



CWP-13364-2021 (O&M) & CWP-4453-2023

-1-

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

288 (2 cases)

CWP-13364-2021 (O&M)

Date of Decision: 30.01.2025

Joginder Singh Mor and others

...Petitioners

Versus

Managing Director, UHBVNL and others

...Respondents

With

CWP-4453-2023 (O&M)

Ajay Pal and others

...Petitioners

Versus

Haryana Power Generation Corporation Limited and others

...Respondents

CORAM: HON'BLE MR. JUSTICE JAGMOHAN BANSAL

**Present: - Mr. Vijay Pal, Advocate for the petitioners
(in both petitions)**

**Mr. B.R. Mahajan, Senior Advocate with
Mr. Jagbir Malik, Advocate,
Ms. Nikita Goel, Advocate and
Ms. Harita Dhanda, Advocate
for respondents in CWP-13364-2021 and
for respondent Nos.1 to 3 in CWP-4453-2023**

Mr. Amandeep Joshi, Deputy Advocate General, Haryana

**Mr. Nikhil Sharma, Advocate and
Mr. Nitin Kaushal, Advocate for respondent No.4-AICTE
(in CWP-4453-2024)**

**Mr. Aalok Jagga, Advocate and
Mr. Harkirat S. Jagdev, Advocate
for respondent Nos.25, 26, 32 & 33
(in CWP-4453-2023)**

**JAGMOHAN BANSAL, J.** (Oral)

1. As common issues are involved in the captioned petitions, with the consent of both sides, the same are hereby disposed of by this common order. For the sake of brevity and convenience, facts are borrowed from *CWP-13364-2021*.

2. The petitioners through instant petition under Articles 226/227 of the Constitution of India are seeking setting aside of orders dated 27.01.2021 (Annexures P-27 & P-27A) vide which the respondent has rejected their claim.

3. The Petitioner No.1 joined respondent-Uttar Haryana Bijli Vitran Nigam Limited as Junior Engineer (Electrical) in 2004. Petitioner No.2 joined as Assistant Lineman in 1997. Petitioner No.3 joined as Junior Engineer in 2007. A dispute with respect to validity of B.Tech. Degree obtained from deemed Universities came up for consideration before a two Judge Bench of Supreme Court in ***Orissa Lift Irrigation Corp. Ltd. v. Rabi Sankar Patro and others, (2018) 1 SCC 468***, [for short ‘**Orissa Lift Irrigation (I)**’]. The Court found that there are few deemed Universities which are granting B.Tech. Degree through distance education mode. They are not having infrastructure as well as proper permission from University Grants Commission (for short ‘**UGC**’). The Court expressed its displeasure on the functioning of deemed Universities and held that degree obtained from these Universities are bad in the eye of law. The order was going to affect future of many students who had obtained degrees from deemed Universities and on the basis of these degrees, they had obtained either job or further degrees like M.B.A., M.Tech etc. There were many candidates



organizations. Considering the difficulties bound to be faced by the candidates on account of declaration of degrees as invalid, the Supreme Court decided to grant opportunity to all those candidates who were enrolled during Academic Session 2001-05 to clear exam to be conducted by All India Council for Technical Education (for short 'AICTE')/UGC. These two authorities were directed to evolve modalities to conduct the exam. It was held that all the degrees in Engineering awarded by deemed Universities stand suspended. The candidates were granted two chances to clear exam to be conducted by AICTE. The relevant extracts of the judgment are reproduced as below: -

“57. Having found the entire exercise of grant of ex post facto approval to be incorrect and illegal, the logical course in normal circumstances would have been not only to set aside such ex post facto approvals but also to pass consequential directions to recall all the degrees granted in pursuance thereof in respect of courses leading to award of degrees in Engineering. However, since the 2004 UGC Guidelines themselves had given liberty to the deemed to be universities concerned to apply for ex post facto approval, the matter is required to be considered with some sympathy so that interest of those students who were enrolled during the academic sessions 2001-2005 is protected. Though we cannot wish away the fact that the deemed to be universities concerned flagrantly violated and entered into areas where they had no experience and started conducting courses through distance education system illegally, the overbearing interest of the students concerned persuades us not to resort to recall of all the degrees in Engineering granted in pursuance of the said ex post facto approval. However, the fact remains that the facilities available at the study centres concerned were never checked nor any inspections were conducted. It is not possible at this length of time to order any inspection. But there must be confidence and assurance about the worthiness of the students concerned. We, therefore, deem



it appropriate to grant some chance to the students concerned to have their ability tested by authorities competent in that behalf. We, therefore, direct that all the degrees in Engineering granted to students who were enrolled during the academic years 2001 to 2005 shall stand suspended till they pass such examination under the joint supervision of AICTE-UGC in the manner indicated hereinafter. Further, every single advantage on the basis of that degree shall also stand suspended.

