

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on	Pronounced on
05.11.2020	24.11.2020

CORAM

THE HONOURABLE MR. JUSTICE M.DHANDAPANI

W.P. NOS.42102 TO 42104, 42106, 42113, 42128, 42264, 42314,
42327,
42443, TO 42446, 42459, 42471, 42472, 42590 TO 42594, 43050
OF 2016

AND

W.P. NOS. 7666 TO 7672 OF 2017

AND

W.M.P. NOS.36015,36016, 36018, 36019, 36021, 36022, 36025,
36036,

36046, 36158, 36221, 36231, 36332, 36334, 36336, 36330,
36349,

36363, 36362, 36519, 36523, 36517, 36521, 36515 & 36896 OF
2016

W.M.P. NOS. 1905 TO 1920, 8384, 8394, 8386, 8390, 8388,
8392, 8396 OF 2017

AND

W.M.P. NO. 8534 OF 2020

1 N.LINGESHWARAN ... PETITIONER in WP No.42102 of 2016
1 T.VAIKUNTA RAJAN ... PETITIONER in WP No.42103 of 2016
1 N.KUMARADHAS ... PETITIONER in WP No.42104 of 2016
1 REJI JEBHAKUMAR ... PETITIONER in WP No.42106 of 2016
1 K.SARAVANAN ... PETITIONER in WP No.42113 of 2016
1 M.MATHIAZHAGAN ... PETITIONER in WP No.42128 of 2016
1 P.RAMAKRISHNAN ... PETITIONER in WP No.42264 of 2016
1 R.SANJAI GANDHI ... PETITIONER in WP No.42314 of 2016
1 S.MOORTHY ... PETITIONER in WP No.42327 of 2016
1 G.SURESH KUMAR ... PETITIONER in WP No.42443 of 2016
1 R.SAM SELVARAJ ... PETITIONER in WP No.42444 of 2016
1 S.RUSSEL RAJ ... PETITIONER in WP No.42445 of 2016

1 S.ASOKAN ... PETITIONER in WP No.42446 of 2016
1 P.S.KUMAR ... PETITIONER in WP No.42459 of 2016
1 M.PRABAHARAN ... PETITIONER in WP No.42471 of 2016
1 P.N.VENKATESWARULU ... PETITIONER in WP No.42472 of 2016
1 N.V.SAJIKUMAR ... PETITIONER in WP No.42590 of 2016
1 P.HARIHARAN ... PETITIONER in WP No.42591 of 2016
1 STEPHEN R ... PETITIONER in WP No.42592 of 2016
1 K.MUTHU ... PETITIONER in WP No.42593 of 2016
1 P.JAGANATHAN ... PETITIONER in WP No.42594 of 2016
1 T.RABI OVERSEER ... PETITIONER in WP No.43050 of 2016
1 N.V.SAJIKUMAR ... PETITIONER in WP No.7666 of 2017
1 REJI JEBHAKUMAR ... PETITIONER in WP No.7667 of 2017
1 STEPHEN.R. ... PETITIONER in WP No.7668 of 2017
1 P.HARIHARAN ... PETITIONER in WP No.7669 of 2017
1 K.MUTHU ... PETITIONER in WP No.7670 of 2017
1 P.JAGANATHAN ... PETITIONER in WP No.7671 of 2017
1 T.RABI ... PETITIONER in WP No.7672 of 2017

Vs.

1 THE STATE OF TAMIL NADU
REP. BY ITS PRINCIPAL SECRETARY MUNICIPAL
ADMINISTRATION & WATER SUPPLY DEPARTMENT
SECRETARIAT FORT ST. GEORGE
CHENNAI-600 009.
2 THE DIRECTOR OF TOWN PANCHAYAT
KURALAGAM CHENNAI-600 108.
3 THE DISTRICT COLLECTOR
NAGERCOIL KANYAKUMARI DISTRICT.
... RESPONDENT in WP No.42102 of 2016

- 1 THE STATE OF TAMIL NADU
REP. BY ITS PRINCIPAL SECRETARY MUNICIPAL
ADMINISTRATION & WATER SUPPLY DEPARTMENT
SECRETARIAT FORT ST. GEORGE
CHENNAI-600 009.
- 2 THE DIRECTOR OF TOWN PANCHAYAT
KURALAGAM CHENNAI-600 108.
- 3 THE DISTRICT COLLECTOR
NAGERCOIL KANYAKUMARI DISTRICT.
... RESPONDENT in WP No.42103 of 2016
- 1 THE STATE OF TAMIL NADU
REP. BY ITS PRINCIPAL SECRETARY MUNICIPAL
ADMINISTRATION & WATER SUPPLY DEPARTMENT
SECRETARIAT FORT ST. GEORGE
CHENNAI-600 009.
- 2 THE DIRECTOR OF TOWN PANCHAYAT
KURALAGAM CHENNAI-600 108.
- 3 THE DISTRICT COLLECTOR
NAGERCOIL KANYAKUMARI DISTRICT.
... RESPONDENT in WP No.42104 of 2016
- 1 STATE OF TAMIL NADU
REP BY THE SECRETARY TO GOVERNMENT MUNICIPAL
ADMINISTRATION AND WATER SUPPLY DEPARTMENT
FORT ST. GEORGE CHENNAI-600 009
- 2 THE DIRECTOR OF TOWN
PANCHAYATS KURALAGAM CHENNAI-600 108
... RESPONDENT in WP No.42106 of 2016
- 1 THE SECRETARY TO GOVERNMENT
MUNICIPAL ADMINISTRATION & WATER SUPPLY
DEPARTMENT FORT ST. GEORGE CHENNAI-9.
- 2 THE DIRECTOR OF TOWN PANCHAYAT
KURALAGAM BUILDINGS CHENNAI-108.
... RESPONDENT in WP No.42113 of 2016
- 1 THE GOVERNMENT OF TAMILNADU
REP. BY ITS SECRETARY MUNICIPAL
ADMINISTRATION & WATER SUPPLY DEPARTMENT
FORT ST. GEORGE CHENNAI-9

- 2 THE DIRECTOR OF TOWN
PANCHAYATS KURALAGAM CHENNAI-600 108
- 3 THE ASSISTANT DIRECTOR OF
TOWN PANCHAYATS THIRUVALLUR REGION
THIRUVALLUR DISTRICT
... RESPONDENT in WP No.42128 of 2016
- 1 THE SECRETARY TO GOVERNMENT
MUNICIPAL ADMINISTRATION & WATER SUPPLY
DEPARTMENT FORT ST. GEORGE CHENNAI-9
- 2 THE DIRECTOR OF TOWN
PANCHAYATS KURALAGAM BUILDINGS
CHENNAI-108 ... RESPONDENT in WP No.42264 of 2016
- 1 THE GOVT OF TAMIL NADU
REP BY ITS SECRETARY MUNICIPAL
ADMINISTRATION & WATER SUPPLY DEPT FORT ST.
GEORGE CHENNAI-9
- 2 THE DIRECTOR OF TOWN
PANCHAYATS KURALAGAM CHENNAI-108
- 3 THE ASST DIRECTOR OF TOWN
PANCHAYATS/THE DISTRICT COLLECTOR SALEM
REGION SALEM DISTRICT SALEM
... RESPONDENT in WP No.42314 of 2016
- 1 THE SECRETARY TO GOVERNMENT
MUNICIPAL ADMINISTRATION & WATER SUPPLY
DEPARTMENT FORT ST. GEORGE CHENNAI-9
- 2 THE DIRECTOR OF TOWN
PANCHAYATS KURALAGAM BUILDINGS
CHENNAI-108 ... RESPONDENT in WP No.42327 of 2016
- 1 THE SECRETARY TO GOVERNMENT
MUNICIPAL ADMINISTRATION AND WATER SUPPLY
DEPARTMENT FORT ST. GEORGE CHENNAI.
- 2 THE DIRECTOR OF TOWN PANCHAYAT
KURALAGAM CHENNAI.
- 3 K.VENGADACHALAPATHI
- 4 D.RAMESH

5 M.SANTHOSH KUMAR

6 S.KUMARAN

7 S.RATHINAKUMAR

8 T.MADHESWARAN

9 P.SARAVANAN

10 E.PRABHUDAS

11 K.SAMBATH KUMAR ... RESPONDENT in WP No.42443 of 2016

1 THE SECRETARY TO GOVERNMENT
MUNICIPAL ADMINISTRATION AND WATER SUPPLY
DEPARTMENT FORT ST. GEORGE CHENNAI.

2 THE DIRECTOR OF TOWN PANCHAYAT
KURALAGAM CHENNAI.
... RESPONDENT in WP No.42444 of 2016

1 THE SECRETARY TO GOVERNMENT
MUNICIPAL ADMINISTRATION AND WATER SUPPLY
DEPARTMENT FORT ST. GEORGE CHENNAI.

2 THE DIRECTOR OF TOWN PANCHAYAT
KURALAGAM CHENNAI. ... RESPONDENT in WP No.42445 of 2016

1 THE SECRETARY TO GOVERNMENT
MUNICIPAL ADMINISTRATION AND WATER SUPPLY
DEPARTMENT FORT ST. GEORGE CHENNAI.

2 THE DIRECTOR OF TOWN PANCHAYAT
KURALAGAM CHENNAI. ... RESPONDENT in WP No.42446 of 2016

1 THE STATE OF TAMIL NADU
REP. BY ITS SECRETARY TO GOVERNMENT DEPT.
OF MUNICIPAL ADMINISTRATION AND WATER SUPPLY
(TOWN PANCHAYATS) FORT ST. GEORGE
CHENNAI 9.

