



2024:DHC:7571



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

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*Reserved on: 19.09.2024**Pronounced on: 01.10.2024*+ **W.P.(C) 9029/2024 & CM APPL. 36967/2024****ADHITHIYA SAIRAM**

.....Petitioner

Through: Mr. Nedumaran, Senior
Advocate with Mr. Rajaram
Iyer, Advocate

versus

UNION OF INDIA AND ORS.

.....Respondents

Through: Ms. Monika Arora with Mr.
Subhrodeep Saha and Ms.
Radhika Kurdurkar, Advocates
for AIU
Mr. Niraj Kumar, Senior
Central Govt. Counsel with
Ms. Chaitanya Kumar,
Advocate for R-1, 3, 4/IOI

CORAM:**HON'BLE MS. JUSTICE SWARANA KANTA SHARMA****JUDGMENT****SWARANA KANTA SHARMA, J.**

1. The present writ petition under Article 226 of the Constitution of India has been filed on behalf of the petitioner seeking quashing of communication dated 27.05.2024, issued by respondent no. 2 i.e., Association of Indian Universities ['AIU'] and direction to the respondents to re-consider the case and issue Equivalence Certificate



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to the petitioner.

FACTUAL BACKGROUND

2. The petitioner before this Court is a citizen of the United States of America ['USA'], and an Overseas Citizen of India ['OCI'] Cardholder, who had completed his 12th-Grade education from Laurel Springs School, 302, West El Paseo Road, Ojai, California 93023, USA ['*Laurel Springs School*']. Thereafter, the petitioner had appeared for and qualified the National Eligibility-cum- Entrance Test ['*NEET (UG) 2024*'], and had sought admission in MBBS program under the Non-Resident Indian ['*NRI*'] quota. In order to participate in the counselling process, the petitioner required an Equivalence Certificate from the AIU to verify his educational qualifications.

3. However, on 27.05.2024, the AIU declined to issue the Equivalence Certificate to the petitioner, citing that Laurel Springs School was a distance-learning institution. Eventually, the petitioner, on 05.06.2024, obtained a certificate from the Consulate General of India in San Francisco, USA, wherein it was affirmed that 12th-Grade education in the USA is equivalent to the same level in India. Despite submitting a request for reconsideration to the AIU on 28.06.2024, no response was received by the petitioner.

4. The petitioner contends that the refusal to issue an Equivalence Certificate by the AIU is arbitrary and discriminatory. Thus, she has been compelled to approach this Court, challenging the actions of the



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AIU.

SUBMISSIONS BEFORE THE COURT

Submissions on Behalf of the Petitioner

5. Learned Senior Counsel appearing on behalf of the petitioner submits that Laurel Springs School is a Western Association of Schools & Colleges ['WASC'] accredited K-12 online/distance learning private school. It is stated that WASC is a world-renowned accrediting association and is a voluntary dual-purpose process for schools to demonstrate that they provide high quality learning and model continual self-improvement. It is stated that the petitioner herein has studied and cleared Physics, Chemistry, Biology and English from Laurel Springs School, as per their rules, and was awarded Diploma on 16.08.2023. He had obtained 3.94 CGPA out of maximum Grade Point of 4.00. It is submitted that the petitioner had appeared in the NEET (UG)-2024 on 05.05.2024 and is now seeking admission for the under-graduate medical seat under the NRI quota.

6. Learned Senior Counsel for the petitioner submits that to participate in the counselling session, the petitioner has to necessarily fill up online forms for the said purpose. However, the condition precedent to fill up online counselling forms, for a candidate who has qualified from a foreign board, is to approach AIU and get an Equivalence Certificate. It is stated that to obtain the said Certificate, the petitioner had filled the online application form, as available on the portal of AIU. In response to the same, the petitioner had received



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the impugned communication dated 27.05.2024 from AIU, declining the petitioner's request and stating therein that Laurel Springs School is a WASC-accredited K-12 'distance learning private school' in California, USA, and Equivalence Certificate cannot be granted to the petitioner since he has completed 12th-Grade education through distance learning programme.

