

notice for Respondent No. 5. By consent of parties, petition is taken up for final hearing.

2. The present petition seeks writ of mandamus directing Respondent Nos. 1 and 2 forthwith to give approval to the Petitioner herein considering that the Petitioner has obtained the Ph. D. Degree which meets all the requirement mentioned in the UGC letter dated 6th of February, 2015 addressed to Respondent No. 2 by the University Grants Commission (for short the “UGC”). By way of amendment, the Petitioner has also challenged the circular issued by the State of Maharashtra dated 7th June, 2013.

3. The facts in brief giving rise to the present petition are as under:

. The Petitioner having obtained degree of B. E. and M. E. was appointed as a lecturer in one Siddhant College of Engineering. However, since the Petitioner was desirous of obtaining higher qualification of Ph. D., on 1st of August, 2010 he proceeded on leave to pursue study for Ph. D. with Shri Jagdishprasad Jabarmal Tibarewala University (for short “JJTU”). The Petitioner undertook

the study for a period of two years. Upon completion of the study, the Petitioner was granted Ph. D. by JJTU. On 31st of March, 2013 the Petitioner resigned the service in the Siddhant College of Engineering.

4. The Petitioner thereafter joined P. K. Technical Campus on 1st of August, 2013 as an Associate Professor. The Petitioner thereafter appeared for the interview before the Selection Committee, which was constituted for the purpose of conducting interviews for the post of professors in the said institution. The Selection Committee after interviewing the Petitioner, recommended his name. The Management thereafter submitted proposal for grant of approval. However, it appears that the University has doubts with regard to the genuineness of the Ph. D. Degree of the Petitioner and entered into correspondence with the University Grants Commission. Since in spite of various reminders, Petitioner was not granted approval, he approached this Court by way of present petition. The Division Bench of this Court by its order dated 2nd February, 2016 passed in the petition directed the University to consider the documents submitted by the Petitioner and take appropriate decision. By an order dated 22nd February, 2016, Petitioner was informed that he could not be granted

approval since the Petitioner has conducted his Ph. D. studies under a supervisor who was not regular but an adjunct supervisor. The Petitioner therefore amended the petition and sought to challenge the said order.

5. We have heard Mr. Anturkar, the learned senior counsel for the Petitioner; Mr. Sakhare, the learned senior counsel for the Respondent University; and Mr. Rui Rodrigues, the learned counsel for the Respondent – UGC.

6. Mr. Anturkar submits that when the JJTU is duly recognised by the UGC, the Respondent – Savitribai Phule, Pune University will have no jurisdiction to inquire into correctness of the degree awarded to the Petitioner by the JJTU in accordance with the regulations framed by the UGC. He therefore, submits that the very act of the Respondent Pune University in conducting inquiry with regard to the correctness of the Petitioner's degree is without jurisdiction. The learned senior counsel further submits that even on facts, the reasoning given by the University is incorrect, inasmuch as the Petitioner has undertaken the study under two supervisors, one of which is regular professor and another is adjunct professor. He

submits that as a matter of fact, the Respondent Mahatma Phule University has itself recognised certain professors' as supervisors, who are not from the regular faculty but are the adjunct professors. The learned senior counsel further submits that the reasoning given in the affidavit about the approval is beyond the scope of the original order and therefore, cannot be looked into.

7. Mr. Sakhare, learned senior counsel appearing for the Savitribai Phule Pune University submits that the State Government has issued circular dated 7.6.2013, which is binding upon the Respondent University under the provisions of sub-section (4) of Section 8 of the Maharashtra Universities Act, 1994 (hereinafter referred to as the “said Act”). The learned senior counsel further submits that since it was noticed that various universities are awarding fake Ph. D. degrees, the Respondent State had issued directions to the Universities to make an inquiry with regard to the correctness of the degree. He further submits that upon perusal of the record, it would reveal that the Petitioner has not complied with the regulations issued by the UGC. Therefore, action of the Respondent Pune University in refusing to grant approval to the Petitioner as a professors is valid.

