

(2020) 09 DEL CK 0091

In the Delhi High Court

Case No : Civil Writ Petition No. 3230 Of 2020

Kirti Arora

APPELLANT

Vs

Reserve Bank Of India

RESPONDENT

Date of Decision : 16-09-2020

Acts Referred:

Constitution Of India, 1950 — Article 226

Citation : (2020) 09 DEL CK 0091

Hon'ble Judges : Jyoti Singh, J

Bench : Single Bench

Advocate : Gopal Jain, Ramesh Babu, Nisha Sharma

Final Decision : Dismissed

Judgement

Jyoti Singh, J

1. Petitioner herein, an academically bright student has filed the present petition seeking direction to re-evaluate the subjects in the Degree possessed by her and re-consider her candidature for interview to the post of Officer Grade 'B' (DR) - DSIM.

2. An advertisement No.1A/2019-20 was issued by the Respondent for direct recruitment to the post of Officer Grade 'B' (DR) - DSIM in the Combined Seniority Group (CSG) Streams - Panel Year 2019, in September 2019. Petitioner applied for the said post on 23.09.2019 choosing the subject criteria as Mathematical Science. Petitioner cleared the written examination for Phase-I on 18.11.2019 and for Phase-II on 26.12.2019. In the meantime she joined as Operational Analyst in a private Company on 09.12.2019. However, after receiving the result of the Phase-II Examination, she resigned from the said job on 04.01.2020.

3. Petitioner received an e-mail from the Respondent on 27.01.2020 directing her to furnish certain documents for document verification procedure, within 5 days, so as to be eligible to appear in the interview on 22.04.2020. Petitioner sent all

the requisite documents following the instructions provided in the e-mail through post. On 18.03.2020, an e-mail was received from RBI-SM regarding some confusion in the Master's Degree and the subjects thereunder, discovered/ revealed during the scrutiny of her documents. On 18.03.2020 itself, Petitioner through an e-mail replied to the queries raised and clarified the doubts. On 30.03.2020, the interview was deferred on account of Pandemic COVID-19.

4. On 07.04.2020, Petitioner received an e-mail communicating the rejection of her candidature for interview on account of alleged non-fulfillment of the Essential Educational Qualifications based on her Master's Degree. Petitioner on the said day itself sent an e-mail clarifying the minor error in the application form and the subject module of the Master's Degree of the Petitioner. Petitioner thereafter sent another e-mail on 03.05.2020 to the Respondent clarifying her stand on the Master's Degree, but on getting no response, she approached this Court by way of the present writ petition.

5. The minimum Essential Educational Qualification for the concerned post as provided in the Advertisement is as under :-

"III. Minimum Educational Qualifications: The following minimum educational qualifications are prescribed for the posts:

Officer in Grade "B" (Dr) - DSIM

Essential :

a. A Master's Degree in Statistics / Mathematical Statistics / Mathematical Economics / Econometrics / Statistics & Informatics from IIT-Kharagpur / Applied Statistics & Informatics from IIT-Bombay with a minimum of 55% marks or equivalent grade in aggregate of all semesters / years; OR

b. Master's Degree in Mathematics with a minimum of 55% marks or an equivalent grade in aggregate of all semesters / years and one year post graduate diploma in Statistics or related subjects from an Institute of repute; or

c. M. Stat. Degree of Indian Statistical Institute with a minimum of 55% marks in aggregate of all semesters / years; OR

d. Post Graduate Diploma in Business Analytics (PGDBA) jointly offered by ISI Kolkata, IIT Kharagpur and IIM Calcutta with a minimum of 55% marks or equivalent grade in aggregate of all semesters / years.

6. The reason for rejection of the candidature of the Petitioner as per the Respondent is that at the time of verification of the documents, it was discovered that the Petitioner possesses M.Sc Degree in Operational Research and does not meet the criteria of the Minimum Essential Educational Qualification, prescribed for the post, under the Advertisement.

7. Petitioner, who appears in person argued that the Petitioner is duly qualified for the said post as she has studied all the subjects which are required for

working on the said post, such as Probability Concepts, Random Variable and their Distribution, Random Sampling & Sampling Distribution and Parametric Hypothesis Testing, etc. Operational Research is a new subject in the curriculum of the Indian Education System. It was introduced in Delhi University in 1963 as a Two-Year Post Graduate Program but a decade later the Department of Operational Research was independently set up under the Faculty of Mathematical Sciences, which was the first Department to start a Post Graduate Program of Operational Research in India. The Respondent, it is argued has not yet considered the said post and is still following the old way to evaluate essential qualifications.

