

# **RAJASTHAN HIGH COURT**

Management, K. M. Mahavidyalaya

Vs.

University of Rajasthan  
Civil Writ Petn. No.3037 of 1997

(J.C. Verma, J.)

12.07.2001

## **ORDER**

**J.C. Verma, J.**

1. The petitioner is the Management of Kanodiya Mahila Mahavidyalaya (hereinafter called the College), Jawahar Lal Nehru Marg, Jaipur established by the Kanodiya Charitable Trust. The college is affiliated to the University of Rajasthan as it receives grant-in-aid from the State to the tune of 90%.
2. Under Chapter XX of the Ordinance of the University, the colleges are to be affiliated, The college was running the under-graduate courses when it had applied for affiliation for post-graduate courses for the session 1993-94 for the subjects namely M.A, (English Litt), M.A. Political Science and M.A. History. It was provisionally affiliated for the said courses. The college had again applied for the provisional affiliation for the session 1994-95, 1995-96 and for permanent affiliation w.e.f. the session of 1996-97.
3. According to the petitioner it fulfilled all the requisite conditions for affiliation as given by the University. When an inspection was made by the officer of the University and on the recommendations of such inspection reports, the Vice-Chancellor is said to have passed the appropriate order on 20-1-1997 in granting the permanent affiliation for aforesaid subjects from 1996-97 vide letter dated 24-1-1997, copy of which has been attached as Annexure-2 to the writ petition.
4. As per the petitioner the Vice-Chancellor vide his order dated 2-3-1997 for the reasons not known to the petitioner had held in abeyance the earlier order dated 24-1-

1997 for granting the permanent affiliation vide Annexure-4. The college authorities represented against such an action of the Vice-Chancellor vide Annexure-5. The college had informed that the Syndicate is required to take decision in the case/ in regard to affiliation.

5. As per the petitioner it had completed all the formalities and as per the inspection reports in favour of the petitioner for permanent affiliation, the permanent affiliation had already been granted and thus no subsequent impugned order dated 12-3-1997 could have been passed in keeping the earlier order passed in abeyance as it not only affected the right of the petitioner without giving the opportunity but also the career of the students who had already been admitted.

6. This Court had on 29-5-1997 by an interim order allowed the college to carry out all the usual functions relating to the college including the appointment of the new Principal.

7. In the reply filed on behalf of the University and the Vice-Chancellor. It is stated that the affiliation is to be granted with the approval of the Syndicate or that even if the Vice-Chancellor while exercising power under Section 13 Clause 4(b) of the University of Rajasthan Act, 1946 (hereinafter referred to as the Act of 1946) is subject to the confirmation by the Syndicate. It is admitted in the written statement that an inspection team was constituted to report about the permanent affiliation of the college and on receipt of such report, the permanent affiliation was granted, but now has been kept in abeyance for concurrence/ approval of the Syndicate. It is interested to note that the Vice-Chancellor on whose behalf the written statement has also been filed has doubted his own decision by saying that the proper procedure was not adopted.

8. It is also submitted in the written statement that the issue of grant of permanent affiliation of the college was put before the Syndicate and the Syndicate vide its meeting dated 28-6-1997, 1-7-1997, 2-7-1997, 21-7-1997 and 9-8-1997 had resolved vide resolution No.41 and 46 that the affiliation was subject to certain rules. It was also resolved that the college should be granted permanent affiliation only after five years of satisfactory performance of the college under temporary affiliation. The college was affiliated for the Session 1994-95 on provisional basis and until and unless five years expire from that date, according to the University the affiliation

could not have been granted. Annexure-R/4 is proceedings of the Syndicate. Under agenda 41 of the meeting, the Syndicate had accepted the recommendations of the Board of inspection relating to grant of permanent affiliation to Kanodiya Mahila Mahavidyalaya for M.A. standard which reads as under.

"Resolved that the aforesaid recommendations of the Board be accepted, except recommendation No.14 relating to grant of permanent affiliation to Kanodia Mahila Mahavidyalaya, Jaipur for M.A. Standard, which has been considered separately by the Syndicate in its meeting held on 28th June, 1st and 2nd July, 1997."

