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**IN THE HIGH COURT OF DELHI AT NEW DELHI**

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**W.P.(C) 14054/2018 & CM APPLs. 27104/2019, 39221/2019**

Date of Decision: **27.09.2023**

**IN THE MATTER OF:**

**SH. SAURABH SHUKLA**

SON OF SH. YOGENDRA KUMAR SHUKLA,  
RESIDENT OF A-1016,  
FIRST FLOOR, G. D. COLONY,  
MAYUR VIHAR PHASE- III,  
DELHI - 110096.

..... PETITIONER

Through: Mr. L.B. Rai and Mr. Kartik Rai,  
Advocates

Versus

**INDIRA GANDHI NATIONAL OPEN UNIVERSITY,**  
THROUGH ITS REGISTRAR,  
93, MAIDAN GARHI ROAD,  
PRAJAPATI MOHALLA,  
MAIDAN GARHI,  
NEW DELHI-110068

...RESPONDENT NO. 1

**UNIVERSITY GRANTS COMMISSION,**  
THROUGH ITS REGISTRAR,  
6, BENITO JUAREZ MARG,  
SOUTH CAMPUS,  
SOUTH MOTI BAGH,  
NEW DELHI- 110021

...RESPONDENT NO. 2

Through: Mr.Aly Mirza, Advocate for respondent  
No.1

Mr. Apoorv Kurup, Ms. Gauri and Mr. Shivansu  
Dwivedi, Advocates for UGC/respondent No.2

**CORAM:**

**HON'BLE MR. JUSTICE PURUSHAINDRA KUMAR KAURAV**

**ORDER**

**PURUSHAINDRA KUMAR KAURAV, J. (ORAL)**

1. The petitioner in the instant writ petition is aggrieved by the email dated 29.09.2018, whereby, his application for admission in Postgraduate Diploma in Book Publishing (PGDBP) has been rejected by respondent no.1-Indira Gandhi National Open University (hereinafter as '*IGNOU*') for the academic session 2018-19. He further prays for direction to respondent no.1-IGNOU to grant him admission in the said course.
2. The facts of the case show that the petitioner took admission in an offshore campus of Sikkim Manipal University, Gangtok, Sikkim (hereinafter as '*SMU*') located in Noida, Uttar Pradesh in the year 2014 in Bachelor of Computer Application (hereinafter as '*BCA*') Programme. He obtained his degree for the said course on 10.05.2018.
3. Thereafter, being desirous of securing admission in the online PGDBP course, he applied for the same in respondent no.1-IGNOU on 10.08.2018. However, on 29.09.2018, his application for the online PGDBP course has been rejected. The petitioner forthwith filed an RTI application on the even date, seeking the reasons for rejection of his application for admission in the said course.
4. On 07.10.2018, the petitioner received a reply to the said RTI application, whereby, it was informed that SMU is a private University established under the State enactment known as Sikkim Manipal University of Health, Medical and Technological Sciences Act, 1995 and hence, the operation of SMU is restricted within the territorial jurisdiction of the State

of Sikkim only. It was also stated in the email that the degrees obtained from SMU through an off campus centre situated beyond the territorial jurisdiction of the State of Sikkim are not acceptable for academic purposes in respondent no.1-IGNOU.

5. Learned counsel appearing on behalf of the petitioner submits that the petitioner has illegally been denied the admission by respondent no.1-IGNOU. According to him, the BCA Programme degree obtained by the petitioner does not disentitle him from securing admission in an online course run by respondent no.1-IGNOU. He also submits that the reason provided by respondent no.1-IGNOU *vide* aforementioned rejection letter is not sustainable in the eyes of law and accordingly, the decision of rejection deserves to be set aside.

6. Learned counsel also emphasizes on the notification dated 19.12.2014 issued by respondent no.2-UGC, to submit that the programme pursued by the petitioner was valid for students who had taken admission till 2014-15. He submits that respondent no.2-UGC has also written various letters at regular intervals to SMU, informing them about the continuation of recognition for offering programmes through open and distance learning mode for academic year 2016-17 and even for session 2017-18 as well.