2 THE DIRECTOR OF TOWN
PANCHAYATS DIRECTORATE OF TOWN PANCHAYATS
KURALAGAM CHENNAI 108.

- 3 THE ASSISTANT DIRECTOR OF
TOWN PANCHAYATS TIRUNELVEI ZONE
TIRUNELVELI DISTRICT.
- 4 THE EXECUTIVE OFFICER
ALANGULAM SELECTION GRADE TOWN PANCHAYAT
ALANGULAM TIRUNELVEI DISTRICT.
... RESPONDENT in WP No.42459 of 2016
- 1 THE GOVERNMENT OF TAMIL NADU
REP BY ITS SECRETARY MUNICIPAL
ADMINISTRATION & WATER SUPPLY DEPARTMENT
FORT ST. GEORGE CHENNAI-600009
- 2 THE DIRECTOR OF TOWN
PANCHAYATS KURALAGAM CHENNAI-600108
- 3 THE ASSISTANT DIRECTOR OF
TOWN PANCHAYATS COIMBATORE ZONE
COIMBATORE DISTRICT ... RESPONDENT in WP No.42471 of 2016
- 1 THE GOVERNMENT OF TAMIL NADU
REP BY ITS SECRETARY MUNICIPAL
ADMINISTRATION & WATER SUPPLY DEPARTMENT
FORT ST. GEORGE CHENNAI-600009
- 2 THE DIRECTOR OF TOWN
PANCHAYATS KURALAGAM CHENNAI-600108
- 3 THE ASSISTANT DIRECTOR OF
TOWN PANCHAYATS SALEM REGION
SALEM DISTRICT ... RESPONDENT in WP No.42472 of 2016
- 1 STATE OF TAMILNADU
REP. BY THE SECRETARY TO GOVERNMENT
MUNICIPAL ADMINISTRATION AND WATER SUPPLY
DEPARTMENT FORT ST. GEORGE CHENNAI-9
- 2 THE DIRECTOR OF TOWN
PANCHAYATS KURALAGAM
CHENNAI-108 ... RESPONDENT in WP No.42590 of 2016
- 1 STATE OF TAMILNADU
REP. BY THE SECRETARY TO GOVERNMENT
MUNICIPAL ADMINISTRATION AND WATER SUPPLY
DEPARTMENT FORT ST. GEORGE CHENNAI-9

2 THE DIRECTOR OF TOWN
PANCHAYATS KURALAGAM
CHENNAI-108 ... RESPONDENT in WP No.42591 of 2016

1 STATE OF TAMILNADU
REP. BY THE SECRETARY TO GOVERNMENT
MUNICIPAL ADMINISTRATION AND WATER SUPPLY
DEPARTMENT FORT ST. GEORGE CHENNAI-9

2 THE DIRECTOR OF TOWN
PANCHAYATS KURALAGAM
CHENNAI-108 ... RESPONDENT in WP No.42592 of 2016

1 STATE OF TAMILNADU
REP. BY THE SECRETARY TO GOVERNMENT
MUNICIPAL ADMINISTRATION AND WATER SUPPLY
DEPARTMENT FORT ST. GEORGE CHENNAI-9

2 THE DIRECTOR OF TOWN
PANCHAYATS KURALAGAM
CHENNAI-108 ... RESPONDENT in WP No.42593 of 2016

1 STATE OF TAMILNADU
REP. BY THE SECRETARY TO GOVERNMENT
MUNICIPAL ADMINISTRATION AND WATER SUPPLY
DEPARTMENT FORT ST. GEORGE CHENNAI-9

2 THE DIRECTOR OF TOWN
PANCHAYATS KURALAGAM
CHENNAI-108 ... RESPONDENT in WP No.42594 of 2016

1 STATE OF TAMIL NADU
REP BY THE SECRETARY TO GOVERNMENT MUNICIPAL
ADMINISTRATION AND WATER SUPPLY DEPARTMENT
FORT ST. GEORGE CHENNAI-600 009.

2 THE DIRECTOR OF TOWN
PANCHAYATS KURALAGAM
CHENNAI-600108. ... RESPONDENT in WP No.43050 of 2016

1 STATE OF TAMILNADU
REP. BY THE SECRETARY TO GOVERNMENT
MUNICIPAL ADMINISTRATION AND WATER SUPPLY
DEPARTMENT FORT ST. GEORGE CHENNAI 600 009

2 THE DIRECTOR OF TOWN
PANCHAYATS KURALAGAM CHENNAI 600 108

3 THE SECRETARY TO GOVERNMENT
(FAC) HIGHER EDUCATION (J2) DEPARTMENT
FORT.ST. GEORGE CHENNAI 600 009

... RESPONDENT in WP No.7666 of 2017

1 STATE OF TAMILNADU
REP. BY THE SECRETARY TO GOVERNMENT
MUNICIPAL ADMINISTRATION AND WATER SUPPLY
DEPARTMENT FORT ST. GEORGE CHENNAI 600 009

2 THE DIRECTOR OF TOWN
PANCHAYATS KURALAGAM CHENNAI 600 108

3 THE SECRETARY TO GOVERNMENT
(FAC) HIGHER EDUCATION (J2) DEPARTMENT
FORT ST. GEORGE
CHENNAI 600 009

... RESPONDENT in WP No.7667 of 2017

1 STATE OF TAMILNADU
REP. BY THE SECRETARY TO GOVERNMENT
MUNICIPAL ADMINISTRATION AND WATER SUPPLY
DEPARTMENT FORT ST. GEORGE CHENNAI 600 009

2 THE DIRECTOR OF TOWN
PANCHAYATS KURALAGAM CHENNAI 600 108

3 THE SECRETARY TO GOVERNMENT
(FAC) HIGHER EDUCATION (J2) DEPARTMENT
FORT ST. GEORGE
CHENNAI 600 009

... RESPONDENT in WP No.7668 of 2017

1 STATE OF TAMILNADU
REP. BY THE SECRETARY TO GOVERNMENT
MUNICIPAL ADMINISTRATION AND WATER SUPPLY
DEPARTMENT FORT ST. GEORGE CHENNAI 600 009

2 THE DIRECTOR OF TOWN
PANCHAYATS KURALAGAM CHENNAI 600 108

3 THE SECRETARY TO GOVERNMENT
(FAC) HIGHER EDUCATION (J2) DEPARTMENT
FORT ST. GEORGE CHENNAI 600 009

... RESPONDENT in WP No.7669 of 2017

- 1 STATE OF TAMILNADU
REP. BY THE SECRETARY TO GOVERNMENT
MUNICIPAL ADMINISTRATION AND WATER SUPPLY
DEPARTMENT FORT ST. GEORGE CHENNAI 600 009
- 2 THE DIRECTOR OF TOWN
PANCHAYATS KURALAGAM CHENNAI 600 108
- 3 THE SECRETARY TO GOVERNMENT
(FAC) HIGHER EDUCATION (J2) DEPARTMENT
FORT ST. GEORGE
CHENNAI 600 009 ... RESPONDENT in WP No.7670 of 2017
- 1 STATE OF TAMILNADU
REP. BY THE SECRETARY TO GOVERNMENT
MUNICIPAL ADMINISTRATION AND WATER SUPPLY
DEPARTMENT FORT ST. GEORGE CHENNAI 600 009
- 2 THE DIRECTOR OF TOWN
PANCHAYATS KURALAGAM CHENNAI 600 108
- 3 THE SECRETARY TO GOVERNMENT
(FAC) HIGHER EDUCATION (J2) DEPARTMENT
FORT ST. GEORGE CHENNAI 600 009
... RESPONDENT in WP No.7671 of 2017
- 1 STATE OF TAMILNADU
REP. BY THE SECRETARY TO GOVERNMENT
MUNICIPAL ADMINISTRATION AND WATER SUPPLY
DEPARTMENT FORT ST. GEORGE CHENNAI 600 009
- 2 THE DIRECTOR OF TOWN
PANCHAYATS KURALAGAM CHENNAI 600 108
- 3 THE SECRETARY TO GOVERNMENT
(FAC) HIGHER EDUCATION (J2) DEPARTMENT
FORT ST. GEORGE CHENNAI 600 009
... RESPONDENT in WP No.7672 of 2017

Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus,

WP No.42102 of 2016

Writ of Certiorarified Mandamus, Calling for the records culminating in Na.Ka. No.3030/ 2016-1(1)/A6, dated 26.11.2016, passed by the 2nd respondent, in so far as the petitioner is concerned, and quash the same and consequently direct the

respondents to retain the petitioner in the post of Overseer together with service, monetary and all other attendant benefits

WP No.42103 of 2016

Writ of Certiorarified Mandamus, Calling for the records culminating in Na.Ka. No.3030/ 2016-1(1)/A6, dated 26.11.2016, passed by the 2nd respondent, in so far as the petitioner is concerned, and quash the same and consequently direct the respondents to retain the petitioner in the post of Draughtsman together with service, monetary and all other attendant benefits

WP No.42104 of 2016

Writ of Certiorarified Mandamus, Calling for the records culminating in Na.Ka. No.3030/ 2016-1(1)/A6, dated 26.11.2016, passed by the 2nd respondent, and the consequential order in Na.Ka.No.1069-1(3)/ 2016/P7, dated 26.11.2016, of the 3rd respondent, in so far as the petitioner is concerned, and quash the same and consequently direct the respondents to retain the petitioner in the post of Draughtsman together with service, monetary and all other attendant benefits

WP No.42106 of 2016

Writ of Certiorarified, Calling for the records relating to the impugned proceedings of the 2nd respondent in Na. Ka. No.3030/ 2016-1 (11)/ A6 dated 26.11.2016 quash the same

WP No.42113 of 2016

Writ of Certiorarified Mandamus, Calling for the records relating proceedings of the 2nd respondent dated 26.11.2016 issued in Na.Ka. No.3030/ 2016-1(4)/A6 and quash the same and consequently to direct the respondents to regularize the services of the petitioner in the cadre of Overseer from the date his promotion (03.03.2016) with all service and monetary benefits

WP No.42128 of 2016

Writ of Certiorarified Mandamus, calling for the records of the 2nd respondent in his proceeding Na.Ka.No.3030/ 2016-1(2)/A6 dated 26.11.2016 and quash the same and consequently direct the respondents to retain the petitioner as Overseer or Draughtsman (Civil)

WP No.42264 of 2016

Writ of Certiorarified Mandamus, Calling for the records relating proceedings of the 2nd respondent dated 26-11-2016 issued in Na.Ka.No.3030/2016-1(10)/A6 and quash the same and consequently directing the respondents to regularize the services of the petitioner in the cadre of Overseer from the

date his promotion (03-03-2016) with all service and monetary benefits

WP No.42314 of 2016

Writ of Certiorarified Mandamus, Calling for the records relating to the impugned order passed by the 2nd respondent in proceedings No.Na.Ka.3030/2016-1(5) A6 dated 26.11.2016 quash the same and consequently direct the respondents to Retain the petitioner in the post of Draughtsman (Civil)

WP No.42327 of 2016

Writ of Certiorarified Mandamus, Calling for the records relating proceedings of the 2nd respondent dated 26.11.2016 issued in Na. Ka. No.3030/ 2016-1 (4)/ A6 and quash the same and consequently to direct the respondents to regularize the services of the petitioner in the cadre of Overseer from the date his promotion (03.03.2016) with all service and monetary benefits

WP No.42443 of 2016

Writ of Certiorari, Calling for the records of the 2nd Respondent in its Na.Ka.No. 3030/2016-1(1)/A6 dated 26.11.2016 and quash the same

WP No.42444 of 2016

Writ of Certiorari, Calling for the records of the 2nd Respondent in its Na.Ka.No. 3030/2016-1(1)/A6 dated 26.11.2016 and quash the same

WP No.42445 of 2016

Writ of Certiorari Calling for the records of the 2nd Respondent in its Na.Ka.No. 3030/2016-1(1)/A6 dated 26.11.2016 and quash the same

WP No.42446 of 2016

Writ of Certiorari Calling for the records of the 2nd Respondent in its Na.Ka.No. 3030/2016-1(1)/A6 dated 26.11.2016 and quash the same

WP No.42459 of 2016

Writ of Certiorari Call for the records of the 2nd Respondent in his proceedings No. Na.Ka.No. 3030/2016-1(8) / A6 dated 26.11.2016 and quash the same.

