

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

Date of Decision: 16.03.2023

IN THE MATTERS OF:

+ **W.P.(C) 3082/2014**

KUMAR SHAILENDER
S/O GANESH DUTT
ROOM NO.-11, SHREEKUNJ
1899/94A/3,MATA ROAD
RAJIV NAGAR- GURGAON

..... PETITIONER NO. 1

RAVI SHANKAR
C-21, FIRST FLOOR,
CH. HARISINGH MARKET,
VILL.-KOTLA,MAYUR VIHAR-1
NEW DELHI-110091

..... PETITIONER NO. 2

SUNIL KUMAR SINGH
H.N.139C,POCKET-12
JASLOK VIHAR, NEW DELHI

..... PETITIONER NO. 3

UJJWAL PAUL C/O ALPNA PAUL
WARD NO.-13 BANMALI ROAD
KARIMGANJ-ASSAM-788710

..... PETITIONER NO. 4

A. PREETI
AG44,THIRD STREET, ANNA NAGAR
CHENNAI-(TAMILNADU)-600400

..... PETITIONER NO. 5

Through: Ms. Himani Bhatnagar, Advocate.

versus

UNIVERSITY GRANTS COMMISSION,
THROUGH ITS CHAIRMAN,
BAHADURSHAH ZAFAR MARG,
NEW DELHI - 110001

..... RESPONDENT NO.1

ALL INDIA COUNCIL FOR TECHNICAL EDUCATION,
THROUGH ITS CHAIRMAN,
7TH FLOOR, CHANDERLOK BUILDING, JANPATH,
NEW DELHI-110001

..... RESPONDENT NO.2

ASSOCIATION OF INDIAN UNIVERSITIES,
THROUGH ITS CHAIRMAN/PRESIDENT,
AIU HOUSE, 16, COMRADE INDRAJIT GUPTA MARG,
NEW DELHI-110002

..... RESPONDENT NO.3

UNION OF INDIA,
THROUGH SECRETARY,
MINISTRY OF HUMAN RESOURCE AND DEVELOPMENT,
DEPARTMENT OF HIGHER EDUCATION,
SHASHTRI BHAWAN,
NEW DELHI-110115

..... RESPONDENT NO.4

Through: Mr. Apoorv Kurup, Ms. Nidhi Mittal
and Ms. Aparna Arun, Advocates for
R-1/UGC.
Mr. Anil Soni, Standing Counsel with
Mr. Devvrat Yadav, Advocates for
AICTE.
Dr. Ashwani Bhardwaj and Mr. Akhil
Sharma, Advocates for R-3.
Mr. Ripu Bharadwaj, CGSC for R-4
UOI.

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W.P.(C) 3084/2014

CHANDRASHAKHER SINGH
H.N. 460 POCKET-I
D.D.A.,SFS FLATS
SEC -9 DWARIKA
NEW DELHI-110077

..... PETITIONER NO. 1

SARBANI MOHANTI
QUARTER NO.21,
SECTOR-7,ROURKELA
ORISSA-769003

..... PETITIONER NO. 2

RAHUL SWAMI
C-266, BHABHA MARG
TILAK NAGAR-JAIPUR
RAJASTHAN.

..... PETITIONER NO. 3

Through: Ms. Himani Bhatnagar, Advocate.

versus

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MINISTRY OF HUMAN RESOURCE AND DEVELOPMENT,
DEPARTMENT OF HIGHER EDUCATION,
SHASHTRI BHAWAN,
NEW DELHI-110115

..... RESPONDENT NO.4

Through: Mr. Anil Soni, Standing Counsel with
Mr. Devvrat Yadav, Advocates for
AICTE.
Dr. Ashwani Bhardwaj and Mr. Akhil
Sharma, Advocates for R-3.
Mr. Ripu Bharadwaj, CGSC for R-4
UOI.
Mr. Rajinder Dhawan and Mr. B. S.
Rana, Advocates for R-3.

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W.P.(C) 7408/2014 & C.M. 17598/2014

SUNIL SOOD
S/O SHRI SUSHIL KUMAR SOOD,
R/O HOUSE NO. 305,
SECTOR-37, FARIDABAD (HARYANA)

..... PETITIONER

Through: Mr. Sameer Nandwani, Mr. Pooja
Tandon and Ms. Nikita Sharma,
Advocates.

