
(2016) 08 UK CK 0007
In the Uttarakhand High Court
Case No : Writ Petition No. 73 of 2014 (S/B)

Dhurat Singh

APPELLANT

Vs

State of Uttarakhand

RESPONDENT

Date of Decision : 09-08-2016

Acts Referred:

Constitution of India, 1950 — Article 16

Citation : (2016) LIC 3611

Hon'ble Judges : K.M. Joseph, CJ. and V.K. Bist, J.

Bench : Division Bench

Advocate : Mr. Manoj Tiwari, Senior Advocate, assisted by Mr. Alok Mehra, Advocate, for the Petitioner; Mr. A.K. Joshi, Additional Chief Standing Counsel, for the State/Respondents

Final Decision : Allowed

Judgement

V.K. Bist, J.(Oral)—The petitioner approached this Court seeking following relief:-

"(i) issue a writ, order or direction in the nature of certiorari for quashing the impugned termination order dated 25.09.2013 passed by respondent no.3 (annexure no.11 to the writ petition)."

2. The case of the petitioner is that the petitioner was appointed as daily wage employee in the Forest Department in the year 1995 and he continued as such till his selection for regular appointment on the post of Forest Guard. Respondent No. 3-Divisional Forest Officer, Uttarkashi issued an advertisement for filling up the vacancies of Forest Guard in the pay scale of Rs. 5200- 20600 (Grade Pay 1800) in the year 2008. As per the advertisement, a casual labourer, who was engaged on or before 09.04.1996 and continuously working till that date in the department and has minimum educational qualification of High School, was eligible for the post of Forest Guard. The upper age limit for the casual labourers of the department was prescribed as 35 years plus the period for which they

have continuously worked in the Department. In pursuance to that advertisement, petitioner applied for the post of Forest Guard. After being declared successful in the Physical/Medical Fitness Test, the petitioner along with other successful candidates appeared in the written test. According to the petitioner, he performed well in the written examination. On the basis of his performance in the physical test and written examination, the petitioner was declared successful. Respondent no.3 issued appointment order dated 22.01.2009, whereby the petitioner was appointed on the post of Forest Guard in the Forest Division, Uttarkashi. It is the case of the petitioner that the petitioner served in the department with utmost sincerity and no show cause notice or warning was issued to him. The service of the petitioner was confirmed on the post of Forest Guard vide order dated 20.06.2013. Further, it is the case of the petitioner that at the time of recruitment on the post of Forest Guard, the petitioner had submitted a certificate of Adhikari Pariksha from Gurukul University Vrindavan (Mathura) which he passed in the year 2005. The department, after scrutinising the certificate submitted by the petitioner, issued call letter to the petitioner to appear in the examination, and after facing the selection, the petitioner was regularly appointed on the post of Forest Guard.

3. According to the petitioner, a show cause notice was issued to the petitioner by the respondent no.3. In the notice, reliance was placed on the judgment rendered by this Court in Writ Petition No. 392 of 2013 Bharat Singh v. State of Uttarakhand and others. Petitioner was informed that petitioner is not educationally qualified for appointment on the post of Forest Guard. By the said notice, the petitioner was asked to give his explanation within one week i.e. up to 23.08.2013, as to why his services be not terminated for not having minimum qualification for the post of Forest Guard. The said notice was served on the petitioner on 25.08.2013. The petitioner submitted his reply on 07.09.2013, which was served in the Office of respondent no.3 same day. In his reply, the petitioner referred the letter issued by the Secretary, Uttarakhand Board of School Education on 16.05.2012, whereby respondent no.3 was informed that the learned Single Judge of this Court rendered a judgment on 03.12.2007 in Writ Petition No. 1945 (M/S) of 2007 Vimal Gyan Jyoti, Higher Secondary School Rudrapur v. State of Uttarakhand holding that till the date of de-recognition of Adhikari Pariksha i.e. 27.08.2007 by the State Government of Uttarakhand, the said qualification shall be treated as valid. According to the petitioner, the Government of Uttarakhand had issued a Government Order on 27.08.2007, whereby Adhikari Pariksha has been derecognized. In his explanation the petitioner submitted that this Court while deciding Writ Petition No. 1945 (M/S) of 2007 Vimal Gyan Jyoti Higher Secondary School Rudrapur v. State of Uttarakhand held that the Adhikari Pariksha of Gurukul University Vrindavan (Mathura) upto 27.08.2007 is valid. The petitioner further submitted in his explanation that the Controller of Examination, Gurukul University Vrindavan (Mathura) has informed that the recognition of the University has been cancelled by the State of U.P. vide govt. order dated 10.08.2008 and Gurukul

Vishwavidhalaya Vrindavan has notified that for the verification of certificates and mark-sheet issued, Administrative Office, Arya Pratinidhi Sabha, U.P., 5 Meera Bai Marg, Lucknow may be contacted in this regard.

