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Supreme Court of India

Date:-05.08.2017

OPINION

Querist:- Singhania University Students and Staff Welfare Association Trust.

My opinion has been sought by the querist on the following important legal questions:-

- (1) Whether Singhania University requires approval/recognition by AICTE, NCTE, DCI, MCI, VCI, PCI, Indian Nursing Council / Homeopathy Council, Indian Medical Council or any other State Council, State/ Central Govt. or any other Authority Council to impart education/ provide instructions in any education course and award degree/ diploma or any other qualification to its pass out students?
- (2) In case no approval is required, then in that case whether degree/diploma/ certificate or other qualification holder from Singhania University will be entitled to be entitled to be enrolled/ Registered in the professional Councils Register and whether also the degree/ diploma or any other qualification awarded by Singhania University shall be entitled to be recognized for State/Central or Public Sector employment?

Answer to First Query

Whether querist Singhania University requires approval/ recognition by AICTE, NCTE, DCI, MCI, VCI, PCI, Indian Nursing Council / Homeopathy Council, Indian Medical Council or any other State

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Council, State/ Central Govt. or any other Authority Council to impart education/ provide instructions in any education course and award degree/ diploma or any other qualification to its pass out students?

1. I have studied the following Acts/ Regulations along with all connected amendments till date:-

- 1.1. The University Grants Commission Act, 1956.
- 1.2. Indian Medical Council Act, 1956
- 1.3. The Dentist Act, 1948
- 1.4. Regulations of The Dental Council of India, 1956
- 1.5. The Indian Medicine Central Council Act, 1970
- 1.6. The Pharmacy Act, 1948
- 1.7. The All India Council for Technical Education *Act 1987*
- 1.8. The Homoeopathy Central Council Act, 1973
- 1.9. The Indian Veterinary Council *Act*, 1984
- 1.10. National Council for Teacher Education Act, 1993
- 1.11. National Council for Teacher Education Regulations, 2014
- 1.12. The Indian Bar Councils Act, 1926
- 1.13. *Advocates Act*, 1961
- 1.14. Indian Nursing Council Act
- 1.15. Fundamental Rights provided under the Constitution of India,
- 1.16. Seventh Schedule (article 246) of the Constitution of India

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- 1.17. Government of India, H.R.D Ministry circular notification No 18-27/70 –T.2 dated 20.11.1970.
2. Having perused each section of the above Acts, I have come to the conclusion that none of the above Acts requires a University established by a State Act and recognized under section 2(f) of the UGC Act, to take approval from any authority Council to impart education in any course.
3. Similarly, a University, as defined under section 2(f) of the UGC Act, 1965, is entitled to award degree in all courses as stipulated under Section 22 of the UGC Act. The degree awarded by a University is sui generis and self-validating. The law on non-necessity of obtaining approval from any other body Council by a University has been reaffirmed time and again by the Apex Court as well as various High Courts. A two judge bench of the Hon'ble Supreme Court in the case of Bharathidasan University and anr. vs. All India Council for Technical Education and others-AIR 2001 Supreme Court 2861, referring to a University established under dealing with the necessity of obtaining AICTE's approval by Bharthidasan University for conducting technical courses, held that AICTE approval is not required by the University. Further, in the matter of **Basic Education Board, U.P. Vs Upendra Rai and Ors. 2008 (3) SCC 432**, Hon'ble Supreme Court holds as follows;

15. A perusal of the NCTE Act shows that this Act was made to regulate the teachers training system and the teachers training institutes in the country. It may be mentioned that there are two

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types of educational institutions- (1) ordinary educational institutions like primary schools, high schools, intermediate colleges and universities and (2) teachers' training institutes. The NCTE Act only deals with the second category of institutions viz. teachers' training institutes. It has nothing to do with the ordinary educational institutions referred to above. Hence, the qualification for appointment as teacher in the ordinary educational institutions like the primary school, cannot be prescribed under the NCTE Act and the essential qualification are prescribed by the local Acts and Rules in each State.....

