
(2009) 10 MP CK 0003
In the Madhya Pradesh High Court
Case No : Writ Petition No. 8419 of 2009

Neelesh Shukla and Others

APPELLANT

Vs

State of M.P. and Others

RESPONDENT

Date of Decision : 05-10-2009

Acts Referred:

Constitution of India, 1950 — Article 14, 226, 309, 32
Madhya Pradesh Patwari Selection and Examination Conduction Rules, 2008 — Rule 1.8
Madhya Pradesh Vishwavidyalaya Adhiniyam, 1973 — Section 6, 6(10), 6(12), 6(9)
Maharshi Mahesh Yogi Vedic Vishwavidyalaya Adhiniyam, 1995 — Section 2, 2(1), 4, 4(1)

Citation : (2010) ILR (MP) 1050

Hon'ble Judges : R.K. Gupta, J; Dipak Misra, J

Bench : Division Bench

Final Decision : Dismissed

Judgement

Dipak Misra, J.—Regard being had to the commonality of controversy involved in this batch of writ petitions, it was heard analogously and is disposed of by a singular order. For the sake of convenience the facts in W.P. No. 8419/2009 are uncurtained herein.

2. The M.P. Professional Examination Board (VYAPAM) issued an advertisement on 5-6-2008 inviting applications for appointment of "patwaris" in respect of 2194 posts. The advertisement postulated the requisite qualifications meant for "Patwaris" Examination. It provided number of posts to be filled up district-wise and relaxation to be extended as regards the age as per the General Administration Department and the selection process, domicile certificate, registration in the Employment Exchange and various other aspects. With regard to the educational qualifications (clause 1.8 of Chapter I of the Advertisement laid a postulate to the effect that the candidate must have passed Higher Secondary or High School (10+2) Examination and must also possess "O" level certification from DOEACC/IETE or 1 year Diploma in Computer Application (DCA) from an institute affiliated/registered/recognized by a University which should

have been recognised by University Grants Commission (UGC), or higher education in Computer.

3. It is contended that the Petitioners have the requisite qualifications inasmuch as they have passed Higher Secondary School Examination and hold DCA from an institute affiliated to a University. The Petitioners No. 1 to 5 hold DCA certificate and the Petitioners No. 5 and 6 hold PGDCA certificate issued by the Rajeev Gandhi Computer Saksharta Mission and Sarva Computer Saksharta Mission, Respondents No. 5 and 6 respectively. The certificates evidencing the qualifications of the Petitioners have been brought on record cumulatively as Annexure-P/2. It is urged that the Petitioners have higher education in computer and hence, they are fully eligible to be appointed as "patwaris". Documents have been brought on record to show that the Respondents No. 5 and 6 are affiliated to the University, namely, Maharshi Mahesh Yogi Vedic Vishwavidyalaya [for short "the University"] which is recognized by the UGC. It is put forth that earlier, candidates possessing DCA from the said institutes were held to be eligible and appointed to the post of "Patwari".

4. It is pleaded that the Industries Directorate issued instructions to all District Employment Officers to enroll the candidate in employment exchange in NOC category those who had passed DCA or PGDCA from the Institute run by AISECT and Sanatan Charitable Trust. Copies of the instructions issued by the said Directorate, dated 4-4-2007 and 7-9-2006 have been brought on record as Annexure-P/4 and Annexure-P/5. The Petitioners are registered and enrolled in employment exchange as is noticeable from Annexure-P/6.

5. It is averred that the Petitioners being eligible filed their forms with all the documents with the VYAPAM; that the examining body issued admit cards and the examination was held on 7-9-2008 and the result was declared in the month of June, 2009; that District-wise merit list was prepared; and that the Petitioners successfully cleared the examination.

6. As set forth vide communication dated 20-6-2009 the Petitioners along with other candidates were called upon to furnish original documents in support of their candidatures before the District Collector and pursuant to the said communication the Petitioners submitted all the documents including the documents pertaining to their educational qualification in support of their candidatures. It is set forth that the office of the Commissioner, Land Records and Settlement, the 2nd Respondent herein, vide letter dated 19-12-2008 had already clarified that the certificates issued by the Respondents No. 5 and 6 affiliated to Maharshi Mahesh Yogi Vedic University are to be accepted as valid certificates. A copy of the letter dated 19-12-2008 has been brought on record as Annexure-P/10.

