

SUPREME COURT OF INDIA

Viplav Sharma

Vs.

Union of India

(K.S. Radhakrishnan and Vikramajit Sen JJ.)

21.01.2014

ORDER

K.S. RADHAKRISHNAN, J.

1. Dr. Rajeev Dhawan, learned senior counsel appearing for some of the Deemed Universities, raised a preliminary objection in accepting the Prof. Tandon's report, which recommended de-notifying the Deemed University status to 44 institutions. Learned senior counsel submitted that none of the procedures enumerated in the draft 2008 Regulations or 2010 Regulations, or the statutory procedures laid down in the UGC Act, have been followed by the Committee. Learned senior counsel also submitted that under the UGC Act, no power is conferred on the Central Government to constitute such a Committee, overlooking the Universities Grant Commission.

2. Learned senior counsel also pointed out that the UGC itself had examined the question about de-notifying the University status given to various institutions and found only two institutions lacked the necessary requirements and recommended de-notification. Learned senior counsel also pointed out various other infirmities in the Prof. Tandon's report and submitted that the report has to be discarded.

3. Shri K.K. Venugopal, learned senior counsel also submitted that, between 2009 and 2014, many of the Deemed Universities have rectified the deficiencies pointed out by the Tandon Committee Report and UGC may be directed to conduct a fresh exercise and advise Central Government accordingly. Shri Mukul Rohtagi, learned senior counsel urged that most of the institutions have complied with the statutory requirements laid down under the Medical Council of India Act, Dental Council of India Act, and so on. Shri Vikas Singh, learned senior counsel also submitted that

UGC may be directed to consider the matter afresh, uninfluenced by the findings recorded by the Tandon Committee Report as well as the Report of the Committee of Officers.

4. Ms. Indira Jaising, learned Additional Solicitor General, submitted that, in view of the status-quo order passed by this Court, no final decision has been taken by the Central Government, either on the basis of the report of the UGC or Prof. Tandon's report, affirmed by the report of the Committee of Officers. Learned ASG also submitted that the Tandon Committee has examined the status and the functioning of the various institutions on the basis of laid down parameters and found that those institutions have not satisfied any of those parameters. The Tandon Committee, it was stated, has categorized the institutions as 'A', 'B' and 'C' and it is only the institutions included in 'C' category which lacked the requirements laid down for conferring the Deemed University status, both on past performance and also promise for the future. Learned ASG also submitted that the Union of India would welcome the advice of the UGC in this regard on the materials already on record, including the Tandon Committee Report. Learned ASG also submitted that no further hearing is contemplated by the UGC Act before tendering its advice to the Union of India.

5. Shri Rakesh Dwivedi, learned senior counsel appearing for the UGC, submitted that the Prof. Tandon's report is yet to be placed before the UGC, so also the report of the Committee of Officers. Learned senior counsel also submitted that the UGC will examine all the reports and the objections, if any, raised by the institutions against the Tandon Committee Report. UGC has also no objection to ascertain the present status of the institutions before tendering its advice to the Central Government.

6. The UGC Act has been enacted to make provisions for the coordination and determination of standards in Universities. For that purpose, it has established the UGC. Under Section 3, power has been conferred on the Central Government, on the advice of the Commission, to declare any institution for higher education as a Deemed University, for the purpose of the Act. In exercise of the powers conferred under Section 3, the University status has been given to the various institutions.

7. At this moment, we are only concerned with the legality of the continuance of Deemed University status with respect to 44 institutions. With regard to the status of those institutions, it is seen, there is some conflict between the report prepared by the UGC as well as that of Prof. Tandon.

8. Regulation 22 of UGC (Institutions Deemed to be Universities) Regulations, 2010 deals with the consequences of violation of regulations. Regulation 22.1 enables the Central Government and the Commission to cause an inspection of the institutions deemed to be university, or inspection in matter of the institution deemed to be university. We have now two parallel inquiries, one conducted by the UGC directly and another conducted by the Central Government through Prof. Tandon. But we find that UGC had no occasion to examine the Prof. Tandon Committee report. Further, we also notice that there is another report of the Committee of Officers, which has also not been placed before the UGC.

9. Under such circumstances, we feel it appropriate to give a direction to the UGC to examine all the reports, with notice to all the 44 institutions concerned. Institutions are free to raise their objections against the reports and the UGC has to consider the same and take an independent decision in accordance with law, if necessary, after affording a hearing, within a period of two months from today. UGC has then to tender its advice to the Central Government with its report. Needless to say that the advice of the UGC is not binding on the Union of India but has to be given due weight since the UGC is an expert statutory authority.

10. We make it clear that we have not given our stamp of approval to any of the reports and it is for the UGC to consider all the reports, with notice to the 44 institutions, in accordance with law.