

CWP No.29018 of 2019

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

**CWP No.29018 of 2019
Date of decision:04.10.2019**

Hari Om and another ... Petitioners

Vs.

State of Haryana and another ... Respondents

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present:- Ms. Sudeepti Sharma, Advocate
for the petitioners.

AMIT RAWAL J. (Oral)

Notice of motion.

On asking of Court, Mr. Kiran Pal Singh, Assistant Advocate General, Haryana, who is present in Court, accepts notice on behalf of the respondents-State.

Grievance of the petitioners in present case is that they have been appointed as Junior Engineers (Civil), vide appointment letter dated 25.07.2007 after having obtained B.Tech Diploma in Civil Engineering from Deen Bandu Sir Chhotu Ram University of Science and Technology established by Haryana State Government vide Legislative Act No.29 of 2006. However, during the time of job, obtained the sanction from respondent no.2 for doing B.Tech Degree in Civil Engineering Course which was sanctioned vide orders dated 23.08.2011 and 19.07.2011 [Annexure P-2 (colly)]. The petitioners have attended the regular classes and undertaken to complete 04 years B.Tech Degree in Civil Engineering Course and were granted the certificate of Degree in May 2014, Annexure

P-3 (colly). B.Tech Degree in Civil Engineering Course of both the petitioners were added in the seniority list of Civil Engineers vide memo dated 16.02.2015 and 13.02.2015 [Annexures P-4 (colly)]. Owing to the experience and holding of degree, both petitioners were eligible for promotion to the post of Sub Divisional Engineer (Civil) as per Punjab Service of Engineers, Class-II (Public Health) Rules, 1966. The petitioners' service record had been impeccable. However, the respondents initiated the process of promoting juniors to the post of Sub Divisional Engineer. Accordingly, the petitioners submitted representation on which specific decision was sought. The clarification was sought by Engineering-in-Chief, Haryana, PWD (B&R), Branch, Chandigarh from All India Council for Technical Education, New Delhi, vide letter dated 19.02.2018 (Annexure P-11) that there is no need of AICTE approval for doing B.Tech Part Time Course in the University.

Learned counsel appearing on behalf of the petitioners submits that decision on the representation is not only sketchy but sans any reasoning on merit and by relying upon the interim order dated 01.02.2017 passed by this Court in CWP No.1722 of 2017 rejected the representation. The stand of State taken in the subsequent orders and written statement has been extracted in paragraphs 22 and 23 of writ petition.

Learned State Counsel submits that competent authority i.e. Engineering-in-Chief has dealt with representation in most pragmatic and reasonable manner.

I have heard the learned counsel for the parties and appraised the paper book. The impugned order reads as under:-

“To

*The Superintending Engineer,
Public Health Engineering Circle,
Karnal.
Memo No.41496 PH/G-3 dated 16.4.2019*

*Subject:- Representation submitted by Sh.Omkar Singh,
Junior Engineer for promotion of Sub Divisional
Engineer (Civil) in Degree Holder Quota.
Please refer your office memo no.4443 dated
04.04.2019 on the subject noted above.*

*In this regard, it is intimated that Sh. Omkar
Singh, Junior Engineer has possesses B.Tech. Degree from
Deen Bandhu Sir Chotu Ram University of Science and
Technology, Murthal, which has been challenged in the
Hon'ble Court in CWP No.1722 of 2017 in which Hon'ble
Court has passed the following interim order on dated
01.02.2017:-*

*“Contends that the private respondents are ineligible
candidates as they did not possess the minimum
educational qualifications since they have done their
B.Tech. (Civil) degree in a study programme involving
Saturdays & Sundays.*

Notice of motion, returnable by 03.04.2017.

*Meanwhile, the private respondents be not promoted till
further orders.”*

The next date of hearing has been fixed for 23.09.2019.

I have been directed to inform you accordingly and requested the same may be informed to Sh. Omkar Singh, Junior Engineer.

