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W.A.No.606 of 2015 and W.P.Nos.27185 of 2015 etc., batch

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on 28.11.2022	Delivered on 20.01.2023
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CORAM

THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN

AND

THE HONOURABLE MR.JUSTICE K.KUMARESH BABU

W.A.No.606/2015,

W.P.Nos.27185, 34428, 39602/2015,

W.P.(MD).No.10992/2015,

W.P.Nos.2750, 26088, 37992, 43404/2016,

W.P.Nos.7513, 24080/2017,

W.P.Nos.3784, 3889 to 3892, 15203, 16053, 17351,

20290/2018,

W.P.Nos.11997 & 25455/2022

and

M.P.(MD)No.1/2015

W.M.P.Nos.2291, 22365, 37262/2016

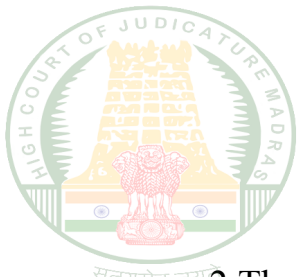
W.M.P.Nos.8197, 8198/2017

**W.M.P.Nos.4619 to 1621, 6874, 4769 to 4780, 6875 to 6877,
18402, 18403, 19071, 20613, 20614, 23822, 23833/2018**

W.M.P.Nos.11420, 11421, 24449, 29097 & 29098/2022

W.A.No.606 of 2015:

- 1.The University Grants Commission,
Rep. by its Secretary,
Bahadu Shah Zafar Marg,
New Delhi – 110 002.



W.A.No.606 of 2015 and W.P.Nos.27185 of 2015 etc., batch

2. The Distance Education Council,
Rep. by its Director,
The Indira Gandhi National Open University,
Maidan Garhi, New Delhi – 110 068

.. Appellants

Vs.

1. Annamalai University,
Rep. by its Registrar,
Annamalainagar,
Chidambaram – 608 002.

2. The Union of India,
Rep. by the Secretary to Government,
Ministry of Human Resource Development,
Shastri Bhavan, New Delhi.

3. The State of Tamil Nadu,
Rep. by the Secretary to Government,
Higher Education Department,
Secretariat, Fort St. George,
Chennai – 600 009.

4. The Indira Gandhi National Open University,
Rep. by its Vice Chancellore,
Maidan Garhi,
New Delhi – 110 068.

.. Respondents

Prayer in W.A.No.606 of 2015: Writ Appeal filed under Clause 15 of the Letter Patent to set aside the order passed in W.P.No.30039 of 2012 dated 12.03.2013.



W.A.No.606 of 2015 and W.P.Nos.27185 of 2015 etc., batch

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W.A.No.606 of 2018:

For Appellant : Mr.G.Rajagopalan, Senior Counsel,
Assisted by Mr.P.R.Gopinathan
For R1 : Mr.Isaac Mohanlal, Senior Counsel,
Assisted by Mr.Godson Swaminath
for M/s.Isaac Chambers
For R2 and R3 : Mr.D.Ravichander,
Special Government Pleader

COMMON JUDGMENT

W.A.No.606 of 2015 is an appeal by the University Grants Commission challenging the order of the writ Court in W.P.No.30039 of 2012 dated 12.03.2013.

2. The said writ petition was filed by Annamalai University, the 1st respondent in the writ appeal challenging the order of the University Grants Commission dated 21.08.2012, in so far as it relates to the condition under clause B(8) of the said order as illegal, irrational and without jurisdiction.



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3. Under the said communication dated 21.08.2012, while recognising the distance education programmes offered by Annamalai University, the University Grants Commission had imposed a condition to the effect that the territorial jurisdiction for offering programmes through distance mode will be as per the decision of the Council taken in its 40th Distance Education Council (DEC) meeting. The said decision was to the effect that the territorial jurisdiction of the State Universities (both the Government funded and private) will be as per their Acts and Statutes, but not beyond the boundaries of their respective states. In order to give effect to the above decision, the same was put in a form of condition for recognition and clause B(8) which incorporates the said condition reads as follows:-

8. The territorial jurisdiction for offering programmes through distance mode will be as per the decision of the Council taken in its 40th DEC Meeting. As per decision taken in 40th meeting of the Distance Education Council, the territorial jurisdiction of State



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W.A.No.606 of 2015 and W.P.Nos.27185 of 2015 etc., batch

Universities (both govt. funded & private) will be as per their Acts and Statutes but not beyond the boundaries of their respective states. Thus the territorial jurisdiction of your university being a State University will be as per the Act and Statutes but not beyond the boundaries of the State of Tamil Nadu.

