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WA.Nos.1796 of 2021, 522 & 900 of 2015

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.06.2024

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THE HONOURABLE Mr.JUSTICE **S.M.SUBRAMANIAM**

AND

THE HONOURABLE Mr.JUSTICE **C.KUMARAPPAN**

**WA.Nos.1796 of 2021, 522 & 900 of 2015**  
**and**  
**CMP.No.11256 of 2021 & MP.Nos.1 & 1 of 2015**

WA.No.1796/2021

1. The Principal Secretary to Government,  
Personnel and Administrative Reforms Department,  
Secretariat, Chennai-600 009.
2. The Secretary to Government,  
Industries Department,  
Secretariat, Chennai-600 009.

... Appellants

Vs.

A.Balasaraswathy

... Respondent

**Prayer in WA.No.1796/2021:** Writ Appeal filed under Clause 15 of The Letters Patent, praying to set aside the order dated 01.12.2020 made in WP.No.6315 of 2014 on the file of this Hon'ble Court and allow this Writ Appeal.



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*WA.Nos.1796 of 2021, 522 & 900 of 2015*



WA.Nos.1796 of 2021, 522 & 900 of 2015

For Appellant : Mr.R.Neelakandan  
Additional Advocate General  
For Respondent : Mr.P.Sam Japa Singh

WA.No.522/2015

The State of Tamil Nadu,  
represented by the Principal Secretary to Government,  
Personnel and Administrative Reforms (Q) Department,  
Secretariat, Fort St. George, Chennai-600 009.

... Appellant

Vs.

1. M.Subramonia Pillai
2. R.Radhakrishnan

... Respondents

**Prayer in WA.No.522/2015:** Writ Appeal filed under Clause 15 of The Letters Patent, praying to set aside the order dated 03.07.2014 made in WP.No.23435 of 2012 on the file of this Hon'ble Court.

For Appellant : Mr.R.Neelakandan  
Additional Advocate General  
For Respondents : Mr.V.Selvaraj for R1  
R2-No Appearance

WA.No.900/2015

1. Principal Secretary to Government,  
Personnel and Administrative Reforms Department,  
Secretariat, Fort St. George, Chennai-600 009.
2. The Principal Secretary to Government,  
Higher Education Department,  
Secretariat, Fort St. George,  
Chennai-600 009.

... Appellants

Vs.



WA.Nos.1796 of 2021, 522 & 900 of 2015

1. S.Navaneethakrishnan
2. Madras University  
Represented by its Registrar,  
Chepauk, Chennai-600 005.
3. The Distance Education Council,  
(Established under IGNOU Act),  
New Delhi.

... Respondents

**Prayer in WA.No.522/2015:** Writ Appeal filed under Clause 15 of The Letters Patent, praying to set aside the order dated 10.02.2015 made in WP.No.24589 of 2013 on the file of this Hon'ble Court and allow this Writ Appeal.

For Appellants : Mr.R.Neelakandan  
Additional Advocate General  
For Respondents : No Appearance for R1 to R3  
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### **COMMON JUDGMENT**

[Judgment of the Court was delivered by **S.M.SUBRAMANIAM, J.**]

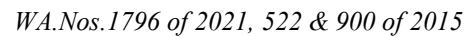
The Writ Appeals on hand have been instituted challenging the writ orders for grant of promotion to the post of Section Officers by validating M.A open University degrees granted by the University. The issue raised in these writ appeals is whether M.A degree obtained through open university without undergoing the regular pattern of education i.e., 10+2+3+2 is a valid degree or not for the purpose of public appointment/promotion.



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2. The issues relating to the validity of the open University degree obtained without undergoing the regular pattern of education recognised by UGC is no more *res integra*. The Hon'ble Supreme Court of India in the context of UGC regulations held that such degrees granted by the Universities without undergoing the regular pattern of education are invalid. The State Governments across the Country have implemented the Supreme Court order by invalidating the open University degrees obtained from various Universities without undergoing the regular pattern of education or without completing the three years course for public employment.