WP No.42471 of 2016

Writ of Certiorarified Mandamus Calling for the records of the 2nd respondent in Na.Ka. No.3030/ 2016-1 (6)/ A6 dated 26.11.2016 and quash the same in so far as petitioner consent

and consequently direct the respondents to retain the petitioner as Overseer or Draughtsman

WP No.42472 of 2016

Writ of Certiorarified Mandamus Calling for the records of the 2nd respondent in Na.Ka. No.3030/ 2016-1 (5)/ A6 dated 26.11.2016 and quash the same in so far as petitioner consent and consequently direct the respondents to retain the petitioner as Overseer or Draughtsman

WP No.42590 of 2016

Writ of Certiorari calling for the records relating to the impugned proceedings of the 2nd respondent in Na.Ka. No.3030/2016-1(11)/A6 dated 26.11.2016 quash the same

WP No.42591 of 2016

Writ of Certiorari calling for the records relating to the impugned proceedings of the 2nd respondent in Na.Ka. No.3030/2016-1(8)/A6 dated 26.11.2016 quash the same

WP No.42592 of 2016

Writ of Certiorari calling for the records relating to the impugned proceedings of the 2nd respondent in Na.Ka. No.3030/2016-1(3)/A6 dated 26.11.2016 quash the same

WP No.42593 of 2016

Writ of Certiorari calling for the records relating to the impugned proceedings of the 2nd respondent in Na.Ka. No.3030/2016-1(7)/A6 dated 26.11.2016 quash the same

WP No.42594 of 2016

Writ of Certiorari calling for the records relating to the impugned proceedings of the 2nd respondent in Na.Ka. No.3030/2016-1(4)/A6 dated 26.11.2016 quash the same

WP No.43050 of 2016

Writ of Certiorari Calling for the records relating to the impugned proceedings of the 2nd respondent in Na.Ka. No.3030/ 2016-1 (9)/ A6 dated 26.11.2016 quash the same

WP No.7666 of 2017

Writ of Certiorari calling for the records relating to the impugned proceedings of the 3rd respondent in G.O.(MS) No.149, Higher Education (J2) Department dated 22.7.2016 quash the same

WP No.7667 of 2017
Writ of Certiorari calling for the records relating to the
impugned proceedings of the 3rd respondent in G.O.(MS) No.149,
Higher Education (J2) Department dated 22.7.2016 quash the same

WP No.7668 of 2017
Writ of Certiorari calling for the records relating to the
impugned proceedings of the 3rd respondent in G.O.(MS) No.149,
Higher Education (J2) Department dated 22.7.2016 quash the same

WP No.7669 of 2017
Writ of Certiorari calling for the records relating to the
impugned proceedings of the 3rd respondent in G.O.(MS) No.149,
Higher Education (J2) Department dated 22.7.2016 quash the same

WP No.7670 of 2017
Writ of Certiorari calling for the records relating to the
impugned proceedings of the 3rd respondent in G.O.(MS) No.149,
Higher Education (J2) Department dated 22.7.2016 quash the same

WP No.7671 of 2017
Writ of Certiorari calling for the records relating to the
impugned proceedings of the 3rd respondent in G.O.(MS) No.149,
Higher Education (J2) Department dated 22.7.2016 quash the same

WP No.7672 of 2017
Writ of Certiorari calling for the records relating to the
impugned proceedings of the 3rd respondent in G.O.(MS) No.149,
Higher Education (J2) Department dated 22.7.2016 quash the same

Counsel for the Petitioner:

Mr.L.S.M. Hasan Faizal .. W.P. No. 42102/2016 to 42104/2016.

Mr.P.I. Thirumoorthy .. W.P. No. 42113/2016, 42264/2016,
42327/2016

Mr.K. Raja .. W.P. No. 42128/2016, 42471/2016,
42472/2016.

Mr.K.S. Kumar .. W.P. No. 42314/2016.

Mr.V. Vijay Shankar .. W.P. No. 42443 to 42446/2016.

Mr.S. Ganesh .. W.P. No. 42459/2016.

Mr.V. Selvaraj .. W.P. No. 42590 to 42594/2016,
43050/2016, 42106/2016.

Mr.V. Selvaraj
M/s.V.S. Manimegalai .. W.P. No. 7666 to 7672/2016.

Counsel for Respondent:

Mr.V. Jayaprakash Narayanan
Government Pleader : W.P. No. 42102 to 42104/2016,
W.P. No. 42106/2016, W.P. No. 42113/2016,
W.P. 42128/2016, 42264/2016, 42314/2016,
42327/2016

1st & 2nd Respondent in
: W.P. No. 42443 to 42446/2016, 42459/2016,
42471/2016, 42472/2016, 42590 to 42594/2016
43050/2016

1st & 2nd Respondent in
: W.P. No. 7666 to 7672/2017

Mr.R. Jayaprakash for 3 to 11th Respondents in
: W.P. 42443/2016

Mr. Akhil Akbar Ali, Government Advocate
for 3rd Respondent in W.P. No. 7666 to 7672/2017.

COMMON ORDER

The above batch of petitions are filed against the reversion of the petitioners from the post of Overseer, who were working under the respective Panchayats, on the ground of possession of qualification, not equivalent to the qualification recognised by the State vide G.O. Ms. No.149, Higher Education (J2) Department, dated 22.7.2016.

2. While one set of writ petitions merely assail the reversion order and for a consequential direction forbearing the respondents from reverting the petitioners from the post of Overseer, the other batch of writ petitions assail the very foundation of the Government Order in G.O. Ms. No.149, which is passed under Article 162 of the Constitution, contending that the said Government Order cannot abrogate the Special Rules framed in exercise of the powers under Article 309 of the Constitution.

3. The gist of the case of the petitioners, for better appreciation of the issue, is given in a nutshell as under :-

The petitioners in the respective petition were either appointed as Technical Assistant or Electrician Grade-II in the services of the Panchayat on daily wage basis and later, their services were regularised. At the crucial point of time, the petitioners were either working as Electrician Grade-II or Work Inspector. The next avenue of promotion to the petitioners is as Overseer for which the necessary qualifications codified is Diploma in Civil, Mechanical or Electrical Engineering with the requisite number of years experience in the feeder category post. According to the petitioners, they are in possession of the requisite Diploma obtained by them from various Universities/Deemed Universities recognised by the University Grants Commission through open and distance education.

4. In the interregnum, pursuant to the reorganisation of the Panchayats, there being no separate rules governing the terms and conditions of service of the persons employed in the Town Panchayats, but were governed by the Tamil Nadu District Municipalities Act and the Tamil Nadu Municipal Engineering Service Rules also did not deal with persons employed in the Town Panchayat, thereby hampering the promotion opportunities of the petitioner, the Hon'ble Division Bench of this Court, in W.A. (MD) No.1136/2013, vide order dated 13.3.14, directed the Government to frame new set of Rules governing the terms and conditions of all persons employed in Town Panchayats. The seniority of the persons was also directed to be drawn to fill up the posts.

5. It is the further averment of the petitioner that inspite of the said direction, though no rules have been framed till date, however, in anticipation of the Rules thereof, G.O. Ms. No.75, Municipal & Water Supply Department dated 5.2.16 was issued in and by which the petitioners were temporarily promoted as Overseers/Draughtsman from the post of Work Inspectors and Grade II Skilled Assistants (Formerly Electrician Grade II) in a particular ratio.

6. Pursuant to the said temporary promotion, the Government Order in G.O. Ms. No.75, Municipal & Water Supply Department dated 5.2.16 was challenged before this Court in W.P. No.5203 of 2016, wherein an order of status quo dated 10.2.16 was granted. Pursuant to the disposal of W.P. No.5203 of 2016, vide order dated 3.3.16, the petitioners were promoted as overseer/draughtsman. The said promotion, which was granted to 171 persons, was challenged in W.P. No.10324/16 on the ground that the incumbents of the said posts have not passed the test

conducted by the State Government. Consequent upon the same, the petitioners were reverted from the post of Overseer/Draughtsman to the substantive posts held by them vide the respective impugned orders. Writ petitions were filed challenging the said order of reversion and while some of the petitioners, joined the reverted post without prejudice to their right to the said post of Overseer, some of them did not join the reverted post. As the order of reversion is based on G.O. Ms. No.149, issued by the 3rd respondent, as stated above, while some of the petitioners have been filed challenging the order of reversion, another set of petitions have been filed questioning the validity of G.O. Ms. No.149, which formed the basis for passing the impugned orders of reversion.

7. Mr.Selvaraj, learned counsel appearing for the petitioners in W.P. Nos.7666, 7667, 7668, 7669, 7670, 7671 and 7672 of 2017, at the outset, attacked the issuance of G.O. Ms. No.149 by submitting that the Government Order does not have the sanctity of law and is liable to be quashed for the simple reason that it is not in consonance with Rule 19 (1) of the Tamil Nadu State Subordinate Service Rules and any Government Order, which is against the letter and spirit of the said Rules cannot stand the test of judicial scrutiny. It is the further submission of the learned counsel for the petitioner that the said Government Order cannot supplant the said Rules, inasmuch as the said Government Order, in essence, nullifies the Rules, which is per se impermissible.

8. Learned counsel drew the attention of this Court to Rule 19 (1) of the TNSSS Rules, more especially the Explanation appended to the said Rule, and points that diploma obtained from any University or Institution recognised by the University Grants Commission (for short 'UGC') and which finds place in Schedule II shall be recognised as the qualification. It is the submission of the learned counsel that the Universities from which the petitioners have obtained the diploma, through Distance Education mode, being recognised by the UGC, the impugned Government Order, viz., G.O. Ms. No.149, does not have any legal sanctity, as the Government Order, issued in exercise of powers under Article 162 of the Constitution cannot override the Rules framed in exercise of powers under Article 309 of the Constitution. The Rules framed in exercise of the powers under Article 309 of the Constitution have statutory force, which cannot be curtailed by the issuance of a Government Order under Article 162 of the Constitution.

9. It is the submission of the learned counsel for the petitioner that G.O. Ms. No.149 is an off-shoot of the

advertisement issued by All India Council for Technical Education (for short 'AICTE') pointing out that the diploma acquired through Distance Education is not recognised by AICTE. Learned counsel appearing for the petitioners submitted that the Gazette Notification of the Central Government dated 25.7.15 notifies that the degrees and diploma awarded through Open and Distant mode of education by Universities established by Act or Parliament or State Legislature and Institutions deemed to be Universities u/s 3 of the UGC Act would stand automatically recognized for the purpose of employment to the posts under the Central Government and the public notice of AICTE going contrary to the said notification is arbitrary and illegal and reveals total non-application of mind.

