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

Reserved on -14.03.2018.

Date of Decision - 06.04.2018.

+ W.P.(C) 5039/2017 & CM No.21684/2017 (for stay)
DIKSHA LAMBA Petitioner
Through Mr.Ilam Paridi, Adv.

versus

UNIVERSITY GRANTS COMMISSION & ORS

..... Respondent
Through Mr.Ravinder Agarwal, Adv for
R-1.
Mr.B.S.Rana, Adv for R-2.
Mr.Amit Bansal, Adv for R-3.

CORAM:
HON'BLE MS. JUSTICE REKHA PALLI

JUDGMENT

REKHA PALLI, J

1. Vide the present writ petition under Articles 226 and 227 of the Constitution of India, the Petitioner has sought quashing of letter dated 19.11.2015 issued by the Respondent No. 1/University Grants Commission (hereinafter referred to as the "Impugned Letter"), whereby the Petitioner was informed that her result of the National Eligibility Test (hereinafter referred to as "NET") held on 30.12.2012 was cancelled after three years, on the ground that she did not fulfill the eligibility criteria for the said examination, since her Master's degree from the University of Leeds was not equivalent to a

corresponding degree from a recognized Indian university as per the rules of the Respondent No. 2/Association of Indian Universities.

2. The facts, as emerge from the record, that are relevant for the determination of the present petition need to be noticed. The Petitioner, after acquiring a 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, United Kingdom (hereinafter referred to as the "Subject Degree") in the year 2009. Thereafter, the Petitioner, desirous of pursuing her academic career further, applied for admission to the M.Phil programs of Jawaharlal Nehru University and Jamia Milia University. The Petitioner was provisionally accepted for admission in both Universities, subject to her clearing the entrance exams and interviews respectively. The Petitioner cleared the entrance exams and interviews of both Jawaharlal Nehru University and Jamia Milia University. However, when the Petitioner approached Jamia Milia University 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 recognized Indian university.

3. Aggrieved by the decision of Jamia Milia University to not grant her admission, in spite of her having qualified the entrance examination and interview, the Petitioner approached this Court by way of *CWP No. 5285/2011*. Vide an interim order dated 29.07.2011, this Court issued notice in the petition and allowed the Petitioner to deposit, subject to the outcome of the writ petition. In the meanwhile,

the Petitioner also approached the Respondent No. 2 for an equivalence certificate with regard to the Subject Degree. The Respondent No. 2 informed the Petitioner that, since the 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 by Respondent No. 2 due its deficiency in terms of duration. However, vide its letter dated 01.08.2011, the Respondent No. 2 also informed the Petitioner that it was the admission-giving university's prerogative to decide the issue of her admission as per their own rules and regulations. Essentially, this letter allowed the admission-giving university to decide the issue of the equivalence of the Subject Degree, as per their own rules and regulations. During the pendency of *CWP No. 5285/2011* before this Court, Jawaharlal Nehru University granted admission to the Petitioner. Therefore, the Petitioner withdrew the said writ petition, without there being any adjudication on her claim of equivalence of the Subject Degree.

4. During the course of her M.Phil degree at Jawaharlal Nehru University, the Petitioner submitted her online application form for the NET conducted by the Respondent No. 1. At this stage, it may be noticed that as per the Respondent No. 1's notification regarding eligibility for the NET (hereinafter referred to as the "Eligibility Notification"), a candidate who was yet to appear for his/her qualifying master's degree examination, was also eligible to apply for the NET, but such a candidate would become eligible for Lectureship only after passing the master's degree examination within two years

from the date of the NET result with the requisite marks. The Eligibility Notification also contained a caution that it was the responsibility of the candidates with degrees from foreign universities, to ascertain the equivalence of their qualification from the Respondent No. 2. Clauses 3(ii) and 3(vi) of the Eligibility Notification, read as under:

*“3(ii) Candidates who have appeared **OR** will be appearing at the qualifying Master’s degree (final year) examination and whose result is still awaited **OR** candidates whose qualifying examinations have been delayed may also apply for this Test. However, such candidates will be admitted provisionally and shall be considered eligible for award of JRF/Lectureship eligibility only after they have passed their Master’s degree examination or equivalent with at least 55% marks (50% marks in case of SC/ST/PWD (**Persons with disability**) category candidates). Such candidates must complete their P.G. degree examination within two years from the date of NET result with required percentage of marks, failing which they shall be treated as disqualified.”*

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“3(vi) Candidates with post-graduate diploma/certificate course(s) or foreign degree/diploma should in their own interest, ascertain the equivalence of their course(s) with Master’s degree of recognized Indian universities from Association of Indian Universities (AIU), New Delhi.”