Versus

UNIVERSITY GRANTS COMMISSION,
THROUGH ITS CHAIRMAN,
BAHADURSHAH ZAFAR MARG,
NEW DELHI – 110001

..... RESPONDENT NO.1

ALL INDIA COUNCIL FOR TECHNICAL EDUCATION,
THROUGH ITS CHAIRMAN,
7TH FLOOR, CHANDERLOK BUILDING, JANPATH,
NEW DELHI-110001

..... RESPONDENT NO.2

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THROUGH ITS CHAIRMAN/PRESIDENT,
AIU HOUSE, 16, COMRADE INDRAJIT GUPTA MARG,
NEW DELHI-110002

..... RESPONDENT NO.3

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THROUGH SECRETARY,
MINISTRY OF HUMAN RESOURCE AND DEVELOPMENT,
DEPARTMENT OF HIGHER EDUCATION,
SHASHTRI BHAWAN,
NEW DELHI-110115

..... RESPONDENT NO.4

JAMIA MILLIA ISLAMIA
(A CENTRAL UNIVERSITY BY ACT OF PARLIAMENT)
FACULTY OF EDUCATION
MAULANA MOHAMAD ALI JUHAR MARG,
NEW DELHI-25

..... RESPONDENT NO.5

Through: Mr. Saurabh Kaushik, Advocate for Mr. R. S. Raju, Advocate for R-1/UGC.

Mr. Anil Soni, Standing Counsel with Mr. Devvrat Yadav, Advocates for AICTE.

Dr. Ashwani Bhardwaj and Mr. Akhil Sharma, Advocates for R-3.

Mr. Pritish Sabharwal, Standing counsel with Mr. Sharad Pandey, Advocates for R-5/JMI

Mr. Mukul Singh, CGSC for UOI.

Mr. Rajinder Dhawan and Mr. B. S. Rana, Advocates for R-3.

Mr. Mukul Singh, CGSC.

HON'BLE MR. JUSTICE PURUSHAINDRA KUMAR KAURAV

J U D G M E N T

PURUSHAINDRA KUMAR KAURAV, J. (ORAL)

1. This batch of writ petitions filed under Article 226 of the Constitution of India involves a similar issue, therefore, the same is being decided by a common order. For the sake of convenience, the facts are taken from W.P.(C) 3082/2014. However, wherever necessary, the facts and grounds from individual matters are also referred to.

2. The petitioners have challenged Clause 3 (vi) of the notification of the University Grants Commission-National Eligibility Test, June, 2012 (in short, UGC-NET examination, June 2012), imposed by respondent No.1- University Grants Commission (in short, UGC) to the extent it requires the

candidates to compulsorily hold a Master's degree or equivalence by the Association of Indian Universities (in short, AIU), for appearing in the said examination.

3. The petitioners in W.P.(C) 3082/2014 have undergone a Post Graduate Diploma in Management (PGDM)/Post Graduate Diploma in Business Management (PGDBM) courses from the respective institutions which are recognized by All India Council for Technical Education (AICTE), between the years 2002 to 2009.

4. In the year 2012, UGC invited applications for UGC-NET examination, which was to be conducted on 24.06.2012. The examination, namely, UGC-NET is conducted for determining the eligibility of Indian nationals for the award of Junior Research Fellowship (JRF) and eligibility for Lectureship in Indian universities and colleges. The petitioners being desirous of appearing in the said examination had submitted their forms and consequently they appeared in the examination. It is the case of the petitioners that they successfully passed the examination, however, on account of Clause 3 (vi) of the notification for the UGC-NET examination, June 2012, the certificates of passing the examination were not issued in their favour. The petitioners, therefore, submitted that Clause 3 (vi) of the UGC-NET examination is illegal and the same is contrary to the provisions of the University Grants Commission Act, 1956 (in short, the UGC Act, 1956) and other laws applicable thereto.

