



W.P. (MD).No.8696 of 2021

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 30.11.2023

CORAM

THE HON'BLE MR.JUSTICE N.ANAND VENKATESH

W.P. (MD).No.8696 of 2021

M.Balan

... Petitioner

Vs

1. The Principal Secretary to Government,
Higher Education (J2) Department,
Secretariat, Chennai-9.
2. The Join Secretary to Government,
Higher Education (J2) Department,
Secretariat, Chennai-9.
3. The Chairman of Equivalence Committee,
Secretary to Government,
Higher Education (J2) Department,
Secretariat, Chennai-9.
4. The Member Secretary,
Tamil Nadu State Council For Higher Education Department,
Kamarajar Salai, Triplicane,
Near Lady Willington College Campus, Chennai.
5. St.Peter's University, *
- St.Peter's Institute of Higher Education and Research,
Avadi, Chennai-600 054,
Tamil Nadu
- (R5 is Impleaded Vide Court Order, dated 24/08/2023)*

... Respondents



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Prayer: Writ Petition is filed under Article 226 of the Constitution of India praying for issuance of a Writ Certiorarified Mandamus, calling for the records relating to the impugned G.O.Ms.No.42, dated 16.02.2021 issued by 1st respondent and consequential letter in Letter No. 9362/J2/2020, dated 24.02.2021 passed by the 2nd respondent as illegal and quash the same and consequently direct the respondents by granting equivalence status to the petitioner's Educational Qualification (D.Tech Mechanical Engineering) acquired through ODL mode from St.Peter's University on equivalence to the qualification acquired through regular stream for the purpose of employment, within a time frame fixed by this Court.

For Petitioner : Mr.J.Senthil Kumaraiah

For Respondents : Mr.P.Thambidurai (R1-R4)
Government Advocate

Mr.M.Prabhakaran (R5)

ORDER

This writ petition has been filed challenging the G.O.Ms.No. 41, dated 16.02.2021 issued by the 1st respondent and consequential letter in Letter No.9362/J2/2020, dated 24.02.2021 issued by the 2nd respondent and for a consequential direction to grant equivalent status to the Educational Qualification of the petitioner through Open Distance Learning Mode (ODL mode) from St.Peter's University and to treat it as



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a equal qualification through regular stream, for the purpose of employment of the petitioner.

2.The case of the petitioner is that the petitioner had obtained D.Tech (Mechanical Engineering) degree through ODL mode. Accordingly, a degree of DTech (Mechanical Engineering) was issued by St.Peter's University (deemed to be University) on 30.03.2015.

3.The petitioner made a representation on 26.02.2020 seeking for granting equivalent status to his educational qualification acquired through ODL mode from St.Peter's University and to treat it as equivalent to the qualification acquired through a regular stream, for the purpose of employment. The same was considered and the first respondent through G.O.Ms.No.41, Higher Education (J1) Department, dated 16.02.2021 stated that D.Tech (Mechanical Engineering) acquired by the petitioner through ODL mode from St.Peter's University for the academic year 2009 to 2012 is not equivalent to the regular diploma course, for the purpose of employment in public service. This was communicated to the petitioner by the second respondent through letter,



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dated 24.02.2021. The same has been put to challenge in the present writ petition.

4.The main ground that was urged by the learned counsel for the petitioner is that the Higher Education Department of Tamil Nadu based on the recommendation made in the 53rd Equivalence Committee meeting and based on the policy decision taken by AICTE, passed G.O. (Ms). No.149, Higher Education (J2) Department, dated 22.07.2016 and it was declared that the candidates, who possess the diploma in D.Tech through ODL mode, should not be considered as equivalent to those who acquired the qualification through regular stream. This was put to challenge before the Apex Court and the Apex Court through Judgment, dated 10.04.2018 held that the candidates, who were admitted through distance learning upto the year 2009 to 2010 must be left undisturbed. It was further contended that for those persons, who had completed the Diploma upto 2009 and 2010 AICTE approval need not be insisted. In fact, the AICTE itself has issued a circular, dated 13.02.2019 recognising the D.Tech Degree/Diploma awarded by IGNOU, pursuant to the decision of the Apex Court.



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5.In view of the same, the learned counsel submitted that the first and second respondents did not take into consideration the fact that the petitioner had acquired the D.Tech (Mechanical Engineering) Degree from St.Peter's University (deemed to be University) in 2009 to 2012 and therefore, the same has to be treated on par with the qualification acquired by a person from a regular stream.

