
Before R.S. Mongia & K.C. Gupta, JJ

PARAMJIT KAUR,—*Petitioner*

versus

STATE OF PUNJAB & OTHERS,—*Respondents*

C.W.P. NO. 8990 OF 2000

30th August, 2000

Constitution of India, 1950—Art.226—Appointment of the petitioner as SS Mistress on the basis of a degree in B.Ed obtained from Varanasi Sanskrit University (VSU) in the year 1994—B.Ed course of the VSU recognised by the Punjabi University—No need to issue a separate order by the State Govt. for recognition—In 1992, University Grants Commission cautioning the State Govt. against 27 fake Universities including VSU—State Govt. taking no steps in this regard till issuing a letter, dated 15th October, 1993, to the Education Department—Whether Director, Education, can withdraw sanction granted to the petitioner regarding her appointment on the ground that the degree of B.Ed was from a fake University—Held, no—It could not affect the candidates who had got admissions/degrees prior to 15th October, 1993.

Held, that B.Ed course of the Varanasi Sanskrit University was recognised by the Punjabi University and, therefore, there was no need by the State Government to separately recognise the degrees awarded by the said University. Even if it is taken that some steps were taken by the State Government to derecognise the course of the University in question in October, 1993, it could not affect the students who had already taken the admission in the 1993-94 Session or prior thereto. Many students like the petitioner had obtained degree from the aforesaid University which stood recognised by the Punjabi University and consequently by the State Government. Specific steps should have been taken by the State Government to derecognise the course/degree of Varanasi Sanskrit University. Even if it is assumed that derecognition took place by the Punjab Government, it was only after 15th October, 1993. This should not affect the candidates who had got degrees prior to that date or had got admission in the said University prior to 15th October, 1993.

(Para 11)

Further held, that the petitioner was given the job in 1995 and her appointment was approved by the official respondents after seeing copies of her degrees. There is nothing wrong with her work and conduct. In these circumstances, we do not consider it to be in the interest of justice that the approval granted to the petitioner's appointment by the official respondents in the year 1995 should be allowed to be withdrawn by the impugned order.

(Para 12)

RAJNEESH BANSAL, ADVOCATE, for the *Petitioner*.

G.S. CHEEMA, SR. DAG. PUNJAB, for *Respondents No. 1 to 3*.

R.S. MONGIA, J.

(1) After the petitioner obtained her B.A. degree from Punjabi University, she obtained the degree in B.Ed. from Varanasi Sanskrit Vishwavidyalaya in the year 1994 (session 1993-94) with English and Social Studies as her subjects. In the year 1995, respondent No. 4 invited applications for appointment as S.S. Mistresses. The petitioner was selected for the post of S.S. Mistress in the grade of Rs. 1650—2025 by the managing Committee of the respondent—School and was put on one year's probation. The School sent the case of the petitioner to the District Education Officer for grant of approval and sanction regarding the appointment of the petitioner. The approval regarding the appointment of the petitioner was granted by the prescribed authority. It is the case of the petitioner that on the basis of some anonymous complaint dated 7th February, 2000, to the effect that the petitioner's degree of B.Ed. has been issued by a fake University and, therefore her appointment was illegal, the Divisional Education Officer, Faridkot,—*vide* letter dated 15th March, 2000, asked the concerned District Education Officer to send the copy of the sanction/approval letter regarding the appointment of the petitioner as also the copies of B.A. and B.Ed. degrees of the petitioner. copy of the complaint alongwith the letter of the Divisional Educational Education Officer was sent to the petitioner. It was replied by the petitioner that the complaint had been made by some persons at the instance of her in-laws as some litigation was pending between her on one side and her husband and his parents on the other side and it was because of this reason that a false complaint had been made against her. She also replied that degree of B.Ed. was perfectly valid degree, which stood 'recognised by the Punjab' Government,—*vide* letters dated

19th October, 1989 and 29th September, 1992, which were also appended with the reply.

(2) *Vide* the impugned order dated 25th May, 2000, the Director, Education, withdrew the sanction granted to the petitioner regarding her appointment. This was on the ground that the degree of B.Ed. of the petitioner was from a fake University and said Varanasi Sanskrit Vishwavidyalaya was not recognised by the University Grants Commission. Resultantly, the grant in aid payable by the State Government against the post on which the petitioner had been appointed was withdrawn. The order dated 25th May, 2000, has been appended as annexure P-6. The Managing Committee of the School after getting all the documents from the petitioner to show that the B.Ed. degree was a valid and genuine degree wrote to the Director, Education Department (Schools), on 20th June, 2000, requesting him to cancel the order dated 25th May, 2000, copy annexure P-6. Copy of the letter dated 20th June, 2000, has been appended as annexure P-7 with the writ petition. The petitioner apprehending that on the basis of the order dated 25th May, 2000, copy annexure P-6 would be relieved by the College authorities, she filed the present writ petition.

(3) Notice of motion was issued to the Advocate General, Punjab, on 18th July, 2000, and as an interim measure *status quo* regarding petitioner's services was ordered.

