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W.P.No.40236 of 2016 and
W.P.No.7293 of 2017

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.07.2023

CORAM :

THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

and

THE HONOURABLE MR.JUSTICE P. B.BALAJI

W.P.No.40236 of 2016

and

W.P.No.7293 of 2017 and

WMP No.7946 of 2017

In W.P.No.40236 of 2016

1. The Union of India,
Rep. by the Director, Combat Vehicles Research &
Development Establishment,
Avadi, Chennai 600 054.

2. The Union of India, Rep. by the Director,
Directorate of Human Resources Development,
Defence Research & Development Organization,
Ministry of Defence, DRDO Bhawan,
New Delhi 110 015.

... Petitioners in
both writ petitions

Vs.

1. P.V.Shanmuganandan,

1. M.Logeswaran

... 1st respondent in
W.P.No.40236/2016
... 1st respondent in
W.P.No.7293/2017



W.P.No.40236 of 2016 and
W.P.No.7293 of 2017

2. The Central Administrative Tribunal,
rep. by its Registrar, Madras Bench,
Chennai 600 104.

... 2nd Respondent
in both writ petitions

Prayer in W.P.No.40236/2016: Writ Petition filed under Article 226 of the Constitution of India seeking to issue a Writ of Certiorari, calling for the records of the second respondent dated 07.01.2016 made in O.A.No.1347/2012 and quash the same.

Prayer in W.P.No.7293/2017: Writ Petition filed under Article 226 of the Constitution of India seeking to issue a Writ of Certiorari, calling for the records of the second respondent dated 14.10.2016 made in O.A/310/01332/2013 and quash the same.

In W.P.No.40236/2016

For Petitioners	: Mr.A.R.L.Sundaresan, Additional Solicitor General for Mr.S.Janarthanan
For respondents	: Mr.L.Chandrakumar for Mr.D.Ravindranathan for R1

In W.P.No.7293/2017

For Petitioners	: Mr.B.Sudhirkumar Standing Counsel
For respondents	: Mr.Menon Karthik Mukundan and Neelakandan for R1



W.P.No.40236 of 2016 and
W.P.No.7293 of 2017

COMMON ORDER

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(Order of the Court was delivered by D.KRISHNAKUMAR, J.)

Both the writ petitions have been filed to quash the order passed by the Central Administrative Tribunal in O.A.No.1347/2012 dated 07.01.2016 and in O.A/310/01332/2013 dated 14.10.2016.

2. The issues involved in both the writ petitions are one and the same and hence, they were taken together for joint hearing and are disposed by way of this common order.

3. The brief facts leading to file the writ petition in W.P.No.40236/2016 are briefly as follows.

The first respondent was appointed to the post of Tradesman E in the petitioners organization on 10.01.1989 and thereafter he was working as Technician 'C'. The first respondent requested to record his certificate for the qualification of ***Diploma in Mechanical Engineering (under Distance Education Mode)*** awarded by the Janardan Raj Nagar Rajasthan Vidyapeeth (Deemed) University (herein after referred to as Vidyapeth



W.P.No.40236 of 2016 and
W.P.No.7293 of 2017

WEB COPY

University), Directorate of Distance Education, Udaipur, Rajasthan in his service record. To confirm the genuineness of the above certificate, the petitioner had referred the above said certificate to All India Council for Technical Education (AICTE). In reply, vide letter dated 20.09.2012, the AICTE stated that they have not granted any approval for conducting of such engineering course through distance education mode by the Vidyapeeth University and also they have not approved Diploma, Bachelors and Masters Level in Engineering & Technology under the distance education program.

3.1. Further, the certificate was also referred to the Distance Education Council (DEC) and obtained clarification, vide letter dated 05.11.2012 from DEC that the list of programs recognized by the DEC does not include any Engineering program. based on the concrete replies from AICTE and DEC, the first respondent's request to record his certificate in his service record was rejected.