4. Further, it is submitted by the petitioner that on 25.09.2013 the respondent no.3 passed the order whereby services of the petitioner on the post of Forest Guard were terminated. In the said order respondent no. 3 mentioned that one letter was issued by Receiver of Arya Pratinidhi Sabha, U.P. on 06.04.2009 by which it was informed that certificate issued by Gurukul University Vrindavan (Mathura) after the year 2003 are fake. This also speaks about the order passed by this Court in Writ petition No. 392 of 2013 (S/S) Bharat Singh Rana v. State of Uttarakhand whereby the this Court has held that Adhikari Pariksha of Gurukul University Vrindavan (Mathura) is not equivalent to High School qualification. The letter also refers to Writ Petition No. 72328 of 2011 Surjeet Singh v. State of U.P. & others passed by the Allahabad High Court wherein the Adhikari Pariksha of Gurukul University Vrindavan (Mathura) was declared as fake.

5. Aggrieved by the said order passed by respondent no.3 dated 25.09.2013 the petitioner filed this writ petition before this Court. While dealing with the matter, the learned Single Judge found that two contrary orders have been passed by two coordinate Benches of this Court. Therefore, learned Single Judge referred the matter to the Larger Bench and directed the Registry to place the record before Hon''ble the Chief Justice for appropriate orders. Following order was passed by the learned Single Judge.

"Petitioner applied for the post of Forest Guard annexing therewith Certificate of Adhikari Pariksha, (equivalent to Class X) issued by Gurukul University, Vrindavan, Mathura in the year 2005. Petitioner was selected and was given appointment on 22.01.2009 (vide Annexure No. 4 to the writ petition) and thereafter, his services were confirmed on 20.06.2013 vide Annexure No. 6 to the writ petition. However, thereafter, appointment of the petitioner was cancelled on the ground that Certificate of Adhikari Pariksha issued by Gurukul University, Vrindavan, Mathura is not recognised.

Coordinate Bench of this Court headed by Hon''ble Justice P.C. Pant, J vide judgment dated 03.12.2007 passed in Writ Petition No. 1945 (MS) of 2007 (Vimal Gyan Jyoti Uchhatar Madyamik Vidyalaya v. State of Uttarakhand) has held that Adhikari Pariksha conducted by Gurukul University, Vrindavan, Mathura, prior to its cancellation in the year 2007, would remain unaffected. It is further held that Certificate issued prior to 2007 of Adhikari Examination would be equivalent to Class X. 2. However, another Coordinate Bench of this Court headed by Hon''ble Justice Sudhanshu Dhulia, J in WPSS No. 392 of 2013 (Bharat Singh Rana v. State of Uttarakhand and others) vide judgment dated 16.07.2013 has held that Gurukul University, Vrindavan, Mathura was, in fact, never recognised by University Grants Commission and the Certificate of Adhikari Pariksha obtained from the said University is non est in the eyes of law.

My esteemed brother Sudhanshu Dhulia, J has placed reliance on the judgment passed by Allahabad High Court in Writ Petition No. 72328 of 2011 (Surjeet Singh v. State of U.P. and others) wherein it was held that University Grants Commission never granted any recognition to Gurukul University, Vrindavan, Mathura, therefore, said certificate issued by Gurukul University, Vrindavan, Mathura is non est in the eyes of law. However, another Bench of Allahabad High Court in Writ Petition No. 68714 of 2011 (Akanksha Gautam v. State of U.P. and others) headed by Hon"ble Justice Sudhir Agarwal, J, after referring to the judgment passed in Surjeet Singh's case, has held that Certificate of Adhikari Examination issued by Gurukul University, Vrindavan, Mathura prior to 2007 was valid and could be treated equivalent to Class X Examination.

While hearing this petition, I find that there are conflicting views of two Coordinate Benches of this Court, one headed by Hon"ble Justice P.C. Pant, J and another headed by Hon"ble Justice Sudhanshu Dhulia, J. Therefore, to settle the controversy, as to whether Certificate of Adhikari Examination issued by Gurukul University, Vrindavan, Mathura, prior to 2007, should be treated equivalent to Class X Examination, should be referred to the larger Bench. 3

Registry is directed to place the record before Hon"ble the Chief Justice for appropriate orders."

6. Thereafter, on the order passed by the learned Single Judge, the matter was put before the Hon"ble Chief Justice on administrative side in which an order was passed for placing this matter before the Division Bench. Therefore, this matter is placed before us.

