

(2015) 06 KL CK 0126

In the High Court Of Kerala

Case No : W.A. No. 2250 of 2012 in W.P.(C). 2237 of 2007

Mahatma Gandhi University

APPELLANT

Vs

Lakshmi Venugopalan and Others

RESPONDENT

Date of Decision : 24-06-2015

Acts Referred:

Citation : (2015) 06 KL CK 0126

Hon'ble Judges : Ashok Bhushan, C.J;A.M. Shaffique, J

Bench : Division Bench

Advocate : Varughese M. Easo and Vivek Varghese P.J., SCs, for the Appellant;
George Thomas (Mevada), Sr. Adv., V.C. James and Sergi Joseph Thomas,
Advocates for the Respondent

Final Decision : Disposed off

Judgement

A.M. Shaffique, J.—This appeal is filed by the 1st respondent in W.P.C. No. 2237/2007 challenging judgment dated 17/10/2012 of the learned Single Judge. The learned Single Judge, by the impugned judgment, did not go into the merits of the contentions urged by the parties and directed that the result of the petitioners be published within two weeks from the date of receipt of a copy of the judgment.

2. The short facts involved in the above writ petition would disclose that the respondents 1 and 2 herein (hereinafter referred to as the "petitioners") had obtained admission in the College of 2nd respondent for M.B.A Degree course. Admission was obtained on the basis of an entrance examination conducted by All India Management Association (AIMA) on 02/12/2005. The basic qualification required for the course among other qualifications was a graduate Degree in Commerce with 50% marks. Petitioners passed B.Com (Distance Education) conducted by the Bharathiar University, Coimbatore in the year 2006. While so, at the time when the examinations were to be held, the appellant university raised an objection stating that the B.Com Degree awarded by the School of Distance Education of Bharathiar University is not recognised by the appellant.

Petitioners filed a representation as Ext.P6 to the University, but, thereafter no action was taken in the matter and ultimately writ petition was filed seeking to quash Exts.P7, P8, P9 and P10 and for a direction to the appellant to issue eligibility certificate to the petitioners for admission to MBA course of study for the year 2006-2009 in the second respondent College and for compelling the appellant to accept the examination fee from the petitioners and to permit them to appear for the first semester examination. The learned Single Judge passed an interim order stating that since the degree obtained by the petitioners is accepted as sufficient qualification for admission for MBA by Calicut University and Cochin University, respondents were directed to accept the examination fee from the petitioners for writing the first semester examination and to attend the classes.

3. Counter affidavit was filed by the appellant inter alia stating that the Academic Council which is the apex body to make a final decision on academic matters have considered the scheme and syllabus of B.Com and B.Com (Computer Applications) under Distance Education Programme. The matter has been examined by subject experts concerned and on the basis of the expert opinion, Academic Council, in its meeting held on 23/12/2004, rejected the proposal of course recognition. It is stated that there is no obligation on the part of the University to give equivalence to the course conducted by Bharathiar University under Distance Education Programme as recognised for admission to MBA merely for the reason that the said course has been accepted as equivalent to the Degree course of the Calicut University or Cochin University.

4. The learned Single Judge, however, without going into the merits of the contentions urged, directed the result to be published. The learned counsel for the appellant submits that since the course conducted by Bharathiar University under Distance Education Programme is not recognised by the appellant University, the Court should not have issued the direction to publish the results without having considered the matter on merits. On the other hand, learned counsel appearing for the writ petitioners submits that the course conducted by Bharathiar University is accepted by Calicut University as well as Cochin University as equivalent to the Degree course which is eligible for admission to MBA course. That apart, petitioners have also passed AIMA test conducted on an all India basis. Reference is also made to the judgment of the learned Single Judge of this Court in Sangeetha Roy v. The Mahatma Gandhi University in W.P.C. No. 11854/2005 as well as the judgment of this Court in Thomas M. Koshy Vs. Commissioner for Entrance Examination, (2013) 2 KHC 503 : (2013) 3 KLJ 18 : (2013) 2 KLT 770 . Further reference is also made to the judgment of another learned Single Judge in a batch of cases in Radhika Mohan v. Vice Chancellor Mahatma Gandhi University [W.P.C. No. 29351/2005 and connected cases). On the basis of the aforesaid judgments, it is submitted that when a test is being conducted on an all India basis and several Universities in State of Kerala and other parts of the country have accepted the B.Com Degree course (Distance Education) conducted by the Bharathiar University as equivalent to the Degree

Course, a particular University alone cannot differentiate the same as it will amount to discrimination to the candidates. Under such circumstances, it is submitted that the Academic Council should not have rejected the equivalence of the course to that of the B.Com Degree course approved by the M.G. University.

5. On the other hand, learned counsel for the appellant placed reliance on a judgment of this Court in *Navya Joy Mampally v. Cochin University of Science and Technology* in W.A. No. 1127/2014 to contend that unless a particular University grants equivalence, it may not be possible for the Court to direct to accept the equivalence granted by another University.

6. Having heard the learned counsel on either side, we are of the view that it is for the Academic Council to consider all these aspects before arriving at a decision in the matter. It is pertinent to note that, two Universities in the State of Kerala have already accepted equivalence of the B.Com (Distance Education) of Bharathiar University. Further, the eligibility criteria has been decided based on an entrance test being conducted on an all India basis where all students having Degree course from regular colleges have been accepted by the University as well as Degree course which are equivalent to those accepted by various Universities participating in the selection process. Under such circumstances, a more positive approach has to be taken by the Academic Council in such issues taking into consideration the overall future of the students who have already got enrolled in various colleges. As rightly contended by the learned counsel for the appellant, learned Single Judge ought to have decided the case on merits before issuing directions based on the interim orders passed. The learned Single Judge had directed the results to be declared based on the interim order passed and the writ petitioners have already written the examination based on the interim directions issued, we are of the view that a modification is required to be made to the judgment of the learned Single Judge. We observe that the Academic Council has to reconsider the claim of the petitioners and taking into consideration the overall circumstances involved in the matter, take a final decision as to whether the result of the petitioners have to be declared or not. We also permit the petitioners to submit a proper representation to the Academic Council along with a copy of this judgment for appropriate decision by the Academic Council. The judgment of the learned Single Judge shall stand modified to the above extent.

In the result, this writ appeal is disposed of permitting the writ petitioners/respondents 1 and 2 to submit a representation to the Academic Council, which shall be considered by the Academic Council of the appellant University within a period of two months from the date of receipt of a copy of the judgment. The result of the writ petitioners/respondents 1 and 2 shall be declared, if required, after the decision is taken by the Academic Council.