3.2. In the meanwhile, the first petitioner published daily orders for filling up of the post of Senior Technical Assistant 'B' including 3 posts in the Mechanical Engineering through Limited Departmental Competitive



W.P.No.40236 of 2016 and
W.P.No.7293 of 2017

Examination (LDCE) on 27.08.2012. The requisite qualification prescribed for the post of STA-B (Mechanical Engineering) through LDCE is 3 years Diploma in Mechanical Engineering from the recognized Technical Board/ Institute and the same was also published in the above daily order dated 27.08.2012. The first respondent had submitted an application for the post of Senior Technical Assistant 'B' (STA-B) based on the above said certificate and hence, his application was rejected vide letter dated 09.11.2012. Therefore, he filed O.A.No.1347/2012 before the Tribunal and as per the interim direction of the Tribunal dated 22.11.2012, the first respondent was allowed to appear for the written examination thereafter, interview was also conducted and the result was kept in a sealed cover. Subsequently, the Tribunal, vide order dated 07.01.2016, has allowed the application by directing the Department to consider the application of the first respondent for the above said post. Challenging the above said order, W.P.No.40236/2016 has been filed.

4. The brief facts leading to file the writ petition in W.P.No.7293/2017 are briefly as follows.



W.P.No.40236 of 2016 and
W.P.No.7293 of 2017

WEB COPY

The first respondent was working as Skilled Grade in the second petitioner factory. The first petitioner issued a notification on 15.06.2013 for filling up vacancies for the post of Chargeman/Technical & Non-Technical through LDCE for the year 2012-2013 and 2013-2014. As far as the post of Chargeman/Technical (Mechanical) is concerned, the requisite educational qualification prescribed in the notification is 3 years Diploma or equivalent qualification certificate in the respective field duly affiliated by All India Council for Technical Education (AICTE).

4.1. The first respondent had applied for the post of Chargeman/Technical (Mechanical) and in support of his qualification ***he had submitted a certificate for Diploma in Mechanical Engineering issued by Vidyapeeth University.*** His application was accepted provisionally, vide order dated 03.08.2013 with a direction to him to submit a proof to the effect that the above university is affiliated by AICTE on or before the date of examination. Further he was allowed to appear for written examination held from 28.09.2013 to 29.09.2013 conducted by the Ordnance Factories Institute of Learning, Avadi and the his result was kept in



W.P.No.40236 of 2016 and
W.P.No.7293 of 2017

a sealed cover, as per the order of the Tribunal dated 27.09.2013 passed in
OA No.310/01332/2013.

4.2. The petitioner had obtained clarification from DEC, vide letter dated 05.11.2012 that the list of programs recognized by the DEC does not include any engineering program and in the case of technical and professional program such as B.Tech / Diploma in Engineering, the University is required to take approval from the concerned regulatory body i.e. AICTE. Therefore, based on the concrete replied from AICTE and DEC, the first petitioner has arrived at a conclusion that the concerned University/ Institute has without the affiliation or approval of the regulatory authority i.e. AICTE, conducted the technical program like B.Tech/B.E./ Diploma in Engineering through distance mode. However, the AICTE, which is the statutory body for regulating technical education have the policy not to approve technical program like B.Tech/B.E./Diploma in Engineering through distance education mode. However, the Tribunal vide order dated 14.10.2016, has passed an order, by directing the first respondent " *to obtain a copy of the list of courses run in the Distance Mode by JRNRV referred to in the letter dated 13.11.2007 of the UGC as*



W.P.No.40236 of 2016 and
W.P.No.7293 of 2017

WEB COPY

not requiring a separate approval of the UGC and furnish it to the petitioners within a period of two months and upon receipt of such information, if the qualification possessed by the first respondent is found included in the list of courses for which approval of UGC-ICTE-DEC-Joint Committee had earlier been obtained, the petitioners shall accept the candidature of the applicant for LDCE for appointment to the post of Charge man Grade-II, open the sealed cover containing the result of the examination in respect of the first respondent and act in pursuance thereof in accordance with law". Challenging the above said order, W.P.No.7293/2017 has been filed.

5. The primordial contention of the petitioners/Department is that the first respondent in both the cases have not placed any records to show that their qualification of Diploma in Mechanical Engineering, awarded by the Vidyapeeth University has been recognized by DEC, IGNOU and the AICTE and hence, their Diploma in Mechanical Engineering is not a valid one.



