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***IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ W.P.(C) 11382/2017 & CM No. 4873/2018

FOUNDATION FOR SOCIAL EMPOWERMENT Petitioner

Through : Mr. Shalabh Gupta, Adv.

versus

UNION OF INDIA AND ORS.

..... Respondents

Through : Mr. Anil Soni, CGSCs for
R-1

Mr. Rahul Mehra, SC (CrI.)
with Mr. Tushar, Mr.

Prashant Singh and Mr.

Chaitanya Gosain, Adv.

with Insp. Balbir Singh from
PS Vijay Vihar

Mr. Satyakam, ASC-

GNCTD and Mr. Shashwat
Praihar, Adv.

Mr. K.V. Muthu Kumar and

Mr. G. Pragna Devi, Adv.

Mr. Amol Kokane, Adv. for
R-6

Mr. Vivek Goyal, CGSC

with Mr. Harsh Pandit and

Mr. Rajeev Ranjan Shahi,

Adv. for R-7/NCW

Mr. Ajay Verma, Ms.

Nandita Rao, Adv. and Ms.

Swati Maliwal, Chairperson

(DCW), Members of Team

constituted by Court.

CORAM:

HON'BLE THE ACTING CHIEF JUSTICE

HON'BLE MR. JUSTICE C.HARI SHANKAR

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ORDER

08.02.2018

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1. An objection was raised before us regarding the permissibility of the respondent no. 6 calling itself as 'Vishwa Vidhyalaya'. With regard to the above issue, Mr. Amol Kokne, learned counsel for the respondent no.6 had sought an adjournment to examine this issue before making submissions.

We had accordingly adjourned the matter for today.

2. It is today submitted by Mr. Kokne that he may be permitted to file a written response thereto. Copy thereof has been handed over to counsels appearing in the matter and also across the Bar. The same is taken on record. Mr. Amol Kokne has carefully taken us through the reply filed by him and also made submissions at length. We have also heard Mr. Shalabh Gupta, Mr. Anil Soni, Mr. Rahul Mehra, Mr. Narender Mann, Mr. Ajay Arora and Ms. Nandita Rao, learned counsels on this issue.

3. The issue raised before us is the authority of the respondent no.6-Adhyatmik Vishwa Vidhyalaya to call itself a 'University' as propounded by it.

4. We have been informed by Mr. Kokne, learned counsel appearing for respondent no.6 that it is neither an Association nor a Society registered under provisions of Societies Registration Act, 1860. It is also not a corporate entity incorporated under the provisions of Indian Companies Act. He submits that the

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Aadhyatmik Vishwa Vidhyalya is a “*spiritual family*”. It is apparent, therefore, that respondent no.6 is not a legal entity and does not have any legal status at all.

5. Mr. Kokne, learned counsel for the respondent no.6 further categorically states that the respondent no.6 does not have any of the trappings of a University inasmuch as it does not conduct any examination and does not confer degrees and therefore is also not a University. The further submission is that only spiritual education is imparted relating to matters of the spirit (*‘atma’*) by the respondent no.6 and that this education cannot be regulated by any statutory provision.

6. It is an admitted position that the respondent No. 6 is representing itself as a *Vishwavidhyalaya* which is the vernacular expression for the English term *‘University’*.

7. In this regard, our attention has been drawn to the University Grants Commission Act, 1956 (*‘UGC Act’ hereafter*). We have examined the UGC Act which is not restricted to education in a particular subject, discipline or speciality. The preamble clearly states that it is an enactment to make provision for the coordination and determination of standards for *‘Universities’*. The University Grants Commission has also been established under the enactment for this purpose.

8. We find that so far as the expression *‘University’* is concerned, the same has been defined under Section 2(f) of the



University Grants Commission Act, 1956. It is also necessary to consider Section 2(a) of the Act which defines the expression ‘*Commission*’. These provisions read as follows:

“2. Definitions.—*In this Act, unless the context otherwise requires,—*

(a) “Commission” means the University Grants Commission established under section 4;

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(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 recognized by the Commission in accordance with the regulations made in this behalf under this Act.”

(Emphasis by us)

9. The Legislature has further expressly prohibited of the use of the word ‘*University*’ in Section 23 of the enactment which reads as follows:

“23. Prohibition of the use of the word “University” in certain cases. —*No institution, whether a corporate body or not, other than a University established or incorporated by or under a Central Act, a Provincial Act or a State Act shall be entitled to have the word “University” associated with its name in any manner whatsoever: Provided that nothing in this section shall, for a period of two years from the commencement of this Act, apply to an institution which, immediately before such commencement,*

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had the word “University” associated with its name.”

