
(1997) 08 CAL CK 0018
In the Calcutta High Court
Case No : Writ Petition No. 9764 (W) of 1997

Kitab Singh Rai and Another	Vs	APPELLANT
State of West Bengal and Others		RESPONDENT

Date of Decision : 06-08-1997

Acts Referred:

Constitution of India, 1950 — Article 12, 14, 16
Limitation Act, 1963 — Section 5

Citation : (1997) 08 CAL CK 0018

Hon'ble Judges : Gitesh Ranjan Bhattacharjee, J

Bench : Single Bench

Advocate : Biman Kanti Basu and Arpana Halder, for the Appellant; Sumit Kr. Panja and T.K. Banerjee, for the Respondent

Judgement

Gitesh Ranjan Bhattacharjee, J.—This is a writ petition in respect of the petitioners' claim for higher scale of pay for the higher qualification they acquired while serving as Assistant Teachers in the concerned school. The two petitioners while serving as Assistant Teachers in the Birpara Nepali High School, District Jalpaiguri, pursued their studies with the permission of the Managing Committee of the school through correspondence course of Himachal Pradesh University and in due course obtained postgraduate degree, that is, M.A. degree in English and History respectively. In view of their obtaining higher qualification the petitioners are entitled to higher scale of pay in accordance with the Government circular applicable in the matter and they also prayed for the same with the recommendation of the school authorities. They made such representation to the respondent No. 3, the District Inspector of Schools (SE), Jalpaiguri in the month of August 1995 and November 1995 respectively. It is the contention of the petitioners, as submitted, that although their representation for higher scale of pay on the basis of higher qualification has not yet been expressly rejected by the District Inspector of Schools yet they have been given to understand that the D.I. has been withholding sanction for the higher scale of pay in view of the Government of West Bengal. School Education Department-

Secondary Branch G.O. No. 904-SE (Secy.) dated the 19th December. 1994 by which the Education Department informed the Director of School Education that the State Government in Education (School) Department as a matter of policy had not agreed to recognise degree/diploma/masters degree etc. acquired through correspondence course from any university etc. as equivalent to a regular course conducted by recognised universities, and as such the question of extending the benefit of higher scale for acquiring such degree/diploma/masters degree through correspondence course did not arise. It is however submitted by the learned Advocate for the petitioners that the said G.O. No. 904-SE(Secy.) dated 19.12.94 has been already quashed by this Court in Kalidas Gangopadhyay and Others vs. State of West Bengal and Ors., 1996 (2) CLJ 42 following the earlier decision of this Court in Muchha Mondal Vs. State of West Bengal and others, and that being so the District Inspector of Schools (SE) Jalpaiguri cannot withhold the benefit of the higher scale of pay which the petitioners are entitled to for their acquisition of higher qualification, and he cannot defeat the petitioners' claim by misapplication of the said quashed G.O. No. 904-SE (Secy.) dated 19.12.94 which, by reason of its being so quashed by Judicial order, is non-existent now and is therefore not available for any use of applications. This submission of the learned Advocate for the petitioners is indeed unassailable and the learned Advocate appearing for the State also could not submit anything in support of the inaction of the District Inspector of Schools in the matter of sanctioning higher scale of pay to the petitioners for their acquisition of higher qualification. I would have therefore immediately directed the D.I. of Schools to accord sanction for grant of higher scale of pay to the petitioners but before that I would like to discuss the matter inasmuch as a subsequent decision of a learned Judge of this Court in Tapas Kr. Das vs. State of West Bengal. 1996 (2) CLJ 467 has been brought to my notice for consideration. Before I discuss the decision of another learned Judge which has been brought to my notice I would like to make here a brief reference to my two earlier decisions on the matter first. In Muchha Mondal Vs. State of West Bengal and others, the writ petitioner came before this Court for appropriate relief in connection with the approval of panel for appointment to the post of English Teacher in a School by the District Inspector of Schools. The petitioner in that case was having M.A. degree of Himachal Pradesh University. He obtained that M.A. degree through correspondence course. The District Inspector of Schools was not accepting the degree for approving the panel in which the petitioner was placed in the first position on the ground that the petitioner obtained the degree through correspondence course. The said case was decided by me. In that case I took notice of the letter dated 28/29-9-93 written the Deputy Registrar (Acad). Himachal Pradesh University informing that the H.P. University has been established under the provisions of the University Grants Commission regarding establishment of University, by an Act, the Himachal Pradesh University Act, 1970 and this is a Statutory University and the Directorate of Correspondence Courses of the H.P. University is a part and parcel of it and all the examinations conducted by the said University including the courses through the Directorate of

Correspondence Courses are recognised. I also took notice of his another letter dated 19/20-11-93 informing that M.A./M.Sc. (Maths) degree as awarded by the H.P. University in respect of the students who are enrolled as students of that University in the Directorate of Correspondence Course of that University is equivalent to the degree of M.A./M.Sc. (Maths) in case of regular students, as the syllabus as well as course in both the cases is similar and that the candidates who are awarded degrees by that University in both the cases are eligible to get admission in higher studies and/or other benefits because the duration of the study and evaluation etc. of the students are the same as are available to the regular students of the said University. It will be thus evident that I only took notice of the equivalence of the degree obtained through regular course and the degree obtained through correspondence course, as determined by the University itself. I did not determine the equivalence, and I reiterate that I only took notice of the equivalence determined by the University. Accordingly I held that the correspondence course M.A. degree of the said University was as valid and potent a degree as M.A. degree of any other recognised University in India. I directed the D.I. of Schools to give due credit to the petitioner for his M.A. degree awarded by the H.P. University and convey his approval to the concerned panel in accordance with law if the same was otherwise found to be in order. That case was decided by me on 11th August. 1995.

2. My subsequent decision on the matter is Kalidas Gangopadhyay vs. State of West Bengal. 1996 (2) CLJ 42 in which also the question of recognition of the M.A./M.Sc (Maths) degree of Himachal Pradesh University through correspondence course came up. Several writ petitions were decided by the said decision which was given on 10th May, 1996. In those matters it came out that the District Inspector of Schools was not recognising the masters degree obtained through correspondence course in view of the G.O. No. 904-SE (Secy.) dated 19-12-94. In some of the writ petitions decided by that decision the writ petitioners who obtained master degree through correspondence course from the H.P. University were not being given by the D.I. enhanced scale of pay as Assistant Teacher in School which they were entitled to for improving their qualification by obtaining masters degree. In the said decision in Kalidas Gangopadhyay vs. State of West Bengal I not only took notice of my earlier decision in Muchha Mondal but also elaborately considered all relevant aspects of the matter and also examined in detail the reasons which were spelt out on behalf of the state in support of G.O. No. 904-SE (Secy.) dated 19-12-94. The relevant portion of the said G.O. No. 904-SE (Secy.) dated 19-12-94 is reproduced below :

Claim for higher scale of pay from teachers enhancing qualification from H.P. University through correspondence course.