8. Principle argument of the Petitioner is that her Degree in Operational Research is equivalent to a Degree in 'Applied Statistics and Informatics' prescribed under 'essential educational qualifications' in the Advertisement. Recently, in various posts requiring statistical knowledge, Ministry of Statistics and Program Implementation (MOSPI) has started considering Operational Research as a Degree equivalent to a Degree in Statistics.

9. It is also argued that the examination conducted for further studies in Operational Research and Statistics i.e., the National Eligibility Test (NET), conducted jointly by CSIR-UGC for Junior Research Fellowship and Lecture/Assistant Professor in the given subjects is under the head Mathematical Science. The basic structure and questions in the examination are the same for the students of Operational Research and Statistics. The syllabus of the course has both the subjects, Statistics and Operational Research in Unit-IV and the syllabus for the examination also includes the curriculum of these courses. Elaborating the argument further, it is stated that in the University of Delhi also both the subjects i.e., Operational Research and Statistics are under the Head 'Mathematical Science'. Attention is drawn to the documents filed by the Petitioner in this regard in order to substantiate the said argument 10. Petitioner contends that the syllabus provided by the Respondent specifically states that the standard of papers would be that of the Master's Degree examination of any Central University in India.

Attention of the Court is drawn to the syllabi for the three papers which is as under :-

"Syllabi: Standard of papers would be that of Master's Degree examination of any Central University in India. Paper-I: Questions would cover Probability: Definition of Probability, Standard distribution, Large and small sample theory, Analysis of Variance, Estimation, Testing of Hypotheses, Multivariate analysis, and Stochastic Processes. Paper-II: Questions would cover (i) Probability and Sampling, (ii) Linear Models and Economic Statistics, (iii) Statistical Inference: Estimation, Testing of hypothesis and Non-Parametric Test, (iv) Stochastic Processes, (v) Multivariate analysis and (vi) Numerical Analysis and Basic Computer Techniques. There will be sufficient choice for candidates to attempt the required number of questions from any three or more of the above six

groups. Paper-III: English: Essay, Précis writing, Comprehension, and Business/ Office Correspondence."

11. Petitioner has given in the writ petition a chart to show that she fulfils all relevant qualifications for the post. Relying on the tabular representation of the subjects and syllabi, Petitioner submits that part of the curriculum of the Applied Statistics and Informatics course by IIT Bombay, which is one of the 'Essential Qualifications' provided in the Advertisement by RBI for the current post, matches/measures up to the subjects taught in the Master's course in Operational Research at the University of Delhi. The course curriculum gives several options to choose from the different subjects such as Numerical Analysis and Multi Variate Analysis, which are not in the Operational Research but are given in the Applied Statistics and Informatics course by IIT, Bombay.

12. Petitioner vehemently argues that the subject Operational Research is taught in both Master's and Bachelor's Degree in Statistics, in the University of Delhi and applications for Operational Research require a strong knowledge of Statistical Process and Applications. In sum and substance, argument of the Petitioner is that her degree in Operational Research qualifies her to be considered for an interview as she meets the criteria set as 'Essential Educational Qualifications', if not directly, atleast on equivalence.

13. Petitioner in support of her argument relies on the following paras of the judgement of the Supreme Court in Sridip Chatterjee vs. Gopa Chakraborty, (2019) 15 SC 59 :-

"14. The condition of the advertisement was diploma in Yoga or Yoga Therapy. The appellant possesses diploma in Yoga Education. The Court in exercise of power of judicial review could not come to a conclusion that the diploma possessed by the appellant does not satisfy the eligibility conditions advertised. The Court has only looked to the bare nomenclature of diploma possessed by the appellant. No doubt, in the proceedings of the Selection Committee, it is not recorded that the diploma possessed by the appellant is equivalent to the educational qualifications advertised but the Selection Committee was comprised of experts in the subjects and, therefore, even if it was not specifically mentioned, the decision could not have been interfered with only because the Court finds that diploma in Yoga Education is not the same as diploma in Yoga or Yoga Therapy.

15. ...The qualification prescribed in the advertisement remains the same i.e. postgraduate diploma in Yoga or Yoga Therapy. It is only diploma in Yoga Education which has been considered as equivalent to diploma in Yoga or Yoga Therapy. Not only the Selection Committee has found the appellant suitable but even the Equivalence Committee, constituted in terms of the directions of the learned Single Bench, also found the diploma of the appellant as the one satisfying the requirement of the advertisement. Therefore, once the experts have taken a decision that the appellant meets the eligibility conditions of the

advertisement, the Court could not have interfered with and set aside the appointment of the appellant.

