

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

% **Date of decision: 26th September, 2014.**

+ **W.P.(C) 5937/2010**

B. MAHESH SHARMA **Petitioner**

Through: Mr. A.J. Bhambhani, Sr. Adv. with Mr. Zishan Sikandri, Adv.

Versus

UNION OF INDIA & ORS. **Respondents**

Through: Ms. Anjana Gosain Adv. for R-1/UOI.
Mr. Arjun Harkauli, Adv. for R-2/UGC.
Ms. Mamta Tiwari, Adv. for Mr. Amitesh Kumar, Adv. for R-3 AICTE
Mr. Rakesh Tikku, Sr. Adv. Mr. Amit Sharma, Mr. Arunabh Choudhary, Mr. Gursharan Singh, Mr. Praveen Nagar, Mr. Sumit, Mr. Aditya Bhardwaj and Mr. Pranjay, Advs. for R-4/IIPM.
Mr. Arunav Patnaik with Mr. Yojit Singh, Advs. for R-5.

CORAM:

HON'BLE THE CHIEF JUSTICE

HON'BLE MR. JUSTICE RAJIV SAHAI ENDLAW

RAJIV SAHAI ENDLAW, J.

1. This petition, filed as a Public Interest Litigation (PIL), flags the issue, of the respondents No.1 to 3 i.e. Union of India (UOI), the University Grants Commission (UGC) and the All India Council for Technical Education (AICTE) having not taken any action and having thereby allowed the respondent No.4 Indian Institute of Planning and Management (IIPM) through its Dean Mr. Arindam Chaudhuri to fraudulently use “MBA / BBA”

in relation to the Courses offered by it, thereby misleading, cheating and exploiting students attracted to the said Institute under the belief that they will acquire the qualification of MBA / BBA. Manonmaniam Sundaranar University (M.S. University), Tamil Nadu which had franchised its MBA programme to the respondent No.4 IIPM, allegedly in violation of the norms of the respondent UGC and the principles laid down in ***Prof. Yashpal Vs. State of Chhattisgarh*** (2005) 5 SCC 420, is impleaded as respondent No.5 and the various foreign Universities and the Institutions whose names the respondent No.4 IIPM was using in its advertisements, allegedly to lure the students, are impleaded as respondents No.6 to 11. The following reliefs have been claimed in the petition:

- “a) Issue a writ of, or in the nature of, mandamus and/or any other appropriate writ, direction or Order in public interest directing Respondents Nos. 1, 2 and/or 3 to frame appropriate norms and guidelines to ensure that no private educational Institution uses the terms “MBA”, “BBA” or any other similar term/s that refer to, or are associated with, recognized Degrees in higher education, whether in management, medicine or engineering etc., in relation to the Courses offered unless such educational Institution is a recognized university or deemed university or accredited to a recognized university;*
- b) Issue a writ of, or in the nature of, mandamus and/or any other appropriate writ, direction or Order directing Respondents Nos. 1, 2 and /or 3 to frame appropriate norms and guidelines to ensure that foreign universities do not “lend” their names to private higher educational Institutions in India without prior approval of Respondents Nos. 1, 2*

and/or 3, the objective being to prevent private higher educational Institutions in India from exploiting students without having requisite infrastructure, facilities, standards or involvement of such foreign universities in providing such education;

- c) Issue a writ of, or in the nature of, mandamus and/or any other appropriate writ, direction or Order directing Respondents Nos. 1, 2 and/or 3 to order stoppage of all programmes other than those that are permissible in law, especially “distance learning” programmes; and to frame policies that clearly lay-down rules of design, approval, delivery and quality assurance of all academic programmes offered by any State Institutions; and frame policies that explicitly prevent State universities from entering into franchising of higher education;*
- d) In the alternative, this Hon’ble Court may itself frame appropriate norms and guidelines as aforesaid to achieve the salutary purposes stated in prayer (a), (b) and (c) above;*
- e) Direct Respondent No. 2 and/or other appropriate body/organization of the Government of India to conduct a thorough, comprehensive enquiry / investigation into the affairs of Respondent No.4 institute as highlighted in the present petition;”*

