



WP. No. 30347 of 2015

IN THE HIGH COURT OF JUDICATURE AT MADRAS

ORDERS RESERVED ON	:	31.03.2023
ORDERS PRONOUNCED ON	:	01.06.2023

CORAM:

THE HONOURABLE MRS.JUSTICE J.NISHA BANU

**W.P. No. 30347 of 2015
and WMP.Nos.15676 of 2016 & 22218 of 2018**

1. P.Kanagaraji
2. K.Anandan
3. R.Ganesan
4. B.Karthikeyan
5. N.Sureshkumar

....Petitioners

-VS-

- 1) The Commissioner,
Corporation of chennai,
"Rippon Buildings",
Park Town, Chennai - 600 003
- 2) The Assistant Commissioner,
Corporation of chennai,
"Rippon Buildings",
Park Town, Chennai - 600 003
- 3) The Superintending Engineer,
Electrical Department,
Corporation of Chennai,
Chennai-60003



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4) Additional Chief Secretary,
Municipal Administration & Water Supply Department,
Fort St. George, Chennai -600009

5) Chairman, Joint Committee,
University Grants commission,
Bahadur Sharzafar Marg,
New Delhi-110002

...Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus to direct the respondents 1 to 4 to treat the Diplomas obtained by the petitioners from St.Peters Institute of Higher Education and Research (Declared under Section 3 of 1956 of UGC Act) as equivalent to the diploma in Electrical Engineering issued by the Government of Tamilnadu to give promotions to the petitioners to the post of Junior Engineer (Electrical) for which they are entitled to as per law and consequent monetary benefits.

For Petitioners : Mr.K.V.Subramanian
Senior Counsel
for M/s K.V.Subramanian Associates

For Respondents : Mr.G.T.Subramanian for R1 to R3
Standing Counsel
Mr.J.C.Durairaj for R4
Additional Government Pleader
Mr.P.R.Gopinathan for R5



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ORDER

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This writ petition has been filed by the petitioners praying for writ of mandamus to direct the respondents 1 to 4 to treat the Diplomas obtained by the petitioners from St.Peters Institute of Higher Education and Research as equivalent to the diploma in Electrical Engineering issued by the Government of Tamilnadu and to give promotions to the petitioners to the post of Junior Engineer (Electrical) for which they are entitled to as per law along with consequent monetary benefits.

2. It is averred in the writ petition that the petitioners are working as Electricians in Corporation of Chennai. They were permitted to study the Diploma Course in Electrical Engineering in the University of St. Peters Institute of Higher Education and Research (Declared under Section 3 of 1956 of UGC Act) Avadi in the year 2010 and they successfully completed the course in 2013. The next avenue of promotion is Junior Engineer (Electrical). In the selection list for promotion to the post of Junior Engineer, their names were not included. Therefore, they have given various representations dated 22.01.2015, 24.01.2015 to the respondents. In this regard, the 3rd respondent vide letter



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dated 29.04.2015, sought University Grants Commission, New Delhi/5th respondent, for clarification as to whether the diploma obtained by the petitioners are recognized as per UGC norms.

3. It is also averred in the writ petition, that vide communication dated 14.10.2013, UGC clarified that the Degrees/Diplomas/Certificates awarded for programmes conducted by the ODL institutions, recognized by DEC (erstwhile) and UGC, in conformity with UGC Notification on specification of Degrees should be treated as equivalent to the corresponding awards of the degrees/diplomas/certificate of the traditional Universities/Institutions in the country. Therefore, the petitioners contention is that the diploma in Electrical Engineering obtained by the Petitioners from the St.Peters Institute of Higher Education and Research, is at-par with the Diplomas obtained through other institutions.

4. The learned counsel submitted that as per the norms and qualifications prescribed, the petitioners possess Diploma in Electrical and Electronics Engineering and the respondent-Corporation cannot take different yardstick to different people.