4. Aggrieved by the restriction of its area of operation, Annamalai University challenged the same in the said writ petition. The writ Court by its order dated 12.03.2013 upheld the challenge and quashed the said clause alone. There was a further mandamus restraining the University Grants Commission from interfering with the right of the University to conduct various distant education programmes without any territorial limits. Aggrieved the University Grants Commission is before us by way of this intra-Court appeal.

5. W.P.No.27185 of 2015 has been filed by Annamalai University challenging the proceedings of the Distance Education Bureau of the University Grants Commission dated 28.07.2015/14.08.2015 requiring the



W.A.No.606 of 2015 and W.P.Nos.27185 of 2015 etc., batch

University not to admit any student for Open Distant Learning (ODL)

programmes during the Academic Year 2015-16.

6. W.P.No.34428 of 2015 has been filed by Periyar University challenging the letter written by the 2nd respondent viz., Distance Education Bureau of University Grants Commission not to admit any student for Open Distant Learning (ODL) programmes during the Academic Year 2015-16 on the ground that it has violated the territorial jurisdiction policy.

7. W.P.No.39602 of 2015 has been filed by the Bharathidasan University challenging the similar direction issued by the Distance Education Bureau of the University Grants Commission dated 22.07.2015 requiring the University not to admit any student under the Distant Education programme, since the University is guilty of violation of the territorial jurisdiction guidelines.

8. W.P.(MD).No.10992 of 2015 has been filed by a private University Ponnaiyah Ramajayam Institute of Science and Technology, declared as a deemed to be University under Section 3 of the University Grants Commission Act, seeking a mandamus directing the 1st respondent to



W.A.No.606 of 2015 and W.P.Nos.27185 of 2015 etc., batch

consider its proposal for continuance of the University Centre for Distant

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9. W.P.No.2750 of 2016 has been filed by the University of Madras challenging the communication of the University Grants Commission dated 21.11.2015 requiring the University not to enrol students for the Academic Year 2015-16 on the ground that there is a violation of the territorial jurisdiction policy.

10. W.P.No.26088 of 2016 is by the Association of Self-Financing Arts, Science and Management Colleges seeking a mandamus directing the respondent therein viz., Bharathiar University not to grant affiliation for distance education programmes through partners/Franchisee Institutes for the Academic Year 2016-2017.

11. W.P.No.37992 of 2016 is filed by Periyar University seeking a mandamus directing the University Grants Commission to grant recognition to the courses offered by the University through distance learning mode for



W.A.No.606 of 2015 and W.P.Nos.27185 of 2015 etc., batch

the academic year 2016-17.

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12. W.P.No.43404 of 2016 is yet another writ petition by Annamalai University challenging the communication of the University Grants Commission dated 19.07.2016 issuing a warning to the students to refrain from enrolling in Institutions which violate the norms of the University Grants Commission.

13. W.P.No.7513 of 2017 has been filed by one of the Franchisees of Periyar University challenging the circular issued by the Periyar Institute of Distant Education on 20.05.2016 intimating that the University has, pursuant to the guidelines of the University Grants Commission, closed all distant education centres in other states and countries and no admission shall be made at the centres for forthcoming years.

14. W.P.No.24080 of 2017 has been filed by Periyar University for the grant of mandamus directing the University Grants Commission to grant approval for the distance education programmes for the academic Year



2017-18.