(Emphasis by us)

10. Additionally, a statutory penalty for misuse of the expression ‘University’ is contained in Section 24 of the University Grants Commission Act 1956 which is in the following terms:

“24. Penalties. Whoever contravenes the provisions of section 22 or section 23 shall be punishable with fine which may extend to one thousand rupees, and if the person contravening is an association or other body of individuals, every member of such association or other body who knowingly or wilfully authorises or permits the contravention shall be punishable with fine which may extend to one thousand rupees.”

Therefore, there is a clear mandate under the enactment that no institution can call itself a ‘University’ unless it meets the requirements envisaged under the University Grants Commission Act of 1956. Usage contrary to the statutory prescription invites penalties.

11. The submission made by learned counsel appearing for respondent no.6, Mr. Kokne to the effect that merely because the respondent no.6 is claiming to be imparting spiritual education and, therefore can call itself a ‘Vishwavidhyalaya’ or a ‘University’ is completely misconceived. It has been submitted by Mr. Kokne that inasmuch as the courses at the respondent no.6 does not relate to any physical entity or form but only to study of spirituality, the

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prohibition under the University Grants Commission would not operate against the respondent no.6. This submission is also completely misconceived. We find that the UGC Act, 1956 draws no such distinction and clearly stipulates and categorically prohibits any institution, whether a corporate body or not, from using the word '*University*' associated with its name in any manner. This prescription is not hedged by any limitation on the nature of education being imparted by the institution.

12. The operation of the UGC Act, 1956 binds the respondent no.6 and it has clearly to abide by the prohibitions contained therein.

13. The Aadhyatmik Vishwa Vidhyalya (respondent no.6) is not an institution established or incorporated by or under any law. It is also not an institution which has been recognized by the University Grants Commission.

14. In this regard, we are informed by Mr. Kokne, learned counsel that respondent no.6 has also received a show cause notice dated 10th January, 2018 from the University Grants Commission calling upon respondent no.6 to stop using '*Vishwa Vidhyalya*' or '*University*' as part of its name as well as other communications and to further show cause as to why the respondent no. 6 may not be included in the list fake Universities maintained by it.

15. Mr. Kokne, learned counsel for respondent no.6 submits that it has responded to this notice *vide* a reply dated 24th January 2018 taking the stand that it is nowhere mentioned in the UGC Act, 1956

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that education includes spiritual education.

16. The copy of the show cause notice dated 10th January, 2018 would show that the University Grants Commission has objected to the use of the word '*Vishwavidhyalaya*' with its name by the respondent no.6. It has been clearly stated that the respondent no.6 is not a University within the meaning of Section 2(f) and Section 3 of the UGC Act, 1956. The University Grants Commission has relied on Sections 2(f), 3, 22, 23 and 24 of the UGC Act, 1956 and thereby clearly drawn the attention of the respondent no.6 to the statutory provisions which it has violated.

17. Given the admitted position we have no manner of doubt that respondent no.6 does not satisfy the requirements of the University Grants Commission Act, 1956, it cannot use the expression '*Vishwa Vidhyalya*' or '*University*' in any manner. The statute prohibits it from calling itself *Vishwa Vidhyalya* or *University*. Given the clear provision of law, the respondent no.6 has to desist from using the expression '*Vishwa Vidhyalya*' or '*University*' as part of its name.

18. Our attention has been drawn by Mr. Ajay Verma, Advocate to a decision dated 3rd November 2017 passed by the Supreme Court of India in Civil Appeal No. 17869/2017 reported at **(2018) 1 SCC 468 Orissa Lift Irrigation Corporation Limited Vs. Rabi Shankar Patro** relating to the issue regarding deemed Universities wherein the Supreme Court in paras 62 and 66 holds as follows:



“62. We must also put on record what we have observed during the course of the hearing and consideration of the present matters. It has come to our notice that *many institutions* which are conferred the status of Deemed to be Universities are using the word “University”, which in our view is opposed to the spirit of Section 23 of the UGC Act. The UGC shall take appropriate steps to stop such practice.

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66. Accordingly, we direct:

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66.12. UGC is further directed to take appropriate steps and implement Section 23 of the UGC Act and restrain deemed to be universities from using the word “university” within one month from today.”

19. Pursuant to the judgment dated 3rd November 2017, the University Grants Commission had issued a letter dated 29th December 2017 even in respect of deemed Universities. This communication deserves to be considered *in extenso* and reads as follows:

“No. F. 5-112017 (CPP-//DU)

29th November, 2017

The Vice-Chancellor

(07 Institutions Deemed to be Universities)

List attached.