10. It is the further submission of the learned counsel that UGC, as early as on 14.10.2013, vide its communication to all the Universities, referring to the circular dated 5.5.04, had informed that the degrees/diplomas/certificates awarded by Open Universities in conformity with the notification of UGC to be treated as equivalent to corresponding awards of the traditional University and that UGC has been delegated with the power by the government of India vide its directions 29.12.12 entrusting UGC with the responsibility of regulating higher education programme in open and distance learning mode. In pursuance thereof, UGC had directed that the degrees/diplomas/certificates awarded for programmes conducted by the ODL institutions, recognized by erstwhile DEC and presently UGC, would stand to be treated as equivalent to the corresponding awards of degree/diploma/certificate awarded by the traditional Universities/institutions in the country. It is the submission of the learned counsel that the above being the communication by the Apex Body relating to recognition of degree/diploma/certificate obtained through Distance Education mode, the State Government, by issuance of a Government Order, cannot nullify the recognition granted to the Universities to award degree/diploma/certificate through Open/Distance Education modes in contravention of the said communication, as the said communication had emanated from a statutory authority, specifically created for the purpose of regulating the higher learning in the country.

11. Learned counsel for the petitioner adverted to letter No.37149/2014-15 submitted that even as early as on 10.11.2014, the Government having accepted the degree/diploma granted by any University or Institution recognized by the UGC, which is the prescription given in Explanation (i) to Rule 19 of the General Rules of the TNSSS Rules, the present G.O. Ms. No.149 goes very much against the stand taken by the Government earlier in point

of time. Further, it is the submission of the learned counsel for the petitioner that the abovesaid letter having been issued in the year 2014 in and by which the degrees/diplomas issued by the Universities/Institutions recognized by the UGC were recognized as qualification, later in point of time, merely on the basis of an advertisement by the AICTE, it is not open to the respondents to de-recognize the said qualification as any Government Order, which is in detriment to the rules should only be given prospective effect and retrospective effect is impermissible. Further, it is the submission of the learned counsel for the petitioner that the above letter being a consequence of the order passed by the Division Bench in W.A. (MD) No.1136/13, the act of the respondents to nullify the said order of the Division Bench by issuing the present Government Order without drafting and finalising the rules as well as redrawing the seniority is a clear infraction of the directions issued by the Division Bench.

12. Learned counsel drew the attention of this Court to the letter of Indira Gandhi National Open University according recognition to St. Peters University, Chennai, by the DEC and submitted that the DEC has granted recognition for conduct of B.Tech courses in Construction Management, Civil Engineering and Water Resource Engineering and also B.Tech in Mechanical Engineering (Computer integrated Manufacturing). Further, the recognition is also granted to diploma courses were certificates have been issued based on the programmes conducted using course materials of the Director General of Employment & Training, Government of India. It is therefore the submission of the learned counsel that recognition having been granted by Indira Gandhi National Open University on the basis of the recommendations of the DEC and that the Universities having been recognised by UGC, the courses offered by the said Universities, from which petitioners have obtained diplomas through distance education ought to be treated as equivalent to conventional degrees and the Special Qualifications prescribed u/r 19 (1) of the TNSSS Rules having a statutory force, the same cannot be set at naught by invocation of power under Article 162 by issuing G.O. Ms. No.149.

13. In fine, it is the contrite submission of the learned counsel that the Government Order, issued in exercise of powers under Article 162 of the Constitution cannot be contrary to Rule 19 (1) of the TNSSS Rules, framed in exercise of powers under Article 309 of the Constitution and any ambiguity thereof should result in the survival of Rule 19 (1) of TNSSS Rules, which has statutory force and the Government Order cannot supercede the Rules and, therefore, G.O. Ms. No.149, Municipal & Water Supply

Department, dated 22.07.2016, deserves to be set aside and a consequence thereof, the petitioners should stand reinstated back as Overseer/Draughtsman.

14. Mr.Raja, learned counsel appearing for another batch of petitioners reiterated that based on G.O. Ms. No.75 and pending the approval of the draft rules, the petitioners were promoted as Overseer/Draughtsman. Though the draft rules were forwarded to the Government as early as in the year 2013, even after a passage of seven years since then, the said rules have not seen the light of the day. It is the submission of the learned counsel for the petitioners that relying upon the draft rules for refusing promotion to the petitioners is wholly unacceptable for the simple reason that prior to the approval of the draft rules, there is a set of rules governing promotion, which still holds the field and the respondents have to adhere to the rules in force to grant promotion. In this regard, learned counsel for the petitioner relied on the decision of the Hon'ble Apex Court in Union of India - Vs - V.Ramakrishnan & Ors. (CDJ 2005 SC 775). It is the further submission of the learned counsel that the power of the State Government to issue executive instructions should be only for the purpose of covering the gaps in the existing rules and such orders should be subservient to the statutory rules and the executive instructions in the form of Government Orders cannot be the basis to supercede the statutory rules.

15. It is the submission of the learned counsel for the petitioners that the posts, which the petitioners were occupying prior to their being promoted, were posts of vanishing type and on the promotion of the petitioners to the next higher posts, the posts occupied by them stood extinguished and, therefore, as on date there is no post in which the petitioners could be reverted and, therefore, the reversion order passed the respondents is erroneous and reflects total non-application of mind. It is the submission of the learned counsel for the petitioners that the said fact of vanishing type of posts have been admitted by the respondents in their typed set and, therefore, in the absence of any vacancy, relegating the petitioners back to the original post, which they were said to be occupying would not arise.

16. Mr.Vijayshankar, and Mr.Hasan Faizal, learned counsel appearing for some of the petitioners in the other writ petitions, concurred and adopted the submissions as advanced by Mr.V.Selvaraj and Mr.Raja and placed reliance on the the following decisions :-

i) State of Punjab & Ors. - Vs - Anita & Ors. (2015 (12) SCC 170);

ii) Rajesh P.Sankaramatam - Vs - Registrar, CAT & Ors. (2019 (4) MLJ 358)

17. Per contra, Mr. Jayaprakash Narayanan, learned Government Pleader, appearing for the respondents stoutly opposed the writ petitions and submitted that the petitioners having not satisfied the qualifications prescribed under the relevant rules, cannot claim the benefit of promotion. It is the submission of the learned Government Pleader that the promotion granted to the petitioners is on temporary basis u/r 39-A of the Rules and it would not confer any right on the petitioners to the said post. In this regard, learned Government Pleader drew the attention of this Court to the order of appointment issued to the petitioners on their being promoted to the next higher post of Overseer and submitted that relevant clauses have been inserted in the said promotion order implying that it is only temporary in nature on adhoc basis and that the petitioners would not get any accrued right to the said post or for the petitioners to claim any seniority for subsequent promotions. Learned Government Pleader further stressed that in the said promotion order, therein a clause is inserted, which clearly signifies that in the event of the petitioners not having acquired the necessary qualifications, the petitioners are liable to be reverted without any notice. The petitioners, having accepted the said conditions without any demur and have occupied the said promotion post, it is not open to the petitioners to come before this Court and claim that they are fully qualified to hold the said post and that their reversion has been passed without any due notice, which is an infraction of principles of natural justice.

18. It is the further submission of the learned Government Pleader that the stand of the petitioners that the post is a vanishing category and the post already held by them stood extinguished on their being promoted to the next higher post cannot be countenanced, as it is within the domain of the Government to create posts and either keep it under the vanishing category or continuing category and the non-availability of the post would not stand in the way of the petitioners from being reverted, more so, when they are not eligible to hold the post.

19. It is the further submission of the learned Government Pleader that the diploma obtained by the petitioners would in no way get cured, as the same has not been recognised either by the DEC or AICTE and mere grant of status to the institutions by UGC

would not confer any right on those institutions to conduct courses, which does not have any approval or sanction from AICTE. Therefore, there is no deterrent in issuing the Government Order retrospectively as the said retrospectivity does not defeat the diploma obtained by the petitioners, as the said diplomas have not been recognised even at the first instance by the approving bodies, viz., DEC and AICTE.

20. It is the further submission of the learned Government Pleader that the diplomas in technical courses having not been approved by AICTE, the promotions granted to the petitioners based on the said diplomas, loses its sanctity and, therefore, there is no embargo on the respondents in recalling the said promotions, which only is the right procedure, as allowing the said promotions to stand would defeat the object and purport of establishment of AICTE, the apex body to decide on technical education. In this regard, learned Government Pleader drew the attention of this Court to the decision of the Hon'ble Apex Court in Orissa Lift Irrigation Corporation Ltd. - Vs - Rabi Sankar Patro & Ors. (2018 (1) SCC 468).

21. Insofar as the contention attacking the substratum of issuance the Government Order under Article 162 of the Constitution of India vis-a-vis the Rules framed under Article 309 of the Constitution of India, it is the submission of the learned Government Pleader that the issuance of the Government Order is only in extension of the Rules and the Government Order abridges with the Rule and it does not stand alone. It is the submission of the learned Government Pleader that the said Government Order is only issued in relation to the equivalence between two certificates and it in no way changes the Special Rules. It is further pointed out by the learned Government Pleader that the said Government Order has been passed only in furtherance of the policy decision of AICTE to the effect that the degree/diploma obtained through distance education be not considered equivalent to degree/diploma obtained through regular stream. In this regard, learned Government Pleader submitted that pursuant to the Public Notice Advertisement of AICTE not to recognise the qualifications obtained through distance education mode relating to Diploma, Bachelors and Masters level in the fields of Engineering and Technology, the equivalence committee of Tamil Nadu Public Service Commission in its meeting, resolved to recommend the Government that the qualifications obtained through distance education mode relating to Diploma, Bachelors and Masters level in the fields of Engineering and Technology be not treated as equivalent to the degrees/diplomas obtained through regular stream.

22. In the above scenario, learned Government Pleader submits that pursuant to the said recommendations, the Government, after careful perusal of the same, in exercise of its powers, issued the above Government Order, which is only an extension of the Rules pertaining to Special Qualifications as found in 19 (1) of the Rules. Rule 19 (1) has in no way been modified by issuance of the said Government Order. Mere clarification of the special qualifications as provided u/r 19 (1) by issuance of the impugned Government Order cannot be said to be bad, as the same has been exercised under Article 162 of the Constitution. Amendment has not been made to the special qualification, but only clarification has been issued with regard to acceptance of degrees/diplomas codified in the special qualifications and such an exercise cannot be said to be ultra vires the Constitution.

