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**(2025) 06 SHI CK 0698**  
**In the High Court Of Himachal Pradesh**  
**Case No : CWP Nos.610 & 5155 Of 2025**

Kavita Sharma

APPELLANT

Vs

State Of H.P. & Ors

RESPONDENT

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**Date of Decision :** 05-06-2025

**Acts Referred:**

Code of Civil Procedure, 1908 — Section 96, 100, Order 26 Rule 9, Order 26 Rule 10, Order 26 Rule 10(1), Order 26 Rule 10(2), Order 26 Rule 10(3)  
Himachal Pradesh Land Revenue Act, 1953 — Section 118

**Citation :** (2025) 06 SHI CK 0698

**Hon'ble Judges :** Vivek Singh Thakur, J

**Bench :** Single Bench

**Advocate :** Navlesh Verma, K.D. Sood, Vivek Thakur

**Final Decision :** Dismissed

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## Judgement

Jyotsna Rewal Dua, J

CMP-3179 in CWP-610 of 2025

The application for intervention is allowed in the interest of justice and to stand disposed of. Learned counsel for the Intervener has been heard.

CWP Nos.610 & 5155 of 2025

The case.

The petitioners possess two different degrees, both obtained from respondent-Himachal Pradesh University, one through the 'regular mode' and the other through the 'private/ distance mode'. Some period spent in pursuing one degree overlaps with the period spent in pursuing the other. They participated in a selection process for a post wherein possession of both degrees was prescribed as an essential educational qualification. At the stage of declaration of result, respondent-Himachal Pradesh Public Service Commission, while scrutinizing the documents of the candidates, rejected the petitioners' candidature on the ground

that they had obtained two degrees in the same session and year. This has led to the institution of the instant petitions.

## 2. Facts.

2(i). Respondent-Commission issued an advertisement on 17.10.2023, inviting online applications from desirous and eligible candidates for recruitment to 102 posts of Lecturer (School-New) Political Science. The advertisement prescribed following essential qualifications for the said post:-

“Essential Qualification(s)

MASTER DEGREE in POLITICAL SCIENCE/MASTER DEGREE in PUBLIC ADMINISTRATION and BACHELOR DEGREE in B.ED (EDUCATION)/BACHELOR DEGREE in TWO YEARS INTEGRATED M.SC. ED. COURSE.

Note:-

The candidates having Master Degree in Public Administration are also eligible for the post of Lecturer (School- New) in Political Science subject.”

As per above, Master Degree in Political Science/Master Degree in Public Administration and Bachelor Degree in B.Ed. Education/Bachelor Degree in Two-years integrated M.Sc.Ed. Course were essential qualifications.

2(ii). Educational qualifications of the petitioners are as under:-

Sr.

No.

Name

Degree name

Session

Mode of Education

1.

Kavita Sharma

(Petitioner in CWP No.610 of 2025)

M.A. (Political Science) from HPU

November 2017 – June 2019

Private Mode

B.Ed. from HPU

November 2018 – June 2020

Regular Mode

2.

Mohit

(Petitioner in CWP No.5155 of 2025)

M.A. (Political Science) from HPU

November 2015 –

November 2017

Distance Mode

B.Ed. from HPU

June 2016 –

June 2017

Regular Mode

2(iii). Both the petitioners participated in the selection process for the post in question. Admit cards were issued to them by the respondent-Commission.

2(iv). On 02.12.2024, respondent-Commission after scrutiny of documents, notified list of proposed rejected candidates. Name of petitioners figured at Serial No.66 (Kavita Sharma) and at Serial No.8 (Mohit) with one common remark that 'the petitioners had passed the dual degree of M.A. (Political Science) and B.Ed. in the same session and same year.'

It appears that petitioners represented against their provisional rejection. Respondent-Commission notified final list of rejected candidates for the post in question on 02.01.2025. Following reasons were assigned for rejecting petitioners' candidature: -

"Sr.

No.

Appl. No.

Roll No.

Name of the applicant.

S/Sh/Smt/Ms.

Reasons of proposed rejection

Remarks

6.

110857

90600551

Mohit

(CWP-5155 of 2025)

The candidate has passed

the dual degree of M.A. (Political Science) & B.Ed. degree in the same session and same year.

The candidate has not submitted requisite documents.

Hence, rejected.

10.

1149820

90602730

Kavita Sharma

(CWP-610 of 2025)

i) The

candidate has passed the dual degree of

M.A. (Political Science) & B.Ed. degree in the same session and same year.

ii) Latest OBC certificate on parental basis."

The candidate

has submitted

latest OBC certificate.

However, the

candidate has

passed dual

degree M.A. (Political Science) & B.Ed. in the year 2019-2020 whereas the UGC has allowed dual degree course vide notification dated 13-04-

2022 which was adopted by HPU vide notification No. 1-10/2024-

HPU (DS) dated 16-03-2024.

Hence, rejected."

Feeling aggrieved against the rejection of their candidature, the petitioners have

preferred these writ petitions.