7. According to him, it was only on 03.10.2018 that the programmes conducted through distance mode by SMU were derecognised by respondent no.2-UGC *vide* notification dated 03.10.2018. He, therefore, contends that since the petitioner was admitted in the year 2014, when the distance mode programmes were recognized, there is no reason to reject the petitioner's application for PGDBP course. He further submits that such a rejection is bad in law and is causing a great prejudice to the petitioner by jeopardizing

his professional endeavours.

8. While advancing the aforesaid submissions, learned counsel places reliance on paragraph nos. 24 and 25 of the decision of the High Court of Sikkim in W.P.(C) No. 04 of 2013 titled as *Sikkim Manipal University v. Indira Gandhi National Open University & Ors.* and paragraph nos. 9 to 14 of the decision of the same High Court in W.P.(C) No. 08 of 2015 titled as *Mr. Pralhad Dani Chhetri v. Union of India & Ors.* It is contended by the learned counsel appearing on behalf of the petitioner that the petitioner in the instant petition is similarly placed with the aggrieved petitioners in the aforementioned decisions and therefore, the relief granted in the said cases must be extended to the petitioner herein as well.

9. Learned counsel, while taking this court through the counter affidavit of respondent no.2-UGC, highlights that in terms of paragraph no.7, it is clear that the recognition of the petitioner's degree has been affirmed in the case of *Mr. Pralhad Dani (supra)* and the same has been admitted by respondent no.2-UGC as well. He then refers to the notification issued by respondent no.2-UGC dated 19.12.2014 at *Annexure-P4* to submit that if the remarks of status of recognition of SMU is seen, it explicitly states that the period from 22<sup>nd</sup> February, 2013 (stay granted by High Court of Sikkim) upto end of May, 2015 is to be regulated as per orders of High Court of Sikkim in aforementioned cases i.e., *Sikkim Manipal University (supra)* and *Mr. Pralhad Dani (supra)*. It is, therefore, submitted by the learned counsel that there are no cogent reasons which warrant the non-recognition of petitioner's BCA programme degree by respondent no.1-IGNOU.

10. Learned counsel appearing on behalf of respondent no.1-IGNOU vehemently opposes the submissions made by learned counsel for the

petitioner. He submits that, at the outset, the instant petition is a proxy litigation initiated for the benefit of SMU to legitimize the recognition of its degree.

11. According to him, SMU is a private State University which has a study centre beyond the jurisdiction of the State of Sikkim in Noida and the petitioner has secured his BCA programme degree from the off campus situated in Noida, which is impermissible in law. He submits that despite being a State University, SMU has illegally set up study centres beyond the territorial jurisdiction of the State of Sikkim, which is in complete dissonance of the law laid down by the Hon'ble Supreme Court in a catena of judgments. He places reliance on the decision of the Hon'ble Supreme Court in the cases of *Prof. Yashpal & Anr. v. State of Chhattisgarh & Ors.*<sup>1</sup> and *Rai University v. State of Chhattisgarh & Ors.*<sup>2</sup>, to support his submissions. Additionally, he has also relied upon the decision of the High Court of Sikkim in the case of *Sikkim Manipal University v. Union of India and Ors.*<sup>3</sup>, to submit that the *vires* of the public notice dated 19.07.2016 issued by respondent no.2-UGC proscribing State universities from conducting examinations for their open and distance learning programmes outside the territorial jurisdiction of the University's location has already been unsuccessfully challenged before the High Court of Sikkim and thus, there is no merit in the case of the petitioner.

