

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE THE CHIEF JUSTICE MR.ASHOK BHUSHAN
&
THE HONOURABLE MR.JUSTICE A.M.SHAFFIQUE

FRIDAY, THE 19TH DAY OF JUNE 2015/29TH JYAISHTA, 1937

WA.NO. 847 OF 2015 () IN WP(C).21935/2013

AGAINST THE JUDGMENT IN WP(C) 21935/2013 OF
HIGH COURT OF KERALA DATED 13-02-2015

*APPELLANT(S)/1, 2ND & 3RD RESPONDENTS:

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1. UNIVERSITY GRANTS COMMISSION
REP. BY THE SECRETARY, UNIVERSITY GRANTS COMMISSION
NEW DELHI-110 001.
 2. THE DEPUTY SECRETARY,
NATIONAL EDUCATIONAL TESTING (NET) BUREAU
UNIVERSITY GRANTS COMMISSION, UNIVERSITY OF DELHI
SOUTH CAMPUS, BENITO JUREAREZ MARG, NEW DELHI-110 021.
 3. ALL INDIA COUNCIL FOR TECHNICAL EDUCATION,
REP. BY THE MEMBER SECRETARY
ALL INDIA COUNCIL FOR TECHNICAL EDUCATION
INDIRA GANDHI SPORTS COMPLEX, IP ESTATE
NEW DEHI-110 002.

*2ND RESPONDENT IS TRANSPOSED AS 3RD APPELLANT
AS PER ORDER DATED 8.6.2015 IN I.A. NO.715 OF 2015.

BY ADV. SRI.S.KRISHNAMOORTHY, CGC

RESPONDENT(S)/PETITIONER & RESPONDENTS 2 TO 4 IN WPC.:

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1. ANAND J.ILICKAN
S/O.PROF. P.I.JOSEPH ILICKAN, ILICKAL HOUSE
POOVANTHURUTHU PO, KOTTAYAM-686 012.

WA.NO. 847 OF 2015

*2. ALL INDIA COUNCIL FOR TECHNICAL EDUCATION,
REP. BY THE MEMBER SECRETARY
ALL INDIA COUNCIL FOR TECHNICAL EDUCATION
INDIRA GANDHI SPORTS COMPLEX, IP ESTATE
NEW DEHI-110 002.

3. ASSOCIATION OF INDIAN UNIVERSITIES,
REP. BY THE GENERAL SECRETARY
ASSOCIATION OF INDIAN UNIVERSITIES, AIU HOUSE
16 KOLTA MARG, NEW DELHI-110 002.

2ND RESPONDENT IS TRANSPOSED AS 3RD APPELLANT
AS PER ORDER DATED 8.6.2015 IN I.A. NO.75 OF 2015.

R2 BY ADV. SRI.AUGUSTINE JOSEPH
R1 BY KALEESWARAM RAJ

THIS WRIT APPEAL HAVING BEEN FINALLY HEARD ON
09.06.2015, the court on 19-06-2015 DELIVERED THE FOLLOWING:

WA.NO. 847 OF 2015

ANNEXURE-R1 (A) TRUE COPY OF THE LETTER DATED
12.5.2014.

ANNEXURE-R1 (B) TRUE COPY OF THE ORDER DATED 17.4.2014
IN S.L.P (CIVIL) NO.7277/2014.

ANNEXURE-R1 (C) TRUE COPY OF THE ORDER DATED 9.5.2014.

ANNEXURE-R1 (D) TRUE COPY OF THE STATEMENT FILED BY
THE AICTE, 3RD RESPONDENT IN W.P (C) NO.21935 OF 2013

“C.R.”

ASHOK BHUSHAN, C.J.

and

A.M. SHAFFIQUE, J.

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W.A. No.847 of 2015

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Dated this the 19th day of June, 2015

J U D G M E N T

Ashok Bhushan, C.J.

This appeal has been filed by two appellants who were respondents 1 and 2 to W.P(C) No.21935 of 2013 filed by the 1st respondent to this appeal, who shall be hereinafter referred to as the Writ Petitioner. Second respondent to the appeal, All India Council for Technical Education who was the 3rd respondent to the Writ Petition on an application filed in this Writ Appeal has been transposed as the 3rd appellant. The Writ Petition filed by the petitioner was allowed by judgment dated 13.02.2015 by the learned Single Judge against which this Writ Appeal has been filed.

2. The University Grant Commission (hereinafter

referred to as “the UGC”), is the 1st appellant, the Deputy Secretary, National Educational Testing (NET) Bureau, University Grants Commission is the 2nd appellant whereas the All India Council for Technical Education (hereinafter referred to as “the AICTE”) is the 3rd appellant. The 3rd respondent to this appeal is the Association of Indian Universities (hereinafter referred to as “the AIU”).

3. Brief facts giving rise to this Writ Appeal are: The 2nd respondent issued an advertisement for NET examination 2012 inviting application from eligible candidates. Conditions of eligibility provided that “candidates who have secured at least 55% marks (without rounding off) in Masters Degree or equivalent examination from University/Institutions recognized by the UGC.....” are eligible to apply. Petitioner who has passed the Post Graduate Diploma in Business Administration has also submitted application and

appeared in the NET examination held on 24.06.2012. Petitioner secured 69.14% marks in the NET Examination. UGC issued letter dated 26.07.2013, informing the petitioner that Post Graduate Diploma in Business Administration awarded to the petitioner by the Loyola Institute of Business Administration, Chennai during the period 1996-1998 had not accorded equivalence with Masters Degree by the AIU, hence the petitioner is disqualified in the UGC NET examination held on 24.06.2012. Petitioner aggrieved by the communication issued by the UGC has filed the Writ Petition praying for the following reliefs:

i) To issue a writ of certiorari quashing Ext.P13 as unjust, illegal and unsustainable.

ii) To declare that the petitioner was eligible to appear for National Eligibility Test which he cleared as per Ext.P2 and as such the petitioner has duly cleared the National Eligibility Test.

iii) To declare that the Post Graduate Diploma in Business Administration obtained by the petitioner from the Loyola Institute of Business

Administration (Madras University) as per Ext.P3 and P4 is equivalent to MBA degree awarded by the recognized by the Indian University.

iv) To issue a writ of mandamus directing the respondents to treat the petitioner as a candidate with a valid post graduation for the purpose of appearing in the National Eligibility Test and to treat him as a person who has legally and validly cleared the National Eligibility Test.”

4. Petitioner's case in the Writ Petition is that the Post Graduate Diploma in Business Administration was awarded by Loyola Institute of Business Administration, Chennai which diploma was duly recognized by the AICTE and the AICTE having issued communication, Ext.P8 dated 02.01.2008 informing that Post Graduate Diploma is equivalent to MBA in the year in which the course was recognized by the AICTE, makes the petitioner eligible for UGC NET Examination 2012, the competent authority to grant equivalency is the AICTE. The AIU has no authority vested in it on the basis of any enactment or order having force of law to declare

equivalency.

