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MOHAMED IBRAHIM AND ORS.

v.

VINAYAKA MISSION UNIVERSITY AND ORS.

(Civil Appeal No. 2454 of 2012)

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FEBRUARY 22, 2012

[R.M. LODHA AND H.L. GOKHALE, JJ.]

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Education – Medical Education – Screening test for students with foreign medical qualifications – Eligibility criteria for screening test – Eligibility of “primary medical qualification” – Appellants-students, who had completed medical course from the off-shore campus of VMRF in Thailand, claimed eligibility for screening test – Claim upheld by Single Judge of High Court but negated by the Division Bench – On appeal, held: The eligibility criteria provided in the 2002 Regulations make it clear that a candidate intending to appear in the screening test must, inter-alia, possess primary medical qualification – Such qualification must be a recognised qualification for enrollment as a medical practitioner in the country in which the institution awarding such qualification is situated – In the instant case, the provisional degree awarded by VMRF, Thailand Off-shore campus to appellants-students was not recognised by the Medical Council of Thailand – Appellants-students were not entitled to register the degree awarded to them by VMRF with the Medical Council of Thailand – The provisional degree awarded by VMRF to these students, therefore, did not amount to primary medical qualification – The view taken by the Division Bench that the appellants-students did not possess eligibility of primary medical qualification, thus, cannot be said to suffer from any illegality – Screening Test Regulations, 2002 of the Medical Council of India – Regulations 2(f) and 4(1) – Indian Medical Council Act, 1956.

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The Government of India, vide notification issued in 2006 had accorded its approval to the proposal of Vinayaka Mission's Research Foundation, Salem, now Vinayaka Mission University ("VMRF") as a deemed University for starting an Off-shore Campus offering medical programmes at Bangkok, Thailand. The approval so granted was *inter alia* subject to two conditions, namely – 1) the degree shall be awarded by the VMRF to the students studying at and passing of the Off-shore Campus, Thailand by clearly stating that the degree has been awarded by VMRF, Deemed University, Bangkok, Thailand Off-shore campus and 2) the degree awarded to the students shall be treated as a foreign medical degree and such students would be required to qualify the screening test as per the provisions of Indian Medical Council Act, 1956 and Screening Test Regulations, 2002 of the Medical Council of India.

The appellants-students, who had completed medical course from VMRF, Deemed University, Bangkok, Thailand Off-shore Campus and were issued a provisional certificate to that effect in the year 2009 by VMRF, applied for screening test through VMRF to the National Board of Examination (NBE). NBE did not respond to such applications. VMRF then filed writ petition which was allowed by a Single Judge of the High Court. In intra court appeal, however, the Division Bench set-aside the judgment of the Single Judge holding that the appellants-students did not possess eligibility of primary medical qualification. Hence the present appeals.

Dismissing the appeals, the Court

HELD: 1.1. A bare look at the eligibility criteria provided in Regulation 4(1) of the Screening Test Regulations, 2002 of the Medical Council of India leaves no manner of doubt that a candidate who intends to appear in the screening test must, *inter-alia*, possess

A primary medical qualification. Such qualification must be a recognised qualification for enrollment as a medical practitioner in the country in which the institution awarding such qualification is situated. [Para 11] [557-B-C]

B 1.2. Admittedly, the provisional degree awarded by the VMRF to these students is not recognised by the Medical Council of Thailand. These students, who claim to have completed their course in the off-shore campus of VMRF, are not entitled to register the degree awarded to them by VMRF with the Medical Council of Thailand. The provisional degree awarded by VMRF to these students, therefore, does not amount to primary medical qualification. The view taken by the Division Bench that the students do not possess eligibility of primary medical qualification, thus, cannot be said to suffer from any illegality. [Para 12] [557-D-E]

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E *Soham Mayankumar Vyas and others vs. Union of India and others* (2010) 13 SCC 137 : 2010 (11) SCR 818 – held inapplicable

Case Law Reference:

2010 (11) SCR 818 held inapplicable Para 13

F CIVIL APPELLATE JURISDICTION : Civil Appeal No. 2454 of 2012 etc.