58. *AICTE is directed to devise within one month from the date of this judgment modalities to conduct appropriate test(s) both in written examination as well as in practicals for the students concerned admitted during the academic sessions 2001-2005 covering all the subjects concerned. It is entirely left to the discretion of AICTE to come out with such modalities as it may think appropriate and the tests in that behalf shall be conducted in the National Institutes of Technology in the respective States wherever the students are located. The choice may be given to the students to appear at the examination which ideally should be conducted during May-June 2018 or on such dates as AICTE may determine. Not more than two chances be given to the students concerned and if they do not pass the test(s) their degrees shall stand recalled and cancelled. If a particular student does not wish to appear in the test(s), the entire money deposited by such student towards tuition and other charges shall be refunded to that student by the deemed to be university concerned within a month of the exercise of such option. The students be given time till 15-1-2018 to exercise such option. The entire expenditure for conducting the test(s) in respect of students who wish to undergo test(s) shall be recovered from the deemed to be universities concerned by 31-3-2018. If they clear the test(s) within the stipulated time, all the advantages or benefits shall be restored to the candidates concerned. We make it clear at the cost of repetition that if the candidates concerned do not clear the test(s) within the time stipulated or choose not to appear at the test(s), their degrees in Engineering through distance*



education shall stand recalled and cancelled. It goes without saying that any promotion or advancement in career on the basis of such degree shall also stand withdrawn, however, any monetary benefits or advantages in that behalf shall not be recovered from them.

XXXX

XXXX

XXXX

XXXX

66. Accordingly, we direct:

66.1. *The 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.*

66.2. *Insofar as candidates enrolled during the academic sessions 2001-2005, in the present case the ex post facto approvals granted by UGC and their authorities concerned are set aside.*

66.3. *Consequent to aforesaid Direction II, all the degrees in Engineering awarded by deemed to be universities concerned stand suspended.*

66.4. *AICTE shall devise the modalities to conduct an appropriate test(s) as indicated in para 58 above. The option be given to the students concerned whose degrees stand suspended by 15-1-2018 to appear at the test(s) to be conducted in accordance with the directions in para 58 above. Students be given not more than two chances to clear test(s) and if they do not successfully clear the test(s) within the stipulated time, their degrees shall stand cancelled and all the advantages shall stand withdrawn as stated in paras 57 and 58 above. The entire expenditure for conducting the test(s) shall be recovered from the deemed to be universities concerned by 31-3-2018.*

66.5. *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 58.

66.6. If the students clear the test(s) within the stipulated time, all the advantages/benefits shall be restored to them and their degrees will stand revived fully.

66.7. As regards students who were admitted after the academic sessions 2001-2005, their degrees in Engineering awarded by the deemed to be universities concerned through distance education mode stand recalled and be treated as cancelled. All benefits secured by such candidates shall stand withdrawn as indicated in para 59 above. However, the entire amount paid by such students to the deemed to be universities concerned towards tuition fees and other expenditure shall be returned by the deemed to be universities concerned by 31-5-2018, as indicated in para 59.

XXXX XXXX XXXX XXXX”

4. There were many candidates who had secured further degrees or promotion on the basis of degrees obtained from these deemed Universities. On account of collapse of foundation, the building was bound to fall. To protect their future, they preferred miscellaneous applications which came up for consideration before Supreme Court on 22.01.2018. The Court though rejected different claims of the applicants yet protected benefits obtained on the basis of aforesaid degrees subject to clearance of exam in first attempt. It was further clarified that candidate who would clear exam in second attempt would continue to get benefit as per previous order. The operative portion of order dated 22.01.2018 is reproduced as below: -

“25. We now turn to the general submission advanced by all the learned counsel that the candidates after securing the degrees in Engineering through distance education mode, have advanced in career and that their ability was tested at various levels and as such requirement of passing the examination in terms of the judgment be dispensed with in

their case. We cannot make any such exception. The infirmity in their degrees is basic and fundamental and cannot be wished away. At the same time, we find some force in their submission that if the suspension of their degrees and all advantages were to apply as indicated in the judgment, the candidates concerned may lose their jobs and even if they were to successfully pass the test, restoration of their jobs and present position would pose some difficulty.