The undersigned is directed to refer to the subject noted above and to say that the State Government in Education (School) Department as a matter of policy have not agreed to recognise a degree/diploma/master degree etc. acquiring

through correspondence course from any university etc. as equivalent to a regular course conducted by recognised universities.

As such, the question of extending the benefit of higher scale for acquired such a degree/diploma/masters degree through correspondence course does not arise.

3. The validity of the said G.O. No. 904-SE (Secy.) dated 19-12-94 was challenged in all the writ petitions which came up for decision before me in *Kalidas Gangopadhyay vs. State of West Bengal*. In course of hearing of the writ petitions the concerned file of the Education Department (Secondary) from which the impugned G.O. No. 904-SE (Secy.) was issued, was produced before the court although the State-respondent did not file any affidavit in support of the said G.O. The file was examined by me and I also examined elaborately the reasons recorded in that file in support of the issuance of the said G.O. No. 904-SE. The reasons recorded in the file were also supplemented by letter No. 17-SE(s) dated 3-1-96 addressed to the District Inspector of Schools (SE) from the Department of School Education (Secondary) Branch Govt. of West Bengal explaining the reasons which prompted the issuance of G.O. No. 904-SE. All the reasons recorded in the file as well as in that subsequent letter No. 17-SE in support of the G.O. No. 904-SE were elaborately examined by me and point by point threadbare in *Kalidas Gangopadhyay vs. State of West Bengal* (supra). I recorded in that decision (Paragraph 13) after elaborate discussion that judged by any standard, the degree awarded by the H.P. University to its correspondence course students is the same degree awarded by the University to its regular students and any discrimination in the matter as has been done by the Education Department of the Govt. of West Bengal in issuing the impugned G.O. was highly arbitrary, misconceived and untenable. I also held in that decision that the masters degree awarded by the Himachal Pradesh University to its correspondence course students is as valid and potent a degree as is awarded to its regular students and also as valid and potent as a master degree of any other recognised University in India. Accordingly by my judgment dated 10-5-96 in *Kalidas Gangopadhyay* (supra) I quashed the impugned G.O. No. 904-SE (Secy.).

4. It may also be noted here that in paragraph 6 of my said decision in *Kalidas Gangopadhyay v. State of West Bengal* (supra) I not only took note of the fact that the H.P. University was recognised by the University Grants Commission but also recorded that the Association of Indian Universities, New Delhi also recommended to the Education Department, Govt. of West Bengal for recognising the degree of the H.P. University awarded through its correspondence courses as the said University is a statutory institution and all its degree programmes conducted through regular/correspondence studies area automatically recognised. It was also pointed out in the said letter issued by the Association of Indian Universities that the prescribed syllabi, standards, duration of studies, the evaluation, grading, degree awarding for correspondence courses were the same as for regular programmed. In paragraph 12 of that decision I

took notice of the view expressed by the Association of Indian Universities that the degrees awarded through correspondence studies from University Institutions in India are recognised programmes and treated at par with Degrees obtained after regular studies. It may be mentioned here that the Association of Indian Universities is a representative body of the highest institutions in the field of education at the national level. This Association was established at the initiative of the Government of India and its membership includes Universities, deemed Universities and Institutions of national importance. One of its major objectives is establishing equivalence of degree awarded by Indian and foreign Universities. The Universities are represented in the Association by the Vice-Chancellors/Directors or in their absence by members of the Syndicate/Executive Council (vide, page XII of the Introduction to the Universities Handbook (A.I. U-1995).

5. In the said paragraph 6 of the decision in Kalidas Gangopadhyay vs. State of W.B. I also took notice of the fact that the Calcutta University also recognised the M.A. degree of the H.P. University as equivalent to the corresponding examination of the Calcutta University. In paragraph 5 of the said decision I also referred to a letter of the Registrar, H.P. University addressed to the Director of Secondary Education confirming that the syllabus, courses, question papers, mode of examination, result, degree etc. are the same both for the students of the correspondence courses and regular students of that University. In paragraph 12 of my said decision I pointed out that the Education Department (Secondary Branch), Govt. of West Bengal earlier issued a G.O. recognising B.Ed. degree obtained through correspondence course from Annamalai University (which is located "thousand miles away" from this State) as equivalent to a regular B.Ed. degree of a recognised University. In the same paragraph 12 I also took notice of the fact that the authorities in West Bengal have recognised High School Certificate Examination (Correspondence Course) of Orissa as equivalent to the Madhyamik Examination of the West Bengal Board. In my that decision I also took notice of the fact that Burdwan University of our State was running post-graduate correspondence courses with the approval of the Government of West Bengal, and Vidyasagar University of this State was also running correspondence courses at the postgraduate level.

6. It however appears that subsequently one Tapas Kr. Das, an Assistant Teacher of a High School who improved his qualification by obtaining master degree from Annamalai University through correspondence course applied for higher scale of pay but the D.I. of Schools by his memo, dated 16-5-96 turned down his claim by applying the said G.O. No. 904-SE (Secy.) date 19-12-94. He then filed a writ petition which was heard and dismissed on 3rd September, 1996 by Bhagabati Prasad Banerjee, J. in Tapas Kr. Das vs. State of West Bengal, 1996 (2) CLJ 467 . It may be noticed here that by my decision in Kalidas Gangopadhyay I quashed the said G.O. No. 904-SE (Secy.) dated 19-12-94 on 10th May, 1996. Evidently therefore when on the 16th May, 1996 the D.I. of Schools turned down the claim of Tapas Kr. Das for higher scale of pay by applying the G.O. No. 904-SE, the said G.O. was not in force at all because having been already quashed by my