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W.A.No.606 of 2015 and W.P.Nos.27185 of 2015 etc., batch

15. W.P.No.3784 of 2018 has been filed by a Franchisee of Bharathiar University. Challenge in the said writ petition is to the proceedings of the University Grants Commission dated 16.04.2009, wherein, the University Grants Commission based on the judgment of the Hon'ble Supreme Court in *Professor Yash Pal and another Vs. State of Chattisgarh and others [2005 (5) SCC 420]* case directed that the state Universities shall not function beyond the limits of the state. W.M.P.No.6874 of 2018 in W.P.No.3784 of 2018 is the petition for impleading by the petitioner in W.P.No.26088 of 2016 viz., the Association of self-financing colleges.

16. W.P.No.3889 to 3892 of 2018 is a batch of writ petitions filed by various franchisees of Bharathiar University seeking to quash the notification dated 16.04.2009 issued by University Grants Commission and for a mandamus permitting them to continue the Centre for Participatory Programmes offered by Bharathiar University. W.M.P.Nos.6874, 6875, 6876

9/36



W.A.No.606 of 2015 and W.P.Nos.27185 of 2015 etc., batch

and 6877 of 2018 are applications for impleading by the petitioner in

WEB CO W.P.No.26088 of 2016 viz., the Association of self-financing colleges.

17. W.P.No.16053 of 2018 is by Indian Institute of Logistics. The challenge in the writ petition is again to the imposition of territorial restriction for distance education programmes by the University Grants Commission in its University Grants Commission (Open and Distant Learning) Regulation 2017 by a franchisee of Barathiyar University.

18. W.P.No.15203 of 2018 is by Annamalai University challenging Regulation 3(1)(viii) of the University Grants Commission (Open and Distant Learning) Regulations, 2017 dated 06.02.2018 fixing the minimum Cumulative Grade Point Average for recognition for conducting distance education programmes at 3.26 on a 4 point scale.

19. W.P.No.17351 of 2018 this writ petition also challenges the regulation 3(viii) of the University Grants Commission (Open and Distant Learning) Regulations, 2017 and the consequential order dated 06.06.2018 issued by the University Grants Commission restraining Periyar University



W.A.No.606 of 2015 and W.P.Nos.27185 of 2015 etc., batch

to admit students to distant learning programmes for the academic year

WEB CO 2017-18.

20. W.P.No.20290 of 2018 is by the Bharathiar University's Centre for Collaboration of Industries and Institutions (CCII) Students and Partners Welfare Association challenging the regulations of the University Grants Commission regarding territorial jurisdiction and the consequential circulars issued by the University.

21. W.P.No.11997 of 2022 is by Annamalai University to the public notice issued by the University Grants Commission dated 25.03.2022 pointing out that there has been a violation of conditions imposed by the University in admitting students in the open distant learning mode and also informing the students that these programmes by the University are not recognized.

22. W.P.No.25455 of 2022 is for a direction to the University Grants Commission to process the application of Annamalai University for



W.A.No.606 of 2015 and W.P.Nos.27185 of 2015 etc., batch

admission of students in the open and distant learning mode programmes for

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academic year 2022-23. WMP.No.29097 of 2022 has been filed in W.P.No.25455 of 2022 seeking amendment of the prayer as one for certiorarified mandamus to quash the proceedings of the University Grants Commission dated 20.09.2022 rejecting its request for recognition of online programmes on the ground that the application has been filed belatedly.

23. All these writ petitions have been, by various proceedings of the Hon'ble Chief Justice, directed to be posted along with W.A.No.606 of 2015 since all of them relate to the power of the University Grants Commission to prescribe norms for territorial jurisdiction of various state, state funded and private Universities.

24. The main question that arises in all these proceedings is as to whether the University Grants Commission, a body which has the power to recognize distance education programmes by various Universities, can impose restrictions on the territorial jurisdiction of various Universities?



W.A.No.606 of 2015 and W.P.Nos.27185 of 2015 etc., batch

25. Originally the distance education programmes were recognized

through Indira Gandhi National Open University which was established in the year 1985 through a parliamentary enactment for promotion of open and distance learning at the National level. On 22.11.1991 a separate Council called Distance Education Council was established and the University Grants Commission exercised its powers over distance education through the said council. Neither the University Grants Commission Act nor the Indira Gandhi National Open University Act provided for any recognition for conduct of open distant learning programmes by the Universities.