26. We, therefore, as a one-time relaxation in favour of those candidates who were enrolled during the academic years 2001-2005 and who, in terms of the judgment, are eligible to appear at the test to be conducted by AICTE, direct:

26.1. All such candidates, who wish to appear at the forthcoming test to be conducted by AICTE in May-June 2018 and who exercise option to appear at the test in terms of the judgment, can retain the degrees in question and all the advantages flowing therefrom till one month after the declaration of the result of such test or till 31-7-2018 whichever is earlier.

26.2. This facility is given as one-time exception so that those who have the ability and can pass the test in the first attempt itself, should not be put to inconvenience. If the candidates pass in such first attempt, they would be entitled to retain all the advantages. But if they fail or choose not to appear, the directions in the judgment shall apply, in that the degrees and all advantages shall stand suspended and withdrawn. At the cost of repetition, it is made clear that no more such chances or exceptions will be given or made. They will undoubtedly be entitled to appear on the second occasion in terms of the judgment but this exception shall not apply for such second attempt.

26.3. We direct AICTE to conduct the test in May-June 2018 and declare the result well in time, in terms of our directions in the judgment and this order. AICTE shall however extend the time to exercise the option to appear at the test suitably.



27. *Except for the directions given in the preceding paragraph i.e. para 26 and the clarification as regards courses leading to award of diplomas as mentioned hereinabove, we reject all the other submissions.”*

[Emphasis supplied]

CWP-13364-2021

5. In the case in hand, the facts which led to instant petition are that the petitioners No.1 and 3 were enrolled with a deemed to be University during Academic Session 2005-2006 and petitioner No.2- Ashok Kumar Saini was enrolled during 2004-2005. They appeared in the exam conducted by AICTE/UGC as per directions of Supreme Court in Orissa Lift Irrigation (I). Petitioner No.3 cleared exam in first attempt, however, petitioners Nos.1 and 2 cleared in second attempt. They are claiming that they had not obtained any benefit like appointment, promotion, further degree etc. on the date of passing of judgment by Supreme Court in Orissa Lift Irrigation (I), on the basis of degree obtained from a deemed to be University. The petitioners No.1 and 2 cleared exam in second attempt, thus, they are entitled to benefit of service which they rendered during the intervening period i.e. 2007-2018. The first judgment of Supreme Court in Orissa Lift Irrigation (I) has candidly held that every candidate who had secured degree from a deemed to be University would be entitled to two chances to prove his ability. The degree already obtained shall remain suspended till the date of validation by way of clearing exam. There was no distinction between clearance of exam in first and second attempt *qua* counting of experience and date of degree. In ***Orissa Lift Irrigation Corp. Ltd. v. Rabi Sankar Patro and others, (2018) 2 SCC 298*** [for short ‘**Orissa Lift Irrigation (II)**’], the Supreme Court protected those benefits which were obtained on the basis of degree subject to clearance of exam in first attempt. All the



benefits derived from degree obtained from a deemed to be University were liable to be suspended. It was creating a lot of problems for those candidates who had obtained further benefit on the basis of degree obtained from a deemed to be University like M.Tech. or M.B.A. or further promotion. The Court protected interest of those persons by way of clarification to the effect that further benefit derived from the degree shall remain intact if exam is cleared in first attempt.

Petitioner No.2 was enrolled during Academic Session 2004-2005 and he cleared exam conducted by AICTE/UGC in second attempt. He had not obtained any benefit on the basis of degree obtained from a deemed to be University, thus, he was not entitled to any benefit accruing from judgment of Orissa Lift Irrigation (II), however, was entitled to all the benefits arising out of first judgment.

6. Petitioner No.3 was enrolled during 2005-2006 and he cleared exam conducted by AICTE/UGC in first attempt, thus, he was entitled to all the benefits arising out of judgment of Supreme Court in Orissa Lift Irrigation (I) & (II).

7. Petitioner No.1 was enrolled during Academic Session 2005-2006 and he cleared exam conducted by AICTE/UGC in second attempt, thus, he was not entitled to any benefit arising out of judgment of Orissa Lift Irrigation (II), however, was entitled to benefit arising out of first judgment.

CWP-4453-2023

8. The petitioners were enrolled during Academic Session 2005-2006 and they cleared exam conducted by AICTE/UGC in second attempt.



They are entitled to benefits arising out of judgment of Supreme Court in Orissa Lift Irrigation (I) and not of subsequent orders.