5. Statement was filed by respondents 1 and 2 stating that the advertisement issued by the UGC has clearly stipulated that the candidates should ascertain the equivalence of their Post Graduate Diploma with Masters Degree from the AIU. The AIU Evaluation Division deals with the evaluation of degrees and diplomas awarded by the accredited Universities in India and Abroad. Relevant page of print out issued by the AIU and submitted by the petitioner was produced as Ext.R1(b) along with the statement. In Ext.R1(b) Loyola Institute of Business Administration, Chennai is mentioned as item No.41 and the course that refers to as Post Graduate Diploma for which equivalence has been granted was for the period 2001 to 2014. The statement further stated that the petitioner having obtained two years Post Graduate Diploma in Business Administration from the Loyola Institute during the

academic year July, 1996 to June, 1998 which has not been granted equivalence with MBA Degree by the AIU, petitioner is not qualified.

6. A statement was also filed on behalf of the AICTE in which it was stated that Loyola Institute of Business Administration, Chennai was an approved institution for the period 1996-98 by the AICTE and the Post Graduate Diploma could be treated as equivalent to the degree of MBA. For the purpose of participating in the NET Examination, the AICTE have no role to certify the equivalency. Qualification is to be prescribed by the UGC for the purpose of participating in the NET Examination. As such there is no conflict in interest against the issuance of Ext.P13 rejection order issued by the UGC and AICTE. However, it was further stated that the AICTE through its Standing Committee for equivalence of degree/diploma on 19.05.2005 had taken a decision that PGDM is equivalent to Master of

Business Administration. It is further stated that the equivalency offered by the Standing Committee is only for the purpose of getting employment and that the said Diploma is not approved for the purpose of any Lectureship wherein Masters Degree is insisted. Further, the said equivalency awarded by the Standing Committee need not be equated as a qualification for purpose of appearing in the NET Examination.

7. At this stage it is relevant to notice the affidavit filed by the Assistant Director, AICTE in this Writ Appeal along with I.A. No.715 of 2015 wherein now it has come up by clearly stating that the AICTE have no role for certifying the equivalency for qualification prescribed by the UGC. It is useful to quote paragraphs 3, 4 and 5 which are to the following effect:

"3. At the outset it is submitted that as far as the qualification for participation in the NET examination is prescribed in the notification issued by the UGC NET Bureau. The AICTE is having no roll to certify the equivalency etc., for such qualification

to be prescribed by UGC for the purpose of participating in the NET Examination. As such there is no conflict in interest against the issuance of Ext.P13 of the Writ Petition No.21935 of 2013 supra, Rejection letter issued by the UGC is correct.

4. *However there was an issue that the AITCE, through its Standing Committee of Equivalence of various degree/diploma programmes had taken its decision that PGDBM/PGDBA/PGDM are equivalent to Master of Business Administration, provided entry level qualification eligibility, course duration, recommended course duration, syllabus, recommended duration Course structure and credits as per AICTE norms. However, this was in the year 2005 during the period Association of Indian Universities had found the equivalency during 2000 to 2014. The letter given by the AITCE is also in the year 2005. In Educational matters the AITCE also accepts the opinion of Association of Indian Universities for equivalency.*

5. *It is respectfully submitted that it is up to the concerned authority i.e., UGC in this case to decide whether the qualification obtained by the petitioner is suitable for lectureship/NET conducted by it. AITCE have no role in this regard."*

8. We have heard Shri S. Krishnamoorthy,

learned counsel for the UGC, whereas Shri Augustine Joseph appeared for the AICTE and Shri Kaleeswaram Raj appeared for the Writ Petitioner.

9. Shri S.Krishnamoorthy appearing for the UGC contended that notification issued by the UGC for NET Examination 2012 having clearly stipulated that equivalence of Post Graduate Diploma is to be ascertained from the AIU and the period during which petitioner obtained Post Graduate Diploma 1996-1998 having not declared as equivalent to the MBA degree by the AIU, the petitioner has been rightly declared disqualified in the NET Examination, 2012. It is submitted that the UGC is the authority competent to lay down qualifications and eligibility conditions in its advertisement and the conditions laid down in the advertisement has never been challenged, petitioner cannot be heard in saying that he fulfills the qualifications. It is submitted that the AITCE is

empowered to recognize institutions and courses to be run in accredited institutions but it has no role to play in declaring equivalency of Diploma/Degree. It is submitted that letters filed by the petitioner including Ext.P8 where the letters issued by the AICTE informing equivalence on the basis of equivalence already granted by the AIU for the period from 2001-2014. The AIU is the body which has been authorized by the UGC to grant equivalence of various degrees awarded by the various Universities and Institutions.

10. Shri Augustine Joseph has also adopted the arguments of Shri S.Krishnamoorthy and submitted that it is the AIU which is authorised to grant equivalence and letter issued by the AICTE to the Loyola College informing about the equivalency was based on the decision taken by the AIU. It is submitted that with regard to qualification of a candidate in the NET Examination it is the UGC which is competent to take a

decision.

11. Shri Kaleeswaram Raj, learned counsel for the petitioner refuting the submissions of learned counsel for the appellants contended that the AIU is only a registered Society under the Societies Registration Act, 1860 and a non-statutory body which has no authority or jurisdiction to grant equivalence of the Diploma granted to the petitioner. It is submitted that the AICTE which is the authority constituted according to Parliamentary Act i.e., AICTE Act, 1987 is the statutory authority to grant equivalence. It is submitted that Section 10 which enumerates the functions of the Council has to be read to include the power of granting equivalence to various courses which are run with the approval of the AICTE. Referring to Exts.P6, P7 and P8 it is submitted that the AICTE having communicated to the Loyola Institute of Business Administration, Chennai, that the Post Graduate Diploma is equivalent to MBA is

sufficient to clothe the petitioner with equivalence with MBA degree and the UGC is bound to accept the equivalence granted by the AICTE which is the only statutory authority to grant equivalence under the 1987 Act. It is submitted that notification issued by the UGC, Ext.P5 the eligibility condition in paragraph 3(vi) which required candidates with Post Graduate Diploma Courses to ascertain the equivalence of their course with Master Degrees of recognized Universities from the AIU cannot be read as a mandatory condition. It is submitted that decision of the UGC declaring petitioner disqualified in the UGC NET Examination, 2012 dated 24.06.2012 is erroneous and deserves to be set aside.

12. We have considered the submissions of the learned counsel for the parties and perused the records.

13. Learned counsel for the parties have relied on various judgments of the Apex Court, this Court and other High Courts which shall be referred to while

considering the submissions in detail.

14. From the submissions made by the learned counsel for the parties, following are the issues which arise for consideration.

I. Whether the AIU has any jurisdiction or authority to declare equivalence of degrees/diplomas?

II. Whether eligibility condition No.3(vi) in the Notification issued by the UGC NET 2012 is a mandatory condition regarding equivalence of degrees?

III. Whether it is the AICTE which has jurisdiction to declare equivalence of degrees and diplomas under the 1987 Act?

IV. Whether the communications issued by the AICTE, Exts.P6, P7 and P8 can be read as a declaration by the AICTE of the Post Graduate Diploma granted to the petitioner in the year 1996-98 equivalent to MBA Degree?

V. Whether the UGC committed error in issuing Ext.P13 letter dated

26.07.2013 declaring the petitioner disqualified in the UGC NET examination 2012?

15. Before we proceed to consider the respective submissions by the learned counsel for the parties it is necessary to refer to the relevant statutory provisions.