26. The University Grants Commission framed regulations on 25.11.1985 called University Grants Commission (Non-Formal/ Distance Education) Regulations 1985. These regulations were to take effect from 01.06.1986 and were framed in exercise of the powers conferred under Clause (f) of Sub-Section 1 of Section 26 of the University Grants Commission Act 1956.

27. This Regulation primarily prescribed qualifications of students,



W.A.No.606 of 2015 and W.P.Nos.27185 of 2015 etc., batch

period of the course of study, qualification of teachers, conduct of examinations. Among other things, the Regulation also required Universities to set up study centres out side the Headquarters in areas where there is a reasonable concentration of students. It should be pointed out that the Regulation as framed in they year 1985 did not contain any provision regarding territorial operations of the Universities.

28. Annamalai University which was established in the year 1929 by Act 1 of 1929 was a Solitary University and not an Affiliating University. As per the original provision, the territorial jurisdiction of Annamalai University was confined to a radius of 10 miles from the convocation hall situate in Annamalai Nagar, Chidambaram. Subsequently, when the University was taken over and the new Annamalai University Act, 2013 was enacted, the territorial operation of the University was converted from miles to kilometres and it was confined to 16 Kms from Annamalai Nagar, where the main convocation hall of the University was situate.

29. The 2013 enactment provided for conduct of open and



W.A.No.606 of 2015 and W.P.Nos.27185 of 2015 etc., batch

distance education programmes by the University. The original Regulations of the University Grants Commission framed in the year 1985 required the

Universities to conduct contact programmes in places where there were a reasonably good number of students. During the year 2017, the University Grants Commission framed the University Grants Commission (Open and Distant Learning) Regulation 2017 which came into effect from 23.06.2017. The concept of recognition for conduct of Distance Education Programmes was introduced by these Regulations. Regulation 3 dealt with recognition of Higher Educational Institutions offering programmes in open and distance learning. Eligibility criteria was also introduced for recognition of the Higher Educational Institutions.

30. The Regulations also required the Higher Educational Institutions to adhere to the policy of the territorial jurisdiction prescribed in Annexure 3 of the Regulations. The policy as disclosed by annexure required Universities established or incorporated by or under the State Act shall offer programmes in open and Distant learning mode and operate all other related activities only within territorial jurisdiction allotted to it under



W.A.No.606 of 2015 and W.P.Nos.27185 of 2015 etc., batch

its Act and in no case beyond the territory of the State of its location. It is

WEB COPY this prescription apart from the requirement relating to gradation on a 4

point scale and the requirement of NAAC accreditation which led to the

spate of writ petitions by various Universities and their franchisees.

Opposing these writ petitions is the University Grants Commission on one

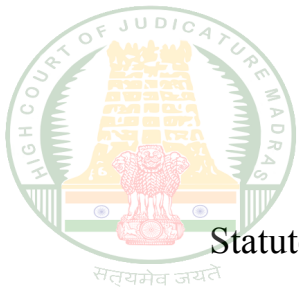
side and the Association of self-financing colleges affiliated to the

Universities which apprehend that the distance education programmes

offered by the Universities, if not regulated, would affect their intake of

students thereby dwindling their profits.

31. The first attempt by the University Grants Commission through Distance Education Council of the Indira Gandhi National Open University to restrict territorial operation of an University was made in the year 2012, when the Distance Education Council while granting recognition to Annamalai University for offering various programmes through distance education mode. The said communication dated 21.08.2012 sets out various conditions for grant of recognition and one such condition was that the territorial jurisdiction of the State Universities will be as per their Acts and



W.A.No.606 of 2015 and W.P.Nos.27185 of 2015 etc., batch

Statutes but not beyond the boundaries of their respective States. This led to the first writ petition in W.P.No.30039 of 2012 being filed by the Annamalai University.

32. The main contention of the University was that the territorial jurisdiction would apply only for regular courses and not for distance education courses. It was also contended that the restriction of the territorial operations imposed by the Distance Education Council are beyond its powers under the University Grants Commission Act as well as the Annamalai University Act, 1929. Considerable reliance was placed on the 1985 Regulations issued by the University Grants Commission regarding Distance Education Programmes in support of the contention that the very concept of distance education will be defeated if territorial restrictions are placed.