12. Learned counsel further submits that the approval accorded by respondent no.2-UGC *vide* letters dated 21.03.2016 and 21.03.2017 to SMU for offering its academic programmes through open and distance learning

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<sup>1</sup> (2005) 5 SCC 420

<sup>2</sup> (2005) 7 SCC 330

mode for the academic year 2016-17 and 2017-18, respectively, was subject to the terms and conditions mentioned in the respective letters of respondent no.2-UGC. He specifically points out Clause xiv of Clause 3 of both the letters, which reads as under:

*“The territorial jurisdiction in respect of University for offering programmes through distance mode will be as per the policy of UGC on territorial jurisdiction and opening of “off campus centres/study centres as mentioned in the UGC notification No. F.27-1/2012/(CPP-II) dated 27<sup>th</sup> June, 2013, a copy of which is also posted on the UGC website:[www.ugc.ac.in/deb](http://www.ugc.ac.in/deb).”*

13. Learned counsel for respondent no.1-IGNOU submits that the notification dated 19.12.2014 relied upon by the petitioner, unequivocally restrains the territorial jurisdiction of State universities beyond the boundaries of their respective States. He, therefore, submits that the BCA degree obtained by the petitioner is *in toto* violation of the UGC (Establishment of & Maintenance of Standards in Private Universities) Regulations, 2003 and in the teeth of various notifications issued by respondent no.2-UGC over the passage of time.

14. I have heard the learned counsel appearing on behalf of the parties and perused the record.

15. The main thrust of the petitioner in the instant case is that the BCA programme degree obtained by him from SMU does not suffer from any legal infirmity and resultantly, he must not be denied an opportunity to pursue PGDMS course in respondent no.1-IGNOU on the pretext of having an unrecognized degree.

16. The limited questions that fall for consideration of this court are delineated hereunder as:-

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<sup>3</sup> 2020 SCC OnLine Sikk 1

- I. Whether the rejection of the petitioner's admission in PGDMS programme on the ground of his BCA programme degree being contrary to the extant regulations and settled position of law, is sustainable in the eyes of law?
  - II. Whether the petitioner has any legitimate expectation for being admitted in the concerned course, which is otherwise denied due to a sea change in the policy or past practices of the respondents?
17. It is appropriate to primarily advert to the constitutional scheme regarding extent of laws made by the legislatures of States. A reference to the said aspect can be drawn from the mandate of Article 245 of the Constitution of India, which reads as under:

*“245. Extent of laws made by Parliament and by the Legislatures of States*

*(1) Subject to the provisions of this Constitution, Parliament may 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*

*(2) No law made by Parliament shall be deemed to be invalid on the ground that it would have extra territorial operation”*

18. It is seen from the language of Clause (1) of Article 245 of the Constitution of India that the State Legislature may make laws for the whole or any part of the State and hence, State laws are operable only within the territorial limits of the concerned State. Therefore, the legitimate competence of a private University established under the State Act, to operate its study centres beyond the territorial jurisdiction of the State, can be determined on the touchstone of Article 245(1) of the Constitution of India. The said exercise, however, has already been done by the Hon'ble Supreme Court in a catena of judgments.

19. In the case of *Prof. Yashpal (supra)*, the Hon'ble Supreme Court in

paragraph no.60, has held that the enactment 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 State Legislature. The relevant paragraph reads as under:

*“60. Dr. Dhavan has also drawn the attention of the Court to certain other provisions of the Act which have effect outside the State of Chhattisgarh and thereby give the State enactment an extraterritorial operation. Section 2(f) of the amended Act defines “off-campus centre” which means a centre of the university established by it outside the main campus (within or outside the State) operated and maintained as its constituent unit having the university's complement of facilities, faculty and staff. Section 2(g) defines “off-shore campus” and it means a campus of the university established by it outside the country, operated and maintained as its constituent unit, having the university's complement of facilities, faculty and staff. Section 3(7) says that the object of the university shall be to establish the main campus in Chhattisgarh and to have study centres at different places in India and other countries. 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.”*

20. In the case of ***Kurmanchal Institute of Degree & Diploma v. Chancellor, M.J.P. Rohilkhand University***<sup>4</sup>, while deprecating the establishment of offshore study centres, the Hon’ble Supreme Court took a view that territorial jurisdiction of the University must be maintained to prevent chaos. Paragraph nos.19 and 20 are reproduced as under:

