

13.06.2022

Sl.No. 4 & 5

Ct.No. 3

Amalranjan

**IN THE HIGH COURT AT CALCUTTA
CIVIL APPELLATE JURISDICTION
APPELLATE SIDE**

MAT 479 of 2019

Abhisek Panda & Ors.

Vs.

**West Bengal National University of
Juridical Sciences & Ors.**

With

MAT 492 of 2019

Ruchira Mitra & Ors.

Vs.

State of West Bengal & Ors.

Mr. Abhratosh Majumdar, Sr. Adv.

Mr. Suman Sengupta

Mr. D. Basu Mallick

Mr. Diptendu Banerjee

Mr. Dip Jyoti Chakraborty

...for the appellants

Mr. Pratik Dhar, Sr. Adv.

Mr. Ritwik Pattanayak

Mr. Pappu Adhikari

...for the respondent no.1/WBNUJS

Mr. Arkaprava Sen

Ms. Sanghita Mukherjee

Mr. Tapas Maity

...for the respondent no. 2

Mr. Anil Kumar Gupta

...for the respondent no. 4/UGC

Students of the West Bengal National University of Juridical Sciences are before us. They are aggrieved by a judgment and order dated 1st March, 2019 passed by a learned single judge of this court dismissing their writ applications.

In or about 2012 the West Bengal National University of Juridical Sciences decided to start online courses in various subjects.

For proper administration of these courses it took the assistance of a facilitator i.e., Ipleaders, the second respondent in the appeal.

Ipleaders and the University made an arrangement between themselves with regard to allocation of work and responsibilities and the sharing of revenue earned from the students.

Numerous students enrolled themselves for these courses. It went on smoothly till September, 2018.

It appears from the submission of Mr. Anil Kumar Gupta, learned advocate appearing for the University Grants Commission that this online course did not have the approval of the Commission.

The Executive Committee of the University stopped the course by a decision made on 29th September, 2018.

In the affidavit filed on behalf of the University Grants Commission it has stated in paragraph 5(c) thereof that online courses had not been approved by it.

Mr. Anil Kumar Gupta cited two unreported decisions of our court. The first was WP No.

13987 (W) of 2016 (Ashoke Kumar Nandy Vs. Union of India & Ors.) with CAN 968 of 2017 with CAN 970 of 2017 with CAN 971 of 2017 with CAN 2787 of 2017 decided by a Division Bench on 19th May, 2017. The facts of that case are completely different from those in the present one. In that matter this court came down heavily on spurious institutes granting qualifications to students, without having the permission by the University Grants Commission to run them and to grant degrees and diplomas.

This court declared the distant education imparted by these institutes invalid and asked the institutes to return the fees.

The second decision is an unreported one of our court in MAT 73 of 2018 with CAN 500 of 2018 Saikat Giri Vs. The State of West Bengal & Ors. along with WP 26325 (W) of 2017 decided by a division Bench on 7th June, 2018.

In that case, admission to an institute was granted on the basis of a qualification by distant education, which was not recognised by the University Grants Commission as sufficient for admission. On those facts this court had declared the admission of the concerned students as invalid.

West Bengal National University of Juridical Sciences is a premier institute at the national level for conduct of legal studies. The degrees and diplomas and other qualifications granted by it are of high value and obviously recognised by the University Grants Commission.

However, it appears that the online mode of study may not have been expressly approved by the Commission. Under the impression that it also had the necessary approval to run online courses and grant degrees and diplomas etc., the University had started them from 2012.

When a premier institute like the West Bengal National University of Juridical Sciences announces a particular course, no student would ordinarily go behind the announcement and try to verify whether the University Grants Commission had approved it. The students were most likely to presume that such approval had been obtained from the University Grants Commission. On that basis they enrolled themselves. The courses have been continuing from 2012. The students have not only spent money but also extended their time and energy in pursuing the courses.

In our opinion, at this point of time it would be most inequitable and unjust to de-recognise the course cancel it and direct refund of fees.

Since on the representation of the University the students had undertaken this method of study and thus altered their position, the doctrine of promissory estoppel would prevent the University from calling off this course. It would also prevent the University Grants Commission from de-recognising it.

In those circumstances, we direct that the students who have already enrolled themselves for the online courses from 2012 and not completed it should be allowed to complete the courses if otherwise entitled to do so. On successful completion of the courses they would be awarded the requisite degrees and diplomas etc., by the University deemed to have been issued with the approval of the University Grants Commission.

No new enrolment for the online course shall be permitted, unless expressly authorised by the University Grants Commission.

This subsequent development may be brought to the knowledge of the arbitral tribunal deciding an arbitral dispute arising out of an arrangement for implementing the online

courses between the University Grants Commission and West Bengal National University of Juridical Sciences.

The impugned judgment and order dated 1st March, 2019 is set aside.

Both the appeals (MAT 479 of 2019 and MAT 492 of 2019) are allowed to the above extent by this common judgment and order.

(Subhendu Samanta,J.) (I. P. Mukerji,J.)