

(2012) 01 MP CK 0028

Madhya Pradesh High Court

Case No: Writ Petition No. 6184 of 2011

Makhanlal Chaturvedi
Vishwavidyalaya Adhyayan
Kendra Sangh

APPELLANT

Vs

State of M.P. and Others

RESPONDENT

Date of Decision: Jan. 19, 2012

Acts Referred:

- Madhya Pradesh Makhanlal Chaturvedi Rashtriya Patrakarita Vishwavidyalaya Sansthan Adhiniyam, 1990 - Section 3, 5, 5(xxxi), 51

Citation: (2012) ILR (MP) 716

Hon'ble Judges: Sanjay Yadav, J; Ajit Singh, J

Bench: Division Bench

Advocate: V.S. Shrotri with Praveen Chaturvedi and Vikram Johri, for the Appellant; Naman Nagrath, Addl. A.G. with Swapnil Sohgaura and Nitin Shukla, for the Respondent

Final Decision: Dismissed

Judgement

@JUDGMENTTAG-ORDER

Ajit Singh, J.

The petitioner is an Association of the Institutes which are associated with respondent No. 2 Makhanlal Chaturvedi National University of Journalism and Communication (in short, "the University") Respondent No. 3 is Director of the University. The University, has been established u/s 3 of the Madhya Pradesh Makhanlal Charurvedi Rashtriya Patrakarita Avam Sanchar Vishwavidyalaya Adhiniyam, 1990 (in short, "the Act") with a view to impart training, teaching and research in Hindi journalism. Under the Act, the University has framed Association of Study Institute Regulation 2008 (in short, "the Regulation 2008"). Here, the word "Association" is understood to convey the meaning of "Affiliation". The Regulation 2008 came into force with effect from 1.1.2008.

2. Clause 11.1 of the Regulation 2008 provides for maximum number of institutes to be associated at a place. Prior to 21.5.2010, it was as under:

11.1. Maximum number of institutes at a place

The University shall permit association to the Institute situated at not less than a Town/City having population of 25000 or more.

The University shall permit two institutes upto the population of 1 lakh. For subsequent 40000 population one additional institute shall be permitted thereafter. The basis of population shall be the latest census figures.

3. The above quoted clause was amended vide notification dated 29.5.2010, Annexure P5. After amendment, it now reads as under:

11.1. Maximum number of institutes at a place

The inspection team will decide upon the feasibility of running Computer Courses at a particular place and the maximum number of Computer Institutes at that particular place. (The rule of minimum 25000 population for grant of association for Computer Courses and the basis of population as well as the formula for calculation of maximum number of institutes at a place, is quashed.)

4. By the amendment the criteria for association on the basis of population has been given a go-bye and in its place the criteria of inspection by the inspection team has been substituted.

5. The petitioner aggrieved with the aforesaid amendment of Clause 11.1 of the Regulation 2008, has challenged the validity of the same on the ground that it has been made by the Director, respondent No. 3, without any competence and authority. According to the petitioner, only the General Council of the University, which is empowered to make regulation u/s 51 of the Act, can make such amendment and since the impugned amendment has been made by respondent No. 3, it is without any competence. Respondent nos. 2 and 3 in their return have defended the validity of the amendment under challenge. According to them, the Regulation 2008 has been made by the University u/s 5 of the Act.

6. The question, therefore, which calls for our consideration is whether the amendment of Clause 11.1 of the Regulation 2008 by notification dated 29.5.2010 not having been made by the General Council of the University is invalid due to lack of competence.

7. Powers and functions of University have been enumerated in section 5 of the Act. Its relevant extract reads as under:

5. Powers and functions of University.- The powers and functions of the University shall be -

(xxxi) to make such regulations as may, from time to time, be considered necessary for regulating the affairs and the management of the University and to alter, modify and to rescind them;

8. Section 51 of the Act deals with the power of General Council to make regulation. It reads as under:

51. Power of General Council to make regulation.- The General Council may make regulations, not inconsistent with this Act to provide for all the matters for which provision is required to be made under this Act by regulations:

Provided that the General Council shall not make any regulation affecting the status, powers or constitution of any authority of the University until such authority has been given an opportunity of expression of an opinion in writing on the proposed changes, and any opinion so expressed shall be considered by the General Council.

(Emphasis supplied)

9. By reading the above quoted provisions we find that the power of University to make regulations u/s 5(xxxi) of the Act is unrestricted whereas the power of General Council to make regulation u/s 51 is restricted in that the General Council can make regulations only in respect of a matter "for which provision is required to be made under this Act by regulations". There is no unrestricted power of the General Council to make regulations. The General Council can make regulation in a matter required to be made by regulations under the Act Thus, the General Council cannot make regulation on a matter which is not required to be made by regulations under the Act. In other words, there has first to be a provision in the Act that it will be a matter on which the General Council will make regulations. In the present petition, the petitioner has failed to show that the impugned amendment made under Clause 11.1 is a matter on which the Act provides that it can be made by regulations. This being the situation, we are unable to agree with the petitioner and answer the question in negative. The petition, therefore, fails and is dismissed with Rs. 1,000/- as costs which shall be payable to respondent No. 2.