

IN THE HIGH COURT OF DELHI AT NEW DELHI

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Judgment delivered on: 24.07.2017

+ **W.P.(C) 863/2017**

NIRUPA PULIYEL

..... Petitioner

Versus

COUNCIL OF ARCHITECTURE AND ANR.

..... Respondents

Advocates who appeared in this case:

For the Petitioner : Ms Neha Rathi.

For the Respondents : Ms Hetu Arora Sethi, Advocate for R-1.

Mr Nirvikar Verma, Advocate for
UOI.

CORAM

HON'BLE MR JUSTICE VIBHU BAKHRU

JUDGMENT

VIBHU BAKHRU, J

1. The present petition has been filed under Article 226 of the Constitution of India, *inter alia*, impugning a communication dated 04.06.2014 (hereafter 'the impugned order') passed by respondent no.1 rejecting the application filed by the petitioner seeking registration as an architect under the Architects Act, 1972 (hereafter 'the Act').

2. The petitioner was awarded a "Degree of Master of Architecture" from the University of Edinburgh in Scotland. Thereafter, the petitioner returned to India after completing her training of six years in Architecture and applied to respondent no.1 under Section 26 of the Act for registration as an Architect. The said application was rejected by the impugned order on the ground that the Degree of "Master of Architecture" awarded by the

University of Edinburgh (UK) is not mentioned in the schedule of recognised qualifications to Sections 14 and 15 of the Act. It was further stated that the respondent no.1 had registered only persons possessing "Degree of Bachelor of Architecture" from the universities of United Kingdom (UK), as specified in Entry no.6 in notification dated 21.02.1973 issued by the Central Government under Section 15(1) of the Act.

3. Thus, the controversy involved in the present petition is essentially limited to whether the degree obtained by the petitioner is covered within the scope of Entry no.6 in the notification dated 21.02.1973.

4. Before proceeding to address the aforesaid controversy, it is necessary to notice the relevant background in which the petitioner has been constrained to move this Court.

5. As stated above, the petitioner had after being awarded the "Degree of Master of Architecture" by the University of Edinburgh returned to India and applied for a registration as an Architect in India.

6. On receipt of the petitioner's application, respondent no.1 sent a letter dated 14.10.2013 to Ministry of Human Resource Development (respondent no. 2) (hereafter 'the HRD Ministry') seeking a clarification with respect to Entry no.6 of the notification dated 21.02.1973, which provides for recognition of "*Degree in architecture awarded by the Universities*" of certain cities in UK; whether Master's and Doctor's degrees in Architecture also came within the ambit of the said entry. Respondent no. 1 claims that such clarification was sought as the notification dated 21.02.1973 specifically mentioned the appropriate level

of degrees recognized in the respective entries, but no such distinction was made in Entry no.6.

7. In response to the above, the HRD Ministry made a clarificatory note dated 24.10.2013 wherein in respect to Entry no.6, it stated that the term 'Degree' as used in Entry no.6 includes B. Arch, M. Arch and Doctor's Degree in Architecture. However, prior to the making of final clarification, advice of the Ministry of Law and Justice (hereafter 'the Law Ministry') was sought. The relevant passage from the clarificatory note is reproduced below:-

"4. The relevant files wherein the issue was examined and notification issued in 1973 are not available in the section. However, it may be pertinent to mention here that the word 'Degree' only seems to have been mentioned in Entry at 6 deliberately to mean all degrees i.e. B. Arch or M. Arch or Doctor's Degree in Architecture. Secondly, when persons possessing B. Arch degree are eligible for registration, why not M. Arch / Doctors Degree holders should also get registered because before obtaining M. Arch. degree they might have obtained B. Arch degree as is the procedure in India and elsewhere. Before however, we take up the matter with Ministry of Law & Justice for advice, we may obtain a copy of application / representation submitted by the applicant to the Council."

8. Another clarificatory note dated 07.11.2013 was issued by the HRD Ministry on the interpretation of the word 'Degree' in Entry no.6. It was stated that as Bachelor's Degree awarded by the universities of UK, specified in Entry no.6 were recognized, thus any higher degrees awarded by these universities are automatically treated as recognized under the Act without issuance of any specific notification in this regard. The advice of the Law Ministry was sought again on the issue as to whether in view of

the fact that Bachelor's Degree awarded by the universities in UK, as mentioned in the notification dated 21.02.1973, are recognized under the Act, therefore, higher degrees awarded by them should also receive automatic recognition for the purposes of the Act. The relevant extracts of the said clarificatory note is as hereunder:-

".....As the Bachelors degree awarded by the above mentioned Universities of U.K. are recognized, any higher degrees awarded by these Universities should automatically be treated as recognized without any specific notification to that effect. However, before the COA is informed accordingly, we may have the valuable advice of Ministry of Law and Justice on the following issue:-

"Whether in view of the fact that Bachelors Degrees of certain Universities of UK have been notified as recognized qualifications for the purposes of the Architects Act, 1972, the higher degrees like Masters or Doctors degrees awarded by them should be treated automatically as recognized qualifications for the purposes of the said Act.""

