

# **Nandini Nagar Post Graduate College, ... vs State Of U.P. Thru. Prin. Secy. Higher ... on 1 May, 2025**

**Author: Rajan Roy**

**Bench: Rajan Roy**

HIGH COURT OF JUDICATURE AT ALLAHABAD, LUCKNOW BENCH

High Court of Judicature at Allahabad

(Lucknow)

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Neutral Citation No. - 2025:AHC-LK0:24959-DB

Reserved on: 15.04.2025

Delivered on: 01.05.2025

Court No. - 2

Case :- WRIT - C No. - 3205 of 2025

Petitioner :- Nandini Nagar Post Graduate College, Gonda Thru. Authorized Representative

Respondent :- State Of U.P. Thru. Prin. Secy. Higher Education, Lko. And 3 Others

Counsel for Petitioner :- Mohd Tanveer Raza

Counsel for Respondent :- C.S.C., Akhilesh Kumar Srivastava, Sanjeev Kumar Srivastava

Hon'ble Rajan Roy, J.

Hon'ble Om Prakash Shukla, J.

(Per: Rajan Roy, J.) (1) Heard.

(2) By means of this petition, the petitioner has challenged vires of U.P. State Universities (Amendment) Act, 2023 as notified on 08.12.2023.

(3) During hearing learned counsel for the petitioner submitted that challenge was confined to Section 5 of the amending Act by which amendments have been made to the Schedule of the U.P. State Universities Act, 1973 (hereinafter referred to as 'the Act, 1973') specifically at Sl. No.6 by which certain districts have been added in the territorial jurisdiction of the newly established Maa Pateshwari Devi State University, Balrampur such as Ambedkar Nagar, Ayodhya, Barabanki and Sultanpur.

(4) Petitioner is a post-graduate non-aided college situated in District-Gonda. It was affiliated to Dr. Ram Monohar Lohia Avadh University, Ayodhya but by means of the aforesaid amendment in the Schedule of the Act, 1973, now, the college falls within the territorial jurisdiction of Maa Pateshwari Devi State University, Balrampur and the grievance is that it does not want to be de-affiliated from Dr. Ram Monohar Lohia Avadh University, Ayodhya and affiliated with the newly established university.

(5) The submission of learned counsel for the petitioner was that there is no provision for de-affiliation. Secondly, the amendment violates rights of the petitioner under Article 19(1)(g) of the Constitution of India. Thirdly, Section 7 of the Act, 1973 does not contain any power of de-affiliation nor does Section 37(8) and (9). No opportunity of hearing or notice was given prior to the amendment. Therefore, the amendment violates rights of the petitioner to continue to be affiliated with Dr. Ram Monohar Lohia Avadh University, Ayodhya.

(6) Learned Standing Counsel has invited our attention to para no.21 of the writ petition wherein it has been stated, inter alia, that the petitioner does not wish to seek quashment of notification dated 08.12.2023 for creation of new university i.e. opposite party no.3 but the petitioner has serious grievance so far as de-affiliation of the petitioner's college from opposite party no.2-University is concerned without the consent of petitioner-college and without following any provisions established by law and rules framed in this regard. The contention is that in the pleadings it is said that it does not want quashment of the notification whereas in the relief clause, as amended, petitioner-college has prayed for mandamus declaring the said notification to be ultra vires the Constitution. Therefore, the pleading is incongruous with the relief claimed.

(7) On being confronted, learned counsel for the petitioner submitted that he does not wish to challenge the entire notification but only that part is sought to be assailed by which the Schedule to the Act, 1973 referable to Section 3 thereof has been amended.

(8) We do not wish to enter into this controversy for the reason that none of the grounds raised in the writ petition and argued before us by learned counsel for the petitioner persuade us to declare the impugned amendment as ultra vires.

