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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

Date of Decision: 28th July, 2022

+ W.P.(C) 5517/2021 & CM APPL. 1060/2022

TARUN ADARSH

..... Petitioner

Through: Petitioner in person.

versus

UNION OF INDIA, THROUGH SECRETARY, MINISTRY OF
EDUCATION, DEPARTMENT OF HIGHER EDUCATION &
ANR.

..... Respondents

Through: Mr. Sushil Kumar Pandey, Senior
Panel Counsel with Mr. Rahul
Mourya, Advocate for R-1.
Ms. Liz Mathew and Mr. Navneet R.,
Advocates for R-2.

CORAM:
HON'BLE MR. JUSTICE SANJEEV NARULA
JUDGMENT

SANJEEV NARULA J.:

1. The short question before the Court is whether the Petitioner is entitled to a Master of Science degree [*hereinafter*, '**MS Degree**'] from the Indian Institute of Sciences Education and Research, Thiruvananthapuram, which is arrayed as Respondent No. 2 [*hereinafter*, '**Institute**'] having quit the integrated Ph.D. programme in Biology, after two years of enrolment.

BRIEF FACTS

2. Petitioner joined the integrated PhD programme in 2017. The duration



of this course is 14 semesters or 7 years, whichever is completed earlier. The Institute has course and credit requirements, apart from certain thesis/dissertation requirements, that are required for award of the degree. For the students to qualify for the Ph.D. programme, after 2 years of enrolment, they are required to mandatorily clear viva/oral “comprehensives” exams. By his own admission, the Petitioner could not clear the comprehensive exam held on 04th June 2019, and thus he could not continue in the Ph.D. programme. The facts, till this point, are undisputed.

3. However, Petitioner next claims that despite his ineligibility to continue with the PhD programme, he is entitled to exit with an MS Degree due to completion of two years of coursework. This claim is based on a communication dated 19th July, 2017, issued by the Ministry of Human Resource Development [*hereinafter*, ‘**MHRD Communication**’], which is extracted hereinbelow:

“(…) Subject: 10th Meeting of the Council of National Institutes of Technology, Science Education & Research (NITSER), held on 26th May, 2017 at the Indian Institute of Advanced Study (IIAS), Shimla

Reference Technical Section-III Note 35-06/2016-TS.III dated 5th June, 2017 forwarding the minutes of the 10th Meeting of the Council of National Institutes of Technology, Science Education & Research (NITSER), held on 26th May, 2017 at the Indian Institute of Advanced Study (IIAS), Shimla.

2. *An amendment to the Item No. 10.6-A under matters of IISERs, relating to Fee hike by 10% has been approved by the Chairperson of the Council of NITSER. Accordingly, the Table showing the revised fee structures in respect of BS-MS, Integrated Ph.D and Ph.D may be read as under:*

(In Rupees)

Sl. No.	Course		Revised fees per semester from the academic session		
			2017-18	2018-19	2019-20
1	BS-MS		27,500	30,300	33,400
2	Integrated Ph.D	During MS course work	27,500	30,300	33,400
		After Ph.D. registration	16,500	18,200	20,000
3	Ph.D.		16,500	18,200	20,000

3. *The above amendment has been necessitated in order to amplify the fee*



structure of Int. Ph.D programme. During the initial two years, the students are required to do MS course work and are required to pay the same fees as paid by the BS-MS students. After two years, these students are required to clear comprehensives, and only those students who pass the comprehensives are enrolled in the Ph.D programme, while the others leave with MS Degree. The students who register for Ph.D are charged the fees which is at a lower rate and equal to the Ph.D students. (...)”
[Emphasis Supplied]

4. Relying upon the above communication, he made several representations to the Institute, which were all turned down, constraining him to approach this Court in W.P.(C) 316/2021. The said petition was disposed of on 11th January, 2021 with a direction to Union of India to take a decision on Petitioner’s representation, after considering the views of both the Petitioner as well as the Institute. Petitioner was given liberty to agitate his grievance in case of any adverse decision.

5. The Petitioner contends that since no decision was taken on his representation, and he continues to be aggrieved on account of the non-issuance of the MS Degree, accordingly, the instant petition has been filed.