2(v). In CWP No.610 of 2025, notice was issued on 08.01.2025. A detailed order was passed on 09.01.2025 when respondent-Commission was directed to allow the petitioner (Kavita Sharma) to participate in further selection process with the rider that her result shall not be declared and will abide by the outcome of the writ petition. As a result thereof, petitioner (Kavita Sharma) participated in the selection process and in view of this order, vide communication dated 01.04.2025 (Annexure P-8 of CWP No.5155/2025), the respondent-Commission also permitted the petitioner-Mohit (in CWP No.5155 of 2025) to participate in the selection process.

Pursuant to further orders passed in the matters, respondent-Commission produced the result of the petitioners in sealed cover on 10.04.2025. Looking at petitioners' result, necessity arose to hear these matters on merit. The parties completed the pleadings. Learned counsel for the parties have been heard. Intervener in CMP No.3179 of 2025 in CWP No.610 of 2025 has also been heard.

3. Learned counsel for the petitioners have made submissions on following main points: -

3(i). There is no bar upon a student to simultaneously pursue one degree through regular mode and the other through Private/Distance mode in the First Ordinances of Himachal Pradesh University (hereinafter referred to as 'HPU Ordinances').

3(ii). The University Grant Commission ('UGC') Guidelines, April, 2022, on the basis of which the respondent-Commission rejected the candidature of the petitioners are not binding. The UGC Guidelines were issued in April, 2022, whereas petitioners had obtained their two degrees much prior to the issuance of these guidelines.

The Guidelines issued by the UGC in the year 2022 cannot retrospectively affect the degrees obtained by the petitioners prior to the issuance of the Guidelines. The UGC Guidelines had not been adopted by the respondent-University at the relevant time. Respondent-Commission could not have rejected petitioners' candidature merely on the basis of issuance of UGC Guidelines, April 2022.

3(iii). It was respondent-University that had admitted the petitioners in both the courses. No facts were concealed from the University by the petitioners. Each petitioner was assigned a single registration number by the University. Using their student registration numbers, petitioners had applied for admission in both the degree courses. Respondent-University was aware of it while admitting petitioners in two degree courses. It had not stalled their admissions. Petitioners were permitted to simultaneously pursue both the degrees.

3(iv). Petitioners' degrees are valid as on date. Their degrees have not been nullified. Under the circumstances, respondent-Commission could not have rejected petitioners' candidature on the ground of their being in possession of

two degrees pursued with some period overlapping between the courses.

3(v). The respondent-Commission cannot be permitted to play with the careers of the petitioners at this stage by not accepting their candidature on account of their being in possession of two degrees pursued with some overlapping period between the two.

4. For the sake of convenience and to avoid repetition, the submissions made by learned counsel for the parties on the above broad points and discussion thereupon is being elaborated hereinafter.

Respondent-Commission has rejected the candidature of petitioners on the ground that they had obtained dual degrees, i.e. Masters Degree in Political Science and B.Ed. in the same session and same year, which is impermissible under the UGC Guidelines April, 2022, statedly adopted by the respondent-University on 16.03.2024. The relevant portion of the said Guidelines issued in April, 2022, under the subject 'for pursuing two academic programmes simultaneously' reads as under:-

"Guidelines

"1. A student can pursue two full time academic programmes in physical mode provided that in such cases, class timings for one programme do not overlap with the class timings of the other programme.

2. A student can pursue two academic programmes, one in full time physical mode and another in Open and Distance Learning (ODL)/Online mode; or up to two ODL/Online programmes simultaneously.

3. Degree or diploma programmes under ODL/Online mode shall be pursued with only such HEIs which are recognized by UGC/Statutory Council/Govt. of India for running such programmes.

4. Degree or diploma programmes under these guidelines shall be governed by the Regulations notified by the UGC and also the respective statutory/professional councils, wherever applicable.

5. These guidelines shall come into effect from the date of their notification by the UGC. No retrospective benefit can be claimed by the students who have already done two academic programmes simultaneously prior to the notification of these guidelines."

For defending impugned rejection of the petitioners' candidature, learned counsel for the respondent-Commission submitted that as per Clause 2 of above extracted Guidelines, a student can pursue two academic programmes, one in full time Physical mode and another through Open and Distance Learning (ODL)/Online mode simultaneously, but this benefit can be availed only from the date of issuance of Guidelines, i.e. April, 2022. Clause 5 of the Guidelines clearly stipulates that no retrospective benefit can be claimed by the students, who have already done two academic programmes simultaneously prior to the notification

of these Guidelines. In other words, simple case of respondent-Commission is that it was only subsequent to the issuance of the Guidelines in April, 2022, that a student has been allowed to pursue two academic programmes, one in full time Physical mode and another through Open/Distance Learning mode. The petitioners having pursued & obtained two simultaneous degrees, one in Physical mode and other through Private/Distance Learning mode, prior to the issuance of UGC Guidelines of April 2022, cannot get any benefit of these Guidelines and these degrees cannot be treated as valid.

