

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

WRIT PETITION (S) NO. 3983 OF 2016

1. Arvind Choursia, aged 52 years, S/o Shri P.L. Chourasia, Assistant Engineer, PWD, R/o Ward No.4, Nehru Nagar, Ameri Road, Bilaspur, District Bilaspur (C.G.)
2. Vivek Keshwani, aged 52 years, S/o Shri R.K. Kesharwani, Sub Engineer, PWD, R/o G-15, Avanti Vihar, Raipur, District Raipur (C.G.)
3. Smt. Premanurag Chandrakar, aged 37 years, Sub Engineer, PWD, O/o Shri Mukesh Chandrakar, Sub Engineer: PWD, R/o G-15, PWD Colony, Katora Talab, Raipur, District Raipur (C.G.)
4. Abhishek Meshram, aged 41 years, S/o Shri N.R. Meshram, Sub Engineer: PWD, R/o House No.31, Anand Nagar, Durg, District Durg (C.G.)

... Petitioners

Versus

1. State of Chhattisgarh, through the Secretary to the Govt. of Chhattisgarh: Public Works Department, Mahanadi Bhawan, Naya Raipur, Rakhi, District Raipur (C.G.)
2. Indira Gandhi National Open University, through the Secretary, Indira Gandhi, Regional Office- Housing Board Colony, Sector-I, Shankar Nagar, Raipur
3. University Grants Commission, through the Secretary, University Grants Commission, Bahadur Shah Zafar Marg, New Delhi.
4. All India Institute of Technical Education, 7th Floor, Chander Lok Building, Janpath, New Delhi 110001
5. Department of Technical Education, through the Secretary to the Department of Technical Education, Mahanadi Bhavan, Naya Raipur, Rakhi, District Raipur (C.G.)

... Respondents

For Petitioners	:	Mr. A.D. Shrivastava, Advocate.
For Respondent No. 1 & 5	:	Mr. S.P. Kale, Dy. Advocate General.
For Respondent No.2	:	Mr. Shivendu Pandya, Advocate.
For Respondent No.4	:	Mr. Sandeep Dubey, Advocate.

Hon'ble Shri Justice P. Sam Koshy

Order on Board

18/01/2017

1. The present writ petition has been filed by the Petitioners assailing the order dated 25.8.2015 (Annexure P-1) whereby the Respondents have refused to add the name of the Petitioners in the Gradation List of the Graduates Sub-Engineer on the ground that the degree possessed by the Petitioners is not from an Institute/College approved by AICTE.

2. Counsel for the Petitioners submits that an identical matter came up before this Court on 26.8.2016 in Writ Petition (S) No. 4063 of 2016, whereby after considering the facts and circumstances of the case, where the facts were similar to the facts of the present case, the coordinate Bench of this Court has held as under :

“2. In W.P.(S) No. 158/2010, after notices were issued by this Court, the All India Council filed return. In the reply, it was stated that the degree and diploma obtained under the distance education programme, do not require approval and therefore, the AICTE has no role to play for granting recognition to such degrees/diplomas in the professional courses. It appears that the State Government had decided not to recognise petitioner's degree on the ground that though it requires approval by AICTE, it has actually not been approved by AICTE. However, from the return of AICTE filed in W.P.(S) No. 158/2000, it appears that the AICTE, in such cases, does not grant approval but there is some other mechanism under which such courses are recognised and approved. Therefore, in these circumstances, the State Government should now consider petitioner's degree by taking into consideration relevant aspects including the mechanism provided in cases relating to degree under distance education programme.

3. The consideration regarding approval and recognition of petitioner's degree should be completed by the respondents within an outer limit of six weeks from the date of receipt of copy of this order, so that in the event of recognition granted by the State Government, the petitioner may also get benefit of promotion as Graduate Engineers.”

3. Counsel for the Petitioners thus submits that since the issue involved in the present case is also similar and identical, the present writ petition may also be disposed of in similar terms.

4. The said contention of the Counsel for the Petitioners is not opposed by the Counsel for Respondent-AICTE.

5. Counsel for the State, however, only submits that the Petitioners' case was already decided by this Court in an earlier round of litigation vide Writ Petition (S) No. 1202 of 2015 when this Court had disposed of the said writ petition on 8.4.2015 (Annexure P-2 with the present writ petition) and in the light of the said order, the Petitioners are not entitled for any relief. Relevant paragraphs of which are reproduced below:

“2. It has been urged that there is no rule or regulation or instruction prohibiting making entry of such qualification in the service book, yet the respondents are not taking decision for making entry of the qualification, therefore, the need to file the present petition has arisen.

3. Considering the limited nature of relief claimed in this writ petition, it is disposed of with a direction to the respondents to consider the petitioners' application for inclusion of acquisition of qualification of 'Bachelor of Technology' obtained from the Indira Gandhi National Open University in their respective service book in accordance with law. Let the needful be done by the competent authority within three months from the date of submission of certified copy of this order."

6. A bare perusal of the record and considering the contentions put forth by the Counsel for the Petitioners, it clearly reflects that at the time of the disposal of the writ petition filed by the Petitioners at the first instance, all that the directions that was given was, to consider the Petitioners' application for inclusion of acquisition of qualification of 'Bachelor of Technology' obtained from the IGNOU in their respective service book. The modus operandi of considering the application was not reflected in the said order and based upon the said directives, the impugned order dated 25.8.2015 has been passed. If we look into the order that has been passed by the coordinate Bench in Writ Petition (S) 4063 of 2016 decided on 26.8.2016, it clearly reflects that this Court while deciding the said writ petition, had directed the State Government to consider the Petitioners' degree taking into consideration the remedies available with the State Government in providing recognition to those cases where the educational qualifications have been obtained under the Distance Education Programme. This direction was not reflected in the earlier round of litigation which was disposed of.

7. Thus, this Court is of the opinion that the present petition also deserves to be disposed of in similar terms to that of Writ Petition (S) No. 4063 of 2016, decided on 26.8.2016. It is directed that the State Government shall consider the case of the Petitioners for their inclusion in the Gradation List of the Graduates Sub-Engineers after making necessary verification from the competent authority both at the Central level as well as at AICTE level in respect of the status of those persons who have obtained degree under the Distance Education Programme and thereafter an appropriate order in this regard shall be passed preferably within a period of 90 days from today.

8. It is also made clear that while deciding the case of the Petitioners, the authorities shall also keep in mind the directives given by this Court on 26.8.2016 in Writ Petition (S) No. 4063 of 2016.

9. With the aforesaid observations, the writ petition stands disposed of.

Sd/-
(P. Sam Koshy)
Judge

/sharad/