From the Judgment & Order dated 29.04.2010 of the High Court of Judicature at Madras in W.A. No. 716 of 2010.

G With

C.A. Nos. 2455, 2456 & 2457 of 2012.

K. Ramamoorthy, Amarendra Sharan, Dinesh Dwivedi, N. Shoba, Sri Ram J. Thalopathy, V. Adhimoolam, G. Umapathy, H C.V. Subramaniam, Rakesh K. Sharma, S. Ramsubramaniam,

S. Gowthaman Farrukh Rasheed (for D.S. Mahra), Amit Kumar Somesh Jha, Dhru Pal, Avijit Mani Tripathi, Rudreshwar Singh, Rakesh Gosain, Kaushik Paddar, Gopal Jha, Tapesh Kumar Singh, K.K. Mohan, Ashish Mohan, Manish Shrivastva, Abhishek Kumar Singh, S. Ramesh for the appearing parties. A

The Judgment of the Court was delivered by B

R.M. LODHA, J. 1. Permission to file Special Leave Petition is granted in S.L.P. (C) No. 19294 of 2011.

2. I.A. No. 2 of 2012 – application for impleadment is granted in S.L.P. (C) No. 26236 of 2010. Leave granted in all the Special Leave Petitions. C

3. We have heard Mr. G. Umapathy, learned counsel for Vinayaka Mission University, Mr. K.Ramamoorthy, learned senior counsel and Mr. Dinesh Dwivedi, learned senior counsel for the students, Mr. R.F. Nariman, learned Solicitor General for the Union of India and Mr. Amrendra Sharan, learned senior counsel for the Medical Council of India. D

4. The Government of India, vide notification dated October 10, 2006, accorded its approval to the proposal of Vinayaka Mission's Research Foundation, Salem, now Vinayaka Mission University (for short "VMRF") as a deemed University for starting an Off-shore Campus offering medical programmes at Bangkok, Thailand with an intake capacity and conditions of 100 undergraduate medical students per annum on the terms and conditions mentioned in the Memorandum of Understanding dated September 19, 2004 between VMRF and Rangsit University, Thailand. The approval so granted was subject to certain conditions mentioned at serial No. 9 of the endorsement of the above Notification. The relevant conditions are as under: E
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"(i) Vinayaka Mission's Research Foundation, Deemed University, Salem along with its constituent institutions and its off-shore campus in Bangkok, Thailand, will continue to H

- A abide by the norms and guidelines laid down and instructions issued from time to time by the University Grants Commission pertaining to institutions notified as Deemed to be Universities.
- B (ii) Vinayaka Mission's Research Foundation, Deemed University's Bangkok, Thailand's Off-shore Campus shall be subjected to the laws of the land of Thailand as applicable.
- C (iii) The students studying at and passing out from the off-shore campus in Thailand shall be awarded degree by Vinayaka Mission's Research Foundation, Deemed University, clearly distinguishing them (by stating that the degree awarded by Vinayak Mission's Research Foundation, Deemed University's Bangkok, Thailand Off-shore Campus) from the degrees awarded by the Deemed University in India.
- D (iv) All norms of Medical Council of India, wherever applicable, will continue to be in force and complied with.
- E (v) The students studying in and passing out from the proposed Off-shore campus centre at Thailand would be treated as those holding a foreign medical degree and would be required to qualify the screening test as per the provisions of Indian Medical Council Act, 1956 and Screening Test Regulations 2002 of Medical Council of India."
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5. From the perusal of the above conditions, two things become very clear, namely; (one) the degree shall be awarded by the VMRF to the students studying at and passing of the Off-shore Campus, Thailand by clearly stating that the degree has been awarded by VMRF, Deemed University, Bangkok, Thailand Off-shore campus and (two) the degree awarded to the students shall be treated as a foreign medical degree and such students would be required to qualify the screening test

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as per the provisions of Indian Medical Council Act, 1956 and Screening Test Regulations, 2002 (for short “2002 Regulations”) as Medical Council of India. A

