

(1993) 09 MAD CK 0062
In the Madras High Court

The Pondicherry University and Another	APPELLANT
Vs	
Dr. Alexander Educational Foundation and Others	RESPONDENT

Date of Decision : 15-09-1993

Acts Referred:

Citation : (1993) 2 LW 577 : (1994) 1 MLJ 1

Hon'ble Judges : K.A. Swami, C.J

Bench : Division Bench

Judgement

K.A. Swami, C.J.—This appeal is preferred against the order dated 2.8.1993 passed by the learned single Judge in W.P. No. 6294 of 1993. At the stage of admission, the respondents have been notified. Accordingly, the respondents have put in appearance. As the appeal lies in a narrow compass, it is admitted and heard for final disposal.

2. In the writ petition, the petitioner who is the 1st respondent in this appeal, prayed for issue of a writ in the nature of mandamus to the respondents herein to convene a meeting of the committee appointed at the meeting held on 3.8.1992 and direct the committee to inspect the Pant Institute of Technology at Pondicherry, to ascertain its infrastructural facilities for conducting degree courses in Medical Lab Technology, Pharmacy and Nutrition for affiliation with the Pondicherry University, Pondicherry and pass such other orders as are deemed fit under the circumstances of the case. Learned single Judge has allowed the writ petition and directed the respondents, viz. the Government of Pondicherry, Pondicherry University, Director of Technical Education, The Dean, College Development Council, Pondicherry to convene a meeting of the Committee appointed at the meeting held on 3.8.1992, within four weeks from the date of receipt of a copy of the order and the committee shall inspect the Pant Institute of Technology at Pondicherry to ascertain its infrastructural facilities for conducting degree courses in Medical Lab Technology, Pharmacy and Nutrition for affiliation with the Pondicherry University within six weeks thereafter. Hence, the Pondicherry University and the Dean, College Dental Council have come up in

appeal.

3. It is contended on behalf of the appellants that the minutes dated 3.8.1992 of the committee consisting of the Chief Minister of Pondicherry, Vice Chancellor of Pondicherry University and the 1st respondent does not fall within any one of the provisions of the Pondicherry University Act, 1985 and the Statutes of the University framed thereunder (which shall hereinafter be referred to as the Act and the Statutes respectively and that the statutes specifically provide a specific procedure for affiliation. There is no provision contained in the Act or the Statutes either for the Chief Minister to be a member of the Committee or the applicant for affiliation also to be a member of the Committee. Therefore, the mandamus issued by the learned single Judge to call a meeting of the committee constituted in the minutes dated 3.8.1992 produced at page 3 of the typed set of papers, is not sustainable, because that Committee has no legal backing. On the contrary, it is contended by learned Counsel for the 1st respondent that the Vice Chancellor has ample power u/s 13(3) of the Act to constitute committee of the nature as constituted in the minutes dated 3.8.1992. Therefore, the mandamus issued by this Court cannot be held to be contrary to law. Learned Counsel for the 1st respondent has also placed reliance on a Division Bench decision of this Court in *Dr. Alexander Educational Foundation Vs. University of Pondicherry and Another*, . But for the reliance placed on the aforesaid decision, we would not have considered it necessary to deal with this contention, in view of the submission made by learned Counsel for the 1st respondent that the 1st respondent would make an application within 30 days from to-day before the Registrar of Pondicherry University seeking the affiliation of the institute in question for running the courses, viz. B. Pharm, B.Sc. (MLT) and B.Sc. (Nutrition), provided that application is considered in accordance with the provisions of the Statute, within a reasonable period. Learned Counsel appearing for the appellants also submitted that the appellants are prepared to consider the application if made by the 1st respondent in accordance with the provisions of the Statute and also within a reasonable period. Statute number 32 of the Statutes provides for admission of colleges, etc., to the privileges of the University. The said Statute reads thus:

32(1) Colleges and other Institutions situated within the jurisdiction of the University may be admitted to such privileges of the University as the Executive Council may decide, on the following conditions, namely:

(i) Every such college or institution shall have a regularly constituted Governing Body, consisting of not more than fifteen persons approved by the Executive Council and including among others, two teachers of the University to be nominated by the Executive Council and three representatives of the teaching staff of whom the principal of the college or institution shall be one. The procedure for appointment of members of the Governing Body and other matters affecting the management of a college or an institution shall be prescribed by the ordinances.

