

**CENTRAL ADMINISTRATIVE TRIBUNAL  
CHANDIGARH BENCH**

...

**ORIGINAL APPLICATION NO.060/01011/2016**

**Chandigarh, this the 23<sup>rd</sup> day of January, 2018**

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**CORAM: HON'BLE MR. JUSTICE M.S. SULLAR, MEMBER (J)  
HON'BLE MS. P. GOPINATH, MEMBER (A)**

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Shri Jageshwar R. Khapekar son of Sh. Ramchandra Namaji Khapekar, age 33 years, working as Technical Assistant in the Office of Central Scientific Instruments Organization (CSIO) [Council of Scientific and Industrial Research (CSIR)], Sector 30, Chandigarh, (resident of C-5, CSIO Colony, Sector 30-A, Chandigarh (Group-A).

**....APPLICANT**

**(Present: Mr. D.R. Sharma, Advocate)**

**VERSUS**

1. Union of India through Secretary, Ministry of Science and Technology, Department of Scientific and Industrial Research, Anusandhan Bhawan, 2 Rafi Marg, New Delhi-110001.
2. Central Scientific Instruments Organization (CSIO), [Council of Scientific and Industrial Research (CSIR)], Sector 30, Chandigarh.
3. CSIR-Central Leather Research Institute (CLRI), [Council of Scientific and Industrial Research (CSIR)], Adyar, Chennai-600020 through the Director General.
4. All India Council for Technical Education (AICTE), Nelson Mandela Marg Vasant Kunj, New Delhi-110067.
5. University Grants Commission (UGC), Bahadur Shah Zafar Marg, New Delhi-110002, India through the Chairman.
6. Karnataka State Open University (KSOU), Mysore through its Registrar.

**....RESPONDENTS**

**(Present: Mr. Sunder Singh, counsel for respondents no.2 & 3.  
Mr. Govind Rana, proxy for Mr. K.K. Gupta, counsel  
for respondent no.4.  
Mr. Tarun Vir Singh Lehal, counsel for respondent  
no.5.**

**ORDER**

**HON'BLE MR. JUSTICE M.S. SULLAR, MEMBER (J):-**

The epitome of the facts and material, which needs a necessary mention, for the limited purpose of deciding the core controversy, involved in the instant Original Application (OA), and emanating from the record, is that the Central Leather Research Institute (CLRI), Chennai (respondent no.3), issued an advertisement dated 22.06.2014 (Annexure A-2), inviting the applications for various posts, including one post of Scientist reserved in ST category candidates. The applicant was stated to have possessed M.Tech. Degree in Computer Science from Karnataka State Open University. He claiming himself to be eligible, applied for the pointed post. Since the applicant did not possess the requisite qualification from the recognized Institute, so, the respondents issued impugned letters dated 30.08.2016 (Annexure A-1/A Colly) requesting him to submit documentary proof, in respect of recognition of qualification from All India Council for Technical Education (for briefly AICTE), which is Competent Authority to provide recognition to the courses offered in Engineering & Technology. However, the applicant failed to produce the recognition certificate from AICTE. So his selection for the post of Scientist was cancelled, vide impugned order dated 06.10.2016 (Annexure A-1) by the Competent Authority.

2. Aggrieved thereby, the applicant has preferred the instant OA, challenging the impugned orders, on a variety of grounds mentioned therein, the main OA, invoking the provisions of Section 19 of the Administrative Tribunals Act, 1985.

3. On the contrary, the respondents have refuted the claim of the applicant and filed the reply, stoutly denying all the allegations and grounds, contained in the OA and prayed for its dismissal.

4. We have heard learned counsel for the parties and have gone through the record, with their valuable help.

5. As is evident from the record, that now the short and significant question, that arises for our determination in this case, is as to whether, the degree issued by the Karnataka State Open University is a recognized & valid degree, for the purpose of pointed post, in the given facts and circumstances of the case or not?

6. Having regard to the rival contentions of the learned counsel for the parties, to our mind, the answer must obviously be in the negative, in this regard for the following reasons.

7. At the very outset, during the course of arguments, learned counsel for the respondents has contended with some amount of vehemence, that the matter has now been finally decided by the Hon'ble Apex Court in the main case of **Orissa Lift Irrigation Corp. Ltd. Vs. Rabi Sankar Patro & Others**, Civil Appeal Nos.17869-17870 of 2017 (Arising out of SLP (C) Nos.19807-19808/2012) etc. decided on 03.11.2017. The operative part of the judgment, inter-alia, reads as under:-

“50. The record further shows that time and again warnings were issued to the concerned Deemed to be Universities. Dr. Rajeev Dhavan, learned Senior Advocate is right in his submission that if a Deemed to be University is not to be found functioning within the limits, its recognition as Deemed to be University could be withdrawn. In our view, the concerned Deemed to be Universities had gone far beyond their limits and to say the least, had violated binding policy statements. Even when they did not have any experience in the concerned field and had no regular faculty or college in Engineering, they kept admitting students through distance education mode. When there was nothing at the core, the expansion was carried at the tertiary levels in brazen violation. The idea was not to achieve excellence in the field but the attempts appear to be guided by pure commercial angle. We therefore, direct the UGC to consider whether the Deemed to be University status enjoyed by the concerned institutions, namely, JRN, AAI, IASE and VMRF calls for any such withdrawal and conduct an inquiry in that behalf. If the concerned Deemed to be Universities fail to return the moneys to the concerned students as directed above, that factor shall also be taken into account while conducting such exercise.