(4) Learned counsel for the petitioner submitted that,—*vide* letter dated 14th October, 1989, copy annexure P-4, from the Director, Employment Department, Punjab, Chandigarh, to all the offices in the State of Punjab, it was mentioned that the Bachelor of Education course granted by the Varanasi Sanskrit University had been recognised by the Punjabi University, Patiala, and,—*vide* letter dated 18th October, 1988, from the Punjab Government, Education Department, to the Director, Education, Punjab, it had been clearly mentioned that those courses/certificates which had been recognised by the Panjab University/Punjabi University/Guru Nanak Dev University/Punjab School Education Board, the Punjab Government had not to issue any separate circular/notification for recognising the same. The aforesaid letter was in response to the communication from the Deputy Director, Employment, Amritsar, dated 7th April, 1989. Learned counsel further referred to communication dated 29th September, 1992, copy annexure P-5, from the director, Employment, to all offices of Punjab State that the B.Ed. degree awarded by Varanasi Sanskrit

University and Annamalai University was recognised by Punjabi University and this information may be entered in the register containing the entries regarding the recognised degrees.

(5) It will be apposite here to reproduce the translation of the letter, dated 14th October, 1989, copy annexure P-4, from the Director, Employment to all the offices of the Punjab State as also letter dated 29th September, 1992, from the same authority :—

ANNEXURE P-4

“From

Director, Employment Department

Punjab, Chandigarh.

To

All the offices of Punjab State. No. 01/89/47188—227, dated
14th October, 1989.

Sub : Recognition of the Degree.

You are informed that Director, Education Department (Col), Punjab,—*vide* letter No. 2538-20/26-87 2A-2, dated 7th August, 1989 informed that Bachelor of Education Course which is passed from Varanasi Sanskrit University has been given recognition by Punjabi University, Patiala and by Punjab Government,—*vide* letter No. 36/44/88-4G-5/13877, dated 18th October, 1988 issued letter in which course this University has granted recognition. In respect of these no separate letter is required to be issued separately from the Government for recognition. With this the letter No. AR/89/5480, dated 17th April, 1989 of Dy. Director, Employment Officer, Amritsar is filed.

(Sd.) . . . ,

for Director, Employment
Punjab, Chandigarh.

Endst. No. 01-16/89/47228—252, dated 18th October, 1989
Copy of above is enclosed to all the officers of Directorate.

(Sd) . . . ,

for Director Employment,
Punjab, Chandigarh.”

ANNEXURE P-5

“From

The Director,
Employment Department,
Punjab, Chandigarh.

To

All the offices of Punjab State. No. 16/92/41992—49040,
dated Chandigarh 29th September, 1992.

Sub : Recognition of the Degree

You are informed that Director, Education Department (Col) Punjab Chandigarh, *vide* letter No. 1125-20/-87C.E(2), dated 28th August, 1992 that the B.Ed. degree awarded by Varansi Sanskrit University and Annamalai University. is recognised by Punjabi University. This information be entered into the recognition of Degree Register and for necessary action.

(Sd.) . . . ,

for Director Employment,
Punjab, Chandigarh.

Endorsement No. 01-16/9/42041—66, Chandigarh, dated
29th September, 1992.

Copy of above is enclosed to all the officers of Directorate.

(Sd.-) . . . ,

for Director Employment,
Punjab, Chandigarh”.

(6) We had asked Senior Deputy Advocate General, Punjab. Mr. Cheema to apprise the Court as to what was the stance of the State Government regarding the degrees issued by the Varanasi Sanskrit University. Mr. Cheema brought on record a letter, dated 15th October, 1993, issued by the Government, Department of Education, to Director, Public Instructions (Colleges) and others, which is on the following subject :—

“University Grants Commission cautions against fake
Universities.”

(7) By this letter dated 15th October, 1993, copies of letters dated 25th September, 1992 and 1st September, 1993, received from the University Grants Commission were enclosed and it was directed that wide publicity in the State be given so that the students may not be duped by the fake Universities. The letter dated 25th September, 1992, is a D.O. letter from the University Grants Commission to the Secretary, Education Department, Government of Punjab, in which a list of the fake Universities issued by the University Grants Commission on 5th July, 1990, was appended. In the list of the fake Universities (27 in number), one of the Universities mentioned is Varanasi Sanskrit Vishwavidyalaya, Banaras (Utter Pradesh).

(8) We had also sent for the letter dated 18th October, 1988, as well as 7th August, 1989, referred to in annexure P-4 from the counsel for the State Government. The letter dated 18th October, 1988, when translated reads as under :—

“Government of Punjab
Department of Education
(Education Branch-5).

To

The Director, Education (Colleges),
Punjab,
Chandigarh.

Memo No. 36/44/88-4 C-5/3877,
dated Chandigarh 18/10/88.

Please refer to your memo No. 7840-20/26-80 K.A. dated, 22/9/88 on the above mentioned subject.

2. For courses/certificates which have been recognised by Panjab University/Punjabi University/Guru Nanak Dev University/Punjab School Education Board, there is no need to issue any separate order/notification by the State Government to give recognition to the same.”

(9) The letter dated 7th August, 1989, when translated into English reads as under :—

“From

The Director, Education,
Colleges, Punjab.