Provided that the said condition shall not apply in the case of colleges and institutions maintained by Government which shall, however, have an Advisory Committee consisting of not more than fifteen persons which shall consist of among others, three teachers including the Principal of the College or institution and two teachers of the University nominated by the Executive Council.

(ii) Every such college or institution shall satisfy the Executive Council on the following matters, namely:

(a) the suitability and adequacy of its accommodation and equipment for teaching of its teaching staff and the conditions of their service;

(c) the arrangements for the residence, welfare, discipline and supervision of students;

(d) the adequacy of financial provision made for the continued maintenance of the college or institution; and

(e) such other matters as are essential for the maintenance of the standards of University education.

(iii) No college or institution shall be admitted to any privileges of the University except on the recommendation of the Academic Council made after considering the report of a Committee of Inspection appointed for the purpose by the Academic Council.

(iv) Colleges and institutions desirous of admission to any privileges of the University shall be required to intimate their intention to do so in writing so as to reach the Registrar not later than 15th August, preceding the year from which permission applied for is to have effect.

(v) A College or an institution shall not without the previous permission of the Executive Council and the Academic Council suspend instruction in any subject or course of study which it is authorised to teach and teaches.

(2) Appointment to the teaching staff and Principals of Colleges or Institutions admitted to the privileges of the University shall be made in the manner prescribed by the Ordinances;

Provided that nothing in this clause shall apply to colleges and institutions maintained by Government.

(4) Every college or institution admitted to the privileges of the University shall be inspected atleast once in every two academic years by a Committee appointed by the Academic Council and the report of that Committee shall be submitted to the Academic Council, which shall forward the same to the Executive Council with such recommendations as it may deem fit to make. The Executive Council, after considering the report and the recommendations, if any, of the Academic Council, shall forward a copy of the report to the Governing Body of the College or Institution with such remarks, if any, as it may deem fit for suitable action.

(5) The Executive Council may, after consulting the Academic Council, withdraw any privileges granted to a college or institution, at any time it considers that the college or institution does not satisfy any of the conditions on the fulfilment of which the College or Institution was admitted to such privileges;

Provided that before any privileges are so withdrawn, the Governing Body of the College or Institution concerned shall be given an opportunity to represent to the Executive Council why such action should not be taken.

(6) Subject to the conditions set forth in Clause (1) the Ordinances may prescribe:

(i) such other conditions as may be considered necessary.

(ii) the procedure for the admission of colleges and institutions to the privileges of the University and for the withdrawal of those privileges.

Therefore, on receipt of the application for affiliation which shall have to be filed before the 15th August of an academic year, it shall have to be first considered by the Academic Council which shall have to constitute the committee of inspection for this purpose and that committee has to inspect the college premises and other infrastructural facilities of the college and to satisfy itself that the college which has sought for affiliation satisfied all the conditions prescribed by the Statute and other conditions, if any, provided in the Act and the Regulations for granting affiliation. The inspection committee after inspecting the building and other infrastructural facilities provided by the college shall have to submit its report to the Academic Council. The Academic Council considering the report, if it is satisfied that the college satisfies all the conditions shall have to recommend to the Executive Council with such remarks, if any, as it may deem fit for suitable action. The decision of the Executive Council is final which shall have to be implemented by the Vice Chancellor. That being so, the Chief Minister of the State does not find place in the procedure and the mode prescribed for considering the application filed for grant of affiliation. Therefore, the minutes of the meeting held on 3.8.1992 in the chambers of the Chief Minister with the Chief Minister as one of the members of the committee cannot be held to be competent to consider the application filed for affiliation nor it was competent for such a committee to constitute another committee to go into the question of affiliation of the college. In addition to this, in that meeting, a committee has been constituted for the purpose of considering the application for affiliation of the college in question consisting of the Director of Education, Government of Pondicherry, the Registrar of Pondicherry University, the Dean, College Development Council and the applicant itself which seeks affiliation. Firstly, the committee consisting of the Chief Minister, Vice-Chancellor and the applicant itself had no authority to constitute a committee because, under the statutes, it is the Academic Council which shall have to first consider the affiliation. It is the Academic Council which shall have to constitute an inspection committee and it is the inspection committee which has to examine and submit a report. That being