33. The University Grants Commission resisted the writ petition contending that the directions were issued in the light of the observations of the Hon'ble Supreme Court in *Professor Yash Pal's* case (*supra*), wherein



W.A.No.606 of 2015 and W.P.Nos.27185 of 2015 etc., batch

the Hon'ble Supreme Court has come down heavily upon indiscriminate grant of permission for establishment of Universities and offering of distance education programmes by the Universities by setting up study centres even outside its area of operation, thereby diluting the quality of education. Taking queue from the observations of the Hon'ble Supreme Court in ***Professor Yash Pal's*** case (*supra*), the Distance Education Council for the first time attempted to restrict the area of operation of State Universities. However, the challenge was upheld by the writ Court mainly on the ground that the Regulations of the University Grants Commission do not provide for such restriction and the Universities being creatures of the Statute cannot be controlled by the subordinate legislation or resolution of the University Grants Commission.

34. The contention of the University Grants Commission based on the judgment in ***Professor Yash Pal's*** case was repelled by the writ Court on the ground that ***Professor Yash Pal*** case turned on peculiar facts where 112 universities were established by the State of Chattisgarh within a short span of one year. The writ Court also found that the conditions imposed by the



W.A.No.606 of 2015 and W.P.Nos.27185 of 2015 etc., batch

University Grants Commission or by the Distance Education Council will affect the good number of students who have already joined the courses on the basis of the 1985 Regulations. The writ Court also faulted the University Grants Commission and the Distance Education Council for not seeking to amend the 1985 Regulations. The University Grants Commission is on appeal.

35. Before traversing further on the merits, we shall advert to the constitutional scheme regarding education. Three entries in the three Lists of Schedule VII are relevant.

35a) Entry 66 of List 1 of Schedule 7 which reads as follows:-

66. Co-ordination and determination of standards in institutions for higher education or research and scientific and technical institutions.

35b) Entry 32 of List 2 which provides for incorporation of Universities reads as follows:-

32. Incorporation, regulation and winding



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W.A.No.606 of 2015 and W.P.Nos.27185 of 2015 etc., batch

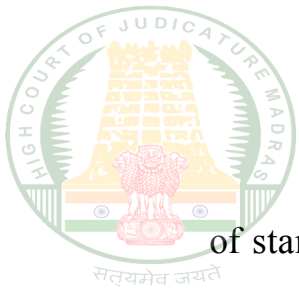
up of corporations, other than those specified in List I, and universities; unincorporated trading, literary, scientific, religious and other societies and associations; co-operative societies.

35c). Entry 25 in List 3 for education reads as follows:

25. Education, including technical education, medical education and universities, subject to the provisions of entries 63, 64, 65 and 66 of List I; vocational and technical training of labour.

36. The impart of these entries was considered by the Hon'ble Supreme Court in *Professor Yash Pal* case (*supra*), wherein, it was held that when the State legislature can make an enactment providing for incorporation of Universities under Entry 32 of List 2 and also enactments generally for Universities under Entry 25 of List 3, the University Grants Commission Act has been made under Entry 66 of List 1.

37. Entry 66 of List 1 deals with coordination and determination



W.A.No.606 of 2015 and W.P.Nos.27185 of 2015 etc., batch

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of standards in Institutions for higher education and research and scientific and technical institutions. The Hon'ble Supreme Court adverted to the fact that there can be a clash between the powers of the State and that of the Union considering the sweep of the 3 different entries found in List 1 to 3 of Schedule 7. The Hon'ble Supreme Court concluded that Entries 63 to 66 of List 1 are carved out of the subject of Education and in respect of these Entries, the power to legislate is vested exclusively in the parliament. The Hon'ble Supreme Court also took note of the use of the expression “*subject to*” found in Entry 25 of List III.