5. The learned counsel appearing on behalf of the petitioners states that firstly, the AIU is not a statutory body, the same is neither created under any statute nor is it governed by any statutory Act. Secondly, the UGC cannot outsource its primary function to deal with higher education to a non-

statutory body like AIU. Thirdly, the UGC in its regulations has already recognized the courses undertaken by the candidates from accredited institutions by AICTE. It is, therefore, submitted that when the AICTE has granted the equivalence certificate to some of the candidates, the same should have been accepted by the UGC and the result of the petitioners should not have been withheld only on the ground that their diplomas were not determined to be equivalent to a Master's degree by AIU. The learned counsel for the petitioners, in addition to the aforesaid submissions, also points out that various documents placed on record obtained under the Right to Information Act, 2005 would clearly indicate that AIU itself has clarified that the said society does not grant any equivalence of degree. She specifically referred to the communication dated 22.10.2013 made by AIU to one Chandra Shekhar Singh stating therein that AIU does not accord equivalence to the degrees awarded by Indian University and according to her, equivalence requirement by AIU is illegal and improper and, therefore, the decision of withholding the result of the petitioners needs to be set aside. She also states that the UGC has not authorized by way of any rule or notification, the AIU to grant equivalence to diplomas/certificates as Master's degree.

6. The learned counsel places reliance on a decision of this court in the case of *Nidhi Dhamija v. University Grants Commission and Ors.*¹ and states that in the said case, the concerned candidate was granted equivalence by the AICTE and this court accepted the said equivalence and directed for declaration of the result of Nidhi Dhamija, the petitioner therein.

¹ W.P.(C) 4160/2011

7. The learned counsel appearing on behalf of the petitioner in W.P.(C) 7408/2014, in addition to the submissions made by the learned counsel appearing on behalf of the petitioners in the writ petition [W.P.(C) 3082/2014] states that Clause No.4.4.5 (Minimum Qualification for Appointment of Teaching Faculty in University and Colleges—Management/Business Administration) of the UGC Regulations On Minimum Qualifications For Appointment Of Teachers And Other Academic Staff In Universities And Colleges And Measures For The Maintenance Of Standards In Higher Education, 2010 (in short, UGC Regulations, 2010) recognizes the degrees accredited by AICTE. He, therefore, states that once the diploma is accredited by AICTE or issued by an AICTE accredited institution, there is no necessity for any equivalence by AIU.

8. The learned counsel appearing on behalf of the UGC strongly opposes the submission made by the learned counsel appearing on behalf of the petitioners and states that the petitioners had, without protesting, appeared in the concerned examination being aware of the fact that they lack the eligibility criterion stipulated in the said notification and once they have appeared in the examination, subsequently they cannot challenge the notification. According to him, Clause 3 (i) of notification of the examination clearly states that the candidates who have secured at least 55% marks (without rounding off) in Master's Degree or equivalence examination from universities/institutions recognized by UGC in Humanities including languages, social sciences, computer science and applications with other requirement are eligible to appear in the said examination. He further states that Clause 3 (vi) clearly stipulates that the candidates having post graduate

diploma/certificate awarded by Indian university/institutions or foreign degree/diploma/certificate awarded by the foreign university/institute should in their own interest, ascertain the equivalence of their diploma/degree/certificate with a Master's Degree from a recognized institution university from the AIU, New Delhi. According to him, if the candidates were aware of the conditions of the notification under which they were to appear in the examination, they should have challenged the said condition before appearing in the concerned examination.

9. According to learned counsel for the UGC, even the decision relied upon by the petitioners would support the case of the UGC and in addition, he has placed reliance on the decision of this court in the case of ***Diksha Lamba v. University Grants Commission & Ors.***² affirmed in LPA 481/2018 dated 27.08.2018 against which the Special Leave Petition was dismissed by the Hon'ble Supreme Court in SLP (Civil) diary No.45008/2018 dated 21.01.2019, the decision of the Hon'ble Supreme Court in the case of ***Guru Nanakdev University vs. Sanjay Kumar Katwal and Anr.***³ The learned counsel also places reliance on a decision of the Division Bench of Kerala High Court in the case of ***University Grants Commission v. Anand J Illickan***⁴ and the decision of a coordinate bench of Patna High court in the case of ***Manoj Kumar v. Union of India and Ors.***⁵ He states that both decisions were considered by this court in the case of ***Diksha Lamba (supra)***. He specifically states that in the case of ***Anand J Illickan (supra)*** in paragraph Nos.23-24, 35-36 of the decision, arguments made by the learned

² 2018 SCC OnLine Del 8224

³ (2009) 1 SCC 610

⁴ 2015 SCC OnLine Ker 18288

⁵ W.P.(C) 19107/2015

counsel appearing on behalf of the petitioner in W.P.(C) 7408/2014 have been considered.