Heard learned counsel on the above aspect. My observations are as under:-

4(i). There is another way of looking at UGC Guidelines April, 2022 – the positive way. That is under Clause 1 of UGC Guidelines of April, 2022 (13.04.2022), a student can even pursue two full time academic programmes in Physical mode, provided class timings for one programme do not overlap with the class timings of the other programme.

Clause 2 of said Guidelines, provides for pursuing two academic programmes, one in full time Physical mode and another through Open and Distance Learning mode.

As per Clause 5, the Guidelines were to come into force from the date of their being notified by the UGC. It appears that respondent-Commission, while rejecting petitioners' candidature on 02.01.2025, has assumed 13.04.2022, i.e. date of issuance of UGC Guidelines, to be the date of their being notified as well. This was a wrong assumption, hastily drawn by the respondent-Commission. During hearing of the case, learned counsel for the intervener placed on record copy of public notice dated 23.04.2025 along with notification dated 26.03.2025, whereby University Grant Commission (Minimum Standards of Instruction for the Grant of Undergraduate Degree and Postgraduate Degree) Regulations, 2025, were notified. Some portion thereof relevant to context is as under:-

"5. A student can pursue two UG programmes simultaneously with flexibility in terms of change of discipline/institution/mode of learning as given in the UGC's Curriculum and Credit Framework for Undergraduate Programmes, and Guidelines for Pursuing Two Academic Programmes simultaneously.

6. A student can pursue two PG programmes simultaneously with flexibility in terms of change of discipline/institution/mode of learning as given in the UGC's Curriculum and Credit Framework for Postgraduate Programmes and Guidelines for Pursuing Two Academic Programmes simultaneously."

Learned counsel for the respondent-University could not point out any clause from the UGC Regulations 2025 that prohibits a student from pursuing two degree courses simultaneously, one full time through physical mode and the other through private/distance mode.

Respondent-Commission's not accepting petitioners' degrees and consequently, rejecting their candidature on the basis of Clause 5 of the UGC Guidelines, 2022,

which were admittedly not even notified at the relevant time, is not justified.

The UGC Guidelines, 2022, came up for consideration in *Basic Siksha Adhikari vs. Laxmi Shakya & Ors.* 2024 SCC OnLine All. 1808. The Court held that prior to the aforesaid Guidelines issued in April, 2022, student was not allowed to pursue two full time academic programmes in physical mode simultaneously. In the instant case, petitioners had simultaneously pursued two degree courses, but one full time in physical mode and the other through private/distance mode, before the issuance of UGC Guidelines April, 2022. Relevant portion of the decision is as under:-

"34. From the plain reading of the aforesaid guidelines, it appears that in pursuance of the New Education Policy in 2020 the Government enables a person to pursue two academic programmes subject to the aforesaid guidelines to the effect that such academic programmes are not overlapping to each other and timing of classes at different times or one full time course on physical mode and the other course is by way of open and distance learning mode or online mode. The aforesaid guidelines specifically provides that no retrospective benefit can be claimed by the students who have already done two academic programmes simultaneously prior to the notification of these guidelines which categorically indicates that prior to the aforesaid guidelines issued in the month of April, 2022, no person was allowed to pursue two full time academic programmes in physical modes simultaneously.

35. From the aforesaid discussion, it is crystal clear that as per the guidelines issued by the U.G.C., no person could undergo two full time academic programmes simultaneously and it is only after April, 2022, with certain restrictions as provided in the guidelines, it has been provided to a student for pursuing two academic programmes simultaneously. The U.G.C. has permitted the persons to undergo two academic programmes simultaneously subject to the conditions as laid down in the aforesaid guidelines."

In *Gulf Goans Hotels Co. Ltd. & Anr. Vs. Union of India & Ors.* (2014) 10 SCC 673 and *Ram Chandra Bera vs. State of West Bengal & Ors.* 2024 SCC OnLine Cal. 7421, it was held that in absence of due authentication and promulgation of the guidelines, the contents thereof cannot be treated as an order of the Government and would only represent an expression of opinion. Before a law can become operative, it must be promulgated or published. Relevant portion from the *Gulf Gaons Hotels'* decision is as under:-

"17. In the absence of due authentication and promulgation of the guidelines, the contents thereof cannot be treated as an order of the Government and would really represent an expression of opinion. In law, the said guidelines and its binding effect would be no more than what was expressed by this Court in *State of Uttaranchal vs. S.K. Vaish* (2011) 8 SCC 670 in the following paragraph of the report :

"It is settled law that all executive actions of the Government of India and the

Government of a State are required to be taken in the name of the President or the Governor of the State concerned, as the case may be [Articles 77(1) and 166(1)]. Orders and other instruments made and executed in the name of the President or the Governor of a State, as the case may be, are required to be authenticated in the manner specified in the rules made by the President or the Governor, as the case may be [Articles 77(2) and 166(2)]. In other words, unless an order is expressed in the name of the President or the Governor and is authenticated in the manner prescribed by the rules, the same cannot be treated as an order on behalf of the Government.” [Para 23]