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17. Consequently, we allow the present appeal and set aside the judgment passed by the High Court. The appellant shall be reinstated in service forthwith with all consequential benefits, seniority and pay fixation but will not be entitled to pay for the period he was out of service. No order as to costs."

14. Last but not the least, it is argued that even a Constitutional Body such as the UPSC, in the examination conducted for Indian Statistical Services, has in the Examination Notice No.06/2019-IES/ISS under the Eligibility Condition in para 3(b) mentioned the requisite qualification as Master's Degree in the subject of Applied Statistics, but permitted candidates with Master's Degree in Operational Research to apply for the post.

15. Per contra Mr. Gopal Jain learned Senior Advocate appearing for the Respondent defending the action of the Respondent argues that the candidature of the Petitioner has been rightly rejected. Petitioner, it is argued, was aware that she does not qualify for the post in terms of the eligibility criteria. The Advertisement categorically stated that before applying, candidates should ensure that they are eligible for the advertised post. It was stipulated therein that the eligibility of a candidate would be determined at the interview stage and in case any candidate does not satisfy the eligibility criteria, his/her candidature will be cancelled at that stage. Mr. Jain also takes an objection to the territorial jurisdiction of this Court pointing to Clause 9(r) of the Advertisement which is an exclusive jurisdictional clause, whereby any dispute arising out of the Advertisement, is subject to the sole jurisdiction of the Courts at Mumbai only.

16. Referring to the Essential Educational Qualifications required under the Advertisement, Mr. Jain argued that the Petitioner possesses an M.Sc Degree in Operational Research, which is not the requisite Degree under the Advertisement, for the post in question and thus she lacks the essential criteria of eligibility. The argument of the Petitioner that her Degree is equivalent to the degree of Master's in Applied Statistics is totally misconceived. He argues that relying on the Notification issued by the UPSC in 2019 for the post of Indian Statistical Services, Petitioner seeks a direction to consider her candidature for the interview, however, this plea cannot be sustained for two reasons. Firstly, it is a settled proposition of law that once a person takes part in a selection process and is not found fit for appointment, he or she is estopped from challenging the process of selection. It is thus not open to the Petitioner to challenge the Essential Educational Qualifications prescribed in the advertisement, as her participation is an implied acceptance of the said qualifications. Reliance in this regard is placed on the judgement of the Supreme Court in *Manish Kumar Shahi vs. State of Bihar*, (2010) 12 SCC 576, relevant para of which is as under :

"23. Surely, if the Petitioner's name had appeared in the merit list, he would not have even dreamed of challenging the selection. The Petitioner invoked jurisdiction of the High Court Under Article 226 of the Constitution of India only after he found that his name does not figure in the merit list prepared by the Commission. This conduct of the Petitioner clearly disentitles him from questioning the selection and the High Court did not commit any error by refusing to entertain the writ petition."

17. Reliance in this behalf is also placed on Ramesh Chandra Shah and Ors. vs. Anil Joshi and Ors., (2013) 11 SCC 309, where the Supreme Court held as follows :-

"24. In view of the propositions laid down in the above noted judgments, it must be held that by having taken part in the process of selection with full knowledge that the recruitment was being made under the General Rules, the Respondents had waived their right to question the advertisement or methodology adopted by the Board for making selection and the learned Single Judge and the Division Bench of the High Court committed grave error by entertaining the grievance made by the Respondents"

18. Secondly, once the eligibility criteria is accepted, it is evident that Petitioner's Degree in M.Sc (Operational Research), from Delhi University, does not meet the required qualifications under the advertisement. It is submitted that after the Phase-II Examination, the candidates shortlisted for interview, were called upon to submit documentary evidence supporting the eligibility criteria, for verification and confirmation. An e-mail was sent to the Petitioner on 27.01.2020 by the Selection Board to submit her documents, which she did, vide her e-mail dated 31.01.2020. On scrutiny of the documents, it was found that the Petitioner had in her Online Application declared that she holds a Master's Degree in Mathematical Statistics, but the mark-sheet and Degree certificate was not submitted by her. Vide e-mail dated 18.03.2020, Petitioner was advised to submit the Degree certificate and mark-sheet. When the documents were received, they were unaligned with the information given in the Online Application. It was observed from the attached Scheme of Examination and Course content issued by University of Delhi that Statistics was one of the subjects in Semester-1 of the First Year and Semester-III in Second Year. As the Petitioner's qualification was a mismatch with the required qualification, the matter was referred to the HR/Specialized Department of the Respondent for advice. On a detailed and careful examination, the Department informed that some sections of Statistics Discipline were taught as Special Papers in many of the subjects at Master's level e.g., Economics, Management, Bio-Technology, but they cannot be considered equivalent to the required qualification i.e. Master's in Applied Statistics. Hence, the candidature of the Petitioner was rejected.