23. It is further submitted by the learned Government Pleader that the Hon'ble Supreme Court in Orissa Lift Irrigation Corporation case (supra) has categorically held that AICTE is the prescribing and approving authority for grant of degrees in Engineering and without the approval of AICTE, courses conducted by Open and Distance Learning Mode by Universities, though approved by UGC, cannot be considered to be valid degrees in the eye of law and, therefore, the issuance of G.O. Ms. No.149 to set right the anomaly cannot be said to be bad or in abrogation of Rule 19 (1), as the Special Qualifications codified therein have in no way been modified, but only explained by the aforesaid Government Order.

24. In fine, it is the submission of the learned Government Pleader that the issuance of G.O. Ms. No.149 cannot be said to be bad or ultra vires the Constitution and the plea of the petitioners to the contra deserves to be rejected.

25. This Court gave its anxious consideration to the vehement contentions advanced by the learned counsel on either side and also perused the materials available on record as also the decisions relied on by the learned counsel for the parties in support of their contentions.

26. Before adverting to the various issues raised in the present batch of petitions, more especially, the attack on the issuance of G.O. Ms. No.149, it is brought to the notice of this Court that in relation to the very same order of reversion, W.P. (MD) Nos.23102 of 2016, etc. (K.Dharma Raj - Vs - State of Tamil Nadu & Ors.) were filed before the Madurai Bench of this Court and learned single Judge, vide order dated 5.4.2018, dismissed the petitions, on the ground that the minimum educational

qualification of diploma has not been fulfilled by the petitioners as the diploma awarded to the petitioners therein by Rajasthan Deemed University has been declared to be not equivalent to the diploma awarded by the Board of Technical Education and Training, Tamil Nadu.

27. It is the vehement contention of the learned Government Pleader that the above order squarely addresses the issue raised in the present case and, therefore, the present petitions are liable to be dismissed, however, it is to be pointed out that in Dharma Raj case (supra), learned Judge, relying upon another Government Order, viz., G.O. Ms. No.33, which was issued prior to G.O. Ms. No.75, based on which the petitioners therein were promoted, had categorically invalidated the degree/diploma issued by the Rajasthan Deemed University, and there being no qualms raised with regard to the said G.O. Ms. No.33, the case of the petitioners therein were negatived. But the attack in the present case is to G.O. Ms. No.149 and its validity in the light of Rule 19 (1) of the Rules, which prescribes the requisite qualification and, therefore, the effort of the learned Government Pleader to draw aid from the said decision is not only a futile attempt, but is a wholly unsustainable contention, which requires negation by this Court. This Court has to deal with the issues and contentions as raised in the present writ petition without resorting to the aid of the decision in Dharma Raj's case (supra).

28. In some of the writ petitions the very same reversion order has been challenged and the above order of the learned single Judge in Dharma Raj's case (supra) is being pressed into service by the respondents to drive home the point that the issue raised in this batch of petitions is no longer res integra. However, the fact remains that the decision in Dharma Raj's case has been rendered de hors G.O. Ms. No.149 and the main ground of attack being the constitutionality of G.O. Ms. No.149, the outcome of the decision by this Court regarding the constitutionality of G.O. Ms. No.149 would be the yardstick based on which the reversion of the petitioners would be decided, whereinafter only, the applicability of the decision in Dharma Raj's case would come into the picture. Therefore, this Court, at the present point of time, is not dwelling into the decision rendered in Dharma Raj's case and is more inclined to decide the issue of the validity of G.O. Ms. No.149.

29. The main ground of attack on the validity of G.O. Ms. No.149 hinges upon Rule 19 (1) of the Tamil Nadu State & Subordinate Service Rules, more especially the Explanation

appended to the said Rules and for better clarity, the said provision is extracted hereunder :-

"19. Special Qualifications -- No person shall be eligible for appointment to any service, class, category or grade or any post borne on the cadre thereof unless he --

(a) possesses such special qualifications and has passed such special tests as may be prescribed in that behalf in the Special Rules; or

(b) possesses such other qualifications as have been declared to be higher than or equivalent to the said special qualifications or special tests

--
(i) by the State Government in consultation with the Committee constituted under the Chairmanship of the Chairman, Tamil Nadu Public Service Commission for the purpose, in cases where the appointment has to be made in consultation with the Commission; and

(ii) by the State Government or by the appointing authority with the approval of the State Government in other cases.

Explanation - (i) In cases where the Special Rules prescribe a degree or diploma as a qualification for appointment, then--

(a) a diploma obtained after completion of S.S.L.C. Or Higher Secondary (10+3 (3 Years Diploma) or 10+2+2 (Lateral Entry))

(b) a degree obtained after completion of S.S.L.C. And Higher Secondary (10+2+3 or more)

(c) a post-graduate degree obtained after completion of S.S.L.C. Or Higher Secondary and a degree (10+2+3+2 or more) from any University or Institution recognised by the University Grants Commission mentioned in Schedule II of this part shall be recognised as qualifications.

(ii) In cases where the Special Rules prescribe a diploma in a particular subject as qualification then a degree in that subject should be deemed to be a higher qualification.

(iii) In cases where the Special Rules prescribe a period of practical or other experience in addition to educational/technical qualifications, for an appointment such a period of practical or other experience as the case may be, should have been acquired after obtaining the educational/technical qualifications

prescribed for such appointment unless otherwise specified in the Special Rules."

30. The whole gamut of the contention on behalf of the petitioners assailing G.O. Ms. No.149 is that when the above Explanation appended to Rule 19 (1) prescribes that a degree/diploma obtained after completing the basic education from any University or Institution recognised by the University Grants Commission mentioned in Schedule II shall be recognised as qualification, the above Rule, which has been framed in exercise of powers conferred under Article 309 of the Constitution, cannot be superceded by a Government Order issued in exercise of powers conferred under Article 162 of the Constitution. Thus, the contention of the petitioners hits at the substratum of the issuance of the Government Order and its validity vis-a-vis the Rules.

31. However, the opposing contention on behalf of the respondents is that the above Government Order is only an extension of the Rules, more so a clarification, and it in no way alters the said Rule and to this end, the advertisement notice of AICTE with forms the basis of the above Government Order is pressed into service, with more emphasis on the decision of the Hon'ble Apex Court in Orissa Lift Irrigation case (supra).

32. The All India Council for Technical Education (for short 'AICTE') is a statutory body and a national-level council for technical education established in November 1945 first as a national level apex advisory body and later on in 1987 given statutory status by an Act of Parliament and is responsible for proper planning and coordinated development of technical education and management education system in India. Initially, as per the provisions of the AICTE Act and the UGC Act, it was held by the Hon'ble Supreme Court that the council had no authority which empowers it to issue or enforce any sanctions on colleges affiliated with the universities as its role is to provide guidance and recommendations. But subsequently, the Hon'ble Supreme Court gave its nod of approval to AICTE for regulating the technical colleges on a year to year basis till January 2016 and, thereafter, blanket approval was given to AICTE, including power to approve technical colleges including management.

33. The University Grants Commission (for short 'UGC') was formally established in November 1956 as a statutory body of the Government of India through an Act of Parliament for the coordination, determination and maintenance of standards of

university education in India. UGC is entrusted with the responsibility of establishment of Universities and maintenance of standard of higher education.

34. While UGC is entrusted with the task of establishment of Universities and maintenance of standard of higher education, AICTE is entrusted with the task of approving the courses that are to be conducted by the Universities by laying down parameters or qualitative norms for the betterment of technical education in the country.

35. Therefore, for all purposes, while UGC is the governing body insofar as establishment of Universities and maintenance in standard of higher education is concerned, AICTE is the governing body insofar as laying down parameters and qualitative norms for technical education and both the statutory bodies are like two sides of a coin without which the educational standards of the country would pale into insignificance. Therefore, the Supreme Court, through its various decisions, had codified the framework within which both the statutory bodies are supposed to function for a frictionless education system to evolve.

36. First of all, before embarking upon the validity of the degrees/diplomas awarded by the respective Universities/Institutions, which are alleged to have not obtained recognition from AICTE, this Court proceeds to address the substantive contention relating to the validity of the Rules enacted under Article 309 vis-a-vis the Government Order issued under Article 162 of the Constitution.

37. The Tamil Nadu State & Subordinate Services Rules was enacted in exercise of powers conferred by the proviso to Article 309 of the Constitution on 1st January, 1955 and, thereafter, various amendments have been made to the said Rules from time to time depending upon the necessities of the situation. Rule 19 relates to Special Qualifications, which prescribes the eligible qualifications to be considered as special qualifications for the purpose of promotion/appointment. The pivotal contention on behalf of the petitioners relate to the Explanation appended to Rule 19 (1), which mandates that the qualification prescribed has to be obtained from any University or Institution recognised by the University Grants Commission mentioned in Schedule II shall stand to be a recognised qualification.

38. It is the contention of the petitioners that the diplomas obtained by them, though through distance education mode, were obtained from Universities/Institutions, which were

recognised by UGC and finds mention in Schedule II of Part II of the Rules and, therefore, by mere issuance of the impugned Government Order, the said rule cannot be nullified as the Government Order cannot supercede the Rules.

39. In this backdrop, the purport of issuance of G.O. Ms. No.149 deserves to be looked into. True it is that a perusal of the said Government Order reveals that the same has been issued in exercise of powers conferred under Article 162 of the Constitution. However, an in-depth perusal of the said Government Order reveals that what is sought to be achieved by the said Government Order is not invalidating the degree/diploma obtained through Distance Education Mode, but only its equivalence with reference to the degree/diploma obtained through Regular Stream is sought to be determined.

40. It is trite that the State is bound to follow the doctrine of reasonable classification, while codifying rules, which impacts two classes of people, who have acquired similar qualifications. The Hon'ble Supreme Court in *Subramanian Swamy - Vs - CBI* (2014 (8) SCC 682) had considered the ambit within which the State is permitted to enact laws on a particular subject and in that context, held as under :-

"58. The Constitution permits the State to determine, by the process of classification, what should be regarded as a class for purposes of legislation and in relation to law enacted on a particular subject. There is bound to be some degree of inequality when there is segregation of one class from the other. However, such segregation must be rational and not artificial or evasive. In other words, the classification must not only be based on some qualities or characteristics, which are to be found in all persons grouped together and not in others who are left out but those qualities or characteristics must have a reasonable relation to the object of the legislation. Differentia which is the basis of classification must be sound and must have reasonable relation to the object of the legislation. If the object itself is discriminatory, then explanation that classification is reasonable having rational relation to the object sought to be achieved is immaterial."

(Emphasis Supplied)

41. Vide the above Government Order, the Tamil Nadu Public Service Commission, based on the dictates of AICTE, the Apex Body, which has control and oversees the quality of technical education, on the basis of the resolution passed by the Equivalence Committee, has taken a decision that diploma/degree qualification acquired through Distance Education as not equivalent to diploma/degree qualification acquired through regular stream. For the purpose of employment in public services.