3. Mr.R.Neelakandan, learned Additional Advocate General would submit that the panel was prepared for promotion to the post of Section Officers in Secretariat and various Departments except Law & Finance. The names of the eligible employees working in the cadre of Assistant Section Officers were considered. The panel was prepared in the year 2011. Even before that, the Hon'ble Supreme Court of India held that open University degrees are not valid for public employments. The Government of Tamil Nadu implemented the same by issuing G.O.(Ms).No.107, Personnel and Administrative Reforms (M) Department dated 18.08.2009. Thereafter, the open University M.A. degrees obtained from various universities without

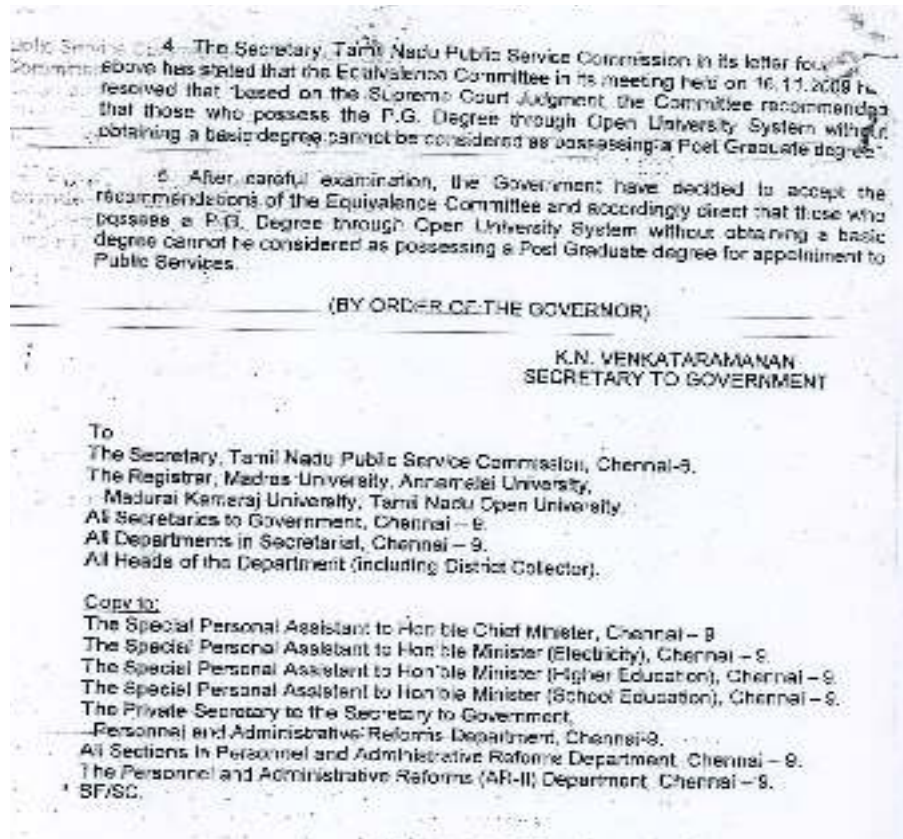
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4. The learned counsel for the respondent Mr.P.Sam Japa Singh would submit that in certain cases, Courts have considered that the open University degrees shall be considered for promotions. However, the said judgments are yet to be implemented. Therefore, we are bound to consider the judgments of the Hon'ble Supreme Court of India on the issue and those judgments, wherein the legal position settled by the Hon'ble Supreme Court of India are not considered cannot be followed as precedent.



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5. In the present case, the undisputed facts are that the respondents are working in the cadre of Assistant Section Officers. The next avenue for promotion is Section Officer in the Secretariat. The qualification prescribed under Rule 9 of The Tamil Nadu State Service (Section 16) of Tamil Nadu General Service (Clause:XII) is, must have rendered service for a period of not less than 6 years in the category of Assistant Section Officer in the Department of Secretariat other than Law and Finance and must hold a degree of any university recognized by the U.G.C.