W.P.No.40236 of 2016 and
W.P.No.7293 of 2017

WEB COPY

6. The learned Additional Solicitor General appearing for the petitioner/ Department in W.P.No.40236/2016 has invited our attention to the notification (44) issued by the Ministry of Human Resource Development (Department of Education) dated 01.03.1995, wherein, it is specifically stated as follows.

" On the recommendation of the Board of Assessment for Educational Qualifications, the Government of India has decided that all the qualifications awarded through Distance Education by the Universities established by an Act of parliament or State Legislature, Institutions Deemed to be Universities under Section 3 of the UGC Act, 1956 and Institutions of National Importance declared under an Act of Parliament stand automatically recognized for the purpose of employment of posts and services under the Central Government, **provided it has been approved by Distance Education Council, Indira Gandhi National Open University, and wherever necessary by All India Council for Technical Education.**

7. He further submitted that in the light of the above said notification, the petitioners/Department had issued a daily orders dated 27.08.2012, for filling up of vacancies of Senior Technical Assistant 'B' through limited Departmental Competitive Examination (LDCE) for the year 2012-2013 and



W.P.No.40236 of 2016 and
W.P.No.7293 of 2017

WEB COPY

it is specifically stated in the above order that the qualification prescribed for the said post is ***three years Diploma in Mechanical Engineering from recognized Technical Board/Institute.*** However, the first respondent has not produced the statement of marks for the normal duration 3 years and also the certificate produced by him does not mention that "the duration of Diploma course is 3 years."

8. The learned Additional Solicitor General has drawn the attention of this Court to the reply letter sent by AICTE dated 20.09.2012 to the petitioner/Department , in which, it reads thus.

" I am to refer to your letter No.CVRDE/DRTC/LDCE/12/RP dated 31st August 2012 regarding confirmation of recognition of Diploma in Mechanical Engg. (Distance mode) conducted by Janardhan Raj Nagar Rajasthan Vidyapeeth (Deemed) University, Udaipur, Rajasthan and to state that AICTE has not granted any approval for conducting of such engineering course through distance mode to the above said university.

It is also to be informed that as per the policy of AICTE does not approve Distance Education programs at Diploma, Bachelors and Masters level in Engg. & Tech. et. and a copy of the notification issued by AICTE is enclosed herewith for your information."



W.P.No.40236 of 2016 and
W.P.No.7293 of 2017

9. Further he drew the attention of this Court to the public notice in

Advt.No: UB/02(02)/2010 issued by AICTE, wherein, it has been held thus.

As per Government of India's Gazette Notification No.44 dated 01.03.1995 issued by Ministry of Human Resources Development (Department of Education), the qualifications acquired by individuals through distance education mode are recognized for the purpose of employment to posts and services under the Central Government, provided, these have been approved by Distance Education Council (DEC)- Indira Gandhi National Open University (IGNOU), New Delhi and wherever necessary by All India Council for Technical Education (AICTE), New Delhi. The technical education programmes, which fall under the purview of AICTE are in the fields of Engineering Technology including MCA, Architecture, Town Planning, Management, Pharmacy, Hotel Management & Catering Technology, Applied Arts & Crafts and such other programme and areas as notified by the Council from time to time, with the approval of the Government.

It has been the policy of the AICTE, not to recognize the qualifications acquired through distance education mode at Diploma, Bachelors & Master's level in the fields of Engineering, Technology including MCA, Architecture, Town Planning, Pharmacy, Hotel Management & Catering Technology, Applied Arts & Crafts and Post Graduate Diploma in Management (PGD). AICTE has the policy to consider only MBA and MCA through distance mode for its recognition. **All the existing students' prospective students pursuing/wanting to pursue any educational programme in the above mentioned fields are hereby advised to check the approval by Joint Committee of DEC,**



WEB COPY



W.P.No.40236 of 2016 and
W.P.No.7293 of 2017

UGC and AICTE on AICTE's web portal at www.aicte-india.org. In the absence of the said approval the MBA & MCA qualifications acquired through distance mode may not be recognized for the purpose of employment under Central Government.

10. The learned Additional Solicitor General has also drew the attention of this Court to the letter sent by AICTE dated 31.10.2012, wherein, it is specifically stated as follows.