38. Entry 25 of List III of the VII Schedule clearly indicates that the legislation in respect of excluded matters cannot be undertaken by the state legislatures. If we look at the provisions of University Grants Commission Act 1956 it is very clear that it is an Act to provide for coordination and determination of standards in Universities which falls within the purview of the parliament under Entry 66 of List I of the VII Schedule. Any State legislation which runs counter to the University Grants Commission Act or which is in conflict with the University Grants



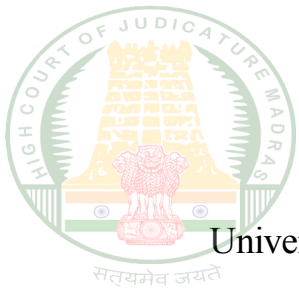
W.A.No.606 of 2015 and W.P.Nos.27185 of 2015 etc., batch

WEB COPY

Commission Act will not be valid unless it has been reserved for and received the assent of the President in terms of Article 254(1) of the Constitution of India.

39. 245(1) of the Constitution of India makes State laws operable only within the state. The University Grants Commission Act is evidently one enacted by the parliament in exercise of its powers under Entry 66 of List I of Schedule VII of the Constitution of India. The Act *inter alia* provides for formation of the University Grants Commission and invests certain powers and functions relating to education, particularly, promotion and coordination of University Education and for determination and maintenance of standard of teaching, examination and research in the Universities. Various powers are vested in the Commission in order to carry out the general objectives of the enactment.

40. The Act gives primacy to the University Grants Commission in respect of coordination of University education and determination and maintenance of standard of teaching, examination and research in



W.A.No.606 of 2015 and W.P.Nos.27185 of 2015 etc., batch

WEB COPY

Universities. It also provides for recognition of Universities and various courses. Section 12 of the Act enumerates the powers and functions of the Commission. Section 14 invests certain plenary powers with the University Grants Commission. Section 22 of the Act confers power on the Universities to confer degrees. Section 25 provides for framing Rules by the Government and Section 26 provides for framing of Regulations by the Commission. Clause (g) of sub-section (1) of Section 26 enables the Commission to frame Regulations regulating the maintenance of standards and coordination of work or facilities in the Universities.

41. In order to decide the issue at hand we have to test the power of the University Grants Commission to frame Regulations with reference to the territorial operation of the Universities. As we have already observed the University Grants Commission is given primacy in the matter of University education by the University Grants Commission Act. In ***Professor Yash Pal's*** case (*supra*), the Hon'ble Supreme Court has recognized the position of the University Grants Commission and the supremacy of the Parliament in matters relating to coordination and determination of standards in



W.A.No.606 of 2015 and W.P.Nos.27185 of 2015 etc., batch

Institutions of higher education. The scope of Entry 66 has been subject

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42. In *State of Tamil Nadu Vs. Adiyaman Education of Research Institute*, the Hon'ble Supreme Court considered the expression 'coordination' used in Entry 66 of the union list. It concluded that 'coordination' does not merely mean evaluation. After discussing almost all the relevant judicial pronouncements on the topic in *Professor Yash Pal's* case the Hon'ble Supreme Court held as follows:-

“The consistent and settled view of this Court, therefore, is that in spite of incorporation of Universities as a legislative head being in the State List, the whole gamut of the University which will include teaching, quality of education being imparted, curriculum, standard of examination and evaluation and also research activity being carried on will not come within the purview of the State legislature on account of a specific Entry on coordination and determination of standards in institutions for higher education or research and scientific and technical education being in the



WEB COPY



W.A.No.606 of 2015 and W.P.Nos.27185 of 2015 etc., batch

Union List for which the Parliament alone is competent. It is the responsibility of the Parliament to ensure that proper standards are maintained in institutions for higher education or research throughout the country and also uniformity in standards is maintained.”

43. It was also made clear that any state legislation would not have the effect of stultifying a central legislation on the topic. The provisions of the Chattisgarh Act which provided for establishment of off campus centres and off shore centres were held to be clearly beyond the legislative competence of Chattisgarh Legislature.

44. The writ Court however relied upon the 1985 Regulations which provided for establishment of study centres outside the headquarters where there is a reasonable concentration of students. The invocation of Article 19 of the Constitution of India by the writ Court cannot be sustained inasmuch as Article 19 would apply only to citizens and not to Universities which are creatures of statutes.