6. The Rule itself contemplates that the degree obtained by the employees must be recognized by the University Grants Commission and the same reads as follows:-

**“3. Qualification:-** No person shall be eligible for appointment to the category specified in column (1) of the Annexure, by the method specified in the corresponding entry in column (2), unless he possesses the qualifications specified in the corresponding entry in column (3) thereof.

4. ....



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*Section Officers in Recruitment by transfer (i) Must hold a Bachelor's any Department from the Assistant Degree of any University other than Law and Section Officer in the Grants Commission for the Finance*

*Tamil Nadu Secretariat purpose of its grant;  
Service in any (ii) Must have rendered Department other than service for a period of not Law and Finance less than six years in the category of Assistant Section Officer in the Departments of Secretariat other than Law and Finance.*

*(G.O (Ms) No.88, P &AR ©  
Department, dated  
15.06.2012)*

7. Regarding the validity of a degree under the UGC regulations, it is relevant to consider the University Grants Commission Regulations, 1985 regarding the Minimum Standards of instructions for the Grant of the First Degree through Non-formal/Distance Education. The regulation reads as under:-

*“8.In this regard, the University issued University Grants Commission Regulations, 1985, regarding the minimum standards of instructions for the grant of the first degree through non formal/distance education. The regulations reads as under:*

*No.F1117/83(CP) In exercise of the powers conferred by Clause (f) of subsection (1) of [Section 26](#) of the University Grants Commission Act, 1956 (No.3 of 1956), the University Grants Commission makes the*



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*following regulations, namely:-*

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*1.Short title, application and commencement:-*

*1.These regulations may be called the University Grants Commission (the minimum standards of Instructions for the grant of the first degree through nonformal/distance education in the faculties of Arts, Humanities, Fine Arts, Music, Social Sciences, Commerce and Sciences) Regulations, 1985.*

*2.They shall apply to every university established or incorporated by or under a Central Act, Provincial Act or of a [Section 2](#) of the University Grants Commission Act, 1956 and every institute deemed to be University under [Section 3](#) of the said Act.*

*3.They shall come into force on June 1, 1986.*

*2.Admission/Students:*

*1.No students shall be eligible for admission to the 1st Degree Course through nonformal/distance education unless he has successfully completed 12 years schooling through an examination conducted by a Board/University. In case there is no previous academic record, he shall be eligible for admission if he has passed an entrance test conducted by the University provided that he is not below the age of 21 years on July 1 of the year of admission.*

*2. No student shall be eligible for the award of the first degree unless he has successfully completed a three year course; this degree may be called the B.A./B.Sc./B.Com. (General Honours/Special) degree as the case may be.*

*Provided that no student shall be eligible to seek admission to the*



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*Masters Course in these faculties, who has not successfully pursued the first Degree course of three years duration.*

*Provided further that, as a transitory measure where the universities are unable to change over to a three year degree course, may award a B.A./B.Sc./B.Com. (pass) degree on successful completion of two year course, but that no student of this stream shall be eligible for admission to the Masters course unless he has undergone a further one year bridge course and passed the same. The three year degree course after 10+2 stage should in no case be termed as B.A./B.Sc./B.Com. (pass) degree.”*

8. The Hon'ble Supreme Court of India in the case of ***Annamalai University v. Secretary to Government, Information & Tourism Deptt., (2009) 4 SCC 590***, extensively dealt with the scope of the validity of open University degrees awarded by the Universities in violation of the minimum standards of education fixed by the University Grants Commission Regulations. The relevant portion are as under:-

*“40.[The UGC Act](#) was enacted by Parliament in exercise of its power under Entry 66 of List I of the Seventh Schedule of the Constitution of India whereas the [Open University Act](#) was enacted by parliament in exercise of its power under Entry 25 of List III thereof. The question of repugnancy of the provisions of the said two Acts, therefore, does not arise. It is true that the statement of objects and reasons of the [Open University Act](#) shows that the formal system*



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*of education had not been able to provide an effective means to equalise educational opportunities. The system is rigid inter alia in respect of attendance in classrooms. Combinations of subjects are also inflexible.*