18. It may be mentioned that the word "Institution" is defined in Section 2(e) of the NCTE Act to mean an institution which offers courses or training in teacher education. Thus, the NCTE Act does not deal with the ordinary educational institutions like primary schools, high schools, intermediate college or university. The word "institution" as defined in Section 2(2) only means teachers' training institute and not the ordinary educational institutions. Hence, it is only the teachers' training institutions which have to seek grant of recognition or continuation of recognition from the regional committee. The ordinary educational institutions do not have to seek any such recognition or continuation under the NCTE Act. In fact, the NCTE Act does not relate to the ordinary educational institution at all. We, therefore fail to understand how it can be said that the NCTE Act

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overrides the UP Basic Education Act and Rules made thereunder. In fact, the two Acts operate in altogether two different fields. The NCTE Act deals with the teachers' training institutions while the UP Basic Education Act deals with the ordinary primary schools in U.P. and not any teachers training institute. The arguments of learned Counsel for the respondent is thus wholly misconceived."

Therefore, in the light of above observations of the Hon'ble Supreme Court, it may be concluded without an iota of doubt that the said NCTE Act does not apply upon the Universities. In the other words Singhania University is not required to get any approval whatsoever from NCTE for imparting B-Ed and any other teaching Courses.

4. This view has also been held by the Hon'ble Punjab and Haryana High court in the case of Ms. Neelam Devi And Anr. vs. Haryana Nurses Registration Council & Ors. wherein the Hon'ble court ruled that a degree awarded by a University established under a State Act does not require approval of Indian Nursing Council and any degree awarded by a University is sui generis valid and as such the professional body i.e. Nursing Council shall have to register / enroll the degree holder in its register.
5. Entry 66 of the List I (Union list) of the Seventh Schedule (article 246) of the Constitution of India which provides;

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66.Co-ordination and determination of standards in institutions for higher education or research and scientific and technical institutions.

6. For this purpose of co-ordination and determination of standards, the Union of India enacted The University Grants Commission Act, 1956. Section 22 of the UGC Act empowers University to award degrees in all education courses notified by UGC under that section:-

(1) The right of conferring or granting degrees shall be exercised only by a University established or incorporated by or under a Central Act, a Provincial Act or a State Act or an institution deemed to be a University under section 3 or an institution specially empowered by an Act of Parliament to confer or grant degrees.

(2) Save as provided in sub-section (1), no person or authority shall confer, or grant, or hold himself or itself out as entitled to confer or grant, any degree.

(3) For the purposes of this section, "degree" means any such degree as may, with the previous approval of the Central Government, be specified in this behalf by the Commission by notification in the official Gazette. A list of notified degrees is enclosed.

7. Thus, a University is the only body that can award a degree and nowhere is it given that it requires approval of any other authority.

Singhania University Act, also legally empowers it to award degree / diploma / certificates and to impart education in all Courses as it

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may determine in addition to its other powers and function as
Under:-

5. Powers and function of the University:- The University shall
have the following powers and functions, namely:-

(b) to grant, subject to such conditions as the University may
determine, distinctions on the basis of examinations, evaluation or
any other method of testing on persons, and to withdraw any such
diplomas, certificates, degrees or other academic distinctions for
good and sufficient cause;

(e) to provide instruction, including correspondence and such other
courses, as it may determine;

(i) to co-operate, collaborate or associate with any other University
or authority or institution in such manner and for such purpose as
the University may determine;

(n) to determine standards for admission into the University, which
may include examination, evaluation or any other method of
testing;

(w) to establish examination centres;

Since degree / diploma / Certificates in all education courses are
granted / awarded by the University in exercise of its legal authority,
the same are sui-generis valid / self – validating and have got a
sanctity in law. As such, there is no law authorising any other

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authority to challenge their validating. No doubt, University itself has got a power to withdraw or cancel a degree / diploma, granted by it in certain circumstances.