9. After examining the issue, the HRD Ministry by its letter dated 05.03.2014 notified respondent no.1 that the term 'Degree' in Entry no.6 has been mentioned without any specific reference to B. Arch or M. Arch Degree, hence, Entry no.6 includes both these degrees. The relevant portion of the letter dated 05.03.2014 is reproduced as under:-

"2. Since the schedule specifically mentions "M. Arch." as degree for the purposes of recognized qualification wherever required in the schedule to the Architects Act, 1972, whereas in the instant case, Degree is mentioned, without specific reference to B. Arch. / M. Arch. goes to suggest that it possibly refers to B. Arch. and M. Arch. both. An appropriate view in the subject may be taken, accordingly. "

10. Despite the above clarification, respondent no.1, by letter dated 04.06.2014, rejected the application of the petitioner on the ground that Degree of "Master of Architecture" awarded by the University of Edinburgh is not included in the schedule of qualification and only Degree of "Bachelor of Architecture" is recognised under the proviso to sub-section (2) to Section 14 and Section 15(1) of the Act. And, as Entry no.6 in the notification did not specify the level of degree recognized, thus only Degree of "Bachelor of Architecture" was assumed to be included in the said entry.

11. Aggrieved by the aforesaid action, petitioner made a representation to the Public Grievance Unit of the HRD Ministry for rectification of error made by respondent no.1 in refusing to register the petitioner as an Architect under the Act. The HRD Ministry sent a letter dated 06.01.2015 to respondent no.1 advising it to look into the matter in terms of the letter dated 05.03.2014. In response to the same, by letter dated 29.01.2015, respondent no.1 communicated its decision to the HRD Ministry of not registering the petitioner as an Architect in India.

12. Section 23 of the Act charges respondent no.1 with a duty to maintain '*the register*' of architects in accordance with the provisions of the Act. In terms of Section 2(a) of the Act, an Architect is defined to mean "*a person whose name is for the time being entered in the register*". Section 14(1) of the Act expressly provides that the qualification included in the schedule or notified under Section 15 of the Act would be recognised qualifications for the purposes of the Act. Section 15(1) of the Act enables the Central Government to issue a notification recognising architecture

qualification granted by any university in any country outside India. Section 15(1) of the Act is relevant and is set out below:-

“15. Recognition of architectural qualifications granted by authorities in foreign countries.— (1) The Central Government may, after consultation with the Council, direct, by notification in the Official Gazette, that an architectural qualification granted by any university or other institution in any country outside India in respect of which a scheme of reciprocity for the recognition of architectural qualification is not in force, shall be a recognised qualification for the purposes of this Act or, shall be so only when granted after a specified date or before a specified date.

Provided that until the first Council is constituted the Central Government shall, before issuing any notification as aforesaid, consult the expert committee set up under the proviso to sub-section (2) of section 14.”

13. In exercise of the powers under Section 15(1), the Central Government has issued a notification dated 21.02.1973 which provides for recognition of architectural qualifications awarded by universities outside India. Entry no. 6 of the said notification is relevant and is set out below:-

“6. "Degree in architecture awarded by the Universities of Cambridge, Durham, Edinburgh, Glassgow, Liverpool, London, Manchester, Sheffield, Wales.”

14. As stated above, the petitioner has completed a six year education programme culminating in the award of a Master's Degree in Architecture. It is not disputed that this degree also qualifies as what is referred to as Part II of the qualification in UK. The profession of Architecture is a regulated profession in UK and any student desiring to practice the profession of Architecture would be required to take three years full time degree course in Architecture (also referred to as ‘Part I’) and thereafter, followed by two

year full time second degree course (referred to as 'Part II'). In addition, the students would also require to undergo full time training.

15. It is not disputed that the Master's Degree in Architecture as awarded to the petitioner qualifies as a Part II qualification and is recognised in UK.

16. It is also relevant to note that in this petition, the petitioner is not seeking that her Master's Degree in Architecture be recognised as a Master's Degree but is only seeking that it be recognised as a Degree in Architecture for the purposes of the Act. Thus, the entire controversy as to whether the petitioner's degree can be recognised as a Master's Degree or not, is not relevant. It is, undoubtedly, a Degree in Architecture awarded by the University of Edinburgh and thus it, plainly, falls within the qualification as provided under Entry no.6 of the notification issued by respondent no.2 under Section 15(1) of the Act.

