
(2018) 06 CAL CK 0108
In the Calcutta High Court
Case No : C.A.N. 500 of 2018, M.A.T. 73 of 2018

Saikat Giri

APPELLANT

Vs

State Of West Bengal & Ors.

RESPONDENT

Date of Decision : 07-06-2018

Acts Referred:

Citation : (2018) 06 CAL CK 0108

Hon'ble Judges : PROTIK PRAKASH BANERJEE, DIPANKAR DATTA J

Bench : Division Bench

Advocate : Amal Baran Chatterjee, Bhaskar Ch. Manna, Narayan Ch. Bhattacharya, Sujata Ghosh, Soumen Kr. Dutta, G.N. Imrohi, Amitava Chaudhuri, M. Chaudhuri, N. Roy

Final Decision : Dismissed

Judgement

To acquire the degree of Bachelor of Education (B.Ed.), the appellant had taken admission in Vivekananda Primary Teachersâ?? Training Institute

(hereafter the â??instituteâ??) during the academic session 2017-2019. The institute is affiliated to the West Bengal University of Teachersâ??

Training, Education, Planning and Administration established under the West Bengal University of Teachersâ?? Training, Education, Planning and

Administration Act, 2014. After the appellant had taken admission, he was informed that he did not possess the requisite qualification for admission in

the B.Ed. course and, accordingly, was required to discontinue his study in the institute. Aggrieved thereby, the appellant had invoked the writ

jurisdiction of this Court by presenting W.P. 26325(W) of 2017.

A learned judge of this Court, while admitting the writ petition on November 8, 2017, refused to grant interim relief resulting in the order of the learned

judge being carried in appeal (M.A.T. 73 of 2018). It is not in dispute that in

terms of an interim order passed by us on the application for interim relief filed by the appellant, he has been allowed to continue his study in the B.Ed. course and he has even taken the examination that was scheduled in the interregnum subject to result of the appeal. Upon completion of affidavits, the interim application in the appeal was listed on previous occasions when we had the occasion to hear the parties in part. Today, we have heard the parties finally and propose to dispose of not only the interim application but also the appeal, treating it as on dayâ??s list.

The case of the University is that the appellant had acquired Master of Arts (History) (M.A.) degree from Shobhit University, Meerut, Uttar Pradesh through distance learning process and such degree does not qualify to be acquisition of an appropriate degree enabling the appellant to take admission in the B.Ed. course offered by the institute.

Our attention has been drawn by Mr. Chaudhuri, learned advocate for the University to a public notice dated June 27, 2013 and letter dated August

23, 2013 issued by the University Grants Commission (hereafter the â?? U.G.C.â??). By such notice and/or letter, all Vice Chancellors of State

Universities, Deemed Universities etc. were sought to be informed that programmes are being offered by certain universities through distance mode

without approval of the U.G.C./erstwhile Distance Education Council by opening study centres in violation of the policy of the U.G.C. and the

erstwhile Distance Education Council on territorial jurisdiction and some of such institutions were giving misleading advertisements in newspapers and

other public media that the programmes offered by such institutions are approved by the U.G.C. A warning was issued by the said letter that such

training institutions should be immediately stopped, the reason wherefor was that the U.G.C. had not granted any permission to any private university

to establish off campus/study centre.

The exact date of the appellantâ??s admission in Shobhit University has not been pleaded anywhere by him. Mr. Chatterjee, learned senior advocate

appearing for the appellant, however, contends that the appellant secured admission sometime in March, 2013 and hence the notice dated June 27,

2013 and letter dated August 23, 2013 cannot be applied retrospectively; hence, the M.A. degree obtained by the appellant from Shobhit University

should be considered appropriate for the purpose of his admission in the B.Ed.

course offered by the institute.

We are afraid, we cannot agree with Mr. Chatterjee. Assuming that the appellant secured admission in March, 2013, nothing turns on it. As on June

27, 2013, the U.G.C. had not granted any permission to any private university to establish off campus/study centre. As soon as notice dated June 27,

2013 and letter dated August 23, 2013 were issued by the U.G.C., it was for the Vice Chancellor of Shobhit University to have discontinued any

distance learning centre that was operating beyond the territorial limits of such university. Admittedly, the distance learning centre, where the appellant

had attended, was in West Bengal over which Shobhit University does not have any territorial jurisdiction. The mere fact that the appellant had taken

admission prior to issuance of the notice/letter issued by the U.G.C., referred to above, does not on facts and in the circumstances clothe him with any

right to contend that he had the requisite qualification for obtaining admission in the institute.

Since Shobhit University has chosen to defy the notice/letter of the U.G.C. and has permitted the appellant to continue with his study for acquiring

M.A. degree through distance learning course, the appellant as a student of such university by continuing his study in a distance learning centre set up

beyond its territorial jurisdiction and without the permission of the U.G.C., has done so at his peril. Keeping in mind the larger public interest that is

involved, we cannot allow a student of B.Ed. course, who does not have the requisite qualification for admission in a teachers' training institute for

the purpose of acquisition of a degree in B.Ed., to continue his study and acquire qualification for recruitment on the post of an Assistant Teacher. The

appellant may have benefited by acquiring an M.A. degree but we are inclined to the view that the same would, in the long run, harm the interests of

the younger generation.

Accordingly, the interim order passed in the appeal stands vacated. The appeal filed by the appellant, for the reasons aforesaid, stands dismissed. In

view of dismissal of the appeal, nothing survives for decision on the application (C.A.N. 500 of 2018) and the same too stands dismissed. With the

consent of the parties, we have taken up the writ petition for hearing treating the same also as on day's list and for the reasons indicated above,

the same too stands dismissed. There shall be no order as to costs. However, if

the appellant perceives that he has been duped by any party, he shall be at liberty to institute a suit for damages against such party, if so advised. A copy of this order shall be retained with the records of W.P. 26325(W) of 2017. Urgent photostat certified copy of this order, if applied for, be furnished to the parties expeditiously.