

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

CWP No.23824 of 2013 (O&M)

Date of Decision.10.09.2019

Dr. Lalita

...Petitioner

Vs

Guru Jambheshwar University of Science and Technology, Hisar and others
...Respondents

Present: Ms. Nupur Chaudhary, Advocate
for the petitioner.

Mr. Arvind Seth, Advocate
for respondents No.1 and 2.

Mr. Anurag Goyal, Advocate
for respondent No.3.

Mr. Satbir Mor, Advocate
for respondent No.4.

CORAM:HON'BLE MR. JUSTICE AMIT RAWAL

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AMIT RAWAL J. (ORAL)

Prayer in the present writ petition is for quashing of recruitment process initiated by respondents for filling up posts of Associate Professors in Computer Science and Engineering Department, as per Advertisement No.1 of 2012 and 2013.

Respondent No.1-University caused an advertisement No.1/2012 (Annexure P-1) inviting applications for appointment to various teaching and non-teaching posts including four posts of Associate Professors in the Department of Computer Science and Engineering. Out of four posts, two were reserved for General Category and two for Scheduled Caste Category under the self-financing scheme. However, the aforementioned posts, which were advertised vide advertisement *ibid* were again advertised in the month of June, 2013 vide Advertisement No.1 of

2013 (Annexure P-2). The advertisement envisage that UGC qualification would be applicable for teaching posts. The qualifications and specialization for each post and selection criteria will be posted on the University website. As per UGC Regulations dated 30.06.2010 (Annexure P-3), minimum requirement for the post of Associate Professor in the institutions/Universities imparting technical education/engineering education was Ph.D. degree with first class at Bachelor's or Master's degree in the appropriate branch of engineering and technical and experience of eight years in teaching by excluding the period spent on obtaining the research degree.

Petitioner having possessed Ph.D degree and M.Tech degree in Computer Science and Engineering as well as requisite experience, submitted an application. The Vice Chancellor, respondent No.2 University constituted a committee to devise criteria/weightage for award of marks in the light of criteria proposed by the University Grants Commission for recruitment to the post of Associate Professor, which has been prescribed in Appendix III, Table II of 2010 Regulations. Accordingly framed the criteria vide Annexure P-5 and called the persons for interview but the aforementioned criteria was never formulated as per the UGC guidelines. Petitioner was not made aware of the interview process for the post of Associate Professor and when she approached to respondents, she was told to be ineligible. The action of respondents is in complete violation of latest UGC norms and even candidates, who did not possess eight years of teaching experience excluding the period spent on obtaining research degree, were interviewed. Though in the list of eligible candidates for the purpose of written test, name of petitioner was missing but vide order

passed by this Court in CWP No.13157 of 2013 filed by similarly situated candidates like the petitioner, was allowed to appear in the examination. The entire selection process did not adhere to the UGC Regulations by interviewing the persons with less experience, thus, is violative of Article 14 and 16 of the Constitution of India.

The respondent-University, represented by Mr. Arvind Seth opposed the writ petition and denied allegations in the writ petition that selection process was done in a secret manner. On 10.10.2013, interview letters were issued to all the candidates. Even press note to that effect was also published on 12.10.2013. Petitioner was not found eligible for the post of Associate Professor in Computer Science and Engineering department by the Screening Committee for the reason that she has done her M.Tech from Janardan Rai Nagar Rajasthan Vidyapeeth (deemed University) (for short JRNRVDU), Udaipur through Distance Education Mode, which is not a valid qualification as per the instructions conveyed by the Chief Secretary vide communication dated 21.05.2009 (Annexure R-1). The Hon'ble Supreme Court in **Orissa Lift Irrigation Corporation Vs. Rabi Shankar Patro and others (2018) 1 SCC 468** directed that all degrees in Engineering awarded by the concerned deemed universities stand suspended by giving certain chance to the affected parties by fixing cut off date. Respondent No.3 had been working as Lecturer since 20.08.2004 and applied for the post of Associate Professor in Computer Science and Engineering. In the year 2010 i.e. 28.10.2010 was awarded Ph.D. Degree i.e. during his teaching experience, therefore, did Ph.D. Degree from the Department of Computer Science and Engineering of the University, thus, urges this Court for dismissal of the writ petition.

Similar were arguments of Mr. Anurag Goyal representing the private respondent.