*41. Was the alternative system envisaged under the Open University Act in substitution of the formal system, is the question. In our opinion, in the matter of ensuring the standard of education, it is not. The distinction between a formal system and an informal system is in the mode and manner in which education is imparted. The UGC Act was enacted for effectuating coordination and determination of standards in universities. The purport and object for which it was enacted must be given full effect.*

*42. The provisions of the UGC Act are binding on all universities whether conventional or open. Its powers are very broad. The Regulations framed by it in terms of clauses (e), (f), (g) and (h) of sub-section (1) of Section 26 are of wide amplitude. They apply equally to open universities as also to formal conventional universities. In the matter of higher education, it is necessary to maintain minimum standards of instructions. Such minimum standards of instructions are required to be defined by UGC. The standards and the coordination of work or facilities in universities must be maintained and for that purpose required to be regulated. The powers of UGC under Sections 26(1)(f) and 26(1)(g) are very broad in nature. Subordinate legislation as is well known when validly made becomes part of the Act. We have noticed hereinbefore that the functions of UGC are all-pervasive in respect of the matters specified in clause (d) of sub-section (1) of Section 12-A and clauses*





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45. *The amplitude of the provisions of the UGC Act vis-a-vis the universities constituted under the State Universities Acts which would include within its purview a university made by Parliament also is now no longer res integra.*

46. In *Prem Chand Jain v. R.K.Chhabra*<sup>2</sup> this Court held: (SCC pp. 308-09, para 8) 8. ... The legal position is well settled that the entries incorporated in the lists covered by Schedule VII are not powers of legislation but 'fields' of legislation. (*Harakchand Ratanchand Banthia v. Union of India*<sup>3</sup> SCR at p. 489.) In *State of Bihar v. Kameshwar Singh*<sup>4</sup> this Court has indicated that such entries are mere legislative heads and are of an enabling character. This Court has clearly ruled that the language of the entries should be given the widest scope or amplitude. (*Navinchandra Mafatlal v. CIT*<sup>5</sup> SCR at p.836). Each general word has been asked to be extended to all ancillary or subsidiary matters which can fairly and reasonably be comprehended. [See *State of Madras v. Gannon Dunkerley & Co. (Madras) Ltd.*<sup>6</sup> SCR at p.391.] It has also been held by this Court in *Clerk Post Officer v. K.P.Abdulla and Bros.*<sup>7</sup> that an entry confers power upon the legislature to legislate for matters ancillary or incidental, including provision for avoiding the law. As long as the legislation is within the permissible field in pith and substance, objection would not be entertained merely on the ground that while enacting legislation, provision has been made for a matter which though germane for the purpose for which competent legislation is made it covers an aspect beyond it. In a series of decisions this Court has opined that if an enactment substantially falls within the powers expressly conferred by the Constitution upon



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*the legislature enacting it it cannot be held to be invalid merely because it incidentally encroaches on matters assigned to another legislature.*

*47. In [University of Delhi v. Raj Singh](#)<sup>8</sup> this Court held: (SCC pp. 526-27, para 13) 13. ... By reason of Entry 66, Parliament was invested with the power to legislate on 'Coordination and determination of standards in institutions for higher education, or research and scientific and technical institutions'. Item 25 of List III conferred power upon Parliament and the State Legislatures to enact legislation with respect to 'vocational and technical training of labour'. A six-Judge Bench of this Court observed that the validity of the State legislation on the subjects of university education and education in technical and scientific institutions falling outside Entry 64 of List I as it then read (that is to say, institutions for scientific or technical education other than those financed by the Government of India wholly or in part and declared by Parliament by law to be institutions of national importance) had to be judged having regard to whether it impinged on the field reserved for the Union under Entry 66. In other words, the validity of the State legislation depended upon whether it prejudicially affected the coordination and determination of standards. It did not depend upon the actual existence of the Union legislation in respect of coordination and determination of standards which had, in any event, paramount importance by virtue of the first part of [Article 254\(1\)](#).*

*48. In [State of T.N. v. Adhiyaman Educational and Research Institute](#), this Court laid down the law in the following terms: (SCC pp. 134-35, para 41) 41. What emerges from the above discussion is*



as follows:

