

CENTRAL ADMINISTRATIVE TRIBUNAL,
ERNAKULAM BENCH

Original Application No. 181/00580/2017

Original Application No. 181/00754/2018

Friday, this the 8th day of March, 2019

CORAM:

Hon'ble Mr. E.K. Bharat Bhushan, Administrative Member

Hon'ble Mr. Ashish Kalia, Judicial Member

1. Original Application No. 181/00754/2018 -

Darvesh Khan M.P., aged 29, S/o. Sayed P.P.,
Moodampura House, Androth Island, UT of
Lakshadweep.

..... **Applicant**

(By Advocate : Mr. P.V. Mohanan)

V e r s u s

1. The Administrator, Union Territory of Lakshadweep,
Kavaratti – 682 555.
2. The Director, Directorate of Education,
Lakshadweep Administration, Kavaratti – 682 555.
3. The Deputy Registrar, School of Distance Education,
Shobhit University, Shobhit Institute of Engineering and
Technology, (Established under Section 3 of UGC Act, 1956),
Meerut, State of Uttar Pradesh – 250 110.
4. The Secretary, University Grants Commission,
Ministry of Human Resources Development,
Government of India, Bahadur Shah Zafar Marg,
New Delhi – 110 012.

..... **Respondents**

**[By Advocates : Mr. S. Manu (R1 & 2) &
Mr. S. Krishnamoorthy (R4)]**

2. Original Application No. 181/00580/2017 -

Syed Bukhari, aged 31 years, S/o. Syed Mohammed K.I.,
residing at Kanniyatha Chetta House, Amini Island,
Lakshadweep.

..... **Applicant**

(By Advocate : Mrs. Thanuja Roshan George)

V e r s u s

1. The Administrator, Union Territory of Lakshadweep,
Kavaratti – 682 555.
2. The Director of Education, District Institute of Education
& Training (DIET), Department of Education,
Kavaratti – 682 555. **Respondents**

(By Advocate : Mr. S. Manu)

These applications having been heard together on 16.02.2019, the Tribunal on 8th March, 2019 delivered the following:

ORDER

Hon'ble Mr. Ashish Kalia, Judicial Member –

OAs Nos. 181/754/2018 and 181/580/2017 have common points of fact and law involved and hence are being disposed of through this common order.

2. In OA No. 181/754/2018 the relief claimed by the applicant are as under:

- i. To call for the records leading to Annexure A16 and set aside the same.
- ii. To call for the records leading to Annexure A11 offer of appointment and Annexure A12 acceptance and direct the respondents one and two to appoint the applicant to the post of Social Education Organizer in the scale of pay of Rs. 5200-20200 + Grade Pay Rs. 2800/- in Lakshadweep Education Department w.e.f. The date of offer of appointment with all consequential benefits.
- iii. To declare that the applicant is qualified to be selected for the post of Social Education Organizer in the Education Department by virtue of the Degree of Bachelor of Arts in Sociology awarded by Shobhit University Meerut under Distance Education Mode.
- iv. Any other appropriate order or direction as this Hon'ble Tribunal deem fit in the interest of justice.”

3. In OA No. 181/580/2017 the relief claimed by the applicant are as under:

- “(i) Call for the records leading to the issue of Annexure A1 and quash the same;
- (ii) Direct the respondents to consider appointing the applicant to the post of Lecturer (TE) Political Science as notified by Annexure A-2;
- (iii) Award costs of and incidental to this Application;
- (iv) Pass such other orders or directions as deemed just, fit and necessary in the facts and circumstances of the case.”

4. In OA/181/754/18, the applicant belongs to Scheduled Community and hails from Androth island, Union Territory of Lakshadweep. He obtained qualification of B.A. in Sociology in the examination held in May 2014 by Shobhit University (Deemed University), Meerut, through Distance Education Programme. Shobhit Institute of Engineering and Technology, Meerut (Deemed University) was accorded institutional recognition by the Apex Body namely, Distance Educational Council, Indira Gandhi National Open University (IGNOU) vide order F.No.DEC/Shobhit/08/17870 dated 24.12.2008. By notification dated 1.3.1995, the Ministry of Human Resources Development declared that all the qualifications awarded through distance education made by the Universities established by an Act of Parliament (deemed to be Universities) under Section 3 of University Grants Commission Act, 1956 stand automatically recognized for the purpose of employment to post and service under the Central Government, provided it has been approved by the Distance Education Council, IGNOU. With the bonafide belief that the Bachelors Degree Certificate awarded by the Shobhit University through open education would be accepted by the