2. The petition was entertained and ordered to be taken up for hearing along with certain writ petitions filed by the respondent No.4 IIPM against the respondents UGC and AICTE. Vide order dated 27th January, 2011, Indira Gandhi National Open University (IGNOU) was also impleaded as a respondent to the petition. The other petitions along with which this petition was being taken up for hearing were however disposed of *inter alia* in the light of the judgment of the Supreme Court in *Association of Management*

of Private Colleges Vs. All India Council for Technical Education

(2013) 8 SCC 271 holding that MBA is not a technical course within the definition of All India Council for Technical Education Act, 1987 (AICTE Act) and AICTE does not have jurisdiction concerning the same. The order dated 2nd December, 2013 in this writ petition records that the respondent UGC vide its order dated 19th November, 2013 had found the advertisement issued by the respondent No.4 IIPM to be having the potential to mislead the students and public at large and having taken a decision that the respondent No.4 IIPM should forthwith stop the practice of issuing such dubious advertisements to attract students deceptively; faced therewith, the counsel for the respondent No.4 IIPM stated that till IIPM takes recourse against the said order of the UGC, it shall not print / publish / insert / issue / place any advertisement either in any newspaper, journal or Television or website without the prior approval of this Court. This Court in the order dated 2nd December, 2013 recorded the said statement of the counsel and accepted the same and ordered the respondent No.4 IIPM to be bound thereby.

3. We may also notice another subsequent development. Vide Notification dated 4th May, 2013 of IGNOU, Statute XXVIII of IGNOU establishing the Distance Education Council was repealed and IGNOU thus seized to be concerned with distance education which has since been taken

over by the respondent UGC.

4. The respondent UGC in its counter affidavit filed in October, 2010 to the petition has *inter alia* stated:

- (i) that the respondent No.4 IIPM is neither a University within the meaning of Section 2(f) of the University Grants Commission Act, 1956 (UGC Act) nor is it a Deemed University declared by the Central Government under Section 3 of the said Act;
- (ii) that the respondent No.4 IIPM is not entitled to confer, or grant, or hold itself out as entitled to confer or grant any Degree;
- (iii) that the respondent No.4 IIPM however in the advertisements being published by it was using the nomenclature of Degree (as defined in Section 22 of the UGC Act) such as BBA Degree and MBA Degree in relation to its Courses / programmes and misleading the students and public at large;
- (iv) that UGC had issued a show cause notice dated 17th October, 2007 under Section 24 of the UGC Act to the respondent No.4 IIPM, as to why action should not be initiated against it;
- (v) that the respondent No.4 IIPM in its reply dated 14th February, 2008 thereto, informed that it does not award any Degree and is conducting a course which is non-technical and non-professional

Certificate Programme in National Economic Planning and Entrepreneurship and though does not have any collaboration with International Management Institute (IMI), Belgium but the said Institute awards its Degrees to IIPM students in recognition of the Course undertaken by them at IIPM;

(vi) that UGC had included the name of the respondent No.4 IIPM in the list of fake Universities, posted and maintained by the UGC on its website with the objective of informing the students and public at large of the status of the IIPM;

(vii) however pursuant to order dated 27th June, 2008 in W.P.(C) No.4567/2008, UGC removed the name of the respondent No.4 IIPM from the list of fake Universities and issued advertisements informing students / public at large in terms of the said order;

(viii) that the respondent No.5 M.S. University, Tamil Nadu is a State University and could not have approved the respondent No.4 IIPM as an onside academic partner Institution to confer MBA, BBA and BCA Degrees;

(ix) that in accordance with the judgment in *Prof. Yashpal* (supra) also, the State Universities or the Private Universities established by the State Governments are not entitled to establish or open off-campus

study centres or to create franchises in the name of Distant Education Programme outside the State.