" It has been the policy of the AICTE not to recognize the qualifications acquired through distance education mode at Diploma, Bachelors & master's level in the fields of Engineering, Technology, Architecture, Town Planning, Pharmacy, Hotel Management & Catering Technology, Applied Arts 7 Crafts and Post Graduate Diploma in Management (PGDM). ***AICTE has the policy to consider only MBA and MCA through distance mode for its recognition provided the same has been approved by the Tripartite Committee of AICTE, UGC & DEC.***

11. The learned Standing Counsel appearing for the petitioners/ Department by relying upon a decision of the ***Bombay High Court in W.P.5476/2022 dated 07.09.2022 (Sibasis Vs. Maharashtra Metro Rail Corporation Limited through its Managing Director and others)*** reported in ***2022 SCC on line Bom 1901: 2002 Lab IC 3897 : (2022) 6 AIR Bom***



*W.P.No.40236 of 2016 and
W.P.No.7293 of 2017*

R91 : 2002 6 Bom CR 431, submitted that the Bombay High Court has dealt with the similar issue of validity of the diploma awarded by the same University, viz., Janardan Rai Nagar Rajasthan Vidyapeeth University, Udaipur (Rajasthan) and after elaborate discussion, has dismissed the appeal. He has also drew the attention of this Court to the paragraph Nos.10 to 14, of the above said decision of Bombay High Court, which reads as follows.

10. The decision in Orissa Lift Irrigation Corporation Limited (supra) traces in detail the genesis of the Vidyapeeth. The Vidyapeeth, in terms of the permission granted to it, was authorized to conduct courses through distance education in the subjects of Social Work, Education, Arts and Commerce. In due course of time, the Vidyapeeth started distance education programmes leading to degrees in Engineering, outside their field of specialization. The Supreme Court, inter alia, was called upon to decide the basic question as to whether the "deemed to be universities" concerned, including the Vidyapeeth, were within their right to do so.

11. After considering the statutory framework governing the "deemed to be universities" and "distance education", more specifically in the field of technical education, the Supreme Court made several directions, as contained in paragraph 66. The issue before the Court, as noted in the preceding paragraph, was answered in the negative. It was on perusal of the said decision that MMRCL woke up from its slumber and initiated disciplinary proceedings against the petitioner.



W.P.No.40236 of 2016 and
W.P.No.7293 of 2017

WEB COPY

12. We had called upon Mr.Sudame to place before us any document to show that either the University Grants Commission (hereafter "UGC" for short) or the AICTE had granted permission to the Vidyapeeth to commence distance education course in the subject of Electronics and Telecommunication. He has, however, failed to place any such document.

13. It is seen from the letter dated 26.02.2020 issued by the Education Officer of the UGC that the Vidyapeeth, which is a "deemed to be University" had not been granted the approval of the UGC to "offer technical course under ODL mode". ODL being the abbreviation of 'Open and Distance learning'.

14. It has also come on record, as can be seen from the final order of the Disciplinary Authority dated 1st October 2020, as under.

Further, the discrepancy noted by IO in academic qualification of CO is noteworthy. It is not clear that, the CO, who scored below average marks in 10th and has done 12th class in Arts subject in 3 years period, took a break and did diploma in Electronics and Telecommunication field after 7 years gap. The Inquiry Officer has asked general questions to which CO did not reply. It seems that the doubt arises on the qualification of CO, if this is not so CO must not have had any trouble to answer such general questions asked by IO.

I am surprised to know that the person without doing any internship or apprenticeship or job or study does diploma in technical field after 7 years gap in education. DO had no job in intervening period related to technical field. Further, CO had completed his qualification through distance mode



W.P.No.40236 of 2016 and
W.P.No.7293 of 2017

with no able guidance and with no practical exposures, CO had scored well in technical field and placed at MAHA-Metro in S & T department which is totally related to technical field.

I have carefully read the judgments of the Hon'ble Supreme Court in this regard. By perusing all the documents on record, it is established that Diploma certificate of CO in electronics and telecommunication course from JRN Rajasthan Vidyapeeth University is invalid.

15. In view of the failure of the petitioner to place before us any authentic document to prove that he had obtained the diploma from a duly recognized government institute as per the requirement of the advertisement, we are of the considered opinion that MMRCL was wholly justified in proceeding against the petitioner in terminating his service for production of an invalid diploma.

