

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

**CWP No.7732 of 2017
Date of decision: 31.08.2018**

Aftab

.....Petitioner

Versus

State of Haryana and others

.....Respondents

CORAM:HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr. R.K. Malik, Senior Advocate,
with Mr. Sandeep Dhull, Advocate,
for the petitioner.

Mr. Kiran Pal Singh, AAG, Haryana.

Ritu Bahri, J.

Petitioner is seeking a writ in the nature of certiorari quashing the action of respondent No.2 in not allowing him to join the services as Junior Engineer on the ground that candidates lower in merit than the petitioner have been allowed to join on 11.04.2017.

Petitioner had passed Diploma in Civil Engineering through Distance Education Mode directly from Janardhan Rai Nagar, Rajasthan Vidyapeeth University in the year 2010 (Annexure P-1). Pursuant to advertisement dated 27.06.2015 (Annexure P-2), petitioner applied for the post of Junior Engineers under the ESM BC-B category. He appeared in the written examination and was allotted Roll No.90006958. After qualifying the same, he was called for interview as per notice dated 03.03.2017 (Annexure P-3). Final result was declared on 16.03.2017 (Annexure P-4) and the petitioner was selected within 08 posts meant for ESM BC-B category. All the selected candidates were offered appointments on

10.04.2017. But, the petitioner was not offered appointment on the ground that Diploma in Civil Engineering passed by him through Distance Mode from Janardhan Rai Nagar, Rajasthan Vidyapeeth University is not recognized.

Learned counsel for the petitioner has referred to the judgment dated 13.01.2010 passed by this Court in **Vikash Kumar vs. Haryana State Pollution Control Board and another**, CWP No.1405 of 2009 (Annexure P-10), wherein similar controversy has been considered and answered in favour of the petitioner. In that case, petitioner had got diploma in Mechanical Engineering from J.R.N. Rajasthan Vidyapeeth University. Validity of the same was denied by the respondents on the ground that it had not been approved by AICTE. This Court, while referring to the judgment passed by Hon'ble the Supreme Court in **Bharthidasan University and another vs. All India Council for Technical Education and others**, AIR 2001 SC 2861, held that role of interaction conferred upon AICTE vis-a-vis Universities is limited to the purpose of ensuring the proper maintenance of norms and standards in the technical education system so as to conform to the standards laid down by it, with no further or direct control over such universities or scope for any direction action except bringing it to the notice of the UGC or other authorities only, of any lapses in carrying out any directions of the AICTE in this regard, for appropriate action. The aforesaid judgment passed by Hon'ble the Supreme Court was followed by a Division Bench of this Court in **Sandeep and others vs. State of Haryana and others**, CWP No.212 of 2004 (decided on 23.04.2004), whereby it was held that a diploma awarded by University did not require approval from All India Council. Same view has been given by this Court in **Dr. Rajneet**

Singh and others vs. State of Punjab, through its Principal Secretary and others, CWP No.11280 of 2007 (decided on 02.07.2009). Judgment passed by this Court in **Vikash Kumar's** case (supra) was followed by this Court in **Ramesh Chander vs. State of Haryana and others**, CWP No.3435 of 2009, decided on 12.08.2010 (Annexure P-11).

Learned counsel for the petitioner argued that the petitioner was given admission in B.Tech. by the M.D. University, Rohtak considering his diploma in Civil Engineering passed from JRN Rajasthan Vidyapeeth University, as duly recognized. Consequently, petitioner has also passed Bachelor of Technology (Civil Engineering) from M.D. University, Rohtak in the year 2016 (Annexure P-14).

Stand taken by the respondents is that an identical issue with regard to diploma/degrees from deemed university came up for consideration before a Division Bench of this Court in **Kartar Singh vs. Union of India and others**, CWP No.1640 of 2008, 2013 (1) RSJ 224, wherein it was held as under:-

“As observed earlier, a deemed to be University cannot start any course or programme without the approval of the Commission. Since, the course is not approved by the Commission or by any other statutory authority, the qualification/diploma granted by a deemed to be University will not make such candidate as eligible for appointment.”

