

* IN THE HIGH COURT OF DELHI AT NEW DELHI

Date of Decision: 13.01.2023

IN THE MATTER OF:

+ **W.P.(C) 945/2013, CM APPL. 1792/2013 and CM APPL. 42365/2019**

THE INSTITUTION OF CIVIL ENGINEERS (INDIA)

..... Petitioner

Through: Mr. Pramod Jalan, Advocate.

versus

UNION OF INDIA AND ANR

..... Respondents

Through: Mr. Gaurav Sarin, Senior Panel Counsel for R-1/UOI.
Mr. Anil Soni, Standing Counsel for AICTE.
Mr. Rajesh Gogna, CGSC with Ms. Priya Singh, Advocate.

+ **W.P.(C) 3239/2013 and CM APPL. 6125/2013**

THE INSTITUTION OF ELECTRONICS AND TELECOMMUNICATION ENGINEERS (IETE)

..... Petitioner

Through: Mr. N. L. Bareja, Advocate.

versus

UNION OF INDIA & ORS.

..... Respondents

Through: Mr. Kirtiman Singh CGSC with Mr. Waize Ali Noor and Mr. Durgeshnandini, Advocates for R-1, 2 & 4.
Mr. Anil Soni, Standing Counsel for AICTE.

+ **W.P.(C) 3479/2013, CM APPL. 6577/2013 and CM APPL. 13816/2013**

THE INDIAN INSTITUTION OF ENGINEERS (IIE)

..... Petitioner

Through: None.

versus

MINISTRY OF HUMAN RESOURCE DEVELOPMENT
(MHRD) & ORS

..... Respondents

Through: Mr. Ruchir Mishra, Mr. Sanjiv Kumar Saxena and Mr. Mukesh Kumar Tiwari, Advocates for UOI.
Mr. Anil Soni, Standing Counsel for AICTE.

+ **W.P.(C) 4865/2013**

THE INSTITUTION OF ELECTRICAL ENGINEERING (IEE)

..... Petitioner

Through: None.

versus

UNION OF INDIA & OTHERS

..... Respondents

Through: Mr. Ruchir Mishra, Mr. Sanjiv Kumar Saxena and Mr. Mukesh Kumar Tiwari, Advocates for UOI.
Mr. Anil Soni, Standing Counsel for AICTE.

+ **W.P.(C) 6226/2013 and CM APPL. 13635/2013, CM APPL. 17140/2016, CM APPL. 8792/2018 and CM APPL. 43225/2019**

INSTITUTION OF FIRE ENGINEERS(INDIA)

..... Petitioner

Through: None.

versus

UNION OF INDIA & ANR

..... Respondents

Through: Mr. Anil Soni, Standing Counsel
for AICTE.

+ **W.P.(C) 3154/2014**

INSTITUTION OF SURVEYORS

..... Petitioner

Through: None.

versus

UNION OF INDIA & ANR.

..... Respondents

Through: Mr. Bhagvan Swarup Shukla,
CGSC with Mr. Vikrant, Advocate
for UOI.
Mr. Anil Soni, Standing Counsel
for AICTE.

+ **W.P.(C) 1711/2015**

THE COUNCIL OF ENGINEERING & TECHNOLOGY
(INDIA) & ANR

..... Petitioners

Through: None.

versus

ALL INDIA COUNCIL FOR TECHNICAL EDUCATION &
ANR

..... Respondents

Through: Mr. Jaswinder Singh, Advocate for
R-2.
Mr. Anil Soni, Standing Counsel
for AICTE.

CORAM:

HON'BLE MR. JUSTICE PURUSHAINDR KUMAR KAURAV

J U D G M E N T

PURUSHAINDR KUMAR KAURAV, J. (ORAL)

1. This batch of petitions relates to a common issue and, therefore, is being decided by a common order. For the purpose of facts, the averments made in W.P.(C) No. 945/2013 are being referred to.
2. These petitions seek to challenge the office memorandum dated 06.12.2012 (impugned OM) issued by respondent No. 1 - Ministry of Human Resource Development (in short, MHRD). The petitioner is a Society registered under the Societies Act, 1860 and is imparting education in the field of engineering discipline since 2007-2008. On 06.11.2007, the MHRD decided to give recognition to the Section A & B of the Associate Membership Course, equivalent to Degree and Part-I & II of Technical Engineers courses conducted by petitioner, w.e.f. academic session 2007-2008.
3. It is the case of the petitioner that in terms of an order dated 10.07.2012, the petitioner was communicated that a decision is taken not to further renew the courses. The petitioner filed Writ Petition No. 4290 of 2012 before this court. It is further stated that on 06.12.2012, respondent No.1/MHRD issued impugned OM withdrawing its earlier order dated 10.07.2012 and restricting permanent recognition of the petitioner till 31.05.2013. In view thereto, the petitioner-institution had to withdraw its earlier petition seeking liberty to file the present petition. Accordingly, the petitioner-institution has filed the instant writ petition challenging the impugned OM.

4. This court *vide* order dated 06.08.2013, directed the respondent No.1/MHRD to file the counter affidavit and had stayed the operation of the impugned OM till further orders with respect to the deadline of 31.05.2013 *qua* the petitioner. Learned counsel appearing for the petitioner submits that the interim order passed by this court continued to remain in operation till passing of the order by this court on 11.02.2020. Learned counsel appearing for the respondent No.1/MHRD, however, states that the entire controversy is covered by the decision of the Hon'ble Supreme Court in the matter of *Institution of Mechanical Engineers (India), through its Chairman vs. State of Punjab & Ors*¹.