Lakshadweep Administration, the applicant applied for the post of Social Education Organizer in Lakshadweep Education Department, pursuant to a notification dated 24.8.2015. The post carries pay scale of 5200-20200 + Grade Pay of Rs.2800/-. The qualification prescribed for the post was Bachelor Degree in Sociology from a recognized University. A written test was held and the applicant was declared qualified. Then a personal interview was held on 20.5.2017. An offer of appointment dated 20.6.2017 soon followed (Annexure A11). The applicants accepted the offer and sent necessary details. Thereafter nothing was heard for more than a year. The applicants contacted the Director on different occasions, but no reply came forth. The applicant is currently employed as LDC, and on a request by the department, a verification report was submitted by Shobhit University stating that the applicant has successfully completed B.A. (Sociology) through distance education mode. Since no action was taken, the applicant made a representation dated 24.4.2018 requesting to issue order appointing him as Social Education Organizer. On filing an application seeking information under RTI Act, the applicant was provided with a copy of the Minutes of the Verification Committee meeting held on 21.8.2018. The Committee appears to have recommended for further verification on the issue and sought further details from Shobhit University. Feeling aggrieved by the inaction on the part of the respondents, the applicant has approached this Tribunal for the reliefs as mentioned above.

5. As grounds, it is stated that Shobhit University is a Deemed University established under Section 3 of the UGC Act, 1956. IGNOU was established by Act 50 of 1985 by Gazette Notification dated 19.9.1985.

Section 2 (E) of IGNOU Act defines “Distance education system means the system of imparting education through any means of communication, such as broadcasting, telecasting, correspondence course, seminars, contact programme or the compilation of any two or more such means”. Since the applicant was the sole candidate and offer of appointment was already issued, the applicant is entitled to get appointment.

6. Notices were issued to the respondents and the respondents put up their appearance. A reply has been filed on behalf of the Lakshadweep Administration, stating that since the appointing authority had some doubts regarding the genuineness of the certificate produced by the applicant, a verification committee was constituted to verify the academic qualification of the applicant. His appointment was kept in abeyance pending conclusion of the proceedings of the verification Committee. The respondents had not received any affirmation from the UGC regarding the validity of the course undergone by the applicant. The verification committee had expressed doubts about the duration of the course undergone by the applicant and the time lag between the issuance of provisional and original degree certificates. Confirmation from UGC is very much needed before proceeding with the appointment of the applicant. Under the circumstances, the respondents have prayed for dismissal of the OA.

7. In OA No.580/2017, the facts are that the 2nd respondent, Department of Education, Union Territory of Lakshadweep issued a notification dated 24.3.2017 inviting applications from eligible local candidates for contract engagement to the post of Lecturer in Political Science in the District Institute of Education & Training, Department of Education, Kavarathi. The

applicant applied for the post. He holds a Master's Degree in Education from Mahatma Gandhi University, Kottayam, Kerala, which he acquired in May 2014. He also holds a Master's Degree in Political Science from Shobhit University, Meerut, acquired during September 2015. The applicant was employed during 2016-17 as a Post Graduate Teacher (Political Science) in Government Senior Secondary School, Amini Island on contract basis. On 18.5.2017, the department issued a checklist in which the name of the applicant appeared along with a remark “copy of original/provisional pass certificate of M.A. & M.Ed. are not produced”. In response to this, the applicant submitted the original pass certificates of M.A. and M.Ed. courses to the Director, DIET, Department of Education on 23.5.2017. However, the final check list issued on 6.6.2017 did not contain the post of Lecturer (Political Science), whereas on the same day, the department issued Annexure A1 O.M. regarding “appointment of lecturer at DIET on contract basis, seeking clarification on certificate”. The department directed the applicant to produce copies of the relevant documents including the enrollment year and duration of M.A. (Political Science) and M.Ed courses as also copy of approval letter of the courses. Upon receiving this direction, the applicant contacted Shobhit University for a recognition letter, for which he had to file a representation as well. It is stated in the OA that the Post Graduate Degree obtained by the applicant from Shobhit University was obtained under a break-in-study mode which refers to a system of study where the students who have discontinued the 1st and 2nd year (even fail or pass) of the courses from the colleges of the facilitating University (in this case Shobhit University) or from any other university are considered for

admission respectively to the 2nd & 3rd year, for courses in the same or some other branch or other faculty. This exemption is subject to the condition that the student appears for the examinations conducted by the University and pass in all subjects of the entire course. As per Annexure A7 check list published on 18.5.2017. only two candidates are seen to have applied for the post of Lecturer (Political Science), one of them being the applicant herein and the other also a local candidate. It is stated that both the candidates obtained degrees simultaneously from different universities, the B.Ed. Degree through regular mode and M.A. Degree through distance education from Annamali University. The applicant claims more weightage of marks in his favour. The applicant is aggrieved by the inaction of the respondents in finalizing the selection process to the post of Lecturer (Political Science).