“A noting recorded in the file is merely a noting simpliciter and nothing more. It merely represents expression of opinion by the particular individual. By no stretch of imagination, such noting can be treated as a decision of the Government. Even if the competent authority records its opinion in the file on the merits of the matter under consideration, the same cannot be termed as a decision of the Government unless it is sanctified and acted upon by issuing an order in accordance with Articles 77(1) and (2) or Articles 166(1) and (2). The noting in the file or even a decision gets culminated into an order affecting right of the parties only when it is expressed in the name of the President or the Governor, as the case may be, [pic]and authenticated in the manner provided in Article 77(2) or Article 166(2). A noting or even a decision recorded in the file can always be reviewed/reversed/overruled or overturned and the court cannot take cognizance of the earlier noting or decision for exercise of the power of judicial review.” [Para 24]”

4(ii). Furthermore, according to respondent-Commission, the respondent-University had in turn adopted the UGC Guidelines April 2022 by issuing following notification on 16.03.2024:-

#### “NOTIFICATION

On the recommendations of the Standing Committee of Academic Council vide Item No. 18 of its meeting held on 21.02.2024, the Executive Council vide spot Item No. 2 of its meeting held on 22.02.2024 approved the adoption of UGC Regulations to offer Twinning, Joint Degree and Dual Degree Programmes (notified by UGC on 05th May 2022) in principle and endorsed that the Himachal Pradesh University, Shimla shall define further the ibid guidelines in consonance with the foundational principles of UGC guidelines.

Sd/-

Dean of Studies

Dated: 16.03.2024”

Here again, the stand of respondent-Commission is factually incorrect. In terms of above notification, the respondent-University had adopted UGC Regulations notified on 05.05.2022. The said UGC Regulations pertain to a different subject, i.e. Twinning, Joint Degree and Dual Degree Programmes in relation to

collaboration between Indian and Foreign Higher Educational Institutions (in short 'UGC Regulations 2025'). The said UGC Regulations 2025 and the notification issued by the respondent-University on 16.03.2024 have absolutely no nexus with the petitioners' degrees. It appears that respondent-Commission has been over zealous in rejecting petitioners' candidature on the basis of Regulations/notifications, which were either not in existence or had no applicability whatsoever to the given facts.

Respondent-University in its reply has not pleaded having adopted UGC Guidelines, April 2022 or UGC Regulations, 2025.

4(iii). In the above background, the HPU Ordinances assume significance. Clause 3.3(a) of the HPU Ordinances referred to by the learned counsel for all the parties reads as under:-

"3.3(a): 1. No student shall be allowed to join two full time regular degree courses of study simultaneously. However, student shall be allowed to join the following certificates/ diplomas/ postgraduate diploma/ advanced postgraduate diploma courses, alongwith regular courses including Ph.D.

i) Certificate/ diploma courses in Foreign Languages (German, French and Russian)/ PGDPM & LW.

ii) Certificate in Computer Application.

iii) Certificate in Computer Programming.

iv) Any other part time certificate/diploma/ post-graduate diploma/ advanced post-graduate diploma degree courses may be introduced by the University or through ICDEOL in future.

2. Students will be allowed to join two degree (under-graduate/ postgraduate) courses through ICDEOL."

As per the above Clause:- No student shall be allowed to join two full time regular degree courses of study simultaneously. A student shall be allowed to join specified certificates/ diplomas/ postgraduate diploma/ advanced postgraduate diploma courses, along with regular courses including Ph.D; Students will be allowed to join two degree courses through ICDEOL.

Interpretation of above clause is bone of contention between the parties. According to the petitioners, the above clause does not bar a student from pursuing a regular degree course through physical mode along with a course through Private/Distance mode, whereas, according to learned counsel for the intervener, regular degree course remains the same, irrespective of a candidate pursuing it through regular (Physical)/Private/Distance mode; It's the mode of pursuing that changes and not the nature of course, which remains regular; Therefore, Clause 3.3(a) will bar a candidate from pursuing not only two regular degree courses simultaneously but also a regular degree course through regular mode together with a regular degree course through private/distance mode; Two

simultaneous degree courses can be pursued under the aforesaid clause only through ICDEOL/Distance Learning mode.

I am not inclined to accept the above interpretation of Clause 3.3(a) put forth by the learned counsel for the intervener:-

4(iii)(a). As per Clause 3.3(a), the clear prohibition upon a student is against joining two full-time regular degree courses of study simultaneously. The word 'student' includes, regular student/private student/student through distance learning. The manner in which words 'regular degree course' have been used in Clause 3.3(a) cannot be interpreted to mean that the same would include a course undertaken through Private/Distance mode as well. This would also be apparent from Clause 5.1, 5.2 and 5.3 of the HPU Ordinances, which pertain to private candidate. Relevant portion of the above Clauses reads as under:-

"5.1 Save as otherwise hereinafter provided no person shall be allowed to appear as a private candidate in any examination of the University.