5. Learned counsel appearing for the petitioner submits that notwithstanding the decision rendered by the Hon'ble Supreme Court, the present writ petitions will have to be examined from a different perspective so as to render complete justice, especially keeping in mind the fact that till the order was clarified by this court on 11.02.2020, the institution continued to grant admission to various students. Learned counsel appearing for the petitioner further points out that the case which was decided by the Hon'ble Supreme Court was with respect to the recognition of other institutions. It is submitted that the interim order is operated in favour of the petitioner - institution and the admissions were granted in accordance with the protection granted by this court. This court should extend the benefit to the students who were enrolled by the petitioner - institution till the passing of the clarificatory order by this court on 11.02.2020. It is also submitted that the case decided by the Hon'ble Supreme Court relates to temporary recognition, whereas, in W.P.(C) 3239/2013 and W.P.(C) 6226/2013, the institutions have

¹ (2019) 16 SCC 95

permanent recognition. On the basis of the curriculum of the University, which is stated to have been approved, certain distinctions are sought to be drawn by the learned counsel appearing in W.P. (C) 3239/2013 and W.P. (C) 6226/2013. He further states that W.P. (C) 6226/2013 is to be separately heard from the present batch of petitions. It is also submitted that the Hon'ble Supreme Court was not informed about granting of admission to students beyond cut-off date as per interim order passed by this court; therefore, there was no occasion for the Hon'ble Supreme Court to deal with the said aspect.

6. The aforesaid prayer is opposed by the learned counsel appearing for the respondent No.1/MHRD and he stated that in all these cases the principal challenge is to the impugned OM. Since the controversy has been put to rest by the Hon'ble Supreme Court, the distinction as being sought to be drawn by the learned counsel may not detain this court anymore.

7. I have heard the learned counsel appearing on behalf of the parties and perused the record.

8. It is to be noted that in paragraph No.19 of ***Institution of Mechanical Engineers (supra)***, the Hon'ble Supreme Court has referred to the impugned OM and its challenge in W.P.(C) 7840/2014 before this court in the said writ petition. While referring to the impugned OM in paragraph No. 49, the Hon'ble Supreme Court has observed as under:

“49. However, the fact remains that the equivalence to the Certificates awarded by the appellant was granted by the MHRD in consultation with AICTE up to 31.05.2013 as is evident from Notification dated 06.12.2012 issued by the Central Government and Public Notice issued by AICTE in August 2017. These communications also indicate that all those students who were

enrolled up to 31.05.2013 would be eligible for consideration in accordance with MHRD office memorandum/order in course. Though we have laid down that the Certificates issued by the appellant on successful completion of its bi-annual examination to its members cannot be considered to be equivalent to a degree, an exception needs to be made in favor of students enrolled up to 31.05.2013 and benefit in terms of the Notification dated 06.12.2012 and Public Notice as aforesaid ought to be extended to such candidates. The candidates had opted to enroll themselves so that they could appear at the examinations conducted by the appellant under a regime which was put in place by the Central Government itself and the course content as well as the curriculum were reviewed by the AICTE. However, the aforementioned Notification and Public Notice were clear that after 01.06.2013 the concerned orders granting equivalence would cease to have any effect.”

9. While carving out an exception, the Hon’ble Supreme Court in paragraph No. 49 has held that no further exception needs to be carved out except in favour of candidates who enrolled up to 31.05.2013. It has been unequivocally held that the conclusions drawn in the said order will apply after 01.06.2013. The certificates awarded by the appellant therein to such candidates enrolled up to 31.05.2013 have been directed to be considered equivalent to a degree in Mechanical Engineering for the purpose of employment in the Central Government.

10. It is also to be noted that under similar circumstances while placing reliance on the decision of the Hon’ble Supreme Court, this court in W.P.(C) 4059/2019 dated 04.07.2022 has taken a view that any interim order passed by this court contrary to the principles and the exceptions carved out by the Hon’ble Supreme Court would not come to the aid of the petitioners in that case. It has been held that granting relief to the petitioner-institute would create ambiguity and uncertainty on the issue which has been irrefutably decided by the Apex Court. Paragraph No. 11 of the decision of this court in ***Yashpal Singh Jadeja and Ors. Vs.***

All India Council for Technical Education (AICTE) and Anr. in W.P.(C) 4059/2019 dated 04.07.2022 is reproduced as under.

“11. The contentions urged in the instant application and petition are identical to the prayers before the Supreme Court in M.A. No. 1439/2020, as is evident from the order extracted above. Pertinently, the judgment of the Supreme Court is undeniably a final decision on the issue of equivalence of AIME course with a degree in engineering. The Supreme Court has categorically held that benefit of the Membership Certificates will only be extended to students who were enrolled in AIME course up to 31st May 2013, and not thereafter. Petitioner No.1 was concededly admitted after the said date. The interim order passed by this Court would not come to the aid of Petitioner in light of the judgment of the Supreme Court. Granting relief to the Petitioner, as prayed for, would create ambiguity and uncertainty of the issue, which has been irrefutably decided by the Apex Court.”

11. In view of the aforesaid circumstances, this court is not inclined to accede to the request of the learned counsel appearing on behalf of the petitioner to further carve out any exception for the students who were enrolled by the petitioner - institution during the operation of the interim order passed by this court during the pendency of these petitions.

12. The petitions are accordingly dismissed with no order as to costs.

(PURUSHAINDRA KUMAR KAURAV)
JUDGE

JANUARY 13, 2023

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