10. The learned counsel further argues that once the UGC has decided by way of issuance of notification that the equivalence would be granted by AIU, the same assumes statutory colour. While referring to Section 12 (j) of the UGC Act, 1956, he states that it shall be the general duty of the commission to take, in consultation with the Universities or other bodies concerned, all such steps as it may think fit for the promotion and coordination of University education; the determination and maintenance of standards of teaching; examination and research in universities; to perform its functions under the UGC Act, 1956 and to also prescribe as may be deemed necessary by the Commission for advancing the cause of higher education in India or as may be incidental or conducive to discharge the aforesaid functions. He, therefore, elaborates that if the diplomas are relied upon, seeking equivalence of the Master's degree, the UGC in itself would not be in a position to determine the curriculum etc. and, therefore, the task of determining equivalence of any diploma to Master's degrees must be assigned to some expert agency. If in the opinion of UGC, AIU is the agency that can discharge the function of determining equivalence of diploma to Master's degree, no fault can be found with it. He, therefore, states that when in advertisement/notification itself such a condition is stipulated that the equivalence will have to be granted by the AIU, no fault can be found with it.

11. The learned counsel appearing on behalf of the AICTE in respective writ petitions states that till 2010, the AICTE on the basis of the decision taken by its internal committee was granting equivalence of the diploma

certificates to Master's degree, however, after 2010, the decision was taken not to conduct the said exercise and, therefore, after 2010, the AICTE neither has any power nor it is its practice to grant any equivalence certificate. The stand of the AICTE is that after 2010, any request received for granting equivalence to degree courses for academic purpose is to be referred to AIU/UGC.

12. The learned counsel appearing on behalf of the AIU states that amongst other activities, AIU equates degrees issued by foreign universities with those awarded by Indian universities and issues equivalence certificates as well as equates diplomas issued by the institute, falling outside the preview of the universities in India with the degrees issued by the Indian universities. According to AIU, the said activities are conducted as per the Memorandum of Association of AIU. It is stated that AIU has been issuing such equivalence certificate since its formation as a society and before that as a inter-university board which was formed in the year 1925. The AIU, therefore, states that in the case of equivalence from diploma to degree even by educational institutions are granted by AIU.

13. In rejoinder submissions, the learned counsel appearing on behalf of the petitioner states that in W.P.(C) 7408/2014, by way of interim order dated 31.10.2014, this court directed respondent No.5 therein not to cancel the Ph.D. course being undertaken by the petitioner, however, the degree was directed to be withheld and the stipend was also directed not to be paid to the petitioner. The learned counsel appearing on behalf of the petitioner, therefore, states that the petitioner in W.P.(C) 7408/014 has completed his Ph.D. research and only the thesis is required to be submitted. He further states that he is ready with the thesis and he had attempted to submit the

same to the university but the same was not accepted on the ground of pendency of the instant petition and in the absence of any specific order in that respect. He, therefore, states that even if the concerned clause under challenge in the said writ petition is not satisfied, the research work conducted by the petitioner be ensured not to go waste.

14. He further submitted that the petitioner in W.P.(C) 7408/2014 completed the diploma in the year 2000 itself and admittedly up to 2010, the AICTE was granting equivalence certificate and in his case, the institution wherefrom he did his diploma was duly accredited by AICTE. He also states that even if the decision rendered by the Kerala High Court in the case of *Anand J Illican (supra)* is perused carefully, the same would not have the respondent deny to benefit to the petitioner rather reading paragraph No. 29 and 30 of the said decision would support the case of the petitioner. He also places reliance on the decision of High Court of Rajasthan in the case of *Madhu Saini v. National University of Health Science*⁶ to submit that this court in the exercise of power under Article 226 of the Constitution may consider granting the petitioner adequate compensation.