Past Orders

6. On 03rd June, 2021, counsel for Union of India had apprised the Court that the Union could not take a final decision as per order dated 11th January 2021, for the reason that it entailed amendment to the concerned rules of the Institute. On that day, the following order was passed:

“1. Pursuant to the order dated 27.05.2021, Mr. Sushil Kumar Pandey, learned counsel for the Union of India [“UOI”] states that an amendment of the Rules, to provide for an exit from the MS/Ph.D. integrated programme after two years, is under consideration of the respondents. He states that the next meeting of the Board of Governors of the respondent no. 2 will be held on 10.06.2021. However, he is unable to state as to when the representation of the petitioner will be disposed of in terms of the directions given by the Court on 11.01.2021 in W.P. (C) 316/2021.

2. It is surprising that, despite the order dated 11.01.2021 in an earlier round of litigation between the parties [W.P.(C) 316/2021], the UOI has not been



able to take a call in the matter. According to Mr. Pandey, this is because some amendment in the concerned rules is required.

3. Ms. Mukti Singh, learned counsel for the petitioner, refers to a circular dated 19.07.2017 issued by the UOI which provides inter alia that the students enrolled in Integrated MS/Ph.D programme who were unable to clear their comprehensives, will leave with the MS degree.

4. According to Mr. Pandey, the communication dated 19.07.2017 is not a communication of the UOI, but only concerns a meeting of the Council of the National Institutes of Technology, Science and Research [NITSER]. He also draws my attention to a communication dated 15.06.2020 sent by respondent no. 2, through counsel, in response to the petitioner's legal notice dated 20.05.2020. According to Mr. Pandey, the aforesaid circular dated 19.07.2017 was objected to by the Board of Governors of the respondent no. 2 at its meeting on 27.09.2018 and it was resolved not to provide an exit option to the students. Mr. Pandey states that the aforesaid position is the position which obtains at the moment, pending revision of the Rules in question, despite the communication of the Ministry of Human Resource Development dated 19.07.2017.

5. Prima facie, it appears that the circular dated 19.07.2017 does not only concern the minutes of the meeting of the council of NITSER, but is the communication of the Ministry of Human Resource Development, Government of India. It refers to an amendment which was approved by the Chairperson of the Council of NITSER. I am informed by the learned counsel for the petitioner that the Chairperson is in fact the Minister in charge of the concerned ministry of the UOI.

6. The respondents are directed to place their position on affidavit within four weeks, and particularly state their contentions with regard to the circular dated 19.07.2017. The UOI will also place on record its decision taken pursuant to the order of this Court dated 11.01.2021.

7. Rejoinder thereto, if any, be filed within two weeks thereafter.

8. List on 11.08.2021."

7. Subsequently, on 11th August, 2021, counsel for Union of India submitted that a decision had indeed been taken by the Board of Governors of the Institute in this regard. Taking note thereof, the following order was passed by this Court on the same date:

"1. Pursuant to the orders dated 27.05.2021 and 03.06.2021, Mr. Sushil Kumar Pandey, learned counsel for the Union of India, submits that a decision has been taken by the Board of Governors of the Indian Institute of Science Education And Research [“the Institute”] with regard to the exit option to be granted to the students who were admitted in the integrated Ph.D. programme. The modalities of the exit option have been detailed in an email dated 14.06.2021, addressed to all students of the integrated Ph.D. programme of the Institute. According to the respondents, the petitioner may also avail of the exit option granted by the Board of Governors.

2. Ms. Mukti Singh, learned counsel for the petitioner, however, submits that the petitioner has already left the Institute and the exit option contemplates a



three-year course prior to grant of a Masters degree, whereas the petitioner completed only two years. She states that the petitioner is not willing to complete one further year and avail of the option now granted.

3. The petition therefore now has to be heard on merits as to whether the petitioner was entitled to the MS degree after two years.

4. Pleadings are complete. Learned counsel for the parties are requested to file short written submissions not exceeding three pages, alongwith copies of any authorities upon which they wish to rely, at least one week prior to the next date of hearing.

5. List on 21.10.2021 under the heading of 'For hearing' matters."

[Emphasis Supplied]

8. As can be seen from the above, Petitioner had declined to complete another year of course work which is required for the MS Degree, as per the exit policy formulated by the Institute. In such circumstances, we have to examine if the Petitioner is entitled to a Master's Degree only on the basis of two years of coursework, in absence of any provision in the Guidebook.

