

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

**Civil Writ Petition No. 22867 of 2016 (O&M)  
Pronounced On: 27.03.2019**

Vikram Singh

..... Petitioner

**Versus**

Subordinate Service Selection Board, Punjab and others

..... Respondents

**CORAM: HON'BLE MR. JUSTICE JASWANT SINGH**

Present: Mr. R.K. Arora, Advocate  
for the petitioner.

Mr. Navdeep Chhabra, Deputy Advocate General, Punjab  
for official respondent No. 1-S.S.S. Board, Punjab.

Mr. Tarun Vir Singh Lehal, Advocate  
for respondent No. 2-UGC.

Mr. Nikhil Nayyar, Advocate  
Mr. Rajat Khanna, Advocate and  
Mr. Sai Vinod, Advocate  
for respondent No. 3-Sikkim Manipal University.

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**JASWANT SINGH, J.**

1. By instituting the instant petition under Article 226 of the Constitution of India, petitioner who belongs to Scheduled Caste category (Mazhabi and Balmiki), an aspirant for the post of Clerk/Clerk-cum-Data Entry Operator, has sought quashing of select/merit list dated 10.10.2016 **(Annexure P-6)** on the ground that petitioner is a qualified Graduate Degree holder from Sikkim Manipal University, which is duly recognized by University Grant Commission (for short 'UGC') and has been wrongly considered ineligible having acquired his Graduate Degree through Distant Education Mode, thus possessing invalid degree. He claims right of

consideration based on his secured merit for appointment with effect from dates candidate junior in merit in his category has been appointed.

2. Respondent No. 1-Subordinate Service Selection Board, Punjab (for short 'Board') vide Advertisement No. 4 of 2015 dated 27.11.2015 (**Annexure P-1**), invited online applications for recruitment of 556 posts of Clerks and 58 posts of Clerk-cum-Data Entry Operator. The posts of Clerks were subsequently increased to 2715 through different corrigendum. The minimum qualification prescribed for selection and appointment to the post of Clerks/Clerks-cum-Data Entry Operators was as below:

***Educational Qualification (Both for Sr. No. 1 & 2):-***

*(a) Graduation Degree from any recognized University/Institution as per the guidelines/ instructions of the UGC.*

*(b) Punjabi passed up to Matriculation level.*

*(c) Possesses at least one hundred and twenty hours course with hands on experience in the use of Personal computer on Information Technology in office productivity applications or Desktop Publishing applications from Government recognized institution or a reputed institution, which is ISO 9001 certified.*

**OR**

*Possesses a Computer Information Technology Course Equivalent to 'O' level certificate of Department of Electronics Accreditation of Computer Course (DOEACC) of Government of India.*

3. The petitioner applied online for the post of Clerk/Clerk-cum-Data Entry Operator in his S.C. (M&B) category. The Board accepted his application and petitioner appeared for Punjabi and English typing test conducted from 23.05.2016 to 20.06.2016. The petitioner qualified the test

and Board vide public notice dated 28.06.2016 published a provisional merit list. The Board vide notice dated 22.07.2016 declared counselling schedule which was conducted from 26.07.2016 to 19.08.2016. The petitioner appeared in the counselling in terms of category wise schedule, however, Board in final merit list declared on 10.10.2016 did not include name of the petitioner on the ground that he has acquired degree through Distance Education Mode with Examination Centre outside the Territorial Jurisdiction of the University.

4. Counsel for the petitioner submitted that the petitioner has acquired graduation degree from Sikkim Manipal University (for short 'SMU') Gangtok which is a State Private University established by Sikkim Manipal University of Health, Medical and Technological Sciences Act, 1995. SMU is recognised by UGC and all the courses run by University are approved by regulatory bodies like Medical Council of India (MCI), Nursing Council of India (NCI) and Indian Association of Physiotherapy. The petitioner took admission through a centre of the University at Chandigarh and exam in respect of degree was conducted by University in the examination centres established by University in Mohali (Punjab). He acquired Graduation from said University through distance education mode which is duly approved by UGC and all other regulatory bodies so Board has acted in an arbitrary manner while rejecting the candidature of petitioner.