5. While the Petitioner claims that she was eligible for the NET, the Respondents urge that she was always aware that her candidature was only provisional, and the mere fact that an Admission Card had been issued to her or that she had been allowed to appear in the examination, did not imply that the Respondent No. 1 had accepted

her candidature. At this stage, it will be useful to refer to Clause 12(ii) of the Eligibility Notification, which reads as under:-

“12(ii) It may be noted that candidates will not be issued the Admission Card by the respective NET Coordinating Universities/Colleges. Candidates should note that their candidature is strictly provisional. The mere fact that Admission Card has been issued at the time of online registration and the candidate is allowed to appear in the test shall not imply that the Commission has finally accepted his/her candidature.”

6. The Petitioner appeared for the NET on 30.12.2012. As per notification dated 25.03.2013, vide which the results of the NET were declared, the Petitioner passed the NET. The notification dated 25.03.2013 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 relevant clause of the said notification reads as under:-

“4. In the event of any information being found false or incorrect in the Application Form/OMR Sheet/Answer Script or detection of any ineligibility, the candidate is liable to be disqualified even after the declaration of this result.”

7. The Petitioner successfully obtained her M.Phil degree on 06.08.2014 from Jawaharlal Nehru University and submitted her documents to the Respondent No. 1 vide her letter dated 31.08.2014. 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 29.09.2015, informed the Respondent No. 1 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-year duration of a corresponding degree from a recognized Indian university, and therefore, due to the former's deficiency in terms of duration, the two could not be equated.

8. Consequently, vide the Impugned Letter, the Respondent No. 1 declared the Petitioner as disqualified from the NET held on 30.12.2012, on the ground that she was ineligible for the examination. The Petitioner claims to have learnt about the Impugned Letter only in May 2017, when she had approached the NET Bureau for the issuance of a NET Certificate, which she needed in order to submit her application for the appointment of regular lecturers/assistant professors in Respondent No. 3/Delhi University.

9. Aggrieved by the Impugned Letter, the Petitioner has preferred the present petition with a prayer to quash the same and for issuance of a direction to the Respondent No. 3 to consider and accept her application forms with the online result of her NET.

10. Arguing for the Petitioner, Ms. Gokhale submits that the action of the Respondent No. 1 in treating the Petitioner as ineligible only on the opinion given by the Respondent No. 2 is wholly arbitrary and illegal. She submits that the Respondent No. 2, which is a society registered under the Societies Registration Act, 1860, is merely a private body and its membership is open and voluntary. She, therefore, contends that all the universities in India are not compelled to become members of the Respondent No. 2.

11. The learned counsel for the Petitioner further submits that, since the Respondent No. 2 is neither a regulatory nor statutory body, it does not have the power to accord or certify the equivalence of degrees. She contends that, even otherwise, any restrictions or certifications granted by the Respondent No. 2 are not binding and places reliance on the Respondent No. 2's letter dated 01.08.2011 to the Petitioner, wherein it categorically stated that it had no objections to the issue of the equivalence of the Subject Degree being resolved by the admission granting university as per their own rules and regulations. She, therefore, contends that the refusal of the Respondent No. 2 to certify the equivalence of degrees is not mandatory or binding in any way on Respondent No. 1 and such a refusal on the part of Respondent No. 2 cannot be a ground to deny the Petitioner any educational/qualification or job opportunities.

12. Ms. Gokhale contends that the Respondent No. 1, which is a statutory body, does not have the power to certify or recognize the equivalence of degrees. There is nothing in the University Grants Commission Act, 1956 (hereinafter referred to as the "UGC Act") or the notifications issued by the Respondent No. 1 that provides for the equivalence of degrees. However, even if it were to be assumed that Respondent No. 1 has the power to certify or recognize the equivalence of degrees, it cannot delegate such powers to any private body such as the Respondent No. 2.