51. We must also put on record what we have observed during the course of the hearing and consideration of the present matters. It has come to our notice that many institutions which are conferred the status of Deemed to be Universities are using the word “University”, which in our view is opposed to the spirit of Section 23 of the UGC Act. The UGC shall take appropriate steps to stop such practice.

52. The present case shows the extent of commercialization of education by some of the Deemed Universities. The commercialization of education seriously affects creditability of standards in education, eroding power and essence of knowledge and seriously affecting excellence and merit. The present case further displays lack of effective oversight and regulatory mechanism for the Deemed to be Universities. The UGC had completely failed to remedy the situation. Serious question has therefore arisen as to the manning of the UGC itself for its effective working. We have already found that facilities at Study Centres were never checked nor any inspections were carried out which has led us to direct suspension of degrees for the students enrolled during academic sessions 2001-2005 and annulment of degrees of students admitted after academic sessions of 2001- 2005. We have also found that there was complete and flagrant violation of norms and policies laid down by the authorities by the Deemed to be Universities. AICTE had been illegally kept out. Thus, interest of justice requires that the following issues also need to be addressed:

- (i) Action for failure of system, inter alia, on account of misconduct of some of the functionaries who failed to uphold the law and granted approvals contrary to the policy and the rules;
- (ii) Manning of the UGC;



(iii) Appropriate oversight and regulatory mechanism especially for distance education degrees especially those relating to technical education by the Deemed to be Universities in future;

(iv) Review of the Deemed to be Universities status granted to the Deemed to be Universities in the past in the light of this Judgment and in the light of their working; and

The above issues need immediate steps to be taken by the Union of India. Review of oversight and regulatory mechanism is of utmost priority for the future of technical and professional education at the hands of Deemed Universities. In this regard, we may note the observations of the Constitution Bench of this Court in *Modern Dental College and Research Centre and others v. State of Madhya Pradesh and others*<sup>11</sup> highlighting need for review of regulatory mechanism for medical admissions and profession. We also note the observations in *Mahipal Singh Rana, Advocate v. State of Uttar Pradesh*<sup>12</sup> with regard to legal profession.

53. Accordingly we direct:

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

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

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

(2016) 7 SCC 353 – Paras 86 to 92, 108 to 111 (2016) 6 SCC 335 IV The AICTE shall devise the modalities to conduct an appropriate test/tests as indicated in Para 47 above. The option be given to the concerned students whose degrees stand suspended by 15.01.2018 to appear at the test/tests to be conducted in accordance with the directions in Para 47 above. Students be given not more than two chances to clear test/tests and if they do not successfully clear the test/tests within the stipulated time, their degrees shall stand cancelled and all the advantages shall stand withdrawn as stated in Paras 46 and 47 above. The entire expenditure for conducting the test/tests shall be recovered from the concerned Deemed to be Universities by 31.03.2018.

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

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

VII. As regards students who were admitted after the Academic Sessions 2001-2005, their degrees in

Engineering awarded by the concerned Deemed to be Universities through distance education mode stand recalled and be treated as cancelled. All benefits secured by such candidates shall stand withdrawn as indicated in Para 48 above. However, the entire amount paid by such students to the concerned Deemed to be Universities towards tuition fees and other expenditure shall be returned by the concerned Deemed to be Universities by 31.05.2018, as indicated in Para 48.

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

IX. We direct the CBI to carry out thorough investigation into the conduct of the concerned officials who dealt with the matters and went about the granting permissions against the policy statement, as indicated in Para 49 above and into the conduct of institutions who abused their position to advance their commercial interest illegally. Appropriate steps can thereafter be taken after culmination of such investigation.

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

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

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

XIII. The Union of India may constitute a three members Committee comprising of eminent persons who have held high positions in the field of education, investigation, administration or law at national level within one month. The Committee may examine the issues indicated above and suggest a road map for strengthening and setting up of oversight and regulatory mechanism in the relevant field of higher education and allied issues within six months. The Committee may also suggest oversight mechanism to regulate the Deemed to be Universities. The Union of India may examine the said report and take such action as may be considered appropriate within one month thereafter and file an affidavit in this Court of the action taken on or before August 31, 2018. The matter shall be placed for consideration of this aspect on 11.09.2018.

54. Before we part, we express our sincere appreciation for the efforts put in by Mr. C.A. Sundaram, learned Amicus Curiae. We are extremely grateful for the assistance rendered by him. We are also thankful for the assistance given by all the learned counsel.

55. We thus accept the view taken by the High Court of Punjab and Haryana at Chandigarh and set aside the decision of the High Court of Orissa. With the aforementioned observations, appeals are disposed of. No order as to costs. No orders are called for in Contempt Petition Nos.194- 197/2016 which stands disposed of.”

8. Therefore, since the applicant did not produce any proof of recognition of degree from AICTE, so, such degree is not valid for the purpose of technical post of Scientist. Once the Hon’ble Apex Court has specifically ruled in the indicated judgment, that any such degree obtained from unauthorized / unrecognized institution is not at all a valid Degree, and its holder cannot claim any benefit for any employment. Hence, in that eventuality, the applicant is not at all entitled for any relief, in the obtaining circumstances of the case. The ratio of law laid down in the aforesaid judgment, *mutatis mutandis*, is applicable to the present controversy and is the complete answer to the problem in hand.

9. In the light of the aforesaid prismatic reasons, as there is no merit, so, the instant OA is hereby dismissed as such. However, the parties are left to bear their own costs.

**(P. GOPINATH)**  
**MEMBER (A)**

**(JUSTICE M.S. SULLAR)**  
**MEMBER (J)**

**Dated: 23.01.2018.**

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