*(i) The expression 'coordination' used in Entry 66 of the Union List of the Seventh Schedule to the Constitution does not merely mean evaluation. It means harmonisation with a view to forge a uniform pattern for a concerted action according to a certain design scheme or plan of development. It, therefore, includes action not only for removal of disparities in standards but also for preventing the occurrence of such disparities. It would, therefore, also include power to do all things which are necessary to prevent what would make 'coordination' either impossible or difficult. This power is absolute and unconditional and in the absence of any valid compelling reasons, it must be given its full effect according to its plain and express intention.*

*(ii) To the extent that the State Legislation is in conflict with the Central legislation though the former is purported to have been made under Entry 25 of the Concurrent List but in effect encroaches upon legislation including subordinate legislation made by the Centre under Entry 25 of the Concurrent List or to give effect to Entry 66 of the Union List, it would be void and inoperative.*

*(iii) If there is a conflict between the two legislations, unless the State legislation is saved by the provisions of the main part of clause (2) of [Article 254](#), the State legislation being repugnant to the Central Legislation, the same would be inoperative.*

*(iv) Whether the State law encroaches upon Entry 66 of the Union List or is repugnant to the law made by the Centre under Entry 25 of the Concurrent List, will have to be determined by the examination of*



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*the two laws and will depend upon the facts of each case.*

*(v) When there are more applicants than the available situations/seats, the State authority is not prevented from laying down higher standards or qualifications than those laid down by the Centre or the Central authority to shortlist the applicants. When the State authority does so, it does not encroach upon Entry 66 of the Union List or make a law which is repugnant to the Central Law.*

*(vi) However, when the situations/seats are available and the State authorities deny an applicant the same on the ground that the applicant is not qualified according to its standards or qualifications, as the case may be, although the applicant satisfies the standards or qualifications laid down by the Central law, they act unconstitutionally. So also when the State authorities derecognise or disaffiliate an institution for not satisfying the standards or requirement laid down by them, although it satisfied the norms and requirements laid down by the Central authority, the State authorities act illegally.*

*49. In State of A.P. v. K.Purushotham Reddy<sup>10</sup> this Court held: (SCC p.572, para 19) 19. The conflict in legislative competence of Parliament and the State Legislature having regard to Article 246 of the Constitution of India must be viewed in the light of the decisions of this Court which in no uncertain terms state that each entry has to be interpreted in a broad manner. Both the parliamentary legislation as also the State legislation must be considered in such a manner so as to uphold both of them and only in a case where it is found that both cannot coexist, the State Act may*



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be declared ultra vires. Clause (1) of [Article 246](#) of the Constitution of India does not provide for the competence of Parliament or the State Legislatures as is ordinarily understood but merely provides for the respective legislative fields. Furthermore, the courts should proceed to construe a statute with a view to uphold its constitutionality. (emphasis supplied) It was observed: (Purushotham Reddy case<sup>10</sup>, SCC p. 573, para 20) 20. Entry 66 of List I provides for coordination and determination of standards inter alia for higher education. Entry 25 of List III deals with broader subject, namely, education. On a conjoint reading of both the entries there cannot be any doubt whatsoever that although the State has a wide legislative field to cover the same is subject to Entries 63, 64, 65 and 66 of List I. Once, thus, it is found that any State legislation does not entrench upon the legislative field set apart by Entry 66, [List I of the Seventh Schedule of the Constitution of India, the State Act](#) cannot be invalidated.

50. [The UGC Act](#), thus, having been enacted by Parliament in terms of entry 66 of List I of the Seventh Schedule to the Constitution of India would prevail over the [Open University Act](#).

51. With respect, it is difficult to accept the submission of the learned Solicitor General that the two Acts operate in different fields, namely conventional university and open university. [The UGC Act](#), indisputably, governs open universities also. In fact, it has been accepted by IGNOU itself. It has also been accepted by the appellant University.

