

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

**THE HONOURABLE MR.JUSTICE ANTONY DOMINIC
&
THE HONOURABLE MR. JUSTICE SHAJI P.CHALY**

THURSDAY, THE 28TH DAY OF MAY 2015/7TH JYAISHTA, 1937

W.A.No. 1276 of 2014 () IN WP(C).31583/2011

**AGAINST THE JUDGMENT IN WP(C) NO. 31583/2011 OF HIGH COURT OF KERALA DATED
18-06-2014 AND THE ORDER DATED 07.08.2014 IN R.P. NO.537 OF 2014.**

APPELLANT(S)/RESPONDENTS 2 AND 3 IN WPC:

- 1. THE DIRECTOR,
CO-OPERATIVE ACADEMY OF PROFESSIONAL EDUCATION,
(CAPE) CO-BANK TOWERS, 1ST FLOOR, VIKAS BHAVAN,
THIRUVANANTHAPURAM-695 033.**
- 2. CO-OPERATIVE ACADEMY OF PROFESSIONAL EDUCATION,
(CAPE) CO-BANK TOWERS, 1ST FLOOR, VIKAS BHAVAN,
THIRUVANANTHAPURAM-695 033. REPRESENTED BY ITS DIRECTOR.**

**BY ADVS.SRI.E.K.MADHAVAN,
SMT.P.VJAYAMMA
SRI.V.KRISHNA MENON**

RESPONDENT(S)/WRIT PETITIONER & FIRST RESPONDENT:

- 1. SMT.MAGEEJA M.NAIR.,
W/O. SUBASH, GEETHA VILASAM, ARAMPUNNA,
ELAMAPAL.P.O., PUNALUR - 691 322.**
- 2. STATE OF KERALA,
REPRESENTED BY THE SECRETARY TO GOVERNMENT,
HIGHER EDUCATION DEPARTMENT, GOVERNMENT SECRETARIAT,
THIRUVANANTHAPURAM-695 033.**

* ADDL. 3RD RESPONDENT

ALL INDIA COUNCIL FOR TECHNICAL EDUCATION,
4TH FLOOR, EAST TOWERS,
N.B.C.C. PLACE, BHISHAM PITAMAH MARG,
PRAGATI VIHAR, NEW DELHI- 110 003.

IS IMPEADED SUO MOTO AS PER ORDER DATED 07.11.2014 IN
W.A.NO.1276/2014 AS ADDITIONAL 3RD RESPONDENT.

R1 BY ADV. SRI.V.M.KURIAN
R2 BY GOVERNMENT PLEADER, SRI. P. FAZIL
R3 BY ADV. SRI.S.KRISHNAMURTHY,SC, AICTE

THIS WRIT APPEAL HAVING BEEN FINALLY HEARD ON 28-05-2015, THE COURT
ON THE SAME DAY DELIVERED THE FOLLOWING:

P.T.O.

W.A.NO.1276 OF 2014

APPENDIX

APPELLANTS' EXHIBITS:

**ANNEXURE-A TRUE COPY OF THE LETTER DATED 15.07.2014 OF THE DIRECTOR
OF TECHNICAL EDUCATION.**

**ANNEXURE-B TRUE COPY OF THE LETTER DATED 19.07.2011 OF THE DIRECTOR
OF TECHNICAL EDUCATION.**

RESPONDENTS' EXHIBITS: NIL

//TRUE COPY//

P.S. TO JUDGE

**ANTONY DOMINIC
&
SHAJI P. CHALY, JJ.**

W.A.No.1276 OF 2014

Dated this the 28th day of May, 2015

JUDGMENT

Antony Dominic, J.

Respondents Nos.2 and 3 in W.P.(C) No.31583 of 2011 have filed this writ appeal, challenging the judgment of the learned Single Judge. The 1st respondent herein filed the aforesaid writ petition, seeking a declaration that by virtue of Exts.P5 and P6 notifications issued by the Government of India, Ext.P1 qualification obtained by her is equivalent to B.E./B.Tech. degree of the recognized Universities in India and to require the appellants to permit her to participate in the written examination for selection to the post of Assistant Professor in the Engineering Colleges under the 2nd appellant. By the judgment under appeal, the learned Single Judge allowed the writ petition. It is this judgment which is under challenge.

