

IN THE HIGH COURT OF JUDICATURE AT HYDERABAD
FOR THE STATE OF TELANGANA AND THE STATE OF ANDHRA PRADESH

Writ Petition Nos.22385, 27569, 39900 and 40278 of 2014,
357, 11575, 12356, 17519, 26730, 30699, 32533,
32570, 37567, 40048, 40338 and 40441 of 2015,
W.P.Nos.12086, 12269, 12271,
14723, 22227 and 36087 of 2016,
W.P.Nos.7999, 15103, 17527 and 34857 of 2017
with
C.C.Nos.1693 of 2015 and 2489 of 2016
and
W.A.No.1683 of 2017

Between

S.Alla Hussain, S/o Ghouse Mohiuddin, Aged 35 years,
Junior Assistant, O/o the Sub-Electricity Revenue Office,
APSPDCL, Ontimitta, Kadapa District; and others
... Petitioners

and

1. The High Court of Judicature at Hyderabad
for the State of Telangana and the State of A.P.,
Rep. by its Registrar (Vigilance),
High Court Buildings, Hyderabad;
and 3 others
... Respondents

DATE OF JUDGMENT PRONOUNCED: 19-01-2018

HON'BLE SRI JUSTICE V.RAMASUBRAMANIAN
AND
HON'BLE SRI JUSTICE M.GANGA RAO

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|---|--|--------|
| 1 | Whether Reporters of Local newspapers may be allowed to see the Judgments? | Yes/No |
| 2 | Whether the copies of judgment may be marked to Law Reports/Journals | Yes/No |
| 3 | Whether Their Ladyship/Lordship wish to see the fair copy of the Judgment? | Yes/No |

* HON'BLE SRI JUSTICE V.RAMASUBRAMANIAN
AND
HON'BLE SRI JUSTICE M.GANGA RAO

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S.Alla Hussain, S/o Ghouse Mohiuddin, Aged 35 years,
Junior Assistant, O/o the Sub-Electricity Revenue Office,
APSPDCL, Ontimitta, Kadapa District; and others

... Petitioners

Vs.

\$ 1. The APSPDCL, Tirupati, Chittoor District,
Rep. by its Chairman & Managing Director
2. The APSPDCL, Tirupati, Chittoor District,
Rep. by its Chief General Manager (HRD)
3. The Superintendent Engineer, Operation,
APSPDCL, Kadapa, Kadapa District; and others

... Respondents

! Counsel for Petitioners: **Messrs** K.G. Krishna Murthy and
Mr. A.Satyam Reddy, learned Senior
Counsel

Counsel for the University: Advocate General for the State of
Telangana

Counsel for Telangana Power Transmission Corporation:

Mr. G.Vidya Sagar, Senior Counsel,

Counsel for counsel for one group of individuals:

Mr. Vedula Venkata Ramana, Senior Counsel,

Mr. Vedula Srinivas, Mr. Srinivasa Rao Velivela,

Dr. K.lakshmi Narasimha and Mr. P.V. Krishnaiah

Counsel for one set of individuals: Mr. Chandraiah Sunkara

< Gist:

> Head Note:

? Cases referred:

1. (2001) 8 SCC 876
2. 1997(1) ALT 629
3. (2013) 3 SCC 385
4. (2013) 8 SCC 271
5. (2014) 16 SCC 330
6. 2017 (13) SCALE 148
7. (2009) 4 SCC 590

HON'BLE SRI JUSTICE V.RAMASUBRAMANIAN
AND
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Writ Petition Nos.22385, 27569, 39900 and 40278 of **2014**,
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And
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Common Order: (per V.Ramasubramanian, J.)

The question whether (i) the diplomas awarded by the State Board of Technical Education and Training (SBTET for short) of the erstwhile State of Andhra Pradesh and the present States of Andhra Pradesh and Telangana through the distance mode and (ii) the degrees in Engineering awarded by the Jawaharlal Nehru Technological University through the distance mode, can be taken to be valid diplomas and degrees, by the Transmission and Distribution Corporations of both the States, for the purposes of recruitment and promotion, especially when these diplomas and degrees were not approved by All India Council for Technical Education (AICTE), University Grants Commission (UGC) and the Distance Education Council (DEC) of the Indira Gandhi National Open University (IGNOU), falls for consideration in these writ appeals and writ petitions.

2. We have heard Messrs K.G. Krishna Murthy and Mr. A.Satyam Reddy, learned Senior Counsel appearing on

one side, the learned Advocate General for the State of Telangana appearing for the University, Mr. G.Vidya Sagar, learned Senior Counsel appearing for the Telangana Power Transmission Corporation, Mr. Vedula Venkata Ramana, learned Senior Counsel, Mr. Vedula Srinivas, Mr. Srinivasa Rao Velivela, Dr. K.Lakshmi Narasimha and Mr. P.V. Krishnaiah, learned counsel appearing for one group of individuals and Mr. Chandraiah Sunkara, learned counsel appearing for one set of individuals.

3. A brief history leading to the disputes on hand would go as follows:

(a) The Andhra Pradesh State Electricity Board (APSEB) established in the year 1959 for the purpose of generation, transmission and distribution of electricity, was dissolved, after the enactment of the Andhra Pradesh Electricity Reforms Act, 1998 and 6 different Companies, one called the Andhra Pradesh Power Generation Corporation Limited (APGENCO), another called The Transmission Corporation of Andhra Pradesh (APTRANSCO) and four other Companies called Andhra Pradesh Power Distribution Companies (AP DISCOMs) came into existence. Particularly APTRANSCO came into existence on 01-02-1999.

(b) When the State Electricity Board was in existence, the service conditions of officers and servants of the Board were governed by a set of Regulations issued in exercise of the

power conferred by section 79 (c) of the Electricity (Supply) Act, 1948. Therefore, after the dissolution of the Board and the formation of 6 different corporations, the Andhra Pradesh State Electricity Board Service Regulations came to be adopted by all the six new entities, insofar as conditions of service of employees are concerned.

(c) After the composite State got bifurcated with effect from 02-06-2014, both States floated independent Corporations for generation, transmission and distribution, but all of them continue to follow the Service Regulations of the erstwhile Andhra Pradesh State Electricity Board.

(d) The erstwhile Andhra Pradesh State Electricity Board comprised of 6 different services namely (i) Personnel and General Service (ii) Engineering Service (iii) Accounts Service (iv) General Service (v) Security Service and (vi) Medical Service. We are concerned in this case only with one of these services namely the Engineering Service.

(e) The Andhra Pradesh State Electricity Board Engineering Service comprised of eight branches viz., Electrical, Civil, Mechanical, Telecommunications, Chemists, Draughtsmen, Transport Overseas and Blue Printers.

(f) The Electrical branch of the Engineering Service comprised of three classes of posts with each class comprising of different categories of posts.

(g) Class-I of The Electrical branch of the Engineering Service comprised of four categories of posts viz., (1) Chief Engineers (2) Superintending Engineers (3) Divisional Engineers and Executive Engineers (Special Grade) and (4) Divisional Engineers and Executive Engineers (Ordinary Grade).

(h) Class-II of The Electrical branch of the Engineering Service comprised of two categories of posts viz., (1) Assistant Divisional Engineers and (2) Assistant Engineers. Class-III comprised of two categories of posts viz., (1) Additional Assistant Engineers and (2) Sub Engineers.

(i) Similarly, the Civil branch of the Engineering Service comprised of three classes of posts. Class-I comprised of three categories of posts viz., (1) Chief Engineers (2) Superintending Engineers and (3) Executive Engineers. Class-II of the Civil Branch of the Engineering Service comprised of three categories of posts viz., (1) Assistant Divisional Engineers, (2) Chief Head Draughtsmen and (3) Assistant Engineers and Class-III comprised of two categories of posts viz., (1) Additional Assistant Engineers and (2) Sub Engineers.

(j) The Mechanical branch of the Engineering Service comprised of three classes of posts with Class-I comprising of three categories of posts, Class-II comprising of two categories of posts and Class-III comprising of two categories of posts.

(k) The Telecommunications branch of the Engineering Service was divided into three classes of posts with Class-I comprising of three categories of posts, Class-II comprising of two categories of posts and Class-III comprising of two categories of posts.

(l) We may not be concerned with the other four branches viz., Chemists, Draughtsmen, Transport Overseas and Blue Print Operators of the Engineering Service in the batch of cases on hand. Hence, we need not look into the constitution of these branches.

(m) Annexure-I to the APSEB Service Regulations prescribed the methods of recruitment to each category and class of post in every branch of the Engineering Service as well as in the branches of other services of the Board.

(n) Annexure-II to the APSEB Service Regulations contained tables that provided the list of Appointing Authorities in respect of every one of the posts.

(o) Annexure-III to the APSEB Service Regulations contained a table indicating (i) the method of recruitment and (ii) the qualifications prescribed for recruitment to every one of the categories and classes of posts in the Engineering Service.

(p) Insofar as the post of Assistant Engineer in the Electrical branch is concerned, column No.3 of the table

under Annexure-III provided the following as the qualifications for appointment.

(a)(i)	A degree in Electrical Engineering/Electrical Electronics Engineering of a University in India established or incorporated by or under a central Act, Provincial Act or a State Act or any other qualification recognized as equivalent thereto.
(ii)	Subject to the following conditions a pass in sections A and B of the AMIE (Ind) Examination with Electrical Engineers General and any two of the following subjects under section B as Optional or additional subjects.
(i)	Electric Supply and power distribution
(ii)	Electrical Machinery
(iii)	Electrical Installation
(iv)	Electrical measurements
(v)	Thermodynamics and Heat Engines (Steam & Internal combustion)
(vi)	Hydro Electricity
(vii)	Hydraulics or hydraulic Machinery
(a)	Should furnish evidence of having undergone practical training in "Surveying" for at least one year or a diploma in Civil Engineering awarded by the State Board of Technical Education and Training A.P. or any other qualification recognized as equivalent thereto.
(b)	Should have secured a pass in the Intermediate or PUC examination or any other examination recognized as equivalent thereto.
(c)	Should have had practical experience for a period of not less than 4 years after passing Sections A and B of the AMIE (Ind) examination, which should include practical experience for a period of not less than one year in Erection, Maintenance or Construction works;

(q) Insofar as the posts of Assistant Engineers in other branches such as Civil, Mechanical and Telecommunications of the Engineering Service are concerned, column No.3 of the table under Annexure-III prescribed similar qualifications.

(r) Since we are not concerned in this case with the optional subjects and additional subjects that varied from branch to branch, we are not repeating the contents of column No.3 of the table under Annexure-III in respect of every branch.

(s) What are relevant to be noted in column No.3 of the table under Annexure-III that contains the qualifications, are

only two things viz., (i) that a degree in the relevant branch of Engineering is necessary and (ii) that a pass in Sections A and B of AMIE with certain subjects as optionals, would also be considered as equivalent qualification.

(t) Insofar as the qualification of a degree in Engineering is concerned, column No.3 of the table under Annexure-III that we have extracted above, prescribes that the degree should have been obtained from a University in India established or incorporated by or under a Central Act, Provincial Act or a State Act or any other qualification recognized as equivalent thereto.

(u) It must be remembered that the Service Regulations of the Andhra Pradesh State Electricity Board were issued way back on 21-8-1967 under Board Proceeding B.P.Ms No.547 in exercise of the powers conferred by Clause (c) of Section 79 of the Electricity (Supply) Act, 1948.

(v) An Engineering College known as Nagarjuna Sagar Engineering College founded in the year 1965, was later made into a University under a State enactment called Jawaharlal Nehru Technological University Act, 1972, by combining two other colleges located in Kakinada and Anantapur. But in 2008, the University got split into four different Universities.

(w) In the year 1983, the Jawaharlal Nehru Technological University, established a Centre for Distance Education and started offering a Correspondence Cum

Contact Programme (known is short as CCC programme) leading to a B.Tech Degree. It was purportedly on the basis of the recommendations of the Kothari Commission.

(x) To be eligible for admission to the B.Tech Degree course under the Correspondence Cum Contact Programme, a candidate should have successfully passed a three year Diploma conducted by the State Board of Technical Education and Training (SBTET) and should also be working in the State of Andhra Pradesh. Since only limited number of seats were available, the process of admission was through a competitive entrance examination. The duration of the course was four years and the course of study included theory, practical and a project work with intensive contact programme for 15 working days.

(y) Before proceeding further, it must be recorded that much before the birth of the Jawaharlal Nehru Technological University under the State enactment of the year 1972, the Parliament enacted the University Grants Commission Act, 1956, for the purpose of making provision for the coordination and determination of standards in Universities and for that purpose to establish a University Grants Commission. Section 22(1) of the University Grants Commission Act, 1956 made it clear that the right of conferring or granting degrees shall be exercised only by a University established or incorporated by or under a Central

Act, a Provincial Act or a State Act or an institution deemed to be a University under Section 3 or an institution specially empowered by an Act of Parliament to confer or grant degrees. Sub-section (3) of Section 22 made it clear that for the purposes of Section 22, the expression “degree” would mean any such degree, as may, with the previous approval of the Central Government, be specified in this behalf by the Commission by Notification in the Official Gazette. Therefore, ***before the advent of privatization (or povertisation) of education, it was only the degrees offered by Universities established by Central or State Acts that came within the purview of Section 22(3) of the University Grants Commission Act, 1956.*** Since the Jawaharlal Nehru Technological University is a University established by a State enactment, subsequent to the University Grants Commission Act, 1956, the degrees offered by Jawaharlal Nehru Technological University also came within the purview of Section 22(3) of the University Grants Commission Act, 1956.

(z) In the year 1987, the Parliament enacted The All India Council for Technical Education Act, 1987, for the purpose of conferring statutory powers upon the Council to ensure coordinated development of Technical Education throughout the country and for the regulation of the system and proper maintenance of norms and standards. As a matter of fact, the All India Council for Technical Education was

already in existence from the year 1945 as a National Expert Body to advise the Central and the State Governments for ensuring coordinated development of Technical Education in accordance with the approved standards. This Council which was in existence from 1945, made certain recommendations on the basis of which the Government of India set up a National Working Group in November, 1985. It is on the basis of the recommendations made by this National Working Group and on the basis of National Policy on Education, 1986 that the All India Council for Technical Education Act was enacted in the year 1987.