9. Mr. Vijay Pal, Advocate submits that all candidates who got themselves enrolled till 30.08.2005 were entitled to benefit of judgment of Supreme Court in Orissa Lift Irrigation (I). The Supreme Court has used expression 'Academic Session/Year 2005-06'. The candidates who got admission prior to 30.08.2005 were eligible to appear in the exam conducted by AICTE and their degrees stood valid as soon as they cleared the exam either in first or second attempt. The cut-off date 30.08.2005 was logical in the way that UGC has granted *ex post facto* approval to deemed Universities till 30.08.2005. The petitioners had got themselves enrolled though for the Academic Session 2005-06 yet prior to 31.08.2005, thus, their degrees stood valid as soon as they cleared exam conducted by AICTE. Degree of petitioners was suspended by Supreme Court, however, it revived as soon as they cleared exam conducted by AICTE/UGC either in first or second attempt.

10. *Per contra*, counsel for the respondents led by Mr. B.R. Mahajan, Senior Advocate submit that question of extension of benefit of judgment of Supreme Court in Orissa Lift Irrigation (I) to those candidates who were enrolled during Academic Session 2005-06 has been considered by Supreme Court in ***Vinit Garg and others v. University Grants Commission and others, 2021(12) SCC 416*** as well as Division Bench of this Court in ***State of Haryana and another v. Prem Chand and others, 2019(4) S.C.T 32***. While adjudicating Review Application i.e. RA-LP-30-2019 in LPA-260-2019 vide order dated 03.03.2020, the Court has made it

clear that candidates who were enrolled during Academic Session 2005-06



were not entitled to benefit arising out of judgment of Orissa Lift Irrigation (I). There is only one petitioner i.e. petitioner No.2 in CWP No.13364-2021 who was enrolled during Academic Session 2004-05 and cleared test conducted by AICTE in second attempt. He continued to serve respondent even after judgment of Supreme Court, thus, he is entitled to continuity of service but his degree is valid for all purposes from the date of declaration of result by AICTE. He could claim benefit had he cleared exam conducted by AICTE in first attempt. Supreme Court in ***Ashok Kumar and others v. Depinder Singh Dhesi and others, 2019 (8) SCC 280*** has clarified the position. The degree became valid from the date of clearance of exam conducted by AICTE.

11. I have heard the arguments of learned counsel for both sides and perused the record with their able assistance.

12. From the perusal of record and arguments of both sides, two questions arise for the consideration of this Court: -

- i. Whether the degree of candidates who were enrolled during Academic Session 2005-06 and cleared exam conducted by AICTE is valid or not?
- ii. Whether the degree of candidates who cleared exam conducted by AICTE in second attempt is valid from the date of result or from the date it was granted by deemed University?

13. The question of validity of degree of those candidates who were enrolled during Academic Session 2005-06 stands settled by Supreme Court



Chand (supra). A Division Bench of this Court while adjudicating RA-LP-30-2019 in LPA No.260 of 2019 considered this very question. In the said case, the applicant had obtained admission on 30.08.2005 and he was claiming that his admission should be treated at par with those candidates who had got admission during Academic Session 2004-05. The Court noticed claim of the applicant and thereafter, relying upon judgment of Supreme Court in *Vinit Garg (supra)* clearly held that degree of candidates who were enrolled during Academic Session 2005-06 is not valid. The relevant extracts of order dated 03.03.2020 passed by Division Bench of this Court is reproduced as under: -

“The applicants have now filed the present application for review, placing on record the documents to establish and assert that applicants, in fact, obtained admission in the Janardhan Rai Nagar Rajasthan Vidyapeeth University on 30.08.2005. It is submitted that as this objection or issue was not raised by the appellants/non-applicants either before the learned Single Bench or before the Division Bench, therefore, these documents were not placed before the Court either during the hearing of the writ petition or the LPA. It is asserted that in view of the observations made by the Supreme Court in the case of Orissa Lift Irrigation Corporation Ltd. (supra) in paragraph Nos. 27, 57, 63 to 66, for the review applicants had obtained admission between the Sessions 2001 to 2005, they are entitled to the benefit of availing a chance to pass the subsequent examination held by the All India Council for Technical Education and to avail the benefit of the degree obtained by them from the Janardhan Rai Nagar Rajasthan Vidyapeeth University.