CONTENTIONS OF THE PETITIONER

9. Mr. Tarun Adarsh, Petitioner-in-person, makes the following submissions:

- i. Paragraph no. 3 of the MHRD communication states that students who completed 2 years of course work are entitled to exit the programme with MS degree.
- ii. The order of this Court dated 11th January 2022 in W.P.(C) 316/2021, directing Union of India to decide the representation has not been complied with.
- iii. The fees to be collected for the programme was as per the MHRD Communication, by way of which, parity was made between the first two years of the Ph.D. programme, comprising MS Degree coursework, with the BS-MS courses offered by the Institute. This evidences that the MHRD Communication was not merely



clarificatory in respect of the minutes of the 10th meeting of the Council of National Institutes of Technology, Science Education & Research [**NITSER**],¹ held on 26th May 2017, but is, in fact, directory in nature.

- iv. As per NITSER Act, 2007, the institutes shall charge such fees from the students as may be determined by the Board of Governors of such institute, consistent with the decision of the Council of NITSER and the policies laid down by the Central Government from time to time. The decisions of the Board of Governors of the institute are subject to the modification by the Council of NITSER, and the institutes cannot make any rules which are inconsistent with the Council of NITSER.
- v. Reliance is placed upon the minutes of the 10th meeting of the Council of NITSER held on 26th May, 2017, under the “*Item No.10.1-A (d): Action Taken Report on the decisions of the Standing Committee*”, wherein it was noted that:

“Action taken Report on the decisions of the first meeting of the Standing Committee of IISERs was taken on record. However, following directions were also given:

“It was noted that common counselling with IITs and JEE based admission has not been implemented till date. Hon’ble Minister for Human Resource Development directed that steps may be taken to implement the common counselling from academic session 2018-19 and this should clearly be given in the advertisement for admission of 2018-19 batch as well as advertisement for IIT/JEE exam 2018.””

This implementation of common counselling with IIT and JEE based admission, as per the Petitioner, further indicates that directions of the

¹ It is stated that, the Council [*hereinafter*, ‘**Council of NITSER**’] under the National Institutes of Technology, Science Education and Research Act, 2007 [*hereinafter*, ‘**NITSER Act, 2007**’] is the supreme governing body of India’s 31 National Institutes of Technology (NITs), 7 Indian Institutes of Science Education and Research (IISERs) and Indian Institute of Engineering Science and Technology (IISER), Shibpur, West Bengal. The Council of NITSER comprises of the Director of every institute, *ex officio*.



Council of NITSER were mandatory and not merely advisory in nature.

- vi. As per the provisions of 'Guidebook of Regulations for the Integrated Ph.D. Programme' [hereinafter, '**Guidebook**'] the relevant credit and CGPA requirements are satisfied for the issue of the MS Degree. However, the relevant portions of the said Guidebook have not been filed on record.
- vii. Reliance is also placed upon exit options of other Institutes (such as Tata Institute of Fundamental Research, IIT Kanpur and IISER Bhopal) which provide for award of MS Degree at the end of 2 years.
- viii. The exit policy subsequently introduced by Respondent No. 2, requiring another additional year of research for issue of MS Degree, is arbitrary and unfair. It was not communicated to the Petitioner but only to the existing students of the Institute, and also did not state that the decision was taken on the basis of representation of the Petitioner.
- ix. The concerned officer in the MHRD orally assured to the Petitioner that the MS degree will be issued, yet the same has not been done till date.

CONTENTIONS OF THE RESPONDENTS:

10. On the other hand, counsel for the Institute submits that:
 - i. The Court does not have jurisdiction to entertain the present petition, as the Institute is located outside the territorial jurisdiction of this Court. The Petitioner, while attending the course, was residing in Kerala and thus the cause of action has arisen in Kerala.
 - ii. Petitioner has no legal right to get an MS Degree, given that the



Guidebook of the Institute states that no MS Degree can be awarded to students who have not completed the entire programme. The program offered no exit option. The Petitioner also undertook to abide by the said rules and regulations of the programme.

