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IN THE HIGH COURT OF DELHI AT NEW DELHI

Date of Reserve: September 30th 2010

Date of Order: November 2nd, 2010

+ W.P. (Crl.) No.960 of 2008

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Sandeep Kumar Jha

02.11.2010

...Petitioner

Versus

State & Ors.

...Respondents

Counsels:

Mr. Ashwani Mata, Sr. Advocate with Mr. Sudhir Kumar for petitioner
Mr. Saleem Ahmad and Mr. Vikas Pahwa for State.

JUSTICE SHIV NARAYAN DHINGRA

1. Whether reporters of local papers may be allowed to see the judgment?
2. To be referred to the reporter or not?
3. Whether judgment should be reported in Digest?

JUDGMENT

1. The petitioner is technical consultant of Janardhan Rai Nagar Rajasthan Vidyapeeth University, Pratap Nagar, Udaipur, Rajasthan (deemed University) (hereinafter referred to as "the University" for short) and had opened a study centre under an MOU with the University under Distance Learning Programme (DLP) in the name of Indian Institute of Aeronautics at Western Punjabi Bagh, New Delhi. The petitioner was offering B.Tech Degree on Aeronautical Engineering under DLP of the University. Some parents of the students of this institute lodged an FIR with DCP, Economic Offences Wing and alleged that till September 2004, study was going on well in the institute but on 1st September 2005, they learnt about a letter no.F.68/2004(CPP-1) dated 23rd August 2005 that the institute has not taken approval of awarding B.Tech degrees from UGC so the students obtaining degree will not be eligible for higher studies

on the basis of degrees of the institute. It was mentioned in the FIR that the complainant showed the said letter of University Grants Commission (UGC) to the authorities of the institute and the authorities of the institute assured that the approval was obtained by the institute and in no way the future of the students would be hampered. However, when on 20th September 2005, four students went to Distance Education Council (DEC) and UGC to find out if the assurance given by the institute was correct or not, their enquiry from DEC and UGC revealed that the degrees of the institute and the university were not approved either by DEC or by UGC. It was alleged that after learning this fact, all the students left the institute, some took admission in other colleges in the first semester and some had to leave the studies but in spite of that this institute was giving admission to fresh students. In view of this, it was requested that action should be taken against the institute so that the institute was not be able to play with the future of other students by giving admission without obtaining approval /permission from the appropriate authority. It was also submitted that the institute had been charging a sum of Rs.3 lac for the said course from each student and it was prayed that action under Section 420, 406 and 120B IPC be taken against the institute. Copies of prospectus, UGC letter and the complaint made by the complainant to different authorities were attached with the complaint.

2. The petitioner has sought quashing of this FIR on the ground that a circular dated 9th August, 2005 issued by UGC gave misleading information to students, DEC also gave confusing and misleading information. The petitioner and other affected institutes thereafter filed writ petitions before different High Courts and operation of the Circular of UGC was stayed by different High Courts. In Delhi High Court, UGC made a statement that the impugned circular had been withdrawn. It is also submitted that *ex post facto* approval was given to the course being run by the institute by DEC and UGC and the impugned FIR was registered on a misleading circular which created fear and panic

amongst the students.

3. It is not in dispute that petitioner's institute was an off campus centre and was opened under the permission of the University. The institute was awarded provisional authorization by the University on 10th December 2003. The students of the University had made inquiries from UGC about the recognition of the course of B-Tech being conducted by the University from various institutes and UGC vide its letter dated 29th July, 2004 had written to one of the students as under:

“With reference to your letter dated 2.6.2004 on the above subject, I am directed to inform you that B-Tech Aeronautical Engg is a recognized course and Rajasthan Vidyapeeth is also a recognized Deemed University under Section 3 of the UGC Act.”

4. UGC's letter / circular dated 9th August 2005 was the cause of panic amongst the students. UGC had written letter to the institutes in March, 2004 that it had come to its notice that some of the Deemed Universities were not functioning as per well-defined objects and were introducing new courses/study centres off campus without taking any approval from UGC. At times, these centres were opened without proper physical and academic infrastructure. UGC cautioned Deemed Universities that they have to obtain prior approval of UGC before starting a new course or for opening an academic centre/study centre. UGC had also laid down guidelines for opening study centres for Deemed Universities. In light of this letter, UGC had issued the circular/ notice dated 9th August 2005 and in this notice/ circular name of Janardhan Rai Nagar Rajasthan Vidyapeeth University, Pratap Nagar, Udaipur, Rajasthan, Allahabad Agricultural Institute, Institute of Advance Studies Education, Gandhi Vidyamandir, Sardarshahr. UGS figured. It was stated in the circular that these Deemed Universities have not been permitted to affiliate any college/ institute and these institutes have not been allowed to

conduct any course through Distance Education Centre and the students of these institutes were advised to keep these things in mind while getting admission in these Deemed Universities. It was notified that no deemed University can start study centre/franchisee without approval of UGC and the State Government.

5. It is this circular which resulted into registration of present FIR. This circular was assailed by the petitioner before Delhi High Court. After issuance of this circular, the abovementioned deemed universities approached UGC for *ex post facto* approval of the course for the students admitted in the B. Tech. course under Distance Education Mode from 1st June, 2001 to 31st August 2005. Vide letter dated 3rd July 2006, UGC informed the abovementioned deemed universities that a committee constituted by UGC had considered the request of the deemed universities for *ex post facto* approval of the courses being run by the deemed universities through Distance Education Mode (including the course being run by the petitioner) and the committee recommended one-time *ex post facto* approval for the students admitted under Distance Education Mode by the above deemed universities from 1st June, 2001 to 31st August 2005, subject to compliance of certain conditions which were mentioned in the letter. After that, the abovesaid deemed universities wrote a thanks letter to UGC and assured for compliance of all conditions. The writ petition filed by the petitioner for challenging the virus of the notification was continued before this Court and vide order dated 22nd May, 2008, this Court observed that UGC had filed notification dated 15th May, 2008 and UGC in that notification has averred that the circular dated 9th August 2005 and 23rd August 2005 stands withdrawn with effect from 5th November 2007. Directions were given to UGC to rectify its website where the circular still continued to be shown. The DEC also confirmed that the circulars dated 23rd August, 2005, 9th August 2005 and 5th January 2006 stand withdrawn. In view of this stand of UGC and DEC of having withdrawn the circulars, the petition was disposed of.

6. It is obvious from the entire documents placed by the petitioner on record that the deemed university of which the petitioner was the technical consultant had approved opening of the DLC and the Distance Learning Centre opened by the petitioner was in fact a distance learning centre of the university. A course being run in the institute was approved by the university prior to 2004 and no specific approval of the course was needed from UGC. It is only in 2004 that UGC observed that certain universities were opening distance learning centre without proper paraphernalia. However, UGC in 2004 did not direct the university to stop its distance learning centre including the centre of the petitioner. In 2005, notifications were issued about the university and its courses. However, after issuance of notification *ex post facto* approval of the course wherein students had already taken admission between 2001 and 2005 was granted and later on the circular itself was withdrawn. From these facts, it is clear that the FIR registered on the basis of circular of UGC had no substance left in it as the circular was under challenge and ultimately was withdrawn.

7. I, therefore, allow this petition. The FIR No.337 of 2006 dated 24th April 2006 registered with police station Punjabi Bagh, New Delhi under sections 406,420 read with Section 120B IPC and the proceedings emanating therefrom are hereby quashed.

8. The petition stands allowed.

November 02, 2010
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SHIV NARAYAN DHINGRA, J