7. Learned counsel for the petitioner submits that under the Regulation 2(30) of Chapter XIV of the Regulations framed under the U.P. Intermediate Education Act, 1921, Adhikari Pariksha conducted by Gurukul Vishvavidyalaya Vrindavan was declared equivalent to High School. Same was valid in State of Uttarakhand till 27.08.2007. Since petitioner passed his Adhikari Pariksha in the year 2005, therefore, his certificate cannot be said to be invalid. He also pointed out that in the State of U.P. also, Adhikari Pariksha Certificate was valid upto the year 2008.

8. Learned counsel for the petitioner further submits that the petitioner was a confirmed employee in the department and the respondent, without following the due process of law, terminated his services. In fact, they did not conduct any inquiry and only a show cause notice was given to the petitioner; and even the reply submitted by the petitioner was also not considered. He submits that the order has been passed in violation of Article 311(2) of the Constitution of India. In support of his arguments, learned counsel has placed reliance upon a judgment of Hon"ble Apex Court passed in the case of Kamal Nayan Mishra v. State of Madhya Pradesh and Other reported in 2010(2) SCC 169, wherein at para-24 it is held as under:

"24. The termination of the appellant without an inquiry or hearing was illegal and invalid. In the normal course, we would have set aside the termination and

directed reinstatement with consequential benefits, reserving liberty to the employer to initiate disciplinary proceedings. But the peculiar facts of this case require us to adopt a slightly different approach to do complete justice between the parties."

9. Learned counsel for the petitioner has further referred a judgment of the full Bench of the Allahabad High Court in the matter of Dhan Pal and others v. State of U.P. and others passed in Writ A No. 48208 of 2012. The said full Bench of the Allahabad High Court has held as follows:

"47. Before we proceed to answer the above question, it would be useful to first examine as to what would be the effect of such revocation if we assign retrospective effect to the same that is, as if, the Entry No. 30 in Regulation 2 of Chapter XIV of the Regulations framed under the Act, 1921 never existed. Ordinarily, a high school level examination is not the end of scholastic pursuits. In fact, it is the beginning of a series of examinations, which a person undergoes to attain eligibility for entry in various categories of service/profession, etc. It is a foundational qualification on which the superstructure of various higher qualifications included technical and professional qualifications are built. Therefore, if it is held that revocation of Entry No. 30 in the Regulations would mean that "Adhikari Pariksha" was never treated as equivalent to a high school level examination, the entire superstructure of higher qualifications attained by a person based on that foundational qualification would crumble resulting in catastrophic effect on the life and careers of thousands of innocent persons who underwent the same and have obtained various higher qualifications job, etc. based on that foundational qualification."

10. Learned Additional Chief Standing Counsel for the State in his arguments first referred and relied on paragraphs 3B, 3C, 3D and 3E of the counter affidavit, and paragraph 4 of supplementary counter affidavit, which are as follows:-

Paragraphs 3B, 3C, 3D and 3E of the counter affidavit.

"3B. That the selection process for filling up the post of Forest Guard from the Seasonal Workers was initiated in accordance with the U.P. Lower Subordinate Service Rules, 1980 as amended in the State of Uttarakhand in the year 2007. The petitioner applied for the post of Forest Guard in pursuance to the advertisement issued in daily newspaper "Rashtriya Sahara". The petitioner had submitted the certificate of Adhikari Pariksha from the Gurukul Vishwavidhyala, Vrindavan, Mathura. The petitioner was allowed to appear in the examination on the ground that the Secretary, Uttarakhand School Education Board, Ramnagar vide his letter dated 16.5.2012 has specified that the certificate of Adhikari Pariksha obtained from the said institute prior to 27th August, 2007 is recognised.

3C. That the Hon"ble Allahabad High Court has held in writ petition no.72328/2011 vide its order dated 14.12.2011 that the Adhikari Pariksha from Gurukul Vishwavidhyala, Vrindavan, Mathura is fictitious. Copy of the said order passed by the Hon"ble Allahabad High Court is being filed herewith and marked

as Annexure No. CA-1 to this counter affidavit.

3D. That it is pertinent to mention here that this Hon"ble Court in writ petition no.392(S/S) of 2013 Bharat Singh Rana v. State of Uttarakhand and others had held that the certificate of Adhikari Pariksha obtained from the Gurukul Vishwavidhyala, Vrindavan, Mathura is nonest in the eyes of law and the petitioner has obtained his certificate of Adhikari Pariksha from Gurukul Vishwavidhyala, Vrindavan, Mathura, therefore, his appointment was rightly cancelled by the answering respondent.