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

16. Clause 3 (i) and (vi) of UGC notification issued for conducting UGC-NET examination on 24.06.2012 reads as under:

“3) CONDITIONS OF ELIGIBILITY :

i) Candidates who have secured at least 55% marks (without rounding off) in Master's Degree OR equivalent examination from universities/institutions recognised by UGC in Humanities (including languages) and Social Science, Computer Science & Applications,

⁶ S.B. C.W.P. No.6233/2021

Electronic Science etc. are eligible for this Test. The Scheduled Caste (SC)/Scheduled Tribe (ST)/Persons with disability (PWD) category candidates who have secured at least 50% marks (without rounding off) in Master's degree or equivalent examination are eligible for this Test.

Clause ii) to v).....

vi) Candidates with post-graduate diploma/certificate course(s) or foreign degree/diploma should in their own interest, ascertain the equivalence of their course(s) with Master's degree of recognized Indian universities from Association of Indian Universities (AIU) New Delhi, (www.aiuweb.org)”

17. A plain reading of the conditions of eligibility would clearly show that apart from other requirements, a candidate who has to appear in the examination must qualify Clause 3 (i) which states that the candidate who has secured at least 55% marks (without rounding off) in Master's degree or equivalent examination from universities/institutions recognized by UGC in Humanities (including languages) and Social Sciences, Computer Science and Applications, Electronic Science etc. are eligible for the concerned test. The language used therein specifically provides that the candidate must have a Master's degree or equivalent examination from universities/institutions recognized by UGC in different streams. Clause (vi) provides that candidates with post-graduate diploma/certificate courses should in their own interest, ascertain the equivalence of their course with a Master's degree of recognized Indian Universities from AIU, New Delhi. It is thus seen that the requirement of having a Master's degree or equivalent examination from universities/institutions recognized by UGC in Humanity and other subjects is a condition precedent for appearing in the examination.

18. So far as the equivalence to examination is concerned, the same has to be determined by AIU. If both the clause are read together, the same would show that either the candidate must have a Master's degree without any

equivalence or if the candidate has any diploma/certificate then equivalence is required to be determined by AIU.

19. Firstly, if the petitioners are not fulfilling the aforesaid conditions, which are unequivocally clear in its terms, they should have challenged the relevant conditions before appearing in the examination. The petitioners did appear in the examination with open eyes that without fulfilling the requirements and later on, a challenge to condition 3(vi) by the petitioners on the ground that AIU is not the competent authority to grant the certificate cannot be countenanced. The petitioners who appeared in the examination without raising any grievance to the terms of the notification are estopped and have acquiesced their right to question them thereafter.

20. Secondly, if the scheme of the UGC Act, 1956 as has been explained to this court, is examined the decision of the UGC to authorize AIU to determine the equivalence aspect cannot be said to be without jurisdiction. AIU has been working since 1925 in the field of higher education. The fact remains that the UGC has assigned the responsibility to AIU to determine the equivalence. The decision so taken by UGC is not under challenge. It is thus seen that the challenge on the ground of competence of AIU to grant the equivalence certificate under the facts of the present case cannot be accepted.

21. A similar issue has been considered by this court in the case of ***Diksha Lamba (supra)***. The decision passed by this court in the said case has been affirmed by the division bench of this court and SLP against it was dismissed by the Hon'ble Supreme Court. Paragraph Nos.10 to 12, which record the submissions made by the petitioners in the case of ***Diksha Lamba (supra)*** are similar to the submissions which are being made by the learned counsel

for the petitioners in the present case. For the sake of clarity, paragraph Nos. 10 to 12 are being reproduced as under:

“10. Arguing for the Petitioner, Ms. Gokhale submits that the action of the Respondent No. 1 in treating the Petitioner as ineligible only on the opinion given by the Respondent No. 2 is wholly arbitrary and illegal. She submits that the Respondent No. 2, which is a society registered under the Societies Registration Act, 1860, is merely a private body and its membership is open and voluntary. She, therefore, contends that all the universities in India are not compelled to become members of the Respondent No. 2.