order dated the 10th May, 1996 the same became non-existent thereafter in the eye of law and therefore the D.I. on 16th May, 1996 was not entitled to avail of the same for refusing the claim of Tapas Kr. Das. In my opinion, Tapas Kr. Das was entitled to relief in his writ petition on the simple ground that the G.O. No. 904-SE was already quashed by this Court and was therefore no more available to the D.I. on 16th May, 1996 for refusing the claim of the petitioner. However the learned Judge in Tapas Kr. Das dismissed the writ petition by holding that my decisions in Muchha Mondal and Kalidas Gangopadhyay (supra) were decisions per incuriam and cannot be treated to be binding precedent and also cannot be treated as valid. In this connection I would however like to say that even if the learned Judge disagreed with my view and my decisions in Muchha Mondal and Kalidas Gangopadhyay (supra) he could have referred the matter to a larger Bench which however was not done and instead my decisions were side-tracked by the plea of their being per incuriam. Now that the question has again come up before me in the present writ petition I will examine whether really my said decisions were per incuriam and whether they are inconsistent with any decision of the Supreme Court referred to in the decision of B.P. Banerjee, J. for treating my decisions as per incuriam. One thing however must be made clear here. Since in my decision in Kalidas Gangopadhyay (supra) I expressly quashed the G.O. No. 904-SE (Secy.) dated 19-12-94, the said G.O. does not get revived even if any learned Judge in any subsequent case disagrees with my reasonings and conclusion in the earlier decision in which the said G.O. was quashed. That quashed G.O. could have been revived only and not otherwise than by an Appeal Bench by setting aside my judgement in an appeal preferred against the same. For holding my decisions per incuriam B.P. Banerjee, J. in Tapas Kr. Das vs. State of W.B. (supra) has referred to four decisions of the Supreme Court, namely, Maharashtra State Board of Secondary and Higher Secondary Education and Another Vs. Paritosh Bhupeshkumar Sheth and Others, , E.P. Royappa Vs. State of Tamil Nadu and Another, Rajendra Prasad Mathur Ors. Vs. Karnataka University and Another, and Dr. B.L. Asawa Vs. State of Rajasthan and Others, Purporting on the basis of those decisions the learned Judge seems to have been of the view that the administrative decision of the Education Department of the Govt. of West Bengal relating to recognition of degree is beyond the scope of judicial review of the High Court and the High Court in a writ petition cannot determine the equivalence of educational degrees. The learned Judge seems to be of the view that in my decisions in Muchha Mondal and Kalidas Gangopadhyay (supra) I made an impermissible judicial review of the decision of the Education Department of the Government of West Bengal not to recognise a correspondence course degree of any University, as a judicial review is not permissible in this matter. He also seems to be of the view that I determined equivalence of the correspondence course degree and regular course degree which is also not permissible for the court to do and since I did both these impermissible things in any said decisions in ignorance of the said four Supreme Court decisions, my said two decisions are per incuriam and therefore need not be followed by the court as binding precedent. I would however like to say after

carefully studying the Supreme Court decisions referred to by the learned Judge and I rather feel reassured, that the judicial review exercised by me in this matter was not only wholly permissible but was also compulsively incumbent upon the court to do, in discharge of its constitutional obligation, in the circumstances of the cases and this is wholly sustained by Supreme Court decisions. As regards the question of equivalence of degrees, I would only say that I did not determine equivalence. I only took notice of the equivalence expressed by the Universities and the Association of Indian Universities and this will be evident to any one reading my concerned decisions with due seriousness and detachment, if I do not say sincerity. The primary aspect of the question dealt with by me was the question of recognition and validity of degree, more than the question of equivalence. I would now refer to the four decisions of the Supreme Court relied upon by B.P. Banerjee, J. for purporting to invalidate my decisions by the plea of per incuriam.

7. The decision in *E.P. Royappa vs. State of Tamil Nadu* (supra), referred to by the learned Judge did not relate to any question regarding the value or validity of any degree awarded by any University. There one of the matters that fell for consideration was regarding equivalence of cadre posts and non-cadre posts in the field of Government service. It is not understandable as to why the said decision of the Supreme Court in *E.P. Royappa* has been referred to by the learned Judge in *Tapas Kr. Das*. In paragraph 19 of the decision in *Tapas Kr. Das* the learned Judge records thus :

19. Accordingly, it is well-settled principle that in regard to equivalence of degrees and even in case of declaration of equivalence of posts under the provisions of the Indian Administrative Service (Cadre) Rules, 1954 the court has a limited role to play. In so far as equivalence of degrees is concerned, it is entirely within the domain of the University to decide the question of equivalence and not for the court to sit in judgement over the decision of the University because it is not a matter on which the court possesses any expertise. But, in so far as equivalence of posts is concerned, the court reserves a very limited power of judicial review to correct an error of law and beyond that the court has no jurisdiction whatsoever in such matters.

8. So the learned Judge acknowledges that in regard to the question of equivalence of the posts the court has some power of judicial review to correct an error of law, but he is of the view that in regard to question of equivalence of degrees the court has none. The matter for consideration before the learned Judge as well as before me in *Muchha Mondal* and *Kalidas Gangopadhyay* was not regarding equivalence of posts, but it was regarding recognition of University degree. When the matter before us did not involve any question of equivalence of posts and when even according to the learned Judge the court has some power of judicial review in respect of equivalence of posts, in that case it is not understood how the decision of the Supreme Court in *E.P. Royappa* which inter alia concerned the question of equivalence of posts in Government service, can

be put to use for invalidating my decisions as per incuriam. In paragraph 82 of the decision in *E.P. Royappa Vs. State of Tamil Nadu and Another*, the Supreme Court observed thus :

But where it appears to the court that the declaration of equivalence is made without application of mind to the nature and responsibilities of the functions and duties attached to the non-cadre post or extraneous or irrelevant factors are taken into account in determining the equivalence or the nature and responsibilities of the functions and duties of the two posts are so dissimilar that no reasonable man can possibly say that they are equivalent in status and responsibility or the declaration of equivalence is mala fide o(sic) in colourable exercise of power or it is a cloak for displacing a member of the Indian Administrative Service from a cadre post which he is occupying, the court can and certainly would set at naught the declaration of equivalence and afford protection to the civil servant.

9. The decision of the Supreme Court in *E.P. Royappa* therefore does not debar judicial review in respect of matter of equivalence of posts. It also does not say anywhere either expressly or impliedly that judicial review is excluded in respect of educational matters. It is therefore totally perplexing as to how the learned Judge in *Tapas Kr. Das* could requisition *E.P. Royappa* for holding my decisions in *Muchha Mondal* and *Kalidas Gangopadhyay* per incurium. It is rather a well-known position that *E.P. Royappa* "laid bare" the dimension of non-arbitrariness of Article 14 for the first time thereby bringing all arbitrary state actions within the purview of judicial review. The Supreme Court in *E.P. Royappa* observed that from a positivistic point of view equality is antithetic to arbitrariness and in fact equality and arbitrariness are sworn enemies. *E.P. Royappa* thus brings every state action under judicial review for testing whether the State action is arbitrary or discriminatory and this is precisely what I have done in my decisions in *Muchha Mondal* and *Kalidas Gangopadhyay*.