8. It is to be appreciated that UGC Act is a Central Act and therefore, prevails over any other State Act.
9. The UGC Act which is specifically for Co-ordination and determination of standards in institutions for higher education or research and scientific and technical institutions, is a special Act for universities and as such it prevails over any other Central Act also.
10. Since, Singhanian University is established by a State Act i.e. Singhanian University Pachari Bari (Act No. 6 of 2008), it is automatically recognized as University under U/S 2 (f) of the UGC Act and is governed by the provisions of UGC Act under which Singhanian University does not require any approval from anybody to impart education and to award degrees in any course. In fact, the Singhanian University Act itself provides that the provisions of Singhanian University Act and rules/regulations/ statutes/ Ordinances of the Singhanian University shall have the overriding effect over any inconsistent provision of any State Act. By virtue of this, Singhanian University, like any other University, becomes a class by itself – i.e. a self-regulated autonomous statutory body distinct from any other educational institutions or Colleges.
11. This aspect of complete autonomy of the universities, is further reinforced by entry 44 of the List I (Union list) of the Seventh Schedule (article 246) of the Constitution of India which provides:-

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“44. Incorporation, regulation and winding up of corporations, whether trading or not, with objects not confined to one State, but not including universities.”

12. From the plain reading of this entry, it is clear that even the parliament is not empowered to regulate a University. Therefore, it (the parliament) cannot delegate any such power (to regulate a University) to any other body, established by an Act of parliament. As such, no such law has ever been passed by the parliament.
13. While framing Acts for various bodies like AICTE, MCI, INC etc. the parliament was conscious of Entry 44 and Entry 66 of the List I (Union list) of the Seventh Schedule (article 246) of the Constitution. Keeping these provisions in view, University was always kept away from the preview of such bodies.
14. In the case of Association of Management of Private Colleges Vs. All India Council for Technical Education & Ors. [Civil Appeal No. 1145 of 2004], while commenting on the role of AICTE, Hon'ble Supreme Court has held that “AICTE Act does not intend AICTE to be an authority either superior or to supervise or control the Universities and thereby superimpose itself upon said universities merely for the reason that it is laying down some standards in technical education or programmes formulated in any of the department or units of universities.
15. From examination of Acts of such bodies, it appears that the parliament places strong reliance upon the report of Kothari Commission (1964-1966)

which shows that such bodies should be held to cover only non-University education. The report emphasizes upon the importance of education and universities and further emphasizes the importance of autonomy of the University, finances of the universities and the role of UGC. While delivering the judgment in above case, Hon'ble Supreme Court have given due consideration to this view.

16. Coming back to the point of University's right to impart education in all courses, it is to be appreciated, as have various courts, that if the University has a right to award degree, it automatically flows from it that it also has a right to impart education in courses for which it wishes to award degree. As already brought out Singhania University has been established under a special Act, therefore, no other State law can override the provisions of Singhania University Act. UGC Act, 1956, being a special Act for co-ordination and determination of standards in institutions for higher education or research and scientific and technical institutions, prevails over any other Central Act and all State Acts. There is no provision in the UGC Act requiring a University to seek permission/ approval from any authority or Council to impart education in any Course and award degree to pass out students.
17. No Act of any other statutory body deals with imparting education by a University. Objectives/ functions of different Councils, also do not have any provision to empower any Council to regulate University or require a University to seek its approval / recognition to impart education or award degree.

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18. It is, therefore, clear without an iota of doubt that a University does not require permission/ approval from any other body/ authority to impart education in any field.
19. In the landmark case of T.M.A. Pai Foundation &Ors vs State Of Karnataka &Ors, Hon'ble supreme court, have gone in details about the Autonomy of University wherein it has held:-

A University Education Commission was appointed on 4th November, 1948, having Dr. S. Radhakrishnan as its Chairman and nine other renowned educationists as its members. The terms of reference, inter alia, included matters relating to means and objects of University education and research in India and maintenance of higher standards of teaching and examining in universities and colleges under their control. In the report submitted by this Commission, in paras 29 and 31, it referred to autonomy in education which reads as follows:-

"University Autonomy. -- Freedom of individual development is the basis of democracy. Exclusive control of education by the State has been an important factor in facilitating the maintenance of totalitarian tyrannies. In such States institutions of higher learning controlled and managed by governmental agencies act like mercenaries, promote the political purposes of the State, make them acceptable to an increasing number of their populations and supply them with the weapons they need. We must resist, in the interests of our own democracy, the trend towards the governmental domination of the educational process.