*“19. The submission of the learned counsel that for the purpose of running a distance education course, extraterritorial activities must be carried out may not be entirely correct. It is one thing to say that the university takes recourse to the correspondence courses for conferring degrees or diplomas but it would be another thing to say that study centres would be permitted to operate which requires close supervision of the university. In a study centre, teachers are appointed, practical classes are held and all*

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<sup>4</sup> (2007) 6 SCC 35



*other amenities which are required to be provided for running a full-fledged institution or college are provided. **Such an establishment, in our opinion, although named as a study centre, and despite the fact that the course of study and other study materials are supplied by the university cannot be permitted to be established beyond the territorial jurisdiction of the university.** Nainital is outside the territorial jurisdiction of the University. In fact it is not situated in the State of U.P. and, thus, is beyond the provisions of the Act.*

*20. The submission of the learned counsel that the UGC Regulations, 1985 provide for study centres of this nature cannot be countenanced. The UGC Regulations being a subordinate legislation must be read with the principal Act. The subordinate legislation will be ultra vires if it contravenes the provisions of the principal Act. (See Vasu Dev Singh v. Union of India [(2006) 12 SCC 753 : (2006) 11 Scale 108] .) A statutory authority, it is well known, must act within the four corners of the statute. **A fortiori it has to operate within the boundaries of the territories within which it is to operate under the statute. Such territorial jurisdiction of the university must be maintained as otherwise chaos would be created. If distance education of such a nature is to be encouraged, the only course would be to suitably amend the provisions of the Act.***

*[Emphasis supplied]*

21. The decision of the Division Bench of the High Court of Judicature at Madras in the case of *University Grants Commission v. Annamalai University*<sup>5</sup>, succinctly encapsulates the rationale behind the need to curb the mushrooming of offshore study centres running without the requisite approvals. Paragraph no.49 of the said judgment is reproduced as under:

*“49. The very necessity for such Regulations has come up only because of the attempt made by some of the Universities to commercialise education by engaging in indiscriminate franchisee agreements with persons who do not have expertise or infrastructure to provide quality education to students. The fact that some of the franchisees are before us challenging the Regulations of the University Grants Commission itself is a proof to the fact that the entire system of education, particularly, open distance learning has been made a commercial venture by the Universities in their desire to make education a profitable venture. It is quite surprising that*

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<sup>5</sup> 2023 SCC OnLine Mad 567

*even state funded universities have ventured into such unethical practices.”*

22. In the present case, a bare perusal of the letter dated 07.10.2018 sent by respondent no.1-IGNOU to the petitioner would indicate that the petitioner had admittedly obtained his BCA programme degree from SMU in the year 2018 through its off-campus study centre located in Noida. The said position is also, undisputedly, accepted by the petitioner during the course of hearing. Paragraph no.3.1 of the said letter is culled out as under:

*“3.1. In this context, it is also pertinent to mention that the erstwhile Distance Education Council while communicating the approval for offering the academic programmes through Distance education mode to SMU, Gangtok, has incorporated the following clause vide para-6 of its letter dated 15.10.2009, which reads;*

***“Regarding territorial jurisdiction for offering programmes through distance mode, the latest UGC notifications will prevail over all previous notifications and circulars. As per the UGC Notification, State Universities (both private as well as Govt. funded) can offer programmes only within the State and Deemed Universities from the Headquarters and in no case outside the state. However, Deemed Universities may seek the permission to open off campus centres in other states and offer distance education programmes through the approved off campuses only after approval of UGC and DEC Central Universities will also adhere to the UGC norms. The territorial jurisdiction for the institutions (both private as well as Govt. funded) shall be the Headquarters, and in no case outside the State.”***

23. It is observed from the aforementioned paragraph of the letter dated 07.10.2018 that while communicating the grant of approval to SMU for conducting the distance learning programmes, it was clearly stated in terms of paragraph no.6 that the territorial jurisdiction for the institution shall in no case be outside the State i.e., State of Sikkim.