5. Though counter affidavits have also been filed by other respondents including the respondent No.4 IIPM and rejoinder to some of them have also been filed, besides by the petitioner also by the respondent No.4 IIPM but in the light of what is recorded herein below, the need to refer thereto does not arise.

6. When this petition was taken up for hearing on 16th September, 2014, the counsel for the respondent AICTE placed before us, copies of the orders dated 17th April, 2014 and 9th May, 2014 in SLP(C) No.7277/2014 titled ***Orissa Technical Colleges Association Vs. All India Council for Technical Education & Anr.*** and which are as under:

“17/04/2014

Upon hearing counsel the Court made the following order.

In the counter affidavit filed on behalf of respondent No. 1, i.e., All India Council for Technical Education (AICTE), it is stated that Approval Process Handbook (2013-14) is presently in force and the same has been extended and made applicable for the Academic Year 2014-15 as well.

AICTE shall now proceed in accordance with the Approval Process Handbook for the Academic Year 2014-15 insofar as the members of the petitioner Association and all colleges and Institutions situated similarly to the members of the petitioner Association are concerned and necessary orders shall be issued by AICTE within ten days.

Prayer for interim relief is ordered accordingly.

09/05/2014

*UPON hearing counsel the Court made the following order.
I.A. Nos. 2 & 3 of 2014:*

The order dated 17.4.2014 passed by this Court is clarified and it is directed that prior approval of All India Council for Technical Education (AICTE) is compulsory and mandatory for conduct of a technical course including the MBA/Management Course by an existing affiliated Technical College and also new Technical College which will require affiliation by a University for conduct of its Technical Courses/Programmes for the academic year 2014-15.

The time given in the order dated 17.4.2014 is extended by 10.6.2014.

I.A. Nos. 2 & 3 of 2014 stand disposed of as above.

I.A. Nos. 1, 4 and 5 of 2014:

Mr. Bijan Kumar Ghosh, learned counsel for the applicants seeks withdrawal of I.A. Nos. 1, 4 and 5 of 2014.

I.A. Nos. 1, 4 and 5 of 2014 are disposed of as withdrawn.”

On the basis thereof, the counsel for the respondent AICTE contended that in accordance therewith, prior approval of AICTE is compulsory and mandatory for conduct of a technical course including the MBA / Management Course and the respondent No.4 IIPM having not obtained the approval of the respondent AICTE, is not entitled to conduct MBA / Management Course or to claim to be doing so.

7. On request of the senior counsel for the respondent No.4 IIPM appearing on 16th September, 2014, the hearing was adjourned to 18th September, 2014.

8. The senior counsel appearing for the respondent No.4 IIPM on 18th September, 2014 stated:

(a) that the affiliation of the respondent No.4 IIPM with M.S. University has come to an end;

(b) that the respondent No.4 IIPM is now running only certain Courses;

(c) that the respondent No.4 IIPM is not recognized by any statutory body / authority whatsoever, and;

(d) that the respondent No.4 IIPM is not entitled to and does not confer any Degree.

With respect to the orders supra of the Supreme Court in *Orissa Technical Colleges Association*, the senior counsel for the respondent No.4 IIPM stated that the same are not applicable to the respondent No.4 IIPM since the respondent No.4 IIPM is not an affiliated Technical College and is not affiliated to any University and is not conducting any Technical Courses/Programmes.

9. The counsel for the respondent AICTE also handed over the minutes of the meeting held on 10th April, 2013 of the Hearing Committee constituted by the AICTE in the matter of removing the name of the

respondent No.4 IIPM from the list of unapproved Institutions posted and maintained on the AICTE website. The Hearing Committee concluded that the justification / clarification submitted by the respondent No.4 IIPM was not acceptable as the programmes / activities being run by the respondent No.4 IIPM are clearly an attempt to offer MBA Programmes by bypassing the statutory requirement of seeking prior approval of AICTE stipulated under the AICTE Act and accordingly recommended AICTE to continue displaying IIPM's name in the list of unapproved Institutions displayed on the AICTE website. It was also informed that the said recommendation was accepted by AICTE and IIPM informed thereof vide letter dated 26th April, 2013.