42. The Rules stipulating Special Qualification u/r 19 (1) was enacted in the year 1955 at which point of time, the concept of Distance Learning was not even a passing idea in the mind of the academicians, much less any of the statutory bodies. In fact, UGC itself was established only in the year 1956. The Rule was framed keeping in mind the necessities of the situation as was prevalent then. In such a backdrop, the said Rules, more especially, Rule 19 (1) was framed. Further, a more judicious analysis of the said Explanation appended to Rule 19 (1) reveals that the said rule speaks about diploma/degree awarded by any University/Institution, recognised by the University Grants Commission, which has been obtained after completing the basic studies. The rule is silent as to whether it has to be obtained only through the regular stream or even diploma/degree obtained through distance education stream is permissible.

43. In this context, it is to be pointed out that the distance education learning was started by the opening of the Indira Gandhi National Open University in the year 1985. Before 1985, distance education mode was only to mean correspondence education, which was offered by the Universities only with reference to the conventional subjects, viz., Arts, Commerce, etc., and it did not pertain to any technical education of which practical was an integral part. Therefore, prior to the starting of the Distance Learning method, the diploma/degrees awarded by the Universities, which were recognised by the UGC were only related to conventional subjects and not related to the technical stream. The Rules, which were framed in the year 1955, wherein diplomas/degrees were granted by Universities approved by the UGC could only mean the degrees/diplomas were to be relatable to conventional subjects and not relatable to technical subjects, as technical subjects fall within the forte of the AICTE.

44. Further, one other curious thing, which requires to be pointed out is the fact that sub-clause (a) of the Explanation appended to Rule 19 (1) prescribes "a diploma obtained after completion of S.S.L.C. Or Higher Secondary (10+3 (3 Years Diploma) or 10+2+2 (Lateral Entry)". Lateral entry means a

person, who has been doing some other course, opts out of the said course to join the diploma course for whom the term stood reduced as he had already gone through a phase in the other course for a period of time. Meaning thereby, the person had been doing a regular course from which he opts out and joins the diploma/degree course from the said stream, in a lateral manner and not in the routine manner.

45. Further, it is to be pointed out at this juncture that a person completing SSLC has to undergo the diploma for a period of 3 years, which in essence means that the person should fall in the regular stream, as the rules as drawn then was on the basis of the education system as it stood on that day, which did not have any distance education stream for technical courses in engineering and technology. Likewise, a person, who has completed HSC (10+2), has to undergo the diploma for a period of 2 years, one year being reduced, as he had put in two further years of study after SSLC and is laterally coming into the stream of diploma, which also is only under the regular stream. Therefore, the reasonable inference that could be drawn from the Explanation appended to Rule 19 (1) relating to special qualification is that the diploma/degree meant in the said rule only relates to the acquirement of such qualification in the manner as was prevalent at that point of time.

46. Once it is held that the diploma/degree as prescribed in Rule 19 (1) does not take within its fold the diploma/degree obtained through distance education, G.O. Ms. No.149 issued in exercise of powers under Article 162 of the Constitution could only mean to clarify the special qualifications provided u/r 19 (1) and the said Government Order, in no way, amends or alters the rule. It simply explains the rule as is to be interpreted in the present context of the education system and it in no way codifies any new new rule, which is in contravention of the rules framed under Article 309 of the Constitution. The Government Order, in no way framing a new rule provision, which is in direct contrast to Rule 19 (1) of the Rules, the vires as sought to be projected by the petitioners cannot be countenanced. Therefore, in the above backdrop, this Court is of the considered opinion that the impugned G.O. Ms. No.149 based on which the reversion orders have been passed cannot be said to supercede Rule 19 (1) and the said Government Order could only be said to be an instruction from the Government as to the way in which the competency and equivalency of the diplomas/degrees should be interpreted for the purpose of promotion. Therefore, this Court is of the considered view that the G.O. Ms. No.149 is in no way abrogates Rule 19 (1) and, therefore, the contention of the learned counsel for the

petitioners that G.O. Ms. No.149 goes in utter violation and opposite to Rule 19 (1) is liable to be rejected for the reasons aforesaid.

47. In the aftermath of the decision arrived at by this Court on the validity and applicability of G.O. Ms. No.149, the next issue that falls before this Court borders on the validity of the diploma/degree obtained through distance education mode and its equivalence with the diploma/degree obtained through regular stream. In this context, it is the submission of the learned counsel for the petitioners that the diplomas/degrees having been awarded by Universities, which have been recognised by UGC, the same has to be considered as a valid diploma/degree in the eye of law in terms of the circular of the Central Government dated 16.5.13 and the subsequent communication of UGC dated 14.10.13.

48. In the wake of the above contention, this Court is entrusted with the task of finding out whether the diploma/degree obtained through distance education mode could be said to be equivalent to the diploma/degree obtained through regular stream. First of all, it should be borne in mind that the diploma/degree obtained through distance education, in the present petitions, relate to technical studies and not to conventional studies.

49. The Hon'ble Supreme Court, in Orissa Lift Irrigation case (supra), had occasion to consider the validity of the engineering degrees obtained through Open and Distance Learning mode and the questions that fell before the Apex Court and the decision rendered in that context are quoted as under :-

"45.

A. Whether the deemed to be universities concerned in the present case, could start courses through distance education in subjects leading to award of degrees in Engineering:

(a) Without any parameters or guidelines having been laid down by AICTE for conduct of such courses in technical education through distance education mode?

(b) Without prior approval under the AICTE Act?

* * * * *

46. The definition of "technical education" in Section 2(g) of the AICTE Act shows that the emphasis is on the programmes of education, research and training in Engineering Technology in general and the idea is not limited to the institutions where such programmes of education,

research and training are to be conducted or imparted. However, the definition of "technical institution" in Section 2(h) leaves out an institution which is a university. The distinction between the broader concept of "technical education" and the limited scope of "technical institution" is clear from Section 10 of the AICTE Act where certain functions concern the broader facets or aspects of technical education which by very nature must apply to every single institution (whether university or not) where such courses are conducted or imparted. At the same time, certain functions are relatable to technical institutions alone, which by definition are not applicable to universities. For example, functions in clauses (a), (b), (d), (e), (f), (l) and (n) are concerned with broader facets of technical education, while functions in clauses (k), (m), (p) and (q) deal with matters concerning technical institutions and thus may not apply to universities, whereas there are certain functions as set out in clauses (g) and (o) which apply to both "technical institutions" and "universities" imparting technical education. Clauses (c), (d) and (f) of Section 10 deal with subjects, inter alia, coordination of the technical education in the country at all levels; promoting innovation, research, development, establishment of new technologies, generation, adoption and adaptation of new technologies to meet the developmental requirements; and promoting and effecting link between technical education and systems and other relevant systems. AICTE is thus the sole repository of power to lay down parameters or qualitative norms for "technical education". What should be course content, what subjects be taught and what should be the length and duration of the courses as well as the manner in which those courses be conducted is a part of the larger concept of "technical education". Any idea or innovation in that field is also a part of the concept of "technical education" and must, as a matter of principle, be in the exclusive domain of AICTE.

* * * * *

48. Technical education leading to the award of degrees in Engineering consists of imparting of lessons in theory as well as practicals. The practicals form the backbone of such education which is hands-on approach involving actual application of principles taught in theory under the watchful eyes of demonstrators or lecturers. Face to face imparting of knowledge in theory classes is to be reinforced in practical classes. The practicals, thus, constitute an integral part of the technical education system. If this established concept of imparting technical education as a qualitative norm is to be modified or altered and in a given case to be substituted by distance education learning, then as a concept AICTE ought to have accepted it in clear terms. What parameters ought to be satisfied if the regular course of imparting technical education is in any way to be modified or altered, is for AICTE alone to decide. The decision must be specific and unequivocal and cannot be inferred merely because of absence of any guidelines in the matter. No such decision was ever expressed by AICTE. On the other hand, it has always maintained that courses leading to degrees in Engineering cannot be undertaken through distance education mode. Whether that approach is correct or not is not the point in issue. For the present purposes, if according to AICTE such courses ought not to be taught in distance education mode, that is the final word and is binding unless rectified in a manner known to law. Even National Policy on Education while emphasising the need to have a flexible, pattern and programmes through distance education learning in technical and managerial education, laid down in Para 6.19 that AICTE will be responsible for planning, formulation and maintenance of norms and standards including maintenance of parity of certification and ensuring coordinated and integrated development of technical and management education. In our view, whether subjects leading to degrees in Engineering could be taught in distance education mode or not is within the exclusive domain of AICTE. The answer to the first limb of the first question posed by us is therefore clear that without the guidelines having been

issued in that behalf by AICTE expressly permitting degree courses in Engineering through distance education mode, the deemed to be universities were not justified in introducing such courses.

49. We now move to the second limb of the first question. Under the 1994 AICTE Regulations, "no courses or programmes shall be introduced by any technical institution, university including a deemed university or university department or college except with the approval of the Council". [Bharathidasan University v. AICTE, (2001) 8 SCC 676 : 1 SCEC 924] declared the said Regulation to the extent it required a university to have approval for introducing any courses or programmes in technical education, to be bad. Same thought was amplified in Assn. of Management of Private Colleges v. AICTE, (2013) 8 SCC 271 : 6 SCEC 255] to say that affiliated colleges of the University were entitled to the same protection. The question is, whether a deemed to be university is also entitled to the same protection. The matter can be considered under two categories:

(a) The first category could be of a deemed to be university, which was conferred such status for its excellence in a field of technological subject, is now desirous of introducing courses or programmes integrally connected with the area in respect of which it was conferred deemed to be university status. For example, an Engineering college which because of its excellence in the field was conferred deemed university status, now wishes to introduce courses in subjects like Robotics or Nano Technology which are Engineering subjects and integrally connected with its own field of excellence.

(b) The second category could be of a deemed to be university which was conferred such status for its excellence in subjects which are completely unrelated to the field in which new courses are sought to be introduced. For example, an institution engaged in teaching Fine Arts and Music, for its excellence in that chosen field—or for

that matter an institution engaged in teaching Law had been conferred such status. Can such a deemed to be university claim immunity from regulatory control of AICTE and say that it is entitled, as a matter of right, to introduce courses in Engineering on the strength of the decision of this Court in Bharathidasan [Bharathidasan University v. AICTE, (2001) 8 SCC 676 : 1 SCEC 924] ?

50. We are concerned in the present cases with the second category of deemed to be universities. In the present cases, none of the deemed to be universities was conferred such status for its excellence in the field of Engineering. Their fields were completely unrelated. As a matter of fact, JRN and IASE did not even have regular college or faculty for Engineering at its main campus. And yet, they started courses in Engineering through distance education mode without the approval of AICTE, relying on the dictum in Bharathidasan [Bharathidasan University v. AICTE, (2001) 8 SCC 676 : 1 SCEC 924] . According to Dr.Rajeev Dhavan, learned Senior Advocate, they were entitled as a matter of right to start such courses."