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Higher educational is, undoubtedly, an obligation of the State but State aid is not to be confused with State control over academic policies and practices. Intellectual progress demands the maintenance of the spirit of free inquiry. The pursuit and practice of truth regardless of consequences has been the ambition of universities. Their prayer is that of the dying Goethe: "More light," or that Ajax in the mist "Light, though I perish in the light.

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The respect in which the universities of Great Britain are held is due to the freedom from governmental interference which they enjoy constitutionally and actually. Our universities should be released from the control of politics.

Liberal Education. -- All education is expected to be liberal. It should free us from the shackles of ignorance, prejudice and unfounded belief. If we are incapable of achieving the good life, it is due to faults in our inward being, to the darkness in us. The process of education is the slow conquering of this darkness. To lead us from darkness to light, to free us from every kind of domination except that of reason, is the aim of education."

There cannot be a better exposition than what has been observed by these renowned educationists with regard to autonomy in education. The aforesaid passage clearly shows that the governmental domination of the educational process must be resisted. Another pithy observation of

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the Commission was that state aid was not to be confused with state control over academic policies and practices. The observations referred to herein above clearly contemplate educational institutions soaring to great heights in pursuit of intellectual excellence and being free from unnecessary governmental controls.

20. This exposition has been held by all courts as the basis on which the universities must always be kept free from the fetters of any regulation except as provided in the UGC Act which is a special Act for functioning of universities. In the judgment in writ petition no. 6978/2015 dated 26.07.2017 in the case of **Dr. Sanjay Tejbahadur Singh Vs The Registrar, SavitribaiPhule Pune Univeristy and Ors.**, the Hon'ble High court Bombay, have held as,

15. “*The learned Senior Counsel appearing for the Respondent Pune University has not been in a position to point out any clause in Section 5, which imposes any duty or requirement on the University to exercise a function, which is related to inquiry with regard to the degree awarded by another University, which is duly recognised by the UGC. In that view of the matter, we find that the reliance placed by the Respondent Pune University on the said provision is without substance.*

16. *Apart from that, we find that if the contention of the Respondent Pune University is accepted, it will lead to anomalous situation. There are hundreds of universities/deemed universities or the institutions or the colleges/institutions of national importance to whom said Regulations are applicable. If one of the universities which is recognised under UGC is permitted to inquire into correctness or otherwise of the degree granted*

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by another University which is also recognised by the UGC, it will amount to opening the pandora's box, and there will be no sanctity to the degree awarded by a University which is duly recognised by the UGC. We find that if there is grievance that some of the universities are not awarding degree in appropriate manner, it is for the UGC or competent legislature either to enact legislation or frame regulations and to deal with such a situation. In our considered view, the Respondent Pune University cannot be permitted to enter into such an exercise in the absence of any specific power, empowering it to do so."

Therefore, it can be concluded that any degree/diploma/certificate awarded by a university cannot be challenged for its correctness or validity because no law exists per-se empowering any authority to do so, as it is awarded by the university in exercise of authority conferred under section 22 of the UGC Act 1956 and under section 5 of the state Act and as such its validity or correctness cannot be challenged by other university or authority whatsoever.

21. In another landmark case of *Maharishi Mahesh Yogi University*, Hon'ble Supreme Court has held that any provision in the State Act requiring approval of the State Government to impart education in any course, is ultra-virus(i.e. not a valid law) because the University is governed by UGC Act and the UGC Act grants autonomy to the University in imparting education and awarding degrees in all courses of education. Hon'ble Supreme Court has further held that University has got a fundamental right to impart education and students have a fundamental right to acquire education anywhere and in any course under Article 14, 19 (1) (g) and 21 of the Constitution of India.

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22. Regarding University Autonomy, hon'ble Supreme Court has held that imparting education is a Fundamental Right U/Article 19(1) (g):-
19. Protection of certain rights regarding freedom of speech etc.-----(a) – (f) ----- (g) to practise any profession, or to carry on any occupation, trade or business.
23. In view of the above, I have got no hesitation to opine that Singhania University does not require any approval from any other body or Authority/Council to impart education (which is its occupation) in any course and award degree to its students.