19. In a nutshell the stand of the Respondent is that the Degree possessed by the Petitioner neither meets the required essential qualification nor is equivalent to a Degree in Applied Statistics and her candidature cannot be considered.

20. Petitioner, in rejoinder, argues that this Court has the territorial jurisdiction to entertain the writ petition as under Article 226 of the Constitution of India, a writ is maintainable in the High Court within whose jurisdiction cause of action has arisen, wholly or in part. In the present case, the cause of action has arisen in Delhi as the Petitioner resides in Delhi, application form was filled from Delhi and she took the online examinations from Delhi. The result was also declared on an online platform which was accessed by the Petitioner in Delhi. All other communications, including the Admit Cards were received by the Petitioner at Delhi.

21. In so far as incorrect filling up of the Online Application Form is concerned, as alleged by the Respondent, Petitioner submits that this was an innocent mistake on her part and the error occurred on account of a confusion. University of Delhi provides Master's Degree in Operational Research under Faculty of Mathematical Science IEMS and thus when the Petitioner saw 'MS' as an option in the form she accordingly opted under the same. The mistake was sought to be corrected as soon as it was discovered and on 07.04.2020 clarification to that extent was given vide an email.

22. Petitioner relies on the judgement in Sridip Chatterjee (supra), wherein the High Court had directed constitution of an Equivalence Committee to examine whether the diploma in Yoga Education possessed by Appellant therein satisfied the eligibility condition of diploma in Yoga/Yoga Therapy. The Equivalence Committee so constituted had found that the diploma of the Appellant satisfied the eligibility conditions in the advertisement and the Supreme Court accepted the view of the Equivalence Committee. Support is sought from the said judgement to argue that the Court may refer the present issue to an Equivalence Committee to determine the equivalence of the Degree of the Petitioner with Degree in Applied Statistics.

23. Petitioner distinguishes the judgement in Manish Kumar Shahi (supra) and Ramesh Chandra Shah & Ors. (supra) on the ground that the facts and circumstances of the present case are different from those in the said judgements, Petitioner in the present case is not asking the Court to decide the equivalence of the Degree but is seeking a direction to the Respondent to evaluate her Degree which, as per the Petitioner, is equivalent to the Degree required for the post in question.

24. I have heard the Petitioner and learned Senior Counsel for the Respondent and examined their contentions.

25. In so far as the preliminary objection of territorial jurisdiction is concerned, useful would it be to refer to a recent judgement of the Supreme Court in Maharashtra Chess Association v. Union of India and Others, 2019 SCC Online SC 932. The parties in the said case had entered into a private agreement and By-Laws of one of the Respondents conferred exclusive jurisdiction on the Courts at Chennai. The exclusive jurisdiction clause of the agreement between the parties

read as under :-

"2. Clause 21 of the Constitution and Bye Laws of the second Respondent is as follows:

"21. Legal Course

(i) The Federation shall sue and or be sued only in the name of the Hon. Secretary of the Federation.

(ii) Any Suits/Legal actions against the Federation shall be instituted only in the Courts at Chennai, where the Registered Office of All India Chess Federation is situated or at the place where the Secretariat of the All India Chess Federation is functioning."

26. The issue that thus arose before the Court was whether the aforesaid provision of a private agreement could be the sole ground to oust the writ jurisdiction of all other High Courts in the Country. While considering the extent and scope of writ jurisdiction of the High Court as provided under Article 226 of the Constitution of India, the Supreme Court held as under :-

"26. This brings us to the question of whether Clause 21 itself creates a legal bar on the Bombay High Court exercising its writ jurisdiction. As discussed above, the writ jurisdiction of the High Court is fundamentally discretionary. Even the existence of an alternate adequate remedy is merely an additional factor to be taken into consideration by the High Court in deciding whether or not to exercise its writ jurisdiction. This is in marked contradistinction to the jurisdiction of a civil court which is governed by statute.¹⁴ In exercising its discretion to entertain a particular case under Article 226, a High Court may take into consideration various factors including the nature of the injustice that is alleged by the petitioner, whether or not an alternate remedy exists, or whether the facts raise a question of constitutional interpretation. These factors are not exhaustive and we do not propose to enumerate what factors should or should not be taken into consideration. It is sufficient for the present purposes to say that the High Court must take a holistic view of the facts as submitted in the writ petition and make a determination on the facts and circumstances of each unique case.

