

THE HONOURABLE SMT JUSTICE P.MADHAVI DEVI

W.P.No. 7739 of 2023

ORDER:

In this writ petition, the petitioner herein is challenging the termination of her services from the post of contract lecturer in English vide memo dated 17.07.2022 in file No.CTE-ACD1/CLsD/2/2022-ACADEMIC-1 on the ground of holding ineligible P.G. qualification, as illegal, arbitrary and violative of fundamental rights and also in violation of principles of natural justice and consequently to set aside the same and direct the respondent No.2 to continue the petitioner as contract lecturer in the respondent No.4 College and to consider regularization of her services as per G.O.Ms.No.16 Finance (HRM-I) Department, dated 26.02.2016 and to pass such other order or orders as this Court may deem fit and proper in the circumstances of the case.

2. Brief facts leading to the filing of the present writ petition are that the petitioner was appointed as a contract lecturer in English in the year 2012 by the then Regional Joint Director of Technical Education, Hyderabad and she was initially posted at SRRS Government Polytechnic, Sircilla, on contract basis for the year 2011-12 under Rule 9(a) of the State

and Subordinate Service Rules, 1996 and was initially paid a consolidated amount of Rs.19,000/- with certain conditions and since all the conditions stipulated in the order of appointment were complied with, the respondents continued the petitioner as lecturer in English on temporary basis till a nominal termination was effected on 18.10.2013. Thereafter, the petitioner was issued an order of appointment again on 22.11.2014 by the respondent No.3 and she continued in service up to 2022 with artificial breaks in between. While the matter stood thus, it is submitted that the respondent No.2 has issued a show-cause notice dt.07.06.2022 to the petitioner to show cause as to why her services should not be terminated for possessing ineligible P.G. qualification (M.A. English) and directed the petitioner to submit her reply thereto within a period of two weeks from the date of receipt of the show-cause notice. In reply to the same, the petitioner submitted her explanation on 24.06.2022 stating that she has acquired P.G.Degree in English from Vinayaka Missions University (earlier known as Vinayaka Research Foundation), Ariyanoor, Salem, Tamil Nadu which is a University Grants Commission recognized Open University in Distance Education mode during December, 2005. It was explained that the Open University has

a network of Study/Information Centres in accordance with the recommendations of the DEC, IGNOU, New Delhi mentioned in the UGC Act, 1956. However, the respondent No.2 was not satisfied with the explanation of the petitioner and issued the impugned proceedings dated 17.07.2022 terminating the services of the petitioner and that her services were not renewed for the academic year 2022-23. Challenging the same, the present writ petition has been filed.

3. Learned counsel for the petitioner submitted that initially, when the petitioner was engaged as a contract lecturer, the petitioner had submitted the certificate of Post Graduation in M.A. English and only after being satisfied about the same, the petitioner was appointed. It is submitted that when the show-cause notice was issued to the petitioner in the year 2022 about the validity of the certificate issued by Vinayaka Missions University, the petitioner has obtained the certificates from the Vinayaka Missions Research Foundation certifying that the petitioner was a bonafide student of the University and that she has successfully completed the programme under the Directorate of Distance Education in December, 2005 examination and that the certificates submitted by the

petitioner i.e., the marks sheets, the provisional certificates, the degree certificate, are found to be genuine.

4. Learned counsel for the petitioner has also referred to the certificate dated 27.06.2013, wherein, the said Research Foundation, a Deemed to be University, has certified that the programmes under the Directorate of Distance Education conducted by University are duly approved by the Apex Bodies and as per UGC/DEC norms, the programmes were directly run at the University Headquarters and the study centres were only information centres to assist the learners for required information. Therefore, he submitted that as the certificates submitted by the petitioner are certified to be genuine, the termination of services of the petitioner, who has put in more than 10 to 14 years of service, that too, without giving any reasonable opportunity of hearing, illegal and arbitrary and that the respondents have not verified with the concerned University about the genuineness of the documents.

5. Learned Government Pleader for Services-I, however, relied upon the averments made in the counter affidavit and submitted that the agreement entered into with the petitioner was a contractual engagement and it is terminable at any point of time by the appointing authority. It is submitted

that the respondent No.1, vide G.O.Ms.No.16, Finance (HRM-I) Department, dated 26.02.2016 read with Government Memo No.483/MC/2022, dated 13.05.2022 of Higher Education (MC) Department, has issued instructions to the respondent No.2 for submission of necessary proposals to Government for regularization of the services of the contract lecturers working in the Government Polytechnics all over the State of Telangana and in response to the said instructions, the respondent No.2 has constituted an Internal Committee with the officials of the respondent No.2 Department for regularization of the services of contract lecturers as per the G.O.Ms.No.16 dated 26.02.2016 and in accordance therewith, the Committee has verified the applications of contract lecturers who had pursued the requisite qualification i.e., P.G. in respect of Humanities and Sciences branch and Graduation in respect of Technical Disciplines i.e., Engineering branches from other State Universities/Deemed to be Universities and in the said process, the petitioner's certificate from Vinayaka Missions University (Deemed to be University) through the study centre located at Vijaya Degree College, Siddipet of Erstwhile Andhra Pradesh during December, 2005, was considered. It is submitted that the Committee, in its meeting held on 16.05.2022 has observed that "as per the