(aa) In the meantime, another development took place with the Parliamentary Enactment known as “Indira Gandhi National Open University Act, 1985”. This Act was intended to promote Open University and Distance Education systems in the educational pattern of the country. Under the Statutes of the Indira Gandhi National Open University, a Distance Education Council was established as an apex body for the Open and Distance Learning system in the country. The Distance Education Council was responsible for promotion, coordination and maintenance of standards of the ODL system.

(ab) In terms of chronology, the University Grants Commission Act, 1956 came first, the Jawaharlal Nehru Technological University Act, 1972 came next, the Indira

Gandhi National Open University Act, 1985 came later and the All India Council for Technical Education Act, 1987 came subsequently.

(ac) By Notification No.44, dated 01-03-1995, issued by the Ministry of Human Resources Development of the Union of India, the Degrees awarded through Distance Education by the Universities established by Acts of Parliament or State Legislature were declared to be automatically recognized for the purpose of employment to posts and services under the Central Government, provided such qualifications had been approved by the Distance Education Council and also by the All India Council for Technical Education wherever necessary.

(ad) It may be of interest to note that even before the advent of the Indira Gandhi National Open University in 1985, an Open University was established in the year 1982 at Hyderabad and it was Dr. B.R. Ambedkar Open University. Therefore, Hyderabad became the fore runner and Delhi followed, with the Indira Gandhi National Open University in 1985. In 1987, two more Open Universities came up viz., the Nalanda Open University, Patna and Vardhaman Mahaveer Open University, Kota, Rajasthan. Subsequently, Yashwantrao Chavan Maharashtra Open University came up in Nasik in 1989 and soon the number of Open Universities grew to 17.

(ae) It appears that the Distance Education Council started a programme evaluation in the year 2003-04 and it was followed by institutional recognition in 2007-08. In May, 2007, a Joint Committee was formed pursuant to a Memorandum of Understanding between UGC, AICTE and DEC. The Joint Committee developed guidelines in the form of "Handbook of Recognition". With effect from 2009, the DEC started giving programme-wise recognition. After the expiry of the term of the Joint Committee, a Tripartite Committee comprising of Chair Persons of UGC, AICTE and DEC was constituted by the Ministry of Human Resources Development in 2010, but the Committee got dissolved in May, 2013. The Distance Education Council itself got dissolved in 2013.

(af) On 18-10-2016, the APGENCO sought a clarification regarding the claim for recognition made by persons who acquired Diploma in Engineering from a Deemed University known as Institute of Advanced Studies and Education (IASE), Rajasthan. The State Government clarified on 12-04-2007 that the Degrees in Engineering offered by IASE, Rajasthan, through Distance Education mode are not recognized even for the purposes of employment.

(ag) Therefore, the APTRANSCO issued a proceeding in T.O.O.Ms.No.69, dated 06-07-2007, declaring that the Degrees /Diplomas awarded by deemed to be Universities through Distance mode shall not be considered for

appointment or for any other service benefit unless they have been recognized by UGC, DEC and AICTE.

(ah) It was followed by another proceeding in T.O.O. Ms.No.195, dated 14-12-2007, declaring that the Diplomas/ Degrees awarded by Universities/Institutions established outside the State of Andhra Pradesh through Distance mode shall not be considered for higher level promotions or incentive increments. However, the Degrees and Diplomas awarded by Institutions within the State, recognized by UGC, DEC and AICTE were declared as eligible for higher level promotions and incentive increments.

(ai) Challenging T.O.O.Ms.No.69, dated 06-07-2007, a writ petition was filed in W.P.No.16355 of 2007. In the said writ petition, an interim order was passed directing the A.P. State Council for Higher Education to enquire into the matter and to advise APTRANSCO.

(aj) Thereafter, the Government of Andhra Pradesh issued a clarification to APTRANSCO on 24-04-2008 reiterating that the Degrees/Diplomas awarded by IASE, Rajasthan through Distance Education mode are not recognized.

(ak) The interim order passed in W.P.No.16355 of 2007 on 11-12-2007 was amplified by a further order dated 24-04-2008 directing the APTRANSCO not to make further promotions till the Board took a comprehensive decision.

(al) Pursuant to the said order, the APTRANSCO issued comprehensive orders in T.O.O.Ms.No.134, dated 11-09-2008, declaring that the Degrees/Diplomas awarded under the Distance mode, will be considered for recruitment, promotions and incentives, if they were recognized by UGC, DEC and AICTE. The Functional Heads were also directed to seek clarification from UGC, DEC and AICTE about the recognition granted in individual cases.

(am) The aforesaid orders in T.O.O.Ms.No.134, dated 11-09-2008, were reiterated by another order in T.O.O.Ms. No.186, dated 27-10-2008.

(an) However, by another proceeding in T.O.O.Ms.No.83, dated 17-04-2015, the previous proceedings in T.O.O.Ms. Nos.134 and 186, were amended, declaring that the Degrees awarded by JNTU and the Diplomas awarded by the State Board (SBTET) were valid for promotions. But this order was subsequently kept in abeyance through T.O.O.Ms.No.101, dated 26-5-2015.

(ao) This genuflection on the part of the APTRANSCO forced this Court to pass orders on 11-07-2016 in W.P. No.12269 of 2016 directing the Power Companies to take a final call.

(ap) Pursuant to the said order, T.O.O.Ms.No.385, dated 17-02-2017, was issued restoring T.O.O.Ms.No.83, dated 17-04-2015, by which the Degrees awarded by JNTU and

Diplomas awarded by State Board were declared valid for promotions.

(aq) T.O.O.Ms.No.385, dated 17-02-2017, was challenged in W.P.No.7999 of 2017. An interim order was passed in this writ petition following the interim order passed in the previous writ petition W.P.No.11575 of 2015, which in turn followed the interim orders passed in W.P.No.375 of 2015 seeking a declaration that the Diplomas awarded by State Board are valid for promotions.

(ar) Eventually, the Telangana State TRANSCO issued T.O.O.Ms.No.151, dated 13-10-2017, adopting T.O.O.Ms. No.83, dated 17-4-2015, as done by APTRANSCO.

(as) A writ petition in W.P.No.34857 of 2017 came to be filed challenging T.O.O.Ms.No.151, dated 13-10-2017. An interim order was sought in the said writ petition, but the learned Judge refused to grant interim order. Challenging the refusal of the learned Judge to grant interim orders, a writ appeal in W.A.No.1683 of 2017 came to be filed.

(at) When the writ appeal was being argued, it was found that a batch of writ petitions challenging various orders relating to the recognition of the Degrees awarded by JNTU and the Diplomas offered by the State Board (SBTET) were pending. Therefore, all of them were grouped together and taken up for consideration.

4. Thus, we have on hand, one writ appeal, two contempt petitions and 26 writ petitions. They can be classified as follows:

(i) The writ appeal arises out of the refusal of the learned Judge to grant a stay in W.P.No.34857 of 2017, with respect to T.O.O.Ms.No.151.

(ii) The two contempt petitions arise out of (a) an interim order passed in W.P.No.36087 of 2016 by a learned Single Judge, directing the Corporation not to transfer any employee contrary to T.O.O.Ms.No.134, dated 11.09.2008 and (b) an interim order passed in W.P.No.12356 of 2015 suspending the operation of T.O.O.Ms.No.83, dated 17.04.2014; and

(iii) The writ petitions numbering about 26, either challenge T.O.O.Ms.No.134, T.O.O.Ms.No.186 and T.O.O.Ms.No.181, or challenge T.O.O.Ms.No.151 or challenge T.O.O.Ms.No.83 or T.O.O.Ms.No.101.

5. For the purpose of easy appreciation, the writ petitions and the reliefs sought in every one of them are presented in a tabular column, as follows:

Sl. No.	Writ Petition No(s).	Prayer in the Writ Petitions	Degree / Diploma
1	22385/2014	Challenging the ban imposed vide SOO Ms. No. 19 dated 12.02.2014 as not applicable to Petitioners as they acquired qualifications prior to cut of date.	Degree
2	27569/2014	Challenging violation of TOO No. 134, EOO No.205 dated 23.09.2008 and SOO No.102 dated 15.09.2008 and to revert candidates promoted in violation of TOO Ms. No. 134, EOO	Diploma

		No. 205 & SOO No. 102.	
3	39900/2014	Challenging removal of names from the seniority list dated 19.12.2014 and to treat SBTET diploma (CCC) as valid	Diplom a
4	40278/2014	Challenging removal of names from the seniority list dated 19.12.2014 and to treat SBTET diploma (CCC) as valid	Diplom a
5	357/2015	Challenging Memo dated 19.12.2014 for not including Petitioners names and to declare that the diplomas from SBTET (CCC) do not require DEC approval and treat the same as valid for promotions.	Diplom a
6	11575/2015	Challenging TOO Ms. No. 83 dated 17.04.2015 as illegal	Diplom a
7	12356/2015	Challenging T.O.O. No. 83 dated 17.05.2015 issued by APTRANSCO	Diplom a
8	17519/2015	For implementation of TOO No. 131 and COO No. 377 dated 27.09.2008	Diplom a
9	26730/2015	For implementation of NOO No. 181 dt. 18.09.2008 and COO No.377 dated 27.09.2008 for affecting promotions to AAE/AE/ADE	Diplom a
10	30699/2015	Challenging Memo dated 11.09.2015 and 15.09.2015 effecting promotions to Sub-Engineers through appointment by transfer to candidates who possess diploma SBTET (CCC) mode as illegal and contrary to TOO No. 101 dated 26.05.2015 and SOO No. 114 dated 04.05.2015	Diplom a
11	32533/2015	Challenging TOO No. 101 dated 26.05.2015 and EOO No. 112/15 dated 13.06.2015 as illegal	Diplom a
12	32570/2015	To declare the proceedings in TOO No. 101 dated 26.05.2015, EOO No. 112/15 dated 13.06.2015 and SOO Ms.No. 114 dated 04.06.2015 as illegal	Diplom a
13	37567/2015	Challenging non-promotion of Petitioners as Sub-Engineers as contrary to EOO Ms.No.205 dated 23.09.2008 (To follow and implead TOO No.134)	Diplom a
14	40048/2015	Challenging Memo dated 05.12.2015 promoting people with B.Tech. (CCC) JNTU (h) as illegal and arbitrary	Diplom a
15	40338/2015	For implementation of TOO No.134 and NOO No. 181 dated 18.09.2008 for affecting promotions to post of	Degree

		AAE/AE/ADE	
16	40441/2015	Challenging the non-promotion of Petitioners as AAE on regular basis with effect from 05.12.2015 and to treat SBTET diploma (CCC) as valid qualification	Diplom a
17	12086/2016	Challenging clause 4 (i) of TOO No.134 as irrational and arbitrary and to treat SBTET diploma (CCC) as valid for appointment by transfer as Sub Engineer/AAE/ADE, and to declare that DEC's approval is not required for Diploma Courses offered by SBTET through CCC mode.	Degree
18	12269/2016	Challenging TOO 134, TOO No. 186 and NOO 181 in so far as insisting upon AICTE approval for B.Tech. (CCC mode), JNTU (H).	Degree
19	12271/2016	Challenging TOO Ms.No. 134 dated 11.09.2008 and TOO Ms. No.186 dated 27.10.2008and NOO Ms. No. 181 dated 18.09.2008 of APNPDCL	Diplom a
20	14723/2016	To declare B.Tech. Degree obtained from JNTU (H) under CCC mode as valid for appointment/promotion as Assistant Engineer/ADE in terms of State Govt. decision dated 27.01.2014	Degree
21	22227/2016	For implementation of TOO No.134 and COO No. 377 dated, 27.09.2008 for effecting promotions to post of AE to ADE.	Degree
22	36087/2016	For implementation of TOO No.134 and COO No.377 and judgement of Hon'ble Supreme Court in SLP (C) No. 7277/14 dated 09.04.2014.	Degree
23	7999/2017	Challenging TOO Ms. No. 385 dated 17.02.2017 & SOO Ms. No. 11 dated 25.02.17 and (as amended) to declare the impugned TOO Ms. No.83 dated 17.04.2015 is illegal and contrary to Section 10 of the AICTE Act and Section 22 of the UGC Act.	Diplom a
24	15103/2017	Challenging TOO Ms. no. 134 and COO No. 377	Degree
25	17527/2017	To declare that TOO No. 134 is inapplicable to Petitioners and continue them as ADE or alternatively strike down TOO Ms. No. 134.	

26	34857/2017	Challenging TOO Ms. No. 151 dated 13.10.2017 as illegal and direction to strictly follow TOO No. 134	Degree
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6. As could be seen from the above tabular column, the controversies in all the 26 writ petitions revolve around T.O.O.Ms.No.134 dated 11.09.2008, T.O.O.Ms.No.186 dated 27.10.2008, T.O.O.Ms.No.83, dated 17-04-2015, T.O.O. Ms. No.101 dated 26.05.2005, T.O.O.Ms. No.385 dated 17.02.2017 and T.O.O.Ms.No.151 dated 13.10.2017.

7. In order to understand the scope and purport of everyone of these T.O.Os, we shall present in a tabulation, the operative portion of each of these T.O.Os, as follows:

T.O.O. and date	No.	Operative portion of the T.O.O
134 11/09/2008	-	(i) The Technical Degrees/ Diplomas awarded by all the Universities/ Deemed Universities/ Institutions through Regular/ Part-time/ distance education recognised by the UGC&AICTE, shall be considered for recruitment, promotions, incentive increments or any other service benefits. (In case of Distance Mode Education the university shall have recognition from Distance Education Council (under the Indira Gandhi National Open University) in addition to UGC&AICTE). (ii) All other degrees including MBA degree awarded through regular/part-time/distance education courses by all the Universities recognised by the UGC shall be considered for recruitment, promotions, incentive increments or any other service benefits as the case may be. (In case of Distance Mode Education the university shall have recognition from Distance Education Council (under the Indira Gandhi National Open University) in addition to UGC. (iii) All Degrees/Diplomas awarded to the programmes offered through Distance Education Mode by Institute of Advance Studies in Education (IASE), Rajasthan are not recognised degrees for recruitment, promotions, incentive increments or any other service benefits.

