



2024:DHC:1234



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

+ **W.P.(C) 15477/2023**

SAKSHI SEMWAL

..... Petitioner

Through: Mr. Divyadeep Chaturvedi, Mr.
Omkar Shrivastava and Mr. Ayush Jain,
Advs.

versus

UNION OF INDIA & ANR.

..... Respondents

Through: Ms. Monika Arora, CGSC with
Mr. Subhrodeep Saha, Adv. for UOI
Mr. Apoorv Kurup, Ms. Gauri Goburdhun
and Ms. Muskaan Gupta, Advs. for UGC
Mr. Kaushal Gautam, Mr. Mrinal Sharma,
Mr. Karan Tomer, Ms. Varshika Singh and
Ms. Snehpreet Kaur, Advs. for NIFT

CORAM:

HON'BLE MR. JUSTICE C. HARI SHANKAR

J U D G M E N T (O R A L)

%

13.02.2024

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The Dispute

1. On 16 November 2021, the petitioner completed a four year undergraduate programme in Fashion Design from the Indian Institute of Crafts & Design (IICD), Jaipur, at the conclusion of which she was awarded a Professional Diploma in Craft Design.

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2. Armed with this Diploma, the petitioner underwent the entrance examinations for admission to the Master of Fashion Management (MFM) course conducted by the National Institute of Fashion Technology (NIFT). She passed the entrance examinations. At the time of orientation, she submitted all documents including the diploma issued by the IICD as well as a certificate dated 3 March 2023, issued by the IICD, the relevant portion of which reads thus:

“INDIAN INSTITUTE OF CRAFTS & DESIGN
J-8, Jhalana Institutional Area, Jaipur -302004

Date: 03/03/2023

No.: IICD/R(A)/UG-2023-1514

TO WHOSOEVER IT MAY CONCERN

The Indian Institute of Crafts & Design, Jaipur was set up as an autonomous institute by the Government of Rajasthan in the year 1995 to act as a catalyst of change in the craft sector. Since October 2007, the Institute has been funded and managed by Ambuja Educational Institute (AEI) under the Public Private Partnership (PPP) model. Since 2018, IICD has provided degree programmes in affiliation with Rajasthan ILD Skills University (RISU).

This is to certify that the 4 years Undergraduate Professional Diploma in Crafts and Design provided by the Indian Institute of Crafts and Design (ICD), Jaipur is a well recognized qualification in India. IICD has been listed in All Indian Survey on Higher Education (ASIHE) portal of Ministry of Education, Government of India. The AISHE code for IICD is C-64915.

The said candidate Ms. Sakshi Semwal, (UG-2016-038) D/s Mr. Atul Semwal is an alumna of the IICD Under Graduate Professional Diploma in Crafts and Design, batch (2016-2020). The credibility of the 4 years undergraduate diploma is equivalent with the current B. Des programs of IICD. All the batches of IICD have been taught by the finest national and international faculty members and professionals. *The program is equivalent with other premier institutes of India like National Institute of Fashion Technology (NIFT), National Institute of Design (NID).*

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This institute has no objection in her joining any recognized college/institute or taking examination of any University/Board established by law.

Hope this letter will help the candidate for the admission. Please do not hesitate to write or call us if you need any additional information.

Sd/- 3/3/23
(Ajai Johri)
Registrar (Academics)”

(Emphasis supplied)

3. The documents submitted by the petitioner were verified twice by the NIFT, as communicated by the NIFT to the petitioner *vide* e-mails dated 13 January 2023 and 18 May 2023. Following this, the petitioner was informed by the NIFT, *vide* e-mail dated 15 June 2023, that she had been provisionally shortlisted for the MFM programme and that her admission would be confirmed on receipt of the requisite fee.

4. Following this, the petitioner obtained admission to the MFM course at the Kannur campus of the NIFT and commenced her studies.

5. While the course was mid-session, on 25 August 2023, the NIFT addressed the following e-mail to the petitioner:

“Dear Sakshi Semwal MFM/23/423,

With reference to the subject, regarding the eligibility of your admission to the Master of Fashion Management (M.F.M) course at NIFT Kannur. According to the document submitted at the time of orientation programme, you have completed a 4-year UG Professional Diploma in Fashion Design from the Indian Institute of Craft and Design (IICD), Jaipur, an autonomous institute under the Government of Rajasthan.