5.2 The following categories of candidates may be permitted to appear as private candidates:-

(a) Those regular students who fail in any examination of the University; provided that they take examination within a period of three years;

(b) Those who fail to appear in any examination of the University after having completed the course of instruction and having fulfilled the other requirements prescribed for appearing at that examination; provided that they take the examination within a period of three years;

(c) Those who have obtained the Bachelor's degree in Faculty of Languages, Performing & Visual Arts, Social Science or Science but wish to qualify in an additional optional subject. In case of a Science subject the candidate shall study in an affiliated college and produce a certificate from the principal of the college that he has completed the prescribed course Provided that the candidate will take examinations for Part-I, II and III. He/she shall be allowed to sit for Part-I after completion of one year and for Part-II and III after another year.

(d) Those who have obtained the degree of Master of Arts in any subject, but wish to qualify in an additional course or option of a course, in the same subject;

(e) Those who have already obtained the Master's degree in the Faculties of Art, Science, Commerce and Business Administration, Law or Education or Acharya in Sanskrit language and literature from the University, or being residents of the areas within the territorial jurisdiction of the University had obtained any of these degrees from the Panjab University, Chandigarh before the establishment of the University or those who have obtained the aforesaid degrees from any University, established by law and are whole-time paid teachers in the University or a college affiliated to or maintained by it or an institution recognised by it and situated within the territorial jurisdiction of the University, and wish to improve

their Division.

(f) Those who have obtained the Master of Arts degree or Acharya in Sanskrit Language and Literature in any University established by law in India or M.Com. or M.B.A. under the Faculty of commerce and Business Administration or M.A. (Maths) under the Faculty of Arts of this University, but wish to obtain Master of Arts/Acharya Degree in any subject from this University.

(g) Those who have obtained Master of Arts degree in Education but wish to obtain Master of Arts degree in any subject falling under the Faculty of Arts including the subject of Psychology in which case the candidates will be required to attend the practicals from a recognised institution.

5.3 Persons of the following categories, who are residents of the areas within the territorial jurisdiction of the University may be permitted to appear as private candidates in the examinations of the Faculty of Arts without their having completed the prescribed course of instruction in an affiliated college or Teaching Department of the University or without being enrolled in the Correspondence Courses, if they are otherwise eligible to appear in the examination:

Provided that a candidate having degree of B.Sc. with Mathematics may be allowed to appear in M.Sc. Mathematics, if otherwise eligible.

(a) Women.

(b) Whole- time paid teachers, National Fitness Corps Instructors, Drill Masters, Physical Training Instructors, Directors of Physical Education, Sports Coaches, Laboratory Assistants, Laboratory Attendants and Lecture Assistants; provided that they have been working as such for at least twelve months in any of the following institutions or organisations:-

(i) School recognised by the Himachal Pradesh Board of School Education, or school recognised by the Council for Indian School Certificate Examination or by the Central Board of Secondary Education and situated within the territorial jurisdiction of the University.

or

(ii) College affiliated to or maintained by or the Teaching Departments of the University.

or

(iii) Educational institution under the direct control of the State Government.

(c) Members of the Education Corps of the Indian Army, Air Force, or Navy or Civilian School Masters in the Indian Army, Air Force or Navy.

(d) Inspecting and technical officers of the Himachal Pradesh Education Department e.g. District Education Officers, Deputy District Education Officers, Block Education Officers, Assistant/Deputy Directors of Education, Evaluation

Officers and Vocational Guidance Officers.

(e) Members of regular Land, Air and Naval Forces of India or Indian Merchant Navy, and of Border Security Force or Central Striking Force of the Police upto three years of their release/discharge from service. Provided that once a student has reached B.A. part-II or M.A.-I within the period of three years, he may be allowed to complete the degree even after the lapse of three years.

(f) Blind, deaf or otherwise physically handicapped persons.

(g) Members of Scheduled Caste/Scheduled Tribes for the B.A. and M.A. Examinations only.

(h) Whole-time paid Librarians and Library Clerks of the State, District, Local Body, University, affiliated Colleges and recognised School Libraries.

(i) Gap.

(j) Non-Teaching staff of the University and of the affiliated Colleges; Provided they have departmental permission.

(k) Those who wish to appear in the Proficiency, High Proficiency and Honours Examination in Sanskrit, Hindi or Urdu and the Acharya Examination in Sanskrit.

(l) Those who wish to appear in English only or in an additional subject of B.A. examination under +3 system, after passing Prabhakar (Proficiency in Hindi) or Shastri (Proficiency in Sanskrit) under the old system or Urdu (Proficiency in Urdu) or Acharya Examination:

Provided that those candidates who have passed Prabhakar (Proficiency in Hindi) or Shastri (Proficiency in Sanskrit) under old system can appear directly in English and one more subject other than Hindi/Sanskrit in Part-I of B.A. under +3 system after completion of one year and in Part-II and III of B.A. under +3 system after another year to obtain B.A. degree.

