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

+ LPA 481/2018

UNIVERSITY GRANTS COMMISSION

..... Appellant

Through: Mr. V. Sudeer and
Mr. M. Chandra Sekhar, Advs.

versus

DIKSHA LAMBA & ORS

..... Respondents

Through: Mr. Amit Bansal and
Ms. Seema Dolo, Advs. for R3

CORAM:

HON'BLE THE CHIEF JUSTICE

HON'BLE MR. JUSTICE V. KAMESWAR RAO

ORDER

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27.08.2018

CM No. 34468/2018 (for exemption)

Exemption allowed, subject to all just exceptions.

Application stands disposed of.

CM No. 34467/2018 (for delay)

This is an application filed by the appellant / University Grants Commission seeking condonation of 102 days delay in filing the LPA. For the reasons stated in the application, the delay of 102 days is condoned and application stands disposed of.

LPA 481/2018

1. The present appeal has been filed by the appellant / University Grants Commission challenging the order dated April 06, 2018 in W.P. (C) 5039/2017 whereby the learned Single Judge has allowed the writ petition by quashing the letter dated November 19, 2015 issued by the appellant whereby the respondent No.1 was informed that her result of the National Eligibility Test (NET) held on December 30, 2012 was cancelled as she did not fulfil the eligibility criteria for the said examination.

2. The relevant facts as narrated in the writ petition are that the respondent No.1 after acquiring B.A (Hons.) degree from Hans Raj College, Delhi University, obtained a Master's degree in Post-colonial, Literary and Cultural Studies from the University of Leeds, (UK) in the year 2009. Thereafter, the respondent No.1, desirous of pursuing her academic career further, applied for admission to the M.Phil program of Jawaharlal Nehru University (JNU) and Jamia Milia University (Jamia). The respondent No.1 cleared the entrance exams and interviews for both the universities. However, when the respondent No.1 approached Jamia to deposit her admission fee, she was not allowed to do so, on the ground that she was required to get an equivalence certificate from the respondent No.2, certifying that the subject degree was equivalent to a corresponding degree

from a recognised Indian university.

3. The respondent No.1 aggrieved by the decision of Jamia, filed a W.P. (C) 5285/2011 in this Court. Vide an interim order dated July 29, 2011, this Court issued notice in the petition and allowed the petitioner to deposit the fee, subject to the outcome of the writ petition. In the meanwhile, the respondent No.1 also approached the Association of Indian Universities for an equivalence certificate with regard to the subject degree. The respondent No.1 was informed by the respondent No.2 that since Subject Degree was only for a duration of one year, as compared to the two year duration of a corresponding degree from a recognized Indian University, the former could not be granted an equivalence certificate. It is necessary to note here that the respondent No.2 vide letter dated August 01, 2011, also informed the respondent No.1 that it was an admission-giving university's prerogative to decide the issue of her admission as per their own rules and regulations. During the pendency of the W.P. (C) 5285/2011 before this Court, Jawaharlal Nehru University granted admission to the respondent No.1. The respondent No.1 withdrew the said writ petition, without any adjudication of her claim. During the course of her M.Phil degree at JNU, the respondent No.1 submitted her online application form for the NET conducted by the

appellant herein. As the eligibility included a candidate, who was yet to appear for his / her qualifying Master's degree examination, the respondent No.1 appeared for the NET on December 30, 2012. As per notification dated March 25, 2013, vide which the results of the NET were declared, the respondent No.1 passed the NET. The notification dated March 25, 2013 also contained a note that a candidate was liable to be disqualified even after the declaration of the result, if any ineligibility was subsequently detected. The respondent No.1 successfully obtained her M.Phil degree on August 06, 2014 from JNU and submitted her documents to the respondent No.1 vide her letter dated August 31, 2014. However, she was not given a certificate for having qualified the NET and, instead, the issue of equivalence of the subject degree was referred to the respondent No.2. In turn, the respondent No.2, vide its letter dated September 29, 2015, informed the appellant that the Subject Degree was not equivalent to a Master's degree from a recognized Indian University as the former was only for a duration of one year, as compared to the two years duration of a corresponding degree from a recognised Indian university.