		(iv) If UGC has noted the ex-post-facto sanction of the Degrees/Diplomas awarded by the Deemed Universities, through Distance Mode Education, the same will not be considered as recognition. (v) The functional heads are requested to seek clarification from UGC, AICTE and DEC as the case may be regarding recognition of the Universities/Deemed Universities/ Institutions in respect of regular or distance education. Further, they may also contact concerned university for genuineness of the course certificates submitted by the incumbent and its study centers.
186 27/10/2008	–	Merely reiterated the directions issued by the Transmission Corporation in T.O.O. (Addl. Secy-Per) Ms. No. 134 dated 11.09.2008.
02-06-2014		The State got bifurcated and separate corporations were formed for Telangana and Andhra Pradesh.
83 – 17-04-2015		The A.P. Corporation made 3 additions to T.O.O.186 dated 27-10-2008 by inserting 3 sub paragraphs to the existing para 6(i). The existing para 6(i) was renumbered as 6(i)(a) and 3 sub paras numbered as 6(i)(b), 6(i)(c) and 6(i)(d) were inserted. They are as follows: <u>Para 6(i)(b):</u> The B.Tech Degree offered by School of Continuing and Distance Education (SCDE), JNTUH in the Correspondence cum-contact (CCC) mode needs to be treated as equally valid degree like any other B.Tech (Classroom teaching) degree offered by the Universities for all purposes of education and employment. However this would be restricted to the students who got admitted till the year 2009 but got the degree later on as per the academic rules and regulations of JNTUH. <u>Para 6(i)(c):</u> Further continuation of B.Tech (CCC) programmes by School of Continuing and Distance Education (SCDE), JNTUH should be allowed only with the prior approval of the UGC as presently the distance education programmes are looked after by UGC after the dissolution of the DEC. <u>Para 6(i)(d):</u> The Correspondence-cum-contact (CCC) mode of diplomas offered by the State Board of Technical Education and Training (SBTET) need to be treated as equally valid, like any other regular diploma offered by the State Board of Technical Education and Training (SBTET) for all purposes of education and

		employment. .
101 26/05/2015	-	Orders issued by A.P. Corporation in T.O.O Ms.No. 83 dated 17.04.2015 ordered to be kept in abeyance until disposal of the Court case.
385 17/02/2017	-	A.P Transmission Corporation upholds T.O.O. Ms. No. 83 dated 17.04.2015 duly rescinding the orders issued vide T.O.O. (Addl. Secy-Per) Ms. No. 101 dated 26.05.2015, subject however to the outcome of the various Court cases.
151 13/10/2017	-	Following what A.P Transmission Corporation did, the Telangana Transmission Corporation also made 3 additions to T.O.O.186 dated 27-10-2008 by inserting 3 sub paragraphs to the existing para 6(i). The existing para 6(i) was renumbered as 6(i)(a) and 3 sub paras numbered as 6(i)(b), 6(i)(c) and 6(i)(d) were inserted. They are as follows: <u>Para 6(i)(b)</u>: The B.Tech Degree offered by School of Continuing and Distance Education (SCDE), JNTUH in the Correspondence cum-contact (CCC) mode needs to be treated as equally valid degree like any other B.Tech (Classroom teaching) degree offered by the Universities for all purposes of education and employment. However this would be restricted to the students who got admitted till the year 2009 but got the degree later on as per the academic rules and regulations of JNTUH. <u>Para 6(i)(c)</u>: Further continuation of B.Tech (CCC) programmes by School of Continuing and Distance Education (SCDE), JNTUH should be allowed only with the prior approval of the UGC as presently the distance education programmes are looked after by UGC after the dissolution of the DEC. <u>Para 6(i)(d)</u>: The Correspondence-cum-contact (CCC) mode of diplomas offered by the State Board of Technical Education and Training (SBTET) need to be treated as equally valid, like any other regular diploma offered by the State Board of Technical Education and Training (SBTET) for all purposes of education and employment.

8. We have seen the various types of reliefs prayed in all the 26 writ petitions on hand in para-5 above. We have also

seen the purport of the various orders of the Andhra Pradesh or Telangana Transmission Corporations, in para-7 above.

9. From the two tables, one contained in para-5 and the other contained in para-7, we can group all the 26 writ petitions into two categories – (i) those supporting or opposing various decisions of both the corporations, making the approval by AICTE, UGC and DEC mandatory for the purpose of recognizing the degrees awarded by the JNTUH or any other university; and (ii) those supporting or opposing the requirement of approval from AICTE for the recognition of diploma courses offered by the State Board of Technical Education and Training.

10. From the particulars given in the table in para-7 above we could see that T.O.O.Ms.No.134 dated 11.09.2008, T.O.O.Ms.No.186 dated 27.10.2008 and T.O.O.Ms.No.101 dated 26.05.2015 fall under one category, viz., executive orders requiring the approval of UGC, AICTE and DEC for the recognition of the degrees in Engineering offered through CCC programmes.

11. Similarly, T.O.O.Ms.No.83 dated 17.04.2015, T.O.O. Ms.No.385 dated 17.02.1017 and T.O.O.Ms.No.151 dated 13.10.2012 fall on the opposite side of the spectrum, by prescribing that the degrees secured from JNTUH and diplomas secured from SBTET without approval from UGC,

AICTE and DEC can be recognized for the purpose of promotions etc.

12. Since we have classified all the 26 writ petitions on hand into two categories, one relating to diploma and another relating to degree; and one supporting the requirement of recognition by UGC, AICTE and DEC and another opposing the same, we shall first take up the writ petitions where the diplomas are in question. But before that it would be ideal to peep into the history of evolution of the concept of distance learning.

History of Evolution of Adult Education:

13. What the universities have now come to call as correspondence cum contact programme, open and distance learning mode or distance education mode etc., were also given different nomenclature, such as, formal education, non-formal education, informal education, adult education, continuing education, extension education and life long education etc. It appears that the foundation for distance education was laid perhaps in 1840s, when Sir Isaac Pittman started correspondence colleges, by taking advantage of the free delivery of mail to the rural areas, for delivering course material. In the United States, a person by name William Rainey Harper (1856-1906), who was the first President of the University of Chicago introduced college level correspondence courses.

14. One of the earliest books on the subject of Adult Education was written in 1926 by Eduard Christian Lindeman under the title “the Meaning of Adult Education”. Eduard Lindeman’s life itself was a product of continuing education. After short stints as a stable cleaner, nurseryman, grave digger and brickyard worker, he went on to serve the New York School of Social Work. ***He defined adult education in his book to be a cooperative venture in non-authoritarian, informal learning, the chief purpose of which is to discover the meaning of experience.*** According to him ***“the Adult Education is a technique of learning for adults, which makes education coterminous with life and elevates living itself to the level of adventure experiment”***. This orientation was described by him as andragogical. According to him ***adult education is not one bound by classrooms and formal curricula but involves a concern for educational possibilities of everyday life.*** ***“What adults learn”, according to him “converges upon life, not upon commencement and diplomas”***. In fact Eduard Lindeman stated that ***the external tokens of learning should be removed so that the learning process may stand or fall on its intrinsic merits.***

15. In fact, a statutory regime for the recognition of Extension Education was first developed under the Morrill Act of 1862 (Land Grant College Act), which endowed the

University of Wisconsin with income for supporting instruction in agriculture and mechanic arts and for the fruits of such research to be taken to the people of the State. During the period from 1885 to 1887, Farmers' Institutes were established by the University of Wisconsin College of Agriculture. In 1888, Teachers Institutes were run through extension programmes. In 1890 Mechanics Institutes were established. In 1891 the University created three extension programmes, viz., (1) lecture courses in general subjects; (2) courses on industrial subjects for working people; and (3) correspondence courses designed as independent Study Programmes. In 1901 Robert M. La Follette, who became the Governor of the State of Wisconsin, endorsed the importance of the University's Extension Function in the following words:

“The State will not have discharged its duty to the University nor the University fulfill its mission to the public until adequate means have been furnished to every young man and woman in the State to acquire an education at home in every department of learning.”

16. In 1907 a University extension division was formed and the programmes offered by the extension division in the areas of public health, labour, education, municipal and social services, became quite famous, leading to Mc. Carthy to come up with a book titled “the Wisconsin Idea”. He stated in his book that the extension division of the university brought the university to every fire side and that it had actually shown

all universities, the means of shedding the light of knowledge from within its walls to every home.

17. The adult education and extension education programmes solely gave birth to the concept of Open Universities, when the British Open University was born in 1969. Within a decade and a half, the idea was capitalized in India and the first Open University was born in Hyderabad in the year 1982. It was Dr. B.R. Ambedkar Open University. Today, distance education has taken different avatars including online courses. Therefore, Arthur Levine classified the universities into (1) Brick Universities, built with brick and mortar; (2) Click Universities, which are virtual and which open up with the click of a mouse; and (3) Brick and Click Universities which is a combination of both.

18. Thus distance education, which has undergone several transformations, is less than 200 years old. But ***the object of distance education, as it was originally conceived, was to improve the skills of the work force and to strengthen the human resources of the establishment. Promotional prospects and career advancement for the employees constituted the corresponding benefit to the work force.*** A vulgar clamor for promotions to higher posts, without a corresponding benefit to the employer, was not the object with which the idea of distance or correspondence education was conceived.

It is important to keep in mind the fact that the concept of distance education or correspondence education long preceded the commercialization of education. Keeping these fundamentals in mind, we shall now move on to the controversies on hand.

Diploma courses offered by State Board of Technical Education and Training:

19. The State of Andhra Pradesh enacted the A.P. Education Act, 1982, with a view to consolidate and amend the laws relating to the educational system in the State of Andhra Pradesh. Section 6 of the said Act empowers the Government to establish a Board known as “State Board of Technical Education and Training”. Sub-section (2) of Section 6 of Act No.1/1982 defines the functions of SBTET. Under the said sub-section, the functions of the Board would include (i) advising the Government on the coordinated development of technical education in the State at all levels below under-graduate level; (ii) working in liaison with the Southern Regional Committee of All India Council for Technical Education in the formulation of schemes in the State; (3) affiliating and recognizing the institutions conducting the courses below under-graduate level and prescribing courses of study for them; and (4) conducting examinations and awarding diplomas and certificates conforming to the minimum standards prescribed by AICTE.

20. Section 21A of the A.P. Education Act, 1982 (inserted by way of Amendment Act No.27/1987 w.e.f. 01.06.1987) stipulates that no institution imparting education and located in this State, shall affiliate itself to any University outside the State of Andhra Pradesh.

21. As a matter of fact, the State Board of Technical Education and Training was already in existence for about 25 years prior to the enactment of the A.P. Education Act, 1982. In the pre-independence and post independence days, there was only one office known as the Director of Public Instructions (DPI), who also used to head the Technical Education. After the first reorganization of States and the formation of the State of Andhra Pradesh, the Government issued G.O.Ms.No.371, Education, dated 26.02.1957 establishing "the State Board of Technical Education and Training". But after the advent of the A.P. Education Act, 1982, the Board was formed as a Statutory body and the Board was constituted under G.O.Ms.No.140, dated 24.04.1984.

22. It is of interest to note that the All India Council for Technical Education though established in the year 1945, gained Statutory recognition only under the AICTE Act, 1987, But the A.P. Education Act, 1982, which created the SBTET as a statutory body, made it mandatory for the State Board to work in liaison with AICTE and also to conduct examinations

and award diplomas and certificates conforming to the minimum standards prescribed by AICTE. In other words, even before the All India Council for Technical Education could gain statutory recognition in the year 1987 by a Central Act of Parliament, the A.P. Education Act, 1982 recognized its role in the field of technical education. Section 6 of the A.P. Education Act reads as follows:

“6. State Board of Technical Education and Training:

- (1) The Government may, by notification, establish a board of technical education to be called "the State Board of Technical Education and Training, Andhra Pradesh", the composition and powers of which shall be such as may be prescribed.

(2) The functions of the Board shall be, -

(a) to advise the Government on the co-ordinated development of technical education in the State at all levels below under-graduate level ;

(b) to work in liaison with the Southern Regional Committee of the All India Council for Technical Education in the formulation of schemes in the State ;

(c) to affiliate or recognise institutions conducting courses below undergraduate level and prescribe courses of study for them;

(d) to inspect institutions periodically and ensure that the standards of the courses and the instructional facilities provided are satisfactory;

(e) to conduct examinations and award diplomas and certificates conforming to the minimum standards prescribed by the All India Council for Technical Education ;

(f) to establish and develop co-operative relationship with Industry and Commerce.”

23. All the Government Polytechnics, offering certificate or diploma courses in technical education, function under the supervision of and with the approval of the AICTE. There were 28 Polytechnics in the State all of which had the approval of AICTE, for offering fulltime diploma courses. But in 1993-94

the SBTET introduced correspondence cum contact programmes in diploma courses purportedly for the benefit of ITI passed candidates, but without taking the specific approval of AICTE for conducting such programmes.

24. The contention of the Management of the Corporations in these cases is that the State Board of Technical Education and Training started conducting Diploma courses through CCC mode from the year 1992 in terms of G.O.Ms.No.108, dated 27-03-1992 and that students are admitted to these courses through a common entrance examination, they are allotted to Government Polytechnics and they appear for the examination along with regular full-time candidates and pass the examinations. Therefore, the contention of the Management is that since 28 Polytechnics in which Diploma courses are offered on full-time basis are already approved by the AICTE, the question of getting a separate approval for the courses offered through CCC mode does not arise.

25. But if the above contention of the Corporations is correct, we do not know why the Corporations took a stand at the earliest point of time in T.O.O.Ms.No.134, dated 11-09-2008, that the Diplomas offered through CCC mode will not be recognized unless the approval of the AICTE was there. For a period of seven full years, T.O.O.Ms.No.134,

dated 11-09-2008, held the field, till it was modified by the APTRANSCO under T.O.O.Ms.No.83 dated 17-04-2015.

26. The stand taken by the SBTET in a meeting convened by the Higher Education Department on 09-12-2013 was that the Diplomas offered by the SBTET through CCC mode should be treated like any other regular Diploma courses offered by SBTET. When the decision taken in the meeting held on 09-12-2013 was communicated on 24-12-2013, the APTRANSCO sought clarifications from the Energy Department on 18-03-2014. The Energy Department issued a clarification on 12-03-2014, after which T.O.O.Ms. No.83 was issued.

