



IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON	PRONOUNCED ON
29.10.2021	23.12.2021

CORAM

THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN
AND
THE HONOURABLE MR.JUSTICE A.A.NAKKIRAN

W.A.NO.681 OF 2020
AND
C.M.P.NOS.9438 OF 2020 AND 6592 OF 2021

1. Er.D.Anand Kumar
2. Er.S.Nakkeeran
3. Er.S.Anbarasan
4. Er.S.Mutharasan
5. Er.T.V.Raghupathy Rajan
6. Er.N.DilliBaskar
7. Er.G.Logamoorthi
8. Er.Suresh Kumar
9. Er.J.Cheralathan
10. Er.S.Shanmugapriya
11. Er.Jathikul Jannah
12. Er.D.Denesh
13. Er.R.D.Muralidaran
14. Er.S.Ponthamizharasan

... Appellants/3rd Parties

-Vs-

1. R.Balakrishnan
2. V.Annadurai
3. J.Suresh Babu
4. A.Jambu
5. R.Shanmugam
6. T.Murugan
7. The Chairman-cum-Managing Director,
Tamil Nadu Generation and
Distribution Corporation Ltd.,
144, Anna Salai,
Chennai - 600 002.



WEB COPY

8. The Chief Engineer/Personnel,
Tamil Nadu Generation and
Distribution Corporation Ltd.,
144, Anna Salai,
Chennai - 600 002.

9. R.Rajasekaran
10. J.Kaliaperumal
11. E.Angappan
12. P.Chandiran
13. M.Satya Jaya Vara Prasad
14. S.Baranidharan
15. I.Muthamilan
16. P.Saravanan
17. E.Rajan Babu
18. K.Suresh

... Respondents/Respondents

(R9 to R14 impleaded as per order dated
08.09.2021 made in C.M.P.No.9889 of 2021

R15 & R16 impleaded as per order dated
17.10.2021 made in C.M.P.No.16096 of 2021

R17 & R18 impleaded as per order dated
07.10.2021 made in C.M.P.No.16095 of 2021)

PRAYER:-

Writ Appeal filed under Clause 15 of Letters Patent Act to
allow the Writ Appeal and thereby set aside the order dated
06.02.2020 passed by the learned Judge in W.P.No.33033 of 2019.

PRAYER IN W.P.NO.33033 OF 2019:-

Writ Petition filed under Article 226 of the Constitution of
India to issue a Writ of Mandamus directing the Respondents to
re-designate the Petitioners as Assistant Executive Engineers
from the date of their acquiring the decrees in accordance with
the orders of the Honourable Supreme Court dated 03/11/2017 and
in accordance with Annexure - I of the TNEB Service Regulations
and all other consequential benefits.

For Appellants : Mr.V.Karthic,
Senior Counsel
For Mr.Naveen Kumar Murthi

For R1 to R6 : Mr.V.Prakash
Senior Counsel
For Mr.Goutham S.Raman



WEB COPY

For R7 & R8 : Mr.P.Subramanian
Senior Counsel

For R9 to R14 : Mr.V.Stalin

For R15 & R16 : Mr.V.P.K.Gowtham

For R17 & R18 : Mr.Muthucharan

J U D G M E N T

S.VAIDYANATHAN, J.,
AND
A.A.NAKKIRAN, J.,

This Writ Appeal has been filed, challenging the order dated 06.02.2020, passed by the learned Single Judge in W.P.No.33033 of 2019, in and by which, a direction was issued to the 2nd Respondent therein/R8 herein to redesignate the Writ Petitioners as Assistant Engineers in accordance with the Service Regulations and consider their seniority from the year 2009 onwards. Aggrieved by such direction, the Appellants, who are third parties to the litigation, have filed this Writ Appeal, seeking to set aside the order dated 06.02.2020.

2. It was the case of the Writ Petitioners that they have been working as Junior Engineers (Mechanical) Grade-I in the Respondent TANGEDCO and subsequently, they acquired a Degree in Mechanical Engineering. Whenever vacancies arise, they should be considered and appointed as Assistant Engineers (Mechanical) against such vacancy. Though they made a representation to the Respondent TANGEDCO, there was no decision taken with regard to conversion of designation for want of appraisal of the validity of the degree obtained by the Writ Petitioners through Distance Education Programme at Vinayaka Mission University.