55. The submission of Mr.K.Parasaran that as in compliance



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with the provisions contained in [Regulation 7](#), UGC had been provided with information in regard to instructions through non-formal/distance education relating to the observance thereof by itself, in our opinion, would not satisfy the legal requirement. It is one thing to say that informations have been furnished but only because no action has been taken by UGC in that behalf, the same would not mean that an illegality has been cured. The power of relaxation is a statutory power. It can be exercised in a case of this nature.

56. Grant of relaxation cannot be presumed by necessary implication only because UGC did not perform its duties. [Regulation 2](#) of the 1985 Regulations being imperative in character, non-compliance therewith would entail its consequences. The power of relaxation conferred on UGC being in regard to the date of implementation or for admission to the first or second degree courses or to give exemption for a specified period in regard to other clauses in the Regulations on the merit of each case do not lead to a conclusion that such relaxation can be granted automatically. The fact that exemption is required to be considered on the merit of each case is itself a pointer to show that grant of relaxation by necessary implication cannot be inferred. If mandatory provisions of the statute have not been complied with, the law will take its own course. The consequences will ensue.

57. Relaxation, in our opinion, furthermore cannot be granted in regard to the basic things necessary for conferment of a degree. When a mandatory provision of a statute has not been complied with by an administrative authority, it would be void. Such a void order



cannot be validated by inaction.

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58. The only point which survives for our consideration is as to whether the purported post facto approval granted to the appellant University of programmes offered through distance modes is valid. DEC may be an authority under the Act, but its orders ordinarily would only have a prospective effect. It having accepted in its letter dated 5-5-2004 that the appellant University had no jurisdiction to confer such degrees, in our opinion, could not have validated an invalid act. The degrees become invalidated in terms of the provisions of the [UGC Act](#). When mandatory requirements have been violated in terms of the provisions of one Act, an authority under another Act could not have validated the same and that too with a retrospective effect.

59. The provisions of the [UGC Act](#) are not in conflict with the provisions of the [Open University Act](#). It is beyond any cavil of doubt that the [UGC Act](#) shall prevail over the [Open University Act](#). It has, however, been argued that the [Open University Act](#) is a later Act. But we have noticed hereinbefore that the nodal Ministry knew of the provisions of both the Acts. The Regulations were framed almost at the same time after passing of the [Open University Act](#). The Regulations were framed at a later point of time. Indisputably, the Regulations embrace within its fold the matters covered under the [Open University Act](#) also.

60. Submission of Mr.K.Parasaran that in terms of sub-section (2) of [Section 5](#) of the Open University Act a non obstante clause has been created and thus, would prevail over the earlier Act cannot also be accepted. Apart from the fact that in this case repugnancy of the



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two Acts is not in question (in fact cannot be in question having (sic not) been enacted by Parliament and a State in terms of the provisions of the Concurrent List) the non obstante clause contained in the Open University Act will be attracted provided the statutes operate in the same field. The UGC Act, as noticed hereinbefore, operates in different field. It was enacted so as to make provision for the coordination and determination of standards in universities and for that purpose, to establish a University Grants Commission. Its directions being binding on IGNOU, sub-section (2) of Section 5 of the Open University Act would not make the legal position otherwise”

9. The Apex Court in the case of **Orissa Lift Irrigation Corpn. Ltd. Vs. Rabi Sankar Patro and others** reported in **2017 SCC OnLine SC 1281** held as follows:-

“60. It was laid down by this Court in *Annamalai University v. Secretary to Government, Information and Tourism Department*<sup>10</sup> that no relaxation could be granted in regard to the basic things necessary for conferment for a degree and if a mandatory provision is not complied with by an administrative authority, the action would be void. This leads us to conclude that the permissions granted by DEC in the first instance allowing the Deemed to be Universities in question to introduce courses leading to the award of degrees in engineering were illegal and opposed to Law. The illegality in the exercise of power was to such an extent that it could not be cured by ex post facto approvals granted later. We have also seen that the exercise of grant of ex post facto approvals, as a matter of