Provided further that OT/MIL candidates having compartment will be allowed to appear in B.A.-I examination provisionally subject to the condition that such candidates will have to pass the compartment paper of OT/MIL in the first two available chances, failing which their candidature for B.A.-I shall automatically stand cancelled.

(m) Those who wish to qualify non-Sanskrit subjects prescribed for the examination in Sanskrit language.

(n) Non-Teaching staff of Krishi Vishwavidyalaya; provided they have the departmental permission.

(o) The Non-Gazetted employees working in H.P. State Government offices, Local Bodies and Semi Government offices in the H.P. State, H.P. Board of School Education, Central Government offices situated in H.P., Central Government and State Government Public undertaking located in H.P. and Public Limited

Companies with their head quarters in H.P.; provided they fulfil the following conditions:-

(1) that the candidates have completed atleast three years of service, as on 30th November of the year preceding the year of examination, in the concerned office or department and his name has been duly recommended by the Principal/Head of the Department Concerned.

(2) that there is no Evening College or Evening Classes in any College at the place where the candidate is employed.

(3) that if there is an Evening College or Evening Classes in a College at the place where the candidate is employed, the candidate produces a certificate from the Principal of the Evening Colleges concerned that he was not granted admission or the candidate produces a certificate from employer that because of the nature of his duties (such as working hours of the telephone operator, Journalists etc.) he could not join the Evening College.

(p) those who have passed B.A.II year examination as a private candidate of this University may also complete B.A. degree even, if they have been residing outside the territorial jurisdiction of Himachal Pradesh."

4(iii)(b). Since the words 'regular degree course' has not been defined in the HPU Ordinances, therefore, assistance of Dean of Studies of respondent-University was solicited. Prof. B.K. Shivram-the Dean of Studies of respondent-University attended the hearing of the case on 28.05.2025 and informed as under:-

"(i) The word 'Regular Degree course' implies that a student of Regular Degree course must be physically present in the classroom for undertaking the studies in that course; he must fulfil the requisite attendance for appearing in the examination of the course.

(ii) The degree/diploma obtained through Private/Distance mode does not envisage physical presence in the campus at all times but attendance for some specified period. Regular attendance of the students undertaking these two courses is not required as regular classes are not held for these courses. He further submits that neither the word 'Regular Degree course' nor 'Private mode' nor 'Distance mode' has otherwise been defined in H.P. University Ordinance."

I am inclined to accept the interpretation/meaning of the words 'regular degree course' and the Degree/Diploma obtained through 'Private/Distance mode' as given by Dean of Studies of respondent-University. Regular degree course has to be understood as a Degree course which is pursued by the student full time by physically remaining present in the classroom for undertaking the studies, whereas the degree obtained through Private/Distance mode does not envisage physical presence in the class at all times. Clause 1 of the UGC Guidelines, April 2022, also qualifies 'academic programmes in physical mode' by prefixing the words 'full time'. The words 'regular degree course' used in Clause 3.3(a) cannot be given strict and restrictive interpretation as is being canvassed by learned

counsel for the intervener. At this stage, it will be relevant to notice decision in *A. Dharmaraj vs. The Chief Educational Officer, Pudukhottai & Ors.* Civil Appeal No.1301 of 2022 decided on 18.02.2022 wherein promotion of the appellant was set aside on the ground that he had obtained two degrees, i.e. B.A. (English) and M.A. (Tamil) simultaneously and therefore, as per applicable Rules, he was held ineligible for promotion. The Hon'ble Apex Court held that:- (i) Bar in the Rules was against teachers, who had obtained B.A./B.Sc./B.Ed degree simultaneously during the same academic year; (ii) The appellant pursued B.A. (English) during January, 2012 to December, 2014 and M.A. (Tamil) through Distance mode during academic years 2013-2015; Hence, it could not be said that he had obtained degrees of B.A. (English) and M.A. (Tamil) during the same year. Relevant para to the context is as under:-

"5. Having heard the learned counsel appearing on behalf of the respective parties and on perusal of the judgment and order passed by the learned Single Judge as well as the Division Bench, it appears that the promotion of the appellant to the post of B.T. Assistant (English) has been set aside by the High Court on the ground that the appellant obtained two degrees namely B.A. (English) and M.A. (Tamil) simultaneously and therefore as per Rule 14 he was ineligible for promotion. However, considering Rule 14, it can be seen that the bar was against teachers who have obtained B.A./B.Sc./B.Ed degree simultaneously during the same academic year. In the present case it cannot be said that the appellant obtained the degree of B.A. (English) and M.A. (Tamil) during the same academic year. The appellant pursued his B.A. (English) during January, 2012 to December, 2014. He pursued his M.A. (Tamil) which was a two years distance education course between the academic years 2013-2014 to 2014-2015. Therefore, as such Rule 14 is not applicable to the facts of the case on hand *stricto sensu*. The degree of M.A. (Tamil) cannot be equated with B.A./B.Sc./B.Ed."

The above analogy applies to the petitioners' degrees as well. The details of their degrees have been tabulated in para 2(ii) above.