2.1. It was further case of the Writ Petitioners that since their degrees were suspended during pendency of cases before before the Supreme Court, they waited for the final verdict of the Supreme Court and thereafter, the Supreme Court in the pending cases passed the following order:

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



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

WEB COPY

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

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

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

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

2.3. It was also the case of the Writ Petitioners that subsequently, AICTE conducted a test to the Writ Petitioners and all of them had cleared in the 2nd attempt in the year 2018 and AICTD had also issued a certificate of validation of the degree to the petitioners. Based on the certificate of validation, the Writ Petitioners made a representation to the 2nd Respondent therein for re-designation of their post as Assistant Engineers with effect from the date of getting the original degree in the year 2009. Since the said representation has not been considered, they invoked the provisions of Article 226 of the Constitution of India for a suitable direction and obtained an order from the learned Single Judge in their favour.



3. Learned Senior Counsel appearing for the Writ Petitioners submitted that the Writ Petitioners are eligible to be redesignated as Assistant Engineers by fitting into seniority of the year 2009 onwards, consequent to their completion and revival of degree within the stipulated time, pursuant to the order of the Supreme Court. Though the certificate of validation of the degree was obtained in the year 2018, it relates back to 2009.

3.1. Learned Senior Counsel for the Writ Petitioners drew the attention of this Court to the subsequent order passed by the Supreme Court in the review petition, in and by which, one more opportunity was given to persons to clear the test conducted by AICTE. However, the Writ Petitioners had not availed any such opportunity, on the basis of the original degree granted by the deemed University.

4. Learned Senior Counsel representing the Appellants, who are third parties, contended that Writ Petitioners had not added them as parties to the Writ Petition, as their seniority is sought to be unsettled by way of filing a Writ Petition. The degrees of Writ Petitioners remained suspended until they clear the test and they had completed the test in their second attempt and thereafter, obtained a certificate of validation of their B.E.Degrees. It was further contended that the validation of degree obtained by Distance Education mode and granted by AICTE cannot be taken to be equivalent to that of regular B.E. Degree or part time B.E.Degree obtained by them. Further, learned Single Judge failed to consider that as per TNEB Service Regulations/Board Proceedings, degrees obtained through Distance Education mode is not a recognized one and in the year 2018 itself, it was made clear by TNEB that the candidates, who had acquired B.E.Degree through Distance Education are not eligible to compete with other eligible candidates, who have done their B.E.Degree on regular mode. Therefore, the Writ Petitioners cannot, as a matter of right, demand for re-designation of their post as Assistant Engineers and in case of shuffling of seniority, that too, without affording an opportunity to present their case, it would have a great repercussion among all persons, who were appointed and promoted in the subsequent calendar years. Hence, it was prayed that the order of the learned Single Judge needs re-consideration and is liable to be set aside.

5. Before the Writ Court, the Respondent/TANGEDCO mainly took a stand that there was a delay in approaching this Court by the Writ Petitioners and they indirectly espoused the cause of the Appellants herein. It was urged that if the senior is refixed, there will certainly be hue and cry, as it will unsettle the settled position of the seniority of Assistant



Engineers. Since they are some how sailing with the Appellants herein, they do not have much saying on the issue, except saying that the process of re-designation is not the simplest form.

6. Heard the learned Senior Counsel appearing for the respective parties, learned counsel on either side and perused the material documents available on record.

7. The main grievance of the Appellants herein was that learned Single Judge has granted the relief to the Writ Petitioners on the assumption that the Degree Certificates obtained by the Writ Petitioners, the Appellants and the Impleaded Respondents are equivalent in terms of the orders of the Supreme Court in the case of Orissa Lift Irrigation Corporation Limited vs. Rabi Sankar Patro and others [Civil Appeal Nos.17869 - 17870 of 2017] decided on 03.11.2017, ignoring the fact that it was decided by the Supreme Court that unless until the candidates clear the test conducted by AICTE even after two attempt, the degree obtained them would become invalid. The relevant portion of the judgment is extracted hereunder:

