



2024:DHC:4764



\$~108

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

+ **W.P.(C) 8132/2014**

VIKRAMJEET SINGH MANN

..... Petitioner

Through: **Vikramjeet Singh Mann**
(petitioner in person)

versus

**UNIVERSITY GRANTS COMMISSION &
ORS**

..... Respondent

Through: **Mr. Manoj Ranjan Sinha, Mr. Deepak Sain, Ms. Nisha and Mr. Ashish Kumar Rathour, Advocates for R-1. Mr. Aly Mirza, Advocate for R-4. Mr. Y. Rajagopala Rao, Mr. Akshay Singh and Dr. Tapan Kumar, Dean, ICFAI University for R-5.**

**CORAM:
HON'BLE MR. JUSTICE C.HARI SHANKAR**

JUDGMENT (ORAL)

%

28.05.2024

1. The petitioner was enrolled in the distance education MBA programme conducted by the ICFAI during the years of 2006-2008.

2. The programme was provided by the open distance learning (ODL) mode.

3. The ICFAI was granted institutional approval by the Distance

Signature Not Verified

Digitally Signed By: **AUT
KUMAR**
Signing Date: 21.06.2024
15:58:04

Page 1 of 11

Signature Not Verified

Digitally Signed
By: **CHANDRASHEKHARAN
HARI SHANKAR**
Signing Date: 21.06.2024
15:56:50



2024:DHC:4764



Education Bureau (DEB) on 28 December 2007 and continuation of provisional recognition on 6 January 2009.

4. The petitioner seeks a direction to Respondent 1, the University Grants Commission (UGC) to grant *ex post facto* approval to the MBA qualification obtained by the petitioner from the ICFAI by the ODL mode pursuant to the course undertaken by him from 2006-2008.

5. By order dated 23 October 2017, this court permitted the ICFAI to apply to the UGC for grant of *ex post facto* recognition. On the said application being made, the UGC was directed to deal with the application in accordance with law.

6. The UGC, *vide* orders dated 5 January 2018 and 9 January 2018, rejected the application of the ICFAI for *ex post facto* recognition for its MBA course.

7. *Vide* order dated 8 August 2023, this court directed the UGC to reconsider the prayer of the ICFAI for grant of *ex post facto* approval for the MBA course conducted by it for the year 2006-07, uninfluenced by its orders dated 5 January 2018 and 9 January 2018.

8. In compliance with this direction, the UGC has passed a subsequent order dated 22 September 2023 in which the request for grant of retrospective recognition for the ODL programmes provided by the ICFAI has been again refused, for the following reasons

Signature Not Verified

Digitally Signed By: AHT
KUMAR
Signing Date: 21.06.2024
15:58:04

WP(C) 8132/2014

Page 2 of 11

Signature Not Verified

Digitally Signed
By: CHANDRASHEKHARAN
HARI SHANKAR
Signing Date: 21.06.2024
15:56:50



2024:DHC:4764



contained in para 4 of the decision:

“With reference to the directions of the Hon'ble High Court Delhi vide its order dated 08.08.2023, Retrospective Recognition for offering ODL Programmes cannot be considered by UGC due in the following facts:

- Directions/actionable points of Prof. Madhav Menon Committee conveyed by the MHRD vide its letter no. F. No. 6-20/2010-DL dated 29.12.2012 (**Annexure-IV**) wherein it is categorically mentioned that “*No Conditional or post facto recognition to be granted*’.
- In August, 2017 UGC has submitted a Counter Affidavit in Hon'ble Supreme Court of India, Special Leave Petition (Civil) Nos. 19807-08 of 2012 in the matter of Orissa Lift Irrigation corporation ltd. &ors versus Sri Rabi Sankar Patro & Ors) specifically mentioned therein that UGC will not accord ex-post facto approval or conditional approval to offer ODL programmes.
- The MHRD has issued direction vide letter (**Annexure-V**) F. No.2-18/2017-U3 (A) dated 07.10.2018 on the recommendations of Justice Reddy Committee constituted by MHRD on the directions of Hon'ble Supreme Court dated 03.11.2018 in Civil Appeal No.17869-17870 filed by Orissa Lift Irrigation Corp. Ltd Versus Rabi Sankar Patro & Ors that “*Under no circumstances, UGC shall grant retrospective or ex-post facto recognition to any course through ODL mode.*
- Accordingly UGC vide public notice (Annexure-VI) dated 20.11.2018, informed all the stakeholder about the actions/decision/information based on the recommendations of the Justice Reddy Committee on ODL course.
- Further, there is no provision in University Grants Commission (Open and Distance Learning Programmes and Online Programmes) Regulations, 2020 and amendment to accord retrospective or ex-post facto recognition.”