4(iii)(c). Even assuming existence of some grey area in Clause 3.3(a) permitting two interpretations, I am inclined to accept the interpretation that protects the degrees of the students/petitioners. Moreso, when the degrees obtained by them, i.e. M.A. (Political Science) and B.Ed., are valid degrees duly issued by respondent-University. These degrees have not been nullified by the respondent-University, even though it had the notice of the writ petitions and the controversy involved in the petitions. Respondent-University has also filed its reply though opposing the petitions but, *inter alia*, also pleading that 'there is no explicit bar of doing two courses.'

4(iii)(d). In *Kuldeep Kumar Pathak vs. State of U.P. & Ors.* (2016) 3 SCC 521, the appellant had been permitted to appear in two examinations simultaneously. The respondents contended that simultaneous appearance in two examinations in the same year was contrary to the Regulations. But no such Regulations were

pointed out. Hon'ble Apex Court held that when there was no Regulations prohibiting pursuing two courses simultaneously, there was no justification to confiscate his certificates. Relevant portion of the decision is as under:-

"6. Before us, Mr. Pradeep Kant, learned senior counsel for the appellant has made a neat legal argument. He submits that though the impugned judgment proceeds on the basis that appearing in two examinations simultaneously for the same year is violation of the Regulations of the Board, this reason given by the High Court is clearly unsustainable inasmuch as no such Regulation is shown by the Board which prohibited any such candidate to appear in two examinations in the same year. The learned senior counsel further argued that the impugned order passed by the respondents for confiscating his Certificate of Intermediate exam was, otherwise also, contrary to the principles of natural justice inasmuch as no show cause notice and opportunity of hearing was given to the appellant before passing such an order, which was passed belatedly after a period of nine years from the passing of the said examination by the appellant.

7. We are of the opinion that both the submissions of the learned senior counsel are valid in law and have to prevail. The High Court has been influenced by the argument of the respondents that simultaneous appearance in two examinations by the appellant in the same year was 'contrary to the Regulations'. However, no such Regulation has been mentioned either by the learned Single Judge or the Division Bench. Curiously, no such Regulation has been pointed out even by the respondents. On our specific query to the learned counsel for the respondents to this effect, he expressed his inability to show any such Regulation or any other rule or provision contained in the U.P. Intermediate Education Act, 1921 or Supplementary Regulations of 1976 framed under the aforesaid Act or in any other governing Regulations. Therefore, the entire foundation of the impugned judgment of the High Court is erroneous.

8. It is also pertinent to note that the appellant's intermediate examination and result thereof was not in question before the U.P. Board. No illegality in the admission in that class has been pointed out by the respondents. The alleged charge of simultaneously appearing in two examinations, one of the U.P. Board and other of the Sanskrit Board, was with respect to Class X and equivalent examination which did not relate to admission in intermediate course. The only provision for canceling the said admission is contained in Regulation (1) of Chapter VI-B. It details the procedure for passing the order of punishment canceling intermediate results and, inter alia, prescribes that a committee consisting of three different members is to be constituted and entrusted with the responsibility of looking into and disposing of cases relating to unfair means and award appropriate penalty as specified in the Regulations itself. However, there is no allegation of any unfair means adopted by the appellant in the instant case and, therefore, that Regulation has no applicability. Even otherwise, no such committee was constituted. Therefore, having taken admission in Intermediate on the basis of past certificate issued by a separate Board, which was

recognised, and not on the basis of the result of Class X of the U.P. Board, the appellant derived no advantage from his examination of the U.P. Board while seeking admission in Intermediate course. Thus, from any angle the matter is to be looked into, the impugned orders dated April 20, 2011 and May 10, 2011 passed by the respondents are null and void, apart from the fact that they are in violation of the principles of natural justice.”

In *Himanshi Yadav vs. State of U.P. & Ors.* WRIT-A No.3254 of 2021 decided by Allahabad High Court on 04.07.2022, respondents had disqualified the petitioner from appointment having pursued two degree courses simultaneously as a regular student. It was held that in absence of any statutory provision prohibiting pursuing two degree courses simultaneously, he cannot be held ineligible for appointment. Relevant portion of the decision is as under:-

“20. The perusal of paragraph 16 of the letter dated 18.01.2021 though indicates that a candidate shall become ineligible for the appointment if he had pursued two-degree courses simultaneously as a regular student, but the fact remains that in the absence of any statutory provisions prohibiting the pursuing of two-degree courses simultaneously, can such a condition be imposed by a letter of Director General, School Education and Director of State Project dated 18.01.2021. In the opinion of the Court, the answer to the same is emphatic 'No' for the reason that there is no provision in the law that has been pointed out by the learned Standing Counsel which prohibits a candidate to pursue two courses simultaneously. If there is no statute prohibiting pursuing two courses simultaneously and if there is no illegality attached to pursuing two courses simultaneously and obtaining a degree then a candidate cannot be disqualified on the ground that he has pursued two courses i.e. B.Ed. And B.T.C. Simultaneously. In such view of the fact, this Court finds that paragraph 16 of the letter dated 18.01.2021 is arbitrary and has no nexus with the object sought to be achieved.