11. The learned counsel for the Petitioner further submits that, since the Respondent No. 2 is neither a regulatory nor statutory body, it does not have the power to accord or certify the equivalence of degrees. She contends that, even otherwise, any restrictions or certifications granted by the Respondent No. 2 are not binding and places reliance on the Respondent No. 2's letter dated 01.08.2011 to the Petitioner, wherein it categorically stated that it had no objections to the issue of the equivalence of the Subject Degree being resolved by the admission granting university as per their own rules and regulations. She, therefore, contends that the refusal of the Respondent No. 2 to certify the equivalence of degrees is not mandatory or binding in any way on Respondent No. 1 and such a refusal on the part of Respondent No. 2 cannot be a ground to deny the Petitioner any educational/qualification or job opportunities.

12. Ms. Gokhale contends that the Respondent No. 1, which is a statutory body, does not have the power to certify or recognize the equivalence of degrees. There is nothing in the University Grants Commission Act, 1956 (hereinafter referred to as the “UGC Act”) or the notifications issued by the Respondent No. 1 that provides for the equivalence of degrees. However, even if it were to be assumed that Respondent No. 1 has the power to certify or recognize the equivalence of degrees, it cannot delegate such powers to any private body such as the Respondent No. 2”

22. A Coordinate Bench of this court has considered the submissions in paragraph Nos.21 to 25 and rejects the said contention. The Coordinate Bench of this court has relied upon the decision in the case of **Manoj Kumar (supra)** and **Anand J Illickan (supra)** and paragraph Nos.21 to 25 of the decision in the case of **Diksha Lamba (supra)** are reproduced as under:

“21. Having heard the learned counsels for the parties and having considered their rival contentions, I find that the Petitioner has basically raised two contentions. The Petitioner's first contention is that, since she has obtained the Subject Degree from the University of Leeds, which is admittedly a University duly accredited and recognized by the Respondent No. 1, the Subject Degree cannot be held as an invalid qualification for appearing in the NET merely because the Respondent No. 2, which is a private society, has opined that it is not equivalent to a corresponding degree from a recognized Indian University.

22. The Petitioner's alternate plea is that, since she had obtained a M.Phil degree from a recognized Indian University, i.e. Jawaharlal Nehru University, she was qualified on the strength of that M.Phil degree, which was a master's degree as per notification dated 01.12.1958 issued by the Respondent No. 1 under Section 22(3) of the UGC Act and was treated as a pre-doctoral level qualification as per the subsequent notification dated 05.07.2014, to appear for the NET.

23. Having given my thoughtful consideration to the rival contentions of the learned counsel for the parties, I am of the considered view that there is merit in the plea raised by the learned counsel for the Respondent No. 1 that the Subject Degree could not be treated as valid qualification for NET, until it was certified by the Respondent No. 2 as equivalent to a corresponding degree from a recognized Indian University. The Eligibility Notification having specifically laid down this condition in Clause 3(vi), the Petitioner cannot contend that the Subject Degree should be treated as valid by ignoring the opinion of the Respondent No. 2, merely because it is a private body. It is a well settled legal position that a condition in the notification is binding on a candidate, who participates in an examination process pursuant to the notification without any demur or protest against the conditions in the notification.

24. In this regard, reference may be made to the observations of the Kerala High Court in the case of **University Grants Commission v. Anand J Illickan** [WA No. 847/2015], of the Patna High Court in **Manoj Kumar v. Union of India & Ors.** [CWJ No. 19107/2015] and of this Court in the case of **Stuti Saxena v. University Grants Commission** [W.P.(C) 6923/2009], on which reliance has been placed by the learned counsel for the Respondent No. 1, to contend that the Petitioner was bound by the terms and conditions stipulated in the Eligibility Notification, including Clause 3(vi), especially when the Petitioner applied for the NET only pursuant to the said notification.