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29. In the present case, the Bombay High Court has relied solely on Clause 21 of the Constitution and Bye Laws to hold that its own writ jurisdiction is ousted. The Bombay High Court has failed to examine the case holistically and make a considered determination as to whether or not it should, in its discretion, exercise its powers under Article 226. The scrutiny to be applied to every writ petition under Article 226 by the High Court is a crucial safeguard of the rule of law under the Constitution in the relevant territorial jurisdiction. It is not open to a High Court to abdicate this responsibility merely due to the existence of a privately negotiated document ousting its jurisdiction.

30. It is certainly open to the High Court to take into consideration the fact that the Appellant and the second Respondent consented to resolve all their legal disputes before the courts at Chennai. However, this can be a factor within the broader factual matrix of the case. The High Court may decline to exercise jurisdiction under Article 226 invoking the principle of forum non conveniens in an appropriate case. The High Court must look at the case of the Appellant holistically and make a determination as to whether it would be proper to exercise its writ jurisdiction. We do not express an opinion as to what factors should be considered by the High Court in the present case, nor the corresponding gravity that should be accorded to such factors. Such principles are well known to the High Court and it is not for this Court to interfere in the discretion of the High Court in determining when to engage its writ jurisdiction unless exercised arbitrarily or erroneously. The sole and absolute reliance by the Bombay High Court on Clause 21 of the Constitution and Bye Laws to determine that its jurisdiction under Article 226 is ousted is however one such instance."

27. Reference may also be made to a judgement by a Single Bench of Calcutta High Court in *Apratim Mukherjee vs. State Bank of India and Others*, 2019 SCC Online Cal 860, which was upheld by the Division Bench. In this case, the Court was faced with the issue of territorial jurisdiction of a Writ Court in cases where application, communication and all other transactions take place in the online mode. Examining the nature of the online mode of application, accessible from all over the country through internet and advanced technology and its implications, the Court held as under:

"18. After hearing the submissions made on behalf of both the parties it appears that the advertisement in question was indeed published in the official website of the State Bank of India which is available over the internet. The said advertisement is accessible to any person all over the country.

19. The petitioner being a permanent resident of Kolkata applied online in response to the said advertisement. The petitioner appeared in the online preliminary as well as the online main examination sitting in Kolkata. The petitioner was directed to appear in the interview and group exercise which was held in Kolkata. All the communications were made to the petitioner online and the same was accessed by the petitioner from Kolkata. To sum up, all the incidents starting from making the application to clearing the examinations and being declared successful happened in Kolkata.

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21. In the age of advanced technology when advertisements/notices are published online the same becomes accessible from each and every corner of the globe which has free access to the internet. Often the authorities prefer online mode of application to avoid piling up of huge stacks of paper, thus moving a step forward towards greener environment. Going paperless is a welcome trend and should be encouraged.

22. In such a situation the cause of action may arise at several places at the same time. Then the terms and conditions of the advertisement/notice surely become relevant. But if the jurisdiction of the forum as mentioned in the advertisement/notice is located at such a place that it would be difficult and inconvenient for an aggrieved person to seek justice then it would be open to the said person to exercise his right in accordance with the principles of forum conveniens.

23. It is settled law that a litigant has the right to approach the Court where part of his cause of action arises. The cause of action consists of the entire bundle of facts which gives cause to enforce the legal right and seek redress in a court of law. The choice of the forum will be open to him. It is the duty of the Court to find out in each case whether the jurisdiction of the Court is rightly attracted by the alleged cause of action. The same does not tantamount to forum shopping. The main factor to be considered is the place where the alleged cause of action arise and the place of affectation of the right of the aggrieved party. Right to constitutional remedy is a fundamental right as enshrined in the Constitution of India. Situs of the forum should not stand as a hindrance in enforcing such right."

24. The forum selection clause in the recruitment notice will not have the effect of exclusion of jurisdiction of the court where the cause of action actually arises.

25. The submission of the respondents that the writ petition will not be maintainable here as none of the respondents are located within the jurisdiction of the Calcutta High Court does not hold good in the facts and circumstances of the instant case as it is settled law that in order to maintain a writ petition the petitioner has to establish that his legal right has been infringed within the territorial limits of the court's jurisdiction irrespective of the fact whether the offices of the respondents are situated within the territorial limits of the court or not. The decision mentioned hereinabove supports the case of the petitioner.

26. From the aforesaid chain of events it can be concluded that not only a substantial part but an integral part of the cause of action arose at Kolkata and the High Court at Calcutta does have territorial jurisdiction to entertain the issue."