16. The UGC Act, 1956 was enacted by the Parliament for the co-ordination and determination of standards in Universities. The legislation is referable to entry No.66 of List I of the 7th Schedule of the Constitution which provides “Co-ordination and determination of standards in institutions for higher education or research and scientific and technical institutions”. Section 12 enumerates the function of the Commission, Section 20 provides for directions by the Central Government, Section 22 provides for right to confer degrees and Section 26 empowers the UGC to make Regulations. Sections 20, 22, 26(i) are to the following effect:

"20. Directions by the Central Government.-

(1) In the discharge of its functions under this Act, the Commission shall be guided by such directions on questions of policy relating to national purpose as may be given to it by the Central Government.

(2) If any dispute arises between the Central Government and the Commission as to whether a question is or is not a question of policy relating to national purposes, the decision of the Central Government shall be final.

22. Right to confer degrees.-(1) The right of conferring or granting degree shall be exercised only by a University established or incorporated by or under a Central Act, a Provincial Act or a State Act or an institution deemed to be a University under Section 3 or an institution specially empowered by an act of Parliament to confer or grant degrees.

(2) Save as provided in sub-section (1), no person or authority shall confer, or grant or hold himself or itself out as entitled to confer or grant, any degree.

(3) For the purposes of this section, "degree" means any such degree as may with the previous approval of the Central Government, be specified in this behalf by the Commission by notification in the Official Gazette.

26. Power to make regulations.- (1) The

commission may be notification in the Official Gazette, make regulations consistent with this Act and the rules made thereunder.-

(a) regulating the meetings of the Commission and the procedure for conducting business thereat;

(b) regulating the manner in which and the purposes for which persons may be associated with the Commission under Section 9.

(c) Specifying the terms and conditions of service of the employees appointed by the Commissioner;

(d) specifying the institutions or class of institutions which may be recognised by the Commission under clause (f) of Section 2.

(e) defining the qualifications that should ordinarily be required for any person to be appointed to the teaching staff of the University having regard to the branch of education in which he is expected to give instructions;

(f) defining the minimum standards of instruction for the grant of any degree by the University.

(g) regulating the maintenance of standards and the co-ordination of work or facilities in Universities.

(h) regulating the establishment of

institutions referred to in clause (ccc) of section 12 and other matters relating to such institutions.

(i) specifying the matters in respect of which fees may be charged and scales of fees in accordance with which fees may be charged by a college under sub-section (2) of Section 12-A;

(j) specifying the manner in which an inquiry may be conducted under sub-section (4) of Section 12-A."

17. Another enactment which is relevant for the case is the 1987 Act which was enacted to provide for establishment of All India Council for Technical Education with a view to proper planning, co-ordination and development of technical education system throughout the country, promotion of qualitative improvements of such education in relation to plan, growth and regulations and proper maintenance of norms and standards in the technical education system and matters connected therewith. Section 3 contemplates establishment of Council and Section 10 refers to functions of the Council. Regulations have

been framed by the Council for approval for starting new courses and introduction of programmes.

18. All the issues being inter connected are being taken together. The conditions of eligibility as provided in the notification issued by the UGC for NET Examination, 2012 are contained in paragraph 3, which is extracted as below:

“3) CONDITIONS OF ELIGIBILITY:

- i) *Candidates who have secured at least 55% marks (without rounding off) in Master's Degree OR equivalent examination from universities/institutions recognised by UGC in Humanities (including languages) and Social Science, Computer Science & Applications, electronic Science etc. are eligible for this Test. The Scheduled Caste (SC)/Scheduled tribe (ST)/Physically Handicapped (PH)/Visually Handicapped (VH) category candidates who have secured at least 50% marks (without rounding off) in Master's degree or equivalent examination are eligible for this Test.*
- ii) *Candidates who have appeared OR will be appearing at the qualifying Master's degree (final year) examination and whose result is*

still awaited OR candidates whose qualifying examinations have been delayed may also apply for the Test. However, such candidates will be submitted provisionally and shall be considered eligible for award of JRF/Lectureship eligibility only after they have passed their Master's degree examination or equivalent with at least 55% marks (50% marks in case of SC/ST/PH/VH category candidates). Such candidates must complete their P.G degree examination within two years from the date of NET result with required percentage of marks, failing which they shall be treated as disqualified.

- iii) The Ph.D degree holders whose Master's level examination had been completed by 19th September, 1991 (irrespective of date of declaration of result) shall be eligible for a relaxation of 5% in aggregate marks (i.e from 55% to 50%) for appearing in NET.*
- iv) Candidates are advised to appear in the subject of their post-graduation only. The candidates whose post graduation subject is not covered in the list of subjects in item No.9 may appear in a related subject.*
- v) Candidates seeking concession in fee are required to submit attested copy of their OBC*

(Non-creamy layer)/SC/ST/PH/VH certificate along with online printout of their Application Forms (obtained while applying on-line). Other candidates are not required to submit any certificates/documents in support of their eligibility along with printout of their Application Form. Therefore, the candidates, in their own interest, must satisfy themselves about their eligibility for the Test. In the event of any ineligibility being detected by the Commission at any stage, their candidature will be cancelled and they shall be liable for legal action.

- vi) Candidates with post-graduate diploma/certificate course(s), should in their own interest, ascertain the equivalence of their course(s) with Master's degree of recognized Indian universities from Association of Indian Universities (AIU), New Delhi."*

19. Paragraph 3(i) provides that candidates, who have secured at least 55% marks in Master's Degree or equivalent examination from universities/institutions recognised by UGC..... are eligible for the test. The petitioner did not have any Master's Degree. The petitioner has submitted his application for appearing in

the NET Examination, 2012 on the basis of Post Graduate Diploma in Business Administration. Whether the Post Graduate Diploma of the petitioner is an equivalent examination to the Master's Degree is the only question for determination in this appeal. There is no dispute that the institution from where the petitioner had obtained the Post Graduate Diploma, i.e., Loyola Institute of Business Administration, is an institution recognised by the AICTE during the relevant year.

20. Clause 3(vi) requires “candidates with Post Graduate Diploma/certificate courses, should in their own interest, ascertain the equivalence of their courses with Master's Degree of recognised Indian Universities from Association of Indian Universities (AIU), New Delhi”. The above clause, thus, requires ascertainment of the equivalence of the Post Graduate Diploma course with Master's Degree from AIU, New Delhi. The submission, which has been pressed by learned counsel

for the petitioner is that AIU is a non-statutory body which has no authority or jurisdiction to grant equivalence of degrees/diplomas. It is submitted that clause 3(vi) of the notification is not mandatory and that was the only instruction to the candidates to ascertain the equivalence of their courses, if they so desire. It is submitted that clause 3(vi) cannot be read as any mandatory condition regarding equivalence to be certified by AIU. The petitioner has brought on record certain information regarding AIU as Exhibit P9, which contained objectives of the AIU. The UGC in its statement in paragraph 6 of the affidavit has stated as follows:

"6. The actions of respondent 1 i.e. University Grants Commission, are in consonance with objectives of UGC for maintaining the standard of higher education and are consistent with its policy of referring all such cases regarding equivalence of degrees/diplomas to Association of Indian Universities (AIU). It is pertinent to mention here that AIU being controlled by the Government is fully equipped to go

into the question of equivalence. One of the functions of AIU (an extract taken from the website of AIU) is reproduced below:

'The Evaluation Division deals with the work of evaluation and equivalence of degrees and diplomas awarded by the accredited universities in India and abroad for admission to higher courses at India Universities. The Division provides expert assistance on the status of foreign qualifications to the students, universities, Central and State agencies including Ministries of the Government of India. The Division also provides assistance to evaluation agencies of the foreign countries'.