XXXX XXXX XXXX XXXX

The controversy raised by the review applicants as to how those students, who were admitted in the year 2005 i.e. on 30.08.2005 as is the case of the review applicants before this Court, could be entitled to the benefit of the decision in

Orissa Lift Irrigation Corporation Ltd. (supra) by treating them to be students enrolled in the academic year 2004-05, was clearly answered by the Supreme Court in Vinit Garg and others Vinit Garg and others (supra) and paragraph Nos. 16 to 18 read as under:-

“16. In Orissa Lift Irrigation Corporation Limited-I, the Court also made a distinction between students who had taken admission in deemed to be universities offering technical degrees through distance learning in the academic years 2001 to 2005 and 2005-2006 onwards. The reason for distinction was Para 5 of the 2004 Guidelines and ex post facto approvals granted by the UGC and DEC to deemed to be universities that had offered technical degrees in the academic years 2001-2005. It was held that the said exercise of grant of ex post facto approvals was completely uncalled for and contrary to law and illegal. Accordingly, the ex post facto approvals were set aside with the consequential directions to recall all the engineering degrees granted pursuant to the said approvals. However, conscious that the ex post facto approvals were in terms of Para 5 of the 2004 Guidelines, while suspending the degrees awarded to students who had been enrolled during the academic years 2001 to 2005, the Court had given these students an opportunity to appear and clear such examination under joint supervision of AICTE-UGC. It was observed:

“57. The matter is required to be considered with some sympathy so that interest of those students who were enrolled during the academic sessions 2001-2005 is protected. Though we cannot wish away the fact that the deemed to be Universities concerned flagrantly violated and entered into areas where they had no experience and started conducting courses through distance education system illegally, the overbearing interest of the students concerned persuades us not to resort to recall of all the



degrees in Engineering granted in pursuance of the said ex post facto approval. However, the fact remains that the facilities available at the study centres concerned were never checked nor any inspections were conducted. It is not possible at this length of time to order any inspection. But there must be confidence and assurance about the worthiness of the students concerned. We, therefore, deem it appropriate to grant some chance to the students concerned to have their ability tested by authorities competent in that behalf. We, therefore, direct that all the degrees in Engineering granted to students who were enrolled during the academic years 2001 to 2005 shall stand suspended till they pass such examination under the joint supervision of AICTE-UGC in the manner indicated hereinafter. Further, every single advantage on the basis of that degree shall also stand suspended.”

The aforesaid directions were not in respect of any engineering degree granted by deemed to be universities to candidates admitted/enrolled post the academic year 2004-2005. Grant of any degree for students enrolled post the academic year 2004-2005 was held as contrary to law and illegal, and could not be treated as regular and on a par with the regular degrees. Therefore, para 49 would not be of any avail to the petitioners.

17. We would also refer to the second round of litigation as applications were filed seeking clarification and modification of the directions in Orissa Lift Irrigation Corporation Limited-I. The decision dated 22-1-2018 in Orissa Lift Irrigation Corpn. Ltd. v. Rabi Sankar Patro (2018) 2 SCC 298 [hereinafter referred to as “Orissa Lift Irrigation Corporation Limited-II”] had decided several applications of diploma holders who had enrolled for



engineering or BTech degree in deemed to be universities through distance learning mode. One of the contentions raised in the applications was that the deemed to be universities awarding engineering degrees through distance learning mode in Orissa Lift Irrigation Corporation Limited-I were not institutes of excellence in the field of engineering and, thus, there would be a distinction between engineering degrees awarded through distance education mode by deemed to be universities declared as institutions of excellence and the degrees awarded by other deemed to be universities. This contention was squarely rejected by referring to the fact that engineering degrees through distance education mode awarded by Vinayaka Mission's Research Foundation in Orissa Lift Irrigation Corporation Limited-I had been also declared to be invalid, though the said institution in its field of activity and excellence included the subject of engineering. Dealing with other contentions raised by the applicants, the Court in Orissa Lift Irrigation Corporation Limited-II held as under

“25. We now turn to the general submission advanced by all the learned counsel that the candidates after securing the degrees in Engineering through distance education mode, have advanced in career and that their ability was tested at various levels and as such requirement of passing the examination in terms of the judgment be dispensed within their case. We cannot make any such exception. The infirmity in their degrees is basic and fundamental and cannot be wished away. At the same time, we find some force in their submission that if the suspension of their degrees and all advantages were to apply as indicated in the judgment, the candidates concerned may lose their jobs and even if they were to successfully pass the test, restoration of

their jobs and present position would pose some difficulty.”

The Court, therefore, granting a one-time relaxation to the candidates who had enrolled themselves during the academic years 2001-2005, held that candidates would, in terms of the judgment in Orissa Lift Irrigation Corporation Limited I, be eligible to appear for the test conducted by AICTE.