- iii. Reliance on the MHRD Communication is misplaced. It was issued only to clarify an amendment made to the minutes of 10th Meeting of the Council of NITSER and does not vest any legal right in favour of the Petitioner.
- iv. The Institute, being an autonomous institution, has the ultimate authority in administering its affairs and this issue is no longer *res integra*. Even the High Court of Kerala in W.P.(C) 39868/2018 decided on 30th January, 2019, declined to grant any relief which was similar to one sought by the Petitioner.
- v. The MHRD Communication is explanatory in respect of the issue pertaining to the revision of fees, and does not issue any direction or order to grant MS Degree to students who exit the programme at the end of two years.

ANALYSIS

11. Petitioner, at the time of joining the Institute, agreed to be bound by the Guidebook applicable to the programme which stipulates as under:

“MS Degree would not be awarded to the students of Integrated Ph.D. programme, who wish to exit during the programme.”

12. Thus, *ex facie*, there is no provision for conferment of a degree upon early exit from the programme in which Petitioner was enrolled. After having failed his ‘comprehensive’ exam for the first time, Petitioner was



eligible to re-appear in the said examination. However, on his own volition, he decided to opt out of the programme, knowing fully well that the relevant stipulations governing conferment of degree by the Institute prohibited the grant of MS Degree in case the entire course was not completed.

13. Subsequently, there was an amendment to the rules and regulations of the programme which enabled the Petitioner to obtain an MS (Research) Degree. The Board of Governors and Senate of Institute decided that the students can be permitted to exit from the programme with a three-year MS (Research) Degree in their respective subjects, after completing two years of course work and one year of research. This decision was approved by the Board of Governors of Institute in their meeting held on 17th May, 2021 and the benefit thereof was extended to all students from the batch of 2017, which included the Petitioner. Petitioner, therefore, could have re-joined the Institute and spent a year in research to obtain the MS (Research) Degree. He was duly informed of the necessary steps to be taken in terms of the amended regulations, however, as already noted above in order dated 11th August, 2021, he declined to take benefit of this exit option and continues to insist on being awarded an MS (Research) Degree on the basis of two years of the programme completed by the Petitioner, which, in absence of any enabling regulation, cannot be granted.

14. Since the Petitioner lays considerable emphasis on the MHRD Communication dated 19th July, 2017 (extracted above) to submit that in terms thereof, he is entitled to an MS Degree, this issue requires consideration. In order to understand the context of the afore-noted communication, it would be pertinent to take note of the background facts leading to its issuance. This has been elaborately and sufficiently explained



in the counter affidavit filed by Respondent No. 1 – Union of India. It emerges that the Council of NITSER, formed under the NITSER Act, 2007,² advises on matters of duration of courses, degrees, admission standards and other academic matters.³

15. The 10th Meeting of the Council of NITSER was held on 26th May, 2017, under the Chairperson, i.e. the Hon'ble Minister of MHRD. In the said meeting, the Council of NITSER considered various matters of IISERS and other institutes, wherein, in respect to the course fees, it was decided that a uniform increase in fee, by 10% per semester and rounded-off to the nearest Rs. 100/-, was to be given effect in each of the forthcoming academic sessions of 2017-18, 2018-19, and 2019-20. The said fee revisions are reproduced below:

Sl. No.	Course	Revised fees per semester from academic sessions		
		2017-18	2018-19	2019-20
1.	BS-MS	Rs. 27500	Rs. 30,300	Rs. 33,400
2.	Integrated Ph.D	Rs. 16,500	Rs. 18,200	Rs. 20,000
3.	Ph.D	Rs. 16,500	Rs. 18,200	Rs. 20,000

16. Subsequent to the above revisions in fee, Directors of IISER Pune and IISER Bhopal flagged concerns relating to the revised fees of BS-MS course, Ph.D. and Integrated Ph.D. programme. On consideration thereof it was decided, with the approval of the Chairperson of the Council of NITSER, to revise the fees for the courses as follows:

Sl. No.	Course		Revised fees per semester from academic sessions		
			2017-18	2018-19	2019-20
1.	BS-MS		Rs. 27500	Rs. 30,300	Rs. 33,400
2.	Integrated Ph.D	During MS course work	Rs. 27500	Rs. 30,300	Rs. 33,400
		After PhD registration	Rs. 16,500	Rs. 18,200	Rs. 20,000

² Section 30 of the NITSER Act, 2007.