"52. The present case shows the extent of commercialization of education by some of the Deemed Universities. The commercialization of education seriously affects creditability of standards in education, eroding power and essence of knowledge and seriously affecting excellence and merit. The present case further displays lack of effective oversight and regulatory mechanism for the Deemed to be Universities. The UGC had completely failed to remedy the situation. Serious question has therefore arisen as to the manning of the UGC itself for its effective working. We have already found that facilities at Study Centres were never checked nor any inspections were carried out which has led us to direct suspension of degrees for the students enrolled during academic sessions 2001-2005 and annulment of degrees of students admitted after academic sessions of 2001- 2005. We have also found that there was complete and flagrant violation of norms and policies laid down by the authorities by the Deemed to be Universities. AICTE had been illegally kept out. Thus, interest of justice requires that the following issues also need to be addressed:

(i) Action for failure of system, inter alia, on account of misconduct of some of the functionaries who failed to uphold the law and



granted approvals contrary to the policy and the rules;

(ii) Manning of the UGC;

WEB COPY

(iii) Appropriate oversight and regulatory mechanism especially for distance education degrees especially those relating to technical education by the Deemed to be Universities in future;

(iv) Review of the Deemed to be Universities status granted to the Deemed to be Universities in the past in the light of this Judgment and in the light of their working; and The above issues need immediate steps to be taken by the Union of India. Review of oversight and regulatory mechanism is of utmost priority for the future of technical and professional education at the hands of Deemed Universities. In this regard, we may note the observations of the Constitution Bench of this Court in *Modern Dental College and Research Centre and others v. State of Madhya Pradesh and others*¹¹ highlighting need for review of regulatory mechanism for medical admissions and profession. We also note the observations in *Mahipal Singh Rana, Advocate v. State of Uttar Pradesh*¹² with regard to legal profession.

53. Accordingly we direct:

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

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

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

(2016) 7 SCC 353 - Paras 86 to 92, 108 to 111 (2016) 6 SCC 335 IV The AICTE shall devise the modalities to conduct an



WEB COPY

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

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

VII As regards students who were admitted after the Academic Sessions 2001-2005, their degrees in Engineering awarded by the concerned Deemed to be Universities through distance education mode stand recalled and be treated as cancelled. All benefits secured by such candidates shall stand withdrawn as indicated in Para 48 above. However, the entire amount paid by such students to the concerned Deemed to be Universities towards tuition fees and other expenditure shall be returned by the concerned Deemed to be Universities by 31.05.2018, as indicated in Para 48. VIII By 31.05.2018 all the concerned Deemed to be Universities shall refund the sums indicated above in VII and an appropriate affidavit to that extent shall be filed with UGC within a week thereafter.

IX We direct the CBI to carry out thorough investigation into the conduct of the



WEB COPY

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

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

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

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

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



WEB COPY

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

8. The aforesaid decision was clarified in the subsequent judgment by the Supreme Court reported in (2018) 2 SCC 298, by holding as under:

"25. We now turn to the general submission advanced by all the learned counsel that the candidates after securing the degrees in Engineering through distance education mode, have advanced in career and that their ability was tested at various levels and as such requirement of passing the examination in terms of the judgment be dispensed with in their case. We cannot make any such exception. The infirmity in their degrees is basic and fundamental and cannot be wished away. At the same time, we find some force in their submission that if the suspension of their degrees and all advantages were to apply as indicated in the judgment, the concerned candidates may lose their jobs and even if they were to successfully pass the test, restoration of their jobs and present position would pose some difficulty.

26. We, therefore, as a one-time relaxation in favour of those candidates who were enrolled during the academic years 2001-2005 and who, in terms of the judgment, are eligible to appear at the test to be conducted by AICTE, direct:-

26.1. All such candidates, who wish to appear at the forthcoming test to be conducted by AICTE in May-June 2018 and who exercise option to appear at the test in terms of the judgment, can retain the degrees in question and all the advantages flowing therefrom till one month after the declaration of the result of such test or till 31.07.2018 whichever is earlier.