8. Mr. Rui Rodrigues, the learned counsel appearing for the UGC submitted that the role of UGC is limited, i.e. to frame regulations. He submits that once the rules are framed by the UGC and once the university certifies that the degree is awarded in accordance with regulations framed by the UGC, then UGC has no role to inquire into correctness of the said degree. He submits that the regulations are silent on the aspect as to who shall conduct inquiry. The learned counsel on facts submits that University is also required to issue the certificate under Regulation 20 of the University Grants Commission (Minimum Standards and Procedure for award of M. Phil. / Ph. D. Degree), Regulations, 2009 (hereinafter referred to as the “said Regulations).

9. We find that in the present case, we would be required to decide a short question as to whether one university which is duly recognised by the UGC is empowered to question and inquire regarding correctness of the Ph. D. degree issued by another university, which is also duly recognised by the UGC. In our considered view, if answer to the said question is in the affirmative, then the petition would fail and if the answer to the said question is in

the negative, the petition would succeed.

10. The Respondent- UGC has framed the said regulations by notification dated 1st of June, 2009. The notification prescribes for various things like eligibility criteria for M. Phil / Ph. D. supervisor, the procedure for admission, allocation of supervisor, course work, evaluation and assessment methods, etc. It will be relevant to refer to Regulation 20 of the said Regulations, , which reads thus:

“20. Alongwith the Degree, the Degree awarding University, Institution Deemed to be University, College / Institution of National Importance, as the case may be, shall issue a Provisional Certificate certifying to the effect that the Degree has been awarded in accordance with the provisions to these Regulations of the UGC.”

11. It could thus be seen that alongwith the degree, the degree awarding university is required to issue a provisional certificate certifying that the degree has been awarded in accordance with the provisions to these Regulations of the UGC.

12. Undisputedly, in the present case, the Petitioner has been granted such a certificate, as required under Regulation 20 of the said Regulations on 15th of March, 2013. It is further seen that since the

Respondent Pune University had certain doubts with regard to the correctness of the Ph. Degree awarded to the Petitioner, it entered into certain communication with JJTU. The JJTU vide communication dated 11th of January, 2016 confirmed that the Ph. D. Degree, which was awarded to the Petitioner in accordance with the said Regulations. It could thus be seen that the Petitioner possess the Ph. D. degree, which is granted to him and certified to be one in accordance with the UGC Regulations. Insofar as the contention of the Respondent Pune University that the Petitioner has undertaken studies under the supervision of adjunct professor is concerned, perusal of the communication (produced at page 132 to 134 to the petition) would reveal that the Petitioner has undertaken the study under supervision of two supervisors i.e. Dr. Ruchira Bhargav and Dr. Trimbak Ramchandra. Out of the said two supervisors, Dr. Ruchira Bhargav is Regular Faculty of University and Dr. Trimbak Ramchandra is Adjunct professor. It could thus be seen that even on factual basis the impugned order is not correct.

13. We do not propose to go into the aspect as to whether the Respondent Pune University has also recognised the adjunct professor

as supervisor or not. In our considered view, since we find that the petition deserves to be allowed on other ground, it will not be necessary to go into that question. We also do not find it necessary to go into the questions regarding validity of the Government circular dated 7th June, 2013.

14. As already discussed hereinabove, the UGC has framed the said Regulations. Clause 20 of the said Regulations enjoins the duties upon the university which grants degree certificate to certify that the degree is granted in accordance with the said Regulations. We find that once a university which is duly recognised by the UGC certifies that degree is granted in accordance with the said Regulations, it will not be permissible for other university to enter into inquiry with regard to the correctness thereof. Except the provisions of sub-section (4) of Section 8 of the said Act and the Government circular dated 7th June, 2013, the learned senior counsel appearing for the Respondent Pune University is not in a position to point out any source which would permit the Respondent Pune University to make such an inquiry. Insofar as sub-section (4) of Section 8 of the said Act is concerned, it reads thus:

“8(4) In case of failure of the university to exercise powers or perform duties specified in section 5 or where the university has not exercised such powers or performed such duties adequately, or where there has been a failure to comply with any order issued by the State Government, the State Government may, on making such inquiry as it may deem fit, issue a directive to the university for proper exercise of such powers or performance of such duties or comply with the order; and it shall be the duty of the university to comply with such direction.