12. The learned Additional Solicitor General further stated that the proceedings issued by AICTE dated 20.09.2012 and 31.10.2012 clearly stated that the first respondent is not eligible for applying to the post of STA-B through LDCE, unless the qualification of Diploma in Mechanical Engineering awarded by the Vidyapeeth University has been recognized by the AICTE, UGC and DEC. However, without taking into consideration the fact that the qualification obtained by the first respondent has not been approved by the Tripartite Committee of AICTE, UGC and DEC, the



W.P.No.40236 of 2016 and
W.P.No.7293 of 2017

Tribunal has passed the impugned order and allowed the application.

Therefore, the order passed by the Tribunal warrants interference by this Court.

13. The learned counsel for the first respondent in W.P.No.7293/2017 submitted that all the qualifications awarded through distance education by the universities be automatically recognized for the purpose of employment to posts and services under the Central Government, provided it has been approved by DEC. He has also drew the attention of this court to the letter sent by UGC dated 14.10.2013 to all the Indian Universities, wherein, it has been stated at paragraph No.6 as follows.

Accordingly, the Degrees/Diplomas/Certificates awarded for programmes conducted by the ODL institutions, recognized by DEC (erstwhile) and UGC, in conformity with UGC Notification on specification of Degrees should be treated as equivalent to the corresponding awards of the Degree/Diploma/Certificate of the traditional Universities/Institutions in the country.

14. Further, he invited our attention to the extract from the Gazette of India Part-I, Sec.1 dated 25.07.2015, wherein, it is stated as follows.



W.P.No.40236 of 2016 and
W.P.No.7293 of 2017

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Now, therefore, the Central Government hereby notifies that all the degrees/diplomas/certificates including technical education degrees/diplomas awarded through open and distance learning mode of education by the Universities established by an Act of parliament or State Legislature, Institutions Deemed to be Universities ***under Section 3 of the University Grants Commission Act, 1956 and Institutions of National Importance declared under an Act of parliament stand automatically recognized for the purpose of employment to posts and services under the Central Government, provided they have been approved by the University Grants Commission.***

15. Further, he relied upon a decision of the Hon'ble Supreme Court ***in Orissa Lift Irrigation Corporation Limited Vs. Rabi Sankar Patro and others (M.A.Nos.1795-1796/2017 in Civil Appeal Nos.17869 & 17870/2017)*** and submitted that the Diploma awarded by the concerned Universities is not barred for considering promotion of the candidates- in-service. Therefore, he justified his contentions on the orders passed by the Tribunal and submitted that the petitioners/Department has to verify all the records and to consider promotion to the post of Chargeman/Technial (Mechanical).



W.P.No.40236 of 2016 and
W.P.No.7293 of 2017

16. But, the issue dealt with by the Hon'ble Supreme Court in the decision of ***Orissa Lift Irrigation Corporation Limited*** was with regard to the validity of degrees in Engineering awarded by the Deemed to be Universities including the JRN Vidyapeeth University. But, herein this case, the issue is with regard to the validity of the diploma in Mechanical Engineering, awarded by the said University.

17. At this juncture, in reply to the above contentions of the learned counsel for the first respondent, the learned Standing Counsel appearing for the petitioners/Department relied upon the paragraph No.32 and 33 of the decision in ***Orissa Lift Irrigation Corporation Limited*** cited supra wherein, it is stated as follows.

32. Mr. Raju Ramachandran, learned Senior Advocate appearing for OLIC reiterated the stand of OLIC that the degrees in Engineering obtained by concerned in-service diploma holders through distance education were invalid and as such no benefit ought to accrue to such candidates. Similar submission was advanced by Mr.V.K.Bali, learned Senior Advocate appearing for the State of Punjab in matters arising from the decision of High Court of Punjab and Haryana.



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W.P.No.40236 of 2016 and
W.P.No.7293 of 2017

33. Mr.Manider Singh, learned Additional Solicitor General appearing for UGC submitted that inclusive definition of “ University” in UGC Act was in a completely different and limited context and the idea was essentially to recognize Deemed to be University for the purposes of funding and that such Deemed to be University is not a University for all purposes. In his submission, if such Deemed to be University is desirous of starting any technical course it ought to obtain express approval from AICTE. He also placed reliance on Section 23 to submit that a University established or incorporated by or under a Central Act, a Provincial Act or a State Act alone is entitled to have the word “University” associated with its name which again signified the distinction between a University established or incorporated under a legislation as against a Deemed to be University.