(9) Article 19(1)(g) of the Constitution of India confers a right upon citizens to practise any profession, or to carry on any occupation, trade or business. Sub-Section(6) of Article 19 provides that nothing in sub-clause (g) of the said clause shall affect the operation of any existing law in so far as it imposes, or prevent the State from making any law imposing, in the interests of the general public, reasonable restrictions on the exercise of the right conferred by the said sub-clause, and, in particular, nothing in the said sub-clause shall affect the operation of any existing law in so far as it relates to, or prevent the State from making any law relating to the professional or technical qualifications necessary for practising any profession or carrying on any occupation, trade or business; or the carrying on by the State, or by a corporation owned or controlled by the State, of any trade, business, industry or service, whether to the exclusion, complete or partial, of citizens or otherwise.

(10) Now, the Act, 1973 is a State enactment which the State Legislature is competent to enact and it is not the case of the petitioner that the legal position is otherwise. The said Act was promulgated to amend and consolidate the law relating to certain universities. Section 5 relates to territorial exercise of powers by the universities etc and sub-Section (1) thereof provides that Save as otherwise provided by or under this Act, the powers conferred on each University (other than the Sampurnanand Sanskrit Vishvavidyalaya) shall be exercisable in respect of the area for the time being specified against it in the Schedule. Section 7 of the Act, 1973 deals with powers and duties of the University. Sub-Section (2) thereof empowers a university under the Act, 1973 to admit any college to the privileges of affiliation or re-cognition or, to enlarge the privileges of any college already affiliated or recognized, as the case may be, or to withdraw or curtail any such privilege and to guide and control the work of affiliated and associated colleges. Section 37 of the said Act relates to affiliated colleges. Sub-Section (8) thereof empowers the university to withdraw or curtail affiliation granted to any college for the reasons and terms mentioned therein. Likewise, the Vice-Chancellor has been conferred such powers under sub-Section (9).

(11) The Schedule to the Act, 1973 read conjointly with Section (5) defines the territorial jurisdiction of the university within the bounds of which it exercises its powers under Section 7 and 37 etc of the Act, 1973.

(12) The power to affiliate also includes power to curtail or withdraw the affiliation and in fact, a specific provision is contained in this regard in sub-Sections (8) and (9) of Section 37 of the Act, 1973.

(13) The amendment in the Schedule does not vest the university with the power of withdrawal or curtailment but that is vested in it under sub-Sections (8) and (9) of Section 37 as already discussed, therefore, there is a misconception in the mind of the petitioner that the amendment makes a provision for de-affiliation, which is not the case. All that the amendment does is, it redistributes the territorial jurisdiction of the universities under Section 5 of the Act, 1973 by taking out certain districts from the territorial jurisdiction of Dr. Ram Monohar Lohia Avadh University, Ayodhya and including it in the jurisdiction of newly established Maa Pateshwari Devi State University, Balrampur. As a consequence of the aforesaid amendment, the petitioner which was earlier affiliated with Dr. Ram Monohar Lohia Avadh University, Ayodhya will now be treated as affiliated

with opposite party no.3-Maa Pateshwari Devi State University, Balrampur. The petitioner does not have any constitutional or legal right to continue to be affiliated with Dr. Ram Monohar Lohia Avadh University, Ayodhya. In fact, matters of affiliation are governed purely by the statute i.e the Act, 1973. It is trite that no pre-legislation hearing is required in law unless the Act itself envisages such a hearing which the Act, 1973 does not. Therefore, all the contention raised by learned counsel for the petitioner are untenable and cannot form the basis for issuance of any mandamus declaring the impugned amendment as ultra vires.

(14) The statement of object and reasons for the impugned amendment as contained in Section 5 of the amending Act, 1973 mentions the vision of Government of Uttar Pradesh of establishing one state university in each division to provide quality higher education. In pursuance to the aforesaid goal, opposite party no.3 has been established in Devi Patan division and accordingly, the territorial jurisdiction has been assigned to the newly constituted Universities including opposite party no.3 by the impugned amendment.

(15) For all these reasons, the writ petition is misconceived and the same is dismissed.

(Om Prakash Shukla,J.) (Rajan Roy,J.) Order Date :- 01.05.2025 Shanu/-