

(2018) 03 PAT CK 0075

In the Patna High Court

Case No : Letters Patent Appeal No.927 of 2017

Manoj Kumar

APPELLANT

Vs

The Union of India & Ors

RESPONDENT

Date of Decision : 21-03-2018

Acts Referred:

University Grants Commission Act, 1956, — Section 26,2(f)

Citation : (2018) 03 PAT CK 0075

Hon'ble Judges : Rajendra Menon;Rajeev Ranjan Prasad

Bench : Division Bench

Advocate : Andhendu Mauli; S.D. Sanjay; Ashutosh Ranjan Pandey;Kumar Brij Nandan;Deepak Kumar; Shivendra Kishore;Ritesh Kumar;Navin Prasad Singh;

Final Decision : Dismissed

Judgement

1. This intra-court appeal has been preferred for setting aside the judgment and order dated 20.04.2017 passed by the learned Writ Court in Civil

Writ Jurisdiction Case No. 19107 of 2015.

2. By the impugned judgment the learned Writ Court has held that it is the Association of Indian University (hereinafter referred to as A.I.U.)

which has the authority to declare equivalence of Post-Graduate Diploma with Post-Graduate Degree and since the requirement of declaration by

A.I.U. for the purpose of equivalence of P.G. Diploma qualification with P.G. Degree is statutory in character due to its incorporation in the

statutory regulation framed by the University Grants Commission in exercise of its power under Section 26 of the University Grants Commission

Act, 1956, in case of the petitioner in absence of the P.G. Diploma (P.M.I.R.) qualification obtained from Lalit Narain Mishra Institute of

Economic Development & Social Change, Patna (in short, L.N.M.I.) not

having the declaration of equivalence to P.G. Degree from A.I.U.

cannot make the petitioner entitled for Lecturership even though he has passed the University Grants Commission $\frac{1}{2}$ National Eligibility Test

(hereinafter referred to $\frac{1}{2}$ UGC-NET $\frac{1}{2}$) for Lecturership held in June, 2013.

3. The facts are not in dispute in this case. The petitioner has completed his Two Years Post Graduate Diploma in Personal Management and

Industrial Relation (in short, $\frac{1}{2}$ P.M.I.R.?) from L.N.M.I. in the Academic Sessions 1999-2001. The L.N.M.I. is said to be an autonomous

institution established by the Govt. of Bihar and is permanently affiliated to Magadh University, Bodh Gaya. It is the case of the petitioner that the

L.N.M.I. is run by the Department of Education, Govt. of Bihar and gets its aid from the Ministry of Human Resources Development, Govt. of

India and the Ministry of Human Resources Development has granted approval / recognition to its various courses. It is also not in dispute that the

All India Council for Technical Education, New Delhi (in short, $\frac{1}{2}$ A.I.C.T.E.?) has accorded the approval to various courses run by L.N.M.I.

which includes the P.M.I.R. course. The A.I.C.T.E. has also accorded equivalence of the said Post Graduate Diploma in P.M.I.R. with Master of

Business Administration (M.B.A.) for various sessions including the Sessions 1999-2001.

4. The University Grants Commission issued a notification as contained in Annexure-2 to the Writ Application for UGC-NET to be held on

30.06.2013 for determining the eligibility of Indian nationals for the eligibility for Lecturership only or Junior Research Fellowship and eligibility for

Lecturership both in Indian Universities and Colleges.

5. The bone of contention is one of the sub-clauses under Clause 3 of the Notification (Annexure-2) which prescribes, inter alia, one of the

conditions of eligibility and it reads as under:-

$\frac{1}{2}$ 3(vi) Candidates $\frac{1}{2}$ $\frac{1}{2}$ having post-graduate diploma/certificate awarded by Indian university/Institute or foreign degree/diploma/certificate

awarded by the foreign University/Institute should in their own interest, ascertain the equivalence of their diploma/degree/certificate with Master?s

degree of recognized Indian universities from Association of Indian Universities (AIU), New Delhi. $\frac{1}{2}$ (www.aiuweb.org) $\frac{1}{2}$

6. The petitioner having formed an opinion that the Diploma Certificate obtained

by him from L.N.M.I. has got equivalence with M.B.A. by

A.I.C.T.E., the same fulfills the eligibility conditions under sub-clause (vi) of Clause 3 of the Notification, appeared in the U.G.E.-N.E.T., 2013

and was declared successful.