28. Applying the ratio of the above judgements the objection of the Respondent regarding territorial jurisdiction cannot be sustained. Petitioner rightly contended that the online examination was given from Delhi, the entire correspondence including admit cards and impugned communication is received within the territorial boundaries of this Court. Cause of action has thus arisen at Delhi and as held by the Supreme Court the exclusion of jurisdiction clause should not be the only criteria for exercise of jurisdiction under Article 226 of the Constitution of India. The petition is thus maintainable in this Court.

29. The next issue that arises before the Court is whether the Petitioner possesses the requisite Essential Educational Qualification for the post of Officer in Grade 'B' (DR) - DSIM under the Advertisement. The next legal nodus that arises is whether it is open to the Court to enter into the arena of deciding

whether the Master's Degree in Operational Research is equivalent to the Degree in Applied Statistics and Informatics.

30. The law on judicial review of determination of eligibility criteria and equivalence of Degrees is no longer *res integra*. In so far as fixing of the eligibility criteria is concerned, it is in the realm of a policy decision and is in the exclusive domain of the employer, who is best suited to decide what criteria have to be prescribed, depending on the Rules applicable to the post concerned, nature of the post and the work required to be executed by the employee. It is not for the Court to lay down eligibility conditions, much less to decide whether the eligibility conditions are right or wrong or even interpret the essential or the desirable qualifications laid down in the Advertisement. Likewise, the question of equivalence, as held by the Supreme Court in several decisions, is outside the domain of judicial review. Once the advertisement prescribes a particular eligibility condition and there is no ambiguity in the language, it is not for the Court to sit in judgement over the same. Even in a case where there is an ambiguity or the criteria stipulated appears to be contrary to the Recruitment Rules or a Statute, the matter can only be remanded back to the employer for a re-examination.

31. In 2002, Supreme Court in the case of *State of Rajasthan vs. Lata Arun*, (2002) 6 SCC 252 observed as under :-

"13. From the ratio of the decisions noted above, it is clear that the prescribed eligibility qualification for admission to a course or for recruitment to or promotion in service are matters to be considered by the appropriate authority. It is not for courts to decide whether a particular educational qualification should or should not be accepted as equivalent to the qualification prescribed by the authority."

32. A Division Bench of this Court in *MCD vs. Pawan Kumar & Ors.*, 2002 SCC OnLine Del 1832 held as under :-

"24. In our opinion, it is for the authorities concerned and not the Court to decide whether there is equivalence or not. It is not proper for the Court to encroach into the executive domain. The judiciary must exercise restraint in this connection. For the reasons given above, this appeal and other connected appeals are allowed and the impugned judgment of the learned single Judge is set aside, the writ, petitions are dismissed."

33. In a recent judgement in 2020 titled *Mukul Kumar Tyagi v. State of U.P.*, (2020) 4 SCC 86, the Supreme Court while dealing with the issue of equivalence between the Course on Computer Concept (CCC) Certificate and Computer Qualification Certificate observed as follows :-

"59. The equivalence of qualification as claimed by a candidate is matter of scrutiny by the recruiting agency/employer. It is the recruiting agency which has to be satisfied as to whether the claim of equivalence of qualification by a

candidate is sustainable or not. The purpose and object of qualification is fixed by employer to suit or fulfil the objective of recruiting the best candidates for the job. It is the recruiting agency who is under obligation to scrutinise the qualifications of a candidate as to whether a candidate is eligible and entitled to participate in the selection. More so when the advertisement clearly contemplates that certificate concerning the qualification shall be scrutinised, it was the duty and obligation of the recruiting agency to scrutinise the qualification to find out the eligibility of the candidates. The self-certification or self-declaration by a candidate that his computer qualification is equivalent to CCC has neither been envisaged in the advertisement nor can be said to be fulfilling the eligibility condition."

34. It is an admitted case of the Petitioner that she possesses a Master's Degree in Operational Research and not the requisite Degree in Applied Statistics and Informatics from IIT Bombay or any other Degree required under the Column-'Essential Educational Qualifications', as prescribed in the Advertisement. Respondent has elaborated in the Counter Affidavit the exercise undertaken by the Respondent to ascertain if the Degree of the Petitioner would make her eligible for the interview. Relevant paragraph in the Counter Affidavit which would be useful to understand the difference in the Degree of the Petitioner and that required under the advertisement is as under ;-