The Division examines the proposals received from the Institutions outside the purview of the Indian Universities, for granting academic equivalence to postgraduate diploma courses in the area of Management."

21. The AIU is a Society registered under the Societies Registration Act, 1860 with membership of Indian Universities. On equivalence of degrees, the AIU in its website claims the following:

"AN INTRODUCTION:

The Inter University Board (IUB) was established in 1925 and was renamed as the ASSOCIATION OF INDIAN UNIVERSITIES (AIU) in 1973. The need of an organisation in India for

equivalence of degrees between the universities in India and abroad was felt since long after the establishment of three premier Universities (Bombay, Calcutta and Madras in 1857) and therefore, the Inter University Board was formed as an Autonomous Body.

The Evaluation Division was also established ever since with the inception of IUB/AIU.

Evaluation Division was entrusted with the task of equivalence of degrees awarded by the accredited foreign Universities for purpose of admission to higher studies. This is one of the main objectives that AIU took upon itself and since been carrying out effectively for the last eighty five years.

AIU is the only recognized body in India for granting academic equivalence of degrees/diplomas not only within the country but also to other similar bodies in foreign countries.

In acknowledgment to the works done by the Division since its inception the Ministry of Human Resource development, New Delhi, vide their letter No. dated 13th March, 1995 issued a Notification that the equivalence done by AIU will be valid for the purpose of higher education as well as employment in the country.

Since then the Division started issuing Equivalence Certificates to individuals and till date the Division is facilitating the Universities also in granting

Admission to various degree level programmes.

Not only to the Universities, AIU also provides its services, for equivalence of degrees to various Central & State employment agencies viz Union Public Service Commission, New delhi and state recruitment Boards.

The Division, besides Ministry of Human Resource Development, GO1 also facilitates to other Federal Ministries of India, to formulate the proposals on mutual recognition of degree under Educational Exchange Programmes.

The Division continues to provide assistance on the status of foreign qualifications to Universities, Ministries of the government of India, Union Public Service Commission, Indian Council for Cultural Relations and other Agencies concerning with the nomination/selection of foreign students in Indian Universities. The application forms of all the foreign students who are sponsored under various Central Government Scholarships/Ministries are sent to us, in order to assess their eligibility, to the courses in which they are seeking admission in Indian Universities. As the Division has established accountability as a reliable accrediting source/agency on the assessment/certification of equivalence of qualifications, we receive a number of enquiries from Credential Evaluation Service Agencies in other

countries, as well.”

22. Learned counsel for the UGC during his submission has submitted that the Government of India has issued a circular authorising AIU to grant equivalence of degrees and diplomas. However, he did not refer to any Government order. In the introduction as quoted above AIU refers to letter dated 13.03.1995 issued by the Ministry of Human Resources Development, providing that the equivalence done by the AIU will be valid for the purpose of higher education as well as employment in the country. The UGC in exercise of power under Section 26 has framed regulation, namely, UGC Regulations on Minimum Qualifications for Appointment of Teachers and Other Academic Staff in Universities and Colleges and Measures for the Maintenance of Standards in Higher Education, 2010. The regulations contain the minimum qualification for appointment of teachers and other

academic staff. Regulation 3.3.1 provides that “NET/SLET/SET shall remain the minimum eligibility condition for recruitment and appointment of Assistant Professors in Universities/Colleges/Institutions”. Regulation 4.4.5 is on the subject “minimum qualifications for appointment of teaching faculty in Universities and Colleges - management/business administration”. It is useful to quote the qualifications prescribed for Assistant Professor and Associate Professor, which read as follows:

"ASSISTANT PROFESSOR

i. Essential.

1. First Class Masters Degree in Business Management/Administration/in a relevant management related discipline or first class in two year full time PGDM declared equivalent by AIU/accredited by the AICTE/UGC.

OR

2. First Class graduate and professionally qualified Chartered Accountant/Cost and Works Accountant/Company Secretary of the concerned statutory bodies.

ii. Desirable:

1. Teaching, research, industrial and/or professional experience in a reputed organization;

2. Papers presented at conferences and/or published in referred journals.

2. Associate Professor:

i. Consistently good academic record with at least 55% marks (or an equivalent grade in a point scale wherever grading system is followed) in Master's Degree in Business Management/Administration/in a relevant management related discipline or first class in two years full time PGDM declared equivalent by AIU/recognized by the AICTE/UGC;

OR

First Class graduate and professionally qualified Chartered Accountant/Cost and works Accountant/Company Secretary of the concerned statutory body.

ii. Ph.D or Fellow of Indian Institute of Management or of an Institute recognized by AICTE and declared equivalent by the AIU.

Iii. A minimum of eight years' experience of teaching/industry/research/professional at management level excluding the period spent for obtaining the research degree.

OR

iv. In the event the candidate is from industry and the profession, the following requirements shall constitute as essential requirements:

1. Consistently good academic record with at least 55% marks (or an equivalent grade in a point scale wherever grading system is followed) in Master's Degree in Business Management/Administration/in a relevant management related discipline or first class in two years full time PGDM declared equivalent by AIU/recognized by AICTE/UGC.

OR

First Class graduate and professionally qualified Chartered Accountant/Cost and works Accountant/Company Secretary of the concerned statutory body.

2. A minimum of ten years experience of teaching industry/research/profession, out of which five years must be at the level of Assistant Professor or equivalent excluding the period spent for obtaining research degree. The candidate should have professional work experience, which is significant and can be recognized at national/international level as equivalent to Ph.D and ten years managerial experience in industry/profession of which at least five years should be at the level comparable to that of lecturer/assistant professor.

v. Without prejudice to the above, the

following conditions may be considered desirable:

- a) Teaching, research industrial and/or professional experience in a reputed organization;*
- b) Published work, such as research papers, patents filed/obtained, books and/or technical reports; and*
- c) Experience of guiding the project work/dissertation of PG/Research students or supervising R&D projects in industry.”*

23. A perusal of the qualifications of Assistant Professor indicate that **Post Graduate Diploma in Management equivalent by AIU/accredited by the AICTE/UGC** is the essential qualification. Similarly, the qualification of Associate Professor also indicate that Post Graduate Diploma in Management declared equivalent by AIU/recognised by AICTE/UGC as the minimum qualification.

24. The above regulations are statutory in nature and the regulations having been provided, declaration of equivalence by AIU regarding Post Graduate Diploma, the declaration by AIU has become statutory

requirement.

25. From the above, it is clear that the statutory regulations framed by UGC require declaration of equivalence of Post Graduate Diploma as essential qualification for the post of Assistant Professor/Associate Professor. The above provision of the statutory regulation demolishes the argument of learned counsel for the petitioner that AIU has no authority or jurisdiction to grant equivalence of any degree or diploma.

26. The UGC, which is conducting the NET Examination, which is the minimum eligibility condition for appointment of Assistant Professor and Associate Professor, is fully empowered to lay down the eligibility conditions for admitting candidates for NET Examination.

