
(2009) 11 MAD CK 0077

In the Madras High Court

Case No : Writ Petition No's. 3307 to 3329, 4959 to 4975, 6435 to 6455, 6900 to 6907, 7184, 7849 to 7852, 13233, 18492 to 18495, 18988 and 19798 of 2009 and M.P. No's. 1 to 1 of 2009

N. Viswanathan and Others

APPELLANT

Vs

Tamil Nadu Electricity Board and Others
Sakthivel and
Others Vs Tamil Nadu Electricity Board

RESPONDENT

Date of Decision : 13-11-2009

Acts Referred:

All India Council for Technical Education Act, 1987 — Section 2
Constitution of India, 1950 — Article 14, 19(1), 309
Electricity (Supply) Act, 1948 — Section 79
Tamil Nadu Electricity Board Services Regulations — Regulation 106, 7, 94
Tamil Nadu Technical Education Subordinate Services Special Rules — Rule 9
University Grants Commission Act, 1956 — Section 22, 3

Citation : (2009) 8 MLJ 1347

Hon'ble Judges : K. Chandru, J

Bench : Single Bench

Advocate : V. Ajoy Khose, for the Appellant; M. Vaidyanathan, for the Respondent

Final Decision : Dismissed

Judgement

K. Chandru, J.—Heard both sides.

2. In the first batch of writ petitions, the petitioners, who were originally employed as Helpers in the first respondent Electricity Board, have sought

for a direction to the respondents to appoint the petitioners as Technical Assistants (Electrical) and (Mechanical) from the date on which 66 and 21

others respectively were internally selected and appointed by a proceedings, dated 24.12.2008 issued by the second respondent (the Chief

Engineer (Personnel)) without reference to the clarification issued by the third respondent, the Additional Director of Technical Education, vide his

letter, dated 23.10.2008.

3. By proceedings, dated 24.12.2008, the second respondent published the result of the internal selection to the category of Technical Assistant

(Electrical) and (Mechanical) and allotted them to various circles as noted in the Annexure to the order. The appointments were made in terms of

Regulation 106 of the Tamil Nadu Electricity Board Service Regulations. Pending the writ petitions, in many of the cases, this Court, by an interim

order, directed the contesting respondents to keep one post vacant in respect of each of the petitioners, out of the 900 posts, which were said to

be vacant and to be filled up by the first respondent TNEB.

4. One of the petitioners Mr. Kumaravel from Aroor obtained certain information through the Right To Information Act. By their reply, dated

25.5.2009, the TNEB informed that for the post of Technical Assistant (Electrical), sanctioned posts were 2533 and the existing posts were 488.

There were vacancies as many as 2045. It is the case of the petitioners that while they were employed by the respondent TNEB, they have applied

to undergo a Diploma Course in Electrical and Electronics Engineering under the Distance Education System run by the fifth respondent. They have

got permission from the respondents. The course is for a period of two years. Since some of them were ITI certificate holders, they were admitted

to the second year of the Diploma course. The petitioners had finished four semesters and have got their diplomas from the fifth respondent, which

is deemed to be a University u/s 3 of the University Grants Commission Act. It was the case of the petitioners that they did not have any

Polytechnics or other technical institutes nearby their place of work and they were forced to undergo a Diploma course under the distance

education system.

5. The respective Superintending Engineers of the Board on 4.7.2008 invited applications for the post of Technical Assistant (Electrical) by internal

selection from all eligible and qualified employees. The petitioners though applied for being considered, they were not granted any appointment

order and only 66 persons were appointed by a communication, dated 24.12.2008. It was stated by them that by a letter, dated 23.10.2008, the

Additional Director of Technical Education, in his reply to a clarification sought for by the second respondent vide his letter, dated 29.9.2008, had

stated that the diplomas awarded by the fifth respondent cannot be treated on par with the diplomas awarded by the State Board of Technical

Education and Training, Tamil Nadu. The petitioners never got any other reply for their non selection.

6. It is the case of the petitioners that under Regulation 94 of the TNEB, no person shall be eligible for appointment to the post and by the method

mentioned in annexure III, unless he possesses the qualification prescribed therein. Note 1 appended to the Regulation reads as follows:

Note 1: In cases where the Regulations prescribe a degree or diploma as a qualification, then a degree or diploma granted by any of the

Universities or Institutions recognised by the University Grants Commission for purpose of its grants or any of the Universities recognised by the

Government of Tamil Nadu, shall be recognised as the qualification.