9. The petitioner has filed an affidavit by way of response to the UGC's affidavit whereunder the aforesaid decision was enclosed,

Signature Not Verified

Digitally Signed By: AHT
KUMAR
Signing Date: 21.06.2024
15:58:04

WP(C) 8132/2014

Page 3 of 11

Signature Not Verified

Digitally Signed
By: CHANDRASEKHARAN
HARI SHANKAR
Signing Date: 21.06.2024
15:56:50



2024:DHC:4764



contesting the grounds on which the UGC has decided to refuse the request for grant of *ex post facto* recognition to the ODL programmes provided by the ICFAI.

10. It is seen that one of the grounds on which the UGC has justified its decision to refuse the request for *ex post facto* approval is that, on the basis of the recommendations of the Justice Reddy Committee constituted by the Ministry of Human Resource Development (MHRD) in compliance with the directions issued by the Supreme Court in its judgment dated 3 November 2018 in ***Orissa Lift Irrigation Limited v. Rabi Shankar Patro***¹, the MHRD had issued a communication to the UGC on 7 October 2018, directing the UGC to take necessary action towards complying with the said recommendations. Among these recommendations was, in respect of ODL courses, the recommendation that under no circumstances would the UGC grant retrospective or *ex post facto* recommendation to any course provided via the ODL Mode.

11. The aforesaid communication dated 7 October 2018, issued by the MHRD to the UGC, is not under challenge.

12. In the face of the expressed proscription contained in the said communication, on the UGC granting retrospective or *ex post facto* recognition to any course through the ODL mode, I have queried of Mr. Mann, who appears in person, as to how this court can possibly direct the UGC to grant *ex post facto* recognition to the MBA course



2024:DHC:4764



undertaken by him with the ICFAI from 2006-2008.

13. Mr. Mann submits that, even after the aforesaid communication had been issued by the MHRD on 7 October 2018, certain Teacher Training Courses, provided by the National Council for Teacher Education, were granted retrospective recognition. He has drawn my attention in this context, to notification dated 12 May 2020 issued by the MHRD, whereby certain Teacher Education Institutions (TEIs), which are funded by the Central Government and the State Government, were been granted retrospective recognition for courses and durations mentioned in the table contained in the said notification. For example, the Indira Gandhi National Tribal University, Anuppur, has been granted retrospective recognition for the BA.B.Ed and B.Sc B.Ed courses provided by it.

14. The submission is completely misguided. The Notification dated 12 May 2020 was issued pursuant to the amendment of the National Council for Teachers Education Act, 1993 by the National Council for Teachers Education (Amendment) Act, 2019 with effect from 17 August 1995, by insertion of a proviso in Section 14(1) thereof.

15. Sections 1 and 2 of the NCTE (amendment) Act, 2019 read thus:

1.(1) This Act may be called the National Council for Teacher Education (Amendment) Act, 2019.

(2) It shall be deemed to have come into force on the 17th day of August, 1995.

