

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR.

WRIT PETITION NO.4934 OF 2021

1. Dilip S/o Narsingrao Kene,
 2. Bhagwant S/o Shankarrao Harne,
 3. Rambhau S/o Raghobaji Patil,
 4. Mukund S/o Mahadevrao Naikwade,
 5. Shirish S/o Shivajirao Deshmukh
 6. Bhimrao S/o Bajirao Magre
- ... Petitioners

vs.

1. State of Maharashtra
through its Secretary,
Urban Development Department,
Mantralaya, Mumbai-32
 2. Nagpur Improvement Trust,
Through its Chairman,
Civil Lines, Nagpur
- ... Respondents

Shri Anand Parchure, Advocate for petitioners.

Ms Tajwar Khan, Assistant Government Pleader for respondent No.1/State.

Shri Girish A. Kunte, Advanced for respondent No.2/NIT.

CORAM : A. S. CHANDURKAR AND URMILA JOSHI-PHALKE, JJ.

ARGUMENTS WERE HERD ON : September 09, 2022.

ORDER IS PRONOUNCED ON : September 23, 2022

P.C.

Heard.

The challenge raised in this writ petition is to the order dated 04/02/2022 passed by the respondent No.2-Nagpur Improvement Trust (hereinafter NIT) rejecting the request made on behalf of the petitioners for promotion on the post of Junior Engineer.

Each petitioner who is working as Civil Engineer Assistant and finds reference in the final seniority list published on 31/03/2022 indicating the position as on 01/01/2022, claims to be entitled to be promoted on the post of Junior Engineer. Each petitioner has obtained Degree/Diploma through Distance Education either from JRN Rajasthan University or the Karnataka University. On 01/11/2021 the petitioners had made a representation seeking benefit of higher pay-scale as per recommendations of the 7th Pay Commission on completion of 10-20-30 years of service respectively. That request has been refused by the NIT on the ground that the Degree/Diploma qualification obtained by the petitioners was not recognized by the All India Council of Technical Education (for short, AICTE).

2. The learned counsel for the petitioners submitted that the impugned order has been passed without considering the relevant material. It was incorrect to state that the petitioners were not entitled for higher pay-scale or grant of promotion on the ground that they had obtained necessary qualification that was not approved by the AICTE. Inviting attention to the communication dated 12/04/2021 issued by the Urban Development Department to the Chairman, NIT it was submitted that it was clarified that the educational qualification obtained from the Engineering Staff College, Nashik was accepted as

valid. As per the Government Resolution dated 23/08/2011 the qualifications obtained through Distance Education were treated as valid. Reference was also made to the communications dated 14/10/2020 and 12/11/2020 in that regard. Without considering the effect of these communications it was held that the petitioners were not entitled for promotion or grant of higher pay-scale. It was thus submitted that the impugned communications be set aside and the relief as prayed for be granted.

3. The learned counsel appearing for the NIT opposed the aforesaid submissions. He referred to the affidavit in reply placed on record and submitted that in view of the decision of the Honourable Supreme Court in *Orissa Lift Irrigation Corporation vs. Rabi Sankar Patro & Ors. (2018) 1 SCC 546* dated 03/11/2017 the Degrees in Engineering awarded by the Deemed to be Universities were not valid. As per Circular dated 30/12/2020 issued by the AICTE, Diploma in Engineering obtained through Distance Education mode was also not valid. Since it was found that the petitioners had obtained their qualifications from the Universities that were within the purview of the Circular dated 30/12/2020 issued by AICTE, the petitioners were not entitled for such relief. The decision as taken was in the light of the communication dated 27/12/2021 issued by the State Government

clarifying the matter. Hence no illegality was committed.

4. On hearing the learned counsel for the parties and after perusing the documents on record, it can be seen that the petitioner Nos.1 to 5 have obtained Degrees/Diplomas from JRN Rajasthan University while the petitioner No.6 has obtained Diploma in Civil Engineering from Karnataka University through Distance Education. The Circular dated 30/12/2020 issued by the AICTE is clear that such Degrees/Diplomas awarded in Engineering through Distance Education mode were not validated. Similarly in *Orissa Lift Irrigation Corporation* (supra) it has been held that Degrees awarded by Deemed to be Universities were suspended. In the light of Circular dated 30/12/2020 the State Government has issued clarification on 27/12/2021. After considering that communication dated 27/12/2021, the NIT has found that the qualification acquired by the petitioners were not validated by the AICTE. The requisite qualifications acquired by each petitioner can be found in the seniority list as of 01/01/2022. We thus find from the material on record that this conclusion arrived at by the NIT is in accordance with the Circular dated 30/12/2020 issued by the AICTE and the directions issued by the State Government on 27/12/2021. We therefore do not find any illegality committed by the NIT when it refused to grant the benefit of

higher pay-scale or promotion to the post of Junior Engineer to the petitioners. There is no reason to interfere in writ jurisdiction. The writ petition is thus dismissed with no order as to costs.

(Urmila Joshi-Phalke, J.)

(A. S. Chandurkar, J.)

Asmita