18. Given the aforesaid ratio, we reject the plea that the petitioners are entitled to relief as was granted to the petitioners in Orissa Lift Irrigation Corporation Limited I and II. This contention is unacceptable for the reason that in Orissa Lift Irrigation Corporation Limited I and II, no relief was granted to the candidates who had taken admission in 2005 or thereafter. Relief in the form of one-time relaxation vide examination to be conducted by AICTE was granted to those candidates/students who had taken admission in academic years beginning from 2001 and till 2004-2005.

From a perusal of the aforesaid decision of the Supreme Court, it is evident that the Supreme Court has clarified the fact that no relief could be granted to a candidate who had taken admission in 2005 or thereafter. For the relief granted in Orissa Lift Irrigation Corporation Ltd. (supra) was confined and limited to candidates/students who had taken admission in the academic year beginning from 2001 till 2004-2005. Apparently and undisputedly, academic year 2004-05 would not include those students, who had obtained admissions in August, 2005. For those were admitted in the academic session 2005-06 and not 2004-05.

In view of the aforesaid judgments of the Supreme Court in Vinit Garg and others (supra) as well as in Orissa Lift Irrigation Corporation Ltd. (supra), we do not find any error, least an error apparent on the face of record, warranting interference by this Court.”



14. In the wake of findings recorded by Division Bench of this Court, there is no question to form second opinion. The Division Bench has clearly held that degree of a candidate who was enrolled during Academic Session 2005-06 is not valid in terms of judgment of Supreme Court in Orissa Lift Irrigation (I). Accordingly, it is hereby held that degree of candidates who were enrolled during Academic Session 2005-06 despite clearance of exam conducted by AICTE is invalid. The Supreme Court in Orissa Lift Irrigation (I) has clearly declared degree invalid of all those candidates who were enrolled post 2001-05 with deemed Universities.

15. There is only one candidate who was enrolled during Academic Session 2004-05. He was granted two chances to clear exam to be conducted by AICTE/UGC. He could not clear exam in first attempt, however, succeeded in the second attempt. Supreme Court in Orissa Lift Irrigation (I) in Para 57 ordered to suspend degree of all the students who were enrolled during Academic Year 2001-05. The suspension was till the date of passing exam to be conducted by AICTE/UGC. It was further held that every single advantage obtained on the basis of degree shall remain suspended. At the cost of repetition, relevant extract of Para 46 is reproduced as below: -

“We, therefore, direct that all the degrees in Engineering granted to students who were enrolled during the academic years 2001 to 2005 shall stand suspended till they pass such examination under the joint supervision of AICTE-UGC in the manner indicated hereinafter. Further, every single advantage on the basis of that degree shall also stand suspended.”

[Emphasis supplied]

16. In Para 66.4, it was further held that all the degrees awarded by deemed Universities stand suspended. In Para 66.6, it was clarified that if the



student clears the test within the stipulated time, all the advantages/benefits shall be restored and his degree will stand revived fully. Para 66.4 and 66.6, at the cost of repetition, are reproduced as below: -

“66.4. AICTE shall devise the modalities to conduct an appropriate test(s) as indicated in para 58 above. The option be given to the students concerned whose degrees stand suspended by 15-1-2018 to appear at the test(s) to be conducted in accordance with the directions in para 58 above. Students be given not more than two chances to clear test(s) and if they do not successfully clear the test(s) within the stipulated time, their degrees shall stand cancelled and all the advantages shall stand withdrawn as stated in paras 57 and 58 above. The entire expenditure for conducting the test(s) shall be recovered from the deemed to be universities concerned by 31-3-2018.

66.6. If the students clear the test(s) within the stipulated time, all the advantages/benefits shall be restored to them and their degrees will stand revived fully.”

17. The respondents while denying claim of the aforesaid petitioner are relying upon order dated 13.08.2019 passed by Supreme Court in **Ashok Kumar (supra)**. Supreme Court in Ashok Kumar (supra) has held: -

“11. In spite of the conclusion that: (a) courses leading to degrees in Engineering could not be taught through distance education mode without there being express guidelines issued by AICTE permitting such mode; and (b) the deemed to be Universities in question were not entitled to start courses in Engineering through distance education mode without prior approval under AICTE, the facility of benefit as detailed in paras 57 and 58 of the Judgment was extended to the students. Though the degrees obtained through distance education mode were prima facie not in accordance with law, the students enrolled during the academic sessions 2001-2005 were given two chances to prove their worth and it was



directed that if they clear the test, they would continue to derive advantages flowing from such degrees.