27. The Apex Court in ***University Grants Commission and another v. Neha Anil Bobde (Gadekar)*** [(2013)10 SCC 519] has held that UGC being

the expert body, is fully entitled to lay down any “qualifying criteria”. It is useful to refer to paragraphs 22, 23 and 31, which read as under:

"22. We have elaborately referred to various statutory provisions which would clearly indicate that the UGC as an expert body has been entrusted by UGC Act the general duty to take such steps as it may think fit for the determination and maintenance of standards of teaching, examination and research in Universities. It is also duty bound to perform such functions as may be prescribed or as may be deemed necessary by the Commission for advancing the cause of higher education in India. The UGC has also got the power to define the qualification that should ordinarily be required for any person to be appointed to the teaching staff of the University and to regulate the maintenance of standards and coordination of work and faculties in the Universities.

23. This Court in University of Delhi v. Raj Singh, 1994 KHC 680 : 1994 Supp (3) SCC 516 : 1995 SCC (L&S) 118 : 1994 (28) ATC 541 : AIR 1995 SC 336 : 1994 (5) SLR 286 dealt with the powers of UGC elaborately and held as follows:

"20. The ambit of Entry 66 has already been the subject of the decisions of this Court in the cases of the Gujarat University v. Krishna Ranganath Mudholkar 1963 Supp (1) SCR 112

and the Osmania University Teachers' Association v. State of Andhra Pradesh, 1987 (4) SCC 671. The UGC Act is enacted under the provisions of Entry 66 to carry out the objective thereof. Its short title, in fact, reproduces the words of Entry 66. The principal function of the UGC is set out in the opening words of Section 12, thus:

*"12. **Functions of the Commission.**- It shall be the general duty of the Commission to take ... all such steps as it may think fit for the promotion and coordination of University education and for the determination and maintenance of standards of teaching, examination and research in Universities"*

It is very important to note that a duty is cast upon the Commission to take "all such steps as it may think fit ... for the determination and maintenance of standards of teaching". These are very wide-ranging powers. Such powers, in our view, would comprehend the power to require those who possess the educational qualifications required for holding the post of lecturer in Universities and colleges to appear for a written test, the passing of which would establish that they possess the minimal proficiency for holding such post. The need for such test is demonstrated by the reports of the commissions and committees of educationists referred to above which take note of the disparities in the standards of education in the various Universities in the country. It is patent that the holder of a postgraduate degree from one University is not

necessarily of the same standard as the holder of the same postgraduate degree from another University. That is the rationale of the test prescribed by the said Regulations. It falls squarely within the scope of Entry 66 and the UGC Act inasmuch as it is intended to co-ordinate standards and the UGC is armed with the power to take all such steps as it may think fit in this behalf. For performing its general duty and its other functions under the UGC Act, the UGC is invested with the powers specified in the various clauses of Section 12. These include the power to recommend to a University the measures necessary for the improvement of University education and to advise in respect of the action to be taken for the purpose of implementing such recommendation [clause (d)]. The UGC is also invested with the power to perform such other functions as may be prescribed or as may be deemed necessary by it for advancing the cause of higher education in India or as may be incidental or conducive to the discharge of such functions [clause (j)].....”

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31. We are of the view that, in academic matters, unless there is a clear violation of statutory provisions, the Regulations or the Notification issued, the Courts shall keep their hands off since those issues fall within the domain of the experts. This Court

in University of Mysore v. C. D. Govinda Rao, 1965 KHC 518 : AIR 1965 SC 491 : 1964 (4) SCR 575 : ILR 1963 Mys 949, Tariq Islam v. Aligarh Muslim University 2001 KHC 1180 : 2001 (8) SCC 546 : AIR 2001 SC 3058 : 2002 SCC (L&S) 1 and Rajbir Singh Dalal v. Chaudhary Devi Lal University, 2008 KHC 4950 : 2008 (9) SCC 284 : 2008 (11) SCALE 211 : 2008 (2) SCC (L&S) 887 : AIR 2009 SC Supp 768, has taken the view that the Court shall not generally sit in appeal over the opinion expressed by expert academic bodies and normally it is wise and safe for the Courts to leave the decision of academic experts who are more familiar with the problem they face, than the Courts generally are. UGC as an expert body has been entrusted with the duty to take steps as it may think fit for the determination and maintenance of standards of teaching, examination and research in the University. For attaining the said standards, it is open to the UGC to lay down any "qualifying criteria", which has a rational nexus to the object to be achieved, that is for maintenance of standards of teaching, examination and research. Candidates declared eligible for lectureship may be considered for appointment as Assistant Professors in Universities and colleges and the standard of such a teaching faculty has a direct nexus with the maintenance of standards of education to be imparted to the students

of the universities and colleges. UGC has only implemented the opinion of the Experts by laying down the qualifying criteria, which cannot be considered as arbitrary, illegal or discriminatory or violative of Article 14 of the Constitution of India."

28. Now we come to clause 3(vi) of the notification, which requires candidates in their own interest to ascertain the equivalence of their courses with Master's Degree of recognized Indian Universities from Association of Indian Universities (AIU), New Delhi. The equivalence by AIU being a statutory requirement as per regulation 4.4.5 as quoted above, the above clause has to be read along with the said statutory requirement of equivalence by AIU. It is clear that equivalence of Post Graduate Diploma by AIU is mandatory and clause 3(vi) clearly required the candidates to ascertain their equivalence for the purpose of eligibility. The submission of learned counsel for the petitioner that the said clause is not mandatory and it is not necessary for the candidates to ascertain or

require equivalence of the degree from AIU, cannot be accepted.

29. Now the submission, which has been further pressed by learned counsel for the petitioner, is that AICTE is fully entitled to declare equivalence of Post Graduate Diploma with Master's Degree, which is spelled out from the provisions of Section 10 of the All India Council for Technical Education Act, 1987. Learned counsel for the petitioner has referred to Section 10(1) (g) & (i), which reads as under:

"10. Functions of the Council.- (1) *It shall be the duty of the Council to take all such steps as it may think fit for ensuring co-ordinated and integrated development of technical education and maintenance of standards and for the purposes of performing its functions under this Act, the Council may,-*

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(g) *evolve suitable performance appraisal systems for technical institutions and Universities imparting technical education, incorporating norms and mechanisms for enforcing accountability;*

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(i) lay down norms and standards for courses, curricula, physical and instructional facilities, staff pattern, staff qualifications, quality instructions, assessment and examinations;"

30. As noted above, in the statement filed by the third respondent in the Writ Petition although it is stated that the AICTE, through its Standing Committee of equivalence of various degree/diploma programmes are empowered to take appropriate decisions on equivalence of Degree/Diploma, in paragraph 4 it has again pleaded that the said equivalence awarded by the Standing Committee need not be equated as a qualification for the purpose of participating in the NET Examination.