Signature Not Verified

Digitally Signed By: AHT
KUMAR
Signing Date: 21.06.2024
15:58:04

WP(C) 8132/2014

Page 5 of 11

Signature Not Verified

Digitally Signed
By: CHANDRASHEKHARAN
HARI SHANKAR
Signing Date: 21.06.2024
15:56:50



2024:DHC:4764



2. In the National Council for Teacher Education Act, 1993 (hereinafter referred to as the principal Act), in section 14, in sub-section (1), after the proviso, the following proviso shall be inserted, namely: :-

Provided further that such institutions, as may be specified by the Central Government by notification in the Official Gazette, which—

(i) are funded by the Central Government or the State Government or the Union territory Administration;

(ii) have offered a course or training in teacher education on or after the appointed day till the academic year 2017-2018; and

(ii) fulfil the conditions specified under clause (i) of sub-section (3) shall be deemed to have been recognised by the Regional Committee.”.

16. As such there was a conscious legislative decision taken to amend the NCTE Act retrospectively with effect from 17 August 1995 by inserting in section 14, a proviso whereby institutions which are Central or State Government funded, and had offered courses of training in teacher education, on or after the appointed day, would be deemed to be recognized by the concerned Regional Committee.

17. This is a legislative dispensation. It is obvious that the petitioner cannot seek to derive any capital therefrom, as there is no similar legislative dispensation whereunder the MBA program provided by the ICFAI, which was undertaken by the petitioner can be deemed to be retrospectively recognized. As such, the retrospective recognition to the teacher training courses conducted by the Central or State Government funded institutions, till 2017-2018 having been granted in

Signature Not Verified

Digitally Signed By: ARI
KUMAR
Signing Date: 21.06.2024
15:58:04

WP(C) 8132/2014

Page 6 of 11

Signature Not Verified

Digitally Signed
By: CHANDRASHEKHARAN
HARI SHANKAR
Signing Date: 21.06.2024
15:56:50



2024:DHC:4764



terms of a legislative statutory mandate, the petitioner cannot seek to avail the benefit thereof.

18. Mr. Mann, seeks to submit that there is not distinction between the position in which he finds himself and the students who were students of the institutions who have been granted retrospective recognition.

17. This submission, also, would fail for the same reason. The grant of retrospective recognition to the courses conducted by the teacher training institutions was the consequence of parliamentary legislation whereby the NCTE Act was amended. The petitioner cannot possibly claim that there should also be a legislation in his favor empowering grant of retrospective recognition for the course that he has undertaken.

18. Mr. Mann intercedes to submit that the Parliamentary legislation was initiated by the MHRD, and refers for this purpose, to a press release issued by the Press Information Bureau on 15 May 2020.

19. The paragraph from the said press release to which Mr. Mann draws reference may be reproduced *in extenso* thus:

Press Information Bureau
Government of India

Union HRD Minister announces retrospective recognition to
Central and State Government conducted Teacher Education
Courses

New Delhi

Signature Not Verified

Digitally Signed By: AHT
KUMAR
Signing Date: 21.06.2024
15:58:04

WP(C) 8132/2014

Page 7 of 11

Signature Not Verified

Digitally Signed
By: CHANDRASHEKHARAN
HARI SHANKAR
Signing Date: 21.06.2024
15:56:50



2024:DHC:4764



15th May, 2020

Union HRD Minister Shri Ramesh Pokhriyal 'Nishank' today announced that MHRD has brought out two Gazette Notifications dated 12th May 2020 to regularize retrospectively certain Teacher Education Programmes being conducted by some Central and State Govt Institutions. These programmes were being conducted without any formal recognition from National Council for Teacher Education (NCTE). The Minister said that the decision was taken in the interest of students who were likely to suffer in this.

Background:

NCTE legally grants formal recognition to academic institutions for conducting any of the NCTE recognized courses meant for pre-service teacher education. It is only after qualifying any of these NCTE recognized courses that a person becomes legally eligible for appointment as a school teacher in India.

It was brought to the notice of MHRD that some of the Central and State Govt institutions had inadvertently admitted students in teacher education courses which were not recognized by NCTE. This rendered invalid the qualification acquired by these students for the purposes of employment as school teachers in India.

Retrospective recognition to courses:

An amendment to the NCTE Act, 1993 was initiated by MHRD to enable retrospective recognition to such courses. The amendment was notified on 11th January 2019, after being passed by both Houses of Parliament.

