



2024:DHC:5378-DB



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

+ **LPA 604/2024 & CM APPL. 39570/2024**

KARAM BIR

..... Appellant

Through: Mr. Pradeep Kumar Arya, Mr.
Aditya Kumar Yadav, Mr.
Gaurav Chaudhary, Mr. Varun
Jawla, Mr. Pulkit Tomar, Ms.
Prachi Yadav and Mr.
Anubhav Rathi, Advocates.

Versus

ALL INDIA COUNCIL FOR TECHNICAL EDUCATION
..... Respondents

Through: Mr. Anil Soni, Standing
Counselwith Mr. Devvrat
Yadav, Advocate for AICTE.

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Date of Decision: 16th July, 2024.

CORAM:
HON'BLE THE ACTING CHIEF JUSTICE
HON'BLE MR. JUSTICE TUSHAR RAO GEDELA

JUDGMENT

MANMOHAN, ACJ:(ORAL)

1. Present appeal has been filed under clause X of the Letters Patent Act, 1866, seeking quashing and setting aside of Judgment dated 30th April, 2024 passed in W.P.(C) No. 14047/2023 whereby the learned Single Judge dismissed the petition on the ground that the appellant was unable to draw

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attention to any rule, regulation, guideline or instruction which required the marks to be rounded off in the remedial examination as held in December, 2018.

2. The appellant is presently sixty (60) years of age. He obtained a B.Tech. degree in mechanical engineering from IASED University, Rajasthan, in the year 2007. The degree was obtained through distance learning.

3. It is the case of the appellant that in the year 2017, the Supreme Court *vide* its judgment in the case of ***Orissa Lift Irrigation Corp Ltd v. Rabi Sankar Patro***, rendered on 3rd November, 2017, reported in ***(2018) 1 SCC 468***, held that all engineering degrees obtained by distance learning, for the students who were enrolled between 2001 and 2005, be suspended. Thus, this resulted in the B.Tech degree of the appellant also being invalidated.

4. The Supreme Court *vide* the judgment in ***Orissa Lift Irrigation Corp Ltd.(supra)*** also directed the respondent, All India Council for Technical Education (AICTE) to conduct appropriate tests including written examinations as well as practicals for the students enrolled during the year 2001 and 2005, covering all the subjects.

5. In compliance with the order passed by the Supreme Court, AICTE framed modalities which included only the affected students who had enrolled for the engineering degree by distance learning between the year 2001 and 2005, to re-appear in the examination. Further two chances were



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granted in June 2018 and December 2018, and the passing marks were set at 40%.

6. The appellant claims that as he was working abroad during that time and was unaware of the passing of the judgment by the Supreme Court in ***Orissa Lift Irrigation Corp Ltd. (supra)*** or of the consequent decision of the AICTE, to hold the remedial examinations for the candidates enrolled for engineering degree between 2001 and 2005, by distance learning in 2018.

7. *Vide* the response dated 14th August, 2018, AICTE advised the appellant to appear in examinations to be held in December, 2018. Thereafter the appellant accordingly attempted the said examination wherein he secured 37.86% which was less than the requisite passing percentage of 40%. As a result, the appellant was unable to obtain his B.Tech. degree.

8. Aggrieved by the same, the appellant challenged the same by filing the underlying writ petition before this Court. *Vide* the impugned judgement, the said writ petition was dismissed. Assailing the same, the appellant preferred the present appeal.

9. Mr. Pradeep Kumar Arya, learned counsel for the appellant submits that AICTE did not take adequate steps to make everyone aware of the judgment of the Supreme Court in ***Orissa Lift Irrigation Corp Ltd.*** or of the consequent decision to hold remedial examinations in June or December, 2018. He submits that the mere publication of the information in national newspapers and on the website of the AICTE would not be



sufficient, as candidates who had passed their examinations much prior thereto and those who were situated outside the country would not be aware of these developments.

10. Mr. Pradeep Kumar Arya, learned counsel further submits that the appellant had gained the information about the holding of the examination in June, 2018, when he returned to India in May, 2018. He submits that the appellant had immediately communicated to the AICTE, praying that the appellant be permitted to appear in the examination to be held in June, 2018. He submits that the AICTE ought to have allowed the petitioner to appear, in the interests of justice. He submits that the AICTE did not permit the appellant to participate in the examination held in June, 2018. As such, the appellant lost one opportunity for writing the examination due to the default of AICTE.

11. He further submits that he was permitted to participate in the same examination held in December, 2018. He however submits that the appellant scored 37.86% marks and thus failed in the said examination. He also submits that the respondent could have rounded off the marks obtained by the appellant to 40% in which event the appellant would have obtained/validated his B.Tech. degree.

12. He also submits that the learned Single Judge did not consider the case in its proper perspective and dismissed the same without passing any affirmative directions to AICTE. He prays that his appeal may be allowed and AICTE be directed to round off the marks obtained by the appellant to 40% from 37.86%.



13. We have heard the arguments of Mr. Pradeep Kumar Arya, learned counsel for the appellant and considered the documents on record.

14. It is the admitted case of the appellant that the Supreme Court by its judgement in *Orissa Lift Irrigation Corp Ltd.(supra)* held that all engineering degrees obtained by distance learning, for the students who were enrolled between 2001 and 2005 be suspended. Undoubtedly, the said judgement had pan-India consequences and as such the Supreme Court also simultaneously directed the AICTE to conduct examinations again for the affected students in order to grant or validate the Degrees received by such students. It is apparent that pursuant thereto, the AICTE decided to hold such examinations twice in the year 2018, one in June and the other in December, 2018.

15. Insofar as the appellant is concerned, he admits that at the relevant time, he was working in Qatar. Though, learned counsel for the appellant argues that the AICTE did not carry out the advertisements and notifications regarding the holding of the examinations properly, yet there is nothing on record to support the said contention. Moreover, he does not dispute that the appellant did gather the information regarding the examination to be held in June, 2018. Once the appellant admits this fact, the allegation that the AICTE failed to notify the examinations pales into insignificance. Thus, the said contention is rejected.

16. The second contention of the learned counsel is predicated on the premise that though the petitioner scored 37.86% marks, yet the respondent could have rounded off the same to 40%. We find from the records that the



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appellant has not placed any document in the nature of any Rule, Regulation, Notification or any Circular issued by the respondent whereby rounding off is permissible. In the absence of any statutory Rule or Regulation in that regard, there can be no such direction passed by the learned Single Judge, in the exercise of powers of judicial review under Article 226 of the Constitution of India. Moreover, regulatory bodies like the AICTE etc. were set up with a view to maintain high standards of education, particularly in Graduate and Post Graduate Degrees, that too of a technical nature. Praying for the dilution of such higher objectives and laudable aims of setting standards of excellence in higher education is itself an anathema. For the above reason, the said contention too is rejected.

17. We find no reason, much less any cogent reason to interfere with the impugned judgement of the learned Single Judge. Consequently, the appeal alongwith the pending applications is dismissed, though without any order as to costs.

ACTING CHIEF JUSTICE

TUSHAR RAO GEDELA, J

JULY 16, 2024/rl

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