7. The amendment made to Annexure III of the TNEB Regulation with reference to the recruitment to the post of Technical Assistant with effect

from 4.2.2008 reads as follows:

In the said Regulations, in Annexure-III referred to in regulation 94, under the heading ""Board Office Administrative Branch, Board Office

Accounts Branch, Board Office Technical Branch and Circle"", for the entries in column (3) against the post ""Technical Assistant(Electrical)"" in

column (1) and the method of recruitment ""Direct Recruitment or by Internal Selection"" in column (2), the following entries shall be substituted,

namely:

Diploma in Electrical Engineering or Diploma in Electrical and Electronics Engineering or Diploma in Electronics and Communication Engineering

or Diploma in Instrumentation Engineering or Diploma in Computer Science and Engineering or Diploma in Information Technology or Diploma in

Computer Technology or Diploma in Computer Networking awarded by the Director of Technical Education or Equivalent thereto.

Note:- The percentage of reservation for various disciplines of Diploma in Engineering for appointment to the post of Technical Assistant

(Electrical) by Direct Recruitment or by Internal Selection shall be fixed as indicated below:

(i) Diploma in Electrical Engineering}

and Diploma in Electrical & } 91%

Electronics Engineering }
}

(ii) Diploma in Electronics & }
}

Communication Engineering } 5%
}

(iii) Diploma in Instrumentation } 2%
}

Engineering }
}

(iv) Diploma in Computer Science }
}

and Engineering, Diploma in }
}

Information Technology; } 2%
}

Diploma in Computer Technology; }
}

and Diploma in Computer }
}

Networking }
}

8. Mr. V. Ajoy Khose, learned Counsel appearing for the petitioners submitted that inasmuch as the fifth respondent is recognized by the UGC,

the diplomas granted by them has to be recognized by the Board and it cannot seek for a clarification from the third respondent, who is neither a

competent authority nor is in a position to decide such matters. In his clarification, dated 23.10.2008, the Additional Director of Technical

Education had informed the second respondent as follows:

With reference to your letter cited, it is hereby informed that the Institute of Vinayaka Mission Research Foundation, Deemed University, Salem is

not coming under the purview of Directorate of Technical Education. Study in a Deemed University under Distance Education cannot be

considered on par with Diploma awarded by the State Board of Technical Education & Training, Tamil Nadu.

9. The third respondent in his counter affidavit, dated Nil (2009), in paragraph 4 with reference to his authority to write such a letter had averred as

follows:

4. ...inasmuch as the State Board of Technical Education and Training, Tamil Nadu is the competent authority to prescribe the Syllabus relating to

various Diploma Courses in the field of Technical Education and is also awarding the Diplomas to the students studying in all the Technical

Institutions in the State of Tamil Nadu and all the Technical Institutions in Tamil Nadu are affiliated to the State Board, this Respondent has got the

authority to decide as to whether the Diploma awarded by the Vinayaga Mission Research Foundation, Deemed University, Salem is on par with

the Diploma awarded by the State Board of Technical Education and Training, Tamil Nadu.

10. The learned Counsel for the petitioners contended that since TNEB Regulation only mentions qualification as diploma without further classifying

as to whether it should be obtained through a regular course or through part-time course or through distance education programmes, hence the

petitioners' diploma also must be considered as a qualifying diploma for getting the post of Technical Assistant. It was further submitted that the

fifth respondent is a body legally competent to confer degrees and diplomas. The contesting respondents cannot treat the diploma obtained under

the distance education system as not equivalent to the other diplomas awarded by the technical institutions recognised by the Directorate of

Technical Education.

11. It was also stated that the Central Government has made it clear that the diplomas obtained through the distance education programme are

eligible for appointment for central services and for higher studies. It was further stated by the petitioners that under the relevant rule for recruitment

to the post of Technical Assistants apart from the Diploma in Electrical and Electronics Engineering, for which 91% posts are reserved for direct

recruitment and balance 9% was reserved for different streams such as Diploma holders in Communication, Instrumentation, Computer Science

and Information Technology, etc. The learned Counsel for the petitioners submitted that when the other disciplines are allowed entry to the said

post, the petitioners, who are having a direct diploma in the very same subject, were not suited on the ground that they have come through the

Open University System.