24. Further, the ‘Territorial Jurisdiction’ Clause of respondent no.2-UGC’s notification dated 19.12.2014 regarding recognition accorded to

universities/institutions for offering programmes through distance mode expressly mentions that the State universities must not extend their arms beyond the periphery of their concerned States. The said Clause is extracted as under:

**“Territorial Jurisdiction:** *In case of Central Universities the Territorial Jurisdiction will be as per their Acts and Statutes for offering programmes through distance mode. **In case of State Universities (both Govt and Private) the Territorial Jurisdiction will be as per their Acts and statutes but not beyond the boundary of the respective states.** The Territorial Jurisdiction in case of Deemed Universities will be as per UGC mandates and prior approval of the UGC is required for opening Study Centres / Off Campus Centres outside the HQs. The territorial jurisdiction in case of Private Institutions (other than Universities) shall be their HQs and in no case outside the State concerned. For recent notification of UGC on Territorial Jurisdiction, please refer UGC website [www.ugc.ac.in](http://www.ugc.ac.in)”*

*[Emphasis supplied]*

25. It is, therefore, explicitly clear that the concerned regulations governing the institution from which the petitioner had obtained his BCA programme degree through distance education, categorically restrain SMU in clear and unambiguous terms from conducting the said courses outside the periphery of the State of Sikkim. The petitioner, by virtue of completing his education through the mode which was neither prescribed nor considered legal, cannot claim admission in the PGDMS course without fulfilling the requisite eligibility.

26. The learned counsel for the petitioner has heavily relied upon the decision in *Sikkim Manipal University (supra)* and more specifically, on paragraph nos.24 and 25, which read as under:

*24(i). Before finally concluding, it is essential to record here that some students of the Petitioner-University who have undergone studies in the DEP have approached this Court as Intervenors and were represented by Mr. P. N. Misra, Learned Senior Counsel. The Intervenors are students who passed out degree courses from the Petitioner-University through*

*their Study Centre set up in Nepal, a foreign country. They have approached this Court in the present proceedings as the degrees issued by the Petitioner-University were not recognised by the Australian Government where they intended to pursue higher studies.*

*(ii) On a perusal of the application for intervention and the records, the Intervenors appear to be students who had commenced with their degree courses on and from the year 2010. While the Intervenors No.1, 2 and 3 had commenced with their courses with effect from August, 2010 to July, 2013, the Intervenor No.4 from February 2011 to January, 2013. The Intervenors No.1 and 3 had undergone Bachelor of Business Administration (BBA), Intervenor No.2 had undertaken bachelor of Science in Information Technology (BScIT) and the Intervenor No.4 in Master of Business Administration (MBA) examinations. Thus, having undergone the courses when the Petitioner-University was offering programmes on the recognition granted by the Respondent No.1 through its Chairman for 3 (three) academic years commencing from 2009-10 to 2011-12, which was ratified by the Council in its 35th Meeting, they cannot be denied recognition of the degrees awarded to them by the Petitioner-University. This fact also appears to have been conveyed to the Respondent No.1 by the Petitioner-University through its letter dated 25-10-2012, Annexure P27, apart from the fact that it had directed a freeze on new admissions on 09-10-2012 even before direction to that effect was issued by the Respondent No.1 in its letter dated 10-10-2012, Annexure P26.*

*25(i). That apart, by order dated 22-02-2013, this Court in this very proceeding had stayed the operation of the condition "but not beyond the boundary of their respective States" contained in the minutes of the 40th Meeting of the DEC held on 08-06-2012 and that any consequential directions in this regard shall remain stayed and further that the Petitioner-University shall be permitted to continue to act in accordance with the communication dated 15-10-2009, Annexure P17. This interim order which was extended by order dated 19-07-2013 was confirmed on 07-11-2013 after impleadment of the UGC-Respondent No.3 as a party after notice.*

*(ii) By order dated 13-04-2015 of this Court in CM Appl No. 33 of 2015 had further confirmed the aforesaid two orders, the relevant portion of which is as follows:-*

*"6. At this stage, Mr. Misra submits that by making an observation of derecognition of the degrees of the intervenors, their job prospects are being jeopardized and they are being deprived of prosecuting their further studies, therefore, some protection may be granted to*

them.