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*fact, was only superficial and perfunctory. Such even when specific complaints were received about concerned Deemed to be Universities. Yet, without causing any inspection such power was exercised which part is already dealt with and the exercise of power has been found by us to be suffering from illegality and infirmity. The only thing in favour of the concerned Deemed to be Universities is the fact that the Joint Committee of UGC AICTE DEC had endorsed the decision though such exercise was also completely flawed. That exercise was against Para 10 of the MoU dated 10.05.2007, which contemplated causing of inspections and the decision dated 11.05.2007 of the Joint Committee itself that for an Institution/University to offer distance education programmes it was mandatory to offer the same in face to face mode.*

*70. Accordingly we direct:*

*I 1994 AICTE Regulations, do apply to Deemed to be Universities and the deemed to be Universities in the present matter were not justified in introducing any new courses in Technical Education without the approval of AICTE.*

*II In so far as candidates enrolled during the Academic Sessions 2001-2005, in the present case the ex post facto approvals granted by UGC and their concerned authorities are set aside.*

*III Consequent to aforesaid direction No.II, all the degrees in Engineering awarded by concerned Deemed to be Universities stand suspended.*

*IV The AICTE shall devise the modalities to conduct an appropriate test/tests as indicated in Para 47 above. The option be given to the concerned students whose degrees stand suspended by 15.01.2018 to appear at the test/tests to be conducted in accordance with the directions in Para 47 above. Students be given not more than two chances to clear test/tests and if they do not successfully clear the test/tests within the*



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*stipulated time, their degrees shall stand cancelled and all the advantages shall stand withdrawn as stated in Paras 46 and 47 above. The entire expenditure for conducting the test/tests shall be recovered from the concerned Deemed to be Universities by 31.03.2018.*

*V Those students who do not wish to exercise the option, shall be refunded entire money deposited by them towards tuition fee and other charges within one month of the exercise of such option. Needless to say their degrees shall stand cancelled and all advantages/benefits shall stand withdrawn as mentioned in para 47.*

*VI If the students clear the test/tests within the stipulated time, all the advantages/benefits shall be restored to them and their degrees will stand revived fully.*

*VII As regard students who were admitted after the Academic Sessions 2001-2005, their degrees in Engineering awarded by the concerned Deemed to be Universities through distance education mode stand recalled and be treated as cancelled. All benefits secured by such candidates shall stand withdrawn as indicated in Para 48 above. However, the entire amount paid by such students to the concerned Deemed to be Universities towards tuition fees and other expenditure shall be returned by the concerned Deemed to be Universities by 31.05.2018, as indicated in Para 48.*

*VIII By 31.05.2018 all the concerned Deemed to be Universities shall refund the sums indicated above in VII and an appropriate affidavit to that extent shall be filed with UGC within a week thereafter.*

*IX We direct the CBI to carry out thorough investigation into the conduct of the concerned officials who dealt with the matters and went about the granting permissions against the policy statement, as indicated in Para 49 above and into the conduct of institutions who abused their position to*



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*advance their commercial interest illegally. Appropriate steps can thereafter be taken after culmination of such investigation.*

*X The UGC shall also consider whether the Deemed to be University status enjoyed by JRN, AAI, IASE and VMRF calls for any withdrawal and conduct an inquiry in that behalf by 30.06.2018 as indicated above. If the moneys, as directed above are not refunded to the concerned students that factor shall be taken into account while conducting such exercise.*

*XI We restrain all Deemed to be Universities to carry on any courses in distance education mode from the Academic Session 2018-2019 onwards unless and until it is permissible to conduct such courses in distance education mode and specific permissions are granted by the concerned statutory/regulatory authorities in respect of each of those courses and unless the off-campus Centres/Study Centres are individually inspected and found adequate by the concerned Statutory Authorities. The approvals have to be course specific.*

*XII The UGC is further directed to take appropriate steps and implement [Section 23](#) of the UGC Act and restrain Deemed to be Universities from using the word 'University' within one month from today.*