7. In support of his view that the Diploma Certificate obtained by him has got equivalence to a Post-Graduate Degree, reliance has been placed on

a communication dated 02.01.2008 issued under signature of Prof. Rajnish Shrivastava, Advisor (Academic), A.I.C.T.E., New Delhi addressed

to Sri Sudhir Kumar, I.A.S., Controller of Examination and Secretary, Board of Revenue, Bihar. A Chart enclosed with the said letter shows

under Sl. No. 13 the P.G. Diploma in Personal Management and Industrial Relation of the Academic Sessions 1999-2001 has been

approved by A.I.C.T.E and it is equivalent to M.B.A. This is the sheet-anchor of the contention of the petitioner that once A.I.C.T.E. has granted

equivalence to the Diploma Certificate of the petitioner and it is treated equivalent to Master's Degree in Business Administration, the

A.I.U. which is a private body registered under the Societies Registration Act cannot have any say in the matter

of equivalence and the conditions prescribed under sub-clause (vi) of Clause 3 of the Notification for U.G.C.-

N.E.T, 2013 cannot come in the way in the matter of his suitability and eligibility for the Lecturer in Indian Universities and Colleges.

8. Before the learned Writ Court, a Counter Affidavit was filed on behalf of the Association of Indian Universities (A.I.U.). Paragraphs 9, 10 and

13 of the Counter Affidavit filed by the respondent no. 9 (A.I.U.) in the present appeal being relevant are quoted hereunder:-

9. That the A.I.U. has been involved in granting equivalence to Post Graduate Diploma in Management since late 1960. It is further stated

that originally, such equivalence was granted only to the PDGM Programme offered by the IIMs but with the advent of the AICTE approved

institutes offering PGDM, this facility was extended to them as well.

10. That it is further relevant to mention that only such P.G.D.M. Programme will be granted equivalence which meet the following conditions:

a. The Institute has applied for the AIU equivalence and has furnished all the required information / documents as prescribed by the AIU.

b. The P.G.D.M. Programme has been duly approved by All India Council for Technical Education (AICTE), New Delhi.

c. A minimum two Batches of the Programme must have passed out successfully: and

d. The PGDM Programme has been duly accredited by the National Board of Accreditation (N.B.A.).

13. That in the present case the answering respondent states that L.N. Mithila Institute of Economic Development and Social Change, Patna is

a standalone Institute offering U.G. and P.G. Programmes in Management. The Institute has never applied to the Association for according

equivalence to P.G. Programmes offered by it.

9. A detail Counter Affidavit has also been filed on behalf of respondents no. 2 and 3 (University Grants Commission). Paragraph 9

of the Counter Affidavit of University Grants Commission is quoted hereunder for a

ready reference:-

9. That the petitioner has in paragraphs 15-20 relied heavily on his own statements that L. N. Mishra Institute is owned and run by the

State Government of Bihar and is aided by the Ministry of HRD, Government of India and that two year P.G. Diploma in Personal Management

and Industrial Relations run by the said institute has been granted recognition by All India Council of Technical Education (AICTE). It is thus plain

from this averment that the petitioner lacks clarity between recognition and equivalence. Several P.G. Diploma courses have been granted

recognition by AICTE, which is not denied by UGC. However, the fact remains that they are P.G. diplomas and can be run as such; they are not

equivalent to P.G. degrees. And as far as the university system is concerned, the University Grants Commission is the appropriate body to grant

recognition to universities under section 2(f) of UGC Act, 1956. For courses run by Institutions outside the purview of universities, their

equivalence with corresponding Master's degree is determined by Association of Indian Universities (AIU). A post graduate diploma may be

good enough for fetching a job for the candidate, yet may not be equivalent to Master's degree under the university system. The prestigious Post-

