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HIGH COURT OF CHHATTISGARH, BILASPUR**WPC No. 1146 of 2016****Judgment reserved on 22-08-2016****Judgment delivered on 30-11-2016**

1. Smt. Kunti Prasad W/o Shri Ramashankar Prasad, Aged About 50 Years R/o House No.B/4 High Court Residential Premises, Rahangi Road, Achanakpur, Chakarbhatha, District Bilaspur (Chhattisgarh)

---- Petitioner**Versus**

1. Guru Ghasidas University, through its Registrar, Koni, District Bilaspur (Chhattisgarh)
2. Bilaspur University, through its Registrar, Old High Court, Bilaspur, District Bilaspur (Chhattisgarh)

---- Respondents

For Petitioner	Shri Gautam Khetrapal, Advocate
For Respondent No.1	Shri Hemant Gupta, Advocate
For Respondent No.2	Shri Sudeep Agrawal, Advocate

Hon'ble Shri Justice Prashant Kumar Mishra**C A V Order**

1. The petitioner has preferred this writ petition seeking a direction to the respondents to grant enrollment registration/admission to the petitioner for Ph.D. programme and thereafter permit her to commence the work for Ph.D. Degree in Geography.

2. Facts of the case, as projected in the writ petition, are that the petitioner obtained Post Graduate degree in Geography in the year 1990 and thereafter completed M.Phil. (Geography) Degree Course in 1991. She appeared in the entrance examination conducted by the respondent No.1 Guru Ghasidas University (now a Central University) in the year 2010 for being admitted in the Ph.D. Course wherein she was declared qualified. The Central University, thereafter, issued a communication to the petitioner on 10.09.2013 directing that her registration for Ph.D. programme has been transferred to the Bilaspur University, a State University and was further directed to contact the Bilaspur University for further action, however, despite repeated oral requests and persuasion, the Bilaspur University initially assured the petitioner that she will be allotted registration, but till date it has not provided enrollment/admission registration number.
3. It is argued by the learned counsel appearing for the petitioner that the petitioner having qualified for Ph.D. programme in the entrance examination conducted by the respondent No.1 University, and the same having been transferred subsequently to the respondent No.2 University, the petitioner is entitled to continue her Ph.D. programme

from the respondent No.2 University, therefore, the denial thereof is arbitrary and illegal.

4. The stand of the respondent No.1 is that by virtue of the Memorandum of Understanding (for short 'the MoU') dated 25.06.2012 between the respondent No.1 and the respondent No.2, the Research Centre has been affiliated with the respondent No.2 University, therefore, all the Colleges/Study Centres affiliated with the respondent No.1 University were disaffiliated and the result of the examination was handed over to the respondent No.2 and, thus, the affiliated Research Centres having already been transferred to the respondent No.2, the petitioner cannot claim any relief against the respondent No.1 University.
5. According to the respondent No.2 University, the petitioner appeared in the course work but could not pass the same, therefore, she is not further eligible to participate in the Departmental Research Committee (for short 'the DRC') Examination. It is further stated in para 3 of the return that pursuant to the MoU, the respondent No.2 is ready and willing to take examination of the petitioner and if she qualifies in the course work, she would be eligible for registration in Ph.D. course. Referring to the document dated 15.07.2015 (Annexure-R2/2), it is stated in para 3 of

the return that only those students who have qualified the course work would be allotted registration by the respondent No2 University. It is further stated that the petitioner never participated/applied for Pre Ph.D. Examination held by the respondent No.2 University, therefore, the petitioner is not entitled for any relief.

6. The controversy involved in the present case hinges around impact of the provisions contained in Ordinance 42 of the Bilaspur University concerning the award of degree of Doctor of Philosophy (Ph.D.). Clause 3 of Ordinance 42 provides for procedure for admission and registration. Sub-clause (g) thereof provides that subject to availability of seats, candidates belonging to following categories and possessing a master's degree shall be exempted from appearing at the entrance test and they may be admitted directly to the programme on the recommendation of the DRC. The category at sub-clause (g) (ii) of clause 3 of Ordinance 42 speaks about candidates possessing M.Phil. Degrees from recognized university. Thus, the petitioner having possessed M.Phil. Degree is exempted from appearing at the entrance test and can be directly admitted to the Ph.D. programme on the recommendation of the DRC.

7. Under Clause 3 (e) of Ordinance 42 the Vice Chancellor is enjoined to constitute a DRC to conduct Doctoral Entrance Test (for short 'the DET'). Under Clause 3 (g) (vi) all eligible candidates are required to apply for registration of Ph.D. Degree and such application shall be considered by the DRC of the concerned school/department/affiliated colleges. Sub-clause (h) (i) of clause 3 further provides that all eligible candidates except the candidates possessing M. Phill. Degree from the recognized university shall be required to undertake course work for a minimum period of one semester and based upon affiliation of the candidate at the end of semester the DRC will conduct the evaluation at the institutional/departmental level.
8. Considering the issue falling for consideration within the ambit of above provision, it would appear that the petitioner is entitled for enrollment registration/admission on two counts viz; *firstly*; the petitioner was already registered in the Guru Ghasidas University (now a Central University), which is proved by the document (Annexure-P-2), whereby the respondent No.1 University transferred her registration to the respondent No.2 University pursuant to the MoU dated 25.06.2012 between the two Universities and *secondly*; for the reason that under the Ordinance 42 the petitioner having

possessed of M.Phil. Degree from a recognized university, she is exempted from appearing at the entrance test and is entitled to be admitted directly to the Ph.D. Programme on the recommendation of the DRC. The respondent No.2 University is, therefore, obliged to admit the petitioner directly without requiring the petitioner to appear or apply in the entrance test or course work.

9. Accordingly, the respondent No.2 University is directed to enroll and admit the petitioner for Ph.D. work and allow her to complete the Ph.D. Course in the subject of Geography. Let the admission process be completed within a period of six weeks from today.

10. *Ex-consequenti*, the writ petition is allowed, leaving the parties to bear their own costs.

Sd/-

Judge
Prashant Kumar Mishra

Gowri