"h. That on scrutiny of the documents related to the Petitioner's education, it was observed from the attached Scheme of examination and course contents issued by University of Delhi that Statistics was one of the subjects in Semester I (Course No. 104) of First Year and Semester III (Course No. 302) of Second year. As the qualification did not meet the requirements of the eligible qualifications prescribed in the Advertisement, the matter was referred to HR/specialised Department for their advice. After examination of the documents submitted by the Petitioner, the specialised Department informed that some sections of Statistics discipline were taught as special paper/s in a large number of subjects at Master's level (e.g., economics, management, biotechnology) but they do not consider them equivalent to Masters in Statistics(which is one of the prescribed qualifications for the post). It is submitted that the qualification possessed by the Petitioner, viz. M.Sc in Operational Research from University of Delhi does not meet the requirements of eligible qualifications prescribed in the Advertisement. Based on the clarifications received from the specialised Department, the Respondent informed the Petitioner vide letter RBISB No.349/03.19.001/2019-20 dated 07.04.2020 that as she did not possess the prescribed essential qualification, she could not be deemed eligible. Her candidature was hence rejected. The Petitioner was informed that she would not, therefore, be allowed to appear for the interview."

35. No doubt the Petitioner has made an attempt to succinctly bring out in a tabular representation that the subjects studied by her in the Operational Research Course overlap with some subjects under the Applied Statistics Course

and has also eloquently argued to support her stand, but Respondent has rebutted the same in the sur-rejoinder. It would be useful to quote the relevant paras which are as under :-

"3&4. That the contents of Paras No. 3 and 4 of the Preliminary submissions are absolutely wrong and hence denied. It is denied that the Operational Research is a new subject in the curriculum of the Indian Education System. On the contrary, it is submitted that the contentions of the Petitioner are antithetical since the subject of Operational Research is very much in Indian Educational System (even as per the statement of the Petitioner) since the year 1963. It is vehemently denied that the Respondent is following an old way to evaluate the essential qualification. It is submitted that the University of Delhi official website provides that the faculty of Mathematical Sciences consists of four departments and Operational Research is one of them. The postgraduate degrees / courses offered under Computer Science are called M.C.A and M.Sc. Computer Science; under Mathematics are called M.Sc. / M. A. Mathematics; under Operational Research is called Master of Operational Research and under Statistics is called M.Sc. / M. A. Statistics. Therefore, it is crystal clear that even University of Delhi has categorised Master of Operational Research as a distinct Postgraduate course, different from Master of Statistics. It is respectfully submitted that RBI-DSIM is aware of the existence of Operational Research as a subject. However, the eligibility criteria for the RBI-DSIM Grade B recruitment have been fixed after considering the functions, roles, duties as well as job profile required with respect to the post. Moreover, the Respondent is at liberty to decide the eligibility criteria, keeping in view the functions of a post. The contention of the Petitioner that the Respondent has not yet considered the newly introduced course for their qualification and is following the "same old way to evaluate the essential qualification" does not hold any water and is liable to be dismissed at threshold. An applicant for a post cannot dictate the qualification criteria to an employer.

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10. As also, the comparison made by the Petitioner in her Rejoinder between the subjects under the Applied Statistics & Informatics offered by IIT-Bombay course and the subjects studied by her under Master's in Operational Research vis-à-vis the topics given in the syllabus for the Papers I, II and III of RBI tests shows that she has not studied Multivariate Analysis, Numerical Analysis, Large and small sample theory which are core Statistics topics. Also, Stochastic Process is a bigger / different topic than Queueing System-I studied by her. It is also not clear whether she had studied Non-parametric Tests. She has mapped the topics in the RBI syllabus mostly to her Course No. 104, 302 and 401-403. As multiple topics are covered under these few courses only, it is not possible to teach these topics in-depth as done in a Master of Statistics course. It is also submitted that a Master's in Statistics degree covers a lot of topics but it is not practically feasible to test on all topics in the entrance exam. For example, topics like Sample Survey, Real Analysis, Linear Algebra, etc. are generally taught under

Master's in Statistics but not listed under the RBI-DSIM entrance examination syllabus. Knowledge of these non-listed topics or even all the listed topics may not be necessary to qualify in the RBI-DSIM entrance examination as there are many choices. However, a Master's in Statistics demonstrates that all these topics have been studied. This ensures a broader horizon of knowledge and is helpful while working in RBI. Furthermore, the petitioner's argument, viz; "University of Delhi keeps both the subjects i.e. Operational Research and Statistics under the same head of Mathematical Sciences" only makes it explicitly clear that the University of Delhi offers two separate degrees namely Master of Operational Research and M.Sc. / M. A. Statistics. This suggests that the University of Delhi does not treat them as equivalent degrees."