3E. That moreover, the receiver of Arya Pratinidhi Sabha, U.P. has also clarified that the certificate issued by the Gurukul Vishwavidhyala, Vrindavan, Mathura after the year 2003, are totally fake. True copy of the letter dated 16th April, 2009 is being filed herewith and marked as Annexure No. CA-2 to this counter affidavit."

Paragraph 4 of supplementary counter affidavit:

"4. That the contents of para no.3 & 4 of the supplementary rejoinder affidavit are not admitted as stated. It is submitted that the Divisional Forest Officer Tehri Dam Forest Division Tehri wrote a letter vide letter no.974 and 975 dated 12.04.2013 to the Gurukul Vishwavidhyalaya Vrindawan for verification of mark-sheet of one Smt. Vijay Uniyal, Shri Govind Lal who have passed the Adhikari Pariksha in the year 2004 and 2006 respectively from the Gurukul Vishwavidhyalaya Vrindawan, Mathura. In turn to the query raised by the Division Forest Officer Tehri Dam Forest Division the Vice Chancellor of Gurukul Vishwavidhyalaya Vrindawan, Mathura has informed that there is no record of these mark sheet and there is no possibility of the verification. Along with the said letter dated 12.05.2013 the letter bearing no.91 dated 16.04.2009 issued by the Receiver was also sent. The copy of the letter dated 12.05.2013 along with the letter dated 16.04.2013 are being filed herewith and marked as Annexure No. SCA-1 and 2 respectively to this affidavit."

11. On the other hand, the learned Addl. C.S.C. submits that since the petitioner does not possess the requisite qualification, his services were rightly terminated. He submits that in fact, Divisional Forest Officer, Tehri Dam, Forest Division, Tehri wrote a letter on 12.04.2013 to Gurukul Vishwavidhyalaya Vrindawan for verification of mark-sheet of one Smt. Vijay Uniyal and Shri Govind Lal who have passed Adhikari Pariksha in the year 2004 and 2006, respectively from Gurukul Vishwavidhyalaya Vrindawan, Mathura. In turn to the query raised by the Divisional Forest Officer, Tehri Dam, Forest Division Tehri, the Vice Chancellor of Gurukul Vishwavidhyalaya Vrindawan, Mathura has informed that there is no record of their mark-sheets and there is no possibility of verification. Along with the said letter dated 12.05.2013, the letter dated 16.04.2009 issued by the Receiver was also sent. In the said letter of the Receiver, it is written that after 2003 no Adhikari Pariksha was conducted and certificate issued thereafter is forged. He further submits that in view of the fact that the petitioner was having

forged certificate there was no need to conduct an inquiry. In support of his submission, he placed reliance on the judgment of the Hon''ble Supreme Court passed in the case of Mohd. Sartaj & another v. State of U.P. & others reported in 2006(2) SCC 315. Paragraphs 19 and 20 of the said judgment are relevant, which are reproduced below:

"19. In the present case, the appellants' case fall within the exception laid down in S.L. Kapoor case and other supporting cases, as admittedly, the appellants were not qualified and they did not possess the BTC or Hindustani Teacher's Certificate or Junior Teacher's Certificate or Certificate of Teaching or certificate of any other training course recognised by the State Government as equivalent thereto at the time of their initial appointment. In view of the basic lack of qualifications, they could not have been appointed nor their appointment could have been continued. Hence the appellants did not hold any right over the post and therefore no hearing was required before the cancellation of their services. In the present case, the cancellation order has been issued within a very short span of time giving no probability for any legitimate expectation to the appellants regarding continuation of their service. There was no separate appointment order issued in favour of the appellants but the memorandum dated 19- 6-1985 wherein the list of selected candidates was published, provided that all the selected candidates must join their respective schools/colleges within 15 days and from this the nature of appointment made cannot be ascertained. Moreover, the cancellation order itself gives an opportunity that if they do hold and possess BTC qualification along with Intermediate qualification, they may contact and get the same verified on 14-8-1985 by the appointing authority and they may bring this to the notice of the concerned authorities. The copy of the order of cancellation was also sent to the Principal concerned of the institution with the remarks that he should relieve the Urdu teacher with immediate effect if he did not possess the certificate of passing the examination of Intermediate and BTC; and, if he possessed these certificates he should submit the same to the office of the District Basic Education Officer, Muzaffarnagar. Therefore, it is apparent that any person having the basic qualification for the appointment can produce it before the official concerned so that immediate steps can be taken with regard to the order of appointment cancellation.

20. In our opinion, on the above facts no prejudice has been caused to the appellants by not serving notice or giving hearing before the order of cancellation was issued."