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5. Per contra, the learned Standing counsel appearing for the respondents 1 to 3 would submit that the petitioners possess Diploma in Electrical Engineering and they will be considered for the post of Lighting Inspector and Junior Engineer (Electrical), if they are qualified in all other aspects. The 1st Respondent had issued a circular dated 12-12-2014 to all the Departments of Chennai Corporation, calling details of the eligible employees from the categories for the promotions to the post of Junior Engineer (Electrical), which is extracted hereunder:-

“ The qualification of Junior Engineer (Electrical) is as follows:-

"Diploma in electrical Engineer or Electronics and Communication Engineering or Instrumentation Engineering issued by the Directorate of Technical Education, Government of Tamil Nadu.

Or

Any other qualification recognized as equivalent thereof by Government of Tamil Nadu.

They should have passed the Account Test for Public Works Department Officers and Sub-ordinate (Part-I & II) within a period of two years".

Note: Preference will be given to Diploma in Electrical Engineering. ”



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6. As per the above circular, some of the petitioners' who had obtained Engineering Diploma through Open University/Distance Education, are not considered as equivalent to the Diploma issued by the Government of Tamil Nadu. They were informed about the same.

7. The learned counsel for respondents 1 to 3 would submit that the petitioners had taken admission in the year 2010, in St.Peters Deemed to be Univeristy and obtained diploma in Electrical Engineering in 2013, but at the relevant point of time, the deemed to be universiteis were not allowed to offer any diploma programmes through distance education mode.

8. The 5th respondent-Ministry of Human Resource Development, New Delhi, filed counter and stated that they had issued a direction to stop B.E./B..Tech courses through distance mode vide its letter dated 29th July 2009. The 5th respondent-UGC would point out that they informed all students and public about its Circular dated 23.08.2005 that the deemed to be universities can offer distance education programme only through its own study centres and too with specific approval of both UGC and distance



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educational council and private franchising of higher education is not permissible. The UGC further pointed out that they did not approve study centres of any deemed to be universities including St.Peters institute of Higher education and Research, Chennai.

9. Heard both sides and perused the records.

10. On a perusal of the materials available on record, it is seen that the petitioners joined the university in 2010 and studied in distance education stream in St.Peters Institute of Higher Education and Research, Avadi, which is declared as a deemed to be university, under section 3 of the UGC Act.

11. Having gone through the entire typed set of papers, the question for determination is whether the Diploma possessed by the petitioners is a qualifying equivalent diploma for promotion to the post of Junior Engineer (Electrical). The essential qualification prescribed in the Tamil Nadu Government Gazette Part III Section 2 Notification is as follows:-



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"8. Junior Engineer/Civil/Mechanical/Electrical on acquiring the Engineering Degree or its equivalent will be placed immediately below the last person in the panel holding the post of Assistant Engineer on the date of acquiring the above qualification. “

12. In the Circular of the respondent-Corporation dated 10.12.2013, it is very clearly pointed out as under:-

<i>Name of the Post</i>	<i>Method of recruitment</i>	<i>Qualification</i>
Junior Engineer(Electrical) Scale of Pay 9300-34800-Grade Pay Rs.4400	1.By direct recruitment 2. By promotion of approved probationers from any lower categories on acquiring prescribed qualification for direct recruitment.	Diploma in Electrical Engineering or Electronics and Communication Engineering on instrumentation Engineering issued by the Directorate of Technical Education, Government of Tamil Nadu (or) Any other qualification recognised as equivalent thereto by Government of Tamil Nadu: Should have passed the Account test for Public Works Department Officers and subordinate (Part-I &II) within a period of two years. Note Preference will be given to Diploma in Electrical Engineering.

The certificate issued by St.Peter's University to the petitioners would go to show that they have been awarded the Diploma in Electrical and Electronics



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Engineering for the examination held in April 2013.

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13. A careful perusal of the typed set of papers would go to show that the University Grants Commission (UGC) declared St.Peter's Institute of Higher Education and Research, Avadi, Chennai, as deemed to be university status and the institution shall award degrees in respect of the academic courses/programmes of the university. Clause 15 states that the guidelines issued by both the DEC and UGC from time to time in the matter of imparting education through distance mode shall have to be complied with by it.