Subject : Use of the word 'University' by Institutions Deemed to be Universities - Directions issued by Hon'ble Supreme Court.

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Sir,

This has reference to the directions issued by the Hon'ble Supreme Court vide judgment dated 03.11.2017 wherein the apex court has directed the UGC to take appropriate steps and implement Section 23 of the UGC Act, 1956 and restrain Institutions Deemed to be Universities from using the word 'University'. Necessary directions were issued by the UGC vide letter dated 10/13th November, 2017 to all the Institutions Deemed to be Universities to restrain from using the word 'University' and submit compliance within 15 days.

Since in your case, the Government of India Notification was with the word 'University', the Deemed to be University in the above referred UGC letter requested to submit a proposal with alternative name (without using the 'University') to the UGC/Ministry of HRD.

Inspite of the directions from Hon'ble Supreme Court and UGC, the Deemed to be University is still using the word 'University' with its name and has not submitted the alternative proposal. This non-compliance of the orders of Hon'ble apex court and directions of the UGC has been viewed 'very seriously' by the UGC. It has been decided to give a last chance to the Institution Deemed to be University to immediately discontinue with the name of the Deemed to be University using the word 'University' and submit an alternative proposal as requested vide above UGC letter. Failure to comply with these directions would amount to violation of the UGC (Institutions Deemed to be Universities) Regulations, 2016 and necessary action would be initiated against the Institution Deemed to be University in accordance with Clause 22.0 of these Regulations which may include recommending withdrawal of the declaration notifying the institution as an Institution Deemed to be University to the Central Government.

*You are requested to submit compliance in respect of the above by 4.00 PM tomorrow i.e. 30'n November, 2017 by e-mail at pkthakur.ugc@nic.in and socppi.ugc@vahoo.com. This may be treated as **MOST URGENT.***

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1. *Lingaya's University, Nachauli, Old Faridabad*
2. *Mahararishi Markandeshwar University, Mulluana*
3. *Christ Univeristy, Hosur Road, Bangalore*
4. *Jain University, 91/2, Dr. A.N. Krishna Rao Road*
5. *Yenepoya University, Mangalore, Karnataka*
6. *Symbiosis International University, Senapati Bapat*
7. *Gurukul Kangri Vishwavidyalaya, Haridwar"*

It appears that notice has been issued on the ground of directions by Supreme Court of India.

20. It is therefore, writ large on the face of the record that the use of the word '*Vishwavidhyalaya*' as part of the name of the respondent no.6 is completely contrary to law.

21. The record of the present case would show that by propagating itself as a '*Vishwavidhyalaya*', the respondent no.6 appears to have attracted a large number of people. The manner of its functioning is under enquiry in the present petition and several allegations imputing criminality to the functioning of the respondent no.6 and its propounders are under investigation, now with the Central Bureau of Investigation.

In view thereof, there is extreme urgency in ensuring that the prohibition under the University Grants Commission Act, 1956 be strictly complied with.

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22. It is therefore directed that the respondent no.6 shall forthwith remove the word '*Vishwa Vidhyalaya*' from its name. Respondent nos. 5 and 6 shall stand prohibited from using the expression '*Vishwa Vidhyalya*' or '*University*' as part of their name in any manner.

23. Time is sought by Mr. Amol Kokne, learned counsel appearing for the respondent no.6 to file the affidavit disclosing the list of all centres of the respondent no.6 as directed by us on 5th February, 2018.

24. The writ petition makes serious allegations against Sh. Virendra Dev Dixit, respondent no.5 herein, who is stated to be the head of the respondent no.6. We are informed by Mr. Narender Mann, learned Standing Counsel for the CBI that despite best efforts of the CBI, respondent no.5 is not traceable and is not joining the investigation. It shall be open for the CBI to take all steps permitted in law for securing the appearance of the respondent no.5 before it. Enquiries in this regard may be made from Mr. Deepak D'Silva who, we had been informed, was in communication with the respondent no.5.

25. We are assured by Mr. Kokne, learned counsel for the respondent no.6 that the respondent no.6 is not impeding access to any of the inmates by their parents or relatives.



26. We make it clear that respondent no.6 shall permit all relatives of the inmates to meet them. In case requested, the SHOs of the Police Station concerned are directed to facilitate such meetings.

27. List on 15th March, 2018.

Dasti under signatures of the Court Master.

ACTING CHIEF JUSTICE

C.HARI SHANKAR, J

FEBRUARY 08, 2018/kr

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