12. Learned Addl. C.S.C. further submits that earlier a judgment was rendered by Hon''ble Justice P.C. Pant (as His Lordship then was) in Writ Petition No. 1945 (M/S) of 2007 titled as "Vimal Gyan Jyoti Uchhatar v. State of Uttarakhand and others", wherein it was held that recognition of Adhikari Examination, conducted by Gurukul Vishwa Vidyalaya, Vrindawan, prior to its cancellation in 2007, would remain unaffected, but this judgment does not help the petitioner as in paragraph 4 of the said judgment, it is written that the recognition granted to

Gurukul Vishwavidhyalaya is cancelled by Government of India vide notification dated 22.11.1979, and in view of this fact, any certificate granted by the said Vishwavidhyalaya is not valid.

13. We have heard learned counsel for the parties and perused the record.

14. Before dealing with the arguments of learned counsel for the parties, we would refer Section 7, 15 and 16 of The Intermediate Education Act, 1921 (hereinafter referred to as the 1921 Act), which provides as follows:-

"7. Power of the Board:- Subject to the provisions of this Act, the Board shall have the following powers, namely:

(1) To prescribe course of instructions, text-book, other books and instructional material, if any, for the High School and Intermediate classes in such branches of education as it thinks fit;

(1A)

(2) to grant diplomas or certificates to persons who-

(a) have pursued a course of study in an institution admitted to the privileges of recognition by the Board, or

(b) are teachers, or

(c) have studied privately, under conditions laid down in the Regulations, and have passed the examinations of the Board under like conditions;

(3)

(4) to recognise institutions for the purposes of its examination;

(5) to admit candidates to its examinations;

(6) to (II)

(12) to do all such other acts and things as may be requisite in order to further the objects of the Board as a body constituted for regulating and supervising High School and Intermediate Education."

"15. Power of Board to make Regulations-

(1) The Board may make Regulations for the purpose of carrying into effect the provisions of this Act.

(2) In particular and without prejudice to the generality of the foregoing power the Board may make Regulations providing for all or any of the following matters, namely,:-

(a)

(b) the conferment of diplomas and certificates;

(c) the conditions of recognitions of institutions for the purpose of its examination;

(d)

(e) the conditions under which candidates shall be admitted to the examination of the Board and shall be eligible for diplomas and certificates.

(f)

(g)

(h)

(i)

(j) the admission of institutions to the privileges of recognition and the withdrawal of recognition;

(k)

(l)

(m)

"16. Previous publication and sanction of Regulations made by the Board.-

(1) Regulations under Section 15 shall be made only with the previous sanction of the State Government and shall be published in the Gazette.

(2) The State Government may sanction any such Regulation proposed by the Board either with or without modification as it thinks fit."

15. The Uttar Pradesh Board in exercise of its power under Section 15 of the 1921 Act framed Regulation and under Section 16(2) of the same Act accorded equivalence to the Adhikari Parikasha as High School Examination of U.P. Board under Chapter 14 Regulation 2(30). We refer Regulation 2(30) of Chapter XIV of the Regulations framed under the 1921 Act, which is reproduced hereunder:

Chapter XIV

Intermediate Examination

1

2. Following examinations are declared equivalent to High School examination of the Council for the purpose of making the candidates eligible for admission for pursuing prescribed course of study for intermediate examination

3

.....

.....

.....

(30) Adhikari Pariksha with English conducted by Gurukul Vishwavidhayalaya, Vrindavan, and passed in one year.

.....

.....

.....

16. Thus, it is clear that Adhikari Pariksha by Gurukul Vishwavidhayalaya, Vrindavan was granted equivalence to high school and the same was valid in the State of Uttarakhand till 27.08.2007.

17. We would also refer Rule 8(2) of The U.P. Lower Subordinate Forest Service Rules, 1980 (for short, 1980 Rules). Rule 8(2) is extracted hereunder:-

"8(2) Guards Essential.-Must have passed the High School Examination with Science or Agriculture of the U.P. Board of High School and Intermediate Examination or and examination recognised as equivalent thereto."

18. According to Rule 8(2) of 1980 Rules, the academic qualification for all the candidates for direct recruitment for the post of Forest Guard is High School Examination with Science or Agriculture of the U.P. Board of the High School and Intermediate Examination or examination recognised as equivalent thereto. We find that Adhikari Pariksha was given equivalence to the High School Examination by the U.P. Board and as per Rule 8(2) of 1980 Rules, the petitioner was eligible for the post of Forest Guard.

19. Now, question before us is whether the Adhikari Pariksha certificate, which was issued to the petitioner in the year 2005, is valid or not.