7. *There is no occasion for this Court to deliberate on this point in an application filed for permission to intervene in the main writ petition. However, it is observed that by interim order dated 22.02.2013 passed in W.P. (C) No.04/2013, it has clearly been held by this Court that during the pendency of the Writ Petition, the operation of the condition “but not beyond the boundary of their respective States”, which clearly relates to the territorial jurisdiction of the Petitioner-University, contained in the Minutes of 40th Meeting of the Distance Education Council of Indira Gandhi National Open University held on 08.06.2012, and any consequential direction in this regard shall remain stayed and the same order by a subsequent order dated 07.11.2013 has also been held to be binding on all the parties including the University Grants Commission (UGC). We are of the view that the earlier two interim orders would make the situation very clear and it is expected that all the parties concerned, including the UGC, would implement the said orders in their letter and spirit.”*

*(iii) None of the Respondents have taken any steps to approach this Court for either alternation/ modification or vacation of this order. They also do not appear to have approached the Hon’ble Supreme Court to get the above orders set aside. Thus these orders having been confirmed, are held to be binding on all parties including the Respondent No.3 as observed in order dated 13-04-2015.*

*(iv) So far as the case of the Intervenors are concerned, considering the facts and circumstances set out above, we are of the view that their degrees should stand protected as valid. This order would also apply to all the students who are in similarly placed as the Intervenors although they are not before us.*

27. He has also placed reliance on the case of **Mr. Pralhad Dani (supra)**, particularly paragraph nos.9 to 14, which read as under:

*“9. As the Petitioners had undergone the courses during the period when the DEP of the Respondent No.4-University was being run under valid recognition of the UGC and the DEC, their cases would be fully covered by the aforesaid decision.*

*10. It is relevant to note that there are 3 (three) categories of students who stand thus protected. They are (i) those who had commenced and completed their DEP anytime prior to the academic session 2011- 12; (ii) those who had commenced with their DEP prior to the academic session 2011-12 but, completed after that; and (iii) those who were admitted to the*

*DEP any day after the interim order of this Court dated 22-02- 2013 passed during the proceedings of Sikkim Manipal University (supra) by which operation of the condition “but not beyond the boundary of their respective States” stipulated in the decision of the DEC in its 40th Meeting dated 08-06-2012, Annexure P34, was stayed and the Respondent No.4-University was permitted to continue to act in accordance with the communication dated 15-10-2009, Annexure P27, subject to compliance of the terms thereof. The case of the Petitioners would certainly fall within the purview of the judgment in Sikkim Manipal University (supra) extracted above.*

*11. Apart from the above, the interim order of stay dated 22-02-2013 that was directed to be continued by a subsequent order dated 07-11-2013, was later confirmed by order dated 13-04-2015 in CM Appl No.33 of 2015 arising out of WP(C) No.04 of 2013 in Sikkim Manipal University (supra). Therefore, as a natural corollary and by necessary implication, the degrees in respect of the students, who were admitted to the DEP of the Respondent No.4-University after the order of stay, one of whom appears to be the Petitioner No.4, shall also be protected.*

*12. The information conveyed in letter dated 11- 05-2011, Annexure P32, issued by the Respondent No.1 to the Royal Danish Embassy, being in conflict with the decision of the DEC, firstly, in ratifying the decision of its Chairman granting recognition to the DEP of the Respondent No.4-University for the academic years 2009-10 to 2011-12 and, secondly, its own grant of recognition, be it provisional or regular, for the preceding years, would be rendered a nullity, non est and, therefore, unenforceable and is accordingly, ordered so.*

*13. Consequently, the DEP of the Respondent No.4-University undergone by the Petitioners and the degrees awarded to them are treated as valid and deserving to be equated on terms with an Indian degree/programme.*

