

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

Date of decision : 11.05.2023

CWP-555-2012 (O&M)
MAJOR SINGH & ORS.Petitioners

Versus

PUNJAB STATE POWER CORPORATION LTD. ETC. ...Respondents

CWP-16089-2012
ARVIND KUMAR AND ORSPetitioners

Versus

PUNJAB STATE POWER CORPORATION LTD. AND ANR.
...Respondents

CWP-16683-2013
IQBAL SINGH & ORSPetitioners

Versus

PSPCL & ANRRespondents

CWP-23161-2015
KARAMJIT SINGH & ORSPetitioners

Versus

PB STATE POWER CORP LTD & ORS.Respondents

CWP-23427-2015
MAHAVIR SINGH & ORSPetitioners

Versus

PB STATE POWER CORP LTD & ORS.Respondents

CORAM: HON'BLE MR. JUSTICE PANKAJ JAIN

Present : Mr. Akshay Bhan, Senior Advocate with
Mr. Ashutosh Dhankar, Advocate
for the petitioners in CWP-16089-2012.

Mr. A.S. Chadha, Advocate
for the petitioner in CWP-555-2012.

Ms. Rajni, Advocate and
Mr. J.P. Rana, Advocate
for the petitioners in CWP-16683-2013.

Ms. Samridhi Sareen, Advocate
for the respondent-PSPCL in CWP-555-2012.

Ms. Diya Sodhi, Advocate
for respondents No.1 and 2-PSPCL in CWP-16089-2012.

Mr. Pushp Jain, Advocate for
Mr. Rohan Mittal, Advocate
for respondent No.1 in CWP-16683-2013.

PANKAJ JAIN, J. (ORAL)

In all these writ petitions the question relates to the validity of the degrees obtained by the petitioners from Thapar College (later on known as Thapar Institute of Engineering and Technology, Patiala-Deemed University) through Distance Education mode. The precise issue came up for consideration before Apex Court in the batch of writ petitions with **Writ Petition (Civil) No.1510 of 2018** titled as '**Vinit Garg and others vs. University Grants Commission and others**' being the lead case which has been decided vide judgment dated 29th of August, 2019.

Counsel for the petitioners does not dispute that the Apex Court in the case of **Vinit Garg and others vs. University Grants Commission and others (Writ Petition (Civil) No.1510 of 2018)** has decided issue in principle against the proposition being canvassed. However he submits that issue w.r.t. the degree granted for the Session of

2007-2008 has not been canvassed.

Counsel for the respondents however submits that the judgment passed by the Apex Court has a sweeping effect over all the degrees awarded for the Sessions commencing after the Session of 2004-2005.

The plea raised by counsel for the petitioners cannot be accepted in view of the following observations made by Supreme Court in Vinit Garg's case (supra) :

“21. We have already referred to the 2004 Guidelines issued by the UGC and the AICTE Act to hold that TIET, Patiala had failed to take their prior approval before starting B. Tech. degree courses through distance education mode. Provisional recognition by the DEC being contrary to the law would not matter for at best the DEC would be equally guilty for violating the law in terms of 2004 Guidelines issued by the UGC and the AICTE Act. The legal issue stands foreclosed and cannot be argued in view of the clear dictum and ratio enunciated in Orissa Lift Irrigation Corporation Limited-I. We would also refer to the notification issued by the Government of India on 1st March 1995 quoted in Orissa Lift Irrigation Corporation Limited-I on distance education programme by deemed to be universities etc., which was to the following effect:

"On the recommendation of the Board of Assessment for Education 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 to posts and services under the Central Government, provided it has been approved by Distance Education Council, Indira Gandhi Nation Open University, K 76, Hauz Khas, New Delhi-110016 and wherever necessary by All India Council for Technical Education, I.G. Sports Complex, I.P. Estate, New Delhi."

Clearly, therefore, in terms of the said notification also approval of the AICTE was required.