5. Mr. Nikhil Nayyar, Mr. Rajat Khanna and Mr. Sai Vinod, Advocates appeared for respondent-Sikkim Manipal University and argued that SMU is a duly recognised University and Distance Education Council established under Indira Gandhi National Open University Act, 1985 and

had been granted *ex post facto* recognition for courses offered through distance education mode since 2001. The Hon'ble Sikkim High Court vide order dated 29.06.2015 (**Annexure P-11**) in Writ Petition (C) No. 08 of 2015 has clarified that students who were enrolled prior to academic session 2011-12 and having completed degree before or thereafter, stand protected and their degree is valid.

Despite affording sufficient opportunities, respondent No. 1-Board has not filed reply. Accordingly, their defence is ordered to be struck off.

6. Before dwelling into controversy involved, it would be apt to notice few **undisputed** facts and events, as furnished at the time of arguments, relating to establishment, status and approval of courses imparted by Universities including SMU through Distance Education Mode as below:

**01.03.95** Ministry for Human Resource Development ('MHRD') vide Notification No. 44 granted recognition/equivalence to degrees or qualifications obtained through distance education for the purpose of employment to posts and services under the Central Government.

**15.11.95** Sikkim Manipal University ('SMU') was established by virtue of Sikkim Manipal University of Health, Medicine and Technological Sciences Act, 1995. SMU is a unique collaboration between the

Government of Sikkim and the Manipal Education and Medical Group to improve educational opportunities and health services in Sikkim and North-East region.

**28.08.01** Chairman of University Grants Commission ('UGC') informed Sikkim Manipal University that it could **award degrees through Distance Education at their centres in different parts of the country.**

**Feb' 04** The erstwhile Distance Education Council ('DEC'), established under Indira Gandhi National Open University Act, 1985 directed all Centres /Institutions / Directorates offering distance education to get their Degrees/Diplomas/Certificates (Programmes) recognized & approved by DEC and in accordance thereto, SMU submitted an application seeking recognition.

**29.08.07** DEC granted ex post facto recognition to respondent University for courses offered through distance mode since 2001.

**29.08.07** DEC further granted provisional recognition to run courses for the academic year 2007-2008 i.e. Till 28.08.2008.

- 26.11.08** DEC extended provisional recognition for the academic year 2008-09.
- 15.10.09** DEC granted institutional recognition for three academic years i.e. 2009-10 to 2011-12.
- 06.11.09** DEC communicated an approved list of 26 courses permitted to be offered through distance mode.
- 10.03.10** DEC in its 35<sup>th</sup> Meeting discussed the issue of territorial jurisdiction for offering programmes through distance mode, and resolved **“distance education and online education cannot have the Territorial Jurisdiction and it was decided that in case of Central and State Universities, the Territorial Jurisdiction will be as per their Acts and Statutes for offering programmes through distance mode.”**
- 08.06.12** DEC in its 40<sup>th</sup> Meeting overturned its policy on ‘Territorial Jurisdiction’ resolved in 35th meeting. It was resolved that location of study centres of State Universities must be confined to the State Act and in any case not beyond the territorial jurisdiction of the States.

- 10.07.12** respondent-University i.e. SMU filed an application before the DEC seeking renewal of approval for distance programmes.
- 2013** respondent-University i.e. SMU was constrained to file W.P.(C) No. 4 of 2013 before Sikkim High Court as the DEC failed to act on their application seeking continuation of recognition. Furthermore, the University also challenged validity of territorial policy of the DEC resolved during their 40<sup>th</sup> meeting.
- 22.02.13** Sikkim High Court was pleased to issue notice to DEC and further granted an ex-parte interim stay on operation of territorial policy dated 08.06.2012 resolved during 40<sup>th</sup> meeting.
- 04.05.13** DEC was dissolved with immediate effect and thereafter entire regulatory mantle was shifted to the UGC.
- 23.08.13** UGC clarified that a Private University established under a State legislation shall operate ordinarily only within the territorial jurisdiction under its Act and in no case beyond the territory of the State of its location.