20. At this juncture, we would like to refer the judgments, one rendered by Hon"ble Justice P.C. Pant (as His Lordship then was) in Writ Petition No. 1945 (M/S) of 2007 and another by Hon"ble Justice Sudhanshu Dhulia in Writ Petition No. 392 (S/S) of 2013. Same are extracted below:-

"Writ Petition No. 1945 (M/S) of 2007

Heard.

2. By means of this writ petition, the petitioner has sought writ in the nature of certiorari quashing the order dated 25.07.2007, passed by Secretary, Uttarakhand School Education, Ramnagar (a copy of which is annexure-9 to the writ petition). A mandamus has also been sought, commanding the respondents to treat the certificate of Adhikari Pariksha and Pandit Pariksha, passed by the petitioner as equivalent to High School and Intermediate examination of Uttarakhand/U.P. Board.

3. Brief facts of the case are that the petitioner is an educational institution,

recognised by Gurukul Vishwa Vidyalay, Vrindawan and it imparts education preparing the students for Adhikari Pariksha and Pandit Pariksha, held by the aforesaid Gurukul Vishwa Vidyalaya. It is pleaded in the writ petition that under Regulation 2(30) of Chapter 14 of the Regulations, framed under U.P. Intermediate Education Act, 1921, the Adhikari examination, conducted by the Gurukul Vishwa Vidyalay, is recognised as High School Examination of U.P. Board. On the basis of passing out of Adhikari Pariksha, the students are admitted in Class 11th. However, vide order dated 25.07.2007, respondent No. 4, has informed that the University Grants Commission has cancelled recognition of Gurukul Vishwa Vidyalaya, Vrindawan. It has further been communicated that the examinations conducted by Gurukul Vishwa Vidyalaya, are no more recognised as equivalent to those held by Uttarakhand School Education Board. The petitioner has alleged that this is affecting the career of the students in the college of the petitioner. Relying on the order dated 10.07.2006, passed by Allahabad High Court in writ petition No. 33677 of 2006, Tabasum Jahan v. State of Uttar Pradesh, relief sought in the writ petition are pressed.

4. In the counter affidavit filed on behalf of the respondents, it has categorically been stated that the recognition, granted to Gurukul Vishwa Vidyalay, vide notification dated 23.10.1978, is cancelled by the Government of India, vide notification no. F-7/77-SKT-2 dated 22.11.1979. It is further stated in the counter affidavit that since "Adhikari Examination" was mentioned in Regulation 2 (30) of Chapter 14 of Regulations framed under U.P. Intermediate Education Act, 1921, the students having certificate of Adhikari Examination were permitted to study in the intermediate classes. In the year 2006, it came to the notice of Secretary of Uttarakhand Education Board that there exists a doubt relating to standards of examination conducted by Gurukul Vishwa Vidyalaya Vrindawan and accordingly Secretary, School Education Board, requested Human Resources Development of Government of India, to intimate about the status of the aforesaid Vishwa Vidyalaya. The Secretary, Government of India, Ministry of Human Resources, vide its letter dated 03.08.2006, informed the Secretary of Uttarakhand School Education Board that recognition granted to different courses conducted by Gurukul Vishwa Vidyalaya, are cancelled vide notification dated 22.11.1979. It is further stated in the counter affidavit that in writ petition No. 1109 (M/S) of 2006, Ravinandan Kumar Jain v. State of Uttaranchal and others, issue relating to recognition of examination held by aforesaid Vishwa Vidyalaya, was raised and vide order dated 19.08.2006, certain directions were issued to the State Government to clarify the position. In compliance of said order the Uttaranchal Government, vide its order dated 169/XXIV/2007, dated 27.08.2007, declared that the Adhikari Examination, conducted by the Gurukul Vishwa Vidyalaya Vrindawan, are derecognised.

5. Having heard learned counsel for the parties, and after perusing the aforesaid Government Order No. 169/XXIV/2007, dated 27.08.2007, a copy of which is annexure CA-4 to the counter affidavit, it is clear that Adhikari Pariksha, held by Gurukul Vishwa Vidyalaya, are no more recognised in the State of Uttarakhand,

as equivalent to the High School Examination, conducted by Uttaranchal School Examination Board.

6. As far as Pandit Pariksha is concerned, it is argued on behalf of the learned Standing Counsel that since said examination was never recognised, as such, there was no need to derecognise the same.

7. In the circumstances, the writ petition is dismissed with the observation that recognition of Adhikari Examination, conducted by Gurukul Vishwa Vidyalaya, Vrindawan, prior to its cancellation in 2007, would remain unaffected.