27. But what happened from the year 2013 till the year 2015 may not be an answer to the core issue. We hope that the decision taken in T.O.O.Ms.No.134, dated 11-09-2008, was also a conscious decision taken after proper application of mind. As we have pointed out earlier, the AICTE was established in the year 1945 and it gained Statutory recognition only in the year 1987 under the AICTE Act, 1987. Similarly, SBTET was established in the year 1957 and it gained Statutory recognition only under the A.P. Education Act, 1982.

28. At the time when the A.P. Education Act, 1982 was passed, the AICTE was just an expert body, without any

statutory functions. The statutory functions came to be conferred upon the AICTE only in the year 1987.

29. Despite this fact, the A.P. Education Act, 1982 made it mandatory for SBTET to work in liaison with the AICTE and follow the mandate of the AICTE even at a time when the AICTE had no statutory role to perform.

30. It is contended by the learned Senior Counsel for the Corporation that since the courses offered by SBTET and the Polytechnics through which they were offered were already granted approval by the AICTE, the question of obtaining approval for the programmes offered through CCC mode would not arise. But we think that the said contention goes against the scheme of the AICTE Act. The reasons for this conclusion of ours are:

(i) SBTET is mandated by Section 6(2)(b) of the A.P. Education Act, 1982 to work in liaison with the AICTE in the formulation of the schemes in the State. Under Section 6(2)(c), SBTET is to affiliate or recognize institutions conducting courses below undergraduate level and prescribe courses of study for them. Under Section 6(2)(e), the Board is obliged to conduct examinations and award Diplomas and Certificates conforming to the minimum standards prescribed by the AICTE. Therefore, there is a statutory compulsion for SBTET to adhere to the minimum standards prescribed by the AICTE. Hence, if a programme through CCC

mode is formulated without the approval of the AICTE, the same cannot be said to have passed the check post with reference to the minimum standards prescribed by the AICTE. If the Diplomas offered through CCC mode by SBTET do not conform to the minimum standards prescribed by the AICTE, the said Diplomas are not valid. The question whether they conform to the minimum standards or not, has to be answered only by the AICTE in view of Section 6(2)(e). In the absence of any approval/recognition/certification by the AICTE that the Diplomas offered through CCC mode adhere to the minimum standards prescribed by the AICTE, these Diplomas cannot be taken to be valid in the light of the mandate of Section 6(2)(e) of the A.P. Education Act, 1982.

(ii) Section 2(h) of the AICTE Act, 1987 defines a technical institution to mean an institution not being a University, offering courses or programmes of Technical Education. What is important to note from Section 2(h) of the AICTE Act is that it talks about courses as well as programmes of Technical Education. If Diploma in Engineering is a course, the mode of study is a programme. Keeping this in mind if we go to Section 10(1)(k) of the AICTE Act, 1987, it could be seen that the AICTE is vested with the duty to take all steps – (a) for ensuring coordinated and integrated development of Technical and Management Education and (b) maintenance of standards, with respect to

the grant of approval for starting new Technical Institutions and for introduction of new courses or programmes. It is pertinent to note that the distinction between courses and programmes, inscribed in Section 2(h) of the Act, is maintained even in Section 10(1)(k) of the AICTE Act. Section 10(1)(k) speaks about approval for starting new Technical Institutions and for introduction of new courses or programmes.

31. Therefore, if the particular programme viz., CCC programme offered by SBTET did not have the approval as required by Section 10(1)(k), the same would be in excess of the statutory functions conferred upon SBTET under Section 6(2)(e) of the A.P. Education Act, 1982, also.

32. To put it differently, the Diploma offered by SBTET may come within the purview of an approved course. The Polytechnics through which the Diplomas were offered may come within the purview of approved Technical Institutions. But the CCC programme through which such Diplomas are offered, if not approved, will make such Diplomas not valid.

33. Therefore, we are of the considered view that the Management of the Corporations took a valid, conscious and wise decision under T.O.O.Ms.No.134, dated 11-09-2008, to recognize only those Diplomas offered by SBTET, which had the recognition of the AICTE. Through consultations with

the School Education Department or the State Council of Higher Education, SBTET cannot make these Diplomas valid, as these administrative decisions cannot cure a violation of the statutory mandate under Section 10(1)(k) of the AICTE Act, 1987 read with section 6(2)(e) of the A.P. Education Act, 1982.

34. The learned Senior Counsel for the APTRANSCO and other learned counsel appearing for private parties who secured Diplomas through CCC mode, pressed into service, the ratio laid down by the Supreme Court in **Bharathidasan University v. AICTE**¹. But the said decision revolved around the distinction between a University and a Technical Institution. Therefore, the said decision may be of relevance when we deal with the validity of the Degrees offered by JNTUH, that forms the next part of the discussion.

35. There are a couple of writ petitions challenging the validity of T.O.O.Ms.No.134 dated 11-9-2008, and various subsequent orders, by which the Diplomas offered by SBTET through CCC programs are declared valid only if they had the approval of the AICTE. The contention of the petitioners in these cases is that Annexure-III of the A.P. State Electricity Board Service Regulations merely prescribes a Diploma in a particular branch of Engineering recognized by the State of Andhra Pradesh as a valid qualification for appointment to

¹ (2001) 8 SCC 876

certain posts. For instance, the table in Annexure-III to the A.P. State Electricity Board Service Regulations prescribes a Diploma in Electrical / Mechanical / Civil / Telecom Engineering or any other equivalent qualifications recognized by the Board/Government of Andhra Pradesh as a qualification for appointment to the post of Sub Engineer.

36. The contention of the candidates who had secured Diplomas through CCC mode is that once they hold a valid Diploma offered by SBTET and recognized by the Government of Andhra Pradesh, they satisfy the eligible criteria prescribed in the table under Annexure-III of the Service Regulations. Since the Service Regulations are issued in exercise of the power conferred by Section 79(c) of the Electricity (Supply) Act, 1948, they have statutory force and that these Service Regulations, in the contention of these persons, cannot be tampered with by way of Board Proceedings or Office Orders, which are mere executive instructions.

37. It does not require a great deal of research to accept that the Service Regulations framed in exercise of the power conferred by a Statute, have statutory force and that these Regulations cannot be diluted or modified, by way of executive instructions.

38. But it must be pointed out that the APSEB Service Regulations were issued way back on 21-8-1967 under B.P.Ms.No.547 and they were notified in the Official Gazette

under B.P.Ms.No.199, dated 04-3-1970. At that time (viz., 1967 and 1970) we had the AICTE without a statutory function and SBTET without a statutory recognition. The statutory recognition for the AICTE came in 1987 and the statutory recognition for SBTET came in 1982.

39. Therefore, the expressions “recognized by State Board/Government of Andhra Pradesh” appearing in Annexure-III to the Service Regulations, should be understood to mean those Diplomas that were valid in terms of Section 6(2)(e) of the A.P. Education Act, 1982 read with Section 10(1)(k) of the AICTE Act, 1987.

40. In fact, if the Service Regulations are to be literally interpreted, the reference to the State Board in Annexure-III of the Service Regulations should be construed to mean a State Board without a statutory recognition. This is due to the fact that at the time when the Service Regulations were framed in 1970, the State Board remained a mere expert body without statutory functions. Therefore, what was contained in the Service Regulations framed in 1970 should be taken to mean only a State Board without a statutory recognition, if a literal interpretation is taken. This will lead to absurd results. Therefore, the only way the Service Regulations are to be read is to read them in tune with the statutory prescriptions contained in the 1982 Act and the 1987 Act.

41. In other words, T.O.O.Ms.No.134 dated 11-09-2008, was not an executive instruction issued in modification or amendment of the Service Regulations. It was only a clarification issued to the Service Regulations and it provided an indicator as to how the Service Regulations are to be read in tune with statutory prescription.

42. Therefore, in fine, we hold that insofar as Diplomas offered by SBTET are concerned, they would be valid for all purposes, only if the programmes through which they were offered by SBTET such as CCC programmes, have had the approval of the AICTE. Hence, the writ petitions challenging the prescription relating to recognition by the AICTE are liable to be dismissed and the prescription relating to recognition by the AICTE is upheld.

Degrees through CCC mode:

43. That takes us to the next question relating to Degrees in Engineering.

44. As we have seen earlier, the UGC Act came first in 1956, the JNTU Act came next in 1972, the A.P. Education Act came in 1982, the IGNOU Act came in the year 1985 and the AICTE Act came in 1987.

45. But ***the Service Regulations for the employees of the A.P. State Electricity Board were issued in 1970, when shortcut methods to success in the field of education were yet to be invented.*** Therefore, Annexure-III

to the A.P. State Electricity Board Service Regulations, 1970, merely stipulated a Degree offered by a University in India established by or under a Central Act, Provincial Act or a State Act or any other qualification recognized as equivalent thereto, as a qualification for recruitment to certain posts. On the basis of the prescription contained in Annexure-III to the APSEB Service Regulations, it was contended by one set of learned counsel led by Mr. Vedula Venkata Ramana, learned Senior Counsel that all T.O.Os., issued by the Board or the Corporations were totally invalid and *ultra vires*, since these executive instructions could not cause inroads into the statutory scheme. It is the contention of these counsel that since the Service Regulations were issued in exercise of the power conferred by Section 79(c) of the Electricity (Supply) Act, 1948, the same constitute the delegated legislation. Hence, without an amendment to these Regulations, the Board cannot, according to the learned counsel, invalidate certain Degrees, through executive instructions.

46. But as we have pointed out in our discussion in the previous chapter, the Service Regulations were issued in 1967 and notified in 1970. At that time, the UGC Act, 1956, alone was in force. If the rigid interpretation now sought to be given by the learned counsel is accepted, then the words "University established under a State Act" appearing in the Service Regulations should not also be taken to apply to the

Degrees conferred by JNTU, since the JNTU Act came in 1972 and it was not in existence in 1970 when the Service Regulations were notified. It is only by understanding the meaning of the words “University established by a State Act” appearing in the table under Annexure-III to the Service Regulations, to encompass within itself, the Degrees awarded by Universities created even after the issue of the Service Regulations, that the petitioners are now able to contend that they hold a Degree within the meaning of the Service Regulations. Otherwise, it is not possible to project or telescope the Service Regulations into the future.

47. As we have stated elsewhere, the Service Regulations were not tampered with by successive T.O.Os. T.O.O.Ms.No.134 dated 11-09-2008, merely offered the manner in which the prescriptions contained in the table under Annexure-III to the Service Regulations have to be read and understood. Therefore, the contention that the executive instructions cannot override statutory regulations, is something that cannot be applied to the situation on hand. It is settled law that executive instructions cannot supplant but can always supplement the statutory regulations. After the Service Regulations were framed in 1967 and notified in 1970, a series of developments have taken place with the creation of the JNTU under the 1972 statutory enactment, the enactment of the A.P. Education Act in 1982, the coming

into force of the Parliamentary enactment IGNOU in the year 1985 and the statutory recognition granted to the AICTE under the 1987 Parliamentary enactment. Therefore, just as we understand the words “State Act” appearing in the 1970 Service Regulations to include a State enactment that came up in future in the form of the JNTU Act, 1972, we have to understand the same to be in tune with all future developments. ***What T.O.O.Ms.No.134 did was to provide a new tool for breaking the code contained in the Service Regulations.*** It did not alter or amend the Statutory Regulations. Therefore, the challenge to T.O.O.Ms.No.134 dated 11-09-2008, should go.

48. As a matter of fact, what has happened from the year 2006 up to the year 2017, would show that ***the Boards of Management of these Corporations have wavered in their decisions from one extreme to the other, depending upon the density of the pressure exerted by the rival groups of employees.*** Even according to Mr. G.Vidya Sagar, learned Senior Counsel appearing for TSTRANSCO, the series of disputes began on 18-10-2006 when APGENCO sought a clarification regarding the Degrees/Diplomas offered by the Institute of Advanced Studies and Education, Rajasthan. The State Government clarified on 12-04-2007 that they are not recognized. The APTRANSCO then issued T.O.O. Ms.No.69 dated 06-07-2007, directing that the Degrees/

Diplomas awarded by Deemed Universities through Distance mode shall not be recognized for appointment or for any other service benefit unless the Degrees were recognized by the UGC, DEC and AICTE.

49. It was followed by T.O.O.Ms.No.195 dated 14-12-2007, declaring that the Degrees/Diplomas awarded by the Universities/Institutions established outside the State through Distance mode shall not be recognized. Thereafter, a writ petition came to be filed in W.P.No.16355 of 2007 challenging T.O.O.Ms.No.69. An interim order was passed in the said writ petition on 11-12-2007 directing the A.P. State Higher Education Council to go into the matter. Accordingly, the Government issued a clarification on 24-04-2008 reiterating that the Degrees/Diplomas awarded by IASE, Rajasthan, through Distance mode are not recognized.

50. However, promotions were sought to be given in deviation of the clarification forcing another interim order to be passed in the pending writ petition on 24-04-2008.

51. T.O.O.Ms.No.134 dated 11-09-2008, was reaffirmed in T.O.O.Ms.No.186 dated 27-10-2008. But the State got bifurcated on 02-06-2014 after which T.O.O.Ms.No.83 dated 17-04-2015, was issued diluting T.O.O.Ms.Nos.134 and 186. This dilution was put on hold under T.O.O.Ms.No.101 dated 26-05-2015. But later T.O.O.Ms.No.83 was affirmed in T.O.O.

Ms.No.385, dated 17-02-2017, followed by T.O.O.Ms.No.151 dated 13-10-2017.

52. Therefore, it is clear that from one extreme to the other, the fortunes of candidates have fluctuated with the decision making body oscillating from one end to the other.

53. According to Mr. G.Vidya Sagar, learned Senior Counsel appearing for TSTRANSCO, it was true that the Boards of Management came under pressure from rival group of employees, some of whom also took interim orders from this Court one way or the other. Therefore, in order to remove the impasse, the Corporation sought a clarification on 19-01-2013. At first, the A.P. State Higher Education Council submitted a report on 28-01-2013 holding that the Degrees awarded by Deemed Universities are not recognized. But subsequently, IGNOU issued a Notification dated 04-05-2013 repelling Statute No.28 by which Distance Education Council was constituted. The Ministry of Human Resources Development issued an Office Memorandum dated 16-05-2013 notifying repeal of DEC.