36. A reading of the above passages clearly indicates that as per the Respondent Degree in Operational Research is not equivalent to the Degree in Applied Statistics. It is also clear from the affidavits that the Respondent has undertaken an elaborate exercise to determine the equivalence, if any, of the two Degrees. Once the Respondent, who is technically qualified and has the expertise to determine the equivalence and is also the author of the Advertisement, has come to a conclusion that the Degrees are not equivalent, it is legally impermissible for this Court to conclude otherwise and substitute its views. There is also force in the contention of the Respondent that even the University of Delhi offers two separate Degrees namely, Master of Operational Research and M.SC/M.A Statistics, implying thereby that the University of Delhi also does not treat them as equivalent Degrees.

37. Supreme Court in Maharashtra Public Service Commission vs. Sandeep Shriram Warade, (2019) 6 SCC 362 : 2019 SCC OnLine SC 652, has clearly observed as under :

"9. The essential qualifications for appointment to a post are for the employer to decide. The employer may prescribe additional or desirable qualifications, including any grant of preference. It is the employer who is best suited to decide the requirements a candidate must possess according to the needs of the employer and the nature of work. The court cannot lay down the conditions of eligibility, much less can it delve into the issue with regard to desirable qualifications being on a par with the essential eligibility by an interpretive re-writing of the advertisement. Questions of equivalence will also fall outside the domain of judicial review. If the language of the advertisement and the rules are clear, the court cannot sit in judgment over the same. If there is an ambiguity in the advertisement or it is contrary to any rules or law the matter has to go back to the appointing authority after appropriate orders, to proceed in accordance with law. In no case can the court, in the garb of judicial review, sit in the chair of the appointing authority to decide what is best for the employer and interpret the conditions of the advertisement contrary to the plain language of the same."

38. The binding dicta of the Supreme Court thus is that questions of equivalence of degrees/educational qualifications fall outside the domain of judicial review.

There is also merit in the contention of the Respondent that it was clearly mentioned in the Advertisement that before applying candidates should ensure that they fulfill the eligibility criteria of the advertised posts. Eligibility was to be determined at the interview stage and candidates were duly informed that if at that stage it was found that a candidate does not satisfy the eligibility criteria for the post, his/her candidature would be cancelled and he/she would not be allowed to appear for the interview.

39. In so far as the judgement relied upon the Petitioner in the case of Sridip Chatterjee (*supra*) is concerned, it needs to be noticed that in the said case, the Selection Committee as well as the Equivalence Committee constituted in terms of the directions of the Single Judge of the High Court had found the Diploma of the Appellant therein as satisfying the requirements of the advertisement. Supreme Court therefore held that once the experts have taken a decision that the appellant met the eligibility criteria, the Court should not interfere and set aside the appointment.

40. Petitioner has also relied on another judgement of the Supreme Court in *Rajbir Singh Dalal vs. Chaudhary Devi Lal University*, (2008) 9 SCC 284. In the said judgement, Supreme Court endorsed the view of the UGC, according to which Political Science and Public Administration were interrelated & interchangeable and a candidate who possessed a Masters Degree in Public Administration was eligible to be appointed as lecturer in Political Science and vice versa. Noting the said clarification of the UGC, the Court held that since UGC is an expert in academic matters, Court should not sit in appeal over its opinion and take a contrary view. Both the judgements do not inure to the advantage of the Petitioner.

41. Ordinarily, the Court would have directed the Respondent to constitute an Equivalence Committee to delve into the issue of equivalence between the Degree required under the advertisement and the one possessed by the Petitioner, as was done by the High Court in *Sridip Chatterjee (supra)*. However, as pointed out by Mr. Gopal Jain learned Senior Counsel for the Respondent, the said exercise has already been undertaken by the HR Department of the Respondent, which has the expertise in the field and therefore a direction as sought by the Petitioner, to constitute an Equivalence Committee would only result in a futile exercise.

42. While the Court has sympathies for the Petitioner, who is an academically bright student, conferred with various Government Awards for excellence like Indira Award and other scholarships, but sympathy alone does not permit the Court to grant a relief otherwise impressible in law. It is beyond the scope of judicial review of this Court to give a direction to the Respondent to treat the Degree of the Petitioner in Operational Research conferred/granted by the University of Delhi equivalent to the Degree in Applied Statistics and Informatics from IIT Bombay.

43. Before concluding I may place on record my appreciation for the Petitioner who argued her case eloquently and forcefully and even the legal propositions put forth were very well articulated, despite all odds against her.

44. Petition is dismissed with no order as to costs.