10. Per contra, the senior counsel for the petitioner contended that the respondent No.4 IIPM is also in violation of the statement made before this Court on 2nd December, 2013 and by which it was ordered to be bound. It is stated that though it was stated before this Court that the respondent No.4 IIPM shall not print / publish / insert / issue / place any advertisement either in any newspaper, journal or Television or website without the prior approval of the Court but the respondent No.4 IIPM on its website continues to display advertisements including for admissions for the year 2014. Snapshots of such advertisements downloaded from the website of the

respondent No.4 IIPM were handed over in the Court and which show the respondent No.4 IIPM having advertised for admission to “open MBA / (BBA + MBA - Integrated)” programmes for the year 2014 and having also represented that the same will lead to “UG/PG Courses IMI, Brussels”. The senior counsel for the petitioner has also drawn our attention to the Prospectus published by the respondent No.4 IIPM and copy of which has been filed along with the writ petition, wherein the respondent No.4 IIPM had represented that the undergraduate programmes undertaken with it resulted in the award of Degree in B.Sc. in management. It is contended that though the senior counsel for the respondent No.4 IIPM today has acknowledged that the respondent No.4 IIPM was/is not entitled to confer Degree in management but was misrepresenting to the students. It is further contended that in accordance with the statements made by the senior counsel for the respondent No.4 IIPM today, the respondent No.4 IIPM is clearly a non-professional, non-technical Institution and nothing more than a private teaching (PT) Institution like several other PT Schools/Colleges operating in the country. It is yet further contended that the use by the respondent No.4 IIPM of the nomenclature ‘Business School’ or ‘B- School’ as used by other approved Institutions imparting education in BBA/MBA courses is also deceptive and misleads the students. Lastly, it is contended that though the

respondent No.4 IIPM before this Court stated (as recorded in the order dated 27th June, 2008 in WP(C) No.4567/2008 (supra) filed by IIPM) that it is not having any affiliation with IMI, Belgium but its advertisements misleadingly convey otherwise. It is yet further informed that IMI, Belgium is not even recognized as per the law of Belgium.

11. The senior counsel for the respondent No.4 IIPM in rejoinder contended that the present petition is not entitled to be entertained as a PIL, as the petitioner has a history of long standing disputes with the respondent No.4 IIPM and particulars of which have been mentioned in its counter affidavit. It is thus contended that the petition is by way of personal vendetta, rather than being in public interest.

12. We have considered the rival contentions.

13. We may at the outset state that, i) this petition having remained pending for nearly four years; and, ii) being concerned with the subject of, imparting of education being converted into a teaching shop/business and of misleading gullible students who, owing to the number of recognized educational Institutions in the country having not kept pace with the growing population, are compelled to waive caution and in an attempt to attain qualification, allow themselves to be misled; and, iii) in the light of

subsequent events and the material which has come before this Court, we do not deem it appropriate to go into the question of the petition being motivated by private instead of public interest. Even if that were to be so, the issue having been brought to the attention of this Court, we are inclined to, on our own, take up / pursue the same.

14. A visit by us on 25th September, 2014 to the website www.timi.edu of International Management Institute, Brussels, Belgium has also disclosed the same to be nothing different from “The Global initiative of Asia’s leading business school – IIPM” and having been set up by the same Mr. Arindam Chaudhuri and his father Dr. Malay Chaudhuri. The respondent No.4 IIPM on the other hand, in its advertisements, is portraying as if it has recognition, if not in India from UGC or AICTE, from a foreign Management Institute namely IMI, Belgium and which advertisements have the potential of misguiding young minds who have a craze for ‘foreign education’ in the hope it will open doors for international placements/employments and cleverly concealing from them that IMI, Belgium is nothing but an alter ego or another face of IIPM. A visit to the website www.iipm.in/institutions on 25th September, 2014 disclosed the following inscription:-

The IIPM Group runs multiple Institutions internationally and has multiple partner institutions which benefit from partnering with IIPM.