8. The respondents counter the claim of the applicant through a reply statement, stating that the post graduation degree certificate submitted by the applicant from Shobhit University through the distance mode of education is not there in the approved list of courses by the UGC/DEB (Distance Education Bureau). Further, the PG certificate submitted by the applicant was for a period of one year whereas as per the UGC norms, the PG degree must be for a period of 2 years. It is further submitted that Shobhit Institute of Engineering and Technology is a deemed University with institutional recognition given only up to 2013-14. UGC had not granted approval to the University to open any study center in any other State or even within the State of Uttar Pradesh. Moreover, there is not enough proof to show that the applicant had appeared for examination

within the jurisdiction of Shobhit University as per the UGC norms.

9. Heard the learned counsel appearing for the parties in both cases at length and examined the case in detail. The question raised by the applicants is whether the degree obtained by them through distance education programme from Shobhit university is valid for the purpose of Central Government employment or not. During the course of the arguments, learned counsel for the applicants drew our attention to Annexure R1(C) letter dated 27.4.2016 (in OA 580/2017), the relevant portions of which are reproduced hereunder:

“3. Therefore, all universities are required to obtain prior specific approval for offering education through distance mode. The year-wise details of recognition accorded to the universities to offer education through distance mode have been uploaded on the UGC website www.ugc.ac.in/deb.

4. It may be noted that programme-wise recognition has been given to some universities for some academic years, the same has been uploaded on UGC website. In some case, it is 'institutional'. It is clarified that during the period of 'institutional recognition', the universities were required to offer programmes approved by the statutory bodies of their university and after seeking approval of the concerned regulatory bodies,. Wherever required. Further, in case of technical/professional programmes offered by the university, the approval from the AICTE was required to be obtained by the university in accordance with the gazette Notification No.44 dated 1.3.1995 issued by MHRD. Seeking approval from the respective apex bodies was the responsibility of the university.

5. The degrees acquired through distance education mode are recognized for the purpose of employment in central government and also for pursuing higher education in other educational institutions, provided the same has been awarded by the universities/institutions recognized specifically to offer education through distance mode in conformity with the norms, guidelines and regulations of UGC. However, it is the prerogative of the concerned employer/university/institution to take a view in respect of qualification acquired through distance mode.

6. The duration of the programme, nomenclature of programme and the minimum eligibility criteria should be as per UGC norms. Single sitting/one year degree programmes are not allowed. The details of

degrees specified by UGC along with the qualification required at entry level are given in the “specification of Degrees, 2014”. Copy of the same is uploaded on [http://www.ugc.ac.in/pdfnews/1061840-specification](http://www.ugc.ac.in/pdfnews/1061840-specification%20of%20degrees-july-2014.pdf) of degrees-july-2014.pdf.

7. The erstwhile DEC of IGNOU has issued a notification dated 01.11.2012 regarding the policy on pursuing two or more programmes simultaneously in various combinations. The same is also uploaded on UGC website at the link: [http://www.ugc.ac.in/deb/notikces/NOTIFICATION-PolicyonPursuingtwoor moreProgrammesSmultaneously.p-dg](http://www.ugc.ac.in/deb/notikces/NOTIFICATION-PolicyonPursuingtwoor%20moreProgrammesSmultaneously.p-dg).

In the meantime, the matter regarding pursuing two degree programmes simultaneously was also being considered by UGC. Now, UGC vide Public Notice dated 15.1.2016 has clarified as under:-

“The Commission had sought the comments of the Statutory Councils. The responses, so far received, do not endorse the idea of allowing the students to pursue two degrees simultaneously. Therefore, the universities shall conduct their programmes in accordance with the First Degree and Master Degree Regulations, 2003 prescribed by the UGC and also follow the norms and parameters prescribed by the Statutory Council concerned, wherever relevant”.