22. TIET, Patiala accepts that no approval, provisional or otherwise, was granted for the next academic year, i.e. June-July 2008, yet B.Tech. degree programmes through distance mode for the academic year June-July 2008 were offered by TIET, Patiala contrary to the statutes and law.

23. TIET, Patiala, to justify admissions in the academic year 2008-2009 in their additional affidavit, have referred to correspondence and submission of application to the UGC for offering B. Tech. degree courses through distance education programme for the academic session i.e. 2008-2009. This is surprising as TIET, Patiala had not applied to the UGC for the previous academic session i.e. 2007- 2008. Thereafter, the additional affidavit refers to correspondence exchanged between the DEC and TIET, Patiala pursuant to which a Joint Expert Committee was constituted comprising of members of the UGC, DEC and AICTE to assess the administration and management of distance learning programmes offered by TIET, Patiala, which panel had visited their premises on 2nd June, 2009 and had recommended the recognition of as many as seven programmes for a period of five years. However, the Central Government had, in exercise of powers under Section 20 of the UGC Act and

in terms of a policy decision, issued a notification on 29th July, 2009 that the B.Tech. degrees would not be offered through open distance learning programme. In view of this policy decision, the DEC had to immediately withdraw the permission to various institutions to conduct B.Tech. degree courses through distance education mode and no further student was admitted in the current year and thereafter. However, the notification states that those who had already been admitted would have to pass practicals and written examination as may be prescribed so as to obtain the B.Tech. degrees through distance education.

24. The submission/contention of the petitioners and TIET, Patiala completely overlooks several developments, correspondence and policy decisions taken which have been noticed in Orissa Lift Irrigation Corporation Limited-I, particularly the notification issued by the AICTE on 28th November, 2005 clearly stating that no technical institution of the Government/Government aided/private institution, whether affiliated or not to any University, shall start new courses or increase the intake for the same without approval of the AICTE. Notification issued by the Ministry of Human Resource Development, Government of India on 5th April, 2006 in exercise of powers vested in the Central Government under Section 20(1) of the UGC Act and Section 20(1) of the AICTE Act had clarified the role of the UGC and AICTE for maintaining standards of education and that the deemed to be universities are required to maintain minimum standards prescribed by the AICTE for various courses within the jurisdiction of the said Council. This was followed by a joint public notice issued by the AICTE, UGC and DEC on 4th February, 2007 to the following effect:

"It has come to the notice of the University
Grants Commission (UGC), the All India Council
for Technical Education (AICTE) and the Distance

Education Council (DEC), that some Universities, Institutions Deemed to be Universities and other institutions are offering technical education programmes in the 'distance mode' without the approval of the concerned Statutory Council.

All Universities, Institutions, Deemed to be Universities and other institutions are hereby cautioned that running such programmes and giving misleading advertisements regarding unapproved 'distance mode courses and programmes of study, shall attract severe action under the provisions of applicable laws, including that of de-recognition and withdrawal of institutional approval;

It is hereby clarified, in the public interest that there are a number of courses or programmes of study leading to Degree/Diploma or other awards in Engineering & Technology, Management, Computer Applications, Architecture & Town Planning, Pharmacy, Hotel Management & Catering Technology, Applied Arts and Crafts, etc. which have not been approved by the appropriate Statutory Council for being conducted in the 'distance mode'. It is also reiterated that all courses or programmes of study in the 'distance mode' require the approval of DEC."

The public notice had cautioned that the universities/institutions/deemed to be universities offering technical education programme through distance education mode without approval of concerned statutory authorities were doing so in contravention of the law and would be treated severely. The last sentence of the notification had made it clear that in addition to the concerned statutory councils, all courses

and the programmes offered for study in distance mode would require approval of the DEC. A memorandum of understanding was arrived at on 10th May, 2007 among the UGC, AICTE and DEC to work in close co-operation in pursuit of excellence in technical and general education being imparted through distance and mixed mode in the country.