21. The Apex Court in *Kuldeep Kumar Pathak* (supra) in paragraph No. 7 of the judgment has held that where there is no prohibition in the regulation prohibiting pursuing two courses simultaneously, the intermediate certificate of a candidate cannot be cancelled. Paragraphs Nos. 6, 7, and 8 of the judgment are reproduced herein below.”

4(iv). Once the degrees obtained by the petitioners have not been invalidated by the respondent-University which had issued those degrees, there was even otherwise no occasion for respondent-Commission to have rejected the candidature of the petitioners on the ground that petitioners’ degrees have some overlapping period and could not be considered to be valid in view of UGC Guidelines. At this juncture, it would be relevant to take note of decision rendered in *Basic Shikha Adhikari vs. Laxmi Shakya & Ors.*<sup>1</sup>, where the petitioner’s service had been terminated on the ground of her being in possession of two overlapping degrees. The Court observed that none of the certificates had been declared nullity by the Competent Examination Board; The certificates had been found to be genuine by the concerned Examination Body.

Unless, the same are declared null and void by the Competent Examination Body, the services of petitioner (therein) cannot be terminated on the ground of pursuing two educational degrees simultaneously. Relevant portion of the decision is as under:-

"38. In the instant case, though in the inquiry conducted by the Block Education Officer under the dictate of the District Basic Education Officer, it is found that the petitioner/respondent no.1 has undergone two educational courses simultaneously. However, none of them have been declared a nullity by the competent Examination Board. Rather, the certificates which have been used by the petitioner/respondent no.1 have been found to be genuine on verification by the concerned Examination Body. Unless, the same is declared, null and void by the competent Examination Body, the services of petitioner/respondent no.1 cannot be terminated on the aforesaid ground as has been observed by the Co-ordinate Bench of this Court in Laxmi Shanker Yadav (Supra).

39. Similarly, relying upon judgements of the Division Bench of this Court in Kuldeep Kumar Pathak (supra) and Laxmi Shanker Yadav (Supra), A. Dharmraj vs. The Educational Officer Puddukkottai & Others : (2022) 11 SCC 692, this Court has passed the judgement on 21.3.2023 in Special Appeal No. 124 of 2023 (Rao Mohammad Arif vs. State of U.P. and 4 Others), which reads as under:-

"24. Since the learned counsel for the appellant had not pointed out a single provision, which puts an embargo in possession of two degrees obtained in the same academic year, thus, this Court finds its inability to hold the selection and appointment of the writ petitioner illegal. Our view further gathers support from the fact that it is neither the case set out in the order impugned of the second respondent/ Joint Director of Education, Saharanpur Region, Saharanpur nor from the arguments so advanced before us that the writ petitioner did not possess the minimum necessary qualifications for being selected and appointed as Assistant Teacher (Science).

25. More so, it is also the case of the writ petitioner as pleaded in the paragraphs-'10' and '11' of the writ petitioner that the writ petitioner had surrendered the BUMS degree, thus, we do not find any error committed by the learned Single Judge in allowing the writ petitioner while quashing the order dated 05.04.2014 of the second respondent. Additionally, it has not been demonstrated before us that the degrees in question have been either withdrawn or cancelled."

## 5. Conclusion.

The UGC Guidelines were issued in April, 2022 (13.04.2022). The UGC Guidelines April, 2022 and the notification issued by the UGC on 26.03.2025 do not invalidate the degrees obtained by the petitioners, which were otherwise obtained by them prior to the issuance of the Guidelines and the notification. The respondents have not been able to produce/place on record any document to show that there was any specific bar upon the petitioners from pursuing a full-

time regular degree course through physical mode while simultaneously pursuing another degree course through private/distance mode. It is not the case of the respondents that dual degrees obtained by the petitioners were result of fraud. The genuineness of the degrees has not been disputed by the respondent-University, which had issued the degrees. The degrees are valid. There was no occasion for respondent-Commission to reject the candidature of the petitioners for their having obtained two degrees with some overlapping period – one through full-time regular/physical mode and the other through private/distance mode, on the basis of UGC Guidelines 2022, which were not even notified at the relevant time and coupled with the fact that University Grant Commission (Minimum Standards of Instruction for the Grant of Undergraduate Degree and Postgraduate Degree) Regulations, 2025, have not even been adopted by the respondent-University, also keeping in view the HP University Ordinances that did not impose or specifically prohibit the petitioners from simultaneously pursuing two degree courses, one full time through regular/physical mode and the other through online/distance mode.

In view of above discussion, these writ petitions are allowed. Final list of rejected candidates dated 02.01.2025 (Annexure P-IX in CWP No.610 of 2025) for the post in question, rejecting the candidature of the petitioners is quashed and set aside qua the petitioners. The respondents are directed to consider the candidature of the petitioners as valid and proceed further in the selection process in accordance with law. Pending miscellaneous application(s), if any, to also stand disposed of.