In the very same decision in ***Orissa Lift Irrigation Corporation Limited***, the Apex Court had dealt with the issue of degrees in engineering awarded by the Universities, including the Vidyapeeth University and observed as follows:

" the concerned deemed to be universities had gone far beyond their limits and to say the least, had violated binding policy statements. Even when they did not have any experience in the concerned field and had no regular faculty or college in Engineering, they kept admitting students through distance education mode. When there was nothing at the core, the expansion was carried at the tertiary levels in brazen violation. The idea was not to achieve excellence in the field, but the



WEB COPY



W.P.No.40236 of 2016 and
W.P.No.7293 of 2017

attempts appear to be guided by pure commercial angle. We therefore, direct the UGC to consider whether the Deemed to be University status enjoyed by the concerned institutions, namely, JRN, AAI, IASE and VMRF calls for any such withdrawal and conduct an inquiry in that behalf. "

Therefore, in the light of the above decision and also as per the notification, the qualification obtained by first respondent in both the writ petitions have not been recognized by the Tripartite Committee of UGC, AICTE and DEC and hence, he seeks to set aside the impugned orders passed by the Tribunal.

18. Admittedly, in the case on hand, while issuing notifications dated 27.08.2012 and 30.05.2013 by the Department for filling up the post of Senior Technical Assistant 'B' (STA-B) and Charge men/Technical & Non technical respectively, through Limited Department Competitive Examination (LDCE), it was clearly stated that the ***requisite qualification prescribed for the said posts is 3 years Diploma in Mechanical Engineering or equivalent qualification certificate in the respective field duly affiliated by AICTE.*** Having agreed to the above said terms, and



W.P.No.40236 of 2016 and
W.P.No.7293 of 2017

having Diploma in Mechanical Engineering awarded by the Janardan Raj Nagar Vidyapeeth University, the first respondent in both the writ petitions had applied to their respective posts of STA-B and Charge men/ Technical(Mechanical).

19. At this juncture, it is to be noted that, in the reply given by AICTE dated 20.09.2012 and 31.10.2012 to the petitioner/Department, it is clearly stated that AICTE has not granted any approval to the Janardhan Rai Nagar Rajasthan Vidyapeeth (Deemed) University for conducting of such engineering course through distance mode and also it has the policy to consider only MBA and MCA through distance mode for its recognition, provided the same has been approved by the Tripartite Committee of AICTE, UGC and DEC.

20. In the case on hand, the first respondent in both the cases had not placed any document to prove that they had obtained the qualification of Diploma in Mechanical Engineering from a duly recognized Government Institute, as per the requirement of the notifications and the policy



W.P.No.40236 of 2016 and
W.P.No.7293 of 2017

statements. Therefore, in the light of the above discussion and the decisions cited supra, we are of the view that the Diploma awarded by the JRN Vidyapeeth University to the first respondent in both the cases are not valid in law. Hence, we have no hesitation to hold that the orders passed by the Tribunal are liable to be set aside.

21. Accordingly, both the writ petitions in W.P.No.40236/2016 and W.P.No.7293/2017 are allowed and the impugned orders passed by the Tribunal are set aside. No costs. Consequently, connected miscellaneous petition is closed.

(D.K.K.J.) (P.B.B.J.)

18.07.2023

Internet: Yes
Index : Yes
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W.P.No.40236 of 2016 and
W.P.No.7293 of 2017

To
WEB COPY

1. The Director, Union of India,
Combat Vehicles Research & Development Establishment,
Avadi, Chennai 600 054.
2. The Director, Union of India,
Directorate of Human Resources Development,
Defence Research & Development Organization,
Ministry of Defence, DRDO Bhawan,
New Delhi 110 015.
3. The Central Administrative Tribunal,
Madras Bench, Chennai 600 104.



WEB COPY



W.P.No.40236 of 2016 and
W.P.No.7293 of 2017

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mst

W.P.Nos. 40236/2016 and 7293/2017

18.07.2023