
(2016) 01 JH CK 0241
In the Jharkhand High Court
Case No : W.P. (C) No. 7212 of 2012

Ram Govind Institute of Technology	Vs	APPELLANT
Vinoba Bhave University and Others		RESPONDENT

Date of Decision : 20-01-2016

Acts Referred:

Citation : (2016) 3 AIRJharR 390 : (2016) 2 JCR 334

Hon'ble Judges : S. Chandrashekhar, J.

Bench : Single Bench

Advocate : M.S. Anwar, Sr. Advocate, for the Appellant; I. Sen Choudhary, Advocate, for the Respondent

Final Decision : Dismissed

Judgement

S. Chandrashekhar, J.—1. The present writ petition has been filed with the following prayers;

"A. For direction upon the respondents, particularly respondent Nos. 1 and 2 to grant a permanent affiliation to the petitioner institute from the session 2009-10 onwards.

B. For direction upon the respondent-Vinoba Bhave University, Hazaribag (respondent Nos. 1, 2 and 3) to allow the students of the petitioner college for the 1st, 3rd, 5th and 7th Semesters in the ensuing B. Tech. Examination, 2012 programme which has been notified by the respondent-University and publish their results, so that the students of the petitioner-college for the said semesters may not be put to irreparable loss and injury.

(C) For quashing the letter dated 27.08.2012 issued by the Registrar, Vinoba Bhave University, Hazaribagh (respondent No. 2) whereby the petitioner has been directed to deposit Rs. 10,00,000/- (rupees ten lacs) as security amount, as contained in Annexure-8 of this writ petition.

(D) For any other appropriate relief(s) to which the petitioner may be found

entitled in law and equity."

2. Insofar as, prayer seeking a direction upon the respondent Nos. 1 & 2 to grant permanent affiliation to the petitioner-institute from 2009-10 is concerned, Mrs. I. Sen Choudhary, the learned counsel for the respondent-Vinoba Bhave University submits that the petitioner has been granted affiliation for one academic session each year and such orders have been accepted by the petitioner. I find that the petitioner has admitted that on 14.05.2004 approval for conducting different courses in engineering for intake of 60 students was granted by the All India Council for Technical Education. Thereafter, for Academic Session 2006-07 and subsequent academic sessions the AICTE has granted order of extension of approval. In the light of such orders of extension issued by the AICTE, the petitioner-institute submitted application for affiliation in each academic session and the same has been approved by the respondent-State. Power to grant affiliation would include a power to grant temporary affiliation also. Considering the aforesaid facts, the prayer for grant of permanent affiliation cannot be allowed. Insofar as, prayer at Clause-B is concerned, Mr. M.S. Anwar, the learned Senior counsel for the petitioner admits that the same has become infructuous.

3. Seriously challenging the power of the respondent-Vinoba Bhave University to require the petitioner to deposit Rs. 10,00,000/- as security amount, Mr. M.S. Anwar, the learned Senior counsel for the petitioner submits that under the Statute the University has no power to require the petitioner-institute to furnish security deposit. Referring to letter dated 06.12.2012, the learned Senior counsel for the petitioner submits that the State Government has not approved the decision taken by the Syndicate in its meeting held on 15.02.2012 requiring the petitioner-Institute to furnish security deposit of Rs. 10,00,000/-. It is contended that unless the decision taken by the University is approved by the Hon"ble Chancellor, the respondent-University cannot insist upon furnishing the security deposit by the petitioner-institute.

4. A perusal of the writ petition does not disclose that the petitioner-institute has challenged the power and jurisdiction of the university to insist on security deposit from an institute. It appears that on 14.12.2007, the University resolved to enhance the security deposit which was earlier fixed at Rs. 2,50,000/-. It appears that the petitioner-institute sought permission of the University to furnish security deposit by way of bank guarantee and, a Three Man Committee was constituted vide Office Order dated 16.08.2011 which submitted a report opining that waiver insofar as, security deposit is concerned is not permissible. The Syndicate of the University in its 97th Meeting held on 15.05.2012 accepted the report of the Three Man Committee. It further appears that the petitioner furnished a bank guarantee of Rs. 10,00,000/- vide letter dated 07.12.2011(Annexure-6/A of the writ petition) however, the bank guarantee expired on 04.06.2012. Under Clause 3(o) of the "Statute relating to the Admission and Exclusion of Colleges other than those managed and maintained

by the University", an institute is required to deposit with the University an amount of Rs. 2,50,000/- for admission to the Bachelor standard in one faculty (Humanities and Social Science counted as one), and an additional sum of Rs. 1,50,000/- for admission in each additional Science or Commerce or any other faculty. The University has taken a plea that the Syndicate of the University has taken a decision to enhance the said amount of Rs. 2,50,000/- to Rs. 10,00,000/-. The University has the requisite power to require an institute to furnish security deposit is apparent from the aforesaid provision under Clause 3(o).

5. The learned Senior counsel for the petitioner has submitted that unless the said resolution has been approved by the Hon"ble Chancellor, the same cannot be given effect to. It is well-settled that even prior to notification in official gazette, action can be taken pursuant to a draft notification. The only requirement in law is that there should be a clear intention to act upon such notification and the draft notification is intended to be notified in official gazette. In "Chandigarh Administration through the Director Public Instructions (Colleges), Chandigarh v. Usha Kheterpal Waie and Ors.", reported in (2011) 9 SCC 645, the post of Principal was advertised in terms of Draft Rules prescribing eligibility conditions. It was held that the Draft Rules framed by the UT Administration though was pending notification by the Central Government, service conditions of employees can be regulated in terms of Draft Rules provided there is clear intention to enforce those rules in near future. Considering the law on the issue, the plea raised by the petitioner is liable to be rejected. Approval of the Chancellor is only a procedural aspect, pending which the University can act upon the decision of the Syndicate.

6. The learned Senior counsel for the petitioner submits that a recommendation has been sent by the respondent-University on 04.01.2016 for grant of affiliation for the academic session 2016-17 to the petitioner-institute.

7. Considering the fact that a positive recommendation has been forwarded by the respondent-University, it is expected that the respondent-State shall take a final decision in the matter, expeditiously. With the above observations the writ petition is dismissed. I.A. Nos. 500 of 2014 and 6740 of 2015 also stand dismissed.