IIPM's National Institutions / Partners



ICHE

IIPM Centre for Higher Education (ICHE) is an IIPM initiative offering 3-years Integrated programmes in National Economic Planning and Entrepreneurship. **ICHE is globally the only institution which offers a masters level programme to students after 10+2 in only 3 years.** ICHE students are eligible for IIPM certification. Students additionally become eligible for the Post Graduate Degree in Management from IMI, Belgium, after completing 2 years of work experience from the date of completion of their programme.

GOTA is an integral part of the ICHE programme.

For further details click here [ICHE](#)

IMM

IMM is an AICTE approved institution founded in 1969 and its current Director is Mr. Gaganjit Singh.

IMM is a partner institute of IIPM. IIPM supports IMM's entire admission process through its national infrastructure. IIPM also supports IMM by providing IIPM's world class faculty, IIPM's Global Outreach Programmes and IIPM's nationally leading placement initiatives.

IMM students also have option to become eligible for IIPM certification along with their programme. However it may be noted that IMM is an independent institution and GOTA (Global Opportunities & Threat Analysis) of IIPM is not an integral part of IMM programmes and can only be chosen as an option.

For further details click here [IMM](#)

IIPM's International Institutions / Partners

IMI

IMI is an independent institution whose roots go back to 1973. It is based out of Brussels in Belgium. IMI is IIPM's international partner institution. IIPM takes care of its entire admission, faculty and global placements.

For further details click here [IMI](#)

In our opinion, the aforesaid is clearly a maze created by the respondent No.4 IIPM to entrap students to enlist with it in the hope of acquiring a qualification which the respondent No.4 IIPM is not entitled to confer and thereby enriching the respondent No.4 IIPM to a considerable extent as is evident from the huge expenditure earlier as well as now being incurred by the respondent No.4 IIPM in publicity in print and electronic media.

15. The respondent No.4 IIPM and its Dean Mr. Arindam Chaudhuri are undoubtedly also in violation of the statements given to this Court on 2nd December, 2013 and with which they were ordered to be bound. The senior counsel for the respondent No.4 IIPM in fact had no reply also to the snapshots from the website of IIPM shown to us during the hearing and which are in violation of the said statement, as recorded in the order dated 2nd December, 2013. Neither could the senior counsel for the respondent No.4 IIPM deny that the same were from the website of IIPM nor could inform of any order by which IIPM may have been released from the said statement. The respondent No.4 IIPM, its concerned officials including its Dean Mr. Arindam Chaudhuri are accordingly liable to be proceeded against and punished for such breach of statements in the nature of undertaking given to this Court. However, considering that the said statement is of 2nd December, 2013 and admission only for the year 2014 would be taking

place / would have taken place thereafter, we take a lenient view of the matter and,

“DIRECT THE RESPONDENT NO.4 IIPM AND ITS RESPONSIBLE OFFICIALS INCLUDING ITS DEAN MR. ARINDAM CHAUDHURI TO FORTHWITH REMOVE THE SAID ADVERTISEMENTS FROM THEIR WEBSITE AND TO COMPLY IN LETTER AND SPIRIT WITH THE SAID STATEMENT GIVEN AND RECORDED IN THE ORDER DATED 2ND DECEMBER, 2013. THE RESPONDENT NO.4 IIPM AND ITS RESPONSIBLE OFFICIALS INCLUDING ITS DEAN MR. ARINDAM CHAUDHURI TO ALSO WITHIN ONE WEEK HEREOF, DISPLAY ON THEIR WEBSITE AN APOLOGY FOR HAVING SO VIOLATED THE STATEMENT IN THE NATURE OF UNDERTAKING GIVEN TO THE COURT.