³ Section 32(2)(a) of the NITSER Act, 2007



3.	Ph.D	Rs. 16,500	Rs. 18,200	Rs. 20,000
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17. The aforesaid fee revision was communicated to all concerned institutions vide the MHRD Communication. It was also mentioned in paragraph 2 of the MHRD Communication that the amendment to the fees has been approved by the Chairperson of the Council of NITSER. Further, paragraph 3 of the MHRD Communication also explains the necessity of making necessary revision to the fees. Therefore, the third paragraph of the MHRD Communication, relied upon by the Petitioner, is merely an explanation for affecting the said amendment in fees, i.e., the issues raised by the Directors of IISER, Pune and IISER, Bhopal in respect of the existing and revised fees of the programme. The said direction cannot be interpreted as a direction or order of the Council of NITSER or Union of India to mandatorily grant an MS degree to students of the programme who wished to exit the programme at the end of two years. The interpretation advanced by the Petitioner is inconsistent with the actual intent of the Council of NITSER, MHRD, as well as the First Statutes of the IISER and the NITSER Act, 2007.

18. It is also noted that as per the provisions of First Statutes of the IISER, the Senate of the Institute, has, among others, the power to frame and revise curricular and syllabi for the courses of studies for various Academic Departments or Disciplines or Centres or Schools.⁴ The Board of Governors of the institute, is empowered to recommend modification of any Ordinances on the recommendations of the Senate, subject to the condition that such

⁴ Section 7(2)(a) of the First Statutes of the IISER.



modifications shall not be in contravention of the NITSER Act, 2007 or the Statutes framed thereunder.⁵ These provisions empower the Senate and the Board of Governors of Institute to frame the guidelines of the exit policy.

19. The court finds no justification for the Petitioner to place reliance on the exit policy of the other Institutes. Each one of them are governed by their own polices/statutes, and have their own course/programme structure, and thus no parity can be claimed. Moreover, IISERs are autonomous bodies, and have the right to manage their academic affairs. That said, it has been pointed out that IISER Bhopal had an exit policy in their programme since August, 2014, which provided that at the end of the third year, the students can choose to exit with a MS Degree. Likewise, IISER Pune's exit policy since July, 2019 enables students to exit the programme with an MS Degree provided the student completes at least 6 semesters and 120 credits, among other criteria.

20. It thus emerges that there was no exit policy in the instant course, which enabled Petitioner to get an MS Degree, after having completed only two years in the programme. No doubt the students of regular MS Degrees complete their degree within two years, unlike students of integrated Ph.D. programmes, however, the two programme are different. The programme in question was an integrated one, which entitled the student to a dual degree. In absence of any rules enabling Petitioner to a degree with only having completed part of the programme, the Court is unable to grant the relief sought by the Petitioner.

21. It must also be stressed that the NITSER Act, 2007 provides the legal framework on the basis whereof the Board of Governors and the Senate of

⁵ Section 5(3) of the First Statutes of the IISER.



the Institute deliberated and approved the exit policy for the programme in its 32nd meeting on 27th September, 2018, and provided an early exit in the programme and decided that the Senate of Institute should review the proposal pertaining to such an early exit in consideration of the prevailing scenario in India, as well as best practices followed in other IISERs / Centrally Funded Technical Institutes. In light of the new National Education Policy (2020) and the meeting held with the Ministry of Education on 8th March 2021, the Senate of Institute recommended an early exit option for the programme, which was considered and approved in Board of Governors of Institute meeting held on 17th May, 2021, as noted above. The Petitioner has voluntarily chosen not to opt for the same for the reasons best known to him.

22. Before parting, the courts notes that, in academic matters, the Courts are always reluctant to substitute their views as that of the institute or university, which are formulated by professionals possessing technical expertise and experience of actual day-to-day working of the educational institutions, unless manifest arbitrariness is shown. The exit policy in place, prepared on the recommendation of experts exhibits, no unreasonableness.

23. Having considered the above, the Court is of the opinion that since the provisions of the Guidebook of Institute, under which Petitioner was admitted for the programme, did not provide for Petitioner the option to exit the programme with an MS Degree, he is, therefore, not entitled to seek mandamus for being awarded such degree in contravention thereto.

24. Since the Court has already decided the instant petition on merits, there is no need to go into the question regarding maintainability of the present petition on the ground of territorial jurisdiction.



25. Dismissed, along with pending application.

SANJEEV NARULA, J

JULY 28, 2022

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(corrected and released on 09th August, 2022)