(Prafulla C. Pant, J.)

Dated 03.12.2007"

"Writ Petition No. 392 (S/S) of 2013

"1. Heard Mr. Tarun P. S. Takuli, Advocate for the petitioner in Writ Petition No. 638/2013 (S/S), Mr. Atul Babuguna, Advocate for the petitioners in Writ Petition No. 392/2013 (S/S) and Mr. Subhash Upadhayay, Standing Counsel for the State of Uttarakhand.

2. Since a common question arises in both the writ petitions, hence, these two writ petitions are being decided together by this common judgment.

3. The petitioners are working as daily-wagers in the forest department. An advertisement was issued calling for applications from the eligible candidates for the post of Forest Guard. One of the essential qualifications for the post of Forest Guard was that the dailywage worker already employed in the forest department who possessed high school qualification can also apply.

4. The petitioners, who were having certificate of "Adhikari Pariksha" from Gurukul Viswavidyalaya Vrindavan, Mathura, also applied for the said post, but they are not being allowed by the respondent authority to appear in the recruitment process on the ground that they are not having the qualification of High School. The petitioners contend that they are having a qualification of "Adhikari Pariksha" obtained from the Gurukul Viswavidyalaya Vrindavan, Mathura and the same is equivalent to "High School Examination". Learned Standing Counsel for the State relied upon a decision of the Allahabad High Court passed in Writ Petition No. 72328 of 2011 titled as "Surjeet Singh v. State of U.P. & others" wherein it has been held that the Gurukul Viswavidyalaya Vrindavan, Mathura was found to be a fictitious institution and fake university by the University Grant Commission and the said university (Gurukul) was running in contravention of provisions of University Grant Commission Act, 1956. The Allahabad High Court was held:-

"3. The short question now remains to be considered, whether an examination conducted by such university and marks sheets and certificates issued thereby even for certain period, can be treated to be valid or not.

4. Gurukul Viswavidyalaya Vrindavan claims to be a self styled university and if its very establishment and continuance is fake and contrary to law, any examination irrespective of time or period would be void. Such a university cannot confer any valid qualification. Fraud vitiates everything. A fake university cannot confer a degree, diploma or certificate or other qualification to any person since entire action of a fake university would suffer same vice and would have no legal consequences. It is in these circumstances, in my view, petitioner's certificate obtained from Gurukul Viswavidyalaya Vrindavan cannot be conferred any validity merely for the reason that the same was obtained in 1999 when its status as a fake university was not declared by any statutory body in State or Country. In my view, petitioner is not entitled for any relief."

5. Learned Standing Counsel for the State further contends that the petitioners before this Court are having certificates of "Adhikari Pariksha" from the same University i.e. Gurukul Viswavidyalaya Vrindavan, Mathura, which is not recognised by the University Grants" Commission and the certificate of "Adhikari Pariksha" obtained from the said University is the nonest in the eyes of law. Since the petitioners do not have the qualification of High School for the post of Forest Guard, the writ petition lacks merit and is dismissed as such. No order as costs.

(Sudhanshu Dhulia, J.)

Dated 16th July, 2013"

21. We find that equivalence was granted to the Adhikari Pariksha by the U.P. Board. U.P. Intermediate Education Act, 1921 and Regulation framed thereafter were adopted by the State of Uttarakhand also. On 27th August, 2007 Government Order No. 169/XXIV (5)/2007 was issued, by which recognition granted to Adhikari Pariksha of Gurukul Vishwavidhyalaya Vrindawan, Mathura, as equivalent to High School Examination, was cancelled. Thus, it is clear that till 27th August, 2007 Adhikari Pariksha was recognised in the State of Uttarakhand. Hon"ble Justice P.C. Pant (as His Lordship then was) in his judgment held that recognition of Adhikari Pariksha conducted by Gurukul Vishwavidhyalaya Vrindawan, Mathura, prior to its cancellation in 2007, would remain unaffected. In our view, the view taken by His Lordship is correct. It is a fact that before that date, the Adhikari Pariksha certificate issued by Gurukul Vishwavidhyalaya, Vrindawan was treated as valid certificate in the State of Uttarakhand.

22. As far as judgment given by subsequent Bench in WPSS No. 392 of 2013 is concerned, we find that the learned Single Judge has, in fact, relied on the statement of the Standing Counsel that Adhikari Pariksha is not recognised by the University Grants Commission and certificate obtained from the said University is non-est in the eyes of law. While doing so, learned Single Judge referred the judgment of Allahabad High Court in the matter of Surjeet Singh v. State of U.P. & others in Writ Petition No. 72328 of 2011. The judgment dated 03.12.2007 rendered by earlier Bench of this Court regarding Adhikari Pariksha

was not discussed. We find from the record of Writ Petition No. 392 of 2013 (S/S), which was decided by subsequent Bench, that copy of judgment dated 03.12.2007 passed in WPMS No. 1945 of 2007, which was decided by earlier Bench, was in fact, annexed as Annexure 3 with the writ petition.

