

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.19107 of 2015

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1. Manoj Kumar, son of Shri Vishwanath Ram, resident of Gola Road, Danapur, P.O.- Cantt. & P.S.- Danapur, Town & District- Patna- 801503

.... Petitioner

Versus

1. The Union of India through the Secretary, Department of Higher Education, Ministry of Human Resources Development, Government of India, Shastri Bhawan, New Delhi- 110001
2. The University Grants Commission through the Secretary, Bahadur Shah Zafar Marg, New Delhi- 110002
3. The Chairman, University Grants Commission, Bahadur Shah Zafar Marg, New Delhi- 110002
4. The All India Council for Technical Education through the Chairman, 7th Floor, Chandralok Building, Jan Path, New Delhi- 110001
5. The State of Bihar through the Secretary, Department of Education, Government of Bihar, New Secretariat, Patna
6. The Director, Higher Education, Department of Education, Government of Bihar, New Secretariat, Patna
7. The Magadh University through the Registrar, Bodh Gaya, Bihar
8. The Director, Lalit Narain Mishra Institute of Economic Development & Social Change, Bailey Road, Patna, Bihar
9. The Association of Indian Universities, AIU House, 16, Comrade Indrajit Gupta Marg, New Delhi- 110002 through its Executive Director/Secretary

.... Respondents

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Appearance :

For the Petitioner : Mr. Rajesh Mohan, Advocate



For the Union of India & : Mr. S. D. Sanjay, Addl. S.G.
U.G.C. Mr. Tuhin Shankar, C.G.C.
Ms. Parul Prasad, Advocate
For U.G.C. : Mr. Deepak Kumar, Advocate
For Magadh University : Mr. Vipin Kumar, Advocate

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CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN SINGH

JUDGMENT AND ORDER

ORAL

Date: 20-04-2017

I. A. NO. 2915 OF 2015

1. This interlocutory application has been filed, seeking recall of the order, dated 04.04.2017, whereby this Court had imposed cost of Rs. 50,000/- to be deposited by the University Grants Commission in the account of Bihar State Legal Services Authority, Patna.

2. I have perused the contents of the said interlocutory application. The order, dated 04.04.2017, speaks for itself. I do not find any cogent explanation justifying delay in filing of the counter affidavit, which caused immense inconvenience in disposal of this case.

3. I. A. No. 2915 of 2015 is accordingly dismissed.

4. However, in view of the submission made by



Mr. S. D. Sanjay, learned Additional Solicitor General, time, till 02nd May, 2017, is allowed to comply with the said order, dated 04.04.2017.

C.W.J.C. NO. 19107 OF 2015

5. Heard learned Counsel for the parties concerned.

6. The short facts are not in dispute. The petitioner has passed his 2-year Post-Graduate Diploma in Personnel Management and Industrial Relation (hereinafter referred to 'P.M.I.R.') from Lalit Narayan Mishra Institute of Economic Development and Social Change, Patna, (for brevity, 'L.N.M.I.'), in the academic sessions 1999-2001. The L.N.M.I., it is being claimed, is an autonomous institution of Government of Bihar and is permanently affiliated to the Magadh University, Bodh Gaya.

7. The petitioner had appeared for University Grants Commission National Eligibility Test (hereinafter referred to as "UGC-NET") for Lecturership held in June, 2013, and passed the said test successfully.

8. He is aggrieved by a communication, dated 09.09.2014, issued by the University Grants Commission (hereinafter referred to 'U.G.C.'), whereby he has been declared to be disqualified for UGC-NET for Lecturership, held



on 30.06.2013, on the ground that Association of Indian University (in short, 'A.I.U.') has not accorded equivalence to the said post-graduate diploma of P.M.I.R. with Master's degree of recognized Indian Universities.

9. In view of the submissions, which have been advanced on behalf of the parties, it would be apt to quote the entire communication, through the said letter, dated 09.09.2014, which is Annexure-3 to the writ application, as under:

"Shri Manoj Kumar
S/o Shri Vishwanatha Ram
18, Vastu Ganga Colony,
Gola road, Danapur,
Patna – 801 503
Bihar

Roll No. 49170061

Subject :Management

Subject: UGC-NET for Junior Research Fellowship (JRF) and Eligibility for Assistant Professor held on 30th June 2013

Dear Candidate,

You were declared provisionally qualified in the UGC-NET held on 30th June, 2013 for eligibility for Assistant Professor, subject to fulfillment of eligibility conditions prescribed for UGC-NET. On scrutiny of your documents, it is found that you have obtained PG Diploma in Personnel Management and Industrial Relations awarded by Lalit Narayan Mishra Institute of Economic Development & Social Change, Patna.