31. Learned counsel for the petitioner has laid much emphasis on Exhibits P6, P7 and P8. Exhibit P6 is the letter dated 3.5.1995 issued by the AICTE to the Principal, Loyola Institute of Business Administration that the programme of Post Graduate Diploma in

Business Administration has been approved for the year 1995-1996. Exhibit P7 is a letter dated 13.06.1996 issued by the AICTE to the Director of Loyola Institute of Business Administration informing that “the Council has provisionally agreed to extend the period of approval of above programme for 1996-98 subject to compliance/fulfillment of general conditions at Annexure-I”. Much emphasis has been given on Exhibit P8, which is a letter dated 02.01.2008 written by the Adviser-1 of AICTE to the Director of Loyola Institute of Business Administration. It is useful to quote the above letter, which is to the following effect:

"This is with reference to your request/application/proposal on the subject cited above. The same has been examined by the Standing Committee for Equivalence of AICTE as per its guidelines/norms and the Committee is of the opinion that PGDBA programme offered by Loyola Institute of Business Administration, Chennai is equivalent to MBA, provided the course has been approved by the AICTE during the period for which the equivalence is

sought”

32. The petitioner has also produced Exhibit P10, which is a letter dated 27.11.2001 issued by the AIU to the Director of Loyola Institute of Business Administration informing that the two years full time Post Graduate Diploma in Business Administration of Loyola Institute has been recognised by the AIU as equivalent to MBA degree. It is useful to refer to the said letter, which is to the following effect:

“Kindly refer to the correspondence resting with your letter dated 29th August 2000 regarding grant of Equivalence to Two Years Full time Postgraduate Diploma in Business Administration of your Institute as equivalent to MBA degree.

We are glad to inform you that Two Years Full time Postgraduate Diploma in Business Administration of Loyola Institute of Business Administration, Chennai has been recognized by the Association of India Universities as equivalent to MBA degree of Indian Universities.

The recognition, as per AIU decision, has been accorded for a period of five years or till such time the approval AICTE remains valid, whichever is

earlier."

33. Again by Exhibit P11, the AIU wrote to the Director, Loyola Institute that the equivalence has further been granted for a period of five years from November, 2009 to June, 2014, which is quoted as below:

"This has reference to our communication of even number dated 18th January, 2010 for grant of equivalence to your Two-year Full-time Postgraduate Diploma in Management with MBA Degree.

On the basis of the recommendations made by the Visiting Committee the appropriate authorities of AIU have approved the equivalence already accorded to two-year full-time Postgraduate Diploma in Managaement of your Institute as equivalent to Master of Business Administration (MBA) degree of an Indian University, for a gap period of three years from 27th November, 2006 to 26th November, 2009, and further for a period of five years from November, 2009 till June 2014, or till such time the approval of the AICTE remains valid, whichever is earlier, as per the recommendations of the Visiting Team".

34. The above correspondence between Loyola

Institute and the AIU clearly indicates that the Institute being well aware that equivalence of Post Graduate Diploma has to be obtained from AIU has been corresponding with AIU and ultimately the AIU has issued letters dated 27.11.2001 and 09.04.2010 informing equivalence of Post Graduate Diploma with MBA degree. The above clearly indicates that equivalence is sought by the Institute from where the petitioner has passed his diploma and has been granted, but as apparent from the aforesaid letter and Exhibit P12 filed by the petitioner, the recognition of equivalence of Post Graduate Diploma from Loyola Institute is only for the period from 2001 to June, 2014. The petitioner has passed his Post Graduate Diploma during the period 1996-1998, during which period neither any equivalence was granted by the AIU nor there is any material brought on record to treat it equivalent. Exhibit P8 letter, on which the petitioner's

counsel has placed much reliance, where the AICTE has informed the petitioner that the Post Graduate Diploma programme offered by the Loyola Institute is equivalent to MBA, provided the course has been approved by the AICTE during the period for which the equivalence is sought. There is no material on record to indicate that at any point of time any equivalence for the period 1996-1998 was even sought. More so, the said letter was issued on 02.01.2008, during which period the institute was already corresponding with the AIU for seeking equivalence, which equivalence was subsequently granted also on 09.04.2010 for a period from 27th November, 2006 to 26th November, 2009 and for a further period of five years. Thus, the letter dated 02.01.2008 cannot be read as a letter granting any equivalence to the diploma course of the petitioner by AICTE during the period when he passed the Post Graduate Diploma.

35. More so, the AICTE is one of the appellants in this appeal, which has also filed an affidavit in I.A.No.7151 of 2015 where it has been clearly stated that the AICTE accepts the opinion of the AIU for equivalence. Following was stated in paragraphs 4 and 5 of the affidavit:

"4. However, there was an issue that the AICTE, through its Standing Committee of Equivalence of various degree/diploma programmes had taken its decision that PGDBM/PGDBA/PGDM are equivalent to Master of Business Administration, provided entry level qualification eligibility, course duration, recommended course duration, syllabus, recommended duration Course structure and credits as per AICTE norms. However, this was in the year 2005 during the period Association of India Universities had found the equivalence during 2000 to 2014. The letter given by the AICTE is also in the year 2005. In educational matters the AICTE also accepts the opinion of Association of India Universities for equivalence.

5. It is respectfully submitted that it is up to the concerned authority i.e. UGC in this case

to decide whether the qualification obtained by the petitioner is suitable for lectureship/NET conducted by it. AICTE have no role in this regard.”

36. The AICTE having itself come with the case that it accepts the opinion of AIU for equivalence and there being no material on record to come to the conclusion that even AICTE has granted any equivalence of the Post Graduate Diploma course during the period 1996-1998 as equivalent to MBA, we see no necessity to consider the issue any further for the purpose of this case.

37. We now proceed to examine the judgments relied on by learned counsel for the petitioner in support of his case. The petitioner has relied on ***Jaya Gokul Educational Trust v. Commissioner & Secretary to Government Higher Education Department*** [(2000) 5 SCC 231]. In the above case the AICTE has granted conditional approval to the appellant-Trust which

wanted to establish a self-financing Engineering College. However, the State Government refused permission. The Trust filed a Writ Petition challenging the decision. The Writ Petition was allowed and the Government was directed to reconsider its decision. On appeal filed by the State, the Division Bench of the High Court set aside the order of the learned Single Judge giving liberty to the appellant to make a fresh application. Against the judgment of the Division Bench, the Trust filed SLP before the Supreme Court. In the above context, the following was laid down by the Apex Court in paragraph 23 of the judgment, which reads as under:

"23. Thus we hold, in the present case that there was no statutory requirement for obtaining the approval of the State Government and even if there was one, it would have been repugnant to the AICTE Act. The University Statute 9(7) merely required that the "views" of the State Government be obtained before granting affiliation and this did not amount to obtaining "approval". If the University statute required "approval", it would have been repugnant to

the AICTE Act. Point I is decided accordingly.”

In the said case the question was regarding approval for running the institution. The Court held that there was no statutory requirement of obtaining approval of the State Government when the AICTE has already granted approval. In the said case no issue regarding equivalence was involved. The said case, thus, does not help the petitioner in the present case.

38. Learned counsel for the petitioner has relied on ***Surya Narain Yadav and others v. Bihar State Electricity Board and others*** [(1985)3 SCC 38] as well as ***State of Punjab v. Nestle India Ltd. and another*** [(2004)6 SCC 465] for the proposition that the Government is not exempted from liability to carry out the representation made by it as to its future conduct. In both the above cases the Apex Court has elaborated the doctrine of promissory estoppel. Both the above cases have no application in the present case, since there was

no promise made by the UGC, who had issued advertisement inviting applications for holding NET Examination, 2012.