9. In agenda No.46 once again a decision was taken by the Syndicate to keep in abeyance the order of permanent affiliation passed by the Vice-Chancellor. No reasons whatsoever have been given either by the Vice-Chancellor or by the Syndicate as to why the permanent affiliation once having been granted had been held in abeyance and that too without issuing any show cause notice to the college. Schedule I has been attached with the written statement which lays down the norms and conditions for affiliation to the Post-graduate Courses which are as under:

- a. that the college must be permanently affiliated at the under-graduate level;
- b. That the college should have consistently good results at the under- graduate level during the last five years ;
- c. there should be a persistent demand for post-graduate course in that subject;'
- d. availability of requisite facilities;
- e. opening of a new post-graduate class should be linked with the man-power needs;
- f. the college should make a provision for funds;

In addition to above, there were several norms i.e.;

- a. minimum of four teachers recognised by the University are to be appointed;
- b. the quality of teachers;
- c. adequate material and other equipments;
- d. adequate funds for development of research activities in the department;
- e. two papers out of 8 papers should be different from those published by the University.

10. Nothing has been brought on record to show that before granting any permanent

affiliation, the college should have been affiliated temporarily for five years.

11. The University had also prescribed model guidelines regarding conditions of affiliation of the colleges temporary and permanent which is attached as Annexure-R/1 to the writ petition, but there is no such condition. Assuming it be so, it goes without saying that five years have since passed from the first temporary affiliation was granted in the year 1994-95 and the college is running the Post-graduate Courses initially, on temporary affiliation and then on permanent affiliation and lastly on the stay order obtained from this Court. It is not disputed that the college is conducting Postgraduate Courses for the last seven years and the objection of the University about five years of temporary affiliation already stands met out.

12. The respondents have also produced certain record. From the record vide letter No. Ace.II/2000/7710 dated 19-6-2000, it is stated that on the basis of the inspection report and recommendations made by the inspection committee which have further been approved by the BOI and the Syndicate/Vice-Chancellor on 1-6-2000, the provisional affiliation for Post-graduate Courses in the subjects was granted for the year 1999-2000 with a further direction that for the next session the affiliation fee be also sent to the University. An inspection report recommending the affiliation in regard to various subjects is also on record. At page 110/111, there is a note of the office that the college can be granted permanent affiliation as it has already completed five years from the first post-graduate sessions. There is a letter dated 17-4-1997 written by the Registrar that the permanent affiliation in Post graduate Courses aforesaid w.e.f. Session 1996-97 will stand but by the impugned order the permanent affiliation has been held to be in abeyance in supersession of all the earlier orders. In the file as produced (unless there is some other file), no reason has been mentioned anywhere bringing out the circumstances as to why the permanent affiliation as granted was held in abeyance.

13. It seems that the then Vice-Chancellor by one strike of pen had stayed or held in abeyance the permanent affiliation which action cannot be said to be justified or legal for the reason that even the University authorities had not thought it proper to give an opportunity of hearing, coupled with the fact that the affiliation had already been approved by the University as conveyed by the Registrar. If any example of arbitrariness of an action of the statutory authority is to be sought, in my opinion. It is one of the case where the canons of natural justice have been thrown to winds by the

institution of the University without any rhyme and reason effecting the rights of the petitioner college and as such the action of the respondents in keeping in abeyance of the permanent affiliation could not have been held to be Justified or legal and is likely to be quashed.

14. According to the averments of the University itself as pleaded in the written statement, the institute becomes entitled to permanent affiliation after a period of five years of its first temporary affiliation. The present petitioner was affiliated in the year 1993-94 or 1994-95 and onwards right till today and after 5 years of such initial affiliation, the petitioner had become entitled to permanent affiliation otherwise as well and, therefore, the institution stands qualified to obtain permanent affiliation specially when all the inspection reports were in favour of the institution and it was so granted the permanent affiliation as admitted before holding such permanent affiliation in abeyance. Even though by keeping the permanent affiliation in abeyance, the operation of permanent affiliation amounted to be kept under suspension, but it was never cancelled. In such circumstances, in my opinion, the order impugned cannot be sustained in law and is set aside. The college already stands permanently affiliated and even though the colleges stands permanently affiliated but the University in view of changed circumstances is directed to take all appropriate steps in this regard by getting the approval from the Syndicate if at all it is so needed.

15. For the discussion and reasons mentioned above, the writ petition is allowed with cost of Rs. 5000/-.

Petition allowed.