54. Consequent upon the dissolution of DEC, the University Grants Commission issued a Memo dated 28-5-2013 stipulating that no further affiliations/approvals could be granted to any new ODL Programme.

55. It was followed by a Public Notice issued by the UGC on 27-06-2013 to the effect that the Deemed Universities should not offer courses on Distance Education mode.

56. Then it was the turn of the A.P. Public Service Commission to seek a clarification from the Government with regard to the Degrees offered by JNTU through CCC mode. Upon receipt of this request from the APPSC on 07-10-2013, the State Government wrote to the State Council for Higher Education on 05-11-2013. The State Council for Higher Education gave an opinion on 20-11-2013 to the effect that the State Government Universities are competent to run academic programmes through Distance mode in the identified jurisdiction with the approval of their Executive Council.

57. Thereafter, a meeting was convened on 09-12-2013 by the Higher Education Department. It was resolved in the meeting that the B.Tech degrees offered by JNTUH through Distance mode is valid and that the same should be restricted for students who got admitted till the year 2009.

58. The State Government accordingly addressed a letter to the APPSC on 27-01-2014.

59. Therefore, it is clear that the pendulum has swung from one extreme to another with stakeholders within the State offering opinions. But **surprisingly, no consultation was made either by the Public Service Commission or by**

the State Higher Education Council or by the State Government, either with UGC or with the AICTE or with DEC.

60. The contentions of Mr. G.Vidya Sagar, learned Senior Counsel appearing for TSTRANSCO, and all other learned counsel supporting the latest decision of the Corporation in T.O.O.Ms.No.151 dated 13-10-2017 are—

(a) that the JNTUH is a University established by a State enactment and hence it has a right to confer Degrees under Section 22(1) of the UGC Act, 1956;

(b) that by virtue of the judgment of the Supreme Court in ***Bharathidasan University v. AICTE***, the All India Council for Technical Education may have a role to play in respect of Technical Institutions but not Universities created by statutory enactments;

(c) that the Distance Education Council was a creation only of the statutes of the IGNOU and hence the same cannot dictate terms to a University created by a State enactment;

(d) that JNTU has been offering Degree courses in Engineering through CCC mode from the year 1983, even before DEC was born under the IGNOU Act, 1985 and even before the issue of the AICTE Act, 1987 and hence these authorities cannot destroy the autonomy of JNTUH;

(e) that the admission of students to the CCC mode offered by JNTUH, was through a limited competitive

examination and by applying the rule of reservation, since the number of seats available are very limited and the students admitted to these programmes, have the same syllabus, undergo the course of study for a duration of four years with 15 days in a year organized as compulsory contact programmes and that therefore these Degrees cannot be belittled.

Contention 1 (inter play between UGC Act and JNTU Act)

61. The first contention revolves around the interplay between the UGC Act, 1956 and the JNTU Act, 1972. The UGC Act defines a University to mean a University established or incorporated by or under a Central Act, a Provincial Act or a State Act. But the definition takes within its fold any institution which is recognized by the Commission in accordance with the Regulations made under the Act, but in consultation with the University. Section 3 of the UGC Act, 1956, empowers the Central Government on the advice of the UGC to declare by notification in the Official Gazette, any institution for Higher Education other than a University, to be a Deemed University. Section 12 of the UGC Act, 1956, vests with the Commission the duty to determine and maintain standards of teaching, examination and research in Universities.

62. The right of conferring or granting a Degree can be exercised in terms of Section 22(1) of the UGC Act, 1956, only

by a University established or incorporated by or under a Central Act, a Provincial Act or a State Act or an institution deemed to be a University under Section 3 or an institution specially empowered by an Act of Parliament to confer Degrees. But the word “Degree” appearing in Section 22(1) is given a restricted meaning, under sub-section (3) of Section 22. The word “Degree”, for the purposes of Section 22 is defined in Section 22(3) to mean any such Degree as may, with the previous approval of the Central Government be specified in this behalf by the Commission, by Notification in the Official Gazette.

63. A careful look at the scheme of Section 22 would show that there are two types of restrictions contained therein. The first is with respect to the University or Institution that is empowered to confer a Degree and the second is with respect to the nature of the Degrees that could be conferred. Therefore, both the Institution as well as the Degree offered, should pass the twin tests contained in Section 22. While the Institution should pass the test under sub-section (1), the Degree should pass the test under sub-section (3).

64. Therefore, as rightly contended by Mr. K.G. Krishna Murthy, learned Senior Counsel appearing for the appellant in the writ appeal, any and every Degree will not come within the prescription contained in Section 22(3). ***If the label given***

to a Degree alone matters, institutions may start offering the Degrees as notified by the Commission in the Official Gazette, with the duration of even six months or even one year. Therefore, there is no point in contending that JNTU is offering a Degree whose descriptive tag tallies with words found in the Notification issued by the UGC in terms of Section 22(3).

65. Unless a Degree course offered by a University which passes the test under Section 22(1), has been previously approved by the Central Government and notified by the Commission in the Official Gazette, it cannot be taken to be a Degree within the meaning of Section 22(3) of the UGC Act, 1956.

Contention 2 (role of AICTE)

66. The next contention revolves around the role of the AICTE and the decision of the Supreme Court in ***Bharathidasan University***.

67. In ***Bharathidasan University***, the University commenced courses in Technology and Management, without the approval of the AICTE. The AICTE challenged the action of Bharathidasan University and the challenge was sustained by the Madras High Court, on the basis of a decision of the Full Bench of this Court in ***M.Sambasiva Rao v. Osmania University***². When the matter was taken to the Supreme

² 1997(1) ALT 629

Court, the Supreme Court held that the autonomy of the Universities cannot be belittled by making them subservient to the AICTE. After noting the distinction between the Universities and Technical Institutions maintained in the AICTE Act, 1987 and also after noting that in several provisions, the expressions “University” and “Technical Institution” are used alongside each other, the Supreme Court pointed out in ***Bharathidasan University*** that in certain places, the word “University” is not used alongside the expression “Technical Institution”. The Supreme Court pointed out in particular, that Section 10(1)(k) of the AICTE Act, uses the expression “Technical Institutions” alone and not the word “University” and that therefore the same would apply only to Technical Institutions and not Universities. The Supreme Court also pointed out that the expression “Technical Institution” defined under Section 2(h) of the AICTE Act, specifically excludes a University and that therefore Section 10(1)(k) cannot be extended to Universities.

68. But nevertheless, the ***Supreme Court recorded in the penultimate paragraph of its decision in Bharathidasan University that the lack of requirement for the Universities to take the approval of the AICTE, would not mean that the Universities have no obligation or duty to conform to the standards and norms laid down by the AICTE for the purpose of ensuring***

coordinated and integrated development of Technical Education and maintenance of standards.

69. Therefore, what follows from the decision in ***Bharathidasan University*** is two fold viz., (a) that though Technical Institutions coming within the meaning of Section 2(h) of the AICTE Act, 1987, may require approval of the AICTE for starting technical courses and programmes, Universities may not require such approval and (b) that nevertheless the programmes so offered by the University should conform to the standards and norms laid down by the AICTE, for the purpose of ensuring coordinated and integrated development of Technical Education and maintenance of standards.

70. ***Therefore, it may not be possible for anyone to contend that the lack of approval of the AICTE, for the Degree courses in Engineering offered by JNTUH through CCC mode, made those degrees unrecognizable. But it is always possible to test whether a Degree in Technical Education offered through CCC mode even if it be by JNTUH, would conform to the standards and norms laid down by the AICTE.*** The AICTE has taken a stand before us that the offering of Degree courses in Technical Education through CCC mode, may not conform to the standards and norms fixed by the AICTE. Therefore, unless the Degrees offered through CCC mode conform to the standards and

norms fixed by the AICTE, the Degrees so offered by the University, even if it be a University created by a State enactment, may not be recognizable. ***They are not recognizable, not because the University did not take approval of the AICTE, but because the CCC mode may not conform to the standards and norms prescribed by the AICTE.*** This is the ultimate test laid down in ***Bharathidasan.***

71. In fact, certain developments have taken place after ***Bharathidasan.*** Following the decision in ***Bharathidasan,*** the Supreme Court held in ***Parshvanath Charitable Trust v. AICTE***³ that AICTE is not intended to be an authority either superior to or to supervise and control the Universities and thereby superimpose itself upon such Universities merely because they are imparting Technical Education. The Court further held in ***Parshvanath Charitable Trust*** that the role of the AICTE is only advisory, recommendatory and one of providing guidance thereby subserving the cause of maintaining appropriate standards and qualitative norms and not as an authority empowered to issue and enforce any sanctions by itself.

72. In ***Association of Management of Private Colleges v. AICTE***⁴, the issue whether Private Colleges affiliated to Bharathidasan University and Manonmaniam

³ (2013) 3 SCC 385

⁴ (2013) 8 SCC 271

Sundaranar University were required to seek approval of the AICTE, for offering MBA and MCA courses, arose for consideration. The Private Colleges contended that they were governed only by the UGC Act, 1956 and the State Act concerning the University in question and not by the AICTE Act. Reliance was placed upon the decision in ***Bharathidasan University***. The Supreme Court framed six points for consideration, the first of which was whether the colleges affiliated to a University come within the purview of the definition of the expression “Technical Institution” under Section 2(h) of the AICTE Act, 1987 and the second of which was whether the AICTE has got control and supervision over the affiliated colleges of the respective Universities. Both these points were answered by the Supreme Court in favour of the Private Colleges by following the decisions in ***Bharathidasan*** and ***Parshvanath Charitable Trust***.

73. It is relevant to note that the decision in *Bharathidasan University* was delivered on 24.09.2001. The said decision was followed in *Parshvanath Charitable Trust*, which was delivered on 13.12.2012. Both these decisions were cited with approval in *Association of Management Private Colleges*, delivered on 25.04.2013. Thus the mantra of *Bharathidasan University* worked miracles for a period of 12 years.

74. But it appears that the magic started waning, when a two Member Bench passed an order on 24.03.2014 in W.P.No.895 of 2013, directing the matter to be listed before a Bench of three Judges. It was followed by an order passed on 09.05.2014 in S.L.P. (Civil).No.7277 of 2014 by a four Member Bench holding that prior approval of AICTE was compulsory and mandatory for the conduct of a technical course including MBA, by an existing affiliated technical college and also new technical college which will require affiliation by a university for the conduct of its technical courses or programmes.

75. All the aforesaid developments were taken note of by the Supreme Court in **Varun Saini v. Guru Gobind Singh Indaprastha University**⁵. In paragraph 16 of its decision in *Varun Saini*, the Supreme Court highlighted that the jurisdiction of AICTE got clarified by the order dated 09.05.2014 passed by a four Member Bench to the effect that prior approval of AICTE was compulsory and mandatory for the conduct of technical courses including MBA. Though the batch of cases before the Supreme Court in *Varun Saini*, merely sought extension of time schedule originally fixed in *Parshvanath*, the Court nevertheless noted the significant development that took place with the order passed on 09.05.2014 by a four Member Bench. In fact the batch of

⁵ (2014) 16 SCC 330

cases that were before the Supreme Court in *Varun Saini*, related to a notification issued by the university in respect of several courses, some of which were covered by AICTE regulations and some covered only by university statutes. Therefore, the Supreme Court, in *Varun Saini* segregated in paragraph 19 of the report, the courses covered by AICTE regulations and the courses covered by university Statutes. After noting the difference between these two types of courses, the Supreme Court took up for consideration in paragraph-20, the courses that are regulated by AICTE Act and regulations. In fact in para-20, the Supreme Court recorded the submission of the learned Attorney General appearing for AICTE that after the pronouncement of the judgment in *Association of Management Private Colleges*, AICTE was in search of its jurisdiction/authority, till it was recognized to have the power, all though by an interim order dated 09.05.2014.

76. Therefore, it is clear from *Varun Saini* that the strength of the opinion rendered in *Bharathidasan University*, applied with all virility in *Association of Management Private Colleges*, may get diluted and the issue appears to be pending consideration.

77. After the decision in *Varun Saini*, a question relating to the validity of the degrees in engineering, awarded by certain deemed to be universities, such as, J.R.N. Rajasthan

Vidyapeeth University, Udaipur, Institute of Advanced Studies in Education, Rajasthan, Allahabad Agricultural Institute, Uttar Pradesh and Vinayaka Mission Research Foundation, Salem, through Distance mode, came up for consideration before the Supreme Court in ***Orissa Lift Irrigation Corporation limited v. Rabi Sankar Patro***⁶. The Supreme Court held in the said decision:

- (a) that AICTE Regulations, 1994 would apply to deemed to be universities and that the deemed to be universities were not justified in introducing any new courses in technical education without the approval of AICTE;
- (b) that the *ex post facto* approval granted by UGC to the programmes offered during the academic session 2001-2005, were illegal;
- (c) that all the degrees in engineering by the concerned deemed to be universities will stand suspended;
- (d) that AICTE shall advice the modalities for the conduct of appropriate tests for the students to enable them to have their degrees validated;
- (e) that students, who were admitted after the academic sessions 2001-2005, will have their degrees cancelled and these students will be entitled to refund of tuition fees from the universities;

⁶ 2017 (13) SCALE 148

(f) and that all deemed to be universities will be restrained from carrying on any courses in distance education mode from the academic session 2018-19 onwards.

78. Some of the important features noted in or the observations found in, the decision in *Orissa Lift Irrigation Corporation Limited* are:

(a) Though the Special Leave Petitions before the Supreme Court arose out of one decision of the Punjab & Haryana High Court and another decision of the High Court of Orissa, to which AICTE and UGC were not parties, the Supreme Court impleaded AICTE and UGC as parties while issuing notices in the Special Leave Petitions.

(b) The status of deemed to be university was conferred upon those four institutions named in the decision of the Supreme Court in *Orissa Lift Irrigation*, keeping in view their potential to offer academic programmes in specific domains of knowledge, but they over stepped the jurisdiction to offer programmes leading to award of degrees, which were not within their field of specialization.

(c) By virtue of the power conferred by Section 16 r/w Section 24 and second Schedule to IGNOU Act, 1985, a Distance Education Council was constituted by a notification dated 22.11.1991. Paragraph-4 of the notification constituting DEC defined the powers and functions of the Distance Education Council.