I have heard learned counsel for the parties and appriased the paper book. Concededly, the petitioner is holder of Ph.D. Degree from JRNRVDU, Udaipur through distance education mode. The said degree have not been recognized in view of the judgment rendered by Hon'ble Supreme Court in **Orissa Lift Irrigation Corporation's case** (supra), where in para 53, it has been held as under:-

“53. Accordingly we direct:

I 1994 AICTE Regulations, do apply to Deemed to be Universities and the Deemed to be Universities in the present matter were not justified in introducing any new courses in Technical Education without the approval of AICTE.

II Insofar as candidates enrolled during the Academic Sessions 2001-2005, in the present case the ex post facto approvals granted by UGC and their concerned authorities are set aside.

III Consequent to aforesaid direction No.II, all the degrees in Engineering awarded by concerned Deemed to be Universities stand suspended.

IV The AICTE shall devise the modalities to conduct an appropriate test/tests as indicated in Para 47 above. The option be given to the concerned students whose degrees stand suspended by 15.01.2018 to appear at the test/tests to be conducted in accordance with the directions in Para 47 above. Students be given not more than two chances to clear test/tests and if they do not successfully clear the test/tests within the stipulated time, their degrees shall stand cancelled and all the advantages shall stand withdrawn as stated in Paras 46 and 47 above. The entire expenditure for conducting the test/tests shall be recovered from the concerned Deemed to be Universities by 31.03.2018.

V Those students who do not wish to exercise the option, shall be refunded entire money deposited by them towards tuition fee and other charges within one month of the exercise of such option. Needless to say their degrees shall stand cancelled and all advantages/benefits shall stand withdrawn as mentioned in Para 47.

VI If the students clear the test/tests within the stipulated time, all the advantages/benefits shall be restored to them and their degrees will stand revived fully.

VII As regards students who were admitted after the Academic Sessions 2001-2005, their degrees in Engineering awarded by the concerned Deemed to be Universities through distance education mode stand recalled and be treated as cancelled. All benefits secured by such candidates shall stand withdrawn as indicated in Para 48 above. However, the entire amount paid by such students to the concerned Deemed to be Universities towards tuition fees and other expenditure shall be returned by the concerned Deemed to be Universities by 31.05.2018, as indicated in Para 48.

VIII By 31.05.2018 all the concerned Deemed to be Universities shall refund the sums indicated above in VII and an appropriate affidavit to that extent shall be filed with UGC within a week thereafter.

IX We direct the CBI to carry out thorough investigation into the conduct of the concerned officials who dealt with the matters and went about the granting permissions against the policy statement, as indicated in Para 49 above and into the conduct of institutions who abused their position to advance their commercial interest illegally. Appropriate steps can thereafter be taken after culmination of such investigation.

X The UGC shall also consider whether the Deemed to be University status enjoyed by JRN, AAI, IASE and VMRF calls for any withdrawal and conduct an inquiry in that behalf by 30.06.2018 as indicated above. If the moneys, as directed above are not refunded to the concerned students that factor shall be taken into account while conducting such exercise.

XI We restrain all Deemed to be Universities to carry on any courses in distance education mode from the Academic Session 2018- 2019 onwards unless and until it is permissible to conduct such courses in distance education mode and specific permissions are granted by the concerned statutory/regulatory authorities in respect of each of those courses and unless the off-campus Centres/Study Centres are individually inspected and found adequate by the concerned Statutory Authorities. The approvals have to be course specific.

XII The UGC is further directed to take appropriate steps and implement Section 23 of the UGC Act and restrain Deemed to be Universities from using the word 'University' within one month from today.

XIII The Union of India may constitute a three members Committee comprising of eminent persons who have held high positions in the field of education, investigation, administration or law at national level within one month. The Committee may examine the issues indicated above and suggest a road map for strengthening and setting up of

oversight and regulatory mechanism in the relevant field of higher education and allied issues within six months. The Committee may also suggest oversight mechanism to regulate the Deemed to be Universities. The Union of India may examine the said report and take such action as may be considered appropriate within one month thereafter and file an affidavit in this Court of the action taken on or before August 31, 2018. The matter shall be placed for consideration of this aspect on 11.09.2018.”

In view of such circumstances, action of the respondents in not treating the petitioner to be eligible on such basis cannot be said to be erroneous, *mala fide* or illegal. It is settled law that person, who is ineligible though even participated under the direction of the Court cannot turn around and challenge the criteria already promulgated.

As an upshot of my finding, I am of the view that the writ petition sans merit and accordingly dismissed.

(AMIT RAWAL)
JUDGE

September 10, 2019
Pankaj*

Whether speaking/reasoned Yes

Whether reportable No