so, the minutes dated 3.8.1992 produced at page 8 of the typed Act of papers has no value in the eye of law. Therefore, the University cannot at all be directed to enforce the game.

4. At this stage itself, we may refer to the contention of the learned Counsel for the 1st respondent that as per the decision of this Court in Dr. Alexander Educational Foundation Vs. University of Pondicherry and Another, , the Vice-Chancellor under Sub-section (3) of Section 13 of the act is competent to exercise the powers of the Executive Committee, Academic Council and all other committees. Therefore, if the Vice-Chancellor associated himself with the committee consisting of the Chief Minister and the applicant and that Committee constituted another committee, as stated in the minutes produced at page 3 of the typed set of papers, to go into the question of affiliation of the college in question, the Vice-Chancellor cannot be held to have acted outside the law. In paragraph No. 19, of the aforesaid judgment, this Court has interpreted the words "any matter" occurring in Section 13(3) of the Act. It may be pointed out here that Section 13(3) of the Act came up for consideration before a Division Bench of this Court in the aforesaid matter in the context of disaffiliation of the college in question made by the Vice-Chancellor of the University, which the Executive Committee alone could have done it. That was a case in which the procedure for disaffiliation was adopted in accordance with the provisions of the statute inasmuch as the Inspection Committee had made a report for disaffiliation of the college. When that report was pending consideration, the college started admitting the students and it was at that stage, the Vice-Chancellor disaffiliated the college. Therefore, the facts of the case would make it clear that the proceeding for disaffiliation was started in accordance with the provisions of the statute, but the Vice-Chancellor bypassed the stages of Academic Council and Executive Council and passed the order. In that context, this Court held in the aforesaid terms. We are of the view that the interpretation placed on Section 13(3) of the Act in the aforesaid case must be confined to the facts of that case. It cannot be taken as interpreting that section in the context of the scope and ambit of the Act and of the statute and the provisions contained in the University Act, because what was considered by the court in the matter was the power exercised by the Vice-Chancellor for disaffiliating the college, the other provisions of the Act and the Statute having a bearing on the power of the Vice-Chancellor were not taken into consideration. Thus, it is clear that the minutes dated 3.8.1992 produced at page 3 of the typed set of papers cannot at all be given effect to, as such, the same cannot be enforced through a petition under Article 226 of the Constitution. It follows that the order of the learned single Judge has to be reversed.

5. However, as submitted by learned Counsel for the 1st respondent, irrespective of this order, the application seeking affiliation, if filed by the 1st respondent, will be considered by the appellants in accordance with directions issued hereunder.

6. For the reasons stated above, the writ appeal is allowed. The order dated

2.8.1993 passed in W.P. No. 6294 of 1993 is set aside. The writ petition is disposed of in the following terms : the 1st respondent shall make an application in accordance with the provisions of the statutes with necessary fees on or before 15th October, 1993. If such an application for affiliation of the college for conducting courses leading to B. Pharm., B.Sc. (MLT) and B.Sc. (Nutrition) is filed, the same shall be considered by the University in accordance with the provisions of the relevant regulations, statutes and the Act, without raising an objection that the application has been filed beyond 15th of August, 1993 and the University shall complete the procedure required by the statutes and the Executive Council shall take a decision on the application for affiliation within 3 months from the date of filing of the application. In the facts and circumstances of the case, there will be no order as to costs.