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45. The writ Court, mainly relied upon the absence of Regulations to hold that the attempt by the University Grants Commission or the Distance Education Council to restrict the territorial operation of the Universities is beyond its powers. Now pending appeal, the University Grants Commission has put in place the 2017 Regulations which effectively prevent the Universities from operating outside the areas concerned. The 2017 Regulations also provide for qualifications for the Universities to conduct open and distance education programmes and restrictions have been placed on the conduct of such programmes and grant of degrees under such programmes. The guidelines also provide for learner support systems, by establishment of learner support centres and such learner support centres are to be established only in a College or Institution affiliated to the University or in Government higher education institutions offering programmes in the same broad areas having necessary infrastructure. These Regulations have been put in place only in the interest of the students who are disabled from accessing regular educational institutions.



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46. 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 even state funded universities have ventured into such unethical practices.

47. It is rather painful to note that the State run Universities like Bharathiar University and Periyar University have chosen to appoint franchisees indiscriminately all over the country, thereby, prompting regular colleges affiliated to such Universities to approach this Court complaining that their intake is affected. Though we cannot fault the writ Court for allowing the writ petition based on the 1985 Rules, we find that once the



W.A.No.606 of 2015 and W.P.Nos.27185 of 2015 etc., batch

2017 Regulations and the modified Regulations introduced in the year 2020

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However in view of the subsequent developments and the fact that the students who had enrolled during the academic year 2012-13 have completed the course setting aside the orders of the writ court will lead to undesirable consequences. We therefore dismiss the appeal with a reservation that the order of the writ court will not operate as a precedent.

48. All the learned counsel appearing for the respective Universities have unreservedly conceded that the power of the University Grants Commission to put in place the Regulations. As a fact we must point out that the Regulations of the University Grants Commission dated 04.09.2020 have not been made subject matter of challenge in any of the writ petitions. Once the Regulations have been framed by the University Grants Commission in exercise of powers under Section 26, the same will prevail and University Grants Commission will have the power to prevent the State Universities from operating outside the State.



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49. As pointed out by the Hon'ble Supreme Court in *Professor Yash Pal's* case (*supra*) Article 245(1) of the Constitution of India enables the States to legislate only for their territories. All the State Universities which are established under various State enactments with a particular area of operation or a territorial jurisdiction will have to limit their functions only to such jurisdiction. We are not suggesting that these State run Universities cannot enrol students from outside the State for their programmes, but their activities cannot span beyond the State.

50. The University Grants Commission's Regulations framed in the year 2020 viz., University Grants Commission (Open and Distance Learning Programmes Online Programmes) Regulations 2020 provide for territorial jurisdiction and the activities should be as per the territorial jurisdiction allotted to the University under the Act. The Regulations also provide for enrolment of learners on the open and distance learning mode from any part of the country. But Regulation 23(3) restricts all other activities such as admissions, contact programmes, examinations etc., to be



W.A.No.606 of 2015 and W.P.Nos.27185 of 2015 etc., batch

conducted within the territorial jurisdiction. As far as the online education programmes there is no such territorial restrictions.

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51. Regulation 17 provides for learner support centre for open and distance learning and it shall be established only in a College or Institution affiliated to a University or Government recognized higher educational Institution. It also provides that the learner support centre shall not be set up under the franchisee agreement in any case. In the light of these Regulations and in the absence of any challenge to these Regulations we are constrained to uphold the primacy of the University Grants Commission under the University Grants Commission Act 1954.

52. The right and primacy of the University Grants Commission to impose Regulations for conduct of distance education programmes is upheld. We hasten to add that this shall not affect the students who have already undergone the courses pursuant to the interim orders of this Court.



W.A.No.606 of 2015 and W.P.Nos.27185 of 2015 etc., batch

53. Adverting to other writ petitions filed by the Annamalai

WEB COURT

University we find that in W.P.No.27185 of 2015 there was a stay of operation of the letter of the University Grants Commission dated 31.08.2015 and the University had taken students on the Open Distance Learning (ODL) course. This order will not affect those students who have undergone the course commencing in the academic year 2015-16.

54. In W.P.No.43404 of 2016 challenge was to a public notice restricting admission of students outside the territorial jurisdiction. The operation of the notice was stayed and students were admitted and those students who have admitted and who have completed courses will not be affected by our order dismissing the writ petitions.