*Superintendent (G)
For Engineer-in-Chief, Haryana.”*

The stand taken in para 3 of written statement in CWP No.1722 of 2017 which had been genesis for rejecting the representation, reads thus:-

“3. That the Chief Secretary, Government of Haryana vide memo no.42/178/2008/5GSI dated 21.05.2009, Technical Education Department i.e. respondent no.5 was notified as Nodal Department to give advice on the issues relating to equivalency aspects of qualifications, recognition of Degree/Diploma Qualifications and recognition of Universities/Institutions in various disciplines covered by Technical Education. Therefore, the office of respondent no.2 i.e. Engineer-in-Chief Public Health Engineering Department, Haryana sought clarification from the Haryana State Board of Technical Education vide memo no.1115-PHE/ET(2) dated 11.03.2011 to inform this department, whether the B.Tech programme weekend classes (Saturday and Sunday) run by Deen Bandhu Sir Chhotu Ram University, Murthal (Sonipat) is valid for appointment/promotion in Haryana Government or not? Is, approval of Joint Committee of UGC-AICTE-DEC is necessary or not in such cases? In response to the query of the

Public Health Engineering Department, the Haryana State Board of Technical Education vide memo no.4481/HSBTE dated 16.06.2011 intimated that the B.Tech Programme weekend classed (Saturday and Sunday) run by Deen Bandhu Sir Chhotu Ram University, Murthal (Sonipat) are valid presuming that the university fulfills the prescribed norms laid by the AICTE. Being a State University offering programs in own campus in regular mode (note in distance mode), the approval of Joint Committee of UGC-DEC-AICTE is not necessary”.

Written statement of respondent no.3 (para 1(ii) in CWP No.1722 of 2017)

“ii) That although the respondent no.3 has no role to play in the consideration and granting of the reliefs sought by the petitioners in the writ petition yet it is submitted that week courses/part time courses referred by the petitioners in the writ petition are not approved by the AICTE. It would further be pertinent to mention here that in accordance with the directions of the Hon'ble Supreme Court of India in the case of Bhartidasan Universities including private University established by the State Legislation do not require prior approval from AICTE for starting faculty courses in Engineering Program. However, Universities, deemed Universities including the Universities established by the State Legislature in parting technical education are required to

comply with the norms and standard prescribed by the AICTE from time to time.”

The contents of letters, Annexures P-10 and P-11 are fortified from the stand of the State. Even in the subsequent order, this Court had an occasion to ponder upon, after having noticed the stand of the University, in the order post notice of motion i.e. 28.09.2017, that the students who have B.Tech Degree had attended 148 classes. The order reads thus:-

“Pursuant to the order dated 29.08.2017, a short affidavit of Sh. B.P. Malik, Dean Academic Affairs, is already on record (dated 18.09.2017), annexing therewith a comparative chart showing the number of classes attended by a regular student in the three year programme, i.e. 171 classes, and the number of classes attended by a weekend programme student, i.e. 148 classes, during the B.Tech. Civil Engineering Regular Programme and B. Tech. Civil Engineering Weekend Programme, respectively. A perusal thereof shows that it has been stated that the regular faculty of the University also taught students of the weekend course, as the classes are taken on Saturdays, Sundays and holidays, and their qualifications were as per the norms of the AICTE.

It is also stated that if any guest faculty was engaged, his/her qualification was also as per AICTE norms.

However, an adjournment slip has been filed on behalf of

learned counsel for the petitioner on the ground that he is unwell.

Adjourned to 27.10.2017.

Interim order to continue till the next date of hearing only and specifically. It is made clear that if the matter is not argued by counsel for the petitioner on the next date of hearing, the interim order shall stand automatically vacated without any further order needed from this Court in that regard.

A copy of the affidavit filed be given to all learned counsel for the petitioners in all these cases, as also to counsel for the State.

A photocopy of this order be placed on the files of the other connected matters.”

I am of the view that respondents should not have passed the order in the manner and mode as indicated above but there should have been application of mind on touchstone of reasonability.

Accordingly, the impugned order is set aside. Writ petition is allowed. The respondents are directed to consider all the aforementioned observations including the stand of petitioner after affording them opportunity of hearing within a period of two months from the date of receipt of certified copy of this order.

October 04, 2019

savita

Whether Speaking/Reasoned

Whether Reportable

(AMIT RAWAL)

JUDGE

Yes/No

Yes/No