

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

Date of Decision: November 30, 2017

+ **W.P.(C) 10076/2017 & CM 41182/2017**

CHETAN YADAV Petitioner

Through: Mr. M.P. Sinha, Advocate

versus

DELHI TECHNOLOGICAL UNIVERSITY & ANR..Respondents

Through: Ms. Avnish Ahlawat and Ms.
Palak Rohmetra, Advocates for respondent

No.1-DTU

Mr. Ravinder Agarwal, Advocate for
respondent No.2

CORAM:

HON'BLE MR. JUSTICE SUNIL GAUR

JUDGMENT
(ORAL)

1. In this petition, benefit of relaxation of 5% marks is sought by petitioner by virtue of being an OBC candidate and in terms of *the University Grants Commission (Minimum Qualifications for Appointment of Teachers and other Academic Staff in Universities and Colleges and other Measures for the Maintenance of Standards in Higher Education) Regulations, 2010 (Annexure P-1 colly.) (hereinafter referred to as the UGC Regulations, 2010)*. The precise stand taken on behalf of respondent-University is that *the UGC Regulations, 2010* do not bind respondent-University as it does not receive any grant or aid from respondent-UGC.

2. In terms of last order, learned counsel for respondent-DTU has

produced in a sealed cover petitioner's result of Screening Test held on 26th November, 2017 and on opening the said sealed cover, it is found that petitioner has qualified for Presentation and Interview, which has to take place today and tomorrow i.e. 30th November and 1st December, 2017. The result of petitioner in respect of aforesaid Screening Test is taken on record without creating any equity in favour of petitioner.

3. Learned counsel for petitioner submits that no rejoinder is required to be filed.

4. This petition is being taken up for final hearing as it needs to be decided on priority as to whether petitioner ought to be permitted to appear in Presentation and the Interview for the post of Assistant Professor in Management Discipline, which is slated for today and tomorrow i.e. 30th November and 1st December, 2017.

5. Learned counsel for petitioner asserts that the question which falls for consideration in this petition is whether *the UGC Regulations, 2010* are directory or of mandatory nature *qua* respondent-University. It is pointed out that respondent-University has accepted *the UGC Regulations, 2010*. In this regard, attention of this Court is drawn to *the UGC Regulations, 2010 (Annexure P-1 colly.)* to point out that these Regulations apply to every institution established under the Central Act, Provisional Act or the State Act. It is pointed out that *the UGC Regulations, 2010 (Annexure P-1 colly.)* have been framed in consultation with *the All India Council for Technical Education (hereinafter referred to as 'AICTE')* and so, respondent-University is bound by *the UGC Regulations, 2010 (Annexure P-1 colly.)*. Attention of this Court is also drawn by petitioner's counsel to respondent-

University's Advertisement for recruitment to faculty positions (*Annexure P-2*) to point out that the essential qualification for recruitment to the post of Assistant Professor is a Ph.D. Degree in conformity with the *UGC Regulation on Minimum Standards and Procedure for the Award of M.Phil/Ph.D Degree, Regulation 2009* (for short *UGC's Ph.D. Regulations, 2009*).

6. It is submitted by learned counsel for respondent-University that respondent-University is fully funded by Government of NCT of Delhi and is governed by its own Statute of 2009 (*Annexure R-1*), which is in consonance with AICTE, which does not provide for any weightage of marks for OBC category candidates. So, it is submitted on behalf of respondent-University that petitioner is ineligible for Screening Test, Presentation and the Interview. It is pointed out by learned counsel for respondent-University that eligibility conditions as prescribed in respondent-University's Notification of 12th April, 2017 (*Annexure R-2*) prevails and since petitioner does not possess the essential qualification as required by the aforesaid Notification (*Annexure R-2*), this petition deserves to be dismissed. Reliance is placed by learned counsel for respondent-University upon Supreme Court's decision in *Kalyani Mathivanan v. K.V. Jeyaraj and Others*, (2015) 6 SCC 363 to submit that *the UGC Regulations, 2010* are directory in nature for the University or the Colleges and other Higher Institutions, which are under the purview of State Legislation. It is also submitted by learned counsel for respondent-University that *the AICTE Regulations, 2009* nowhere provide for 5% weightage in marks in OBC category. So, rejection of this petition is sought by learned counsel for respondent-University.

7. Learned counsel for respondent-UGC submits that *the UGC Regulations, 2010*, as amended vide Notification of 11th July, 2016, gives discretion to the University/Colleges to give relaxation of 5% of marks in case of OBC candidates also. It is also submitted by learned counsel for respondent-UGC that the consultation as referred to in *the UGC Regulations, 2010* pertaining to minimum qualification for appointment of Teachers and Academic Staff in Universities and Colleges provides for the extent of coverage, but does not denote effective consultation with the specialized bodies/universities, like the respondent-University and AICTE. So, it is submitted that the Advertisement (*Annexure P-2*) governs the eligibility of petitioner.

8. Upon hearing and on perusal of Advertisement (*Annexure P-2*), amended *UGC Regulations, 2010*, material on record and the decision cited, I find that respondent-University is a State Institution, which has not adopted UGC Regulations and so, it is not bound by the amended UGC Regulations. It is matter of record that respondent-University has its own set of Regulations, which are in consonance with the AICTE, which is a specialized body. Pertinently, AICTE Regulations do not provide for 5% weightage in marks to the OBC candidates. Supreme Court in *Kalyani Mathivanan (supra)* has categorically declared that *the UGC Regulations, 2010* are mandatory for appointment of Teachers and Academic Staff in Centralized Universities and Colleges and the Institutions deemed to be universities, whose expenditure and maintenance is met by UGC. Indisputably, respondent-University is totally State funded and it does not receive any grant or aid from respondent-UGC and so, *the UGC Regulations, 2010*, as amended in the

year 2016, are directory in nature and not mandatory or binding upon respondent-University.

9. Merely because UGC Regulations of 2010 (*Annexure P-1 colly.*) refer to Universities established under the State Act, they would not govern respondent-University as it is totally State funded and the Regulations formulated by it are in consonance with AICTE. Reference to the Regulations formulated in consultation with the AICTE and the UGC Regulations, would not bind respondent-University to grant 5% weightage to petitioner, who is an OBC candidate. Since petitioner does not fulfil the essential qualifications, therefore, petitioner is ineligible to appear for Presentation and Interview for the post of Assistant Professor in respondent-University.

10. Mere clearance of Screening Test does not create any right in favour of petitioner as in the interim order of 24th November, 2017, it has been so clarified. Since the essential qualifications as provided in the Advertisement (*Annexure P-2*) are not fulfilled by petitioner, therefore, petitioner cannot be allowed to now appear for the Presentation and Interview for the post in question.

11. In view of aforesaid, finding no substance in this petition and the application, they are dismissed while leaving the parties to bear their own costs.

(SUNIL GAUR)
JUDGE

NOVEMBER 30, 2017

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