7. It is noticeable from the pleadings that the office of the Respondent No. 3 vide letter dated 15-01-08, Annexure P-12, had addressed to all District Collectors that (a) Higher Secondary and (b) "0" level certification from DOEACC/IETE or

one year diploma course in computer from an institute run by registered/recognized/affiliated to UGC recognized University or higher education in computer have been made requisite educational qualification. Thereafter, the said Respondent issued further instructions on 27-7-2009 as contained in Annexure-P/14 to all the district collectors.

8. It is contended that the said instructions are patently arbitrary, illegal and has been issued in contravention of the terms of the advertisement which were prescribed in the advertisement on the head of educational qualifications. By the said executive instruction an additional qualification has been prescribed to be possessed by the successful candidates, which were not there at the time of holding of the examination and, therefore, the whole action smacks of arbitrariness. The Petitioners hold valid and legal DCA certificates which are beyond reproach but the Respondent No. 2 has issued the instructions which tantamount to incorporation of an additional qualification. It is urged that though it is done in the garb and guise of clarification yet the Petitioners who were initially eligible are sought to be disqualified by adding additional qualification which is contrary to well-settled principle that the prescribed eligibility criteria cannot be changed at a subsequent stage. It is asserted, that if the communication is allowed to stand the same would render almost 90% of the successful candidates ineligible. It is set forth that the certificates obtained by the Petitioners are from the institutes run by the Maharshi Vedic Vishwavidyalaya and DOACC respectively and on the basis of the certificates of the said institutes successful candidates have been recruited but the Respondent No. 2 on the basis of erroneous interpretation of Rule 1.8 of the M.P. Patwari Selection and Examination Conduction Rules, 2008 [for short "2008 Rules" have issued the present instructions. It is urged that the interpretation placed by the Respondent No. 2 is absolutely erroneous and has been deliberately done to oust the likes of the Petitioners and affect their selection. It is also the stand of the Petitioners that they fulfil the eligibility criteria having passed one year diploma of DCA but the said clause is being misinterpreted and the Petitioners are being disqualified on account of subsequent orders. Adding of additional qualification after the advertisement is impermissible in law and that makes the whole action arbitrary and unsustainable. There is no justification or warrant not to accept the certificates issued by the institutes which are duly recognised by the UGC and the University.

9. Be it placed on record, the Petitioners have also challenged the constitutional validity of the Rule 1.8 of the Rules and called in question the legal propriety as well as validity of the letter-circular on the ground that it runs counter to the Rule as it adds an additional qualification which has been prescribed in the advertisement. Thus, the challenge is two fold. It is urged that Rule 1.8 of the 2008 Rules is illegal, arbitrary and unreasonable as it prescribes such qualification of higher standard of computer for the post of "Patwari" though the said qualification has no nexus with the duties performed by the "patwaris". It is put forth that even for the post of Data Entry Operator or I.T. Operators such

higher qualification of Diploma has not been made essential. It is urged that when minimum qualification for the post of "patwari" has been prescribed is to be Higher Secondary or High School (10+2 Pattern), the prescription of qualification of diploma in computer application is irrational inasmuch as the said qualification is totally unwarranted if nature of duties of Patwaris" are taken into consideration. In this factual matrix it has been prayed to declare the Rule 1.8 of 2008 Rules as unconstitutional being violative of Article 14 of the Constitution of India and further and for issue of a writ of certiorari for quashment of the order dated 27-7-2009 contained in Annexure-P/14. An additional prayer has been made to issue a writ of mandamus commanding the Respondents No. 1 to 4 to scrutinise the documents furnished by the Petitioners on the basis of earlier instructions dated 20-7-2009 and to issue order of appointment.

10. When the matter was listed on 14-9-2009 this Court felt that impleadment of the University, namely, Maharshi Vedic Vishwavidyalaya is imperative and accordingly, permission was granted to implead the said University through the Registrar which was carried out. After filing requisites the University was served and has been represented by the counsel. When the matter was listed on 23-9-2009 Mr. Deepak Awasthi, learned Govt. Advocate for the State submitted that the State does not intend to file any return as documents are on record which would speak for themselves and what is necessary is to interpret the said documents and as the whole thing hinges on interpretation no counter is necessary to meet any kind of allegation. As regards the constitutional validity of the Rule is concerned it is submitted by him that computer knowledge is necessitous in the modern administrative setup and further the Petitioners having undertaken the examination have woken up to assail the validity of the Rule which manifestly is an afterthought. It is also propounded by him that it is the prerogative of the employer to provide the eligibility criteria for a particular post.