12. It was also stated by them that as per the permanent Board proceedings (FB) No. 5, dated 4.2.2008, the Board has added a condition that

the diplomas should be awarded by the Director of Technical Education or equivalent thereto. Therefore, when they can consider equivalent

diplomas for the post of Technical Assistants, there is no reason as to why the petitioners having diplomas in the very same discipline cannot be

allowed entry into the post of Technical Assistant. It was stated that the fifth

respondent was originally a technical institution, coming within Section 2(g) of AICTE Act at the time when it was affiliated to the Anna University. Subsequently, by an order of the Central Government, it was declared to be a deemed university u/s 3 of the UGC Act. Therefore, they can start any course without prior approval and the diplomas granted by the fifth respondent under the distance education system cannot be held to be invalid.

13. Per contra, Mr. M. Vaidyanathan, learned Counsel for TNEB relied upon the counter affidavit filed by the second respondent. In the counter affidavit, it was stated that 66 candidates, who were found eligible, were selected and they were already appointed on 23.12.2008 as Technical Assistants (Electrical). 135 candidates including the petitioners herein were not selected. 130 candidates were rejected on the ground that the diplomas obtained were from the fifth respondent as it cannot be recognized as a valid qualification in terms of the communication sent by the Additional Director vide his letter, dated 23.10.2008. The said clarification was issued pursuant to the request made by the first respondent Board.

14. On behalf of the third respondent, the Director of Technical Education, a counter affidavit was filed. In that counter affidavit, apart from the other reasons, he had also stated that the technical institutions of the Government and the Government aided and private self financing institutions whether affiliated or not to a University, cannot conduct any technical course without obtaining prior approval of All India Council for Technical Education (AICTE). The fifth respondent had not obtained permission from the AICTE for conducting diploma courses.

15. It was also stated that AICTE had cautioned the public by giving an advertisement in The Hindu, daily newspaper on 8.1.2009 warning the public, which is as follows:

The Students seeking admission to technical education programmes/courses being imparted through distance education mode by various Technical Institutions, Universities including Deemed to be Universities are hereby cautioned that as per the Memorandum of Understanding signed by University Grants Commission (UGC), All India Council for Technical Education (AICTE) and Distance Education Council (DEC), Universities including Deemed to be Universities imparting technical education and technical institutions are required to obtain specific prior approval from the

Joint Committee of UGC-AICTE-DEC"" for conducting programmes/courses in technical education through distance mode. Any

programme/course of technical education conducted through distance mode without prior approval from the said Joint committee is not recognized

and such Universities including Deemed to be Universities and Technical Institutions are liable for appropriate action for conducting such

unapproved programmes.

It has come to the notice of the Council that several Institutions are offering courses in the field of technical education through distance mode

without obtaining mandatory approval. Students are hereby advised not to take admission in such unapproved courses/programmes. The status of

approval of technical institutions may be verified from the Council's website www.aicte.ernet.in before taking admission in technical education

courses/programmes of distance mode. They are cautioned that joining such unapproved programmes/courses may have serious consequences in

terms of eligibility of employment, higher studies etc.

16. Therefore, any diploma awarded by them cannot be recognized as equivalent to the qualification prescribed by the TNEB. It was also stated

that the Anna University, which is also an affiliating type University for all technical institutions in Tamil Nadu had not recognized such diploma for

admission to any of its Post Graduate programmes. It was also not recognized as a sufficient qualification for studying B.E. or B.Tech courses

through lateral entry. Further attention was drawn to Rule 9 of the Special Rules for Tamil Nadu Technical Education Subordinate Services,

wherein the term ""diploma"" was defined as a diploma awarded by the State Board of Technical Education & Training, Tamil Nadu.

17. It is not clear as to why the petitioners have impleaded the fifth respondent as a party respondent in all the writ petitions. In view of their

impleadment, the fifth respondent had also entered appearance through a counsel and had filed a counter affidavit, dated 10.11.2009 together with

typed set of papers to claim that their degrees are recognized by the UGC. They were informed by the UGC that the Distance Education Council,

which is a statutory body for regulating the distance education, had conveyed its approval for certain courses run by their University on the distance

mode based upon a joint committee decision comprising of UGC, AICTE and DEC.

Therefore, no separate approval was required to recognise their Diplomas.

18. Since this Court is not going into the validity of diplomas granted by the fifth respondent, it is unnecessary to traverse the self supporting assertions made by the fifth respondent. It is suffice to state that there was no denial that the fifth respondent is a deemed University in terms of Section 3 of the UGC Act and that the petitioners are having Diplomas in Electrical and Electronics Engineering obtained from them under the distance education programme.

19. Mr. M. Vaidyanathan, learned Counsel for TNEB, submitted that the diplomas offered by the fifth respondent has a duration of two years, whereas the diplomas offered by the Polytechnics recognized by the State Board of Technical Education & Training, Tamil Nadu can be got after a period of three years" study.