6.In reply to the submission made by the learned counsel for the petitioner, the learned Government Advocate completely placed reliance upon the counter filed on behalf of the respondents. For proper appreciation, the relevant portions are extracted hereunder:

“11.I respectfully submit that based on Judgement of the Hon'ble Supreme Court, the AICTE has passed circular F.No. AICTE/ P&AR/ Misc/ 2018/ 622, dated 11.12.2018 and circular F. No. AICTE/ P&AR/ IGNOU/ Misc./ 2019, dated 13.02.2019 in which it has informed that AICTE honors the Judgement of the Hon'ble Supreme Court in the case W.P.(C). No. 382 of 2018 Mukul Kumar Sharma & others Vs AICTE and others dated 30.07.2018 and has no objection for B.Tech., degree/diploma in Engineering awarded by IGNOU to the students who were enrolled up to academic year 2011-2012 (F.No. AICTE/ P&AR/ IGNOU/ Misc./ 2020/ dated 25.11.2020)



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to be treated as valid as a special case and it could not be taken as a precedence. It has also suggested that IGNOU should not run or start such technical programme(s) in distance education mode which have extensive laboratory component and keeping in view the directions issued by MHRD vide its letter dated 29.08.2009 wherein DEC-IGNOU was directed to discontinue all technical degree programmes being offered through ODL Mode and accordingly IGNOU stopped offering these programmes.

12. I respectfully submit that based on the above AICTE Circular, the Government issued Government Order G.O.(Ms). No.41, Higher Education (J1) Department, dated 16.02.2021 wherein declaring.

i) "Validate and approve that B. Tech. degree / diplomas awarded by Indira Gandhi National Open University (IGNOU) to the students who were directly enrolled in IGNOU and course wise recognition provided to its approved institutions by IGNOU up to academic year 2009-10 be treated as equivalent to regular B.Tech. degree / Diplomas as a special case as per direction issued by All India Council for Technical Education (AICTE) / Ministry of Human Resource Development (MHRD) for the purpose of employment in Public Services. (Resolution No. 26)."

21st Equivalence Committee Minutes - Resolution No. 32

ii) Further, in the 21st Equivalence Committee Meeting, ref (F.No. AICTE/ P&AP/IGNOU/MISC./2020/ dated 25-11-2020) the extension of approval for IGNOU ODL Mode



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B.Tech Degree/ Diploma for candidates enrolled till 2011-2012 has been approved vide resolution No. 32

(iii)Resolution No.32 in the 21st Equivalence Committee Meeting I.H.S. For only IGNOU B.Tech Degree/Diploma Programmes for candidates till 2011-2012.

13.I respectfully submit that the Government Order 6.0 M5/ NO 41 Higher Education (JI) Department, dated 16-02-2021 has been issued to the benefit of the students who were already enrolled in Indira Gandhi National Open University and the AICTE circular has been also issued only to the benefit of the students who were enrolled in Indira Gandhi National Open University.

14.I respectfully submit that the Petitioner has studied Diploma in Technology in Mechanical Engineering (D. Tech. Mechanical Engineering) offered by St. Peter's University (Deemed to be University) during 2009-2012 through Open and Distance Learning (ODL) mode. In this regard, the Tamil Nadu State Council for Higher Education requested St. Peter's University (St. Peter's Institute of Higher Education and Research) to provide the course recognition details of the subject matter of this case D. Tech. (Mechanical Engineering) offered by St. Peter's Institute of Higher Education and Research through ODL mode during 2009-2010 (TANSCHE letter Rc. No. 7828/2020 A, dated 03-10-2020).

15.I respectfully submit that the Registrar of St. Peter's Institute of Higher Education and Research replied (Registrar, St. Peter's Institute of Higher Education and Research letter dated 13.10.2020), wherein he has stated that there is only a general approval letter from Distance Education



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Council (IGNOU) for offering diploma courses by distance mode. Since, their Institute (deemed to be University) has been offering Engineering programmes, the Diploma Courses in Technology were offered then by distance mode and there is no specific letter from IGNOU for offering Diploma in Technology (Mechanical Engineering) by distance mode (Registrar of St. Peter's Institute of Higher Education and Research (IGNOU approval letter Ref. No.: IG/P&DD/St. PU/TN/2008/2453, dated 10/12/2008).