(Emphasis Supplied)

50. From the above authoritative pronouncement of the Hon'ble Apex Court, it is unambiguously clear that AICTE is the authority, which is vested with the power to decide on courses related to technical education and deemed to be Universities, though recognised by the UGC, cannot, without the approval of AICTE, conduct courses in technical education.

51. In this backdrop, this Court proposes to analyse the diplomas/degrees obtained by the petitioners from various Universities, though recognised by UGC, which are spread over the length and breadth of the country, some of which are even situate in Tamil Nadu, to come to a comprehensive conclusion as to the validity of the said diplomas/degrees.

52. According to the petitioners, the Deemed Universities, from which the petitioners have obtained diplomas/degrees finds place in Schedule II of Part II of the Rules. More particular reference is drawn by the learned counsel to the deemed university, viz., St.Peter's Institute of Higher Education & Research, falling within the jurisdiction of the State. A

booklet has been filed on behalf of the petitioners containing the various orders, the Government Orders and particulars obtained from the website of the University Grants Commission.

53. In page-143 of the said booklet, the recognition accorded to the Universities/Institutions for offering programmes through distance mode by UGC is detailed. For better appreciation of the issue, the relevant portions of the said document is quoted hereunder :-

"RECOGNITION ACCORDED TO
UNIVERSITIES/INSTITUTIONS FOR OFFERING PROGRAMMES
THROUGH DISTANCE MODE IMPORTANT :

Institutional Recognition : The erstwhile DEC had not accorded approval to any specific programme offered by the university/institution and it is the university/institution to decide the programmes to be offered through distance mode and seek approval of the statutory bodies of the university and other apex bodies, wherever required.

* * * * *

Technical/Professional Programmes : In cases of technical/professional programmes offered by the university is concerned, wherever required, approval from the concerned apex bodies in the country such as AICTE, NCTE, etc., is required to be obtained for which the responsibility vests with the university concerned."

54. From the above, it is categorically clear that even in the recognition granted by the erstwhile DEC, which has since been taken over by UGC, there is a clear mandate to the Universities that insofar as technical/professional programmes are concerned, the requisite approval from the apex bodies, viz., AICTE, NCTE, etc., are required to be obtained. Therefore, it is clear that mere approval of UGC alone is not sufficient to conduct any courses by the Universities, more specifically technical education in any mode, be it regular stream or distance education, without the approval of AICTE.

55. Further, in Page-151 of the said booklet, the information pertaining to St. Peter's Institute of Higher Education & Research, Chennai, finds place. Therein, in column No.6 pertaining to the type of recognition granted by UGC, it clearly details that the recognition granted is programme-wise, while column No.5 relates to the duration of recognition. In the last column, which speaks about status of recognition, the various programmes to which recognition has been granted is

detailed and a careful examination of the same reveals that nowhere recognition has been granted to conduct technical courses, which fall under the purview of AICTE. The technical courses, viz., the diploma courses, which have been undergone by the petitioners are courses in which practicals form an integral part. However, there is neither recognition for the said technical courses nor any other material is placed before this Court to show that the technical courses, which were conducted through distance education mode have the approval of AICTE.

56. Further, one another document, which has nexus to the case on hand, on which the learned counsel for the petitioners lay much emphasis to drive home their point as to the validity of their certificates is the recognition accorded to St. Peters University, Chennai, by the Indira Gandhi National Open University. It is the contention of the petitioners for the period 2009-2012, Indira Gandhi National Open University having granted approval for conduct of technical courses in B.Tech., the said certificates should be deemed to be valid certificates.

57. To appreciate the above contention, it is but necessary to have a perusal of the said letter of Indira Gandhi National Open University dated 2.4.09 and for better clarity, the same is extracted hereunder :-

"Sub : Recognition of St. Peters University,
Chennai, Tamil Nadu by the DEC - Reg.

Dear Sir,

This has reference to your application seeking recognition of your University/Institution for offering programmes through distance mode.

Further to your request for recognition of your institution, the Distance Education Council had constituted an Expert Committee which visited your institution and submitted its recommendations to the DEC. Based on the recommendations of the Expert Committee, the Chairman, DEC, is pleased to accord recognition to your institution for the period of three years with effect from academic year 2009-2010 to academic year 2011-2012 for offering the following programmes through distance mode:

- i. B.A., B.Sc., B.Com.
- ii. M.A., M.Sc., M.Com.
- iii. BSW, MSW
- iv. B.Lib., M.Lib.
- v. BBA, BCA
- vi. B.Tech (Construction Management, Civil Engineering and Water Resource Engineering,

B.Tech. - Mechanical Engineering (Computer Integrated Manufacturing)

vii. MBA, MCA and PGDM with specializations

viii. M.Phil Programmes and

ix. Diploma and Certificates programmes using course materials of Director General of Employment and Training, Govt. of India.

The other B.Tech/B.E. Programmes offered by St. Peter's University in conventional mode which are approved by AICTE may also be offered under distance education mode only after producing the required course materials."

58. The contention on behalf of the petitioners being that the DEC of IGNOU having granted recognition, the diplomas/degrees awarded by the above University should be deemed valid and eligible for consideration for the purpose of promotion.

59. However, a careful perusal of the above letter from IGNOU reveals two aspects, viz., firstly, B.Tech/B.E. Programmes, conducted by St. Peter's University, in conventional mode, which are approved by AICTE, may be offered in distance education mode only after producing the required course materials and secondly, the Diplomas and Certificate programmes permitted to be conducted, were only on the basis of the course materials of Director General of Employment and Training, Government of India.

60. It is to be pointed out that the certificate issued by St. Peter's University relates to Diploma in Engineering. A course in engineering, which is technical in nature, could not be conducted without the approval and recognition of AICTE. At the most, the DEC has granted recognition only for conduct of courses in B.Tech., in conventional mode on the approval of AICTE. Nowhere Diploma in Engineering has been granted recognition by IGNOU and if at all, it is to be inferred that IGNOU has granted recognition to diploma courses, it relates only to diploma and certificate programmes using course materials of Director General of Employment and Training of the Government of India. The said diploma and certificate programmes using course materials of Director General of Employment and Training of the Government of India cannot be equated to the diploma/degree programmes approved by AICTE. Further, it is to be pointed out that no materials whatsoever has been placed before this Court to show that even otherwise, on the basis of the recognition granted by IGNOU, the courses in engineering and technology was conducted after duly obtaining

the requisite recognition and approval from AICTE. Even for the sake of argument it is accepted that IGNOU has the power to issue the recognition for conduct of technical courses through ODL, however, it is apparent on the face of record that even IGNOU has categorically stated in its letter that the courses offered in the distance education mode could be granted recognition only after perusing the requisite course materials, which are in tandem with the conventional mode for which approval has been granted by AICTE. It is to be pointed out that no material, whatsoever, has been placed before this Court to show that the same has been fulfilled and that the programmes, which are permitted to be conducted through conventional mode, for which approval has been granted by AICTE, the course materials followed therein are being utilised for the courses offered in ODL mode. In the absence of any such document, the stand of the petitioners that IGNOU has granted recognition based on which St. Peter's University has conducted the courses and issued the certificates is too big an ask for this Court to accede to.

61. In this regard, the public notice of UGC dated 25.1.2016, which finds place at page-142 of the same booklet tabled by the petitioners, goes one step further and mandates the following :-

"Besides, it may also be noted that no institution is permitted to offer Diploma/Bachelor/Master level programme under ODL mode in Engineering & Technology. Also, UGC has not accorded recognition to any university/institution to offer 'online' programmes."

62. From the above communication of UGC, it is patently clear that no institution is permitted to offer Diploma/Bachelor/Master level programme under Open and Distance Learning Mode in Engineering Technology. Therefore, the mandate has come even from UGC, though it is not the apex body with regard to technical education, that none of the institutions should offer diploma/bachelor/master level programme through Open and Distance Learning Mode in Engineering Technology.

63. In the above backdrop of the public notice of UGC in the year 2016, as noted above, pursuant to the dictates of the Central Government, as addressed by UGC to the Deemed, State, Central Universities/Institutions of National Importance, about the equivalence of degrees awarded by Open & Distance Learning (ODL) institutions at par with conventional universities/institutions assumes significance. The said

letter has been addressed to 'The Registrar/Director of all the Indian Universities (Deemed, State, Central Universities/Institutions of National Importance). From the above, it is categorically clear that the Universities/Institutions of National Importance fall within the purview of the said circular and only the course imparted by the said Universities/Institutions in the Distance Education Mode to be considered equivalent to the courses offered in the regular stream.

64. In this backdrop, the decision of the Hon'ble Apex Court in Orissa Lift Irrigation case assumes significance. The Hon'ble Apex Court has carved out two types of deemed to be university, viz., one conferred with the status of excellence in a field of technological subject and the second being the university which was conferred such status for its excellence in subjects which are completely unrelated to the field in which new courses are sought to be introduced. At the risk of repetition, the relevant portion of the decision of the Hon'ble Apex Court is quoted hereunder :-

49. We now move to the second limb of the first question. Under the 1994 AICTE Regulations, "no courses or programmes shall be introduced by any technical institution, university including a deemed university or university department or college except with the approval of the Council". [Bharathidasan University v. AICTE, (2001) 8 SCC 676 : 1 SCEC 924] declared the said Regulation to the extent it required a university to have approval for introducing any courses or programmes in technical education, to be bad. Same thought was amplified in Assn. of Management of Private Colleges [Assn. of Management of Private Colleges v. AICTE, (2013) 8 SCC 271 : 6 SCEC 255] to say that affiliated colleges of the University were entitled to the same protection. The question is, whether a deemed to be university is also entitled to the same protection. The matter can be considered under two categories:

(a) The first category could be of a deemed to be university, which was conferred such status for its excellence in a field of technological subject, is now desirous of introducing courses or programmes integrally connected with the area in respect of which it was conferred deemed to be university status. For example, an

Engineering college which because of its excellence in the field was conferred deemed university status, now wishes to introduce courses in subjects like Robotics or Nano Technology which are Engineering subjects and integrally connected with its own field of excellence.

(b) The second category could be of a deemed to be university which was conferred such status for its excellence in subjects which are completely unrelated to the field in which new courses are sought to be introduced. For example, an institution engaged in teaching Fine Arts and Music, for its excellence in that chosen field—or for that matter an institution engaged in teaching Law had been conferred such status. Can such a deemed to be university claim immunity from regulatory control of AICTE and say that it is entitled, as a matter of right, to introduce courses in Engineering on the strength of the decision of this Court in *Bharathidasan [Bharathidasan University v. AICTE, (2001) 8 SCC 676 : 1 SCEC 924]* ?