The Director,
Employment Department, Punjab,
Chandigarh.

Memo No. 2538-20/26-87K(2), dated Chandigarh 7th August, 1989.

Sub : Re : recognition of various qualifications.

Please refer to your memo No. ABC 16/89/24341, dated 2nd June, 1989 on the above mentioned subject.

2. In this regard it is intimated that the Bachelor of Education Course conducted by Varanasi Sanskrit University has been recognised by Punjabi University Patiala and,—*vide* letter No. 36/44/88-4C5/3877 dated 18th October, 88 from the Punjab Government, it has been clearly mentioned that those courses which have been recognised by different Universities, the State Government is not required to issue any separate order/ notification for recognising the same.”

(10) From the aforesaid communications one thing is very clear that till 15th October, 1993, the Punjab Government had not taken any steps to inform or publish anything that the Varanasi Sanskrit University was a fake University. Though the letters had been received from the University Grants Commission earlier but nothing is on the record to show that the Punjab Government in the Education Department had taken any steps either to derecognise the course/degree of the Varanasi Sanskrit University till 15th October, 1993, when a circular was issued to the Director, Public Instructions (Colleges) to give wide publicity in the State so that the students may not be duped by the fake Universities.

(11) From the letters dated 18th October, 1988 and 7th August, 1989, reproduced above as also letters dated 14th October, 1989 and 29th September, 1992, copies annexures P4 and P5 respectively, reproduced above, it is clear that B.Ed. course of the Varanasi Sanskrit University was recognised by the Punjabi University and, therefore, there was no need by the State Government to separately recognise the degrees awarded by the said University. Learned counsel for the petitioner argued that even if it is taken that some steps were taken by the State Government to derecognise the course of the University in question in October, 1993, it could not affect the students who had already

taken the admission in the 1993-94 Session or prior thereto. We find force in this argument. Many students like the petitioner had obtained degree from the aforesaid University which stood recognised by the Punjabi University and consequently by the State Government. Specific steps should have been taken by the State Government to derecognise the course/degree of Varanasi Sanskrit University. Even if it is assumed that derecognition took place by the Punjab Government, it was only after 15th October, 1993. This should not affect the candidates who had got degrees prior to that date or had got admission in the said University prior to 15th October, 1993. For this conclusion, we find support from the Apex Court judgment in *Suresh Pal and others v. State of Haryana and others (1)*. The Apex Court observed as under :

“3. We are of the view that since at the time when the petitioners joined the course, it was recognised by the Government of Haryana and it was on the basis of this recognition that the petitioners joined the course, it would be unjust to tell the petitioners now that though at the time of their joining the course it was recognized, yet they cannot be given the benefit of such recognition and the certificates obtained by them would be futile, because during the pendency of the course it was derecognized by the State Government on 9th January, 1985

Similar view was taken by a Full Bench of this Court in *Neelam Kumari v. State of Punjab and others (2)*

(12) Apart from the above, the petitioner was given the job in 1995 and her appointment was approved by the official respondents after seeing copies of her degrees. There is nothing wrong with her work and conduct. In these circumstances, we do not consider it to be in the interest of justice that the approval granted to the petitioner's appointment by the official respondents in the year 1995 should be allowed to be withdrawn by the impugned order, copy annexure P-6. In passing we may also mention that it was argued that some other Teachers having degree from the said Institution from which the petitioner got her B.Ed. degree are still continuing in service.

(1) AIR 1987 SC 2027.

(2) 1993 (1) RCJ 327.

(13) For the foregoing reasons, we allow this writ petition and quash the order dated 25th May, 2000, copy annexure P6. Resultantly, the petitioner will be allowed to continue in service and the respondent State would be under obligation to give grant in-aid to the respondent School against the post on which the petitioner is working.

R.N.R.

Before V.M. Jain, J

PARKASH KAUR & OTHERS—Petitioners

versus

GURBACHAN KAUR & ANOTHER—Respondents

Criminal Misc. No. 25644/M OF 2000

30th August, 2000

Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989—S. 3—Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Rules, 1995—Rls. 5, 6 & 7—Judicial Magistrate ordering the summoning of the accused u/ss 323/506 IPC and u/s 3 of the 1989 Act—Appellate Court upholding the summoning order—There is no bar to the filing of a criminal complaint under the provisions of the 1989 Act before a Magistrate—A Judicial Magistrate is competent to entertain a criminal complaint u/s 190 Cr. P.C.—A complaint cannot straightway be laid before the special Court under the 1989 Act—No illegality in passing the summoning order—Petition liable to be dismissed.

[Gangula Ashok and another v. State of A.P. 2000 S.C.C. (Cr.) 488, followed]

[Devinder Singh Sarpanch & others v. State of Punjab 1997(3) RCR (Cr.) 575 and Dara Singh @ Darbara Singh v. Tej Kaur, ILR 2000(2) Pb. & Hy. 211, do not represent correct law]

Held, that a Special Court under the SC/ST Act was essentially a Court of Session and it could take cognizance of the offence when the case was committed to it by the Magistrate in accordance with the provisions of the Cr. P.C. In other words, a complaint or chargesheet cannot straightway be laid before the