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As per the NIFT admission guidelines 2023, the education qualification for Master of Fashion Management (MFM) is an "Undergraduate Degree in any discipline from any Institute/ University recognized by law in India OR Undergraduate Diploma of minimum three years duration from NIFT/NID".

However, based on the guidance received from NIFT Admission Headquarters dated 25.08.2023, there is an additional requirement for your admission process. *You are kindly advised to provide an equivalence certificate from the Association of Indian Universities (AIU) on or before 30th September 2023.*

This certificate is necessary to confirm that your diploma holds equivalence to an Undergraduate Degree.

This is for your information and necessary action, please.

Yours faithfully
Roshin R Mohan
Jr.Asst-AA”

National Institute of Fashion Technology, Kannur
Ministry of Textiles
Govt of India”

(Emphasis supplied)

6. The petitioner, therefore, approached the Association of Indian Universities (AIU) for an equivalence certificate, certifying that the diploma issued by the IICD was equivalent to an undergraduate degree. However, the AIU rejected the petitioner’s application for an equivalence certificate *vide* e-mail dated 26 September 2023, stating that the AIU issued equivalence certificates only for foreign qualifications. No certificate of equivalence could, therefore, be issued by the AIU for the Diploma held by the petitioner, as it had been issued in India by the IICD.

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7. In these circumstances, the petitioner wrote to the NIFT on 4 October 2023, submitting that the diploma issued by the IICD satisfied the required educational qualifications for admission to the MFM course in the NIFT and, therefore, requesting that the earlier communications addressed by the NIFT to her be reconsidered.

8. By the impugned letter dated 20 November 2023, the NIFT, however, cancelled the petitioner's admission to the MFM programme. The communication reads thus:

“NATIONAL INSTITUTE OF FASHION TECHNOLOGY
A Statutory Institute under the NIFT Act, 2006 and set up by the
Ministry of Textiles, Government of India

No.1667(98)/HO/Admissions Documents verification/2023 (Part-I)

20th November, 2023

Subject: Cancellation of admissions of Ms. Sakshi Semwal student
of MFM, NIFT Kannur for Admissions - 2023 due to not
fulfilling eligibility criteria – reg

Sir,

With reference to your letter No. NIFT/AA/Admissions/2023 dated 9th October, 2023 regarding not fulfilling the eligibility of Ms. Sakshi Semwal student of MFM, NIFT Kannur for Admissions-2023. As has been informed by NIFT Kannur campus that at the time of physical verification of documents for all new students, it was found that Ms. Sakshi Semwal Student of MFM did not possess the prescribed qualifications for the MMF programme. Ms. Sakshi Semwal has completed 4 years DG professional Diploma in Fashion Design from Indian Institute of Craft and Design (IICD), Jaipur which is an autonomous institute of the Govt. of Rajasthan. Whereas as per the Admission Guidelines, the educational qualification for Master of Fashion Management (MFM) are as given below:

Undergraduate Degree in any discipline from any institute/
University recognized by law in India

OR

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Undergraduate Diploma of Minimum three years duration from NIFT/ NID.

As per the admissions guidelines & Prospectus at page no. 122 it is clearly mentioned that "Candidates applying for the examination should ensure that they fulfill all eligibility criteria for admission. Admission at all stages of the examination viz, entrance Examination, Situation Test, Personal Interview (as the case may be) will be provisional, subject to the candidates satisfying the prescribed eligibility criteria. During verification at any time before or after the entrance exam, Situation Test and Personal Interview (as the case may be) if it is found that the candidate does not fulfill the eligibility criteria, his/her candidature for examination! admission shall stand cancelled without any notice or further reference. NIFT shall not be liable for any consequences on account of on such cancellation".

In view of the above, Ms. Sakshi Semwal student of MFM, NIFT Kannur did not possess the prescribed qualifications for the MMF programme, therefore, her admission has been cancelled. Kannur Campus may kindly be informed the student accordingly.

This issues with the approval of Competent Authority.

With regards,

Yours Sincerely

Sd/-

Dy. Director (Admission)

NIFTHD"

9. Aggrieved thereby, the petitioner has moved this Court by means of the present writ petition under Article 226 of the Constitution of India, seeking issuance of a writ of certiorari, quashing and setting aside the aforesaid communication dated 20 November 2023 issued by the NIFT, and seeking restoration of the petitioner's admission to the MFM course.