8. Further, universities/institutions are required to adhere to the Territorial Jurisdiction policy of UGC. Also, franchising of education through private institutions/centres is not allowed by UGC. The following are the regulating provisions regarding territorial jurisdiction and Study Centres pertaining to different types of universities:

(i) The deemed universities can operate within their own Headquarters or from those off campuses/off-shore campuses which are approved by the Govt. of India through notification published in the gazette. Any study centre can be opened only with the specific approval of UGC. It is for information that UGC, so far, has not granted it approval to any Deemed to be University to open any Study Centre in any other State or even within its own State. Further, institutions declared Deemed to be Universities before 26.06.2010 are not allowed to conduct courses in distance mode from any of its off-campus centres/off-shore campuses approved after 26.5.2010.

(ii) The private Universities cannot open their centre(s) even within the State as per the provision of UGC (Establishment of and Maintenance of Standards in private Universities) Regulation, 2003 without the approval of UGC. The UGC has not granted any approval to the university to open off campus/study centre anywhere.

(iii) In the case of State Universities, these can operate within their respective States only through their own departments/constituent colleges and/or through their affiliated colleges with the approval of their statutory bodies/councils, wherever required. It is for information that UGC has not granted approval to any State University to open

off-campus/study centre in other States.

(iv) The State Universities and Private Universities cannot operate beyond their State of origin. These are established by the State Governments and hence cannot operate in other States. The Hon Supreme Court of India vide its judgment dated 11.2.2005 in the case of Prof. Yashpal & Anr Vs. State of Chhattisgrh & Ors held that “in view of Article 245 (1) of the Constitution, Parliament alone is competent to make laws for the whole or any part of the territory of India and the Legislature of the State may make laws for the whole or any part of the State.”

10. The crux of this order is that State Universities/Private Universities cannot operate beyond their State or region. These are established by the State Governments, hence cannot operate in any other States. This view has already been held by the Hon. Supreme Court vide its judgment dated 11.2.2005 in the case of *Prof. Yashpal & Anr Vs. State of Chhattisgrh & Ors.*, and held that “In view of Article 245 (1) of the Constitution, Parliament alone is competent to make laws for the whole or any part of the territory of India and the Legislature of the State may make laws for the whole or any part of the State.” University Grants Commission does not allow any type of University/Institution to offer education through distance mode by hiring any private establishments/institutions/centres. No such franchising/collaboration/agreement is recognized by UGC. The Shobhit University which has issued the degree is not valid for other States than the U.P. State where it is functioning as per the UGC order. Post Graduate Degree certificates submitted by the applicants from Shobhit University through distant mode of education is not there in the approved list of courses by UGC/DEB.

11. After going through the facts and circumstances of the case, we are of the considered view that the degree from Shobhit University by distant mode of education is not approved by the UGC/DEB because it does not come under the definition of the degree by the recognized University as required by the

Recruitment Rules. It is needless to say the post which was advertised was only for contractual appointment for one year. Even otherwise, the standard of education as prescribed has to be followed. Thus we are of the view that there is no merit on the side of the applicants. The OAs are liable to be dismissed and we do so. Consequently MA No.181/995/2018 in OA No.181/580/2017 is closed. No order as to costs.

(Ashish Kalia)
Judicial Member

(E.K. Bharat Bhushan)
Administrative Member

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APPLICANT'S ANNEXURES

- Annexure A1** – True copy of the OM F. No. 2/4/2009-DIET/99 dated 6.6.2017 issued by the Director of Education, Kavaratti, Union Territory of Lakshadweep.
- Annexure A2** – True copy of the notification (F. No. 1/3/20165-DIET) dated 24.3.2017 issued by the Department of Education, Kavaratti, Union Territory of Lakshadweep.
- Annexure A3** – **True copy of the M.Ed. Degree Certificate dated 10.4.2017 belonging to the applicant issued by the Mahatma Gandhi University.**
- Annexure A4** – True copy of the mark list dated 11.9.2015 belonging to the applicant issued by the Shobhit University.
- Annexure A5** – True copy of the MA Political Science Degree Certificate issued to the applicant by the Shobhit University numbered as DID : 2K15/SDE/M/17432.
- Annexure A6** – True copy of the certificate (F. No. 04/05/2016-GSSSA) dated 10.4.2017 issued by the Principal Government Senior Secondary School, Amini.
- Annexure A7** – True copy of the notice (F. No. 1/3/2016-DIET) dated 18.5.2017 issued by the DIET, Department of Education, Kavaratti, UTL.
- Annexure A8** – True copy of the covering letter dated 23.5.2017 submitted by the applicant while producing the original pass certificates of the MA and M.Ed courses before the 2nd respondent.
- Annexure A9** – True copy of the final check list F. No. 1/3/2016-DIET dated 6.6.2017 issued by the DIET – Department of Education, Kavaratti.
- Annexure A10** – True copy of mark lists of MA Political Science degree from M.G. University for 1st Semester Supplementary Examination in March 2009 and the 4th Semester Degree Examination in May 2009.
- Annexure A11** – True copy of the transfer certificate issued to the applicant by the Principal, Maharaja's College, Ernakulam, dated 13.10.2009.
- Annexure A12** – True copy of the minutes of the meeting of the committee to consider the issue of pursuing more than one degree simultaneously and joint degree programme, held on 29.10.2012 in the UGC Head Office.
- Annexure A13** – True copy of the minutes of the 494th Meeting of the UGC held on 31.7.2013 (Relevant pages showing item No. 2.03 in Section 2 (matters relating to standards)).
- Annexure A14** – True copy of the letter dated 28.7.2017 issued by the Shobhit University.