4. It is in this background that the order dated November 19, 2015, impugned in the writ petition, was issued by the appellant. The learned

Single Judge in the impugned order has rejected the contention made on behalf of the respondent No.1 that the degree should be considered as a valid qualification for NET.

5. Insofar as the alternative plea raised on behalf of the respondent No.1 that she is eligible for appearing in the NET on the basis of her M.Phil degree obtained from JNU on August 06, 2014 is concerned, the learned Single Judge in paras 30 and 31 has held as under:

“30. Having arrived at the conclusion that the Petitioner’s M.Phil degree made her eligible for the NET, the only other contention raised by the learned counsel for the Respondent No. 1, that the Petitioner’s M.Phil degree could not be considered since it had been obtained only much after the closing date of 22.11.2012 for submitting applications to UGC-NET (December 2012), i.e. on 06.08.2014, needs to be considered. Clause 3(iv) of the Eligibility Notification specifically includes not only candidates who have appeared or whose exams have been delayed but also those who will be appearing at the qualifying master’s (final year) examination with the only rider that such candidates must complete their degrees within 2 years from the date of the NET result with the prescribed percentage of marks. The Petitioner was admittedly a M.Phil student when she applied for the NET, the result whereof was declared on 25.03.2013, and had admittedly obtained a valid M.Phil degree on 06.08.2014, i.e. within the two-year period prescribed under Clause 3(iv). There is, thus, no reason as to why the Petitioner’s M.Phil degree should be ignored, when she had obtained the same within the time provided for in the Eligibility Notification itself.

31. In my considered view the Petitioner, who has been described as a meritorious student both by Jawaharlal Nehru University and the University of Leeds and has already

obtained a M.Phil degree, is being arbitrarily denied the fruits of the NET, which she has duly qualified.”

6. Mr. V. Sudeer, learned counsel appearing for the appellant submits that a very important question arises for consideration inasmuch as whether one year Master's degree can be treated as equivalent to a two year master's degree offered by the Indian universities. According to him, the answer has to be in the negative. He further states, if conclusion to the contrary is allowed to stand, it will have far reaching consequences.

7. That apart, it is submission of Mr. V. Sudeer that on the date when the respondent No.1 appeared in NET on December 30, 2012, she did not have the eligibility qualification for the same. She obtained the eligibility qualification of M.Phil only in the year 2014. In fact, it is his submission that the respondent No.1's Master's qualification not being equivalent to an Indian master's degree, could not have been granted admission to the M.Phil. programme. It is his submission looking from any angle, the respondent No.1 was not eligible for M.Phil as well as the NET.

8. We note that the respondent No.2 Association of Indian Universities vide its letter dated August 01, 2011 had informed the respondent No.1 that it was the admission giving universities prerogative to decide the issue of her admission as per their own rules and regulations. The Association of

Indian Universities having said so, and the respondent No.1 having got the admission in M.Phil, it does not lie in the mouth of the University Grants Commission to contest the admission of the respondent No.1 to M.Phil.

9. Insofar as the alternative plea made on behalf of the respondent No.1 that she was eligible for appearing in NET on the basis of M.Phil degree obtained from the JNU on August 06, 2014 is concerned the learned Single Judge was of the view that the M.Phil is a higher qualification than Master's degree and, therefore, the respondent No.1's M.Phil from JNU, which is admittedly duly recognised Indian university is higher qualification than Master's degree cannot not be ignored. In other words, if a Master's degree is the minimum eligibility qualification for the NET then the candidate with higher qualification degree can be also eligible for the NET.

10. As noted above, the learned Single Judge had also described the respondent No.1 as a meritorious student and having obtained a M.Phil degree, is being arbitrarily denied the fruits of the same. This Court does not find the reasoning as perverse to interfere in the alternative conclusion arrived at by the learned Single Judge to set aside the letter of the appellant herein, cancelling the NET on the ground that she did not fulfil the eligibility for the same in the peculiar facts of this case. We leave the

question of law open to be decided in a more appropriate case.

The appeal is accordingly rejected.

CM No. 34469/2018 (for stay)

Dismissed as infructuous.

CHIEF JUSTICE

V. KAMESWAR RAO, J

AUGUST 27, 2018/aky