(d) UGC, DEC and AICTE as well as the Ministry of Human Resources Development of the Government of India, issued various notifications, circulars and guidelines, one of which, viz., the UGC Regulations, stipulated that every University enrolling students for the 1st degree course should ensure that the actual number of teaching days does not go below 180 in an academic year;

(e) Though the National Policy on Education, 1986 issued by the Government of India allowed technical and management education programmes to be on a flexible modular pattern and it also allowed programmes through distance learning process, the National Policy made it clear under para 6.19 of Part-6 that the AICTE will be responsible for planning, formulation and maintenance of norms and standards, accreditation etc;

(f) AICTE Regulations, 1994 required the grant of approval for any new technical institution or university technical department;

(g) The Government of India issued a notification dated 01.03.1995 recognizing the qualifications awarded through distance education by all universities and institutions deemed to be universities, provided they have been approved by the Distance Education Council and wherever necessary by AICTE;

(h) DEC published a set of guidelines on 03.07.1997 and UGC issued a set of guidelines in 2004 that a deemed to be university is normally authorized to operate within its own campus to conduct the authorized courses falling within the area of their specialization;

(i) As per UGC guidelines, deemed to be universities could offer distance education programmes only with the specific approval of the DEC and UGC.

79. It is significant to note that the decision in *Bharathidasan University* was pressed into service before the Supreme Court in *Orissa Lift Irrigation Corporation*. In paragraph 20 of its decision (paragraph number indicated as given in SCALE), the Supreme Court noted that the guidelines and notifications issued by UGC, AICTE and the Government of India after the decision in *Bharathidasan University*, went on the presumption that prior approval of AICTE was not required and that therefore they could grant *ex post facto* approval. This *ex post facto* approval granted to J.R.N. Rajasthan Vidyapeeth University, IASE, AAT, VMRF was found fault with by the Supreme Court in *Orissa Lift Irrigation*, on the ground that they had not taken prior permission and that none of them was having any regular college or faculty in technology/engineering, in their own campus.

80. Interestingly, the Supreme Court in *Orissa Lift Irrigation*, took note of the 2005 Regulations of AICTE, issued after the decision in *Bharathidasan University*. These Regulations known as “AICTE Grant of Approval for Starting New Technical Institutions, Introduction of Courses or Programmes and Increase/Variation of Intake Capacity of Seats for the Courses or Programmes and Extension of Approval for the Existing Technical Institutions and Maintenance of Norms and Standards in Universities Including Deemed To Be Universities Regulations, 2005”, were issued on 28.11.2005. Paragraph 2.5 of these Regulations was extracted in paragraph-21.G of the decision of the Supreme Court (paragraph number indicated as given in SCALE) in *Orissa Lift Irrigation*. Paragraph-2.5 of the AICTE Regulations, 2005 required prior approval for starting a new technical institution, not only by Government, Government aided or private institutions, but also by any university including deemed to be universities. Paragraph 2.5 (3) of the AICTE Regulations 2005 reads as follows:

“No university including deemed to be university shall conduct technical courses/ programmes without ensuring maintenance of norms and standards prescribed by AICTE.”

81. ***The AICTE Regulations 2005 are not under challenge. Paragraph 2.5 (2) of the AICTE Regulations 2005 extracted by the Supreme Court in paragraph 21.G of its decision in Orissa Lift Irrigation made it clear that***

no existing technical institution of Government, Government aided or private institution whether affiliated or not affiliated to a university shall conduct any technical course/programme without prior approval of the Council.

82. Therefore, after the issue of 2005 Regulations, which are not under challenge, the APTRANSCO thought fit to issue T.O.O.Ms.No.134, dated 11.09.2008, so that persons, who hold degrees awarded by the university through a programme approved by the AICTE alone became entitled to service benefits arising out of the acquisition of such degrees.

83. In *Orissa Lift Irrigation*, the Supreme Court also took note of the stand taken by UGC in the affidavit filed by them to the effect that after the notification, dated 01.03.1995 issued by MHRD, UGC mandated the requirement of approval of AICTE wherever necessary for programmes conducted by institutions deemed to be universities leading to the award of degrees in Engineering through ODL mode. In the same affidavit, UGC also referred to a letter dated 29.07.2009 issued by MHRD requiring the erstwhile DEC to withdraw permission given to various institutions to conduct B.Tech/BE programmes through distance mode.

84. In fact, AICTE was also called upon to file an affidavit before the Supreme Court. In an affidavit carefully worded, so as to ensure not to be seen as offending the

decision in *Bharathidasan University*, AICTE took a stand that the study centers and campuses of universities, which were not the constituent units of the universities were required to have prior approval of the AICTE for conducting any technical course or programme. This could be seen from paragraph 25 (paragraph number indicated as given in SCALE) of the decision in *Orissa Lift Irrigation*.

85. More importantly, the Supreme Court extracted in paragraph 26 (paragraph number indicated as given in SCALE) of its decision in *Orissa Lift Irrigation*, the stand taken by MHRD in the affidavit filed before the Court. In the affidavit, MHRD pointed out that though the Distance Education Council started giving recognition from the year 2007 for the conduct of technical programmes under the distance mode, it was in contradiction to the policy adopted by AICTE. The policy of the AICTE was to make it mandatory to conduct technical programmes through the regular (conventional) mode of education. The MHRD also pointed out that in view of the conflict between the stand taken by DEC and the stand taken by AICTE, a confusion was created among the stakeholders which gave an unfair advantage to unscrupulous institutions.

86. In paragraph 28 (paragraph number indicated as given in SCALE) of its decision in *Orissa Lift Irrigation*, the Supreme Court recorded the submission made by the amicus

curiae in his note, to the effect that ***there is a vast difference between open distance learning in general fields and those in specialized fields*** and that though the Court held in Bharathidasan University that AICTE had no power of granting approvals to universities, the Court nevertheless recognized the role played by AICTE. In fact, the very same stand was taken even by the UGC in their written submissions to the Supreme Court in *Orissa Lift Irrigation*. ***This can be seen from paragraph 29 (paragraph number indicated as given in SCALE) of the decision, where the submission of the UGC that in Bharathidasan University, the Court was not concerned with the question of regulatory framework of open distance learning, was recorded.***

87. In the back drop of the stand taken by UGC, AICTE and MHRD, the Supreme Court concluded in para-35 (paragraph number indicated as given in SCALE) of its decision in *Orissa Lift Irrigation* that *even post facto* approvals granted to institutions deemed to be universities were opposed to the policy statements governing the matters in issue. The Supreme Court the proceeded to discuss the ratio in *Bharathidasan University*, from paragraph 37 (paragraph number indicated as given in SCALE) onwards. In paragraph 38 (paragraph number indicated as given in SCALE), the

Supreme Court made certain observations, which are very relevant for our purpose. They are extracted as follows:

***“38. Technical education leading to the award of degrees in Engineering consists of imparting of lessons in theory as well as practicals. The practicals form the backbone of such education which is hands-on approach involving actual application of principles taught in theory under the watchful eyes of Demonstrators or Lecturers. Face to face imparting of knowledge in theory classes is to be reinforced in practical classes. The practicals, thus, constitute an integral part of the technical education system. If this established concept of imparting technical education as a qualitative norm is to be modified or altered and in a given case to be substituted by distance education learning, then as a concept the AICTE ought to have accepted it in clear terms. What parameters ought to be satisfied if the regular course of imparting technical education is in any way to be modified or altered, is for AICTE alone to decide. The decision must be specific and unequivocal and cannot be inferred merely because of absence of any Guidelines in the matter. No such decision was ever expressed by AICTE. On the other hand, it has always maintained that courses leading to degrees in Engineering cannot be undertaken through distance education mode. Whether that approach is correct or not is not the point in issue. For the present purposes, if according to AICTE such courses ought not to be taught in distance education mode, that is the final word and is binding – unless rectified in a manner known to law. Even National Policy on Education while emphasizing the need to have a flexible, pattern and programmes through distance education learning in technical and managerial education, laid down in Para 6.19 that AICTE will be responsible for planning, formulation and maintenance of norms and standards including maintenance of parity of certification and ensuring coordinated and integrated development of technical and management education. In our view whether subjects leading to degrees in Engineering, could be taught in distance education mode or not is within the exclusive domain of the AICTE.*”**

88. It is true that the Supreme Court recognized in paragraph-43 (paragraph number indicated as given in SCALE) of its decision in *Orissa Lift Irrigation* that conceptually there is some difference between the status of a university established under a State law and that of a deemed to be university. However, the Supreme Court also noted the change of perception that took place with the advent of the decision in **Annamalai University v. Secretary to Government**⁷.

89. We have taken pains to analyze in extenso, the decision of the Supreme Court in *Orissa Lift Irrigation*, for the simple reason that the sheet anchor of the case of the management as well as the employees who secured degrees through CCC mode is that the decision in *Orissa Lift Irrigation* is limited in its application only to deemed to be universities. But a careful analysis that we have done above, would show that the Supreme Court formulated general principles, after taking note of the detailed submissions made by DEC, UGC and AICTE and applied those general principles to institutions deemed to be universities. We have already extracted the observations made in paragraph 38 of its decision in *Orissa Lift Irrigation*. It was stated in no uncertain terms by the Supreme court, in *Orissa Lift Irrigation* that **“what parameters ought to be satisfied if the regular course**

⁷ (2009) 4 SCC 590

of imparting technical education is in any way to be modified or altered, is for AICTE alone to decide. The decision must be specific and unequivocal and cannot be inferred merely because of absence of any Guidelines in the matter. No such decision was ever expressed by AICTE. On the other hand, it has always maintained that courses leading to degrees in Engineering cannot be undertaken through distance education mode. Whether that approach is correct or not is not the point in issue. For the present purposes, if according to AICTE such courses ought not to be taught in distance education mode, that is the final word and is binding – unless rectified in a manner known to law.” The principle formulated in the last line namely that ***“if according to AICTE, such courses ought not to be taught in distance education mode, that is the final word and is binding”*** is not limited to deemed to be universities.

90. As a matter of fact, similar sentiments were echoed by the Supreme Court in *Varun Saini* also, though the same concerned the relaxation of time schedule prescribed in *Parshvanath*. The first paragraph of the decision in *Varun Saini* stresses the sacro-sanctity of formal education in the ***following words:***

Education is the spine of any civilised society. Formal education has its own significance, for it depends upon systemic imparting of learning regard being had to the syllabus prescribed for the course and further allowing space for cultivation by individual endeavour. The sacrosanctity of formal education gains more importance in the field of technical studies because theory, practical

training and application in the field cumulatively operate to make a student an asset to the country and, in a way, enables him to achieve excellence as contemplated under [Article 51A](#) of the Constitution. The natural corollary, in the ultimate eventuate, is the acceleration of the growth of the nation

Therefore, the contention of the managements of Andhra Pradesh and Telangana TRANSCO and other corporations as well as the individual employees, who secured degrees through CCC mode from JNTUH, that AICTE has no role to play in view of the decision in *Bharathidasan University* cannot hold water any more, especially in the light of the observations of the Supreme court in *Orissa Lift Irrigation*, which we have extracted in para 87 above.

Contentions- 3 and 4 (Role of Distance Education Council and AICTE both of which came into existence much later)

91. The third contention is that the Distance Education Council was only a creation of the Statues of IGNOU and hence the creature of a Statute of a University cannot have control over a University created by a Statutory enactment. The fourth contention is that since JNTU has been offering degree courses in engineering through CCC mode from the year 1983, even before DEC was born on 22.11.1991 under the IGNOU Act, 1985 and even before the issue of the AICTE Act, 1987, a requirement of approval from these two authorities could not be imposed upon them.

92. It is true that the Indira Gandhi National Open University was created by an Act of Parliament i.e., Act No. 50

of 1985. The object of the Act was to establish and incorporate an Open University at the National level for the introduction and promotion of an Open University and distance education systems in the educational pattern of the country and for the coordination and determination of standards in such systems. The Act should be seen as one enacted by the Parliament in terms of Entry No. 66 of List I of the VII Schedule to the Constitution.

93. Section 4 of the IGNOU Act, 1985 speaks about the objects of the university in the following terms:

The objects of the University shall be to advance and disseminate learning and knowledge by a diversity of means, including the use of any communication technology, to provide opportunities for higher education to a larger segment of the population and to promote the educational well being of the community generally, **to encourage the Open University and distance education systems in the educational pattern of the country and to coordinate and determine the standards in such systems**, and the University shall, in organising its activities, have due regard to the objects specified in the First Schedule.

94. Section 5(1) of the IGNOU Act, 1985 enlists the powers of the University. Sub-Section (2) of Section 5 vests IGNOU with a duty to take all steps as it may deem fit for the promotion of the Open University and distance education systems and for the determination of standards of teaching, evaluation and research in such systems. Sub-Section (2) of Section 5 reads as follows:

Notwithstanding anything contained in any other law for the time being in force, but without prejudice to

the provisions of sub-section (1), ***it shall be the duty of the University to take all such steps as it may deem fit for the promotion of the open university and distance education systems and for the determination of standards of teaching, evaluation and research in such systems***, and for the purpose of performing this function, the University shall have such powers, including the power to allocate and disburse grants to Colleges, whether admitted to its privileges or not, ***or to any other university*** or institution of higher learning, as may be specified by the Statutes

95. A careful look at Sub-Sections (1) and (2) of Section 5 would show that while Sub-Section (1) lists out the powers of the University, Sub-Section (2) speaks about the duty of the University and the residual powers that the University will have for the purpose of performing its duties and its functions.

96. What is significant to note from the 2nd part of Sub-Section (2) of Section 5 is that ***IGNOU was vested with such powers, including the power to allot funds to colleges, whether admitted to its privileges or not or to any other University***. Therefore the exercise of the powers by IGNOU was not merely confined to the colleges admitted to the privileges of the University, but also to other colleges as well as any other University.

97. What is contained in the 2nd part of Sub-Section (2) of Section 5 is also fortified by Section 6. Section 6 of the Act as it originally stood reads as follows:

The University shall in the exercise of its powers have jurisdiction over the whole of India and to the Study Centres outside India.

98. Section 24 of the IGNOU Act, 1985 enlisted the matters for which provision may be made in the Statutes of the University. One of the matters included in the said list is to be found in Clause (j) of Section 24 which reads as follows: “The coordination and determination of standards in the Open University and distance education system and the allocation and disbursement of grants to colleges and other universities and institutions.”