20. In this context, Mr. M. Vaidyanathan, learned Counsel referred to the guidelines framed by the AICTE in respect of degree and diploma courses in Engineering, dated 11.7.1992, wherein in paragraph 5 in respect of Engineering Diploma Programmes, it is stated as follows:

B. ENGINEERING DIPLOMA PROGRAMMES:

5. Qualification for admission of general category students.- The minimum qualification for admission to diploma programmes in engineering should be a pass in the 10 + Secondary School Leaving Certificate Examination with a minimum aggregate of 60 per cent marks in Science and Mathematics in a single sitting. The duration of diploma programme in engineering will be not less than 3 years and that for sandwich programme not less than 3 = years both after 10th standard, unless specified otherwise by the AICTE. The duration of new programmes in emerging technology areas as well as those based on flexible modular structures with multipoint entry will have to be considered separately.

21. He also submitted that the respondent TNEB being an employer is entitled to stipulate that they will recognize only the diplomas which are obtained through a regular course and not the ones obtained by distance education mode. Note 1 to Regulation 94 pressed into service by the petitioners though silent in this regard, it is open to them to adopt the relevant rule framed by the State Government under Article 309 of the

Constitution of India in support of their contention. Merely because Note 1 to Regulation 94 is silent, it does not mean that it has recognized even

the diplomas obtained under the distance education programme. In fact when these regulations were made, there was no concept of obtaining

diplomas in technical education under the distance education system. It had always been understood that a diploma means the one obtained after

regular attendance either in full time course or by a part time course.

22. In support of his contentions, Mr. V. Ajoy Khose, learned Counsel for the petitioners placed reliance upon the judgment of the Supreme Court

in *Bharathidasan University v. All-India Council for Technical Education* reported in (2001) 8 SCC 676 and stated that Section 10(1)(k) of

AICTE Act does not require an University to obtain prior approval from AICTE to conduct technical education courses. Therefore, there is no

necessity for the fifth respondent to get approval by AICTE for the courses run by them.

23. He also brought to the notice of the court the judgment of the Supreme Court in *State of T.N. v. Adhiyaman Educational and Research*

Institute reported in (1995) 4 SCC 104 for the proposition that if the State law encroaches upon the field covered by Entry 66 of List I (Schedule

VII) or repugnant to the law made by the Union then that law will be inoperative. Therefore, it is not open to the first respondent Board to contend

that the diplomas obtained by the petitioners was not equivalent to the qualification prescribed under the TNEB regulations.

24. Thereafter, the counsel relied upon the judgment of the Supreme Court in *Guru Nanak Dev University Vs. Sanjay Kumar Katwal and*

Another, for the purpose of showing that unless a competent authority treats the regular course different from the correspondence course or

distance education course, it cannot be held that such degrees/diplomas are different. In the present case, no competent authority had decided that

the diplomas obtained by the petitioners through distance education mode was not equivalent to regular diploma awarded by the State Board

Technical Education & Training.

25. But, in the very same judgment, it was noted that there must be a prior recognition to contend that their Diplomas were equivalent to the one

recognised under the Regulation. In paragraph 15 of the said judgment, it was

stated as follows:

15. The first respondent has passed his MA (OUS) from Annamalai University through distance education. Equivalence is a technical academic

matter. It cannot be implied or assumed. Any decision of the academic body of the university relating to equivalence should be by a specific order

or resolution, duly published. The first respondent has not been able to produce any document to show that the appellant University has recognised

MA (English) (OUS) of Annamalai University through distance education as equivalent to MA of appellant University. Thus, it has to be held that

the first respondent does not fulfil the eligibility criterion of the appellant University for admission to the three year law course.

26. Considering the rival submissions made by the parties, it has to be decided whether the petitioners have made out a case to give direction to

the TNEB to treat the diplomas obtained by them under the Open University system as equivalent to a Diploma prescribed under Regulation 94.

27. Section 22 of the University Grants Commission Act, 1956 confers right to grant degrees by Universities established by the Central Act,

Provincial Act or a State Act as well as a Deemed University u/s 3 of the Act. The said provision only deals with the grant of degrees.