The aforesaid judgment has been challenged before Hon'ble the Supreme Court in SLP (Civil) Nos.35793-35796 of 2012. It is further submitted that the Director, Technical Education, Haryana vide letter/memo dated 28.01.2009 (Annexure R-2) has clarified that AICTE has not given any approval to any University/Institution to offer UG/PG degree programmes in Engg./Tech. or diploma programmer through Distance

Education Mode till date. As per pubic notice (Annexure R-3), it is clarified

that it has been the policy of the AICTE not to recognise the qualifications acquired through distance education mode at Diploma, Bachelors & Masters level in the fields at Engineering. The respondents have further placed on record copy of order dated 02.11.2015 (Annexure R-8) passed by Division Bench of this Court in LPA No.1215 of 2015, whereby order passed by the learned Single Judge has been stayed and the posts have been directed not to be filled up till further orders. Similarly, vide order dated 26.04.2017 passed in LPA No.636 of 2017 (Annexure R-9), appointment has been stayed.

Learned counsel for the petitioner has referred to the judgment passed by Hon'ble the Supreme Court in **Orissa Lift Irrigation Corp. Ltd. vs. Rabi Sankar Patro and others**, M.A. Nos.1795-1796 of 2017 in Civil Appeal Nos.17869-17870 of 2017 (Annexure P-15) to contend that the degrees in Engineering through distance education mode were never approved in principle by AICTE and the Study Centres were never inspected or approved. It was held that the degrees awarded through distance education suffers from infirmity. However, one time relaxation was given to the candidates, who were enrolled during the academic years 2001-2005 and they were held entitled to appear for the test to be conducted by the AICTE in May-June, 2018. If the candidates pass the examination in first attempt, they would be entitled to retain all the advantages. It was clarified by Hon'ble the Supreme Court that no further chance would be given. However, only if a candidate fails in the first attempt, he can be given a second option. Learned counsel for the petitioner has further argued that in the judgment passed by Hon'ble the Supreme Court, it has been clarified that the controversy was with respect to the degrees in Engineering

conferred by the deemed Universities through distance education mode and the Court was not called upon to consider the validity of diploma given by the said Universities.

Learned State counsel has not been able to dispute the said fact.

In this backdrop, the judgment passed by this Court in **Vikash Kumar's** case (supra) (Annexure P-10) covers the case of present petitioner and the said judgment has attained finality as no LPA has been filed by the Haryana State Pollution Control Board. Further, this Court in **Pardeep Kumar vs. State of Haryana and others**, CWP No.12299 of 2017 (decided on 21.08.2018), has set aside the order dated 24.05.2017, whereby services of the petitioner (therein) had been terminated on the ground that he had got diploma in Mechanical trade through distance education mode, which had not been issued by the Technical Education Board. Reference was made to a judgment passed in **Orissa Lift Irrigation Corp. Ltd.** (supra), wherein Hon'ble the Supreme Court was considering validity of degrees in Engineering. It was clarified that courses with respect to the diploma were not the subject matter of the judgment. In that case, this Court had observed that diploma obtained by the petitioner (therein) had been recognized by the Central Government vide notification dated 10.06.2015. The said notification had also been accepted by the AICTE vide notification dated 04.11.2015. Once the State of Haryana, as per instructions dated 18.03.1975 had decided to recognize all the degrees which are recognized by the Government of India and even the AICTE, vide its letter dated 04.11.2015, had accepted the notification dated 10.06.2015 issued by the Government of India, services of the petitioner could not be terminated on the ground that the diploma acquired through Open and Distance Learning

Mode could not be treated a valid diploma as it had not been recognized by the State Technical Board.

Even in the present case, petitioner has placed on record notification dated 04.11.2015 (Annexure P-9), whereby All Indian Council of Technical Education (AICTE) has clarified that the technical education acquired through ODL/Distance Mode is recognized for the purpose of employment to the posts under the Central Government and the students are not misled in any way. Case of the present petitioner is fully covered by the above said judgments.

Resultantly, the present petition is allowed and the respondents are directed to issue appointment letter to the petitioner for the post of Junior Engineer as per final result declared on 16.03.2017 (Annexure P-4) and thereafter, allow him to join his duties.

31.08.2018
ajp

(RITU BAHRI)
JUDGE

Whether speaking/reasoned: Yes/No
Whether reportable : Yes/No