12. *It may be mentioned here that there could possibly be variety of advantages derived by the candidates on the basis of such degrees awarded at least 10 years before the Judgment was pronounced. During this period some of the candidates might have progressed in career on the basis of such degree, while some could possibly have acquired postgraduate qualifications such as MTech and MBA on the strength of such degrees. It was in this light, that the Court ruled that though from the date of the Judgment all the advantages and benefits flowing or arising from such degrees would stand suspended, the benefits or advantages would get revived after the candidates had cleared the examination, spoken of in said paras 57 and 58. If any candidate either failed to clear the examination in two attempts or if he chose not to appear in the examination, the degree would stand annulled completely disentitling the candidate to all the benefits and advantages flowing from such degrees.*

13. *Some candidates approached this Court submitting that if in terms of the Judgment the benefits or advantages were to be withdrawn and could be regranted or restored only after the candidates had cleared the examination, it may entail some prejudice to the candidates. Some of the candidates who had obtained postgraduate degrees and were employed on the strength of such degrees would be required to surrender such benefits; and even if they were to pass the examination in the first attempt, it may still require restoration of the benefits leading to situations of inconvenience and prejudice. The directions in the Judgment were therefore modified to a certain extent in the Order. It was, therefore, laid down by way of further concession in the Order that all the candidates who desired to appear in the upcoming examination could retain all the advantages and benefits till one month after declaration of the result of test or till 31-7-2018 whichever was later. The benefit of retaining the advantages was thus extended only till the first attempt.*

Those who could not clear the examination in first attempt or chose not to appear in the examination conducted in May/June 2018 were not entitled to the concessions extended by the Order.

14. It was, therefore, clear that the candidates who, on the strength of such degrees awarded through distance education mode, had attained a particular level in their career or were enjoying certain benefits as on the date of the Judgment and if they pass the examination, those benefits would stand restored. If the candidates could clear the examination in the first attempt itself, there would not even be any break in continuous enjoyment of those benefits or facilities. The idea was, candidates should not stand deprived of the status that they were enjoying as on the day of the Judgment provided the candidates could prove their worth and ability.

15. But if, the candidates concerned had not attained any particular status, as on the date when the Judgment was passed, the width of the directions was not to confer any additional advantage which was not even enjoyed as on the date. It was not the idea to hold the candidates to be entitled to certain additional benefits which the candidates were, as a matter of fact, not even enjoying on the date of the judgment . If the degrees stood restored in terms of the directions in the Judgment and the Order, the candidates would certainly be eligible to such entitlements as are available in accordance with law, but “restoration” would only be of those benefits, which they were enjoying as on the date of the Judgment. In short, the intent was to restore status quo ante and not to confer any additional advantage by the and the Order.

16. In the present case serious objection has been raised on behalf of the Department that the candidates concerned had enrolled themselves in courses leading to degrees in Engineering through distance education mode without express permission of the Department and/or the Department did not recognise the degrees in Engineering awarded through distance education mode or that the candidates concerned were not granted any study leave to pursue such

courses. If the degrees were so obtained in violation of the norms and parameters laid down by the Department concerned, the matter assumes completely different complexion. The directions issued by this Court in the Judgment and the Order never directed to confer such advantages which the candidates were otherwise not enjoying on the date when the and clarificatory Order were passed. If there was serious infirmity in the degrees so obtained by the candidates, the matter ought to be sorted out either through representation or through properly instituted challenge in that behalf. If the promotion was not granted and was not being enjoyed as on the day when the Judgment was passed, there was no violation of any direction issued by this Court. As is evident, the representations made by the contempt petitioner claimed conferral of certain status and benefits which they were not enjoying earlier. If there be any grievance on that front, the entitlement needs to be established in proceedings other than a contempt petition."

[Emphasis supplied]

18. There were many students who had obtained further benefits on the basis of degree obtained from a deemed University. They approached Supreme Court seeking clarification. By order dated 22.01.2018, Supreme Court protected interest of those candidates who undertook to clear exam in first attempt. The Court made it clear that benefits in the form of appointment, promotion or further degree like M.Tech, M.B.A. shall remain protected if exam is cleared in first attempt. The idea was to protect status that such candidates were enjoying on the date of judgment.