Provided that, in case the university fails to comply with the directives. The State Government shall call upon the university to give reasons in writing why the directives were not complied with. If the State Government is not satisfied with the explanation, it may refer the matter to the Chancellor for taking necessary action under sub-section (3) of section 9.”

15. Perusal of said section would thus clearly reveal that the State Government is empowered to exercise powers under the said sub-section only when it comes to the conclusion that the university has failed to exercise the power or perform such of the duties, which are specified in Section 5 of the said Act. In another words, only when the State Government is satisfied that there has been failure on the part of the university to exercise powers or perform duties as specified in Section 5, it can exercise the powers under Section 8(4) of the said Act, and issue the directives to the universities for proper exercise of powers or performance of duties. The provisions of Section 5 of the

Said Act deals with 60 items. The learned senior counsel appearing for the Respondent Pune University has not been in a position to point out any clause in Section 5, which imposes any duty or requirement on the university to exercise a function, which is related to inquiry with regard to the degree awarded by another university, which is duly recognised by the UGC. In that view of the matter, we find that the reliance placed by the Respondent Pune University on the said provision is without substance.

16. Apart from that, we find that if the contention of the Respondent Pune University is accepted, it will lead to anomalous situation. There are hundreds of universities / deemed universities or the institutions or the colleges / institutions of national importance to whom said Regulations are applicable. If one of the universities which is recognised under UGC is permitted to inquire into correctness or otherwise of the degree granted by another university which is also recognised by the UGC, it will amount to opening the Pandora's box, and there will be no sanctity to the degree awarded by a university which is duly recognised by the UGC. We find that if there is grievance that some of the universities are not awarding

degree in appropriate manner, it is for the UGC or competent legislature either to enact legislation or frame regulations and to deal with such a situation. In our considered view, the Respondent Pune University cannot be permitted to enter into such an exercise in the absence of any specific power, empowering it to do so.

17. Apart from that, it would be seen that in the impugned order recourse is sought to be taken to the Regulations and directives of the UGC dated 4th of September, 2015, which reads thus:

“It has come to the notice of University Grants Commission that some of the Universities are circumventing the provisions of UGC (Minimum Standards and Procedure for Award of M. Phil / Ph. D.) Regulations, 2009 by utilising the services of Adjunct Faculty as Supervisors. It is reiterated for the information of the Universities that only regular faculty (not Adjunct Faculty) can be appointed as Research Supervisors. This has already been iterated in the earlier letter of even number dated 6th July, 2015.”

18. It could thus, be seen that at the most the direction which is issued by the UGC not to permit the Ph. D studies under the supervision of adjunct faculty as supervisors could be made applicable from 4th September, 2015 and not prior to that. Admittedly, the Petitioner's Ph. D degree is prior to the said date. Apart from that, it

can also be seen that there were two supervisors, one of whom was regular faculty and another was adjunct faculty.

19. Insofar as other reasons stated in the affidavit in reply for not considering the Petitioner's degree to be correctly awarded, we are of the considered view that such reasons cannot be taken into consideration. It is settled by the decision of the Apex Court in the case of *Mohinder Singh Gill & Anr., Appellant Vs. The Chief Election Commissioner, New Delhi & Ors., Respondents*¹ that the orders passed by statutory functionary cannot be permitted to be improved / supplemented by fresh reasons in the shape of affidavit. In that view of the matter, we are of the considered view that the reasons not found in the impugned order cannot be taken into consideration while deciding the present petition. Apart from that, as we have decided hereinabove, it would not be permissible for one university to examine the correctness of degree awarded by another university when both these universities are recognised by the UGC.

20. In the result, the petition succeeds. The impugned order dated 22nd February, 2016 is quashed and set aside. The Respondent

1 AIR 1978 Supreme Court 851

Nos. 1 and 2 are directed to consider Ph. D. degree of the Petitioner as validly granted and take necessary steps for grant of approval of the Petitioner. This exercise shall be done within a period of two weeks from today. Rule is made absolute in the aforesaid terms with no orders as to costs. Writ petition is accordingly disposed of.

Sd/-
[RIYAZ I. CHAGLA, J.]

Sd/-
[B. R. GAVAI, J.]

Vinayak Halemth