26.2 This facility is given as one-time exception so that those who have the ability and



WEB COPY

can pass the test in the first attempt itself, should not be put to inconvenience. If the candidates pass in such first attempt, they would be entitled to retain all the advantages. But if they fail or choose not to appear, the directions in the judgment shall apply, in that the degrees and all advantages shall stand suspended and withdrawn. At the cost of repetition, it is made clear that no more such chances or exceptions will be given or made. They will undoubtedly be entitled to appear on the second occasion in terms of the judgment but this exception shall not apply for such second attempt.

26.3. We direct AICTE to conduct the test in May-June 2018 and declare the result well in time, in terms of our directions in the judgment and this Order. AICTE shall however extend the time to exercise the option to appear at the test suitably.

27. Except for the directions given in the preceding paragraph i.e. paragraph 7 and the clarification as regards courses leading to award of diplomas as mentioned hereinabove, we reject all the other submissions."

9. The Writ Petitioners and the Respondents 9 to 14, who are represented through Mr.V.Stalin, learned counsel, stated that they are Diploma Holders and they are later entry candidates to the Engineering course, i.e., they would enter the second year of B.E., on account of the reason that they had already completed Diploma and that they have completed their B.E. in the year 2009. It was also stated that the Apex Court in its order clearly held that all the degrees in Engineering granted to students, who were enrolled during the academic years 2001 to 2005 would stand suspended till they pass such examination under the joint supervision of AICTE-UGC. The Apex Court further held that the Deemed Universities flagrantly violated and entered into areas where they had no experience and started conducting courses through distance education system illegally. In order to protect the interest of the candidates, the persons like the Writ Petitioners and others were directed to participate in the examination being conducted under the joint supervision of AICTE-UGC and till such time, the degrees in Engineering granted to students, who were enrolled during the academic years 2001 to 2005 were ordered to be kept suspended. The Apex Court further went on to hold that two chances may be given to the candidates to clear the test that may be conducted by AICTE-UGC and in case they failed to clear the test even in two attempts, the degree certificates would stand cancelled. It was made clear in the



order of the Apex Court that any promotion or advancement in career on the basis of such degree would stand withdrawn, however, any monetary benefits or advantages in that behalf could not be recovered from them. Several Universities faced the wrath of the Supreme Court, including the so-called Deemed University, a Commercial Broker at Salem and the various decisions referred to in this order would highlight that the real intention of Deemed Universities at that relevant point of time was to mint money, by giving certificates in respect of academic qualification alone and not a quality education and such Universities must realize that education is different from qualification.

10. An overall reading of the order of the Supreme Court clearly throws light on the issue that there is a one time relaxation to students, who have enrolled during the academic year 2001-2005 and are eligible to appear for the test to be conducted by AICTE-UGC. As stated in Paragraph Nos.46 and 47, no students would be given more than two chances to clear the test/tests and if they fail to pass within the time contemplated, their degrees would stand cancelled and all the advantages would also stand withdrawn. It was the case of the Writ Petitioners and the similarly placed persons, who have been impleaded as party Respondents to this case that they have cleared the examination in the 2nd attempt. Admittedly, they have joined in the academic year 2005-2006 and though it has been contended by the Writ Petitioners that the academic year commenced in June, 2002 itself, the classes would normally start subsequent thereto.

11. The Supreme Court has not mentioned about lateral entry and the issue involved in this case is whether a person can be permitted to join the 2nd year, having enrolled in the year 2004-2005 or 2005-2006 and the issue in this is narrowed down with regard to the academic year 2004-2005 and 2005-2006. Admittedly, the Writ Petitioners and the similarly placed persons have not cleared their examination in the first attempt, which has not been disputed by them. Merely because AICTE had permitted the Writ Petitioners and others in this case to participate in the test, it does not mean that they have to be compulsorily considered for re-designation, as the Supreme Court nowhere held that the candidates, who have cleared either in the 1st attempt or in the 2nd attempt should be placed in the higher pedestal. Even assuming for the sake of argument that lateral entry in the 2nd year is permitted, the candidates, who have joined during the academic year 2005-2006 in the 2nd year should have cleared the test in the 1st attempt during the academic year 2007-2008 (and in case of 2nd attempt, during the academic year 2008-2009). A reading of the Service Regulations of TANGEDCO unearths the fact that the Junior Engineers (Mechanical), who



acquire a degree in Mechanical Engineering subsequently are eligible to be re-designated as Assistant Engineers (Mechanical) and are eligible to be appointed in the said post, if there are regular vacancies.