*14. It is needless to state that this order would also apply to all the students who are similarly placed as the Petitioners although they are not before us.”*

28. However, as it has been held in the decision of the Hon’ble Supreme Court in the case of ***Valliamma Champaka Pillai v. Sivathanu Pillai & Ors.***<sup>6</sup>, the position is well settled that the decision of one High Court is not a binding precedent upon another High Court and at best, it can only have a

persuasive value. In the given facts and circumstances where a larger public interest is involved, it is not appropriate to take a similar view *qua* the petitioner as has been enunciated in the aforementioned decisions relied upon by the petitioner. It is to be noted that the relaxation offered to certain categories of students was done only as an interim measure and thus, it ought not to be allowed to be followed in perpetuity as it would be detrimental to uphold the ideals of quality education.

29. A subsequent decision of the High Court of Sikkim in the case of *Sikkim Manipal University v. Union of India*<sup>7</sup>, as pointed out by the learned counsel for respondent no.1-IGNOU, dismissed a writ petition wherein the *vires* of the public notice dated 19.07.2016 which proscribed institutions from conducting their open and distance learning programmes outside the territorial jurisdiction of the University was challenged. The court in terms of paragraph nos.40 to 42 has held as under:

*“40. These Regulations were not disputed by the Petitioner University save to the extent that the Regulations were in vogue prior to the Judgment of this Court dated 26.06.2015 and is no longer relevant. I find that such declaration of irrelevance cannot wish away the contents thereof which at Regulations 2.4 and 2.6 indicate that the Petitioner University was conducting the examinations in the Learning Centres and therefore well-aware that when the Notifications confining territorial jurisdiction were issued they ought to have confined all activities of the Study Centres/Learning Centres to the jurisdiction of the State. The insistence of the Petitioner University that prohibition on Examination Centres was being introduced for the first time on 27.06.2013 appears to be incorrect in view of the fact that it was well within the knowledge of the Petitioner University prior in time as can be deduced from their own Regulations that the Learning Centers conducted the examinations.*

*41. The Petitioner had also contended that the Madhava Menon Committee Report stated that there had to be provision for despatch of*

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<sup>6</sup> (1979) 4 SCC 429

<sup>7</sup> 2020 SCC OnLine Sikk 1

*sealed scripts immediately to Headquarters, indicating that Study Centres were envisaged as being outside the territorial limits appears to be based on assumptions favourable to itself but belied by the Report itself.*

*42. The argument that the Respondent No. 2 has not been able to advance any reason why restricting examinations to the limits of the State is necessary to maintain standards is also answered by the Judgment of this Court in WP(C) No. 4 of 2013 besides which in Modern Dental College and Research Centre (supra) the Hon'ble Supreme Court would observe inter alia as follows;*

*“69. Apart from the material placed before the High Court, our attention has also been drawn to a recent report of the Parliamentary Committee to which we will refer in later part of this judgment. The Report notes the dismal picture of exploitation in making admissions by charging huge capitation fee and compromising merit. This may not apply to all institutions but if the legislature which represents the people has come out with a legislation to curb the menace which is generally prevalent, it cannot be held that there is no need for any regulatory measure. “An enactment is an organism in its environment” [Justice Frankfurter, “A Symposium of Statutory Construction : Forward”, (1950) 3 Vand L Rev 365, 367]. It is rightly said that the law is not an Eden of concepts but rather an everyday life of needs, interests and the values that a given society seeks to realise in a given time. The law is a tool which is intended to provide solutions for the problems of human being in a society.”*

30. In the light of the foregoing decisions and the scheme of the Constitution of India, it is observed that the Hon'ble Supreme Court has taken a consistent view that the State Universities established through the State Legislature must not be allowed to operate beyond the territorial limits of the concerned State.

31. The next question which requires consideration is whether the petitioner is entitled for admission as a necessary sequitur to doctrine of legitimate expectations because of the existence of a regular practice which the petitioner can reasonably expect to continue. As per the decision of the Hon'ble Supreme Court in the case of *Food Corporation of India v.*



*Kamdhenu Cattle Feed Industries*<sup>8</sup>, such a question has to be determined not according to the claimant's perception but in the larger public interest.