55. As regards challenge to the circular restricting the education of students outside the territorial limit was stayed by this Court and those students who have completed their course will be entitled to their respective degrees.



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56. The prescription of 3.26 points out of 4 introduced by way of the amendment introduced to the University Grants Commissions Regulations of the year 2017 was challenged and stay was granted by this Court. Now the University Grants Commission has reduced the number of points required to 3.01 in the Regulations introduced on 04.09.2020 and it is stated that the Annamalai University has obtained a point gradation of 3.38 out of 4 which is valid till 20.06.2027 and therefore nothing survives for determination in W.P.No.15203 of 2018.

57. As far as the writ petitions that are filed by the other Universities viz., Bharathiar University, Periyar University, Bharathidasan University and Madras University also in view of our conclusions regarding the primacy of the University Grants Commission to impose Regulations those writ petitions will stand **dismissed**. However, the students who have been enrolled in programmes under the protection of interim orders of this Court will stand protected and their degrees will be valid.



W.A.No.606 of 2015 and W.P.Nos.27185 of 2015 etc., batch

58. The writ petitions filed by the franchisees viz., W.P.Nos.7513

WEB COPY of 2017, 3784 of 2018 and 3889 to 3892 of 2018 will stand **dismissed**, since there is a direct prohibition in the University Grants Commission Regulations regarding establishment of learner support centre through franchisee.

59. The writ petitions filed by the Association of affiliated colleges will stand **closed** as no further orders are necessary.

60. In fine, we conclude that the University Grants Commission Regulations will prevail in view of the primacy given to the University Grants Commission under the University Grants Commission Act as well as the Entry 66 of List 1 of the 7th Schedule of the Constitution. While the Universities established by the State enactment and other private Universities can enrol students from outside the State, their other activities viz., establishment of learner support centres, conduct of the examination etc., must be within the State only. Insofar as the deemed to be universities are concerned, they can conduct online distance education programmes in



W.A.No.606 of 2015 and W.P.Nos.27185 of 2015 etc., batch

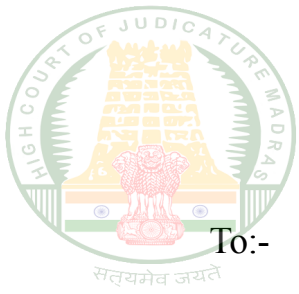
compliance with the Regulations of the University Grants Commission upon

WEB COPY having recognition from the University Grants Commission.

61. The writ appeal and the writ petitions stand disposed of on the above terms. No costs.

(R.S.M.,J) **(K.B.,J)**
20.01.2023

dsa
Index :Yes
Internet :Yes
Speaking order

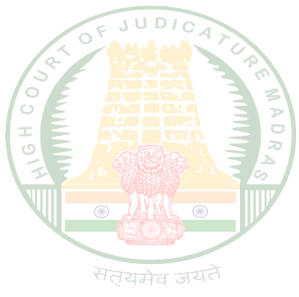


W.A.No.606 of 2015 and W.P.Nos.27185 of 2015 etc., batch

To:-

WEB COPY

1. The Secretary,
University Grants Commission,
Bahadu Shah Zafar Marg,
New Delhi – 110 002.
2. The Director,
Distance Education Council,
The Indira Gandhi National Open University,
Maidan Garhi, New Delhi – 110 068.
3. The Registrar,
Annamalai University,
Annamalainagar,
Chidambaram – 608 002.
4. The Secretary to Government,
Union of India,
Ministry of Human Resource Development,
Shastri Bhavan, New Delhi.
5. The Secretary to Government, ,
State of Tamil Nadu,
Higher Education Department,
Secretariat, Fort St. George,
Chennai – 600 009.
6. The Vice Chancellor,
Indira Gandhi National Open University,
Maidan Garhi, New Delhi – 110 068.



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W.A.No.606 of 2015 and W.P.Nos.27185 of 2015 etc., batch

R.SUBRAMANIAN, J.
and
K.KUMARESH BABU, J.

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PRE-DELIVERY JUDGMENT IN
W.A.No.606 of 2015 and
W.P.Nos.27185 of 2015 etc., batch

20.01.2023