7. Learned Senior Counsel for the petitioner argues that the impugned communication is arbitrary, illegal and discriminative, inasmuch as the Equivalence Certificate is a mandatory requirement for applying for under-graduate counselling. It is further argued that the impugned communication is a non-speaking and does not assign any valid reason for declining the issuance of Equivalence Certificate. It is submitted that AIU has summarily rejected/declined to issue the Certificate, without applying mind and has proceeded on prejudice and assumption that the students who do not attend regular schools are inferior and less deserving. Furthermore, the AIU has failed to consider the certificate issued by the Consulate General of India, San Francisco, USA. To buttress these submissions, reliance has also been placed on decision rendered by this Court in *Anshul Aggarwal v. Union of India & Ors. W.P. (C) 1813/2018*.

8. Thus, it is contended that the impugned communication dated 27.05.2024 is liable to be set aside.

Submissions on Behalf of the AIU

9. Learned counsel appearing on behalf of respondent no. 2/AIU,



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opposes the present writ petition, and submits that the AIU has been according equivalence to foreign academic qualifications since its inception in 1925, and it follows the following guidelines to establish equivalence of foreign qualifications with Indian qualifications:

- “(a) Degree is awarded by the foreign universities which is approved/recognized/accredited in its own country.
- (b) Degree is pursued by student as **a full-time regular student/Part-time on the campus of the university of its origin or on the duly approved offshore campus of the university.**
- (c) The minimum prescribed duration of the Degree programme of the studies is at least the same as applicable in case of Indian universities.
- (d) The minimum eligibility requirements for admission in the Degree programme of studies is at least the same as applicable in case of Indian Universities.”

10. In view of the above guidelines, learned counsel appearing for AIU submits that the AIU does not accord equivalence to such foreign degrees which have been obtained for studies undertaken through open/ distance/ correspondence/ online/virtual modes(s). It is also argued that equivalency of professional qualifications is not in the purview of AIU since the professional qualifications are dealt by respective professional Commission/Council i.e. National Medical Commission, Nursing Council of India, Pharmacy Council of India, Bar Council of India, Council of Architecture etc. who have developed their own norms for equivalence of respective foreign qualifications. It is further argued that as far as the present petitioner is concerned, it is an undisputed fact that the petitioner herein has completed his 12th-Grade education from Laurel Springs School,



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which is an accredited K-12 online/distance learning private school in California, USA and therefore, AIU cannot issue an Equivalence Certificate to the petitioner on this ground alone, and therefore, the impugned communication dated 27.05.2024 is in accordance with the law.

11. Thus, it is prayed that the present writ petition be dismissed.

12. This Court has **heard** arguments addressed by the learned counsels appearing on behalf of both the parties, and has perused the material placed on record.

ANALYSIS & FINDINGS

13. In the present case, this Court notes that AIU is the authorized body in India for according equivalence to foreign academic qualifications, having been established for this purpose in 1925. Moreover, as per Central Government Gazette Notification No. F.15-17/94 TS IV dated 13.03.1995, foreign qualifications recognized or equated by the AIU are treated as valid for employment in posts and services under the Central Government.

14. Further, during the course of arguments, learned counsel appearing for the AIU had informed this Court that the AIU adheres to specific guidelines while granting equivalence of foreign educational qualifications with Indian educational qualifications. It is undisputed that the AIU, being the competent authority for granting such equivalence, does not recognize foreign degrees obtained through open, distance, correspondence, online, or virtual modes. In



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addition, the AIU also does not have the authority to grant equivalence to professional qualifications, as this falls under the purview of respective professional commissions or councils, such as the National Medical Commission, the Nursing Council of India, the Pharmacy Council of India, the Bar Council of India, and the Council of Architecture, each of which has its own standards for recognizing foreign qualifications.