28. In this context, it is necessary to refer to the judgment of the Supreme Court in Annamalai University v. Information and Tourism Deptt.

reported in (2009) 4 SCC 590. In that case, the question came up for consideration was whether the MA Degrees given by Annamalai University

would be the degree equivalent to the qualification prescribed under Rule 4 framed under Article 309 of the Constitution of India to get the post of

Principal in the Institute of Film Technology. In the Special Rules to the post, a degree in Science or Arts of any recognized University was

prescribed as the requisite qualification. It was held that a MA Degree obtained under the Open University system granted by the Annamalai

University cannot be considered to be a degree under the relevant rules. The Supreme Court upheld the decision of the Division Bench of this

Court negating such a claim.

29. Though on behalf of the University, it was argued that the Court can direct the authorities to grant necessary relaxation having regard to the

magnitude of problem, the Supreme Court in paragraphs 55 to 59 observed as

follows:

55. The submission of Mr K. Parasaran that as in compliance with the provisions contained in Regulation 7, UGC had been provided with

information in regard to instructions through non-formal/distance education relating to the observance thereof by itself, in our opinion, would not

satisfy the legal requirement. It is one thing to say that informations have been furnished but only because no action had been taken by UGC in that

behalf, the same would not mean that an illegality has been cured. The power of relaxation is a statutory power. It can be exercised in a case of this

nature.

56. Grant of relaxation cannot be presumed by necessary implication only because UGC did not perform its duties. Regulation 2 of the 1985

Regulations being imperative in character, non-compliance therewith would entail its consequences. The power of relaxation conferred on UGC

being in regard to the date of implementation or for admission to the first or second degree courses or to give exemption for a specified period in

regard to other clauses in the Regulations on the merit of each case do not lead to a conclusion that such relaxation can be granted automatically.

The fact that exemption is required to be considered on the merit of each case is itself a pointer to show that grant of relaxation by necessary

implication cannot be inferred. If mandatory provisions of the statute have not been complied with, the law will take its own course. The

consequences will ensue.

57. Relaxation, in our opinion, furthermore cannot be granted in regard to the basic things necessary for conferment of a degree. When a

mandatory provision of a statute has not been complied with by an administrative authority, it would be void. Such a void order cannot be

validated by inaction.

58. The only point which survives for our consideration is as to whether the purported post facto approval granted to the appellant University of

programmes offered through distance modes is valid. DEC may be an authority under the Act, but its orders ordinarily would only have a

prospective effect. It having accepted in its letter dated 5-5-2004 that the appellant University had no jurisdiction to confer such degrees, in our

opinion, could not have validated an invalid act. The degrees become invalidated

in terms of the provisions of the UGC Act. When mandatory requirements have been violated in terms of the provisions of one Act, an authority under another Act could not have validated the same and that too with a retrospective effect.

30. Mr. V. Ajoy Khose, learned Counsel for the petitioners submitted that in that case, the Supreme Court had only considered that the Post

Graduate degree granted by the University cannot be a substitute for having a basic degree, which was a requirement in that case. Therefore, that

case will have no application to the case on hand.

31. However, it must be stated that in the present case, the respondent TNEB being an employer is entitled to interpret its own regulation within

four corners of Law. It is also open to them to state that the requirement of diploma under Regulation 94 can only be a diploma obtained in a

regular course and not under an open university system. In this context, they are fortified by the fact that the Directorate of Technical Education

had also given a clarification and that the diplomas offered by the fifth respondent is only for two years duration and not three years as prescribed

by the State Board of Technical Education and Training. They had also obtained opinion from the Anna University, which do not recognize these

diplomas for entering into any Post Graduate course and for joining their part time B.E. or B.Tech programmes. The petitioners do not have a

fundamental right to urge that the diplomas obtained by them must necessarily be recognized by the respondent TNEB as a matter of course.

32. The Supreme Court has held in Sanjay Kumar Manjul v. Chairman, UPSC reported in Sanjay Kumar Manjul Vs. The Chairman, UPSC and

Others, that qualifications for recruitment to the posts are laid down in terms of statutory rules and that statutory authority is entitled to frame rules.

The following passage found in paragraph 25 reads as follows:

25. The statutory authority is entitled to frame the statutory rules laying down the terms and conditions of service as also the qualifications essential

for holding a particular post. It is only the authority concerned which can take ultimate decision therefore.

33. In respect of the very same Electricity Board, a question that the Helpers, who possess NTC, NAC certificates are entitled to get promotion

on technical side and not on its administrative side was upheld by the Supreme

Court vide its judgment in T.N. Electricity Board v. T.N. Electricity

Board Thozhilalar Aykkiya Sangam reported in 2008 3 SCC 359. In paragraphs 9 to 11, the Supreme Court observed as follows:

9. Therefore, this is a matter of policy decision taken by the Board that henceforth the persons holding NTC/NAC appointed as Helpers will have

the channel of promotion to the technical post and not to the administrative post. It is true that prior to 1986 the persons who were appointed as

Helpers were also appointed as Junior Assistants and Technicians in the office. After the decision taken by the Board, Helpers have been

appointed who only possess NTC/NAC. The Board has now channelised the promotions of these persons in the category of technical posts and

not in the administrative posts.