WEB COPY

12. Though learned Single Judge has rightly held that the delay cannot be put against the Writ Petitioners, the subsequent observation proceeded on the basis that the candidates, who have obtained degree in the year 2009, would be entitled to the relief in terms of the said Regulation, which is not correct, as, in terms of the decision of the Apex Court, relied upon by the Appellants, in the case of Vinit Garg and others vs. University Grants Commission and Others, reported in 2019 (II) Scale 658, the Writ Petitioners should have cleared the examination in the year 2007 on the reasoning that for Diploma Holders, the period prescribed is three years for completion of B.E. The Writ Petitioners have joined the 2nd year during the academic year 2004-2005 and cleared the test in the 1st attempt in 2007 and the 2nd attempt in 2008. As there is a lateral entry only in the academic year 2005-2006, which has not been approved by the Apex Court and that the Writ Petitioners and the similarly placed persons have cleared the test in the 2nd attempt only in 2009, namely, much beyond the time prescribed by the Apex Court, in our view, the question of re-designation in terms of Regulation 92 does not arise at all, even though they are entitled to be retained with monetary benefits based on the Diploma, which they had obtained. For the sake convenience, the relevant paragraphs of the judgment are reproduced hereunder:

"3. The petitioners who are diploma holders in Civil/ Computer Science/ Electrical/ Mechanical Engineering and working in the Government of Punjab have stated that they were selected for the B.Tech. degree course through the distance mode programme on the basis of competitive examination conducted by TIET, Patiala, which is deemed to be a university under Section 3 of the University Grants Commission Act, 1956 (hereinafter referred to as 'UGC Act'). The petitioners highlight that TIET, Patiala, rated as one of the premier engineering universities/ colleges by the Ministry of Human Resource Development, Government of India, was set up in 1956 for promoting the study of technical education and has a 250 acre campus located in Patiala with teaching faculty strength of 391, including 301 Ph.D. holders, and undertakes 11 undergraduate courses and 23 postgraduate courses. The total strength of students is more than 8000 with nearly 700 research students doing Ph.D. The National Assessment and Accreditation Council, an autonomous



WEB COPY

body established by the Ministry of Human Resource Development, Government of India, has accredited the said institution/deemed to be university Grade 'A' status besides placing the institution in Tier-I accreditation. Distance Education Council (hereinafter referred to as 'DEC') vide its letter dated 3rd September, 2007 had granted provisional recognition to TIET, Patiala for offering programmes through distance mode for a period of one year on the basis of which TIET, Patiala had offered B.Tech. degree in Civil / Computer Science / Electrical / Mechanical Engineering to working professionals who already had a diploma and had at least two years' experience in the respective branches in engineering in the academic years 2007-08 and 2008-09. No admissions were made after 29th July, 2009. The petitioners had taken admission in the prestigious deemed to be university verily believing that all approvals were in place.....

22. In Orissa Lift Irrigation Corporation Limited-I, the Court also made a distinction between students who had taken admission in deemed to be universities offering technical degrees through distance learning in the academic years 2001 to 2005 and 2005- 2006 onwards. The reason for distinction was paragraph 5 of the 2004 Guidelines and ex-post facto approvals granted by the UGC and DEC to deemed to be universities that had offered technical degrees in the academic years 2001-2005. It was held that the said exercise of grant of ex-post facto approvals was completely uncalled for and contrary to law and illegal. Accordingly, the ex post facto approvals were set aside with the consequential directions to recall all the engineering degrees granted pursuant to the said approvals. However, conscious that the ex post facto approvals were in terms of paragraph 5 of the 2004 Guidelines, while suspending the degrees awarded to students who had been enrolled during the academic years 2001 to 2005, the Court had given these students an opportunity to appear and clear such examination under joint supervision of the AICTE-UGC. It was observed:

"57. [T]he matter is required to be considered with some sympathy so that interest of those students who were enrolled during the academic sessions 2001-2005 is protected. Though we cannot wish away the