*XIII The union of India may constitute a three members Committee comprising of eminent persons who have held high positions in the field of education, investigation, administration or law at national level within one month. The Committee may examine the issues indicated above and suggest a road map for strengthening and setting up of oversight and regulatory mechanism in the relevant field of higher education and allied issues within six months. The Committee may also suggest oversight mechanism to regulate the Deemed to be Universities. The Union of India may examine the said report and take such action as may be considered appropriate within one month thereafter and file an affidavit in this Court*



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*of the action taken on or before August 31, 2018. The matter shall be placed for consideration of this aspect on 11.09.2018.”*

10. In nutshell, the validity of open University degrees granted by various Universities across the Country is not consonance with the University Grants Commission Regulations are held as invalid. The respective State Governments across the country have implemented the said order of the Hon'ble Supreme Court of India. Now the degrees awarded in accordance with the UGC Act and Regulations alone are eligible for public employment and for promotion in Government Departments. As far as the Government of Tamil Nadu is concerned, the judgement of the Apex Court has been implemented in G.O.(Ms).No.107, Personnel and Administrative Reforms (M) Department dated 18.08.2009. In the present case, the panel was prepared in the year 2011. Therefore, as on the date of preparation of the panel, the respondents were not possessing a valid degree, since they have secured P.G degree without undergoing the three years degree course.

11. The governing principles for grant of promotion in Government Departments are that:

- (i) the Authorities competent have to take the decision to fill up the vacant post at the first instance.
- (ii) on taking such decision, a panel is to be prepared by



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considering the names of all the eligible persons, who all are aspiring to secure promotion.

(iii) Panel is to be prepared every year.

(iv) A decision may be taken not to grant promotion and in those circumstances, Nil panel may be issued.

(v) the validity of the panel is one year.

(vi) Mere inclusion of a name of an employee in the panel would not confer any right.

(vii) Promotion *per se* is not an absolute right of an employee.

(viii) Consideration for promotion is a fundamental right of an employee.

12. Therefore, the Authorities competent, while preparing the panel should consider the names of all the eligible persons, who all are waiting for promotion. Mere inclusion of the name in the panel would not be a ground to seek promotion. As on the date of promotion, an employee must be qualified for such promotion in accordance with the Service Rules in force.

13. In the present case, though the name of the respondents were included in the panel, mere inclusion of the names would not confer any right to claim promotion. Prior to grant of promotion, the Authorities scrutinised the service particulars of the employees and identified that the respondents



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acquired M.A. degree through open University system without undergoing the regular pattern of education as contemplated by UGC under its Regulations.



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14. It is needless to state that any judgment of the High Court running counter to the legal principles settled by the Hon'ble Supreme Court of India denuded to loose its status as precedent. The principles laid down by the Hon'ble Supreme Court of India in the subject would prevail over all other High Court judgments relied on by the parties. Therefore, those judgments cannot be of any avail to the respondents for claiming promotion.

15. For all these reasons, we are not in agreement with the order passed by the Writ Court. Consequently, the orders passed in WP.Nos.6315 of 2014, 23435 of 2012 and 24589 of 2013 are set aside and the Writ Appeals are allowed. No costs. Consequently, connected CMPs are also closed.

[S.M.S., J.] [C.K., J.]  
13.06.2024

kmi

Index : Yes

Speaking order : Yes

Neutral Citation : Yes



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To

1. The Secretary to the Government  
Revenue Department,  
Government of Tamil Nadu,  
Fort St. George, Chennai-600 009.
2. The District Collector,  
Thiruvallur District,  
Thiruvallur.
3. The District Revenue Officer,  
Land Acquisition,  
Outer Ring Road project, C.M.D.A.  
Koyambedu,  
Chennai-600 092.
4. The Special Tasildhar,  
Land Acquisition, Outer Ring Project  
C.M.D.A Koyambedu,  
Chennai-92.
5. The Special Tasildar (LA)  
Chennai Outer Ring Road, Phase-I  
Poonamallee at Nazarathpettai,  
(Beside Government High School)



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*WA.Nos.1796 of 2021, 522 & 900 of 2015*

**S.M.SUBRAMANIAM, J.**  
**and**  
**C.KUMARAPPAN, J.**

kmi

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& 900 of 2015

13.06.2024