99. Keeping these statutory provisions in mind, if we look at the birth of the Distance Education Council, it could be seen that the Distance Education Council was constituted in terms of Statute No. 28. Therefore prima facie it appears that the Distance Education Council was created as an Expert Body for the coordination and determination of standards in the Open university and distance education systems. This is why DEC started granting approvals to various universities.

100. It could be seen from Section 25(1) and (2) that while the first Statutes were set out in the II Schedule, the power to make new or additional Statutes and the power to amend or repeal the Statutes, was conferred upon the Board of Management. But Section 40(2) of the Act required every

Statute made under the Act, to be laid before each House of Parliament, before it can take effect.

101. Therefore it follows that the Constitution of DEC under Statute No. 28 of the II Schedule to the Act, is to be construed as something done by the Parliament. This Statute No. 28 was repealed pursuant to the decision of the 40th DEC and 115th BOM and the repeal received the approval of the Visitor (The President of India) and was notified by the Government of India on 04.05.2013.

102. It can be seen from a Notification bearing F. No. 1-4/2013(cpp-II) dated 17.06.2013 that the Central Government, in exercise of the powers conferred under Section 20(1) of the UGC Act, 1956 issued a direction vide its order dated 29.12.2010 that the UGC should act as a regulator for higher education (excluding technical education) through open and distance learning mode and that universities offering any program/course in ODL mode shall require recognition from the commission. Therefore the UGC itself adopted, in exercise of power conferred by Section 12 of the UGC Act, 1956, a set of guidelines earlier framed by DEC under Statute No. 28 of the IGNOU Act, 1985 known as “Guidelines of DEC on Minimum Requirements for Recognition of ODL Institutions.”

103. Thus it is clear that UGC, DEC & AICTE were on the same page, insofar as recognition of courses/programmes offered under the ODL mode were concerned.

104. As we have pointed out earlier, the Supreme Court discussed thread bear, the provisions of IGNOU Act, 1985 and the Notification dated 22.11.1991 constituting DEC in exercise of the powers conferred under Section 16(6) read with Section 24 and the II Schedule to IGNOU Act. The Supreme Court took note of paragraph 4 of the Notification by which DEC was constituted. The Supreme Court also took note of the Notification of the Government of India dated 01.03.1995, by which all qualifications awarded through distance education by all universities were declared as recognised, provided they had been approved by the Distance Education Council. The DEC itself had issued guidelines on 03.07.1997 itself in exercise of its Statutory functions.

105. Therefore at least after the issue of the Notification of the Government of India dated 01.03.1995, JNTU should have realised that they needed the approval of the DEC and AICTE to offer degrees in technical education through CCC mode. Unlike Bharathidasan University, Madras University and Annamalai University, all the 3 of which took their fight with AICTE or DEC or UGC to Courts, JNTU did not challenge the validity of the Notification of the Government of India dated 01.03.1995 on the ground that the requirement of

approval by DEC and/or AICTE infringed upon their autonomy. Therefore the Board of Management of APTRANSCO appears to have taken a conscious decision before issuing T.O.O Ms. No. 134 dated 11.09.2008 that in the light of the Notification of the Government of India dated 01.03.1995 it was not possible to recognise the degrees offered through distance mode, if such programmes did not have the approval of the DEC. Therefore we are of the considered view that JNTU should have taken approval either from AICTE & DEC or at least from AICTE and UGC before offering degree courses in engineering through CCC mode.

Contention 5:

106. The last contention is that the admission of students to the CCC mode by JNTU was through a limited competitive examination, since the number of seats available were very limited and that the students admitted to these programmes have the same syllabus, undergo the course of study for a duration of four years with 15 days in a year being compulsory as a contact programme and that therefore these degrees cannot be belittled.

107. This contention arises out of a misconception that the degrees offered by JNTU are sought to be belittled. ***The requirement for the driver of a car to fasten seat belt does not arise out of a suspicion regarding his driving skills. The requirement for a patient to undergo various***

clinical tests for the purpose of diagnosis cannot be taken as belittling the efficiency of a doctor. If there are certain requirements in law to be fulfilled, the same should be fulfilled. It may be apt to quote at this stage what Eduard Christian Lindeman, said in his book “The Meaning of Adult Education” ***“the resource of highest value in adult education is the learner’s experience. If education is life, then life is also education. Too much of learning consists of vicarious substitution of someone else’s experience and knowledge. Psychology is teaching us, however, that we learn what we do and that therefore all genuine education will keep doing and thinking together.”***

108. Therefore as the Hon’ble Supreme Court pointed out in its opening remarks in *Varun Saini*, the sacrosanctity of formal education gains more importance in the field of technical studies because theory, practical training and application in the field, cumulatively operate to make a student an asset to the country. Therefore we wonder as to how in a period of 15 days in a year, a student of a degree course in technical education will be able to complete his practicals and laboratory assignments. Hence the fifth contention is also to be rejected.

109. One more contention advanced by the individuals who acquired degrees through CCC mode is that the degrees

obtained by them are not under challenge and that their degrees cannot be declared invalid in collateral proceedings.

110. This argument loses sight of the fact that we are concerned in this batch of cases, a challenge to two different sets of office orders issued by the managements of the corporations. One set of office orders stated that the degrees obtained through CCC mode will be recognised for the purpose of service benefits, only if such degrees had the approval of UGC, DEC & AICTE. Another set of office orders had taken a contra view. It is these conflicting decisions of the managements of Statutory corporations that are in question in this batch of cases. Therefore we are not testing the validity of the degrees awarded by the universities, but are testing only the decision of the managements with regard to the conditions for their recognition. Hence the last contention is also flawed.

Contention regarding employer's right

111. The last contention of Mr. G.Vidya Sagar, learned Senior Counsel appearing for the Corporation is that the employer has a right to prescribe the qualifications required for appointment to a post and that a decision taken by the employer in this regard is in the realm of a policy decision. Therefore, the learned Senior Counsel contended that the Court cannot interfere with such a policy decision, unless the policy is found to be vitiated by established parameters.

112. We are in total agreement with the said contention of the learned Senior Counsel appearing for the Telangana Transmission Corporation. If only the employer has exercised his right, without being trampled by one or the other group of employees to take a decision in a particular way, we would not be exercising our jurisdiction under Article 226 of the Constitution of India at all over such matters. But what has happened with this case, as we have repeatedly pointed out earlier is that the policy decision taken by the employer swung from one extreme to the other, depending upon the weight of the pressure exerted by the employees, on and off the Court. To begin with, the APTRANSCO issued T.O.O.Ms. No.69, dated 06-7-2007, holding that the Degrees/Diplomas awarded through distance mode shall not be recognized unless they were recognized by UGC, DEC and AICTE. It was followed by T.O.O.Ms.No.195, dated 14-12-2007. Then came T.O.O.Ms.No.134, dated 11-9-2008, making it clear that the Degrees/Diplomas secured through distance mode will not be recognized unless they have had the approval of UGC, DEC and AICTE. This T.O.O.Ms.No.134, dated 11-9-2008, was reaffirmed in T.O.O.Ms.No.186, dated 27-10-2008.

113. If the managements of the Corporations had stuck to these orders on the ground that they are a reflection of the policy decisions taken by the employer, all these problems could have been solved. But the aforesaid office orders were

diluted by T.O.O.Ms.No.83, dated 17-4-2015. When one group of employees opposed this dilution, immediately the Corporation issued T.O.O.Ms.No.101, dated 26-5-2015, putting on hold T.O.O.Ms.No.83, dated 17-4-2015. But when the other groups of employees put pressure, T.O.O.Ms. No.385, dated 17-02-2017, was issued affirming T.O.O.Ms. No.83. This was followed by T.O.O.Ms.No.151, dated 13-10-2017.

114. If the employer was genuine in asserting their right to prescribe the qualifications required for a particular post, they could not have wavered from one extreme to the other. If T.O.O.Ms.No.134 is at one end of the spectrum, T.O.O.Ms. No.151 is at the other end of the same spectrum. We do not know how the employer is still under the impression that they have the freedom and free will to formulate a policy decision, when history shows that within seven years, they have turned the policy upside down two to three times.

115. As a matter of fact, we wanted to recognize the absolute freedom enjoyed by the employer in deciding the qualifications necessary for appointment or promotion to any post. But before doing so, we wanted to put to test, the extent to which the employer is in a position to assert their rights. Therefore, on the last date of hearing, we requested the learned Senior Counsel appearing for TSTRANSCO and the Northern Power Distribution Company of Telangana Ltd., to

find out – (i) whether during the period from the date of issue of T.O.O.Ms.No.134, dated 11-9-2008, up to the date of issue of T.O.O.Ms.No.151, dated 13-10-2017, any promotions were given to candidates who had secured Degrees through CCC mode and (ii) whether T.O.O.Ms.No.151, dated 13-10-2017, by which the decision in T.O.O.Ms.No.134, dated 11-9-2008 was reversed, would be implemented prospectively or retrospectively.

116. In response to the queries, the Joint Secretary, TSTRANSCO, addressed a communication to the learned Senior Counsel in Lr.No.Jt.Secy/DS(Per.II)/AS(IR&R)/PO(Regulation)/JPO/38/ 2016, dated-12-2017. It will be useful to extract the contents of the said letter as follows:

Point No.	Issue	Reply
1	Subsequent to issuance of TOO Ms. No.134, dt.11-9-2008, TOO Ms.No.186, dt.27-10-2008 till the issuance of TOO Ms.No.151, dt.13-10-2017, whether promotions are given to Graduates who acquired the qualification from JNTU through CCC mode and diploma holders under CCC mode from SBTET	YES. Subsequent to issuance of TOO Ms. No.134, dt.11-9-2008, TOO Ms.No.186, dt.27-10-2008 till the issuance of TOO Ms. No.151, dt.03-10-2017 promotions were given to Graduates who were admitted during 2009 and acquired the qualification from JNTU through CCC mode and Diploma Holders under CCC mode from SBTET.
2	Whether any reversions are made to the persons who are promoted with qualifications from JNTUH (CCC mode)/ SBTET Diplomas (CCC mode) after the orders of the Court in various writ petitions.	NO
3	Whether the reversion orders issued	NO

	to the degree holders from JNTUH/ Diploma holders under CCC mode have been challenged in the Hon'ble High Court and if so what is the status of the said cases.	
4	What is the decision of the TRANSCO/ DISCOMS with regard to the date of implementation of TOO Ms.No.151, dt.13-10-2017, i.e., whether it would be prospective from 13-10-2017 or w.e.f. 11-9-2008?	11-9-2008
5	If TOO Ms.No.151, dt.13-10-2017 is upheld along with TOO Ms.No.134, dt.11-9-2008, whether the degree holders from JNTUH would be entitled to promotions, if so, from what date?	YES
6	Whether the TRANSCO/DISCOMS have obtained details with regard to the number of personnel working in the organization who have qualifications of B.Tech. from JNTUH/Diplomas from SBTET through CCC mode	NO

117. Similarly, the Northern Power Distribution Company of Telangana Limited has also sent a communication dated 17-12-2017 to the learned Senior Counsel, giving their response. Paragraphs-1 to 5 of the said letter read as follows:

“1. Promotions and appointment by transfers were given after issuance of T.O.O.Ms.No.134 Dt: 11-09-2008 to the graduates who acquired the qualification from JNTU through Correspondence-cum-contract mode and diploma holder through Correspondence-cum-contract mode from SBTET till December, 2015.

2. No reversions are made in respect of above mentioned candidates after the orders of the Court in various writ petitions. However no further promotions are effected to the Correspondence-cum-contract holders after issuance of Court orders.

3. No reversion orders were issued to the employees promoted/appointed by transfer on acquiring degree from JNTUH/Diploma from SBTET under CCC mode so far.

4. It is decided to implement the orders issued in TOO 151, Dt. 13-10-2017 with retrospective effect from 11-09-2008 i.e. date of issue of T.O.O.Ms.No.134, Dt: 11-09-2008.

5. The degree holders from JNTUH will be entitled for promotions with effect from various dates on which their juniors were considered for promotion/appointment by transfer.”

118. The response of TSTRANSCO as well as NPDC of Telangana Ltd., actually brought the cat out of the bag. From the response it is clear that T.O.O.Ms.No.134, dated 11-9-2008, is decided to be scrapped retrospectively by giving effect to T.O.O.Ms.No.151 retrospectively. This shows that the policy decision taken by the Transmission Corporation in the year 2008 under T.O.O. Ms.No.134, dated 11-9-2008, can be thrown to the winds.

119. In fact, we have a few writ petitions challenging T.O.O.Ms.No.134. The defence originally taken by the Corporation to the challenge to T.O.O.Ms.No.134 was that it was a policy decision. Now TSTRANSCO does not have objection to that policy decision of the year 2008 being set at naught.

120. In other words, the Corporation is now guilty of taking two conflicting stands. It is alright for the Corporation to set aside one policy decision reflected in T.O.O.Ms.No.134, dated 11-9-2008, but it is not alright for the Corporation to interfere with another policy decision reflected in T.O.O.Ms. No.151, dated 13-10-2017. **To put it differently, the only**

policy of these corporations is to be inconsistent in their policies.

121. Thus the sanctity attached by the Corporation itself to its policy decisions has now become too obvious. In fact, the reply to query No.1 extracted above would show that T.O.O. Ms.No.134, dated 11-9-2008, issued by way of policy decision, was observed more in breach than in compliance and hence the Corporation does not mind the policy decision in T.O.O.Ms.No.134 being set aside. In such circumstances, we are of the considered view that ***employers who are not consistent in their policies, but make policies as matters of convenience to satisfy one or the other group of employees and employers who are prepared to sacrifice one policy for upholding a diametrically opposite policy, do not have the moral authority to contend that the Court cannot interfere with policy decisions.*** Hence, the last contention is also rejected.

122. Having answered the two questions that we have formulated in paragraph-1 of this judgment, we shall now take up the individual cases, to record our opinion.

Writ Petition No.22385 of 2014:

123. The petitioners in this writ petition secured a B.Tech Degree through CCC mode while they were in service, during the academic year 2008-09. All of them completed their Degree courses in December, 2012 or May,

2013. It is interesting to note that the petitioners are working in Kadapa but they claim to have attended classes in a study centre at Tirupati. Their actual grievance is that they were not considered for appointment by transfer as Sub Engineers on account of a ban imposed under S.O.O.No.19, dated 12-02-2014.