Counter-affidavit of the NIFT

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10. The NIFT has filed a counter affidavit, in which it is contended that the cancellation of the petitioner's candidature to the MFM course was legitimate, as she did not possess the requisite qualification. It is further contended, tersely, that there can be no equivalence between a diploma and a degree unless prescribed by the concerned University or Institution and that, in any case, the prescribed qualification, as per the prospectus of the NIFT, did not envisage any equivalence.

11. The counter-affidavit further draws attention to the fact that the admission letter dated 15 June 2023, issued to the petitioner, clearly stated that the admission was provisional and subject to final verification of the documents and her credentials at the campus allotted to her. During final verification at the campus of the NIFT, Kannur, it was noticed that the petitioner did not possess either an undergraduate degree from any institute or university recognised by law nor an undergraduate diploma from NIFT/NID. The diploma issued by IICD was not one of the educational qualifications envisaged in the prospectus of NIFT for admission to the MFM course. The certificate of equivalence issued by the IICD, too, did not certify the diploma issued by it as meeting the essential qualifications for admission to the MFM course. Reliance has been placed, in the counter affidavit, on Section 22(1)¹ of the University Grants Commission Act 1956 ("the UGC Act"), which specifically states that

¹ 22. **Right to confer degrees. –**

(1) The right of conferring or granting degrees shall be exercised only by a University established or incorporated by or under a Central Act, a Provincial Act or a State Act or an institution deemed to be a University under Section 3 or an institution specially empowered by an Act of Parliament to confer or grant degrees.



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degrees can be conferred or granted only by Universities incorporated by or under a Central Act, a provisional or a State Act, a deemed University or an institution especially empowered by an Act of Parliament to confer or grant degrees. Reliance has also been placed on the definition of “degree” as contained in Section 22(3)² of the UGC Act.

12. In the present case, the equivalence certificate was issued by the IICD, which is an autonomous institute not competent to confer degrees as per the mandate of the UGC Act. As an institute which is not competent to award degrees, the IICD, it is submitted, was equally incompetent to grant the equivalence certificate dated 3 March 2023. The counter affidavit also places reliance on the decision in *Institute of Mechanical Engineers (India) v. State of Punjab*³, which states that a certificate issued by an institution or an authority or a person other than those specified in Section 22(1) of the UGC Act, cannot be equivalent to a degree. Additionally, the counter affidavit cites *Devender Bhaskar v. State of Haryana*⁴ and *Unnikrishnan CV v. UOI*⁵, which proscribe courts from expanding the ambit of the prescribed qualifications and deciding the issue of equivalence.

13. The counter affidavit also points out that the petitioner has, with her application for admission to the MFM course, submitted the following undertaking:

² (3) For the purposes of this section, “degree” means any such degree as may, with the previous approval of the Central Government, be specified in this behalf by the Commission by notification in the Official Gazette.

³ (2019) 16 SCC 95

⁴ (2021) SCC OnLine SC 1116

⁵ (2023) SCC OnLine SC 343



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“I Undertake:

I have read & understood NIFT Admission guidelines in the Prospectus & updated on the website from time to time and affirm that the statements made and information furnished by me in the Online Application form are true, complete and correct to the best of my knowledge and belief in the event of any information being found false or incorrect or ineligibility being detected before or after the examination, my candidature will be rejected and action can be taken against me by NIFT. I have read the prospectus-2023 carefully and I hereby undertake to abide by the same. I further declare that I fulfill all the conditions of eligibility regarding educational qualifications, etc. decided on prescribed for NIFT admissions.”

Further Certificate dated 4 December 2023 issued by the IICD

14. The petitioner, thereafter, placed on record a further certificate dated 4 December 2023, issued by IICD, under cover of CM APPL. 66204/2023. This certificate reads thus:

“INDIAN INSTITUTE OF CRAFTS & DESIGN
J-8, Jhalana Institutional Area, Jaipur – 302 004
Tel. 10141-2701203, 2701 504 Fax 10141-2700160
Email : info@iicd.ac.in Website : www.iicd.ac.in

No.: IICD/RA/UG/2023-1695

Date: 04/12/23

TO WHOMSOEVER IT MAY CONCERN

This is to certify that Ms. Sakshi Semwal has been awarded professional Diploma in crafts and Design for having completed the prescribed requirement of the 4 years undergraduate programme in Fashion Design in the year 2020, which is equivalent to the current B. Des programme offered by the Indian Institute of crafts and Design.

