

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

REVIEW PETITION NO. 38 OF 2019

IN

WRIT PETITION NO.14344 OF 2016

All India Council for Technical Education

Through its Regional Officer

...Applicant/Petitioner

(Original Respondent No.4)

vs.

Medha Bharat Petkar

(Smt. Medharani @ Abhijita Bhanudas

Vanarase) And Ors.

...Respondents

WITH

REVIEW PETITION NO. 39 OF 2019

IN

WRIT PETITION NO.398 OF 2017

All India Council for Technical Education

Through its Regional Officer

...Applicant/Petitioner

(Original Respondent No.4)

vs.

Rajesh Mohanrao Gudmalwar And Ors.

...Respondents

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Mr. Abhijeet A. Joshi, for the Review Petitioner.

Mr. C.G. Gavnekar, a/w. Mr. Ashutosh C. Gavnekar, for Respondent No.1.

Mr. Amit B. Borkar, for Respondent No.3.

Ms. Geeta P. Sonawane, AAGP, for Respondent No.5.

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CORAM : S.C. GUPTE, J.

DATED: 9 APRIL, 2019

P.C. :

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These two review petitions, filed by original Respondent

No.4 - All India Council for Technical Education (“AICTE”) through its Regional Officer and Deputy Director, seek review of an order passed on 16 July 2018 on two separate writ petitions filed by the Respondents (Respondents No.1) to the review petitions.

2. The controversy concerns directions given by the University and College Tribunal, Pune University (“Tribunal”) in the respective appeals of the Respondents for moving AICTE seeking directions on equivalence of the degrees of the Respondents to a Bachelor's Degree in Bio-Tech. Engineering by a University. The Respondents hold Master's Degree in Bio-technology and Microbiology (both Applied Biological Sciences), which are considered as equivalent degrees and have also passed NET. Based on these qualifications, they were appointed as lecturers in Bio-technology Engineering in the Engineering College of Kolhapur Institute of Technology (represented by Respondent Nos. 2 and 3 to the review petitions). The qualifications prescribed in the advertisement, in response to which the Respondents applied for the post of lecturers, included a Bachelor's Degree in Bio-Tech. Engineering or its equivalent as prescribed by Shivaji University. The Respondents appeared for interviews before a selection committee and were duly selected to the posts of lecturer and issued appointment orders. The appointments were on probation for two years. The University had granted temporary approval to these appointments. It was the Respondent-teachers' case that after completion of their respective probations, when they were due to become permanent, their performances being considered very good, their services were terminated by the Institute on account of the University having withdrawn its

approval. The approval was withdrawn purportedly on the ground that their degrees were not equivalent to the Bachelor's Degree in Engineering by a University as per AICTE norms and hence, they did not qualify for the posts. Being aggrieved, the Respondent-teachers filed appeals before the Tribunal.

3. On the question of equivalence of their degrees, the Tribunal came to a categorical conclusion that the teachers' contention that M. Sc. in Bio-technology as well as Microbiology was equivalent to the prescribed qualification for their appointment was supported by the University's own letter dated 2 September 2008 pertaining to equivalence of disciplines. The entry at Sr. No.10 in the chart, titled as Schedule 'A' to the University's letter, read as follows :-

Sr. No.	Discipline	Desired Qualifications	Equivalent Discipline		
			Bachelor Degree	Master Degree	Ph.D.
10.	Biotech. Engg.	As per AICTE norms mentioned in Schedule B where appropriate branch means same branch subject to approval of Govt. of Maharashtra	Bio-Tech. Engg./ Chemical Engg.	Bio-Tech/ Chemical/Bio-Chemical -Engg./Tech./ Applied Biological Sciences.	Any subject related to Bio-Tech /Chemical Engg./ Tech./ Applied Biological Sciences.

The Tribunal observed that from this entry, it appeared that for appointment of teachers in Technical Institutes, Master's Degree in

Applied Sciences was considered equivalent to Bachelor's Degree in Bio-Tech. Engineering, whilst as per the AICTE norms, set out in its circular dated 15 March 2000, Bachelor's Degree in Bio-Tech. Engineering was the required qualification. (The requirement of 'Ph.D. in Applied Sciences' was introduced only later and was not admittedly applicable to the appointments in the present case.) Despite having thus come to a conclusion that the teachers were qualified for their respective appointments in accordance with the University letter, read with the circular for the appointments, the Tribunal observed that the appeals should only partly succeed and that the services of the appellants could not be allowed to be terminated "without getting clarification from the AICTE". The Tribunal, in the premises, directed the Institute to forward the case of the appellants to the University, who, in turn, would move AICTE seeking directions on whether the appellants' qualifications of Master's Degrees in Bio-technology and Applied Sciences, were to be considered equivalent to a Bachelor's Degree in Bio-Tech. Engineering by a University. The teachers challenged the Tribunal's common order requiring such directions of AICTE by filing two separate writ petitions.

4. When the teachers' challenge to the common order passed by the Tribunal (Writ Petition Nos.14344 of 2016 and 398 of 2017) came before this Court for admission, the teachers offered to await the order of AICTE in terms of the directions given by the Tribunal and challenge the order of AICTE as well as the Tribunal, if the order of AICTE was against them. In that view of the matter, the petitions were disposed of as withdrawn with liberty as prayed.

5. The present review petitions have been filed by AICTE taking up a categorical stand that equivalence of degrees for appointment of teachers in a college or university is a matter squarely within the domain of the University and is not to be decided by AICTE. Learned Counsel appearing for AICTE relies on gazetted clarifications regarding qualifications and other matters issued by AICTE by its notification dated 4 January 2016 in this behalf. The executive committee of AICTE has resolved in its meeting of 1 June 2016 that autonomy of institutes needed to be respected and, hence, issues of equivalence of degrees should be decided by board of governors and selection committees of universities as per applicable statutes. The executive committee of AICTE has powers under Section 10 clause (i) of the All India Council for Technical Education Act, 1987 ("AICTE Act") to lay-down norms and standards *inter alia* for staff qualifications. In other words, in pursuance of its powers reserved under clause (i) of Section 10 of the AICTE Act, the executive committee of AICTE has left it to the respective universities to decide on matters such as equivalence of degrees for qualifying for appointments in the respective universities. It is not in dispute that under the applicable statute in the present case, the university has decided the equivalence of the degrees; in keeping with its statute, the university in the present case has issued a circular *inter alia* stipulating Bachelor's Degree in Bio-Tech. Engineering, Chemical Engineering and Master's Degree in Biotechnology and Applied Biological Sciences as equivalent. If that is so, the teachers are indeed duly qualified to be appointed to their respective positions. There is nothing for the AICTE to clarify.

6. In the premises, the order passed by this Court on 16 July 2018 is recalled upon review and the directions contained in para 4 of the operative order of University and College Tribunal, Pune University, are quashed and set aside. In keeping with this order, the words, namely, “till the decision is taken in this respect after getting clarification from the AICTE” appearing in para (2) of the operative order of the Tribunal are also quashed and set aside. So also, the words “considered by the management after getting clarifications from the AICTE” appearing in para (3) of the operative order shall be substituted by the words “duly considered by the Management.”

7. Review Petition Nos. 38 and 39 of 2019 and Writ Petition Nos. 14344 of 2016 and 398 of 2017 are disposed of in terms of this order.

(S.C. GUPTE, J.)