Answer to Second Query

In case no approval is required, then in that case whether degree/diploma/ certificate or other qualification holder from Singhania University will be entitled to be enrolled/ Registered in the professional bodies / authority and whether also the degree/ diploma or any other qualification awarded by Singhania University shall be entitled to be recognized for State/Central or Public Sector employment?

24. As explained in para 6-10 above, under section 22 of the UGC Act, Singhania University has unconditional/ unqualified right to confer Degrees in all courses of education. No authority or council other than a University can confer degree.

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25. None of the above sections specify that the holder of a degree only from a University which has obtained approval/ permission will be registered by the relevant professional body.
26. Furthermore, none of the above Acts, debar from registration by the concerned professional body, Council any holder of a degree from a University which has not obtained approval/ permission from the relevant body / Council when such approval is not required to award a degree.
27. The fact of non-necessity of obtaining approval from any other body by a University was earlier affirmed by the Hon'ble Supreme Court in Bharathidasan University and another Versus All India Council for Technical Education and others- reported in AIR 2001 Supreme Court 2861, referring to a University established under the Bharthidasan University Act of 1981, a degree granted by University established, the Hon'ble Supreme Court have held, was not required to seek approval of the All India Council for the Technical Education (AICTE) to start a department for imparting a course or programme in technical education.
28. Hon'ble Punjab and Haryana High court in the case of Ms. Neelam Devi And Another vs Haryana Nurses Registration Council and others wherein the hon'ble court categorically ruled that a degree awarded by a University established under a state Act does not require approval of Indian Nursing Council.

Hon'ble Punjab and Haryana High court further directed that since a degree awarded by a University does not require approval from any other authority, it is a valid qualification for registration in the state register.

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As regards recognition of Singhania University degree/ diploma for State/ Central Government employment, Ministry of Education and Youth Services (Ministry of H.R.D.) vide circular notification No 18-27/70 –T.2 dated 20.11.1970 (annexure 1), has specifically notified that University degree are entitled to be automatically recognised for State/ Central Government employment.

In view of the foregoing, my considered opinion is that the holder of a degree/ diploma, awarded by Singhania University, is entitled to be enrolled/ registered in the professional register of concerned body / Council. Degree/ Diploma or any other qualification awarded by Singhania University is a valid qualification for State/ Central or Public Sector employment.

CONCLUSION

University's autonomous self-regulated statutory body in the field of education is recognised by an act of Parliament which is enacted in pursuance to Entry 44 & 66 of list I (union list) of the Seventh Schedule (Article 246) of the constitution. In this regard reference can be made to Section 12, 14 and 22 of the UGC Act.

Since University is vested with statutory legal authority to award degrees for all education courses, there is no requirement of any approval from any other Central or State Authority/ Council. It can do so by imparting education in all courses of education. University's fundamental right to impart education, there being no requirement of approval from

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any other authority and students' fundamental right to receive education in all courses of education are protected under section 14, 19 and 21 of the UGC Act.

As such, even if there is any provision in central or state law requiring University to obtain approval for education, it would be ultra-virus as held by Hon'ble Supreme Court of India in Maharishi Mahesh Yogi case (supra). Since power/ authority of the University to award degrees / other qualifications in all courses of education is unfettered, degrees awarded by a University are entitled to be automatically recognised for Central/ state Government and PSU services and also for enrolment and registration in register maintained by professional bodies / Council. It is also important to note that a person who holds a valid University degree awarded by a University recognised Under Section 2 (f) of the UGC Act, which statutorily empowers the University to award degrees in all educational Courses has also got a Fundamental Right to freedom of profession / occupation Under Article 19 (1) g and also a Fundamental Right to equality and life and liability U/Articles 14 & 21 of the Constitution of India and such is also entitled to be enrolled / registered with above mentioned professional Councils. Any denial of such right would be grossly illegal and in violation of Fundamental Rights of the degree holders as stated above.

Regards

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