

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

Petition(s) for Special Leave to Appeal (Civil) No(s).25321-25322/2010
(From the judgement and order dated 09/09/2009 in WA No.2289/2007,
WA No.2290/2007 of The HIGH COURT OF KERALA AT ERNAKULAM)

MAHATMA GANDHI UNIV.& ANR.

Petitioner(s)

VERSUS

MANAGER,ST.ALBERTS COL.& ORS.
(FOR FINAL DISPOSAL)

Respondent(s)

Date: 11/10/2012 These Petitions were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE A.K. PATNAIK
HON'BLE MR. JUSTICE H.L. GOKHALE

For Petitioner(s) Mr. P.V. Dinesh, Adv.
Ms. Sindhu T.P., Adv.

For Respondent(s) Mr. Mathai M. Paikeday, Sr. Adv.
Mr. Priyank Malviya, Adv.
Mr. Shishir Pinaki, Adv.
Mr. Renjith Shanker, Adv.
Mr. Sanjay Jain, Adv.

Mr. Amitesh Kumar, Adv.
Mr. Ravikant, Adv.
Mr. Navin Prakash, Adv

Mr. Arvind Kumar, Adv.
Mr. Jogy Scaria, Adv.

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

Heard learned counsel for the parties.

Learned single Judge of the High Court has, by order dated 24th August, 2007 in W.P. (C) No. 19512 of 2007, directed the petitioner University to grant permanent affiliation to the 1st respondent college for MBA course for which the All India Council for Technical Education ("AICTE" for short) has granted approval. Against the order of the learned single Judge, the petitioner University filed Writ Appeal Nos. 2289 and 2290 of 2007. But, by the impugned judgment, the Division Bench of the High Court has dismissed the writ appeals. Aggrieved, the petitioner has filed these special leave petitions.

Learned counsel for the petitioner vehemently argued before us that in the All India Council for Technical Education Act, 1987 (for short "the Act"), there is no provision regarding affiliation for MBA course. On the other hand, the Mahatma Gandhi University Act, 1985 and the Mahatma Gandhi University Statutes, 1997 provide for affiliation, not only to institution, but also to a course, to be granted by the University. Learned counsel referred to the Rules of affiliation prescribed by the Mahatma Gandhi University Statutes, 1997 to show that the Syndicate of the University has the power to consider applications for affiliation to an institute as well as to a course and decide whether or not to grant such affiliation for the institution or the course. He further submitted that the respondent No. 1 College had sought for a no objection certificate to the grant

of approval for starting of MBA course, and the petitioner University had granted such no objection to start the MBA course, subject to approval of the AICTE, but the respondent No. 1-College, instead of starting just MBA course, has started a new institution.

Learned counsel appearing for the respondent No. 1-College, on the other hand, submitted that the respondent No. 1 was affiliated to the Madras University originally, and for the purpose of starting MBA course, it had to apply to the AICTE for approval in accordance with the provisions of the Act and such approval was granted by the AICTE. He further explained that since the MBA course was an additional course in the existing institution of the respondent No.1, the respondent No. 1 had also applied for affiliation to the petitioner University for the additional course of MBA.

We find from the provisions of the Rules of Affiliation prescribed in Mahatma Gandhi University Statutes, 1997 that grant of affiliation is governed by Rule 9 thereof. Sub-rule (2) of Rule 9 is quoted hereunder:

- (2) The grant of affiliation shall depend upon the fulfillment by the Management of all the conditions for the satisfactory establishment and maintenance of the proposed institution/courses of studies and on the reports on inspection by the commission or commissions which the University may appoint for the purpose.

It will be clear from a plain reading of the aforesaid Sub-rule (2) of Rule 9 that the Syndicate was required to see whether the management of the institution fulfilled all the conditions for the satisfactory establishment and maintenance of the proposed institution/course of studies, and take into consideration the inspection reports submitted by the Commission or Commissions which the University may appoint for the purpose.

On a reading of the order dated 5th June, 2007 of the petitioner-University, we find that the Syndicate has rejected the application of the respondent No.1-college for affiliation to the MBA course, on the ground that the request of the applicant was made with some ulterior motive and to circumvent the University Statutes and guidelines. This ground, given by the Syndicate, is extraneous to the provisions of Sub-rule (2) of Rule 9 quoted above. Further, the Syndicate has not taken into consideration the relevant fact that the University had, by its certificate dated 9th November, 2004, expressed its no objection to the grant of approval to the MBA course in the respondent No.1 institution, subject to the approval of AICTE. On the facts, the High Court was right in holding that once approval was granted by the AICTE for the MBA course in the respondent No.1 institution, the petitioner University could not withhold the affiliation.

For the aforesaid reasons, we are not inclined to interfere with the impugned judgment and order passed by the High Court. Accordingly, the special leave petitions stand dismissed.

| (G. SUDHAKARA RAO)
| COURT MASTER

| | (SHARDA KAPOOR)
| | COURT MASTER