Notably this amendment only allows retrospective recognition up to Academic Session 2017-2018, thereby only regularizing the qualifications acquired by students in the past. It does not propose to leave it open for institutions to run unrecognized courses in future and thereafter approach for ex-post facto regularization.

In all 23 institutions of the Central and State Govt have benefitted involving about 13000 students and around 17000 in-service teachers. As a result of these notifications the qualifications acquired by affected students and in-service teachers, now stands legally validated.”

Signature Not Verified

Digitally Signed By: ARI
KUMAR
Signing Date: 21.06.2024
15:58:04

WP(C) 8132/2014

Signature Not Verified

Digitally Signed
By: CHANDRASHEKHARAN
HARI SHANKAR
Signing Date: 21.06.2024
15:56:50

Page 8 of 11



2024:DHC:4764



20. Every Parliamentary legislation is initiated by a Ministry or by a Department of Government of India. The mere fact that the MHRD had initiated the amendment to the NCTE Act, cannot be the basis for the petitioner to claim parity. The decision to amend the NCTE was ultimately was a decision of the legislature and not a decision of the MHRD. Legislation is an exercise undertaken by the legislature, not by the executive. The Government does not legislate; it is the Parliament which legislates.

21. There being no similar legislative dispensation in favour of the petitioner, the petitioner cannot seek, on the basis of the decision of the Union Legislature to amend the NCTE Act, for the considerations set out in the aforesaid press release dated 15 May 2020, that there should also be a similar decision to grant retrospective recognition to the MBA Course undertaken by him.

22. Indeed, if such a submission is to be accepted, it would mean that every person who has undertaken a course which at any point of time was not recognized, can seek a mandate that the UGC should retrospectively recognize the course.

23. As such, the grant of retrospective recognition to the teacher training courses provided by the institutions mentioned in the notification dated 12 May 2020 being the outcome of a legislative exercise, was not subject to the directions issued by the MHRD *vide* letter dated 7 October 2018.



2024:DHC:4764



24. Any direction to the UGC to grant retrospective recognition to the course undertaken by the petitioner would, on the other hand, would be in the teeth of the specific prohibition contained in the letter dated 7 October 2018 issued by the MHRD against the UGC granting retrospective or *ex post facto* recognition to ODL courses.

25. Moreover, the attempt of Mr. Mann to draw parity between the ICFAI and the TEIs whose courses were granted retrospective recognition by the MHRD notification dated 12 May 2020 fails on two other grounds as well.

26. The first is that the courses undertaken by the said institutions are not ODL Courses. There was, therefore, no proscription against grant of retrospective recognition to such courses.

27. Secondly, the retrospective recognition was granted, *vide* Notification dated 12 May 2020, not by the UGC but by the Central Government.

26. At the cost of repetition, it may be mentioned that no court can direct retrospective recognition to be granted for any course which has been undertaken by any educational institution. The court can only direct the highest authority to consider the case for grant of retrospective recognition. Where, as in the present case there is an expressed proscription, in the MHRD letter dated 7 October 2018 against grant of such retrospective recognition, any such direction by this court would *ex facie* amount to directing the UGC to act against



2024:DHC:4764



the mandate of the MHRD letter dated 7 October 2018. No writ court can pass such a direction, especially when the notification is not under challenge.

27. For all the aforesaid reasons, this court regrets that it is not in a position to grant the relief as prayed by the petitioner in this writ petition.

28. The writ petition is accordingly dismissed.

29. No orders as to cost.

C.HARI SHANKAR, J

MAY 28, 2024/K

Click here to check corrigendum, if any

Signature Not Verified

Digitally Signed By: ARI
KUMAR
Signing Date: 21.06.2024
15:58:04

WP(C) 8132/2014

Page 11 of 11

Signature Not Verified

Digitally Signed
By: CHANDRASHEKHARAN
HARI SHANKAR
Signing Date: 21.06.2024
15:56:50