23. So far as the submission of learned Addl. C.S.C. that in the earlier judgment dated 03.12.2007 it was referred that recognition granted to Gurukul Vishwavidyalaya vide notification dated 23.10.1978 was cancelled by the Government of India, vide notification dated 22.11.1979, is concerned, we find that the learned Single Judge at that time simply referred to the counter affidavit filed on behalf of the respondents. In our view, the Board is not concerned about the degrees being awarded to the students by the Universities; it is concerned with grant of certificates and diploma about High School examination and Intermediate examination and certificates which are declared equivalent to the High School and Intermediate Examination. Thus, it is clear that the Board and U.G.C. operate in clearly distinct spheres, one relates to High School and Intermediate Education whereas other relates to Higher Education. Here, we are dealing with the certificate issued by the Gurukul Vishwavidhyalaya Vrindawan, Mathura which was given equivalence to the High School by the U.P. Board and also by the Uttarakhand Board upto 27.08.2007. Therefore, this argument of learned Additional Chief Standing Counsel is not accepted.

24. Apparently, the learned Single Judge has proceeded on the basis that Adhikari Pariksha given by the Gurukula Vishwidhyalaya Vrindawan is not recognised by the University Grants Commission and it is non-est, which was the contention of the learned Standing Counsel. We do not think that recognition of the certificate, which is not a degree, by the University Grants Commission is required. Moreover, we find that in the subsequent judgment, the Full Bench of the Allahabad High Court has held in the following manner:-

"(a) Adhikari Pariksha Certificate issued by the Gurukula Vishwidhyalaya, Vrindawan, Mathura, up to the year 2008 i.e. till it was recognised by the U.P. Board of High School and Intermediate Education as equivalent to High School, obtained with English as one of the subject, and passed in on year, is a valid qualification equivalent to High School, regardless of Gurukul having been declared a fake University by the UGC."

25. Second argument of learned Additional Chief Standing Counsel is that since the certificate obtained by the petitioner was forged one, hence, there was no necessity for conducting regular inquiry in the matter. In support of his submission, he relied upon the case of Mohd. Sartaj (Supra). We find ourselves in agreement with the submission of learned Additional Chief Standing Counsel that if the certificate was forged then there is no necessity of regular inquiry in certain cases. But in the present case we find that there is nothing on record to show that any regular inquiry was ever conducted by the respondents about the certificate of the petitioner being forged. Without such inquiry or such finding respondents cannot simply treat the certificate as forged. Even in the impugned

order also, there is not a single word about the genuineness of the certificate or any detailed inquiry being conducted in regard. Impugned order simply refers the letter of the Receiver. We have also perused the letter of Receiver and find that the letter is not addressed to respondent no.3, it only says "To Whom It May Concern".

26. The case of Mohd. Sartaj (2006)2 SCC 315 (Supra) pertains to the persons who were not having BTC qualification, which was an essential qualification and secondly, cancellation was made within very short span of time. In the present case, we find that the petitioner in fact was working for more than 20 years and he was permitted to appear in the examination on the basis of letter written by the Uttarakhand Board to respondent no.3 that the Adhikari Pariksha is valid. He was selected and thereafter was given appointment, his services were also confirmed. In our view, in respect of regular employee, respondents should have initiated regular inquiry. Without regular inquiry, the punishment awarded to the petitioner is bad.

27. Moreover, none of the arguments of the learned Additional Chief Standing Counsel can be accepted in view of the judgment delivered by learned Single Judge in Writ Petition No. 1945 (M/S) of 2007, which we have already referred earlier.

28. In the light of the above discussion, the view expressed by the learned Single Judge in Writ Petition No. 1945 (M/S) of 2007 represents correct view in law and the decision taken in the subsequent judgment cannot be upheld by us.

29. In view of above discussion, we answer the question formulated by learned Single Judge in the following manner:-

"The certificate of Adhikari Pariksha issued by Gurukul Vishwavidhyalaya Vrindawan, Mathura prior to 2007, would be treated as equivalent to High School Examination of U.P. Board and Uttarakhand Board till 27.08.2007."

30. Consequently, the writ petition is allowed. Order passed by respondent no.3 dated 25.09.2013 is quashed.

31. No order as to costs.