10. Now let us took to the decision of the Supreme Court in *Maharashtra State Board of SHSE v. Poritosh Bhupesh Kr. Sheth* (supra) as referred to by the learned Judge in his decision in *Tapas Kr. Das*. In paragraph 24 of his decision in *Tapas Kr. Das* the learned Judge says that in *Maharashtra State Board of SHSE vs. Poritosh Kr. Sheth* (supra) the Supreme Court held that the court should be extremely reluctant to substitute its own views as to what is wise, prudent and proper in relation to academic matters in preference to those formulated by professional men possessing technical expertise and rich experience of actual day-to-day working of educational institutions and departments controlling them. This decision also has no application to my decisions in *Muchha Mondal* and *Kalidas Gangopadhyay* inasmuch as in my decisions I did not substitute my own views regarding validity of University degree. I rather took notice of the views of the Universities as well as of the Association of Indian Universities regarding the validity and status of a University degree. I took notice not only of the view of the Himachal Pradesh University in the matter but also of the Calcutta University

which I have referred to in my decision in Kalidas Gangopadhyay. I also took note of the fact that even Burdwan University in the State of West Bengal has introduced correspondence course at the Master Degree level with the approval of the Government of West Bengal, and the Vidyasagar University of West Bengal also has introduced such correspondence course and all these Universities are giving valid masters degrees. I also took notice of the fact that earlier the Education Department of the Government of West Bengal expressly recognised the correspondence course degree of Annamalai University. It is therefore evident that far from substituting my own views in the matter I only took notion of the views of others whose views really matter and in the light of such views I have only found that the G.O. No. 904-SE (Secy.) was arbitrary and discriminatory, for reasons discussed and recorded in my decisions, so such so that the same was required to be struck down on that ground. In the Supreme Court decision in Maharashtra S.B.O.S. & HSE v. Poritosh (supra) certain regulation in respect of educational matter was under challenge. The Supreme Court in paragraph 16 of that decision observed thus :

The legislature and its delegates are the sole repositories of the power to decide what policy should be pursued in relation to matters covered by the Act and there is no scope for interference by the court unless the particular provision impugned before it can be said to suffer from any legal infirmity in the sense of being.....inconsistent with any of the provisions of the parent enactment or in violation of any of the limitations imposed by the Constitution.

11. As regards bye-law which is susceptible to the test of reasonableness also, the Supreme Court in paragraph 21 of the said decision observes that "unless it can be said that a bye-law is manifestly unjust capricious, inequitable or partial in its operation it cannot be invalidated by the court on the ground of unreasonableness". It is therefore evident from what have been quoted above from the paragraph 16 and 21 of the said Supreme Court decision that any regulation, bye-law and a fortiori any G.O. issued by the Government are subject to judicial review on the ground of violation of Constitutional limitation imposed by Article 14 which ensures non-arbitrariness and non-discrimination in State actions. This is, precisely what I have done in my decisions in Muchha Mondal and Kalidas Gangopadhyay and have found that the G.O. in question was vitiated by arbitrariness and invidious discrimination and have accordingly quashed the same. My exercise of judicial review in the matter is perfectly covered by the mandate of the said Supreme Court decision and there is nothing in my said two decisions in Muchha Mondal and Kalidas Gangopadhyay which can be said to run or even remotely purport to run counter to the decision of the Supreme Court in Maharashtra State Board of SHSE. Therefore there is no question of my said decisions being per incuriam by reason of the decision of the Supreme Court in Maharashtra State Board of SHSE. Rather my decisions receive direct support from the said decision of the Supreme Court, as I have shown.

12. The learned Judge in Tapas Kr. Das has also referred to the decision of

Supreme Court in Rajendra Prasad Mathur Ors. Vs. Karnataka University and Another, While referring to the said decision of the Supreme Court in Rajendra Prasad vs. Karnataka University (supra) the learned Judge in Tapas Kr. Das has also quoted a portion from paragraph 7 of the said decision wherein it is inter alia stated that the University is best fitted to decide whether any examination held by a university outside the state is equivalent to an examination held within the state having regard to the courses, the standard of examination and it is an academic question in which the court should not disturb the decision taken by the University. In Muchha Mondal and Kalidas Gangopadhyay, far from disturbing any decision of any University, I only took notice of the decisions of the Universities and gave effect to the same in Kalidas Gangopadhyay. I not only took notice of the decision of H.P. University regarding the equivalence of M.A. degrees through regular course and through correspondence course but I also took notice of the decision of the Calcutta University regarding the equivalence of Himachal Pradesh University M.A. Degree with the corresponding degree of the Calcutta University. Again it has to be noticed that in the said decision in Rajendra Prasad vs. Karnataka University the Supreme Court did not say that the decision of the University is not subject to judicial review. It is by this time a well established principle of constitutional law that the decision of any quasi-judicial or even administrative authority or body is subject to judicial review within permissible limits. In Rajendra Prasad vs. Karnataka University as a matter of fact both the High Court and the Supreme Court exercised that judicial review but found nothing wrong in the decision of the Karnataka University requiring interference of the court. The Supreme Court in paragraph 7 of the said decision in Rajendra Prasad vs. Karnataka University observed thus :

It is difficult to appreciate how the Higher Secondary Examination held by the Secondary Education Board, Rajasthan after only 11 years schooling could be regarded as equivalent to the pre-university examination of the Pre-University Education Board, Bangalore which came as the culmination of a full 12 years course of study. So also it is difficult to understand how the decision of the Karnataka University not to recognise the first year B.Sc. examination of the Rajasthan and Udaypur Universities as equivalent to the Pre-university examination of the Pre-University Education Board, Bangalore could be regarded as arbitrary or fanciful. It is for each University to decide the question of equivalence and it would not be right for the court to sit in judgement over the decision of the University because it is not a matter on which the court possesses any expertise. The University is best fitted to decide whether any examination held by a University outside the State is equivalent to an examination held within the State having regard to the courses, the syllabus, the quality of teaching or instruction and the standard of examination. It is an academic question in which the court should not disturb the decision taken by the University. Here we find that no material has been placed before the court on the basis of which the court could say that the decision of the Karnataka University not to recognise the Higher Secondary Examination of the State of Rajasthan or the first year B.Sc.

examination of the Universities of Rajasthan and udaipur as equivalent to the Pre-University Examination of the Pre-University Education Board, Bangalore was arbitrary or not based on reasons. We must therefore reject this contention urged on behalf of the appellant.