13. Without prejudice to her aforesaid plea, Ms. Gokhale further contends that, even if the Subject Degree could not be treated as a valid qualification for issuance of the NET certificate, due to non-

grant of an equivalence certificate by the Respondent No. 2, the Petitioner's M.Phil degree from Jawaharlal Nehru University was enough to qualify her for a NET certificate. To buttress her argument, Ms. Gokhale draws my attention to Section 22(3) of the UGC Act. As per Sections 22(1) and 22(2) of the UGC Act, the right to confer degrees vests only with:

- a. Universities established under a Central Act;
- b. Universities established under a Provincial Act;
- c. Universities established under a State Act;
- d. an institution deemed to be a University under section 3 of the UGC Act; or
- e. an institution specially empowered by an Act of Parliament to confer or grant degrees.

14. As per Section 22(3) of the UGC Act, “degree” means “any such degree as may, with the previous approval of the Central Government, be specified in this behalf by the [University Grants Commission] by notification in the official Gazette.” The learned counsel for the Petitioner then draws my attention to notification dated 01.12.1958 of the Respondent No. 1, which specifies the degrees for the purposes of Section 22(3). As per the said notification, an M.Phil degree is a master’s degree. Referring to a subsequent notification dated 05.07.2014, which was relied upon by Respondent No. 1 and which supersedes all earlier Gazette notifications pertaining to the specifications of degrees, Ms. Gokhale contends that the subsequent notification does not state that an M.Phil degree is not a Master’s degree but merely specifies the nomenclature of degrees and the entry

level qualifications for the same. She further contends that in any event, once the Petitioner possesses a valid higher degree of M.Phil from a duly recognized University such as Jawaharlal Nehru University, the Petitioner was eligible for a NET certificate on the basis of such higher degree.

15. Learned counsel for the Petitioner places reliance on the decision of the Supreme Court in the case of *Tariq Isllam v. Aligarh Muslim University & Ors.* [(2001) 8 SCC 546] to contend that, once Jawaharlal Nehru University had duly considered the equivalence of the Subject Degree while granting admission to the Petitioner in its M.Phil degree program, which M.Phil degree is admittedly valid even as per Respondent No. 1 itself, the Respondents are estopped from contending at this stage that she does not hold the valid qualification for the NET.

16. The learned counsel for the Petitioner submits that the Eligibility Notification allows those candidates to appear for the NET who will be appearing for a master's degree. As per Clause 3(ii) of the said notification, such candidates shall be eligible for award of lectureship only after passing the master's degree exam within two years from the declaration of the NET result. Therefore, she contends that, in view of the fact that the Petitioner had admittedly commenced her M.Phil degree in 2011, passed the NET on 30.12.2012 and completed her M.Phil degree on 06.08.2014, the Petitioner duly fulfilled all the requisite conditions for the grant of a NET certificate.

17. On the other hand, the present petition is vehemently opposed by the Respondent No. 1. Learned counsel for the Respondent No. 1

submits that the scheme of the NET and the minimum eligibility conditions for the examination were duly notified by the Respondent No. 1 on its website and as per Clause 3(vi) of the Eligibility Notification, it was incumbent upon the candidates with foreign post-graduate degrees to ascertain the equivalence of their respective degrees with a master's degree of a recognized Indian university, as per the rules and regulations of the Respondent No. 2. He also places reliance on Clause 12 of the Eligibility Notification, according to which it was incumbent upon the candidates to check their eligibility for the examination before filling and submitting the online application for the NET and wherein it was clearly stipulated that a candidate's candidature was only provisional, and that the mere issuance of an admission card at the time of online registration or that the candidate was allowed to appear in the exam, would not ipso facto imply that the Respondent No. 1 had accepted his/her candidature.

18. Mr. Agarwal further submits that as per Clause 4 of the Respondent No. 1's notification dated 25.03.2013, whereby the results of the NET examination held on 30.12.2012 were declared, the declaration of the examination result of a candidate did not preclude a candidate's subsequent disqualification if he/she was found to be ineligible for the NET examination. Mr. Agarwal, thus, contends that the Petitioner did not meet the eligibility criteria for the NET, since the Subject Degree was not equivalent to a master's degree from a recognized Indian university as per the rules and regulations of the Respondent No. 2 and, therefore, the Respondent No. 1's disqualification of the Petitioner's candidature cannot be faulted.

19. Mr. Agarwal further contends that the Petitioner had notice of the terms and conditions of the examination before taking the same and, therefore, she cannot be permitted to argue anything contrary to the terms and conditions of the examination after having taken the same with complete knowledge of the exam notification and its eligibility criteria.