15. In this regard, the relevant rules of Information Brochure of Policy and Procedure for Equivalence of Qualification Degree are set-out hereunder:

“... ROLE OF THE AIU

4. Since degrees awarded by an Indian University are generally recognized by all universities in the country, the AIU is not involved in the Equivalence of Degrees offered by Indian Universities but it 15 6 impresses upon the Member Universities of the AIU to recognize each others Degrees in order to save students from hassles;

5. Similarly, the AIU, since its establishment in 1925 as the INTER UNIVERSITY BOARD (IUB) and later registered as a Society as the ASSOCIATION OF INDIAN UNIVERSITIES (AIU) IN 1973, being the Apex Body of Universities in the country has been, inter alia, serving its Member Universities by facilitating Equivalence of Degrees awarded by Foreign Universities to help people with foreign degrees pursue higher studies in Indian Universities;

6. AIU is the only body in India which is recognized to grant Equivalence of Degrees awarded by the Foreign Universities. Acknowledging its role and work the Ministry of Human Resource Development (MHRD), Government of India (GOI) vide their letter No. F.15-17/94-TS IV dated 13th March 1995 issued a Notification that “those foreign qualifications which are recognized/equated by the AIU, are treated as recognized for the purpose of employment to post and services under the Central Government”.



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24. Following the change in the Policy, the AIU now accords Equivalence to such foreign degrees which: (a) are awarded by the foreign universities which are approved/recognized/ accredited in its own country; (b) are pursued by a student as a full time regular student on the campus of the university of its Origin; (c) the minimum prescribed duration of the programme of the studies is at least the same as applicable in case of Indian universities; and (d) the minimum eligibility requirements for admission in the programme of studies is at least the same as applicable in case of Indian Universities;

25. Recognizing the difficulties faced by students on account of the fact that many foreign universities allow students to complete their programme of studies in less than the prescribed duration either due to exemption from certain number of credits, or due to acceptance of certain credits already taken or because a student is permitted to take certain credits during vacation etc, the AIU has also started granting certain relaxation in according equivalence so long as the prescribed duration of the programme of studies is at least the same as prescribed in India. Thus, Equivalence may also be considered under the following situations:

26 (a) Degrees awarded where the University has accepted credits taken by students from other universities/ degree-awarding institutions including those in India: In view of the acceptance of credits and credit transfer is a normal practice in most foreign universities and that the same is also being encouraged in India, the AIU may accord equivalence to such foreign degrees where the duration have been shortened on account of credits accepted by the foreign universities so long as the degrees awarded by foreign universities meets all other parameters specified by the AIU;

LIMITATIONS OF AIU EQUIVALENCE

29. AIU does not entertain applications for equivalence of such professional degrees awarded by foreign universities which also entitle the holder of the degree to practice a profession in India. Thus, degrees in disciplines like Medicine, Nursing, Pharmacy, Law, Architecture etc are presently outside the purview of the AIU as such cases are handled by the respective professional councils; 30. AIU is not involved in the Equivalence of Degrees awarded by Indian Universities because as per rules the degrees awarded by an Indian University is recognized by all other Indian universities as all



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universities are required to award degrees in accordance with their Acts & Statutes and in adherence to the rules, regulations and guidelines prescribed in this regard by the MHRD/UGC/AICTE or any other competent regulatory bodies in the country;

SCHOOL LEVEL QUALIFICATIONS FROM SCHOOLS AFFILIATED TO FOREIGN BOARD/OFFERING FOREIGN SYSTEM OF EDUCATION

41. As American High School is not conducted by any Board, the AIU may be able to accord equivalence only if the school has been accredited by one of the six regional accrediting agencies; Middle State Association of Schools & Colleges, New England Association of Schools and Colleges, North Central Association of Schools and Colleges, Northwest Association of Schools and Colleges, Southern Association of Schools and Colleges, Western Association of Schools and Colleges.

42. Since AIU recognizes the system of school education, even in cases where school level qualification has been obtained from the Board of a country which has not been accorded equivalence, AIU may consider requests for equivalence provided the above conditions are fulfilled;

43. As of now, the High School Diploma (GED)/other school qualifications pursued through ONLINE/DISTANCE Mode are not considered for Equivalence by the AIU;

44. Students having completed their SCHOOL education in lesser duration (number of years), than the prescribed one, no Equivalence Certificate is issued in such cases.