Graduate Diploma in Global Business Operations from Shri Ram College of

Commerce, University of Delhi guarantees placement for its alumni

and still cannot be equated with Master's degree as is evident from the clarification obtained by UGC from University of Delhi.½

10. In the aforesaid background, the learned Writ Court followed the judgment of the Hon'ble Kerala High Court in the case of University Grants

Commission & Ors. Vs. Anand J. Illickan & Ors., reported in (2015) 411 K LW 749, wherein the Hon'ble Division Bench of Kerala High Court

had occasion to consider a similar issue and Clause 3(vi) of U.G.C.-N.E.T. Examination, 2012 had come up for consideration. The Hon'ble

Division Bench of Kerala high Court referred a number of judgments of the Hon'ble Apex Court, such as, the judgment in the case of Asok

Chacko Thomas v. Mahatma Gandhi University [2009 (4) KLT 607], M.G. University & Anr. V. Manager, St. Alberts College & Ors. [2012 (4)

KHC 485] and the judgment in the case of Ashok Kumar Mishra V. State of Orissa & ors. (2012 KHC 2854) and finally concluded that ½

½The All India Council for Technical Education having come up with the case that it accepts the opinion of the Association of Indian Universities

regarding diploma and degree it is not necessary for us to examine the entitlement of AICTE to grant equivalence of Post graduate Diploma any

further.½

11. In the said case it was found that the University Grants Commission had never held the Post Graduate Diploma to be equivalent to M.B.A.

Degree. The Hon'ble Kerala High Court did not agree with the learned Single Judge's observation that since the Post Graduate Diploma granted

to the petitioner is recognized by the AICTE, it will be deemed to be recognized by the University Grants Commission. A further observation of

the learned Single Judge that when a course is approved by the AICTE, the question of equivalence from the Universities does not arise in so far

as the determination of equivalence of that course is concerned was not approved by the Hon'ble Division Bench of Kerala High Court.

12. The learned Writ Court having examined all aspects of the matter declined to grant reliefs prayed by the petitioner in his Writ Application.

13. While assailing the impugned judgment and order of the learned Writ Court, learned counsel representing the appellant has taken us through

the entire Prospectus as contained in Annexure-1 to the Writ Application to show

that L.N.M.I. is an autonomous institute and is permanently affiliated to Magadh University. Learned counsel has given much emphasis on the constitution of the Board of Management of L.N.M.I. showing that the Board has got representation from University Grants Commission, Inter-University Board and Human Resources Development Department, Govt. of India. He has also placed before us the relevant Para 7, 8 and 9 of the recognition part of the Prospectus showing that Two-year P.G. Diploma course in Personnel Management and Industrial Relations has been granted recognition by the A.I.C.T.E., New Delhi and the Two-year Diploma Course in P.M.I.R. has been granted equivalence to the P.G. Degree of Magadh University, Bodh Gaya.

14. Learned counsel has also a submission that Clause 3(vi) of the U.G.C.-N.E.T. 2013 Notification in so far as it talks of the candidates having

Post Graduate Diploma / Certificate to ascertain the equivalence of their Diploma / Degree / Certificate with Master's Degree of recognized Indian

Universities from Association of Indian Universities, New Delhi has no significance as, according to him, once the Diploma Certificate of the

petitioner has got equivalence to the Post Graduate Degree of Magadh University, A.I.U. cannot be conferred with any such power to determine

the equivalence of the Diploma Certificate of the petitioner with the Master's Degree.

15. Learned counsel has also submitted that A.I.U. has no legal status and the only notification which he could come across about the A.I.U. is a

notification dated 13.03.1995 whereunder the A.I.U. has been conferred with the power to decide about the recognition of foreign qualifications

which may be treated as recognized for purpose of employment to the post and serves under the Central Government.