(emphasis supplied).

13. The above-quoted observations of the Supreme Court, more particularly the observations I have emphasised clearly show that the Supreme Court far from saying that the decision of the Karnataka University was beyond the pale of judicial review, rather found by exercising judicial review that the decision of the University in the matter under consideration could not be regarded as arbitrary and no material was there on the basis of which the decision in question could be said to be arbitrary or not based on reason. If any decision is arbitrary certainly it would violate Article 14 and would warrant interference of the court, and that is why the Supreme Court exercised judicial review in the said case but found that there was no arbitrariness vitiating the decision of the University. There is no doubt that if any decision of any authority, e.g. University is found to be not violative of any law or constitutional provision and is not violative of Article 14 by reason of arbitrariness or undue discrimination, in that case obviously the court cannot substitute its own views to override the views of such authority as to what is wise, prudent and proper in relation to the matter under consideration nor can the court sit in judgment over the decision of the University once such decision is found to be not hit by the tests of non-arbitrariness and non-discrimination on the anvil of Article 14. Every decision of every State authority will have to pass the scrutiny of Article 14 first wherever it is attracted, before it can claim immunity from further scrutiny. In my decisions in Muchha Mondal and Kalidas Gangopadhyay I only applied the tests of Article 14 leading to the result that the action of the Education Department of the Government of West Bengal in issuing the impugned G.O. No. 904-SE (Secy.) was found to be vitiated by arbitrariness and invidious discrimination violative of Article 14 and accordingly I quashed the said G.O. as the court is duty-bound to do in such circumstances. It was not a case of substituting my own views for any State action found to be intra vires. It was a case of weeding out of a State action found to be ultra vires. It can be seen from a sincere study of my decisions that there is nothing in my decisions in Muchha Mondal and Kalidas Gangopadhyay which can be said to run counter to the decision of the Supreme Court in Rajendra Prasad vs. Karnataka University (supra) which permits judicial review -- of all other relevant Supreme Court decisions also do -- for testing whether the impugned decision is vitiated by arbitrariness. By such judicial review I found the decision of the Education Department of the Government of West Bengal (and not University) highly arbitrary and invidiously discriminatory and therefore I quashed the same, and that too by giving effect to the decision of the concerned Universities and the authoritative bodies like the University Grants Commission and the Association of Indian Universities and also by taking notice that this State Government has already expressly recognised correspondence course degree of Annamalai

University and several Universities of West Bengal are also running correspondence courses at the masters degree level, and that too with the approval of the State Government And while writing these lines I am still fascinatingly optimistic that Article 14 which could blossom to its present dimension through progressive and enlightened judicial activism under the magnificent leadership of our Apex Court, will yet survive the decision of the learned Judge in Tapas Kumar to have its play even in educational matters also as in other matters. -- no matter whether my decisions in Muchha Mondal and Kalidas Gangopadhyay are per incuriam or not. And if Article 14 survives the decision in Tapas Kumar, which I suppose it does, in that case it will be difficult for the State to get away with arbitrary and invidiously discriminatory actions on educational matters also in future inspite of the Messing of the decision in Tapas Kumar.

14. The fourth decision which has been referred to by the learned Judge in Tapas Kr. Das in support of his theory that my judgements were per incuriam is Dr. B.L. Asawa Vs. State of Rajasthan and Others, The learned Judge in paragraph 21 of his decision in Tapas Kr. Das referred to the said decision of the Supreme Court and observed thus :

The Supreme Court in.... B.L. Asawa vs. State of Rajasthan.....had held that in order that there should be a scope for declaration of "equivalence" of qualification obtained from another body, there should be a corresponding qualification earned by virtue of passing an examination or test conducted by a university. There can be declaration of equivalence only as between a degree etc. awarded by a concerned university and obtained from a body different from the concerned University.

15. It is not understood as to how the said paragraph 21 of the decision of the learned Judge in Tapas Kr. Das is applicable in the facts and circumstances involved in the case of Tapas Kr. Das as well as in the cases of Muchha Mondal and Kalidas Gangopadhyay for invalidating the degree of a recognised University. However what the Supreme Court actually said in that connection in Paragraph 11 of its decision in B.L. Asawa v. State of Rajasthan (supra) is this :

In wrier that there should be scope for declaration of equivalence of a qualification obtained from another body, there can be declaration of equivalence only as between a qualification obtained from a body different from the one awarded by the concerned University. When the University of Rajasthan does not conduct any examination for the award of the degree of M.D. (Forensic Medicine), there cannot be any declaration of "equivalence" in respect of such a degree awarded by any University.

* * * *

16. I have quoted above what actually the Supreme Court said in that connection so that the confusion which is likely to arise by an exclusive reading of paragraph 21 of the decision in Tapas Kr. Das v. State of West Bengal (supra) may be

dispelled. In all the cases, namely in Muchha Mondal, Kalidas Gangopadhyay and Tapas Kumar Das the question that fell for consideration was regarding the value or status of a masters degree awarded by a recognised university through its correspondence course. Basically this is a question of recognition of a masters degree awarded by a recognised University. The decision of the Supreme Court in B.L. Asawa vs. State of Rajasthan (supra) which has found a half-hearted reference in the decision of Tapas Kr. Das vs. State of West Bengal when subjected to a full-hearted study, furnishes a complete answer to this question. What happened in that case in B.L. Asawa was that the petitioner obtained M.B.B.S. degree from the University of Rajasthan. Thereafter he obtained M.D. Degree in Forensic Medicine from the University of Bihar, Muzaffarpur. In response to an advertisement made by the Rajasthan Public Service Commission for recruitment to the posts of Lecturer in Forensic Medicine in the Government colleges in the State of Rajasthan the petitioner applied for the same. The Rajasthan Public Service Commission refused to accept the candidature of the petitioner on the ground that he lacked the necessary academic qualification specified in the advertisement. The sole ground on which the petitioner was treated by the Public Service Commission as ineligible for consideration was that the postgraduate degree in Forensic Medicine possessed by the appellant-writ petitioner was not awarded by the University of Rajasthan and the said degree had also not been recognised by the University of Rajasthan as an equivalent qualification. The Supreme Court in paragraph 11 of the said decision took note of the fact that the University of Bihar at Muzaffarpur is one duly established by statute and it is fully competent to conduct examination and to award degrees and that the degree of doctor of medicine (Forensic Medicine)/M.D. (Forensic Medicine) of the University of Bihar is included in the schedule to the Indian Medical Council Act, 1956 as a degree fully recognised by the Indian Medical Council. The Supreme Court observed therein that a postgraduate Medical Degree granted by a University duly established by statute in this country and which has also been recognised by the Indian Medical Council by inclusion to the schedule of the Medical Council Act has ipso facto to be regarded, accepted and treated as valid throughout our country. In this connection the following observations of the Supreme Court made in the said paragraph 11 is significant:

In the absence of any express provision to the contrary, such a degree does not require to be specifically recognised by other universities in any State in India before it can be accepted as a valid qualification for the purpose of appointment to any post in such a State. The Division Bench of the High Court was, in our opinion, manifestly in error in thinking that since the Post-graduate degree possessed by the appellant was not one obtained from the University of Rajasthan, it could not be treated as a valid qualification for the purpose of recruitment in question in the absence of any specific order by the University of Rajasthan recognising the said degree or declaring it as an equivalent qualification. ***** In the case of a Post-graduate degree the concerned subject awarded by a Statutory Indian University, no recognition or declaration of

equivalence by any other University is called for ****

17. Accordingly the Supreme Court allowed the appeal and directed the Public Service Commission to treat the appellant as a fully qualified candidate. In our present case also, as has been fully discussed in my decision in Kalidas Gangopadhyay, the Himachal Pradesh University is a statutory University competent to award degrees and all its degrees are recognised by the authoritative bodies like the University Grants Commission and the Association of Indian Universities. The Calcutta University also recognises the masters degree of the H.P. University. The Himachal Pradesh University has also expressly declared that the masters degree it awards through correspondence course is equivalent to the masters degree it awards through campus study, because in both the cases the qualification for admission, duration of study, course contents, question papers, mode of examination and evaluation are the same. In fact the degree is also the same. The validity of my decision in Kalidas Gangopadhyay is further reinforced by the observation of the Supreme Court in B.L. Asawa (supra) that in the case of a post-graduate degree in the concerned subject awarded by a statutory Indian University no recognition or declaration of equivalence by any other University is called for. Far from being a decision per incuriam my decision in Kalidas Gangopadhyay is in perfect accord with the decision of the Supreme Court in B.L. Asawa (supra). On the contrary the decision in Tapas Kumar Das clearly seems to be a decision not in ignorance but rather in silent defiance of the Supreme Court decision in B.L. Asawa which found a half-hearted reference in Tapas Kumar Das.

18. There is also another very serious aspect of the matter. Higher scale of pay for acquiring higher qualification is admissible to teachers under para 16(3) of the G.O. No. 33-Edn. (B) date 7-3-90 which was issued by order of the Governor. The said para 16(3) does not say anything about any particular University from which the higher qualification is required to be acquired by the concerned teacher claiming the higher scale of pay. It speaks of improved qualification only, Annexure-VI to the said G.O. prescribes different pay-scales for teachers with different qualification levels. Since the petitioners improved their qualification by obtaining Masters Degree from Himachal Pradesh University they claim the higher scale of pay prescribed for Masters Degree holders. The said schedule to the G.O. No. 33-Edn. speaks of Masters Degree for a particular scale of pay and not Masters Degree from any particular University or through any particular mode (namely, through campus study or regular course only) nor of any degree equivalent to any Masters Degree of any particular University. That being so, any teacher who obtains a Masters Degree from any recognised statutory Indian University either as a campus candidate or as a private candidate or as a correspondence course candidate is ipso facto entitled to the higher scale of pay under the G.O. No. 33-Edn. which has been issued under the authority of the order of the Governor, and the scope of that G.O. No. 33-Edn. can not be curtailed by a departmental memorandum like the Memo No. 904-SE without the order of the Governor. Since the original G.O. No. 33-Edn. does not at all speak

of "regular course" degree, there is also no question of any equivalence of a "regular course degree" and correspondence course degree in the context of entitlement to higher scale of pay for higher qualification under the G.O. No. 33-Edn. which has been issued under the order of the Governor. This is an additional ground why the Memo. No. 904-SE cannot be allowed to stand to defeat the legitimate claim of teachers under the G.O. No. 33-Edn. But of course I have tested the Memo. No. 904-SE in my decision in Kalidas Gangopadhyay assuming it to have been issued by the appropriate authority of the Government and have found that the same is arbitrary and invidiously discriminatory and therefore quashed it. In other words Memo No. 904-SE was found to be tainted with the vice of arbitrariness and undue discrimination and it was therefore quashed, and in the circumstance it is totally immaterial whether the said Memo, was issued under authority of the Governor because no amount of Governor's order can protect an order which is otherwise violative of Article 14 (and also Article 16 in this case). It is further to be noted here that the view I have expressed in my said two decisions in Muchha Mondal and Kalidas Gangopadhyay also has received recognition and acceptance from some other learned Judges of this Court, vide, order dated the 27th May, 1996 passed by A.N. Ray, J. in writ petition No. 2075 of 1995 which involved post-graduate degree of H.P. University obtained through correspondence course and order dated 13-6-97 passed by Ruma Pal, J. in W.P.No. 9302(W) of 1997 which involved post-graduate degree of Burdwan University obtained through correspondence course. It is also to be mentioned here, as submitted, that all these decisions including my decisions in Muchha Mondal etc. have also been implemented by the Government. The view which has been consistently taken by three different learned Judges of this Court independently in different cases at different points of time cannot definitely be washed away or superseded by the decision in Tapas Kr. Das given by a learned single Judge exercising coordinate jurisdiction. This is a requirement of judicial discipline and propriety so that the public in general and the concerned authorities as well are not plunged into a confused state by reason of any stray decision on any matter trying to run counter to the mainstream of judicial decisions governing the field. As against all those mainstream decisions, the decision in Tapas Kr. Das can have a field-day, only if it is given legitimacy as the judicial epitaph on the grave-yard of Articles 14 and 16 of the Constitution of India and not otherwise.