45. Students having completed their education through HOME STUDIES/PRIVATE CANDIDATE shall not be issued equivalence certificate;

46. AIU does not accord approval/recognition to any School/College/Universities in India/Abroad.

DEGREES AWARDED BY THE FOREIGN UNIVERSITIES TO THE STUDENTS ADMITTED THROUGH PATHWAYS/DIPLOMA LEVEL INSTITUTIONS:



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60. As of now, the AIU does NOT accord Equivalence to such degrees offered by the foreign universities where students are admitted through pathway/diploma level institutions;

**DEGREES AWARDED BY THE FOREIGN
UNIVERSITIES FOR STUDIES UNDERTAKEN
THROUGH OPEN/ DISTANCE/
CORRESPONDENCE/ONLINE/VIRTUAL MODE etc:**

61. As of now, the AIU does NOT accord Equivalence to such foreign degrees that have been obtained for studies undertaken through open/distance/correspondence/online/ virtual mode(s) etc..”

16. After perusing the Information Brochure of AIU, this Court is of the opinion that as per the prevailing norms, outlined in the said Brochure, the AIU grants equivalence only to full-time students who have attended classes in person and have been awarded certificates or diplomas by accredited institutions. Foreign qualifications pursued through open, distance, correspondence, online, or virtual modes are not accepted for equivalence. This policy is a decision taken by the concerned authorities, drafted in consultation with Vice Chancellors of Indian universities and experts in the field of education. The policy considers the national education system and regulations issued by various regulatory bodies over time. The AIU, in adherence to these expert-drawn norms, ensures that equivalence is granted only to foreign qualifications that meet the required standards, maintaining a focus on the quality of education.

17. Now, adverting to the facts of the present case, it is undisputed that the petitioner herein has been awarded diploma by Laurel Springs School. The respondents upon scrutiny of the online application of the petitioner herein had found that Laurel Springs

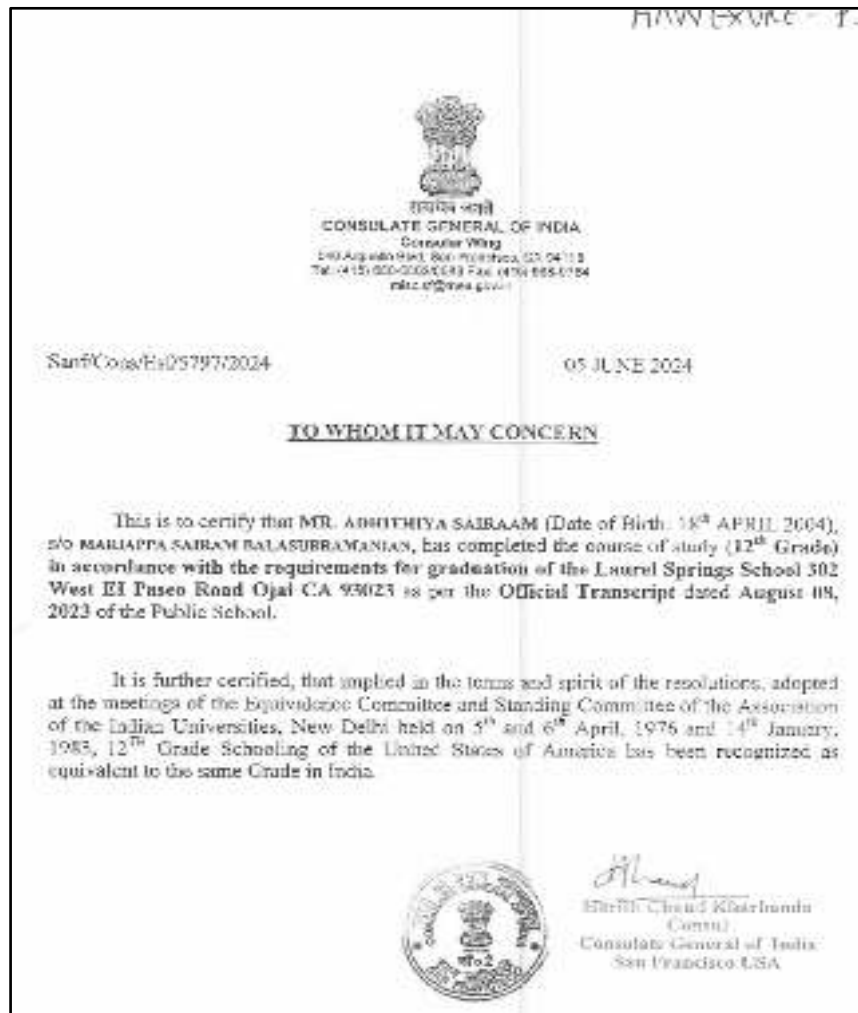


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School is a WASC-accredited K-12 distance learning private school in California, USA and, therefore, as per the extant norms, the AIU cannot accord equivalence to open, distance, correspondence, online, virtual mode(s) programs.