16. Furtherance to the above, I respectfully submit that the Tamil Nadu State Council for Higher Education requested the Registrar, IGNOU to clarify whether St. Peter's Institute of Higher Education and Research is recognized by IGNOU for conducting D. Tech-Mechanical Engineering through Open and Distance Learning mode during the academic year 2009-2012. (TANSCH letter Rc.No.7828/2020 A dated 10-11-2020).

17.I respectfully submit that the Registrar, IGNOU (IGNOU letter no,IG/SOET/Mech.Eng./2020/4882, dated 24-11-2020) replied as follows:

1.UGC (Distance Education Bureau) and AICTE would have been the necessary party to the case.

2.The letter dated 10.12.2008 issued by the Planning & Development Division of IGNOU does not constitute approval of the then DEC of Diploma/D. Tech. in Mechanical Engineering:

3. DEG of IGNOU stands dissolved and now stands part Of USC AS THE Distance Education Bureau (DEB) Of UGC.



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4. As per UGC as on 23.11.2020, (at [http://ac.in/dob/pc/final list for website 2014-15. pdf](http://ac.in/dob/pc/final%20list%20for%20website%202014-15.pdf)), it can be seen from pages 129 of 156, 130 or 156 and 131 of 156 at Sl. No. 176 that Programme-wise Recognition from year 2009-10 to 2011-12 was there for this St. Peter's Institute of Higher Education & Research, Chennai (Deemed to be University) for certain programmes, but it does not include Diploma in Mechanical Engineering or Diploma in Technology in Mechanical Engineering.

18. I respectfully submit that as per UGC website as on 23.11.2020, various programmes of St. Peter's University (deemed to be university) were recognized by the Distance Education Bureau, in which the D.Tech Mechanical Engineering of St. Peter's University through Open Distance Learning Mode during the academic year 2009-2012 has not been approved by DEC & IGNOU.”

7.This Court has carefully considered the submission made on either side and the materials available on record.

8.In the considered view of this Court, the judgment of the Apex Court and the circular issued by AICTE, which was relied upon by the learned counsel for the petitioner, will not really come to the aid of the petitioner. In the instant case, the petitioner has studied Technical



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Diploma in Mechanical Engineering (D.Tech in Mechanical Engineering) offered by St.Peter's University during the year 2009 to 2012 through ODL mode. The Judgment passed by the Apex Court and the circular issued by AICTE was taken into consideration by the State Government and G.O.Ms.No.41, Higher Education (J1) Department, dated 16.02.2021 was issued to the effect that the benefits will accrue only in favour of the students, who were directly enrolled in IGNOU.

9.In the instant case, the St.Peter's Institute had informed the respondents that there is a general approval letter issued by the Distance Education Council of IGNOU for offering Diploma Course through ODL mode. This was enquired from IGNOU by sending a communication, dated 10.11.2020. The IGNOU in their letter, dated 24.11.2020 have categorically stated that for the period from 2009 to 2012, no permission was given for the Diploma in Technology in Mechanical Engineering (D.Tech Mechanical Engineering). That apart, even in UGC Website as on 23.11.2020, the D.Tech Mechanical Engineering of St.Peter's University through ODL mode during the academic year 2009 to 2012 has not been approved.



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10.In view of the above, the Judgment of the Apex Court and the clarification issued by the AICTE does not help the cause of the petitioner. This Court does not find any ground to interfere with the decision that was arrived by the Equivalence Committee to the effect that the D.Tech Mechanical Engineering qualification acquired through ODL mode from St.Peter's University (deemed to be university) for the academic year 2009 to 2012 cannot be treated as valid and it cannot be considered to be equal to the qualification acquired through regular stream.

11.In the result this writ petition stands dismissed. No costs.

30.11.2023

NCC : Yes/No
Internet : Yes/No
Index : Yes/No
PNM



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To

1. The Principal Secretary to Government,
Higher Education (J2) Department,
Secretariat, Chennai-9.
2. The Joint Secretary to Government,
Higher Education (J2) Department,
Secretariat, Chennai-9.
3. The Chairman of Equivalence Committee,
Secretary to Government,
Higher Education (J2) Department,
Secretariat, Chennai-9.
4. The Member Secretary,
Tamil Nadu State Council For Higher Education Department,
Kamarajar Salai, Triplicane,
Near Lady Willington College Campus, Chennai.



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N.ANAND VENKATESH, J.

PNM

**ORDER IN
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