clarification issued by the APSCHE vide letter Rc.No.APSCHE/PGP/Equiv/CTE-Librarians/2013, dated 13.08.2013 and as per the UGC regulations of 2004 on starting of campuses/study centres and starting Distance Education Programme by the Deemed universities, the Deemed to be University could offer Distance Education programme with the specific approval of the Distance Education Council and the University Grants Commission and as per UGC Lr.No.F.6.9/2004/2004 (CPP-1) dated 23.08.2005, the UGC clarified that the UGC has not approved the study centres of any Deemed to be University so far. Hence, the Committee decided not to consider the cases of such candidates for regularization of services". It is submitted that on the basis of these observations, the show cause notice was issued to the petitioner on 07.06.2022. It is submitted that the petitioner submitted her reply on 13.06.2022 stating that she has acquired the qualification of M.A.(English) from Vinayaka Missions Research Foundation (Deemed to be University), Salem, Tamil Nadu in the year 2005 and has enclosed the copies of the communications dated 29.08.2007 from Indira Gandhi National Open University (IGNOU), addressed to Vinayaka Missions University, Salem, that all the programmes (approved by the statutory bodies of the institute)

till 2005 happened to be approved by the Distance Education Council and the copy of the notification issued by the Government of India, Ministry of Human Resource Development, New Delhi, dated 01.03.1995 stating that the qualification awarded through Distance Education by the University established by an Act of Parliament or State Legislature, stand automatically recognized for the purpose of employment to the posts and service under Central Government and thus, the petitioner requested not to terminate her contractual service and to regularize the same. It is submitted that the above communication pertained to the year 2007 and as per the above communication, Vinayaka Missions University is not offering programmes through distance mode since 2005. Therefore, the petitioner's certificate of P.G. qualification of education during the years 2005 to 2007 is not eligible for consideration. It is further submitted that keeping in view the pronouncements made by the Hon'ble Courts/Communication UGC/DEC/IGNOU in various cases confirming that the qualification acquired by a candidate from a deemed to be University shall be considered valid only when the same was through the class-room mode, but not through distance education mode from a study center located outside the

territorial jurisdiction of the University, the respondent No.2 was not convinced with the explanation given by the petitioner and the proofs submitted by her and therefore, her services have been terminated vide letter dated 17.07.2022.

6. It is submitted that the petitioner was given sufficient opportunity of representation and it is only after thorough examination of the case and after affording sufficient time, that the termination order has been passed. It is further submitted that the respondents have addressed a letter to the respondent University vide letters dated 01.09.2022 and 14.10.2022 requesting them to confirm the genuineness of the candidates besides furnishing the details of the study centres from which the petitioner has studied and in response to the same, a letter was received from the Vinayaka Missions Research Foundation, dated 29.10.2022, enclosing the copies of the communications of DEC and MHRD, New Delhi, stating that the records relating to the study centres are not available since the case related to the year 2005, which is more than fifteen years old. Therefore, he submitted that there is no confirmation even by the University that the study centre from which the petitioner claims to have acquired her M.A. (English), is the

study centre conducted by the said University by distance mode.

7. Learned counsel for the petitioner has filed a reply affidavit to the objections raised in the counter affidavit.

8. Having regard to the rival contentions and the material on record, this Court finds that the only issue in this writ petition is whether the P.G. certificate in M.A. (English) acquired by the petitioner from Vinayaka Mission University is valid and the same is to be taken into consideration for continuing the petitioner in service and consequently, to regularize her services in accordance with G.O.Ms.No.16, dated 26.02.2016. The only ground on which the petitioner is being denied appointment is that the University from which the petitioner claims to have acquired qualification, is not the University situated in the State of Andhra Pradesh or Telangana and that it has imparted education not in regular mode, but through distance education. As seen from the letter head of the institution, it is a University approved by UGC/AICTC/DEC and it is a 'Deemed to be University' and is declared as such under Section 3 of UGC Act, 1956. From the certificates of the petitioner issued by the University dated 14.06.2022, it is noticed that the petitioner has pursued the course and the

certificates produced by her have been certified to be genuine. From the certificate issued by the University, all its programmes are approved by the Distance Education Council, New Delhi, vide letter F.No.DEC/VMU-TN/07, dated 28.02.2007 which is an apex body for distance education programmes and *ex-post facto* approval for the programmes during the year 2005 have also been given by the Distance Education Council vide Letter No.DEC/VMU-TN/07-5453 dated 29.08.2007. The certificate does not seem to have been considered by the respondents. Further, in the letter of the Indira Gandhi National Open University (IGNOU) dated 29.08.2007, it is stated that the Vinayaka Missions University is not offering education through distance mode since 2005 and all of its programmes till 2005 happened to be approved by the Distance Education Council. There is a reference to the *ex-post facto* approval given by the UGC for the distance education programmes conducted by Vinayaka Missions University till 2005. The certificate of the petitioner is in December, 2005 and therefore, it has to be considered as approved by DEC. In such circumstances, this Court is of the opinion that only on the ground that the records of Distance Education Centres of the University for the relevant period in Andhra Pradesh are not available with the University

for the year 2005, it cannot be presumed that the certificates given by the said University are not valid. There is no negative report given about the certificates of petitioner. The respondents appointed the petitioner in the year 2012 after certificate verification and terminating her services after the petitioner has put in nearly ten years of service, on this ground, is not sustainable.

9. In view of the same, the respondents are directed to re-instate the petitioner into service with immediate effect and consider regularization of her services in terms of G.O.Ms.No.16, dated 26.02.2016.

10. Accordingly, this writ petition is allowed. There shall be no order as to costs.

11. Miscellaneous petitions, if any, pending in this writ petition, shall stand closed.

JUSTICE P.MADHAVI DEVI

Date: 27.09.2023

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THE HONOURABLE SMT JUSTICE P.MADHAVI DEVI

W.P.No. 7739 of 2023

Dated: 27.09.2023

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