Annexure A15 – Notification F. No. 1/3/2016-DIET dated 20.8.2018 issued by the respondents w.r.t. to the post of Lecturer (TE) Political Science.

Annexure A16 – Representation submitted by the applicant dated 29.8.2018.

RESPONDENTS' ANNEXURES

Annexure R1(a)- True copy of the OM No.2/4/2009/DIET dated 6.6.2017 issued by the 2nd respondent.

Annexure R2(b)- True copy of the list of courses approved by the UGC as available in the website pertaining to Shobhit University.

Annexure R3(c)- True copy of the UGC Note on territorial jurisdiction, Study Centers, etc.

Annexure R4(d)- True copy of the certificate of the applicant issued from the Regional Study Center, Malappuram.

Annexure R4(e)- True copy of the notification issued by the Distance Education Council, Indira Gandhi Open University, Maidan Girhi, New Delhi – 68.

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APPLICANT'S ANNEXURES

Annexure A1 – True copy of the enrollment card.

Annexure A2 – True copy of the degree certificate issued by Shobhit University.

Annexure A3 – **True copy of the mark list issued by Shobhit University.**

Annexure A4 – True copy of the provisional certificate issued by Shobhit University.

Annexure A5 – True copy of the details of recognition issued by the apex body F. No. DEC/Shobhit/08 dated 24.12.2008 issued by Indira Gandhi National Open University.

Annexure A6 – True copy of notification F.18-15/93-TD.V/TS.IV dated 1.3.1995 issued by Deputy Educational Adviser (T) & Secretary Board of Assessment for Educational qualifications.

Annexure A7 – True copy of the notification F. No. 18/10/2015-Edn./Estt(1)/651 dated 24.8.2015 issued by Director of Education.

Annexure A8 – True copy of the final check list. F. No. 18/10/2015-Edn/Estt)/479 dated 20.6.2016 issued by Director of Education.

Annexure A9 – True copy of admit card issued by Director of Education.

Annexure A10 – True copy of the select list F. No. 18/04/2017-Edn. Dated 20.6.2017 for the post of Social Education Organizer issued by Director of Education.

- Annexure A11** – True copy of offer of appointment F. No. 18/10/2015-Edn/Estt(1) dated 22.6.2017 issued by Director of Education.
- Annexure A12** – True copy of letter of acceptance dated 17.7.2017.
- Annexure A13** – True copy of certificate dated 16.8.2017 issued by School of Distance Education Shobhit University, Meerut.
- Annexure A14** – True copy of certificate dated 2.4.2018 issued by School of Distance Education Shobhit University, Meerut.
- Annexure A15** – True copy of the representation dated 24.4.2018.
- Annexure A16** – True copy of the minutes of the verification Committee meeting held on 21.8.2018 issued by Central Public Information Officer.
- Annexure A17** – True copy of the circular F1-52/2000(CPP-II) dated 5.5.2004 issued by Under Secretary.
- Annexure A18** – True copy of the circular F. No. UGC/DEB/2013 issued by Director dated 14.10.2013.
- Annexure A19** – True copy of the public notice F. No. 1-9/2018(DEB-I) dated 23.2.2018 issued by Secretary.

RESPONDENTS' ANNEXURES

- Annexure R1(a)**– True copy of the letter by the 2nd respondent to UGC on 25.9.2017 and 28.8.2018.
- Annexure R1(b)**– True copy of the letter by the 2nd respondent to UGC on 28.8.2018.