**07.11.13** Sikkim High Court confirmed grant of interim orders (dated 22.02.2013 & 19.07.2013) against all respondents until final disposal of the Writ Petition.

**26.06.15** Sikkim High Court upheld validity of the territorial restrictions imposed by virtue of 40<sup>th</sup> meeting held by the DEC (IGNOU), however, protected the validity of degrees who have already undergone the programme prior to 2011-12.

**29.06.15** Sikkim High Court [W.P.(C) No. 8 of 2015] further clarified that the students who were enrolled prior to the academic session 2011-12, having completed the degree before or thereafter, stood protected.

**21.09.15** In a Special Leave Petition [S.L.P.(C) No. 26223 of 2015] filed by UGC, Hon'ble Supreme Court upheld the Final Judgment passed by Sikkim High Court.

**28.09.15** Sikkim High Court directed UGC to upload the Final Judgment dated 26.06.2016 and 29.06.2015 on their official website for wider publicity and public notice.

7. Having scrutinized above admitted sequel of events and hearing arguments of counsel for the parties, especially the UGC and

be allowed.

The conceded position as emerges from record of the case is that the petitioner obtained Bachelor's Degree in Information Technology through Distance Education Mode from SMU during the session 2010-2013. As per judgment dated 29.06.2015 (**P-11**) of Sikkim High Court as upheld by Hon'ble Supreme Court vide order dated 21.09.2015 (**P-12**), students who were enrolled in such courses prior to the academic session 2011-2012 and having completed degree before or thereafter, stand protected and their Degree(s) are valid. The said degree course was duly recognised by Distance Education Council vide its communication dated 06.11.2009.

8. The petitioner cleared Punjabi and English Typing Test and thereafter, appeared for counselling. At this stage no objection was raised by Board, however, name of petitioner was not included in the final merit list. The only ground of rejection of candidature of petitioner is that he has obtained degree through Distance Education Mode. From the afore-stated undisputed facts reproduced in Para 6 coupled with reply of respondent-SMU and judgment passed by Sikkim High Court, which has been upheld by Hon'ble Supreme Court, it is quite evident that students who were enrolled prior to Academic Session 2011-12 and have completed degree before or thereafter, stand protected and their degree(s) are valid. The petitioner was enrolled in the Academic Session of 2010-11 and he obtained Degree through Distance Education Mode in the year of 2013. It is evident that the petitioner was enrolled prior to Academic Session 2011-12 and even though he completed Degree after 2011-12 but he would be fully protected by orders of Sikkim High Court/Supreme Court and his Degree must be considered as valid. Therefore, the action of respondent-Board in treating

the petitioner ineligible for appointment as clerk-data entry operator is declared illegal.

9. In view of aforesaid findings, the present petition deserves to be allowed and **accordingly allowed**. The **respondent-Board** is **directed** to consider the petitioner as eligible candidate and recommend his name for appointment as per secured merit in his reserved category if falling within zone of advertised vacancies within two weeks from the date of receipt of certified copy of this order. The Punjab Government/Department concerned would issue an appointment letter within next four weeks subject to usual/standard terms and conditions, appointing the petitioner as Clerk/Data Entry Operator with effect from his junior in merit list was appointed. It is **further directed** that the petitioner would be entitled to consequential benefits like continuity of service, seniority etc. with effect from the date of such appointment, however, monetary benefits shall be on notional basis.

**March 27th, 2019**

*'dk kamra'*

**( JASWANT SINGH )  
JUDGE**

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|----------------------------------|---------------|
| <i>Whether Speaking/reasoned</i> | <i>Yes/No</i> |
| <i>Whether Reportable</i>        | <i>Yes/No</i> |