

ITEM NO.14

COURT NO.4

SECTION PIL(W)

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

Writ Petition(s) (Civil) No(s). 142/2006

VIPLAV SHARMA

Petitioner(s)

VERSUS

UNION OF INDIA & ORS.

Respondent(s)

(With appln.(s) for directions and modification of courts order and urgency and office report) (For final disposal)

WITH

W.P.(C) No. 349/2009

W.P.(C) No. 30/2010

(With appln.(s) for early hearing and Office Report)

W.P.(C) No. 152/2010

(With appln.(s) for directions and Office Report)

W.P.(C) No. 156/2010

(With appln.(s) for directions and permission to file synopsis and list of dates and permission to file additional documents and Office Report)

W.P.(C) No. 177/2010

(With appln.(s) for directions and permission to file synopsis and list of dates and permission to file additional documents and Office Report)

W.P.(C) No. 191/2010

Office Report)

W.P.(C) No. 194/2010

(With Office Report)

W.P.(C) No. 217/2010

(With appln.(s) for directions and permission and permission to file rejoinder affidavit and permission to file additional documents and Office Report)

W.P.(C) No. 119/2011

(With appln.(s) for directions and clarification of court's order and stay and Office Report)

Date : 19/04/2016 This petition was called on for hearing today.

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HON'BLE MR. JUSTICE SHIVA KIRTI SINGH

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UPON hearing the counsel the Court made the following
O R D E R

On 19.02.2016, the Court referred to its order dated 08.09.2015 and thereafter reproduced the assessment report submitted by the National Assessment and Accreditation Council (NAAC). After reproduction of the report, the Court opined :-

"As advised at present, we are inclined to direct

that the accreditation given by the NAAC shall come into effect. Liberty is granted to the petitioners as well as to the universities who are not satisfied with the accreditation given by the NAAC to file objections. It is also open to the Union of India to put forth its stand in respect of the NAAC assessment."

We have heard Mr. Sanjay Hegde, learned senior counsel for the petitioner, Dr. Rajiv Dhawan, learned senior counsel for some of the respondents, Ms. Vibha Datta Makhija, learned senior counsel for the Union of India and Mr. Manoj Sinha, learned counsel for the University Grants Commission.

Having heard learned counsel for the parties, we accept the NAAC assessment. However, a submission has been made by learned counsel for the respondents that the institutions which have been accredited less than 'A' may be permitted to appeal to NAAC for upgradation. We have been apprised that NAAC has a Grievance Redressal Committee which hears appeals in these matters. Regard being had to the aforesaid submission, we permit the affected parties to prefer appeals within four weeks hence and direct the NAAC to dispose them of after following the due procedure within twelve weeks therefrom. Be it clarified, if any limitation is provided by the NAAC for preferring an appeal, the same shall stand condoned, if an appeal is preferred within four weeks from today. Needless to say, if any grieved institution has already preferred an appeal, the same shall be disposed of within the period stipulated hereinabove.

However, another aspect remained to be clarified in the previous order while mentioning the list of institutions that have been accredited by the NAAC, one institution, namely, D.Y. Patil Educational society, Kolhapur had not been mentioned. We have been apprised by Mr. Manoj Sinha, learned counsel appearing for the NAAC that it has been accredited 'A'. It shall be treated as such.

After stating this, in all possibility, we would have closed

the matter and a decade old public interest litigation which has, as submitted at the Bar, yielded certain results would have come to an end but Mr. Hegde, learned senior counsel for the petitioner, submitted that the controversy cannot be allowed to be buried as there is another aspect which has two limbs deserves consideration by this Court. Before we record the submissions of Mr. Hegde, we must clearly state that as far as accreditation by NAAC to the educational institutions is concerned, it stands closed and no interlocutory applications shall be entertained in this writ petition.

It is submitted by Mr. Hegde, learned senior counsel that all the educational institutions who have been accredited by NAAC are deemed universities and as per Section 3 of the University Grants Commission Act, 1956 (for brevity, 'the Act') and, therefore, a deemed 'university' cannot use the word 'university' and consequentially cannot project itself as a university. He has drawn our attention to Sections 3 and 23 of the Act. Learned senior counsel would submit that an institution imparting higher education can be treated to be 'deemed university' on the basis of a notification issued by the Central Government but the said institution cannot use the word/term 'university' as per prescription stipulated under Section 23 of the Act. Mr. Hegde, would submit that almost all the institutions who are before this Court or have been given the accreditation by NAAC are using the word 'university'. Coming to the consequences, learned senior counsel would assiduously urge that that it creates a sense of hope amongst the students apart from enabling them to off campus centres operating in other States.

Dr. Dhawan, learned senior counsel appearing for some of the respondents, would contend that the submissions urged by Mr. Hegde do not merit any consideration, for Section 3 confers status on an educational institution that of a university within the meaning of Section 2(f) of the Act. He has drawn our attention to clause (f) of Section 2 which reads as follows :

"(f) "University" means a University established or incorporated by or under a Central Act, a Provincial Act or a State Act, and includes any such institution as may, in consultation with the University concerned, be recognised by the Commission in accordance with the regulations made in this behalf under this Act."

Relying on the same, it is argued by Dr. Dhawan, a deemed provision must be allowed to have full play, regard being had to the language employed in the last part of Section 3 read in conjunction with Section 2(f) of the Act. It is also canvassed by him that Section 23 would have no impact and, therefore, the submission so astutely urged by Mr. Hegde are fallacious. Alternatively, it has been argued that the respondents for whom Dr. Dhawan is appearing do not use the word 'university' as it is thought of by learned senior counsel for the petitioner but, on the contrary, they are using or prepared to use the phraseology "Name of the Institution" (a deemed university under the Universities Grants Act). Learned counsel appearing for some of the respondents would submit that once the word 'deemed' is included, the purpose of the Act is met with and there cannot be insistence on exclusion of the word 'university'. While meeting the stand with regard to the off campus centres, it is urged by Dr. Dhawan that even if a university is a deemed university, it can have off campus centres and there is no impediment in describing the said off campus centres to belong to a deemed university.

Learned counsel appearing for some of the respondents would contend that those institutions do not use the word 'university' but put something under the bracket in consonance with the Act.

Let the matter be listed on 12.07.2016. It is hereby made clear that apart from the issue which has been noticed hereinabove, no other issue shall be adverted to.

(Gulshan Kumar Arora)
Court Master

(H.S. Parasher)
Court Master