14. It is seen that by a Circular dated 14.10.2013, the UGC addressed to all the Indian Universities (deemed, state, central) as under:-

“ There are a number of Open and Distance Learning Institutions (ODLIs) in the country offering Degree/Diploma/Certificate programmes through the mode of non formal education. These comprise Open Universities, Distance Education Institutions (either single mode or dual mode) of Central Universities, State Universities, Deemed to be universities, Institutions of National Importance or any



other institution of higher learning recognized by Central/State/Statutory Council/Societies registered under the Society Registration Act 1860.

1. A circular was earlier issued vide UGC letter F1 No.52/2000(CPP-II) dated May 05, 2004 mentioning that Degrees/Diplomas /Certificates/awarded by the Open Universities in conformity with the UGC notification of degrees be treated as equivalent to corresponding awards of the traditional Universities in the country.

3. Attention is also invited to UGC circular No.F1-25/93 (CPP-II) dated 28th July 1993 for recognition of degrees and diplomas as well as transfer of credit for courses successfully completed by students between the two types of universities so that the mobility of students from Open University stream to traditional universities/institutions is ensured without any difficulty.

4. The Government of India, in exercise of its power conferred under section 20(1) of UGC Act, 1956, issued directions dated 29th December 2012 entrusting UGC with the responsibility of regulating higher education programme in open and distance learning (ODL) mode. Consequently, Universities/institutions desirous of offering any programme through distance mode would require recognition of UGC.

5. As you are aware, the Government of India has



envisaged a greater role for the Open and the Distance Education System. The envisioned role may be fulfilled by recognizing and treating the Degrees/Diplomas/Certificates awarded through distance mode at par with the degrees obtained through the formal system of education. Open and Distance Education system in the country is contributing a lot in expansion of higher education and for achieving target of GER, without compromising on quality. Non recognition/non equivalence of degrees of ODL institutions for the purpose of promotion/employment and pursuing higher education may prove a deterrent to many learners and will ultimately defeat the purpose of Open and Distance Education.

6. Accordingly, the Degrees/Diplomas/Certificates awarded for programmes conducted by the ODL institutions, recognized by DEC (erstwhile) and UGC, in conformity with UGC Notification on specification of Degrees should be treated as equivalent to the corresponding awards of the Degree/Diploma/Certificate of the traditional universities/institutions in the country. “

15. The educational qualification was to be considered for the purpose



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of eligibility alone. Once it is held that both the degree/diploma/certificate awarded by the Open and Distance learning institutions as equivalent to the corresponding awards of the traditional universities/institutions in the country, the same shall be counted for the purpose of their promotion. As and when the petitioners acquire diploma qualification as stipulated in the Gazette, then they become eligible for consideration to the promotional post.

16. As notified by the UGC, if the qualification is not treated equivalent at par with the qualification awarded in the regular stream, the purpose of aspiring candidates will ultimately defeat the purpose of open and distance education.

17. It is pertinent to note that by order dated **14.03.2019**, this court in **W.P.No.11609 of 2017**, directed the TNEB to accommodate the petitioners therein for the promotional post of Technical Assistant (Electrical), wherein, the petitioners therein who studied Diploma in Electrical Engineering was declared by the IGNOU as at par with Degrees/Diplomas/certificates of all the Indian universities/deemed universities.



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WEB COPY 18. Hence, in terms of the UGC notification and the relevant Rules governing the promotion, this court directs the the respondent–Corporation to include the petitioners in the panel for promotion to the post of Junior Engineer (Electrical) , when they become eligible for consideration and grant them promotion and all consequential benefits, if they are otherwise eligible for the same. The Writ petition is allowed on the above terms. No costs. Consequently, connected miscellaneous petitions are closed.

01.06.2023

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Index: Yes/No
Internet: Yes/No
Speaking Order: Yes/No



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To

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5. The Chairman, Joint Committee,
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J.NISHA BANU, J.,

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