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.

Therefore, UGC regrets to declare you as disqualified in the UGC-NET held on 30.06.2013."

(Emphasis mine)

10. The petitioner claims that the said institute (L.M.N.I.) is run by the Department of Education, Government of Bihar and aided by the Ministry of Human Resource Development, Government of India, and the Ministry of Human Resource Development has granted approval/recognition to various courses of L.N.M.I. The All India Council for Technical Education, New Delhi (hereinafter referred to "A.I.C.T.E.") is said to have accorded the approval to various courses run by L.N.M.I., including the post-graduate diploma in P.M.I.R. It is his further case that the A.I.C.T.E. has accorded equivalence of said post-graduate diploma in P.M.I.R. with M.B.A. for various sessions, including the session 1999-2001.

11. These facts are not in dispute.

12. This is also not in dispute that the A.I.U. has not accorded equivalence of the said diploma course with the Master's degree of recognized Indian universities.

13. The notification, for UGC-NET, June, 2013,



had prescribed, *inter alia*, conditions of eligibility under Clause 3, sub-Clause (vi) of which reads thus:

"3. CONDITIONS OF ELIGIBILITY :

vi) Candidates having post-graduate diploma/certificate awarded by Indian University/Institute or foreign degree/ diploma/ certificate awarded by the foreign University/ Institute should in their own interest, ascertain the equivalence of their diploma/degree/ certificate with Master's degree of recognized universities from Association of Indian Universities (AIU), New Delhi. (**www.aiuweb.org**)"

14. It is the case of the petitioner that since the post-graduate diploma course in P.M.I.R. has been held to be equivalent to M.B.A. by A.I.C.T.E., the petitioner fulfills the eligibility conditions under sub-Clause (vi) of Clause 3 of the notification, as has been extracted hereinabove.

15. A counter affidavit has been filed on behalf of the U.G.C., bringing on record a Division Bench decision of the Kerala High Court, dated 19.06.2015, in W. A. No. 847 of 2015 (**University Grants Commission and Others v. Anand J. Illickan and Others**), reported in **(2015) 411 KLW 749**, in which somewhat similar question had arisen. Similar communication was put to challenge before the Kerala High Court in a writ proceeding, which was allowed by a learned Single Judge of the Kerala High Court. In an *intra*



Court appeal, the Division Bench of the Kerala High Court, considering rival stands taken on behalf of the parties, had to frame the following questions for determination:

“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?”



16. The Division Bench answered the issue, so framed, in paragraph 45, holding that Association of Indian Universities is a body, which is entitled to declare equivalence for appearing in National Eligibility Test (hereinafter referred to as 'N.E.T. '), which is contemplated in the notification issued by the U.G.C.. Such authority to grant equivalence by the A.I.U. is statutorily recognized by the *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 Division Bench took note of the stand of the A.I.C.T.E. that A.I.C.T.E. accepts the opinion of A.I.U. regarding diploma and degree and, therefore, there was no need to examine the entitlement of A.I.C.T.E. to grant equivalence of post-graduate diploma.

17. Mr. S. D. Sanjay, learned Additional Solicitor General, appearing on behalf of the U.G.C., has placed great reliance on the said Division Bench decision in support of his plea that the U.G.C., by the impugned communication, dated 09.09.2014, rightly informed the petitioner that the post-graduate diploma in P.M.I.R., obtained from L.N.M.I., cannot be treated to be equivalent with post-graduate degree.

18. He has taken me to the list of Institutions of which Two Year Full Time Post-Graduate Diploma in



Management have been equated with M.B.A. degree for the purpose of grant of permission to higher studies by A.I.U., which has been brought on record by way of Exhibit-R-2 to the counter affidavit. He has submitted that name of the present institution (L.N.M.I.) does not figure in the said list and, therefore, the post-graduate diploma qualification held by the petitioner cannot be treated to be equivalent to M.B.A.