20. Mr. Agarwal also submits that the Petitioner's contention, that she is eligible for the NET on the basis of her M.Phil, is wholly misconceived, since, as per the gazette notification dated 05.07.2014 of the Respondent No. 1, a M.Phil degree is not a master's degree but a pre-doctoral degree that requires a master's degree at the entry-level.

21. Having heard the learned counsels for the parties and having considered their rival contentions, I find that the Petitioner has basically raised two contentions. The Petitioner's first contention is that, since she has obtained the Subject Degree from the University of Leeds, which is admittedly a University duly accredited and recognized by the Respondent No. 1, the Subject Degree cannot be held as an invalid qualification for appearing in the NET merely because the Respondent No. 2, which is a private society, has opined that it is not equivalent to a corresponding degree from a recognized Indian University.

22. The Petitioner's alternate plea is that, since she had obtained a M.Phil degree from a recognized Indian University, i.e. Jawaharlal Nehru University, she was qualified on the strength of that M.Phil degree, which was a master's degree as per notification dated 01.12.1958 issued by the Respondent No. 1 under

Section 22(3) of the UGC Act and was treated as a pre-doctoral level qualification as per the subsequent notification dated 05.07.2014, to appear for the NET.

23. Having given my thoughtful consideration to the rival contentions of the learned counsel for the parties, I am of the considered view that there is merit in the plea raised by the learned counsel for the Respondent No. 1 that the Subject Degree could not be treated as valid qualification for NET, until it was certified by the Respondent No. 2 as equivalent to a corresponding degree from a recognized Indian University. The Eligibility Notification having specifically laid down this condition in Clause 3(vi), the Petitioner cannot contend that the Subject Degree should be treated as valid by ignoring the opinion of the Respondent No. 2, merely because it is a private body. It is a well settled legal position that a condition in the notification is binding on a candidate, who participates in an examination process pursuant to the notification without any demur or protect against the conditions in the notification.

24. In this regard, reference may be made to the observations of the Kerala High Court in the case of *University Grants Commission v. Anand J Illickan* [WA No. 847/2015], of the Patna High Court in *Manoj Kumar v. Union of India & Ors.* [CWJ No. 19107/2015] and of this Court in the case of *Stuti Saxena v. University Grants Commission* [W.P.(C) 6923/2009], on which reliance has been placed by the learned counsel for the Respondent No. 1, to contend that the Petitioner was bound by the terms and conditions stipulated in the

Eligibility Notification, including Clause 3(vi), especially when the Petitioner applied for the NET only pursuant to the said notification.

The relevant paragraphs of the decision of the Patna High Court in **Manoj Kumar** (*supra*), wherein the Court agreed with the view taken by the Division Bench of the Kerala High Court in **Anand J Illickan** (*supra*), are reproduced hereinbelow:-

“16. The Division Bench answered the issue, so framed, in paragraph 45, holding that Association of Indian Universities is a body, which is entitled to declare equivalence for appearing in National Eligibility Test (hereinafter referred to as „N.E.T.“), which is contemplated in the notification issued by the U.G.C.. Such authority to grant equivalence by the A.I.U. is statutorily recognized by the UGC Regulations on Minimum Qualifications for Appointment of Teachers and Other Academic Staff in Universities and Colleges and Measures for the Maintenance of Standards in Higher Education, 2010. The Division Bench took note of the stand of the A.I.C.T.E. that A.I.C.T.E. accepts the opinion of A.I.U. regarding diploma and degree and, therefore, there was no need to examine the entitlement of A.I.C.T.E. to grant equivalence of post-graduate diploma.

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21. The Regulation, as quoted above, and the requirement in the notification for holding U.G.C.-N.E.T., June, 2013, makes it clear that the U.G.C. desired and notified that prospecting candidate must ascertain equivalence of their courses with the Masters Degree of recognized Universities from A.I.U. In any event, that was the condition notified in the notification of U.G.C.-N.E.T., June, 2013. In my view, the petitioner cannot question the eligibility conditions prescribed in the notification after having participated

for the test. In my view, he is estopped from raising any plea against requirement of sub-Clause (vi) of Clause 3 of notification for U.G.C.-N.E.T., June, 2013. I am further of the view that no distinction can be made, for the purpose of determining equivalence of P.G. Diploma qualification with P.G. Degree qualification, on the basis of Institution being own-managed and maintained by the State Government/Union Government or otherwise. The Regulations, governing the field, do not carve out any exception or create such distinction. Submission made on behalf of the petitioner, in this regard, is not tenable.