It is further certified that the current B. Des program is a 4 years Undergraduate Degree recognised by the University Grants Commission (UGC).

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04/12/2023
Ajai Johri
Registrar (Academics)”

(Emphasis supplied)

Clarification by UGC

15. In view of the certificate issued by the IICD, I deemed it appropriate to implead the UGC as an additional respondent and called upon the UGC to file a specific affidavit as to whether the B. Des programme offered by the IICD is a four year undergraduate degree recognised by the UGC.

16. The UGC has, thereafter, filed an affidavit dated 7 February 2024, para 3 of which clarifies the position thus:

“3. That, in this respect, it is humbly submitted that *B. Des is a UGC specified Bachelor's level degree with a minimum duration of four years and the entry level qualification is a 10+2 level which is specified in the UGC notification on Specification of Degrees, 2014 under section 22 of UGC Act 1956. A copy of the UGC Notification on Specification of Degree 2014 is annexed herewith and marked as Annexure A-1*”

17. The B. Des qualification indeed figures as a recognized degree in the UGC Notification on Specification of Degree 2014 (“the 2014 UGC Notification” hereinafter).

Rival Contentions

18. I have heard Mr. Divyadeep Chaturvedi and Mr. Kaushal

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Gautam, learned Counsel for the petitioner and respondent NIFT respectively.

19. They have essentially echoed the rival contentions as contained in the pleadings, as already noted hereinabove. Mr. Chaturvedi additionally placed reliance on the judgment of a Single Bench of this Court in *Abha George v. AIIMS*⁶.

Analysis

20. The law on the subject is well-settled. There is a plethora of decisions of the Supreme Court which hold that, where there is no concealment by a candidate, of the qualifications held by her, or him, at the time of seeking admission to a particular course, and especially where the documents are verified by the concerned authority before granting admission to the candidate, the authority cannot turn around later and cancel the admission on the ground that subsequent verification has revealed the candidate to be unqualified, even if the admission is termed “provisional”. One may refer, in this context, to *Sanatan Gauda v. Berhampur University and Ors.*⁷, *A Sudha v. University of Mysore*⁸, *Rajendra Prasad Mathur v. Karnataka University*⁹.

21. It may not, however, in the facts of the present case, be necessary even to venture thus far.

⁶ 2022 SCC OnLine Del 366

⁷ (1990) 3 SCC 23

(1987) 4 SCC 537



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The importance of equivalence

22. Though the prescribed educational qualifications as per the prospectus of the NIFT do not envisage any concept of equivalence, it cannot lie in the mouth of NIFT to so contend, in view of its e-mail dated 25 August 2023 *supra* addressed to the petitioner which called on her to provide an equivalence certificate from the AIU before 30 September 2023. The equivalence certificate was called in order to ensure compliance with the prescribed qualifications, which required her to be in possession of an undergraduate degree in any discipline from a recognized Institute/University.

23. The AIU could, however, not grant a certificate of equivalence, as such certificates were granted by the AIU only for foreign qualifications.

Significance of IICD's certificate dated 3 March 2023

24. The petitioner had already submitted, with her application for admission to the MFM course, the certificate dated 3 March 2023 issued by the IICD, certifying that the four year diploma course provided by it was equivalent to its B.Des programme. The four year diploma and the B.Des qualifications both being conferred by the IICD, the IICD was competent to certify equivalence between the diploma and the B.Des programme. The certificate of equivalence



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dated 3 March 2023 was, therefore, issued within the power and competent of the IICD.

25. Apparently, at the time of granting admission to the petitioner, the NIFT was satisfied with the aforesaid certificate dated 3 March 2023. Not once, but twice, on 13 January 2023 and on 18 May 2023, did the NIFT write to the petitioner, confirming that “the NIFT Admission team (had) reviewed the Document details submitted by (her) during registration” and that “as per review (her) verification status (had) been updated”. Even for this reason, it would not have been permissible for the NIFT, when the petitioner had joined the course and already undergone six months of study, to ignominiously throw her out, on the ground that she did not possess the requisite qualifications.