19. Mr. Rajesh Mohan, learned Counsel, appearing on behalf of the petitioner, responding to the arguments advanced on behalf of the U.G.C., has submitted that case of the petitioner is entirely different from the facts, which were in consideration before the Kerala High Court. According to him, the Institution from where the petitioner before the Kerala High Court had obtained his post-graduate degree qualification was a privately managed institution and since the L.N.M.I. is owned, controlled and managed by the State Government; on the ground that A.I.U. has not declared qualification of post-graduate diploma in P.M.I.R. of L.N.M.I. to be equivalent with post graduate, his qualification cannot be said to be not equivalent with post-graduate degree. He has submitted, referring to the notification laying down the eligibility conditions, issued by the U.G.C. for taking N.E.T. that either recognition by the A.I.C.T.E. or declaration by A.I.U. to the effect that a diploma course is equivalent with



M.B.A./post-graduate degree, is required. Only on the ground that A.I.U. has not declared a post-graduate diploma course of L.N.M.I. to be equivalent to post-graduate degree, a candidate cannot be held to be disqualified to take N.E.T., he contends.

20. Whether Post-Graduate Diploma of the petitioner is an equivalent qualification to that of the Masters Degree is the only question involved in the present case. Before answering the question, one must have in mind that the notification for U.G.C.-N.E.T., June 2013 specifically prescribed the conditions for eligibility for the said test, making it clear that the candidates having Post-Graduate Diploma, awarded by the Indian University/Institute, should in their own interest ascertain the equivalence of their Diploma/Degree/Certificate with the Master Degree of recognized Universities, from A.I.U. The A.I.U. has admittedly not declared equivalence of the petitioner's P.G. Diploma qualification as equivalent with P.G. Degree. The petitioner had appeared for the U.G.C.-N.E.T. in response to notification, which contained the condition of eligibility under sub-Clause (vi) of Clause 3 of the notification, which have been quoted in paragraph 13 hereinabove. My attention has been drawn to '*U.G.C. 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' (hereinafter referred to as the 'Regulations'), framed in exercise of power under Section 26 of the University Grants Commission Act, 1956, prescribing minimum qualification for appointment of teachers and other academic staff. On careful reading of Regulation 4.4.5 of the said Regulation, it can be easily discerned that A.I.U. has been given statutory status for the purpose of declaring equivalence Post-Graduate Diploma in management course with Masters Degree in Business Management/Administration in relevant management related discipline. The said Regulations, which lays down the qualification prescribed for Assistant Professor and Associate Professor, are being reproduced hereinbelow:-

"1. 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. Paper 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



managerial 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."

21. The Regulation, as quoted above, and the requirement in the notification for holding U.G.C.-N.E.T., June, 2013, makes it clear that the U.G.C. desired and notified that prospecting candidate must ascertain equivalence of their



courses with the Masters Degree of recognized Universities from A.I.U. In any event, that was the condition notified in the notification of U.G.C.-N.E.T., June, 2013. In my view, the petitioner cannot question the eligibility conditions prescribed in the notification after having participated for the test. In my view, he is estopped from raising any plea against requirement of sub-Clause (vi) of Clause 3 of notification for U.G.C.-N.E.T., June, 2013. I am further of the view that no distinction can be made, for the purpose of determining equivalence of P.G. Diploma qualification with P.G. Degree qualification, on the basis of Institution being own-managed and maintained by the State Government/Union Government or otherwise. The Regulations, governing the field, do not carve out any exception or create such distinction. Submission made on behalf of the petitioner, in this regard, is not tenable.

22. I am in agreement with the view taken by a Division Bench of Kerala High Court in case of **Anand J. Illickan** (supra), wherein, the status and role of the A.I.U., in the matter of its authority to declare equivalence of Post-Graduate Diploma with Post-Graduate Degree, has been elaborately dealt. I have no hesitation in recording my conclusion that requirement of declaration by A.I.U., for the purpose of equivalence of P.G. Diploma qualification with P.G.



Degree, is statutory in character, since the said requirement has been incorporated in the statutory Regulation framed in exercise of power under Section 26 of the University Grants Commission Act, 1956. Consequently, the P.G. Diploma (P.M.I.R.) qualification of the petitioner cannot be held to be equivalent to P.G. Degree.

23. The communication, dated 09.09.2014, therefore, does not require any interference. This application is accordingly dismissed.

(Chakradhari Sharan Singh, J.)

Prabhakar Anand/-

AFR/NAFR	AFR
CAV DATE	N.A.
Uploading Date	16.05.2017
Transmission Date	N.A.

