
(2016) 04 DEL CK 0108

In the Delhi High Court

Case No : W.P.(C) No. 2651 of 2016 and CM Appl. 11229 of 2016.

Need Foundation

APPELLANT

Vs

UOI and Others

RESPONDENT

Date of Decision : 04-04-2016

Acts Referred:

Citation : (2016) 229 DLT 31

Hon'ble Judges : Manmohan, J.

Bench : Single Bench

Advocate : Bharat Arora, Advocate, for the Appellant; Bharati Raju, Advocate with Nidhi Parashar, Advocate and Manoj Ranjan Sinha with Avanish Rathi and Arpita, Advocates, for the Respondent

Final Decision : Dismissed

Judgement

Manmohan, J. (Oral) - Present writ petition has been filed with the following prayers :-

"a) ISSUE a Writ, Order or Direction in nature of Mandamus or any other nature directing the Respondents to grant re-admission/re-registration to the existing students enrolled with Respondent No. 3 university in various courses and conduct semester examination for the Sessions 2016-17 in the time bound manner;

b) ISSUE a Writ, Order or Direction in nature of Mandamus or any other nature directing the Respondents to extend time for re-admission/re-registration of existing students as well as examination for session 2016-17;

c) ISSUE a Writ, Order or Direction in nature of Mandamus or any other nature directing the Respondent No. 2 to direct Respondent No. 3 university to complete course of the existing students as per rules and regulations in time bound manner;

d) Pass any other further order or orders, which this Hon"ble Court may deem fit

and proper in favour of the Petitioner and against the Respondents."

2. It has been averred in the petition that on 14th June, 2010, petitioner-Society entered into a memorandum of understanding with respondent No. 3- University for providing various courses to students across India through distance mode, regular mode and e-learning mode. According to the petitioner, it was notified as a collaborative institution and it was agreed between the parties that petitioner will establish various study centres throughout the India.

3. It is stated that respondent No. 3-University vide notifications dated 01st July, 2015 and 05th September, 2015 decided to withdraw all the programmes offered by collaborative institutions outside the State of Karnataka. The notifications further directed collaborative institutions not to take any fresh admissions. Vide Notification dated 05th March, 2016, respondent No. 3-University terminated memorandum of understanding with all the collaborated institutions.

4. Learned counsel for the petitioner states that petitioner-society in accordance with Notification dated 05th September, 2015 did not take any fresh admissions in any course. He, however, states that respondent No. 3- University is not accepting admission and re-registration fee of the existing students in Semester Modes in various courses and not conducting examination.

5. Learned counsel for petitioner states that petitioner-Society has made a representation to the respondent No. 3-University, but no action has been taken till date. He also relies upon the interim orders passed by the Madras High Court as well as Kerala High Court by virtue of which students have been allowed to sit in the examination, but their results have been directed not to be declared.

6. In the opinion of this Court, the issue raised in the present writ petition is no longer res integra. The Supreme Court in Prof. Yashpal and Anr. v. State of Chhattisgarh and Others, (2005) 5 SCC 420 has clearly held that the State Legislature can only make laws for its own State and not for the whole of India. The relevant portion of Supreme Court judgment in Prof. Yashpal and Anr. (supra) is reproduced herein below:-

"60.....In view of Article 245(1) of the Constitution, Parliament alone is competent to make laws for the whole or any part of the territory of India and the legislature of a State may make laws for the whole or any part of the State. The impugned Act which specifically makes a provision enabling a university to have an off-campus centre outside the State is clearly beyond the legislative competence of the Chhattisgarh Legislature"

7. This Court is of the view that paragraph 60 of Prof. Yashpal and Anr. (supra) clearly stipulates that the law passed by the State of Karnataka does not have any extra territorial operation.

8. It is surprising that even though the Supreme Court's aforesaid judgment was passed in 2005, yet the State of Karnataka as well as the petitioner have been admitting students till 2015.

9. Since the present writ petition has been filed only by a franchisee and not by student, this Court is of the view that no interim order with regard to appearance in examination can be passed.

10. With the aforesaid observation and direction, present writ petition and application stand dismissed.