WEB COPY

fact that the concerned Deemed to be Universities flagrantly violated and entered into areas where they had no experience and started conducting courses through distance education system illegally, the over bearing interest of the concerned students persuades us not to resort to recall of all the degrees in Engineering granted in pursuance of said ex-post-facto approval. However, the fact remains that the facilities available at the concerned Study Centres were never checked nor any inspections were conducted. It is not possible at this length of time to order any inspection. But there must be confidence and assurance about the worthiness of the concerned students. We, therefore, deem it appropriate to grant some chance to the concerned students to have their ability tested by authorities competent in that behalf. We, therefore, direct that all the degrees in Engineering granted to students who were enrolled during the academic years 2001 to 2005 shall stand suspended till they pass such examination under the joint supervision of AICTE-UGC in the manner indicated hereinafter. Further, every single advantage on the basis of that degree shall also stand suspended."

23. The aforesaid directions were not in respect of any engineering degree granted by deemed to be universities to candidates admitted/enrolled post the academic year 2004-2005. Grant of any degree for students enrolled post the academic year 2004-2005 was held as contrary to law and illegal, and could not be treated as regular and at par with the regular degrees. Therefore, paragraph 49 would not be of any avail to the petitioners.

17. We would also refer to the second round of litigation as applications were filed seeking clarification and modification of the directions in Orissa Lift Irrigation Corporation Limited-I. The decision dated 22nd January, 2018 in Orissa Lift Irrigation Corporation Limited v. Rabi Sankar Patro and Others (hereinafter referred to as 'Orissa Lift Irrigation Corporation Limited-II') had decided several applications of diploma holders who had enrolled for engineering or B.Tech. degree in deemed to be universities through distance learning



WEB COPY

mode. One of the contentions raised in the applications was that the deemed to be universities awarding engineering degrees through distance learning mode in Orissa Lift Irrigation Corporation Limited-I were not institutes of excellence in the field of engineering and, thus, there would be a distinction between engineering degrees awarded through distance education mode by deemed to be universities declared as institutions of excellence and the degrees awarded by other deemed to be universities. This contention was (2018) 2 SCC 298 squarely rejected by referring to the fact that engineering degrees through distance education mode awarded by Vinayaka Mission's Research Foundation in Orissa Lift Irrigation Corporation Limited-I had been also declared to be invalid, though the said institution in its field of activity and excellence included the subject of engineering. Dealing with other contentions raised by the applicants, the Court in Orissa Lift Irrigation Corporation Limited-II held as under:

"25. We now turn to the general submission advanced by all the learned counsel that the candidates after securing the degrees in Engineering through distance education mode, have advanced in career and that their ability was tested at various levels and as such requirement of passing the examination in terms of the judgment be dispensed within their case. We cannot make any such exception. The infirmity in their degrees is basis and fundamental and cannot be wished away. At the same time, we find some force in their submission that if the suspension of their degrees and all advantages were to apply as indicated in the judgment, the candidates concerned may lose their jobs and even if they were to successfully pass the test, restoration of their jobs and present position would pose some difficulty.

25. The Court, therefore, granting a one-time relaxation to the candidates who had enrolled themselves during the academic years 2001-2005, held that candidates would, in terms of the judgment in Orissa Lift Irrigation Corporation Limited I, be eligible to appear for the test conducted by the AICTE.



WEB COPY

26. Given the aforesaid ratio, we reject the plea that the petitioners are entitled to relief as was granted to the petitioners in Orissa Lift Irrigation Corporation Limited I and II. This contention is unacceptable for the reason that in Orissa Lift Irrigation Corporation Limited I and II, no relief was granted to the candidates who had taken admission in 2005 or thereafter. Relief in the form of one-time relaxation vide examination to be conducted by the AICTE was granted to those candidates/students who had taken admission in academic years beginning from 2001 and till 2004-2005.