19. I have already discussed the four decisions of the Supreme Court referred to by the learned Judge in Tapas Kr. Das for making my decisions in Muchha Mondal and Kalidas Gangopadhyay per incuriam and we have seen from such discussion that my decisions are not in any way inconsistent with those decisions of the Supreme Court. The message of the Supreme Court decisions is rather clear that any state action which is invidiously discriminatory or arbitrary in violation of Article 14 is surely liable to judicial review in the writ jurisdiction of the court. In E.P. Royappa (supra) the Supreme Court observed that where an act is arbitrary it is implicit in it that it is unequal both according to political logic and

constitutional law and is therefore violative of Article 14 and if it affects any matter relating to public employment, it is also violative of Article 16 and that Articles 14 and 16 strike at arbitrariness in State action and ensure fairness and equality of treatment. In *Mrs. Maneka Gandhi Vs. Union of India (UOI) and Another*, the Supreme Court observed that Article 14 strikes at arbitrariness in State action and ensures fairness and equality of treatment and that the principle of reasonableness which illegally as well as philosophically is an essential element of equality or non-arbitrariness pervades Article 14 like a brooding omnipresence. In *Ramana Dayaram Shetty Vs. International Airport Authority of India and Others*, the Supreme Court observed in connection with the doctrine of equality embodied in Article 14 that it requires that state action must not be arbitrary but must be based on some rational and relevant principle which is non-discriminatory and it must not be guided by any extraneous or irrelevant consideration because that would be denial of equality. In *Ajay Hasia and Others Vs. Khalid Mujib Sehravardi and Others*, the Supreme Court clearly observed that it must now be taken to be well settled that what Article 14 strikes at is arbitrariness because an action that is arbitrary must necessarily involve negation of equality and that wherever therefore there is arbitrariness in state action, whether it be (sic) the legislature or of the executive or of an "authority" under Article 12, Article 14 immediately springs into action and strikes down such State action. It is further observed by the Supreme Court in that connection that in fact the concept of reasonableness and non-arbitrariness pervades the entire constitutional scheme and is a golden thread which runs through the whole of the fabric of the Constitution. We thus find that not only the decisions of the Supreme Court referred to by the learned Judge in *Tapas Kr. Das* but also the other decisions of the Supreme Court a few of which I have referred to above, such as, the decisions in *Maneka Gandhi*, *International Airport Authority* and *Ajoy Hasia* clearly mandate judicial review where any state action, legislative or executive, violates Article 14 by reason of its being arbitrary or unduly discriminatory. And this is precisely what I have done in *Muchha Mondal* and *Kalidas Gangopadhyay*. In *Kalidas Gangopadhyay* through an elaborate discussion I have shown how the decision of the Education Department is both arbitrary and invidiously discriminatory and therefore violative of Article 14 bringing the matter within the scope of judicial review by the writ court.

20. The learned Judge in paragraph 14 of his decision in *Tapas Kr. Das* says that the court is not competent to declare that the degrees and certificates given in the correspondence courses from other universities situated "thousand miles away" from the State should be regarded as the degrees and diplomas conferred by the universities in the State after regular studies, having a particular syllabus and particular course and quality of teaching and instruction as also maintaining standard of examination. I have already pointed out that in *Muchha Mondal* and *Kalidas Gangopadhyay* the court did not declare equivalence and it only took notice of the equivalence declared by appropriate authorities. If the learned Judge would have taken the trouble of going through my decision in *Kalidas*

Gangopadhyay he would have noticed in paragraph 12 of my said decision that Education Department. Government of West Bengal has already expressly recognised correspondence course degree of Annamali University which I think is "thousand miles away" from this State. He could have also noticed that the educational authorities of West Bengal have recognised the correspondence course High School Examination Certificate of the Orissa Board of Secondary Education, as pointed out by me in paragraph 12 of my said decision. The learned Judge in paragraph 34 of his decision in Tapas Kr. Das marcifully takes notice of the well-settled principle that Article 14 forbids class legislation but permits reasonable classification. Then in paragraph 35 of his decision the learned Judge observes that the degrees obtained in a regular course and the degrees obtained in the correspondence course form two different and distinct classes and as such the same could not be treated at par. This, I must say, cannot be as simple as that. This rather amounts to saying something like this that the State authorities are entitled to make a rule that in the matter of, say, public employment persons belonging to affluent class of the society will be selected in preference to persons belonging to poverty-ridden class. And this according to the novel maxim propagated in paragraph 35 of the decision in Tapas Kr. Das will be outside the scope of judicial review because "the rich and the poor form two different and distinct classes and as such they could not be treated at par". By one stroke of pen and by one single sentence in paragraph 35 of the decision in Tapas Kr. Das the entire citadel of the quality clause of our Constitution which has been built up bit by the progressive decisions of our Apex Court during the last forty seven years, has been sought to be dashed down to dust and the said paragraph 35 sounds the death knell of Article 14. But I am sure Article 14 with its full vigour still survives on the authority of the Supreme Court decisions such as the decisions in Rajendra Prasad Mathur, Maharashtra State Board of SHSE, B.L. Asawa, E.P. Royappa, Maneka Gandhi, International Airport Authority, Ajoy Hasia and a catena countless other decisions of the Apex Court which are too numerous to be catalogued here. In my derision in Kalidas Gangopadhyay I examined the matter from every conceivable angle of view and I also elaborately examined every single reasoning given by the State-respondents in support of the impugned G.O. No. 904-SE (Secy.) and I found not on the basis of my own views but on the basis of the views of the high educational authorities and even the educational authorities of the State Government that the decision reflected in G.O. No. 904-SE (Secy.) not to recognise the degree awarded by statutory Universities through correspondence course is highly arbitrary and invidiously discriminatory. And once that is found so, Article 14 immediately springs into action and strikes down the offending G.O. I cannot discuss the sole matter over again here in this case to show how the G.O. No. 904-SE is highly arbitrary and invidiously discriminatory as I have already discussed the matter in elaborate details in my decision in Kalidas Gangopadhyay and my discussions in my said decision may be taken to form part of my discussion in this decision also. I have in my decision in Kalidas Gangopadhyay by elaborate discussion shown how the decision of the Education Department of the Govt. of West Bengal

on this particular matter has been unduly discriminatory and arbitrary and therefore violative of Article 14. In my decision in Kalidas Gangopadhyay I have taken notice of the fact that the high authorities like the Universities themselves and Association of Indian Universities have spelt out the equivalence of the correspondence course degree and regular course degree.