2. Briefly stated the facts of the case are that the appellants issued Ext.P7 inviting applications for various posts including Assistant Professor. For the post of Assistant Professor, the educational qualifications prescribed are "B.E./B.Tech. and M.E./M.Tech. in relevant subject with First Class or equivalent either in B.E./B.Tech. or M.E./M.Tech."

3. According to the 1st respondent, she had passed the basic qualification of AMIE and had also acquired M.Tech. from Amrita Viswavidyapeetom University. She responded to the notification, but she was not allowed to participate in the written test, on the ground that she did not have the prescribed basic qualification of B.E./B.Tech. It was in such circumstances, she filed the writ petition.

4. In the writ petition, placing reliance on Exts.P5 and P10, the 1st respondent contended that AMIE has already been recognized as equivalent to B.E./B.Tech and that therefore she was an eligible candidate. On the strength of an interim order obtained in the writ petition, she appeared for the written test and the selection process and was No.1 in the ranked list finalised. However, she was not offered appointment. By the

judgment under appeal, the learned Single Judge held that AMIE having been recognized as equivalent to B.E./B.Tech, she satisfied the qualification prescribed for the post of Assistant Professor, and being Rank No.1 in the ranked list, ordered that she shall be appointed as an Assistant Professor. It is this judgment, which is under challenge.

5. We heard learned counsel for the appellant, learned counsel for the 1st respondent and the learned Standing Counsel appearing for the Additional Respondent.

6. According to the learned counsel for the appellants, the qualification prescribed in the notification is that prescribed by the A.I.C.T.E in its All India Council for Technical Education (Pay Scales, Service Conditions and Qualifications for the Teachers and other Academic Staff in Technical Institutions (Degree)) Regulations, 2010. According to the appellants, the A.I.C.T.E having not prescribed AMIE as a qualification for the post or recognized AMIE as a qualification equivalent to B.E./B.Tech, the premise on which the learned Single Judge has allowed the writ petition relying on Exts.P5 and P10 is erroneous. According to them, the 1st respondent did not satisfy the prescriptions in the regulations and therefore she

was not an eligible candidate. These contentions were disputed by the learned counsel appearing for the 1st respondent.

7. As we have already stated, the qualifications prescribed for the post of Assistant Professor are those prescribed by the A.I.C.T.E in the Regulations referred above. For the post of Assistant Professor, in so far as it is relevant, the educational qualifications that are prescribed are B.E./B.Tech and M.E./M.Tech in relevant branch with First Class, or equivalent either in B.E./B.Tech or M.E./M.Tech. A copy of this Regulation is produced as Ext.P8 in the writ petition. A reading of the above Regulation show that while prescribing the educational qualifications for the post of Assistant Professor, the A.I.C.T.E has prescribed B.E./B.Tech and M.E./M.Tech in the relevant subject with First Class as the qualification. It also prescribed qualifications which are equivalent either "in" B.E./B.Tech or M.E./M.Tech for the post in question. It is relevant to note that in the Regulations, the words used are not '**equivalent to**' but '**equivalent in**'. The language of the Regulations show that the qualification to be equivalent should be one among the qualifications that are

prescribed under the Regulations itself viz., B.E./B.Tech and M.E./M.Tech and it does not admit any interpretation introducing AMIE as a prescribed qualification. If that be so, AMIE cannot be accepted as a qualification prescribed for the post of Assistant Professor. Therefore, Exts.P5 or P10 cannot help the 1st respondent to sustain her claim to be considered as eligible for the post of Assistant Professor.

8. Relying on Ext.P10, the learned counsel for the appellant rightly contended that the A.I.C.T.E itself has stated that equivalence of AMIE is to be approved either by the Board of Assessment M.H.R.D or by the Association of Indian Universities for employment and other purposes and for academic equivalence. In our view this document does not have any relevance in this case and therefore we doubt now to deal with the contention. The A.I.C.T.E which has been impleaded as an Additional Respondent in this appeal has also come on record by stating that they have not equated AMIE to B.E./B.Tech for teaching purposes.

9. For all these reasons, we are unable to accept the case of the 1st respondent that AMIE qualification obtained by her is to be treated as equivalent to B.E./B.Tech for

appointment to the post of Assistant Professor, the post notified by the appellants in Ext.P7 notification.

In such circumstances, the judgment of learned Single Judge cannot be upheld. It is set aside and the appeal is allowed as above.

Sd/-

**ANTONY DOMINIC
JUDGE**

Sd/-

**SHAJI .P. CHALY
JUDGE**

//true copy//

P.S. to Judge

St/-