32. In the case of *State of Bihar & Anr. v. Sachindra Narayan & Ors.*<sup>9</sup>, the Hon'ble Supreme Court has held as under:

*“23. In view of the above judgments, legitimate expectation is one of the grounds of judicial review but unless a legal obligation exists, there cannot be any legitimate expectation. The legitimate expectation is not a wish or a desire or a hope, therefore, it cannot be claimed or demanded as a right”*

33. While striking a distinction between anticipation and legitimate expectation, the Hon'ble Supreme Court in the case of *Union of India & Ors. v. Hindustan Development Corporation & Ors.*<sup>10</sup> has held as under:

*“28. Time is a three-fold present: the present as we experience it, the past as a present memory and future as a present expectation. For legal purposes, the expectation cannot be the same as anticipation. It is different from a wish, a desire or a hope nor can it amount to a claim or demand on the ground of a right. However earnest and sincere a wish, a desire or a hope may be and however confidently one may look to them to be fulfilled, they by themselves cannot amount to an assertable expectation and a mere disappointment does not attract legal consequences. A pious hope even leading to a moral obligation cannot amount to a legitimate expectation. The legitimacy of an expectation can be inferred only if it is founded on the sanction of law or custom or an established procedure followed in regular and natural sequence. Again, it is distinguishable from a genuine expectation. Such expectation should be justifiably legitimate and protectable. Every such legitimate expectation does not by itself fructify into a right and therefore it does not amount to a right in the conventional sense.”*

34. The decision of the Hon'ble Supreme Court in the case of *P. Suseela & Ors. v. University Grants Commission & Ors.*<sup>11</sup> also exemplifies the proposition that legitimate expectation must always yield to larger public

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<sup>8</sup> (1993) 1 SCC 71

<sup>9</sup> (2019) 3 SCC 803

<sup>10</sup> (1993) 3 SCC 499

<sup>11</sup> (2015) 8 SCC 129

interest. If the facts of the present case are perused, it is clear that the letter dated 21.03.2016 sent by respondent no.2-UGC to the Vice-Chancellor, SMU, in terms of paragraph no. 4(xiv) clearly states that the territorial jurisdiction in respect of university for offering programmes through distance mode will be as per the policy of respondent no.2-UGC on territorial jurisdiction and opening of off campuses/study centres as mentioned in respondent no.2-UGC's notification dated 27.06.2013. Therefore, the contention of the petitioner that respondent no.2-UGC allowed to recognize such courses till the year 2018 does not hold any water.

35. In the case of *Rai University (supra)*, the students studying in the centres established outside the State of Chhattisgarh, after passing of the judgment in *Prof. Yashpal (supra)*, were praying for protection in the form of admissions in any State University of Chhattisgarh. The Hon'ble Supreme Court, however, while denying the relief, observed that at best, the concerned offshore centres may apply for affiliation with any other university which has jurisdiction over their respective places of functioning.

36. Considering the foregoing, the petitioner might have an anticipation for securing admission in PGDMS course, however, the same would not yield a crystallised or an indefeasible right on the part of the petitioner against the admission in the said course without fulfilling the prescribed eligibility.

37. This court is also of the considered opinion that an untrammelled proliferation of offshore study centres, without the requisite approvals from the concerned authorities, would lead to devaluation of academic credentials. An even-handed assessment of potential consequences of such a phenomenon would suggest that it would adversely impact the aspirations of

students who invest their time and resources into pursuing education through legitimate means. It would, therefore, be unwise to allow expansion of such study centres which could flourish a market of substandard education and consequently, deprive countless individuals from seeking quality education.

38. In view of the aforesaid, the petition stands dismissed being bereft of merits. Pending application(s), if any are also disposed of.

**PURUSHAINDR KUMAR KAURAV, J**

**SEPTEMBER 27, 2023**

*p'ma/shs*