6. Admittedly, the provisional MBBS degree awarded to the concerned students by the VMRF (Deemed University, Bangkok, Thailand Off-shore Campus) is not a degree recognised by the Medical Council of Thailand. The Medical Council of Thailand has accorded its approval now to the faculty of Medicine, VMRF as a medical institution for awarding MBBS degree for five years for the period March 10, 2011 till March 9, 2016. More over, nothing has been shown either to the High Court or to us that the course in Thailand is in any way recognised or is approved by the Medical Council of India. B C

7. Regulation 2(f) of 2002 Regulations defines “Primary Medical qualification” which means a medical qualification awarded by any medical institution outside India which is a recognised qualification for enrollment as medical practitioner in the country in which the institution awarding the said qualification is situated and which is equivalent to MBBS in India. Eligibility criteria for screening test is provided in Regulation 4 of 2002 Regulations. Regulation 4(1), as was existing during the relevant time, reads as under: D E

“(1) No person shall be allowed to appear in the screening test unless: F

he/she is a citizen of India and possesses any primary medical qualification, either whose name and the institution awarding it are included in the World Directory of Medial Schools, published by the World Health Organization; or which is confirmed by the Indian Embassy concerned to be a recognised qualification for enrollment as medical practitioner in the country in which the institution awarding the said qualification is situated.” G

8. The students, who are before us, claim to have H

A completed medical course and have been issued provisional certificate by VMRF on June 20, 2009. One of such certificates reads as under:

VINAYAKA MISSIONS UNIVERSITY

B UNDER SECTION 3 OF THE UGC ACT, 1956

SALEM, TAMILNADU, INDIA

C Formerly known as Vinayaka Mission's Research Foundation Deemed University)

OFF-SHORE CAMPUS – BANGKOK- THAILAND

PROVISIONAL CERTIFICATE

D **REG. NO. VR MBU 04 1003 DATE: 20-06-2009**

E This is to certify that **J. MOHAMED IBRAHIM** has passed the Final Bachelor of Medicine and Bachelor of Surgery Degree Examination held in **May, 2009**. He/She will be qualified to receive the M.B.B.S. Degree after satisfactorily completing the prescribed period of Compulsory Rotatory Resident Internship for one year.

sd/-

CONTROLLER OF EXAMINATIONS

F 9. Based on the above certificate, these students applied for screening test through VMRF to the National Board of Examination (NBE). NBE did not respond to such applications. VMRF then moved to the Madras High Court during vacation. The Vacation Judge issued certain directions. Pursuant thereto, 21 students appeared in the screening test. Of these 21 students, 4 cleared the screening test. The Writ Petition ultimately came to be allowed. NBE challenged the judgment and order of the Single Judge in intra court appeal before the Division Bench. The Division Bench allowed the appeal and set-aside the judgment and order of the Single Judge.

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10. The Division Bench, in the impugned order, has noted that VMRF was not approved by the Medical Council of Thailand and inspite of opportunity, nothing was produced to show that the degree awarded by the VMRF was recognised. A

11. A bare look at the eligibility criteria provided in Regulation 4(1) of 2002 Regulations leaves no manner of doubt that a candidate who intends to appear in the screening test must, inter-alia, possess primary medical qualification. Such qualification must be a recognised qualification for enrollment as a medical practitioner in the country in which the institution awarding such qualification is situated. B
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12. Admittedly, the provisional degree awarded by the VMRF to these students is not recognised by the Medical Council of Thailand. These students, who claim to have completed their course in the off-shore campus of VMRF, are not entitled to register the degree awarded to them by VMRF with the Medical Council of Thailand. The provisional degree awarded by VMRF to these students, therefore, does not amount to primary medical qualification. The view taken by the Division Bench that the students do not possess eligibility of primary medical qualification, thus, cannot be said to suffer from any illegality. D
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13. Mr. K. Ramamoorthy, learned senior counsel for the students heavily relied upon the decision of this Court in *Soham Mayankumar Vyas and others vs. Union of India and others*¹. However, in view of peculiar factual position of this case as noticed above, Soham Mayankumar Vyas has no application at all. F

14. Civil Appeals are, accordingly, dismissed with no order as to costs. G

B.B.B.

Appeals dismissed.

1. (2010) 13 SCC 137