

HIGH COURT OF CHHATTISGARH, BILASPUR**Writ Appeal No. 48 of 2010**

- Gurpreet Singh S/o Shri Gurcharan Singh, R/o Village - Mothan Wala, P.O. - Saffu Wala, Tahsil And District - Moga (Punjab)

---- Appellant**Versus**

1. State Of Chhattisgarh through the Secretary Department of Higher Education, Mantralaya, D.K.S. Bhawan, Raipur (C.G.)
2. Private University Regulatory Commission, Government Of Chhattisgarh, Madhu Pilley Chowk, Opposite Ram Mandir, Shanti Nagar, District - Raipur (C.G.)
3. State Of Punjab Thruogh The Secretary, Department Of Education, Punjab, District - Chandigarh (Punjab)
4. Sarva Shiksha Abhiyam Authority (Punjab) Through State Project Director, Sco 104-106, 2nd & 3rd Floor, Sector 34-A, Chandigarh (Punjab)
5. University Grants Commissions Bahdurshah Zafar Marg, New Delhi 110002
6. Indian University Raipur Through Its Registrar, Office Situated At 2/22, civil Lines, District - Raipur (C.G.)

--- Respondents

For Petitioner	:	None.
For Respondent No.2	:	Mr. A.S. Kachhwaha, Advocate

Hon'ble Shri Thottathil B. Radhakrishnan, Chief Justice**Hon'ble Shri Justice P. Sam Koshy****Judgment on Board****Per Thottathil B. Radhakrishnan, Chief Justice****07.04.2017**

1. Heard.
2. This Writ Appeal is against the order of the learned Single Judge dismissing the Writ Petition.

3. The Appellant through the said Writ Petition sought a direction and declaration that the B.Ed degree obtained by him from sixth Respondent University may be held valid. Consequently, orders were sought to quash a decision whereby the Sarva Shiksha Abhiyam Authority (Punjab) held that the said so called degree cannot be acted upon.
4. The learned Single Judge noted the judgment of the Apex Court in *Prof. Yashpal & Another v. State of Chhattisgarh & Others* [2005 (5) SCC 420] which clearly declared the provisions of Sections 5 and 6 of the Chhattisgarh Niji Kshetra Vishwavidyala (Sthapna Aur Viniyaman) Adhiniyam, 2002 is *ultra vires* the Constitution and held that therefore the relief could not be granted.
5. The plea of the Writ Petitioner before the learned Single Judge and his plea in the Writ Appeal is that the aforesaid judgment of the Apex Court will operate prospectively.
6. The doctrine of prospective overruling is well settled. Unless, there is clear declaration by the Apex Court to that effect, the same would not apply. Not only that, when a legislative provision is declared to be *ultra vires* the Constitution, it is inoperative and void. In view of this settled position, the Appellant cannot be granted the relief as sought for. The challenge to the decision of the learned Single Judge fails.
7. In the result, the Writ Petition is dismissed.

Sd/-
(Thottathil B. Radhakrishnan)
Chief Justice

Sd/-
(P. Sam Koshy)
Judge