16. We however clarify that our having taken a lenient view would not relieve the respondent No.4 IIPM or its officials or Dean Mr. Arindam Chaudhuri from any action which may be taken by any other person who may have been lured by the advertisements made in violation of the statement given to the Court on 2nd December, 2013.

17. We are unable to accept the contentions of the senior counsel for the respondent No.4 IIPM that the orders dated 17th April, 2014 and 9th May, 2014 of the Supreme Court in *Orissa Technical Colleges Association* (supra) are not applicable to the respondent No.4 IIPM. What the Supreme Court has prohibited to be done, cannot be permitted to be done indirectly.

Once the Supreme Court has ordered that prior approval of AICTE is compulsory and mandatory for conduct of a Technical Course including the MBA / Management course, by an existing affiliated Technical College and also new Technical College which will require affiliation by a University for conduct of its Technical Courses / Programmes, it is not open to the respondent No.4 IIPM to contend that since it is not a Technical College, it is entitled to so run MBA / Management course without prior approval of the AICTE. The purport of the order is that no Institution should run MBA / Management course, without the approval of the AICTE. The respondent No.4 IIPM is clearly advertising / running MBA and BBA Courses. The BBA course shall also fall in the category of management course which has been prohibited. The respondent No.4 IIPM admittedly does not have the AICTE approval. It is thus not entitled to run a BBA / MBA course or to advertise itself as conducting any course/programme in Management or to advertise itself as a Management School or a Business School or a B-School. We order accordingly.

18. In the face of the admission of the senior counsel for the respondent No.4 IIPM today that the respondent No.4 IIPM is not entitled to confer any Degree, the prospectus issued by the respondent No.4 IIPM showing itself as conferring a Degree, is evidently false and misleading. The respondent

No.4 IIPM is not entitled to represent so in any manner directly or indirectly. Further in view of the admission that the respondent No.4 IIPM is not recognized by any statutory body / authority, the respondent No.4 IIPM also is not entitled to directly or indirectly in any manner convey that it is so recognized. Similarly, with respect to foreign Degrees / Institutions also, the respondent No.4 IIPM is required to make a clean breast of the status and to vividly and clearly inform its prospective customers / clients / students thereof, including the status of the said foreign Institutions and/or its Degree or Certificate in the country of its origin and/or to which it belongs.

19. We accordingly dispose of this petition, besides the aforesaid directions in paras No.15,17 and 18, with the following directions:

(A) The respondent No.4 IIPM and its management / officials including its Dean Mr. Arindam Chaudhuri are restrained with immediate effect from using the word “MBA, BBA, Management Course, Management School, Business School or B-School” in relation to the Courses / programmes being conducted by them or in relation to the representations if any made to the public at large and/or to their prospective clients, customers or students;

(B) The respondent No.4 IIPM and its management / officials including its Dean Mr. Arindam Chaudhuri are directed to prominently display on the website of IIPM that they are not recognized by any statutory body / authority and the status of the Foreign University / Institution and/or its Degree or Certificate in the country of its origin and whose Degree or certificate the students enrolling in the Course / Programme offered by the respondent No.4 IIPM would be entitled to;

(C) The respondent No.4 IIPM and its management / officials including its Dean Mr. Arindam Chaudhuri to within one week hereof, upload and display prominently on the website of the respondent No.4 IIPM this judgment to ensure that attention of anyone visiting the said website is drawn thereto (we clarify that the short time of one week is given since this is admission time, when students not admitted to Institutes / Colleges of their first choice, would be queuing for other Institutes).

20. We again clarify that the aforesaid would not relieve the respondent No.4 IIPM from the liability, if any in any action taken by any other person for having been misled in the past.

21. We also impose costs of Rs.25,000/- on the respondent No.4 IIPM, to be paid to Delhi Legal Services Authority within four weeks of today.

RAJIV SAHAI ENDLAW, J.

CHIEF JUSTICE

SEPTEMBER 26, 2014/bs