22. I am in agreement with the view taken by a Division Bench of Kerala High Court in case of Anand J. Illickan (supra), wherein, the status and role of the A.I.U., in the matter of its authority to declare equivalence of PostGraduate Diploma with Post-Graduate Degree, has been elaborately dealt. I have no hesitation in recording my conclusion that requirement of declaration by A.I.U., for the purpose of equivalence of P.G. Diploma qualification with P.G. Degree, is statutory in character, since the said requirement has been incorporated in the statutory Regulation framed in exercise of power under Section 26 of the University Grants Commission Act, 1956. Consequently, the P.G. Diploma (P.M.I.R.) qualification of the petitioner cannot be held to be equivalent to P.G. Degree.”

In the case of **Stuti Saxena** (supra), this Court held as follows:-

“6. The petitioner claims to have done her graduation from Miranda House College of the University of Delhi; the petitioner claims to have thereafter done the Post Graduate Diploma in Business Management (PGDBM) course from the respondent No.5-Jaipuria Institute of Management, Lucknow, Uttar Pradesh; the petitioner thereafter appeared in the National Eligibility Test (NET) conducted by the UGC held on

17th December, 2006; only Post Graduates or holders of Diplomas equivalent to Post Graduation are eligible to appear in the said test; the petitioner appeared in the said test on the premise that the PGDBM Diploma of the respondent No.5-Jaipuria Institute of Management was equivalent to Post Graduation; UGC, however, referred the said question to the respondent No.3-Association of Indian Universities who did not find the PGDBM Diploma obtained by the petitioner from the respondent No.5- Jaipuria Institute of Management to be equivalent to Post Graduation. Accordingly, the petitioner was disqualified from the NET otherwise cleared by her. Aggrieved therefrom, the present petition has been filed for issuing mandamus to UGC and Association of Indian Universities to recognize the PGDBM Diploma of respondent No.5- Jaipuria Institute of Management as equivalent to Post Graduation and for the relief of declaration of the petitioner as qualified in NET.

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10. The counsel for the UGC and AICTE has otherwise contended that the Association of Indian Universities though a Society but being controlled by the Government is fully equipped to go into the question of equivalence; that without the respondent No.5-Jaipuria Institute of Management evidencing any interest even to have its PGDBM course recognized as equivalent to Post-Graduation or MBA, no enquiry in that regard can be conducted. It is further informed that the said enquiry entails detailed investigation into the course content and for which the assistance of the Institute is necessary.

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12. The petitioner cannot be permitted to fight a proxy battle for Jaipuria Institute of Management. In a petition filed by the petitioner, this Court cannot direct the UGC or Association of Indian Universities to, without participation of the respondent No.5-Jaipuria

Institute of Management enquire into equivalence of the said course of the respondent No.5-Jaipuria Institute of Management.”

25. Thus the Petitioner's first contention, that the Subject Degree should be considered as a valid qualification for NET, cannot be sustained. At this stage, I may examine the alternative plea raised on behalf of the Petitioner that she is eligible for appearing in the NET on the basis of her M.Phil degree obtained from Jawaharlal Nehru University on 06.08.2014.

26. For deciding whether the Petitioner's M.Phil degree made her eligible for the NET, it would be appropriate to refer to both the notifications dated 01.12.1958 and 04.07.2014, the relevant portions whereof read as under:-

Notification dated 01.12.1958:-

<i>Bachelor's Degree</i>	<i>Master's Degree</i>	<i>Doctorate Degree</i>
<i>1 to 7 xxx</i>	<i>xxx</i>	<i>xxx</i>
<i>8. Bachelor of Law or Laws (LL.B.)</i>	<i>Master of Philosophy (M.Phil)</i>	<i>Doctor of Hygiene (D.HV.)</i>

Notification dated 04.07.2014

	Universal/Common to all Disciplines				
	Specified Degree		Level	Minimum Duration (years)	Entry Qualification
	Abbreviated	Expanded			
1.	D.Litt	Doctor of Literature	Post Doctoral		Ph.D.
2.	D.Sc	Doctor of Science	Post Doctoral		Ph.D.
3.	L.L.D.	Doctor of	Post	2	Ph.D.