10. This is a policy decision taken by the Board and it has been incorporated in the Service Regulations. Therefore, the candidates were recruited

on the post of Helper possessing this qualification, their channel of promotion is only to technical post and there cannot be any doubt about it. This

was a categorical policy decision taken by the Board and therefore, the channel of promotion of these persons now will be only to the technical

post and not to the administrative post. Therefore, this provision which has been made in the service condition cannot be said to be discriminatory

or arbitrary or violative of Article 19(1)(g) in any manner. This is a policy decision of the Board and it is the Board which has to decide that who

will be suitable for the post and what should be the channel of promotion for such post. It is not for the incumbent serving as a Helper to insist that

the Board should amend the regulation which suits him. It is the prerogative of the Board to decide that what shall be the channel of promotion for

technical and for non-technical persons. In this case the Board has decided on a rational basis that the channel of promotion of technical persons

will be on technical side and not on the administrative side.

11. In this connection, our attention was invited to the decision of this Court in P.U. Joshi v. Accountant General and this Court has very

categorically stated that: (SCC p.639, para 10)

10. - There is no right in any employee of the State to claim that rules governing conditions of his service should be forever the same as the one

when he entered service for all purposes and except for ensuring or safeguarding

rights or benefits already earned, acquired or accrued at a particular point of time, a government servant has no right to challenge the authority of the State to amend, alter and bring into force new rules relating to even an existing service.

34. The rules framed by the State Government in respect of the Tamil Nadu Technical Education Subordinate Services, wherein the term

diploma"" has been defined as diploma awarded by the State Board Technical Education and Training, Tamil Nadu. The other diplomas unless it is

approved by the TNEB, it cannot be contended that even such diplomas will have to be necessarily recognized by them. It is open to the

Electricity Board by virtue of its statutory power vested u/s 79(c) of the Electricity Supply Act, 1948 to make service regulations and having made

such service regulations, it is also open to them to interpret such regulations consistent with the purpose and object of the Act under which the

Board is functioning.

35. By rejecting the diploma awarded by the fifth respondent under the open university system as not equivalent to diploma required for the post of

Technical Assistant, the Board had not violated any constitutional principle. It is well within its jurisdiction to make such interpretation.

36. In W.P. No. 18988 of 2009, it is a case of Engineering graduates making similar claims. The nine petitioners in that W.P. have sought for

selection to the posts of Assistant Engineer (Electrical). The petitioners" have got their degrees obtained from the Institute of Advanced Studies in

Education University (IASE), Gandhi Vidya Mandir, Sardarshahr, Rajasthan, which was a deemed university, under the correspondence system.

Their claims were rejected and their degrees were considered not equivalent to the degree required for the very same reasons.

37. In addition, it was also stated that the respondents have given a posting order to one Vijay Sekar, G on 26.8.2007 on the basis of the degree

obtained by him from IGNOU. The petitioners cannot cite an isolated example as the ground for getting their degrees recognized by the

respondent TNEB. One illegality cannot be a ground to make the Board to commit further illegalities.

38. The Supreme Court vide its judgment in Bihar Public Service Commission and Others Vs. Kamini and Others, has held that merely because in

the post some ineligible candidates were treated as eligible that cannot be treated as precedent for other similar type persons. The following

passage found in paragraph 10 may be usefully extracted below:

10. In our opinion, the submission of the learned Counsel for the Commission is well founded and must be accepted. Therefore, even if in 1993,

some ineligible candidates were wrongly treated as eligible, the first respondent cannot insist that she also must be treated eligible though she is

ineligible. In our considered opinion, such an action cannot give rise to equality clause enshrined by Article 14 of the Constitution. It is well settled

and needs no authority that misconstruction of a provision of law in one case does not give rise to a similar misconstruction in other cases on the

basis of doctrine of equality. An illegality cannot be allowed to be perpetuated under the so-called "equality doctrine". That is not the sweep of

Article 14. Even that contention, therefore, has not impressed us.

39. In the light of the above, all these writ petitions will stand dismissed. However, there will be no order as to costs. Consequently, the connected

MPs also stand dismissed.