Eligibility of the petitioner, on merits

26. That apart, even on merits, the highest that the NIFT could seek, after the certificate dated 3 March 2023 issued by the IICD, was a certification that B.Des programme of the NIFT was equivalent to the degree issued by a recognised University or Institution. The IICD itself issued a certificate to the said effect on 4 December 2023, which has been brought on record by the petitioner under cover of CM APPL 66204/2023.

27. The said certificate dated 4 December 2023 issued by the IICD, in fact, certified that the B.Des programme by it was a four year



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undergraduate degree recognized by the UGC.

28. In order to clarify this position, the UGC was directed to file an affidavit. The UGC, in its affidavit, has endorsed the certificate of the IICD dated 4 December 2023 by stating, clearly and unequivocally, that the B.Des programme was, in fact, a degree recognized by the UGC and included in the schedule to the UGC Act.

29. The matter must end there. The prescribed qualifications required the petitioner to possess a degree recognised from an institute or university in India. The e-mail dated 25 August 2023, however, diluted this requirement by allowing her to obtain a certificate of equivalence of her diploma with a degree awarded by a recognised Institute/University.

30. The IICD had itself certified on 3 March 2023, that the four year diploma undertaken by the petitioner was equivalent to its B.Des programme. The UGC has certified, under affidavit, that the B.Des programme of the IICD is in fact a degree recognised by UGC Act and included in the 2014 UGC Notification.

31. No dispute could be said to survive, as regards the petitioner's eligibility, even on merits, for admission to the MFM course in the NIFT.

Overall conspectus

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32. Thus, the situation that emerges is that
- (i) the e-mail dated 25 August 2023 addressed by the NIFT to the petitioner itself manifests NIFT's understanding that, if the petitioner could establish that the diploma held by her was equivalent to an undergraduate degree, she could continue in the course,
 - (ii) the petitioner, at the time when she took admission, in fact, submitted a certificate dated 3 March 2023, issued by the IICD, certifying that the IICD was equivalent to the B.Des program,
 - (iii) thus, the authority which permitted the petitioner to obtain admission to the MFM course at the NIFT was *prima facie* satisfied that the certificate dated 3 March 2023, issued by the IICD, sufficed to entitle the petitioner to obtain admission to the MFM course,
 - (iv) subsequently, during the pendency of this writ petition, IICD issued a second certificate dated 4 December 2023, certifying that the B.Des program was a four years undergraduate degree recognized by the UGC, and
 - (v) the UGC has also now filed an affidavit certifying in unambiguous terms that "B.Des is a UGC's specified bachelor level degree", specified in the 2014 UGC Notification, issued under Section 22 of the UGC Act, a copy of which has also been placed on record by the UGC.

33. This is not a case in which the petitioner concealed any material at the time of obtaining admission to the MFM course. This is also

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not a case in which the petitioner did not produce any material to indicate that she was qualified for admission to the MFM course. It cannot, therefore, be likened to a case, for example, in which no proof of eligibility is submitted by a candidate and, nonetheless, the candidate is granted admission. In the present case, the petitioner filed a certificate dated 3 March 2023 issued by the IICD certifying the diploma issued by the IICD to be equivalent to the B Des program of the IICD. The fact that the B Des program is a UGC recognized bachelor degree, has been certified by the UGC itself.

34. Even if, therefore, one were not to rely on the judgment of the coordinate Bench of this Court in *Abha George*⁵, the petitioner, nonetheless, has made out a case for being permitted to continue and complete the MFM course with the respondents.

35. No occasion remains, therefore, for me to advert to the judicial authorities cited by Mr. Kaushal, which elucidate the general principle that the Court can neither amend the prescribed qualifications nor pronounce on equivalence. The facts of the present case are *sui generis*, and the petitioner's entitlement to continue in her MFM course with the NIFT is established on merits.

Conclusion

36. Accordingly, the communication dated 20 November 2023, issued by the Dy. Director (Admission), NIFT is quashed and set aside. The admission of the petitioner to the MFM course conducted by the NIFT is restored. The petitioner shall be permitted to continue

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and complete the course.

37. This writ petition accordingly stands allowed accordingly, with no order as to costs.

38. Needless to say, if any result of any examination undertaken by the petitioner has been withheld, it shall also be released forthwith.

39. Pending miscellaneous applications do not survive for consideration and are accordingly disposed of.

C. HARI SHANKAR, J.

FEBRUARY 13, 2024

rb/dsn

Click here to check corrigendum, if any