124. But at the outset, the order impugned in the writ petition viz., S.O.O.No.19, dated 12-02-2014, does not talk about promotions or appointments by transfer. It merely speaks about discontinuance of the sanction of increments for possessing higher qualifications. Paragraph-7 of S.O.O. No.19, dated 12-02-2014, makes it very clear that the said office order deals only with the question of sanction of increments for acquiring higher qualifications.

125. Therefore, the petitioners in this writ petition appear to have challenged an order that does not deal with promotions or recruitment by transfer. Insofar as the increments are concerned, paragraph-7 of S.O.O.No.19 shows that the discontinuance of the increments was ordered under T.O.O.Ms.No.174, dated 10-9-2013 and T.O.O.Ms.No.5, dated 08-01-2014. These two office orders are not under challenge.

126. Therefore, the petitioners have challenged a wrong order which does not deal with promotions. Even the order challenged is only an order that reiterated earlier orders which are not under challenge. In any case, the petitioners

secured part-time degrees during the period 2009-12. Therefore, the writ petition deserves to be dismissed. Accordingly, it is dismissed.

Writ Petition No.27569 of 2014:

127. This writ petition is filed by persons who passed Diploma in Electrical Engineering on full-time basis and who got appointed thereafter as Sub Engineers by way of direct recruitment. Their grievance is that in violation of T.O.O. Ms.No.134, dated 11-9-2008, persons who secured Diploma through CCC mode were being appointed by promotion/transfer as Sub Engineers/Additional Assistant Engineers.

128. This writ petition deserves to be allowed on two grounds. The first is that we have already held that the Diplomas secured through CCC mode without the approval of DEC and AICTE are not valid.

129. Even assuming that our opinion on this issue is wrong, the Corporation could not have violated their own policy decision in T.O.O.Ms.No.134, dated 11-9-2008. The order T.O.O.Ms.No.151, dated 13-10-2017, does not and cannot validate the violation of T.O.O.Ms.No.134, at least until the date of issue of T.O.O.Ms.No.151. Therefore, on both grounds, W.P.No.27569 of 2014 deserves to be allowed. Accordingly, it is allowed.

Writ Petition No.39900 of 2014:

130. This writ petition is filed by persons who secured a Diploma in Electrical and Electronics Engineering through CCC mode. On the basis of the said qualification, they were appointed as Sub Engineers by recruitment by transfer in the years 2007 and 2009. But their names were deleted from the eligibility list, by order dated 19-12-2014, since their recruitment by transfer was obviously in violation of T.O.O. Ms.No.134. Therefore, they have come up with the above writ petition challenging the deletion of their names.

131. This writ petition deserves to be dismissed, since their appointment by transfer to the post of Sub Engineer was ordered during the period when T.O.O.Ms.No.134, dated 11-9-2008, was in force. The Diplomas secured by them through CCC mode, were not recognizable. Hence, this writ petition is dismissed.

Writ Petition No.40278 of 2014:

132. The case of the petitioners in this writ petition is exactly identical to the case of the petitioners in W.P.No.39900 of 2014. The petitioners herein also secured Diploma through CCC mode while in service, got appointed as Sub Engineers by the method of recruitment by transfer in the year 2008 and their names got deleted in the year 2014 on account of the prescriptions issued in T.O.O.Ms.No.134. Therefore, this writ petition is also dismissed.

Writ Petition No.357 of 2015:

133. The petitioners herein secured a Diploma through CCC mode while they were in service and they are aggrieved by the non-inclusion of their names in a list of Sub Engineers who have completed five years of service. Their non-inclusion was on account of T.O.O.Ms.No.134, dated 11-9-2008. We have already found that T.O.O.Ms.No.134, dated 11-9-2008, deserves to be upheld. Therefore, as a consequence, the impugned memo dated 19-12-2014 also deserves to be upheld. Hence, W.P.No.357 of 2015 is dismissed.

Writ Petition No.11575 of 2015:

134. This writ petition challenges T.O.O.Ms.No.83, dated 17-4-2015. By T.O.O.Ms.No.83, dated 17-4-2015, the APTRANSCO diluted T.O.O.Ms.No.186, dated 27-10-2008. Since T.O.O.Ms.No.186, dated 27-10-2008, merely reiterates T.O.O.Ms.No.134, dated 11-9-2008 and since we have upheld the validity of T.O.O.Ms.No.134, this writ petition deserves to be allowed. Accordingly, it is allowed.

Writ Petition No.12356 of 2015:

135. This Writ Petition challenges T.O.O Ms. No. 83 dated 17.04.2015. In other words the prayer in this Writ Petition is the same as the prayer in WP. No. 11575 of 2015. Therefore this Writ Petition is also allowed

Writ Petition No.17519 of 2015:

136. The prayer in this Writ Petition is for directing the respondents to strictly follow T.O.O Ms. No. 134 dated 11.09.2008. We have already indicated that T.O.O Ms. No. 134 dated 11.09.2008 reflects the correct position. Therefore this Writ Petition is allowed.

Writ Petition No.26730 of 2015:

137. This Writ Petition is filed by persons who completed a degree or diploma in the regular stream. Therefore they have come up with the above Writ Petition seeking implementation of N.O.O. Ms. No. 181 dated 18.09.2008 issued by the Northern Power Distribution Company of Andhra Pradesh Ltd to the effect that degrees/diplomas offered through CCC mode can be recognised only if they had the approval of UGC, AICTE and DEC. This Office Order N.O.O. Ms. No.181 is just a mirror image of T.O.O Ms. No. 134. Therefore this Writ Petition deserves to be allowed. Accordingly it is allowed.

Writ Petition No.30669 of 2015:

138. The petitioners in this Writ Petition secured a diploma in Electrical Engineering in the regular stream and thereafter got appointment. They have challenged in this Writ Petition, the promotions granted in violation of T.O.O Ms. No. 101 dated 26.05.2015. Therefore for the elaborate reasons

contained earlier, this Writ Petition deserves to be allowed. Accordingly it is allowed.

Writ Petition No.32533 of 2015:

139. The petitioners in this Writ Petition secured diplomas through CCC mode after joining service. They have challenged T.O.O Ms.No.101 dated 26.05.2015. Since T.O.O Ms.No.101 dated 26.05.2015 restored T.O.O Ms.No.134 dated 11.09.2008, this Writ Petition should go. Accordingly it is dismissed.

Writ Petition No.32570 of 2015:

140. This Writ Petition challenges T.O.O Ms.No.101 dated 26.05.2015. Therefore following the order in previous Writ Petition i.e., WP No. 32533 of 2015, this Writ Petition is also dismissed.

Writ Petition No.37567 of 2015:

141. The petitioners in this Writ Petition secured a diploma through the regular stream. They have come up with the above Writ Petition challenging the action of the respondents in not considering their cases for promotion/appointment by transfer as Sub-engineers but in considering the cases of those who secured diploma through CCC mode.

142. In view of the discussion contained in the main part of this order, this Writ Petition deserves to be allowed. Accordingly it is allowed and the respondents are directed to consider the cases of the petitioners for appointment as

Sub-engineers. But their claim for promotion from the date on which their juniors got promoted with all consequential benefits is rejected.

Writ Petition No.40048 of 2015:

143. The petitioners secured a degree or diploma in the regular stream and thereafter got appointed as Sub-engineers. They have challenged in the above Writ Petition, the action of the respondents in posting as in-charge Additional Assistant Engineers, persons who secured diploma/degree through CCC mode.

144. In view of our findings on the core issues raised in the Writ Petitions. This Writ Petition is allowed and the respondents are directed to consider the cases of the petitioners for promotion, as per their seniority and in terms of the rules.

Writ Petition No.40338 of 2015:

145. The petitioners secured degree/diploma in the regular steam and thereafter got appointment. They have come up with the above Writ Petition challenging the action of the respondents in not following T.O.O. Ms. No. 134 dated 11.09.2008 as illegal.

146. In view of our finding upholding T.O.O. Ms. No. 134 dated 11.09.2008, this Writ Petition deserves to be allowed. Accordingly it is allowed. But all benefits will only be prospective and not retrospective.

Writ Petition No.40441 of 2015:

147. The petitioners secured diploma through CCC mode, after their appointment. They have come up with the above Writ Petition challenging the action of the respondents in not promoting them as Additional Assistant Engineers. They also seek a consequential direction to the respondents to treat the diplomas secured through CCC mode as valid.

148. In view of the reasonings that we have given from paras 1 to 120, this Writ Petition deserves to be dismissed. Accordingly it is dismissed.

Writ Petition No.12086 of 2016:

149. This Writ Petition challenges T.O.O Ms. No. 134 dated 11.09.2008. We have indicated in the main part of this Order that this Office Order was issued by taking note of various factors and that T.O.O Ms. No. 134 was perfectly valid. Hence this Writ Petition is dismissed.

Writ Petition No.12269 of 2016:

150. This Writ Petition also challenges T.O.O Ms.No. 134 and T.O.O Ms.No.186 as well as N.O.O No.181 issued by the Northern Power Distribution Company of Telangana Ltd. Obviously the petitioners acquired a degree through CCC mode.

151. In fact the Office Orders Too Ms. No 134, T.O.O Ms.No.186 and N.O.O No.181 were all issued in September and October of the year 2008. The petitioners have come up

with a challenge to these Office Orders in the year 2016, after securing promotion in violation of the impugned Office Orders. At least two of the four Writ Petitioners secured the degree only after the impugned Office Order T.O.O Ms. No 134. Therefore apart from the reasonings that we have given in paras 1 to 120 above, this Writ Petition deserves to be dismissed both on the ground of laches and on the ground that the petitioners secured promotions in violation of the impugned policy decision and two of them secured degrees through CCC mode while the impugned orders were in force.

Writ Petition No.12271 of 2016:

152. This Writ Petition is exactly similar to WP No. 12269 of 2016. Therefore the same also deserves to be dismissed for the very same reasons. Accordingly it is dismissed.

Writ Petition No.14723 of 2016:

153. The petitioners acquired diplomas and degrees through CCC mode. Therefore they have come up with the above Writ Petition seeking a declaration that the degree courses secured through CCC mode are valid.

154. For the reasons stated in the main part of this judgment, this Writ Petition is dismissed.

Writ Petition No.22227 of 2016:

155. This Writ Petition challenges the action of the respondents in not following T.O.O Ms. No. 134 dated

11.09.2008. Since we have upheld this Office Order, this Writ Petition deserves to be allowed. Accordingly it is allowed. The respondents shall consider the case of the petitioners for promotion, but with prospective effect.

Writ Petition No.36087 of 2016:

156. The prayer in this Writ Petition is similar to WP No. 22227 of 2016. Therefore this Writ Petition is allowed with a direction to consider their cases for promotion. But the benefits will only be prospective.

Writ Petition No.7999 of 2017:

157. The petitioners herein secured diplomas in the regular stream and thereafter got appointed. They came up with the above Writ Petition challenging T.O.O Ms. No. 385 dated 17.02.2017, by which T.O.O Ms. No. 83 dated 17.04.2015 was reiterated. Subsequently they got their prayer amended so as to challenge T.O.O Ms. No. 83 as violative of Section 10 of the AICTE Act and section 22 of the UGC Act.

158. In the light of the above discussion in the main portion of this order, this Writ Petition deserves to be allowed and accordingly it is allowed.

Writ Petition No.15103 of 2017:

159. The petitioners challenge T.O.O Ms. No 134 dated 11.09.2008 in this Writ Petition. They also challenge the consequential order passed in C.O.O No. 377 dated 27.09.2008.

160. We have dealt with the challenge to T.O.O Ms. No. 134 in the main part of this order. Therefore for the reasons contained therein, this Writ Petition deserves to be dismissed. Accordingly it is dismissed.

Writ Petition No.17527 of 2017:

161. This Writ Petition challenges the action of the respondents in purporting to cancel the promotions given to the petitioners in violation of T.O.O. Ms. No 134. Since we have upheld T.O.O Ms. No. 134, this Writ Petition should fail as a consequence.

Writ Petition No.34857 of 2017:

162. This Writ Petition is filed by a person who secured a degree in engineering in the regular stream. He challenges T.O.O. Ms. No. 151 dated 13.10.2017.

163. In the main part of this order we had given reasons as to why T.O.O Ms. No.134 is to be upheld and as a consequence T.O.O Ms. No. 151 has to be set aside. Therefore this Writ Petition is allowed

Writ Appeal No.1683 of 2017:

164. This Writ Appeal arises out of an Interim order passed in WP No. 34857 of 2017. Since we have allowed WP No. 34857 of 2017, nothing survives in this Writ Appeal. Hence it is closed.

Contempt Case No.1693 of 2015:

165. This Contempt Petition arises out of an Interim order passed by a learned single Judge in WP No. 12356 of 2015. Since the main Writ Petition itself has been disposed of by this order. Hence we close this Contempt Petition with a direction to the respondents at least to implement the final order passed herein.

Contempt Case No.2489 of 2016:

166. This Contempt Petition arises out of an Interim order passed by a learned single Judge in WP No. 36087 of 2016, not to effect promotions contrary to T.O.O Ms. No. 134. Since the main Writ Petition itself has been disposed of by this order, we close this Contempt Petition with a direction to the respondents at least to implement the final order passed herein.

167. Wherever there are impleading petitions and applications for amendment, they are allowed. All other miscellaneous petitions are closed.

V.RAMASUBRAMANIAN, J.

M.GANGA RAO, J.

19th January, 2018.
Js/Ak

Note:-
L.R. Copy to be marked.
(B/o)
Ak

HON'BLE SRI JUSTICE V.RAMASUBRAMANIAN
AND
HON'BLE SRI JUSTICE M.GANGA RAO

Writ Petition Nos.22385, 27569, 39900 and 40278 of **2014**,
357, 11575, 12356, 17519, 26730, 30699, 32533,
32570, 37567, 40048, 40338 and 40441 of **2015**,
W.P.Nos.12086, 12269, 12271,
14723, 22227 and 36087 of **2016**,
W.P.Nos.7999, 15103, 17527 and 34857 of **2017**
with
C.C.Nos.1693 of 2015 and 2489 of **2016**,
and
W.A.No.1683 of **2017**
 (Common Order)



19th January, 2018.
(Ak)