25. In any case these aspects and contentions were fully considered in Orissa Lift Irrigation Corporation Limited-I and it has been held that B.Tech. degrees could not have been awarded through distance learning mode without the approval of the DEC and without any specific approval of the AICTE and UGC and award of such degrees without approval of the three were invalid and cannot be recognised.

26. Functioning of the DEC has come in for rather strong criticism in several quarters. Till 2006, the DEC had approved about 45 programmes of 23 universities out of applications for approximately 200 programmes. In 2007, the DEC repealed the programme approval process and the system of institutional recognition was started. As per this decision, all programmes approved by respective authorities of the institution were deemed to have recognition of the DEC. As a result of this decision, within a short span, the number of approved programmes increased to over 3000 in 2010. The provisional recognition letter of the DEC would uniformly state that before starting such programmes, the required approvals from other regulatory bodies have to be obtained but the said stipulation was not followed in most cases and provisional recognition was granted by the DEC to technical programmes through distance mode without recognition/approval of the AICTE or UGC. This had paved way for commercialisation and was a retrograde step which had resulted in deterioration of the quality of open learning programmes/degrees. After burning its fingers, the DEC switched back to programme recognition. The DEC itself was

finally wound up in 2013.

27. In Orissa Lift Irrigation Corporation Limited-I, this Court, took note of the order dated 29th December, 2012 issued by the Ministry of Human Resource Development, Government of India in view of the recommendations suggested in the Madhava Menon Committee report for regulating the standards of education being imparted through distance mode to hold that the unilateral approvals of the DEC were invalid. It was observed:

"55. Para 3 of the notification dated 22.11.1991 which constituted DEC shows that there was no representation for any Member or representative of AICTE. The provisions of IGNOU Act show that the Study Centres as defined in the IGNOU Act are that of IGNOU and not of any other University or Institution. The concept of distance education under sub-clause (v) of Section 5 is also in relation to the academic programmes of IGNOU. It undoubtedly has powers under Clauses (vii), (xiii) and (xxiii) to cooperate with other Universities but the iGnOU Act nowhere entitles IGNOU to be the Controlling Authority of the entire field of distance education of learning across the Country and in relation to programmes of other Universities or Institutions as well. The Order dated 29.12.2012 issued by MHRD therefore correctly appreciated that DEC created under statute 28 of iGnOU Act could not act as a regulator for other Universities. In any event of the matter, the policy Guidelines issued from time to time made it abundantly clear that DEC alone was not entitled to grant permission for open distance learning and appropriate permissions from the requisite authorities were always required and

insisted upon. Despite such policy statements, DEC went on granting permissions without even consulting AICTE. Such exercise on part of DEC was completely without jurisdiction.

The said order, the Court noted, had definitively vested the UGC and AICTE, among other statutory regulators, with powers to regulate technical courses imparted through distance learning mode and made it mandatory for institutions intending to impart such courses to seek their approval and recognition, observing as under:

"[T]he Central Government in exercise of the powers conferred by sub-section 1 of section 20 of the UGC 1956 and the AICTE Act, 1987 hereby directs: -

The UGC and AICTE as already empowered under their respective Acts, would also act as a regulator for Higher Education (excluding Technical Education) and Technical Education through open & Distance Learning (ODL) mode respectively Universities are empowered under their respective Act to offer any programme course including in Technical Education in the conventional mode. However, if they offer any programme/course in ODL mode they would require recognition from the UGC, AICTE, NCTE and other such regulators of the conventional mode of education in those areas of study."

28. In view of the aforesaid discussion, we do not find any merit in the present Writ Petition and the same is dismissed."

In view of the above the present writ petitions are dismissed in

the light of ratio laid down by the Apex Court in the case of Vinit Garg and
others (supra) :

A copy of this order be kept on the files of other connected
cases.

May 11, 2023	(Pankaj Jain)
Dpr	Judge
Whether speaking/reasoned	: Yes/No
Whether reportable	: Yes/No