25. The relevant paragraphs of the decision of the Patna High Court in **Manoj Kumar** (supra), wherein the Court agreed with the view taken by the Division Bench of the Kerala High Court in **Anand J Illickan** (supra), are reproduced hereinbelow:-

“16. The Division Bench answered the issue, so framed, in paragraph 45, holding that Association of Indian Universities is a body, which is entitled to declare equivalence for appearing in National Eligibility Test (hereinafter referred to as „N.E.T.“), which is contemplated in the notification issued by the U.G.C.. Such authority to grant equivalence by the A.I.U. is statutorily recognized by the UGC Regulations on Minimum

Qualifications for Appointment of Teachers and Other Academic Staff in Universities and Colleges and Measures for the Maintenance of Standards in Higher Education, 2010. The Division Bench took note of the stand of the A.I.C.T.E. that A.I.C.T.E. accepts the opinion of A.I.U. regarding diploma and degree and, therefore, there was no need to examine the entitlement of A.I.C.T.E. to grant equivalence of post-graduate diploma.

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21. *The Regulation, as quoted above, and the requirement in the notification for holding U.G.C.- N.E.T., June, 2013, makes it clear that the U.G.C. desired and notified that prospecting candidate must ascertain equivalence of their courses with the Master's Degree of recognized Universities from A.I.U. In any event, that was the condition notified in the notification of U.G.C.-N.E.T., June, 2013. In my view, the petitioner cannot question the eligibility conditions prescribed in the notification after having participated for the test. In my view, he is estopped from raising any plea against requirement of sub-Clause (vi) of Clause 3 of notification for U.G.C.-N.E.T., June, 2013. I am further of the view that no distinction can be made, for the purpose of determining equivalence of P.G. Diploma qualification with P.G. Degree qualification, on the basis of Institution being own-managed and maintained by the State Government/Union Government or otherwise. The Regulations, governing the field, do not carve out any exception or create such distinction. Submission made on behalf of the petitioner, in this regard, is not tenable.*

22. *I am in agreement with the view taken by a Division Bench of Kerala High Court in case of Anand J. Illickan (supra), wherein, the status and role of the A.I.U., in the matter of its authority to declare equivalence of PostGraduate Diploma with PostGraduate Degree, has been elaborately dealt. I have no hesitation in recording my conclusion that requirement of declaration by A.I.U., for the purpose of equivalence of P.G. Diploma qualification with P.G. Degree, is statutory in character, since the said requirement has been incorporated in the statutory Regulation framed in exercise of power under Section 26 of the University Grants Commission Act, 1956. Consequently, the P.G. Diploma (P.M.I.R.) qualification of the petitioner cannot be held to be equivalent to P.G. Degree."*

23. The learned counsel appearing on behalf of the UGC is also correct in contending that equivalence is a technical academic matter and it cannot be implied or assumed. He has rightly placed reliance on the decision of the Hon'ble Supreme Court in the case of the **Guru Nanakdev University**

(*supra*) to substantiate the aforesaid contentions. Paragraph Nos. 15 and 16 of the same are reproduced as under:

“15. The first respondent has passed his M.A. (OUS) from Annamalai University through distance education. Equivalence is a technical academic matter. It cannot be implied or assumed. Any decision of the academic body of the university relating to equivalence should be by a specific order or resolution, duly published. The first respondent has not been able to produce any document to show that appellant university has recognized the M.A. English (OUS) of Annamalai University through distance education as equivalent to M.A. of appellant university. Thus it has to be held that first respondent does not fulfil the eligibility criterion of the appellant university for admission to three year law course.

16. The first respondent made a faint attempt to contend that the distance education system includes ‘correspondence courses’ and therefore recognition of M.A. (correspondence course) as equivalent to M.A. course of appellant University, would amount to recognition of M.A. - OUS (distance education) course, as an equivalent. For this purpose, he relied upon the definition of “distance education system” in section 2(e) of Indira Gandhi National Open University Act, 1985. But there is nothing to show that Annamalai University has treated correspondence course and OUS (distance education) course as the same. What is more important is that the appellant university does not wish to treat correspondence course and Distance Education Course as being the same. That is a matter of policy. Courts will not interfere with the said policy relating to an academic matter.”