16. On the other hand, Mr. S.D. Sanjay, learned Additional solicitor General on behalf of the respondents submits that the petitioner is unable to

appreciate the concept of recognition which is distinct from the concept of equivalence. Learned Senior Counsel also submits that the petitioner

being fully aware of the conditions prescribed under Clause 3(vi) of the U.G.C.-N.E.T, 2013 Notification took risk and participated in the

examination without ascertaining the equivalence of his Diploma Certificate with Master's Degree of recognized Indian Universities from A.I.U.,

New Delhi.

17. Learned Senior Counsel submits that the petitioner has not challenged the said Clause 3(vi) in his Writ Application and, at this stage, he cannot

be allowed to agitate any issue as regards legality or validity of Clause 3(vi) of the U.G.C.-N.E.T., 2013 Notification. Learned Senior Counsel

once again reiterates that in almost similar facts the Hon'ble Division Bench of Kerala High Court has decided the issue and the learned Single

Judge has not committed any error in agreeing with the views taken by the Hon'ble Division Bench of Kerala High Court.

CONSIDERATION

18. Having heard learned counsel for the appellant as also learned Additional Solicitor General on behalf of the respondents and upon perusal of

the records we find that the appellant has obtained a Diploma Certificate from L.N.M.I. in Academic Sessions 1999-2001, which is approved by

A.I.C.T.E. and is treated equivalent to M.B.A. So far as the U.G.C.-N.E.T. 2013 Notification is concerned, sub-clause (vi) of Clause 3 of the

Notification, which we have taken note of here-in-above, specifically provides one of the conditions of eligibility and thereunder it is provided that

the candidates having Post Graduate Diploma Certificate awarded by Indian Universities / Institutes should in their own interest, ascertain the

equivalence of their Diploma / Degree / Certificate with Master's Degree of recognized Indian Universities from A.I.U., New Delhi. The website

address of A.I.U. is also mentioned in sub-clause (vi) of Clause 3 of the aforesaid notification. The petitioner has not challenged sub - clause (vi) of

Clause 3 on any ground whatsoever. The Writ Application was filed for a writ of mandamus, commanding the University Grants Commission to

declare the petitioner successful and to issue qualifying certificate to the petitioner in the U.G.C.-N.E.T. Examination and to set aside the letter

dated 09.09.2014 (Annexure-3) by which the U.G.C. communicated to the petitioner that he had been declared 'disqualified' in U.G.C.-N.E.T.

Examination held on 30.06.2013. It is a fact that the petitioner did not choose to challenge sub-clause (vi) of Clause 3 of U.G.C.-N.E.T.

Notification of 2013, at this stage, he will be stopped from taking any plea of discrimination or challenging the said clause by assailing the reasons

and rationale behind prescribing such conditions of eligibility. It is too late in the

day as the petitioner has already participated in the

examination knowing the conditions but without ascertaining the equivalence of his Diploma Certificate from A.I.U.

19. We have taken note of the stand of the University Grants Commission in their Counter Affidavit as also the stand of A.I.U. here-in-above.

20. The A.I.C.T.E. has also filed a Counter Affidavit in this case to put at rest the entire issue and the stand taken in Paragraph 9 of the Counter

Affidavit of A.I.C.T.E. will lead this Court to conclude that A.I.C.T.E., as per its policy, does not give equivalence to any qualification / course

obtained from A.I.C.T.E approved institutions for educational purposes or employment purposes. We take note of Paragraph 9 of the Counter

Affidavit which reads as under:-

9. That it is respectfully submitted that All India Council for Technical Education as per its policy does not give equivalence to any

qualification / course obtained through AICTE approved institutions for educational purposes or employment purposes. It is further submitted that

it is for the concerned institutions to consider qualification / course obtained through AICTE approved institutions for higher education purposes or

the concerned organization to consider it for employment purposes.

21. In our considered opinion, the learned Writ Court has rightly reached to a conclusion agreeing with the judgment of the Hon'ble Division

Bench of Kerala High Court wherein the status and role of A.I.U. in the matter of its authority to declare equivalence of Post Graduate Diploma

with Post Graduate Degree has been dealt with in detail.

22. We do not find any reason to interfere with the impugned judgment and order passed by the learned Writ Court.

23. The Appeal has no merit. It is accordingly dismissed.