18. The petitioner herein has further relied on a certificate dated 05.06.2024 issued in favour of the petitioner by Consulate General of India, San Francisco, USA, and the same is reproduced hereunder:



19. A bare perusal of the above certificate clarifies that the



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petitioner has completed his 12th grade course of study in compliance with the graduation requirements of Laurel Springs School. Undisputedly, the certificate issued by the Consulate General certifies that in accordance with the resolutions passed during the meetings of the Equivalence Committee and the Standing Committee of the AIU, New Delhi, held on 05-06 April, 1976 and 14 January, 1983, 12th-grade education in the United States of America is recognized as equivalent to the same grade in India, and therefore, the learned Senior Counsel for the petitioner contended that since the Consulate General has certified that the diploma issued to the petitioner is equivalent to 12th-Grade schooling in India, the rejection of his application by the AIU is unwarranted and arbitrary.

20. In this regard, this Court is of the opinion that it is not clear as to how the Consulate General has issued this certificate, since it is contradictory and in conflict with the extant rules of AIU, which in unequivocal terms lay down that such foreign degrees, that have been obtained for studies through open/distance/correspondence/online/virtual mode(s), are not granted equivalence to the Indian qualifications in India. Even otherwise, the extant rules applicable in India, issued by the concerned authority authorised to issue such policy, will have prevalence over any certificate issued by the Consulate General of India in any country, being contrary to and in conflict with the rules laid down by the concerned authority in India, which in the present case is AIU.

21. Insofar as the reliance placed by learned Senior Counsel for the



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petitioner on the decision of this Court in *Anshul Aggarwal (supra)* is concerned, this Court is of the opinion that the said judgment is not applicable to the present case and can be distinguished on facts. In *Anshul Aggarwal (supra)*, the challenge pertained to amendments made to the Medical Council of India (hereinafter 'MCI') regulations, which declared certain categories of candidates ineligible for admission to the MBBS course: (i) candidates who completed their 10+2 education through open boards like National Institute of Open Schooling (hereinafter 'NIOS'), (ii) candidates above the age of 25 years, and (iii) candidates who had taken Biology as an additional subject. The relevant para of the said judgment is reproduced hereunder:

“After all, all students including those from open schools Boards are treated at par and equivalent to candidates with regular schooling. Once equivalence is accepted and affirmed, they should be given opportunity to compete with others”

22. This Court made the aforementioned observations in light of the fact that applicants, who had completed their Senior Secondary (10+2) Education from NIOS, were deemed ineligible for admission to the MBBS program, despite AIU having granted equivalency and CBSE accepting the NIOS certificate. However, the present case is distinguishable from the above-mentioned judgment on the ground that the petitioner seeks equivalence for a high school diploma from the USA, which was completed through a distance/online mode, with a regular Indian Senior Secondary Education Certificate. The application of the petitioner has been rejected by the AIU, based on



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the prevailing policy. There is a distinction between an open school board, such as NIOS, and distance/online learning programs, which further differentiates the present case. Importantly, the said policy itself is not under challenge in the present petition.

23. Thus, the relief sought by the petitioner cannot be granted to him because the prevailing policy of the AIU does not recognize qualifications obtained through distance/online learning for equivalence with Indian educational qualifications and the petitioner's high school diploma, completed through an online/distance learning program, falls under this category, and since the policy itself is not under challenge in the present petition, this Court cannot override the AIU's decision, which is in accordance with its established guidelines. Moreover, policy decisions, particularly those involving educational equivalence, are within the domain of expert bodies and regulatory authorities, and cannot be interfered with by the Courts, unless proven to be arbitrary or unlawful, which is not the case herein.

24. In view of the above, the present writ petition, along with pending applications if any, stands dismissed.

25. The judgment be uploaded on the website forthwith.

SWARANA KANTA SHARMA, J

OCTOBER 1, 2024/A