In the case in hand, the petitioner was not appointed on the basis of degree. He, on the basis of degree, had not obtained any benefit in the form of further degree, appointment or promotion on the date of passing of aforesaid judgement or order by Supreme Court, thus, his degree stood



suspended and revived as soon as he cleared exam in the second attempt. He was entitled to two chances to clear exam by AICTE/UGC. He was successful in second attempt, thus, he was entitled to restoration of his degree. The respondent is claiming that petitioner's degree stood restored from the date of passing exam conducted by AICTE whereas he is claiming that his degree stood restored/revived from the date the degree was granted by deemed University.

19. The candidates, who cleared exam conducted by AICTE in first attempt, were given advantage of retention of benefits/status which they were enjoying on the basis of degree e.g. there could be a student who got job on the basis of said degrees, he could be dismissed from service as soon as Supreme Court pronounced the judgment. There could be another student who secured degree of M.Tech. on the basis of said degree and thereafter got job on the basis of degree of M.Tech. On account of suspension of all the advantages, degree of M.Tech. became invalid thus, he could be dismissed from service. The Supreme Court clarified in its subsequent order that advantages derived on the basis of degree shall stand protected if exam conducted by AICTE is cleared in first attempt. This order did not affect direction of judgment qua suspension of degree and its restoration on passing exam in two attempts.

20. The Supreme Court in Orissa Lift Irrigation (I) suspended two things i.e. (i) degrees obtained during academic sessions 2001-05 and (ii) every single advantage on the basis of degree. In Orissa Lift Irrigation (II), order of suspension of advantages on the basis of degree was deferred till the date of passing first exam to be conducted by AICTE. There was no



modification of order of suspension of degree and its revival on the clearance of exam in two attempts.

In *Ashok Kumar (supra)*, the Supreme Court clarified that if the candidates concerned had not attained any particular status, as on the date when the judgment was passed, the width of the directions was not to confer any additional advantage which was not even enjoyed as on the date. If the degrees stood restored in terms of the directions in the judgment and order, the candidates would certainly be eligible to such entitlements as are available in accordance with law. The intent was to restore *status quo ante* and not to confer any additional advantage. The respondent-department raised objection that candidate had enrolled themselves without express permission of the department or the department did not recognize the degree obtained through distance mode or the students have not obtained study leave. The court observed that in such circumstances the matter assumes completely different complexion. The entitlement of benefits not enjoyed on the date of judgment needs to be determined in proceedings other than contempt.

From the reading of judgment in *Ashok Kumar (supra)*, it is evident that Court has made it clear that if there is any other objection to department with respect to degree obtained from a deemed University, it does not stand removed by judgment and order in Orissa Lift Irrigation. This may be understood with an example. If a candidate has obtained degree without express permission of the department and as per Rules of the department, it was mandatory to obtain permission, such degree though stood restored as soon as exam conducted by AICTE was cleared, would not

be valid for the said department.

The Court has clarified that if the degree stood restored, the candidate would be eligible to such entitlements as are available in accordance with law and *status quo ante* would restore.

21. From the perusal of Para 57 and 66 of judgment of Supreme Court in Orissa Lift Irrigation (I), it is evident that Supreme Court suspended degree of the petitioner, however, it stood restored as soon as he cleared the exam conducted by AICTE. The exam conducted by AICTE did not grant degree. The exam simply revived degree which was suspended by Supreme Court. If an employee is suspended on the ground that his degree is forged and in the departmental proceedings it is found that degree is genuine and proceedings are dropped, the period of service is not excluded from the length of service because as soon as proceedings are dropped by disciplinary authority, suspension stands revoked. The Supreme Court declared degrees of all the students invalid who were enrolled post academic session 2001-05 and ordered to suspend degrees of those who were enrolled during 2001-05 till the passing of test to be conducted by AICTE. It was made clear that it would restore as soon as candidate clears exam in two attempts, to be conducted by AICTE. If it is held that degree is valid from the date of declaration of result by AICTE, it would be contrary to directions of Supreme Court in Orissa Lift Irrigation-(I).

22. In the wake of above discussion and findings, this Court is of the considered opinion that degree of those petitioners who were enrolled during academic session 2005-06, irrespective of date of enrollment, is invalid and they are not entitled to benefit of suspension granted by Supreme Court in Orissa Lift Irrigation (I). Petitioner No. 2-Ashok Kumar Saini was



by AICTE in second attempt. His degree is valid from the date it was granted by a deemed to be University. The respondent is duty bound to grant him benefits as permissible by law.

23. Both petitions stand disposed of in above terms. No order as to costs.

24. Pending application(s), if any, shall stand disposed of.

(JAGMOHAN BANSAL)
JUDGE

30.01.2025
Mohit Kumar

Whether speaking/reasoned	Yes
Whether reportable	Yes