned counsel appearing for the respondents and I have also perused the records, carefully.

7. The learned counsel appearing for the respondents submits that the decision of the University terminating similar agreements with other centres was challenged in a batch of Writ Petitions in W.P(MD)No.12897 of 2011 batch.

8. A learned single Judge of this Court by order dated 28.02.2014 while upholding the closure of the centres by terminating the agreement entered into by the University, issued a further direction as stated in paragraph Nos. 16 and 17 of the order which reads as follows:-

16. The study centres have no independent authority to carry on the educational activities without reference to the MoU entered into with the University and when the University has acted as per the policy of the controlling authority ie., UGC, the petitioners ought to have challenged the policy of the controlling authority in the setting up the study centres beyond the territorial jurisdiction and not the consequential communication issued by the University. Even otherwise, it is more in the nature of breach of contractual obligation and not one of violation of any statutory obligation and the remedy available to the petitioner is only a civil remedy and by invoking extra ordinary jurisdiction of this Court as a result, the Writ Petitioners are disentitled to get the relief sought for in these Writ Petitions.

17. In the result, all the Writ Petitions are dismissed, however, with direction issued to the respondents 1 and 2 to allow the students, who are admitted in the courses conducted by the petitioners/study centres, prior to 14.11.2011, to complete their courses, subject to University regulations and with liberty given to the petitioners/study centres to approach the competent civil Court for appropriate remedy, if any. No costs. Consequently, connected Miscellaneous Petitions are also dismissed.

9. The learned counsel for the respondents would further submit that so far as three students who were admitted in the Academic Year 2010-2011, namely, Eva, Amal and Sayooj, as per the common order passed by this Court in the Writ Petitions, the University is prepared to publish the results of these three candidates, provided the examination fee for each examination is paid by the petitioner, who has collected such fees from the students.

10. The learned counsel for the petitioner would submit that the petitioner is prepared to pay the examination fees collected from the students to the University. The said statement is recorded.

11. In view of the said submissions made by learned counsel on either side, I do not find any difficulty in directing the petitioner to pay the examination fees for all the examinations of three students, by name, Eva, Amal and Sayooj within a period of two weeks from the date of receipt of a copy of this order and on receipt of the payment within the time stipulated, the respondents shall publish the results of those three candidates, namely, Eva, Amal and Sayooj and accordingly, issue mark sheets and other relevant certificates.

12. So far as 17 other students, who were admitted during the Academic Year 2011-2012, according to the learned counsel for the respondents, in view of the common order passed by this Court in W.P(MD)No.12897 of 2011, the University cannot publish the results, as the admission of these students cannot be approved.

13. Having gone through the common order passed by this Court in a batch of Writ Petitions, the learned counsel for the petitioner submitted that in view of the said Judgment, he does not press for any order in respect of these 17 students and therefore, this Writ Petition shall stand dismissed in respect of 17 students mentioned above other than the students, by name, Eva, Amal and Sayooj.

14. The learned counsel for the petitioner would further submit that for the loss caused such as mental agony and loss of reputation, the petitioner may be given liberty to proceed against the respondents for damages. In respect of this request, I do not wish to express anything, as it is for the petitioner to work out his remedy, if any legal right exists to work out so.

15. So far as the above 17 students are concerned again I have to say that they have liberty to work out their remedies for damages against the petitioner or from the University, if they are so advised and if they have got such a legal right. I only say that the examinations written by 17 students shall stand cancelled and the results shall not be published. In the result, this Writ Petition is allowed in the following terms:-

(1) The petitioner shall pay the examination fees for three students by name Eva, Amal and Sayooj for all examinations within a period of two weeks from the date of receipt of a copy of this order to the respondent/University.

(2) On such payment, the respondent University shall publish the results of the

students namely Eva, Amal and Sayooj within a period of four weeks and issue mark sheets and other relevant certificates to them.

(3) So far as the remaining 17 students are concerned, the examinations written by them, in pursuance of the interim order of this Court shall stand cancelled and the University shall not publish the results.

(4) As observed herein above, liberty is given to the petitioner and the students to work out their remedies, if any, as indicated above. No costs. Consequently, connected Miscellaneous Petition is closed.