21. It may also be stated here that against my decision in Muchha Mondal an appeal was preferred not by the State but by the certain other persons, but that appeal being F.M.A.T. No. 1335 of 1996 and the application u/s 5 of the limitation Act were dismissed by the Division Bench on 14-6-96. The State Government did not prefer, as far as I understand, any appeal against my decisions in Muchha Mondal and Kalidas Gangopadhyay. They have not only complied with my orders but they have also complied with other orders in similar cases passed by some other learned Judges giving higher scale of pay to the incumbents concerned for obtaining masters degree from different recognised universities through correspondence course. There is therefore no question of going back upon that now. In this connection the learned Advocate for the petitioner referred to the Supreme Court decision in Union of India (UOI) and Others Vs. E.S. Soundara Rajan and Others, in support of his submission that since the State has already given the benefit of qualification improved through correspondence course to a number of writ petitioners in compliance with the earlier orders of the court, the State cannot now deny the same to others who are also similarly circumstanced. In fact it will also appear from the report of the decision in Tapas Kr. Das vs. State of West Bengal, 1996 (2) CLJ 467 that none appeared on behalf of the State in that case to contest the claim of the petitioner. But in spite of that the learned Judge dismissed the petitioner's ease differing with my views in Muchha Mondal and Kalidas Gangopadhyay but without referring the matter to any larger Bench on the plea of my decision being per incuriam which I have shown are not at all so.

22. Again even if a decision is per incuriam the effect of the same is only that the ratio decidendi of the case has no force as a binding precedent but the operative part of the decision is binding on the parties and any Government order which has been quashed by that decision cannot be later revived by any contrary decision of a court of coordinate jurisdiction. A government order which has been quashed remains quashed even if a subsequent Bench of coordinate jurisdiction disagrees with the reasoning of the earlier Bench quashing the said Government order. A quashed Government order cannot be revived subsequently by another Bench not being a Bench hearing appeal against the decision in which the Government order was quashed. A decision which is binding on the parties and which has been implemented by the State as a party and which has been accepted by some other learned Judges in similar matters, their orders in such matters also having been implemented by the State, is no more assailable and the effect of the earlier decision in such circumstances cannot be overturned by the simple fact that another learned Judge subsequently disagrees with the reasonings of the earlier decision of a different Judge. My decisions in Muchha

Mondal and Kalidas Gangopadhyay, whether per incuriam or not remain binding on the state which was a party to those cases and the concerned G.O. No. 904-SE which was quashed by me in Kalidas Gangopadhyay continues to remain quashed because my that decision has not been reversed in appeal and the same has attained finality. Therefore the subsequent decision in Tapas Kr. Das has absolutely no impact on the position that the said G.O. No. 904-SE continues to remain quashed because that decision has not been reversed in appeal and the same has attained finality, and the State and its officials cannot any more give effect to the same as my decision in Muchha Mondal and Kalidas Gangopadhyay have not been interfered with in appeal by any Division Bench. Plainly therefore a quashed G.O. cannot be used for defeating the claim of the petitioner and this alone is a sufficient reason why this writ petition must succeed. I am however making it clear that I have discussed the decision in Tapas Kr. Das only for the purpose of finding out what is the effect of the same on the law settled by me in Muchha Mondal and Kalidas Gangopadhyay which was also accepted by some other learned Judges of this Court in other writ petitions and the State also have given effect to those decisions.

The result of my discussion so far may be summarised thus :

- (1) The law settled by the decisions in Muchha Mondal and Kalidas Gangopadhyay and accepted by several other learned Judges of this Court, namely, A.N. Ray, J. and Ruma Pal. J. continue to be the law in the matter as the same cannot be overturned by any subsequent decision of any court of coordinate jurisdiction.
- (2) The decisions in Muchha Mondal and Kalidas Gangopadhyay, far from being per incuriam, are perfectly consistent with the relevant Supreme Court decisions and are hereby reaffirmed on further consideration.
- (3) Irrespective of the question whether the decisions in Muchha Mondal and Kalidas Gangopadhyay are per incuriam, or not, the G.O. No. 904-SE(Secy.) dt. 19.12.94 which was expressly quashed by the decision in Kalidas Gangopadhyay (and which decision has not been interfered with by any Appeal Court), continues to remain quashed notwithstanding the subsequent decision in Tapas Kr. Das, and the State and its officers cannot any more use that quashed G.O. for defeating the claim of any one.
- (4) Under the protection of the decisions of the Supreme Court Articles 14 and 16, with all their potent dimensions against arbitrariness and improper classification survive, the Single Bench decision of the Calcutta High Court in Tapas Kr. Das.

23. Accordingly I direct the District Inspector of Schools (SE), Jalpaiguri to sanction the higher scale of pay to the petitioners for their enhanced qualification of masters degree obtained through correspondence course from a recognised University within two weeks from the date of communication of this order. To avoid further harassment of the deserving persons in future I direct the Director

of School Education, W. Bengal and through him, all the District Inspectors of Schools in the State to treat the quashed G.O. No. 904-SE(Secy.) dt 19.12.94 as non-existent and not to give effect to the same. I also direct the Director of School Education, West Bengal to inform all the District Inspectors of this State that the said G.O. No. 904-SE(Secy.) dated 19.12.94 has been quashed by this Court in its decision in Kalidas Gangopadhyay and Others vs. State of West Bengal, 1996 (2) CLJ 42 and no effect shall be given to the said quashed G.O. No. 904-SE(Secy.). He shall also circulate copies of the decisions of this Court in Muchha Mondal and Kalidas Gangopadhyay to all the District Inspectors of Schools in the State drawing their attention to the same so that they may retrain from giving any effect to the quashed G.O. No. 904-SE(Secy.) dt 19.12.94 which does not exist any more in the eye of law. The Director of School Education, West Bengal will comply with these directions of this Court within a fortnight. The matter will be listed two weeks hence for report of compliance by the Director of School Education. In view of what I have recorded in this decision, the other writ petitions involving similar matter, as noted below, stand disposed of with the direction upon the concerned D.I. of Schools (SE) to give the due benefit to the petitioners on the basis of the degree obtained by them from recognised university, irrespective of the question whether such degree was obtained through correspondence course or campus study, and such benefit shall be given by the concerned D.I.s. (S.E.), within two weeks from the date of communication of this order, to the petitioners of the following writ petitions, namely :

(1) W.P. No. 974 of 1997 (2) W.P. No. 1944 of 1996

(3) W.P. No. 1026 of 1997 (4) W.P. No. 925 of 1997.