24. It is thus seen that in the present case, admittedly all the petitioners are holding diploma/certificates. The diploma/certificates have not been granted any equivalence to a Master’s degree. The master’s degree or equivalence is the condition precedent in the notification for examination in question. All the petitioners lack the said qualification to appear in the examination. It is for this reason, this court at this stage, cannot treat diploma/certificate as equivalent to a Master’s degree on the basis of AICTE accreditation. When the examination was to be conducted, the notification required the equivalence certificate to be granted by AIU. Any certificate granted by

AICTE or any accreditation by AICTE was not the eligibility condition in the notification issued for the examination in question. It is for this reason that the submissions made by the learned counsel appearing for the petitioner in W.P.(C) 7408/2014 cannot be accepted. The institutions from which the concerned petitioner has undertaken his diploma/certificate course may have been accredited by AICTE. However, under the notification in question, it is not the condition that any candidate who has obtained a certificate/diploma from an AICTE accredited institution would be eligible to appear in the examination.

25. So far as the decision in the case of *Nidhi Dhamija (supra)* is concerned, if the facts of the case of *Nidhi Dhamija (supra)* are examined in the right perspective, the same would indicate that UGC in its notification for the examination therein did not specifically stipulate that the equivalence certificate was to be granted by the AIU. This court in paragraph Nos.10, 11, 16 and 17 has taken into consideration the aforesaid aspect.

26. In paragraph Nos.27 and 31 the aforesaid aspect has been clearly noted and the same are being reproduced as under:

“27. There is no dispute about the fact that the condition of eligibility, as set out in the notification issued by the UGC, governing NET examination, undertaken by the petitioner, while requiring a candidate who have secured at least 55% marks in Master’s Degree or equivalent examination from University/Institutions recognized by UGC, did not stipulate, further, that such equivalence had necessarily to be recognized by the AIU.

28. The position, as it emerges from the documents on record and the pleadings by the various statutory authorities, governing the AICTE and AIU, appears to be that, prior to May 2010, the AICTE was, in fact, issuing certificates of declaration of equivalence of diplomas awarded by various authorities with degrees of Indian Universities, but that, with effect from May, Neutral Citation 2018:DHC:7834 W.P.(C) 4160/2011 Page 11 of 13 2010, the AICTE, vide a Council meeting held on 20th September, 2010, decided to leave this function to the AIU.

29. *The petitioner had, undisputedly, obtained her PGDBM from the LBSI in 2008, during which period the AICTE, was, indeed, issuing certificates of equivalence.*

30. *The validity of the said certificate of equivalence is not, moreover, questioned by any authority.*

31. *The applicable eligibility conditions, too, did not require the certificate of equivalence to have necessarily been issued by the AIU; a stipulation which subsequently came to be inserted by the UGC, for the NET conducted for June to December, 2010 session.”*

27. In view of the aforesaid, the examination in question has been conducted in the year 2012 and the notification issued for the said examination specifically states that the equivalence will have to be granted by AIU, therefore, the decision in the case of **Nidhi Dhamija (supra)** would not be of any assistance to the petitioners, as the same is clearly distinguishable on facts.

28. It is be noted that the petitioner, Sunil Sood in W.P.(C) 7408/2014 is also not found to be eligible to appear in the examination and, therefore, he cannot be treated to be UGC-NET qualified. Consequently, his registration in the Ph.D. course is also vitiated. On the basis of the interim order of this court dated 31.10.2014, any research work, he has conducted will not create any right in his favour to claim the conferment of a degree in the said course. If such an approach is adopted, the same would be against the settled principle of law it being that interim orders do not create any rights in favour of any of the parties.

29. The Hon'ble Supreme Court in the case of **Orissa Lift Irrigation Corp. Ltd. v. Rabi Sankar Patro & Ors.**⁷ in paragraph No.25 has held that if there is any infirmity in the degree, the same is basic and fundamental and

⁷ (2018) 2 SCC 298

cannot be wished away. In the instant case, the admission of the petitioners on the basis of UGC-NET qualification, in Ph.D. course by itself is vitiated, therefore, this court cannot issue any direction in favour of the petitioners either to complete the course or to be declared as UGC-NET qualified.

30. In view of the aforesaid, the petitions stand dismissed.

MARCH 16, 2023

Priya

PURUSHAINDRA KUMAR KAURAV, J.