50. We are concerned in the present cases with the second category of deemed to be universities. In the present cases, none of the deemed to be universities was conferred such status for its excellence in the field of Engineering. Their fields were completely unrelated. As a matter of fact, JRN and IASE did not even have regular college or faculty for Engineering at its main campus. And yet, they started courses in Engineering through distance education mode without the approval of AICTE, relying on the dictum in *Bharathidasan [Bharathidasan University v. AICTE, (2001) 8 SCC 676 : 1 SCEC 924]*. According to Dr. Rajeev Dhavan, learned Senior Advocate, they were entitled as a matter of right to start such courses."

65. Therefore, the deemed universities from which the petitioners have obtained their diplomas/degrees, through distance education mode, first of all should fall within any one of the category mentioned above and in the case of the universities/institutions falling under the second category, the said universities/institutions would not be eligible to conduct technical courses without the approval of AICTE. In the case on

hand, it is not borne out by record that the universities/institutions, which have awarded diplomas/degrees for technical courses through distance education mode are universities of excellence coming within the first category and that such courses are offered after obtaining the approval of AICTE.

66. Once it is evident that the said universities/institutions have issued the diplomas/degrees in technical courses in Engineering and Technology in distance learning mode without the approval of AICTE, the technical courses offered by them would not stand to be a valid course in the eye of law and, thereby, the diploma/degree obtained by the persons from such of those universities through distance education mode cannot be taken to be valid diplomas/degrees, more so equivalent to diplomas/degrees obtained from regular stream.

67. To substantiate the above view of this Court, one other crucial document, which finds place in the booklet filed by the petitioners is another public notice dated 11.3.2015 issued by UGC, and the same is reproduced hereinbelow for better clarity :-

"2. AICTE in 2010 and 2011 also, notified its policy not to recognise the qualifications acquired through distance education mode at Diploma, Bachelors & Master's level in the field of Engineering and Technology including Architecture, town Planning, Pharmacy, Hotel Management & Catering Technology, Applied Arts & Crafts and Post Graduate Diploma in Management (PGDM). AICTE thus recognizes only MBA and MCA programmes through distance mode, provided it had approval of Joint Committee of DEC & UGC and the recognition status was notified on AICTE web portal.

3. The University Grants Commission, after taking over the regulatory function of erstwhile DEC and as per mandate given to it by Ministry of Human Resource Development to regulate Open and Distance Learning in Universities and Affiliated Colleges has decided that:

(i) No University/Institution deemed to be university/institution should offer Diploma, Bachelor's and Master's level programme in Engineering and Technology other than MBA and MCA till the finalization of UGC (Open and distance Learning) Regulations, 2014 for notification of relevant Regulations by an

independent regulatory authority established by Central Govt. to deal with ODL education in higher education system in the country, whichever is earlier.

(ii) UGC/AICTE will take action against those Universities/Institutions Deemed to be Universities/Institutions which are conducting professional courses in Engineering and Technology in ODL mode (other than MBA and MCA)."

(Emphasis Supplied)

68. From the above communication, it is further evident that even way back in 2010, advertisement to the public in the form of notice has been issued by AICTE about the non-recognition of qualifications acquired through distance education mode from Universities/Institutions, which are not approved by AICTE. The above notice of AICTE finds mention in the above letter of UGC supra, which clearly signifies that no approval has been granted for the conduct of technical courses in Engineering and Technology by Universities/Institutions in distance learning mode. This Court is at a loss to understand as to how IGNOU could grant recognition for conduct of courses in Engineering and Technology through ODL mode without there being approval of AICTE. Approval of AICTE for the conduct of courses in Engineering and Technology, be it through conventional mode or through ODL mode, is sine qua non for the said diploma/degree to be construed as a valid degree/diploma. In the absence of any approval from AICTE and recognition of the said courses conducted by the Universities/Institutions, the diplomas/degrees awarded by the Universities/Institutions could not have the sanctity of law as being valid diplomas/degrees acquired from Universities/Institutions recognised by UGC. In the above backdrop, the list of approved institutions as finds place in Schedule II of the TNSSS Rules, would not take within its fold the diplomas/degrees, which have been obtained from universities/institutions, which does not have the requisite approval from AICTE for conduct of technical courses in Engineering & Technology through distance education mode, though they have the requisite recognition from UGC for the conduct of conventional courses. Therefore, mere inclusion of the name of the universities/institutions in Schedule II of the Rules would not in any way grant right upon the institutions to have the diplomas/degrees to be recognised valid degrees/diplomas, when the basic ingredient of approval from the apex body is lacking, thereby, making the diplomas/degrees awarded by the said universities/institutions a farce.

69. Insofar as the contention of the petitioners relating to the nature of vacancy held by the petitioners, being vanishing in nature and, therefore, in the absence of any vacancy, the petitioners cannot be relegated back to their old position, however, it is to be pointed out that even as per the version of the petitioners, persons, in possession of qualifications from regular stream have also filed writ petitions against the promotion of the petitioners in detriment to their promotional prospects. Such being the case, the reversion of the petitioners back to their original position would go against the vacancies held by such of those persons, who would stand promoted, on they being in possession of valid diplomas/degrees and satisfying the qualifying criteria as fixed in Rule 19 (1) of the Rules. Therefore, the stand of the petitioners that the vanishing vacancies would be a deterrent in relegating the petitioners back to their original position would not hold water and is liable to be rejected.

70. Insofar as the contention relating to the retrospectivity of the rules relating to equivalence is concerned, this Court has already held that the rules, as were in force since 1955, still holds the filed and that G.O. Ms. No.149, which is impugned herein, in no way alters Rule 19 (1) and it is only a clarification, which is only additional, as Rule 19 (1), as it stands does not lean in favour of the petitioners, as contended. Therefore, question of retrospective operation of the rules would not arise and the contention of the petitioners in this regard does not merit acceptance and deserves to fail.

71. For the reasons aforesaid, this Court is not in agreement with the contentions put forth on behalf of the petitioners and, accordingly, the case as projected by the petitioners deserve to fail. Accordingly, all the writ petitions are dismissed. Consequently, connected miscellaneous petitions are closed. However, there shall be no order as to costs.

72. However, before parting with the case, it is to be pointed out that as early as in March, 2014, a Division Bench of this Court in W.A. (MD) No.1136/2013, etc. Batch, had passed the following directions :-

"17. Therefore, the writ appeals are disposed of, modifying the order of the learned Judge to the following effect :-

1) The Secretary to Government, Municipal Administration and Water Supply Department, Chennai, the second respondent in W.A. (MD)

No.1137 of 2013 and first respondent in W.A. (MD) No.43 of 2014 is directed hereby to consider the Draft Rules sent by the Director of Town Panchayats, in his proceedings Rc. No.24565/2007/A6 dated 15.03.2013, take into account the recommendations of One Man Commission issued in G.O. Ms. No.338, Finance (Pay Cell) Department, dated 26.8.2010 and issue a new set of Rules for governing the terms and conditions of services of all the persons who were employed in the Town Panchayats Engineering and Subordinate Services. The exercise of issue of a new set of rules shall be completed by the Secretary to Government, Municipal Administration and Water Supply Department, Chennai, within a period of eight weeks from the date of receipt of a copy of this order.

2) Simultaneously, with the issue of new set of Rules, the Government shall also advise the Director of Town Panchayats to draft a new set of seniority and also fill up the posts on promotion, so that the people who stagnate either on account of the inaction or on account of the litigation get some relief before their retirement."

73. As noted above, as early as in march, 2014, the above directions have been issued by this Court and even after a lapse of six years and a half, the approval of the draft rules have not seen the light of the day. These petitions and the connected litigations, which are on board of this Court, are the direct off-shoots of the sheer abdication of duty on the part of the 1st respondent to approve the draft rules and redraft the seniority and grant the promotion to the petitioners, which is nothing but clear violation and non-compliance of the orders passed by this Court. Instead of following the directions issued by the Division Bench, which is based on a holistic analysis of the situation and to prevent litigations, the respondents have taken the route of issuing on Government Order after the other, to ease themselves out from the current situation, thereby, creating a paradox in the whole promotion process, which has escalated to the present level. Though time and again the Courts have cautioned the authorities on the need for following its directives and adhering to the directions and complying with the same, the authorities, without giving even a scant regard to the directions issued by this Court, try to circumvent the same by adopting dilatory tactics, thereby, resulting in miscarriage of justice. This Court not only takes

strong exception to such an attitude on the part of the authorities, also cautions that the judicial power will sieve through the administrative fabric, if it is not in consonance with justice and equity, which are inherent in the justice delivery system. Therefore, this Court is of the opinion that the non-compliance of the directions of the Division Bench should warrant invocation of contempt action against the respondents herein, however, in the fitness of things, this Court, at this point of time, in the present case, is not initiating contempt action, on the sole premise that the respondents, acting in true spirit, will approve the draft rules forthwith without any further delay and follow the directions issued by the Division Bench in letter and spirit.

s/d-

Assistant Registrar

True Copy

Sub-Assistant Registrar

GLN
To

1. The Principal Secretary to Government
Municipal Administration &
Water Supply Department
Government of Tamil Nadu
Fort St. George, Chennai 600 009.
2. The Secretary to Government
Municipal Administration and Water Supply Department
Fort. St. George
Chennai 9.
3. The Director of Town Panchayats
Kuralagam, Chennai 600 108.
4. The Secretary to Government (FAC)
Higher Education (J2) Department
Fort St. George, Chennai 600 009.
5. The District Collector
Nagercoil, Kanyakumari District
6. The Assistant Director of Town Panchayats
Thiruvallur Region, Thiruvallur District

7.The Assistant Director of Town Panchayats
The District Collector, Salem Region, Salem District, Salem

8.The Secretary to Government
Department of Municipal Administration
and Water supply(Town Panchayats)
Fort. St. George
Chennai 9.

9.The Assistant Director of Town Panchayats
Thirunelveli Zone, Thirunelveli District

10.The Executive Officer
Alangulam Selection Grade Town Panchayats
Alangulam, Thirunelveli District

11.The Assistant Director Town Panchayats
Coimbatore Zone, Coimbatore District

+1 CC to The Government Pleader sr 37763.
+3 Ccs to Mr.P.I. Thirumoorthy, Advocate sr 38116 to 38118.
+1 CC to Mr.V. Vijay Shankar, Advocate sr 38129.
+1 CC to Mr.D. Jayasingh, Advocate sr 38158
+1 CC to Mr.K. Raja, Advocate sr 37893.
+1 CC to Mr.R. Jayaprakash, Advocate sr 37805.

W.P. NOS.42102 OF 2016, etc. Batch

KK(CO)
SP(08/03/2021)

सत्यमेव जयते
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