		Laws	Doctoral		
4.	Ph.D./D.Phil	Master of Philosophy	Doctoral	2	MASTER'S
5.	M.Phil	Master of Philosophy	Pre Doctoral	1-1/2	MASTER'S

27. On a combined reading of the aforesaid notifications, there is no doubt about the fact that, while the M.Phil degree was considered as a master's degree as per notification dated 01.12.1958, as per notification dated 05.07.2014 it is now considered as a pre-doctoral level degree, for which the minimum qualification is a Master's degree. Thus, under the subsequent notification dated 05.07.2014, a candidate must have a master's degree to acquire a M.Phil degree. Since a master's degree is an essential qualification to obtain a M.Phil degree, it is obvious that a M.Phil degree is a higher qualification than a master's degree. Therefore, the Petitioner's M.Phil degree from Jawaharlal Nehru University, which is admittedly a duly recognized Indian university, is a higher qualification than a master's degree and cannot be ignored. If a master's degree is the minimum eligibility qualification for the NET, then a candidate with a higher qualification degree would also be eligible for the NET. Therefore, in my considered opinion, the Petitioner's M.Phil degree, which is a higher qualification than a master's degree, made her eligible for the NET.

28. In my considered opinion, once Jawaharlal Nehru University had accepted the Subject Degree as valid for granting admission to the Petitioner in its M.Phil program, it was not open for Respondent No. 1 to once again get into the question of equivalence of the Subject

Degree by ignoring the Petitioner's M.Phil degree. At this stage, it may also be relevant to refer to Respondent No. 2's letter dated 01.08.2011 to the Petitioner, informing her that at the time of seeking admission in M.Phil programs, it had no objection if her case of higher studies was decided by the admission-giving University as per their own rules and regulations. The relevant extract of the aforesaid letter dated 01.08.2011 reads as under:-

“Keeping in mind the above policy, AIU do not issues Equivalence Certificates in such cases as they are deficient in terms of duration. However, your case of higher studies will be decided by the Admission giving University as per their existing Rules and Regulations.”

29. Reference may also be made to paragraph 8 of the decision of the Hon'ble Supreme Court in the case of *Tariq Isllam (supra)*:-

“8. In the present case, the High Court has merely relied upon a book published as equivalence of foreign degrees by the Association of Indian Universities and places its interpretation that the B.A.(Hons) degree possessed by the appellant is not equivalent to Masters degree of the Aligarh University and, therefore, the appellant lacks essential qualification for appointment as the Lecturer. The contents of the publication, apart from the Book itself, cannot be ascribed with any official sanctity of binding force or authority. The glaring facts arising in this case have not been taken note of by the High Court. The appellant had already obtained M.Phil. and Ph.D. degrees from the respondent University. At the time of his admission to M.Phil. leading to Ph.D. course in the Department of Philosophy, the question of equivalence in qualification was examined in detail and the Academic Council approved his admission to M.Phil. or Ph.D. course. In the event his qualification of B.A.(Hons) degree from the Council of National Academic Awards is not equivalent to Masters degree, he could not have been admitted to M.Phil. leading to Ph.D. course. But to say that such acceptance of such

equivalence is only for the purpose of admission to M.Phil. leading to Ph.D. course and not for other purposes will lead to anomalous results. Equivalence of qualification has to be determined before a person is allowed to undergo a course. When the appellant as a result of such admission obtained such high qualifications as M.Phil./Ph.D., it is difficult to imagine that the equivalence of qualification obtained by him earlier was not considered by the University. After having obtained such degrees to nullify the equivalence declared by the Academic Council and the Vice Chancellor will be to put the clock back causing grave injustice to the appellant. Had he been denied admission on the ground that his qualification is not equivalent to the Masters degree, he might have obtained an equivalent qualification or pursued his studies else where. That opportunity having been deprived to him and his admission to such courses having been ratified based on the recommendations of the equivalence committee, it cannot be nullified in the manner it has been done.”

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.

32. It may also be noted that Respondent Nos. 2 and 3 have not taken any independent stand in response to the petition and have merely stated that it is for the Respondent No. 1 to determine the Petitioner's eligibility for the NET.

33. The writ petition is liable to succeed and the Impugned Letter is quashed. The Respondent No. 1 is directed to forthwith issue the NET certificate to the Petitioner and Respondent No. 3 is directed to process the Petitioner's pending application for lectureship by considering her NET result.

34. The petition is allowed in the aforesaid terms with no order as to costs. The pending application stands disposed of.

(REKHA PALLI)
JUDGE

APRIL 06, 2018
sr/ss