17. Respondent no.1 has denied the registration to the petitioner on the reasoning that the said notification also mentions Master's and Doctor's Degrees to be recognised from certain universities; however, no such qualification has been mentioned in Entry no.6 and, therefore, the expression "Degree in architecture" must mean Bachelor's Degree in Architecture. The relevant extract of the impugned order, which indicates the reason for rejection of the petitioner's application, reads as under:

"The Council has till now registered only persons possessing Degree of Bachelor of Architecture from the above mentioned universities of United Kingdom (UK) since in cases where Master's and Doctor's degrees in Architecture are intended in the notification, the list specifically mentions the appropriate level in the respective entries. Therefore, without any specific mention of the level of the course/degree, only Degree of

Bachelor of Architecture is assumed to be implied in Entry 6 belonging to UK.”

18. This reasoning is patently erroneous and cannot be accepted. The relevant extracts of the entries in the notification are set out below:-

“AUSTRALIA

1. Degree of Bachelor of Architecture awarded by the University of Adelaide.
2. Degree of Bachelor of Architecture awarded by the University of Melbourne.
3. Degree of Bachelor of Architecture awarded by the University of New South Wales, Kensington.

GERMANY

4. Diploma-ingenieur awarded by the Technical Universities in Federal Republic of Germany in Architecture.

SWITZERLAND

5. Doctorate of Technical Sciences in Architecture awarded by Swiss Federal Institute of Technology, Zurich (Recognised at par with Ph.D. degree of the Indian Universities).

U.K.

6. Degree in architecture awarded by the Universities of Cambridge, Durham, Edinburgh, Glasgow, Liverpool, London, Manchester, Sheffield, Wales.
7. Associateship Examination of the Royal Institute of British Architects, London. (A.R.I.B.A. Examination):

U.S.A.

- 8(a) Bachelors Degree in Architecture awarded by the American Universities/Institutions, the curricula of which are accredited to the National Architectural Accrediting Board (USA)

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(b) Graduate (Master's and Doctor's) Degrees in Architecture awarded by Accredited American Universities/Institutions.

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9. Certificate of Fellowship awarded by the Grank Lloyed Wright Foundation, USA.

YUGOSLAVIA

10. Doctorate Degree in Architecture awarded by the Zagreb University, Yugoslavia.”

19. It is, thus, seen that wherever respondent no.2 wanted to qualify a degree to be a Bachelor's Degree in Architecture, it has specifically stated so: Entry nos. 1, 2, and 3 as set out above clearly indicate that Bachelor's Degree in Architecture from certain universities in Australia is recognized under the Act; similarly, Entry no.8(a) specifies that Bachelor's Degree in Architecture from certain universities in USA (67 in number) is recognised for the purposes of qualification under Section 15(1) of the Act. In respect of certain universities, respondent no.2 has expressly provided that graduate degree awarded by them would be a recognised qualification. In Entry no.8(b) of the notification, which pertains to degrees awarded by certain American universities, the term “Graduate Degrees” has been explained in the parenthesis as “Master's and Doctor's”. In the case of recognition of qualification acquired from the specified universities in UK, Entry no.6 is wide and does not qualify the expression ‘Degree’ to be that as a Bachelor's Degree or a Master's Degree. Thus, so long as a student is awarded a Degree in Architecture from any of the specified universities in UK, the qualification as required for being registered as an Architect in India would be met. There is no reason for respondent no.1 to restrict Entry

no.6 to only mean Bachelor's Degree in Architecture. In the present case, the petitioner has acquired the Master's Degree in Architecture. It is not disputed that the said degree was the culmination of six years of training and there is no dispute that the degree awarded to the petitioner is a "Degree in architecture".

20. It is also difficult to accept that respondent no.1 would register an individual who had obtained a Bachelor's Degree in Architecture and recognise the same as a "Degree in architecture" within the meaning of Entry no.6 of the notification but deny an individual who has been awarded Master's Degree in Architecture as not meeting the specified qualification.

21. In the aforesaid circumstances, respondent no.1 cannot refuse to register the petitioner as an Architect and enter her name in the register maintained under Section 23 of the Act on the ground that her qualifications are not recognised.

22. Accordingly, the impugned order is set aside. Since there is no other reason indicated by respondent no.1 for declining to register the petitioner as an Architect, respondent no.1 is directed to enter the petitioner's name on the register subject to such verification of the documents as respondent no.1 may deem fit to undertake.

23. The writ petition is allowed in the aforesaid terms.

24. The parties are left to bear their own costs.

VIBHU BAKHRU, J

JULY 24, 2017
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