27. TIET, Patiala in their additional affidavit have referred to the correspondence with the DEC expressing their desire to start B.Tech. courses in Civil Engineering/ Computer Sciences and Engineering/ Electrical Engineering/ Mechanical Engineering through distance learning programme, vide their letter dated 17th May, 2006 and reply of the DEC vide its letter dated 16th June, 2006 that such approvals can only be granted after evaluation of the course material by an expert committee and for which TIET, Patiala should apply in the prescribed format with requisite fee. Thereupon, TIET, Patiala had submitted an application in the required format and an expert committee constituted by the Chairman of the DEC had evaluated infrastructure and other services etc., provided by TIET, Patiala. The expert committee, which included the Director, School of Engineering and Technology, IGNOU, gave a favourable report subsequent to which the letter of provisional recognition dated 31st August, 2007 was issued by the DEC permitting TIET, Patiala to start the course. Reference was also made to the press note dated 23rd May, 2007 released by Press Information Bureau, Government of India, which had published a list of universities including deemed to be universities offering distance education. This list also included TIET, Patiala.

13. At this juncture, Mr.V.Prakash, learned Senior Counsel for the Writ Petitioners submitted that the aforesaid decision may not be applicable to the facts of this case, inasmuch as the Court has only considered the candidates, who have joined during the academic year 2007-2008 and 2008-2009. It is pertinent to point out here that while considering those Diploma candidates, the Apex Court has made it very clear in the above extracted



paragraphs that the academic year of the Diploma Holders at the lateral entry level commences in 2004-2005 and not later and therefore, the candidates, who have joined the 2nd year in the year 2007-2008 alone are entitled and not 2005-2006 batch. Admittedly, the Writ Petitioners and others have joined only in 2006, which is beyond the time prescribed. Though an innocuous prayer has been made in the Writ Petition, it will certainly have a repercussion in the seniority list, that may be prepared by the Electricity Board, including the Writ Petitioners and other similarly placed persons. With regard to the plea raised by the Appellants about non-joinder of necessary party, it is appropriate to state here that the Writ Petitioners ought to have made the Appellants herein as parties to the Writ Petition or they should have filed a petition under Rule 2-A of the Rules to Regulate Proceedings Under Article 226 of the Constitution of India to Regulate the Proceedings Under Article 226 of the Constitution of India, by making one person in the representative capacity and obtained an order. For the sake of brevity, Rules 2-A and Rule -2B of the said Rules are extracted hereunder:

"Rule 2-A: Where there are numerous persons who may be affected in the event of the petitioner succeeding in a writ petition or whose addresses for effective service of notice in the writ petition is not known to the writ petitioner, or where the Court considers that having regard to the need for a quick decision and avoidance of delay, it is necessary to grant such permission, the writ petitioner, may with the permission of Court, file a single petition against one or more of such persons who may be affected, designating and describing him or them, as representing all such persons:

Provided that while granting permission to the petitioner to implead a respondent or respondents in a representative capacity, the Court may direct publication of a notice in the prescribed form so that every person likely to be affected will have an opportunity of coming on record if he so chooses."

Rule 2-B: Where several persons seek to invoke the jurisdiction of the Court under Article 226 of the Constitution of India, it is open to the Court to permit them to join in a single petition having regard to the nature of their grievance, the source of the right which they seek to enforce, the nature



of the cause of action alleged and the nature of the relief prayed for."

14. In fine, finding much force in the contention of the Appellants, this Writ Appeal is allowed and the order dated 06.02.2020, passed by the learned Single Judge in W.P.No.33033 of 2019 is hereby set aside. No costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-
Deputy Registrar (CS)

//True Copy//

Sub Assistant Registrar

ar

To

1. The Chairman-cum-Managing Director,
Tamil Nadu Generation and
Distribution Corporation Ltd.,
144, Anna Salai,
Chennai - 600 002.
2. The Chief Engineer/Personnel,
Tamil Nadu Generation and
Distribution Corporation Ltd.,
144, Anna Salai,
Chennai - 600 002.

+1cc to Mr.V.Stalin, Advocate, S.R.No.69220
+1cc to Mr.P.Subramanian, Advocate, S.R.No.69694
+2ccs to Mr.Naveen Kumar Murthi, Advocate, S.R.No.69265
+1cc to Mr.Goutham S.Raman, Advocate, S.R.No.58

W.A.NO.681 OF 2020

SMI (CO)
PBS/19/01/2022