39. A judgment of the Gujarat High Court reported in ***Prathamkumar v. Indian Institute of Management*** (CDJ 2005 GHC 189) has been relied on by learned counsel for the petitioner. In the said case the petitioners had appeared in the Common Entrance Test for the purpose of Post Graduate Diploma and Fellow Programmes in IIMs for the academic year 2005. Although they secured more than 98% marks in the CAT, they were denied admission on the ground that the University from where they have studied is not recognised by AIU. The facts of the case have been mentioned in paragraph 4, which is quoted as below:

“(4) All the petitioners have studied in the respondent No.4 University i.e. Dhirubhai Ambani Institute of Information and Communication Technology in B.Tech programme and are in the process of completing prescribed four years B.Tech

from the said University. The respondent No.4 University is declared as deemed university and is established by the Act No.6 of 2003 of the Government of Gujarat which is located at Gandhinagar. It is the case of the petitioners that as per the university Grants Commission Act, 1956 which is an Act of Parliament of India, the University whether established by an Act of Parliament or by Act of the State Government, stands at par with any other university and is competent to prescribe course, hold examination and confer degrees and other qualification. It is the case of the petitioners that as the petitioners wanted to get admission for the course of post Graduate Diploma and Fellow programmes in IIMs for 2005 which are full time residential courses open to students from all disciplines and therefore they had appeared in the common admission test - 2004 (hereinafter referred to as the "cat") for the admission to the academic year 2005-07. It is required to be noted that Indian Institute of Management ("IIM, Ahmedabad" for brevity) held CAT for admission to the aforesaid Fellow programmes which are open to the students from all disciplines and there are six IIMs in India including IIM, Ahmedabad and so far as this year is concerned, IIM, Ahmedabad has organized admission for students of Post Graduate and Fellow programmes in management holding CAT and it is the case of the

petitioners that mainly on the basis of performance at the cat by candidates, admissions are processed. It is the case of the petitioners that the petitioner of special Civil application No.5062 of 2005 has secured 98.88% of marks in the CAT, the petitioner of Special Civil Application no.5063 of 2005 has secured 99.03% marks in the CAT and the petitioner of special Civil Application No.5064 of 2005 has secured 99.86% of marks in the CAT and in spite of that, the petitioners are not considered to be eligible for participating in 2 further admission process and therefore, they have approached this Court by way of present special civil applications."

In the above context, the following was laid down in paragraph 26 of the judgment, which reads as under:

"(26) NOW, it is required to consider whether stipulation while determining the eligibility criteria for allowing a candidate for getting admission in IIM to the effect that Bachelor's degree obtained by a candidate is recognised by AID and in that case only the candidate would be considered to be eligible for admission in iiim, is reasonable and/or has nexus with the admission process, is just and valid or not'. As stated hereinabove and considering the admission process for getting admission in PGP in IIM, everything depends upon the performance of a

candidate in CAT examination, group discussion and personal interview. Therefore, whether a student studied in a particular institute and/or university, as such, does have that much importance so far as admission is concerned. Thus, degree recognised by AIU and/or institute/University recognised by aiu has no nexus with admission of a candidate to PGP course in IIM. As stated hereinabove and even admitted by AIU, aiu has no authority to accord recognition to any particular institute and/or university in the field of academic education. Thus, considering the aforesaid facts and admission process, such a stipulation to the effect that a candidate from where he has studied and the degree obtained by him, must have recognition by aiu is unreasonable, arbitrary as it has no nexus with admission process and actual admission in the IIM and thus, the same requires to be quashed and set aside. It is required to be noted that such a stipulation would lead to ignoring the recognition accorded by the statutory authorities like UGC, Central Government and the state Government and ignoring the institute/s which are having recognition in accordance with law, rules and regulations. The JIM cannot ignore the fact that such institute and/or Universities are recognised by the universities Grants Commission and the Central government and/or State Government and by the Statutory authorities, more particularly, the AIU is not

having authority to accord any recognition to Indian University. When AIU has no jurisdiction and/or authority to accord any recognition to Indian University and even as admitted by the AIU that it does not have any authority to accord any recognition to Indian University, such a stipulation to have recognition from AIU itself is, as such, nonexistence. Under the circumstances, the stipulation of recognition in the admission procedure of obtaining recognition of the degree by association of Indian University for the purpose of admission in PGP at IIM is required to be quashed and set aside.”

The learned Single Judge held that requirement of recognition of degree by AIU was not necessary. The AIU is not an authority or body which recognises degrees. In the Gujarat case there was no issue of equivalence of the Post Graduate Diploma, rather admissions were being denied on the ground that their degree is not recognised by the AIU. In that context, the Gujarat High Court held that there is no requirement of recognition of degree by AIU. The said case was on its own facts and does not help the petitioner.

40. Learned counsel for the petitioner has further relied on ***Asok Chacko Thomas v. Mahatma Gandhi University*** (2009(4) KLT 607). The petitioner in that case was a student of the National University of Advance Legal Studies and thereafter joined three years LLM course. The petitioner was asked to produce the eligibility certificate from the University, which certificate was not issued by the Mahatma Gandhi University. The Mahatma Gandhi University in a statement to the Court stated that the name of the National University of Advanced Legal Studies is not seen listed in the hand book published by the AIU. Therefore, the University has sought clarification from the AIU. It was further stated that the Association of Indian Universities is a voluntary organization and that the fourth respondent is not a member of the Association. In the above context, the learned Single Judge has observed that the fourth respondent cannot

be compelled to obtain membership from the association, nor the Mahatma Gandhi University can make recognition of courses, conditional on such membership. The following was observed in paragraph 7 of the judgment:

"7.The 4th respondent is a University established under the National University and Advance Legal Studies Act, 2005 (Act 27 of 2005), a State Act, and this fact has been recognized by the UGC in paragraph 10 of its counter affidavit. The 1st respondent also has no case to the contrary. In the said counter affidavit, UGC has further accepted that the 4th respondent is entitled to confer degrees as well. It is also evident from its counter affidavit that, UGC is not maintaining any list of Universities, recognized by it. Counter affidavit of the 4th respondent also shows that it is a University and that it is not a member of the Association of Indian Universities, which is only a voluntary organization. In such a situation, the resolution of the Academic Council granting automatic recognition to courses / degrees will not come to the rescue of students of the respondent University like the petitioner since the 4th respondent is not included in the list maintained by the Association of Indian Universities and as UGC is not maintaining any list.

However, that does not mean that the future of the students can be at peril and the 1st respondent cannot be a silent spectator. Since the counter affidavit of the UGC accepts the fact that the 4th respondent is a University as defined in S.2(f) entitled to confer degree as provided in S.22 of the UGC Act and in the absence of any list maintained by the UGC, I do not think that there is any rationale in the first respondent University insisting on recognizing only the regular course / degree of the Universities included in the list maintained by the UGC. The Association of Indian Universities, being only a voluntary organization, none can compel the 4th respondent to obtain membership in the Association nor can the 1st respondent make recognition of courses, conditional on such membership, I am of the view, in the light of the stand taken by the UGC, fairness requires that the first respondent University should issue Eligibility Certificate to the students of the 4th respondent University who have attended regular courses / degrees. In view of the above, if a request for Eligibility Certificate is received, what the first respondent need examine is whether the student concerned has attended regular courses / degree in the 4th respondent University. On such verification, if it is satisfied that the student satisfies this condition, the 1st respondent shall issue an Eligibility Certificate

as sought for. "

The above case also does not help the petitioner in the present case. There was no issue of equivalence of degree or diploma in the said case, rather, the eligibility certificate was not given by the University on the ground that NUALS is not a member of the Association.

