

Court N.22S1 151/CL

S/L No.5
01.11.2018
Ct-6
(TKM &AD)

W.P. 22095(W) of 2018

Abhisek Panda & Ors.

vs.

The West Bengal National University of Juridical Sciences & Ors.

Mr. Suman Sengupta,.
Mr. Dwaipan Basu Mallick
Mr. Soumya Ray

...for the Petitioners.

Mr. Aryak Dutt
Mr. S. Mukherjee

... for the Respondent No.2

Three students of an On-line course said to have been offered by the respondent no.1/University and the respondent no.2 have come up before this Court seeking its intervention in respect of the decisions at Annexures P-2 and P-3 to the writ petition. It appears that the said respondents had accepted the money from each of the petitioners in order to enroll and offer to them On-line certification courses as described in the body of the writ petition. Documents annexed to the writ petition clearly show that such money was paid by the writ petitioners in favour of the said respondents. Suddenly, however, by Annexure P-2 the respondent no.2 issued a circular through its Assistant Registrar (Academic) which was uploaded on its Web-site alleging that the Academic Council had decided on May 10, 2018 as follows: -

" It was decided that all future activities pertaining to Distance Education and Online courses should be put on status quo, except those which are purely University initiatives.

All enrollments for these Online and Distance Education courses which used to be run by the University through private partnerships have been suspended till further order. Any person enrolling for these courses would be doing it at their own risk and the University shall not be held responsible for such matters."

The plain meaning of this Memo is that further enrolment shall be stopped but since status quo has been ordered all students enrolled for such distance education on June 27, 2018 shall be entitled to complete the course and receive certification particularly since nothing was said about refunding the fees already paid by such students.

However, by a further notice issued by the Acting Registrar on October 3, 2018 which is Annexure P-3, the following was directed: -

"It is issued for general information that all online courses run by WBNUJS in association with private parties have been stopped forthwith by the Executive Council in its 62nd meeting dated 29.9.2018. Henceforth all communications relating to all online courses and allied issues connected thereto shall be made to Prof. (Dr.) Anirban Mazumder, Director, School of Distance & Mass Educaiton (SDME) WBNUJS."

Subsequently, by an electronic mail addressed to the first petitioner, the third respondent who was named by the first respondent as the Nodal person who was to communicate with the affected students also washed his hands off the matter. This is Annexure P-4 to the writ petition.

Prima facie, I find that such course of action which affects the vital right of students without prior notice to them and without even offering to refund the fees that they have paid is arbitrary and does not become a premier institution such as the National University of Juridical Sciences. I do not know how the respondent no.2 could have been involved in the matter with the respondent no.1 since the latter is not a university and cannot on its face offer any On-line certification without having a tie-up with any university which has been granted permission by the University Grants Commission to offer Distance Education. Why the respondent no.1 decided to tie-up with such a private party is also not disclosed. However, I am sure all of this will come to light as and when the respondents are heard. However, the On-line courses for which the petitioners have enrolled prior to June 27, 2018 were something which the writ petitioners were entitled to complete and prima facie they are entitled to certificates if they completed successfully. Accordingly, Annexure P-2 must be treated to be prospective and, therefore, the operation of Annexure P-3 shall remain stayed so far as those petitioners who have enrolled themselves and paid the fees prior to June 27, 2018 are concerned. Considering the urgency of the matter leave is granted under Rule 26 of the Appendix - IV of the Appellate Side Rules.

Let this matter appear before the Regular Bench within one week after reopening after long vacation.

The operation of the order of stay shall continue for a period of two months after reopening after the long vacation or until further order whichever is earlier. The writ petitioner shall be entitled to apply for extension of the interim order on the self-same application. The respondents shall be at liberty to seek for vacating of interim order on showing cause.

The writ petitioners shall serve a copy of this order and the writ petition on each of the respondents and shall file affidavit of service before the Regular Bench. I note the submission of Mr. Sengupta, learned Advocate, that an attempt was made to serve the respondents and that the respondent NUJS and the respondent no. 2 were both served, and even though pursuant to such service, Mr. Aryak Dutta, learned counsel, has appeared on behalf of the 2nd respondent

instructed by a learned advocate on record, none has appeared for the NUJS. However, I do not find that strange, since in the notice which was shown to me as part of an affidavit of service, the date when the matter would be moved was not mentioned, and this matter has been moved with leave granted by me today itself. I therefore choose not to accept such affidavit of service or treat the petition as having been served on anyone but the respondent no.2 which has appeared.

This order shall not in any way prejudice any rights that the respondent no.2 and the respondent no. 1 may have inter se one another.

(Protik Prakash Banerjee J.)