41. Another judgment relied on by learned counsel for the petitioner is ***M.G. University and another v. Manager, St.Alberts College and others*** (2012(4) KHC 485). The Apex Court in the said case has held that once approval for MBA was granted by the AICTE, the M.G. University cannot withhold recognition. The said case also has no application in the present case.

42. Another judgment relied on by learned counsel for the petitioner is ***Ashok Kumar Mishra v. State of Orissa and others*** (2012 KHC 2854). In the above case the Writ Petition was filed by the candidates

challenging clause 4.2 of the Brochure, which prescribed upper age limit of 25 years for the Entrance Examination, 2011 for MBBS Course. The Division Bench of the Orissa High Court in the above case held that the Rules and Regulations have been framed under the statute regarding the eligibility for admission in MBBS Course and in the absence of regulation framed by the Medical Council of India fixing of such upper age limit in the proceedings is not authorised by law. The Division Bench in the above context the observed in paragraph 15 of the judgment:

“In view of the aforesaid statement of law laid down by the Hon'ble Supreme Court in the case of Sukhdev Singh Vrs. Bhagatram Sardar Singh Raghuvanshi which decision has been referred to in the case of Pepsu Road Transport Corporation v. Mangal Singh at paragraph - 18 of the judgment wherein paragraph - 33 from Sukhdev Singh Vrs. Bhagatram Sardar Singh Raghuvanshi is extracted, is rightly placed reliance by the learned counsel for the appellant in support of the proposition of law that the statutory authorities cannot deviate from the

conditions of service. Any deviation will be enforced by legal sanction of declaration by courts to invalidate actions in violation of rules and Regulations. The Rules and Regulations framed under statute are framed regarding the eligibility for admission in the MBBS course and such terms and conditions in order to maintain good standards in the professional Medical course for its implementation. In the absence of the Regulation framed by the Medical Council of India with prior approval of the Central Government fixing the upper age limit of a student for admission to the MBBS course in a college, fixing such upper age limit in the prospectus by OJEE who is not authorised in law and the same is in violation of the provisions of the MCI Regulations. Therefore, the same will not be binding upon the State Government and its authorities, who will be conducting the Entrance test examination for the eligible candidates to get seats allowed in their favour for the course. Therefore, insertion of clause 4.2 in the Prospectus by the OJEE is without any authority of law and the same is liable to be quashed. The said clause is also in violation of the fundamental rights guaranteed to the petitioner under Art.14, Art.19(1)(g), Art.21 and Art.21A of the Constitution of India. Hence the Clause 4.2 is liable to be struck down as the same is contrary to the MCI Act and Regulations. "

The above case has also no application in the facts of

the present case.

43. Learned counsel for the petitioner has also placed reliance on a judgment of the Delhi High Court in ***Stuti Saxena v. University Grants Commission and others*** in W.P(C).6923 of 2009 decided on 15.03.2011. The petitioner had passed Post Graduate Diploma in Business Administration from Jaipuria Institute of Management, Lucknow, Uttar Pradesh. Thereafter she appeared in NET Examination conducted by the UGC. On a reference made by the UGC, the AIU did not find the Post Graduate Diploma equivalent to Post Graduation Degree. The petitioner accordingly got disqualified. Aggrieved by the said decision, the Writ Petition was filed. In the above case the petitioner contended that the Post Graduate Diploma has been recognised by the AICTE as equivalent to MBA, whereas the AICTE in the counter affidavit had denied that the said course was recognised by it as equivalent to MBA. The following was

observed in paragraphs 10 and 12 of the judgment:

"10. The counsel for the UGC and AICTE has otherwise contended that the Association of Indian Universities though a Society but being controlled by the Government is fully equipped to go into the question of equivalence; that without the respondent No.5-Jaipuria Institute of Management evidencing any interest even to have its PGDBM course recognized as equivalent to Post-Graduation or MBA, no enquiry in that regard can be conducted. It is further informed that the said enquiry entails detailed investigation into the course content and for which the assistance of the Institute is necessary.

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12. The petitioner cannot be permitted to fight a proxy battle for Jaipuria Institute of Management. In a petition filed by the petitioner, this Court cannot direct the UGC or Association of Indian Universities to, without participation of the respondent No.5-Jaipuria Institute of Management enquire into equivalence of the said course of the respondent No.5-Jaipuria Institute of Management."

The above Writ Petition was dismissed by the Delhi High Court. No such proposition was laid down in the above case, which may help the petitioner in the facts of the

present case.

44. The communication, which was issued to the petitioner dated 26.07.2013/02.08.2013 declaring the petitioner disqualified in the UGC-NET on 24.06.2012 reads as under:

"You were declared provisionally qualified in the UGC-NET held on 24th June, 2012 for award of JRF and eligibility for Lectureship subject to fulfillment of eligibility conditions prescribed for NET. On scrutiny of your documents, it is found that you have obtained PG Diploma in Business Administration awarded by Loyola Institute of Business Administration, Chennai during the period year 1996-1998.

You are hereby informed that the Association of Indian Universities (AIU) has not accorded equivalence to the above mentioned course pursued by you with Master's Degree of recognized Indian Universities for the period of your course.

Therefore, UGC regrets to declare you as disqualified in the UGC-NET held on 24.06.2012."

45. From the discussions as above, the following conclusions are arrived at:

I. The Association of Indian Universities is a

body, which is entitled to declare equivalence for appearing in NET Examination, which is contemplated in the notification issued by the University Grants Commission.

- II. The authority to grant equivalence by the Association of Indian Universities is statutory recognised by UGC Regulations on Minimum Qualifications for Appointment of Teachers and Other Academic Staff in Universities and Colleges and Measures for the Maintenance of Standards in Higher Education, 2010.**
- III. The All India Council for Technical Education has never declared the Post Graduate Diploma course obtained by the petitioner in the year 1996-98 as equivalent to MBA.**
- IV. The All India Council for Technical Education having come up with the case that it accepts the opinion of the Association of Indian Universities regarding diploma and degree it is not necessary for us to examine the entitlement of AICTE to grant**

equivalence of Post Graduate Diploma any further.

V. The communication issued by the University Grants Commission to the petitioner, Exhibit P13 as stated above, was in accordance with law and the petitioner has rightly been declared disqualified to undertake the NET Examination, 2012, his Post Graduate Diploma (1996-98) have never been held to be equivalent to MBA Degree. The learned Single Judge in its judgment has observed that since the Post Graduate Diploma granted to the petitioner is recognised by the AICTE, it will be deemed to be recognised by the UGC cannot be approved. The observation of the learned Single Judge that when a course is approved by the AICTE, the question of equivalence from University does not arise in so far as determination of equivalence of that course is concerned cannot be approved.

46. In view of the observations made above and

the above conclusions, the judgment of the learned Single Judge cannot be sustained and deserves to be set aside.

In the result, the Writ Appeal is allowed. The judgment of the learned Single Judge dated 13.02.2015 is set aside. The Writ Petition is dismissed.

**ASHOK BHUSHAN,
CHIEF JUSTICE.**

**A.M.SHAFFIQUE,
JUDGE.**

vsv/vgs