11. Mr. Avinash Zargar, learned Counsel for the Respondent No. 6 stated with certitude that the University need not to file the return as. it is only required to refer to the enactment, namely, Maharshi Mahesh Yogi Vedic Vishwavidyalaya Adhiniyam, 1995 by which the University was created. The learned Counsel for the State as well as the University submitted without any kind of hesitation that the fulcrum of the matter rests on appreciation of the advertisement and other documents brought on record and the construction placed thereupon and, therefore, the matter should be heard as the State is suffering because of an order of stay operating as a consequence of which it is unable to fill up the posts.

12. In view of the aforesaid we thought it apt to proceed to decide the matter as we were convinced in course of hearing that as an actual fact, a counter affidavit was not the warrant to put the controversy to rest. We were further inclined to think so as the challenge to the constitutional validity really melted into insignificance and, in fact, the learned Counsel appearing for the Petitioners in their wisdom restricted their submissions to the interpretation of the provision. However, we shall for the sake of completeness, advert to the constitutional

validity and thereafter proceed to dwell upon the issue which has been, urged with a lot of vigour and vehemence by the learned Counsel for the Petitioners.

13. Rule 1.8 which is in Hindi, on being translated into English reads as follows:

1.8 Educational qualifications-

Passing of Higher Secondary or High School (10+2) is necessary. In addition, "0" Level Certification from DOEACC/IETE or one year Diploma in Computer Application (DGA) from an institute run by a registered/recognized/affiliated with the University recognized by the UGC or higher education in computer.

14. The submission of Mr. V.K. Shukla, learned Counsel for the Petitioners who has led the argument is that when there is a prescription for passing of 10+2 Examination the prescription for passing of one year diploma in computer application is not only irrelevant but also ushers in an anomalous situation. On a query being made whether a person who has passed High School Certificate Examination can undertake the one year course or not, learned Counsel appearing in all cases fairly stated that they can undertake course in DCA. Thus, it is perceivable that it is not an anomalous requirement. As far as requirement is concerned, it is urged by Mr. Deepak Awasthi, learned Govt. Advocate for the State that the said qualification has been prescribed as "patwaris" are required to keep datas and it is felt necessary to curb any kind of manipulation and further to facilitate keeping of entries in a scientific manner. It is also canvassed by him that keeping in view advancement in computer science provision has been made and the Petitioners having appeared in the Patwari Examination cannot take a somersault to challenge the 2008 Rules. It is proponed by the learned Govt. Advocate that requirement for a particular job is within the domain of the State Government.

15. In this context, we may notice a few authorities in the field. In V.K. Sood Vs. Secretary, Civil Aviation and others, the Apex Court after referring to the decisions rendered in State of Mysore and Another Vs. P. Narasing Rao, , The State of Jammu and Kashmir Vs. Shri Triloki Nath Khosa and Others, and State of Orissa and Another Vs. N.N. Swamy and Others, expressed thus:

6. ...in the exercise of the rule making power, the President or authorised person is entitled to prescribe method of recruitment, qualifications both educational as well as technical for appointment or conditions of service to an office or post under the State. The rules thus having been made in exercise of the power under proviso to Article 309 of the Constitution, being statutory cannot be impeached on the ground that the authorities have prescribed tailor made qualifications to suit the stated individuals whose names have been mentioned in the appeal.

16. In Sanjay Kumar Manjul Vs. The Chairman, UPSC and Others, it has been held 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.

26. The jurisdiction of the superior Courts, it is a trite law, would be to interpret the rule and not to supplant or supplement the same.

27. It is well settled that the superior Courts while exercising their jurisdiction under Article 226 or 32 of the Constitution of India ordinarily do not direct an employer to prescribe a qualification for holding a particular post.

17. In this regard we may refer with profit to the decision rendered in *Union of India v. Pushpa Rani and Ors.* (2008) 9 SCC 242 wherein it has been held as follows:

35. A careful reading of the policy contained in Letter dated 9-10-2003 shows that with a view to strengthen and rationalise the staffing pattern, the Ministry of Railways had undertaken review of certain cadres. The basis of the review was functional, operational and administrative requirement of the Railways. This exercise was intended to improve the efficiency of administration by providing incentives to the existing employees in the form, of better promotional avenues and at the same time requiring the promotes to discharge more onerous duties. The policy envisaged that additional posts becoming available in the higher grades as a sequel to restructuring of some of the cadres should be filled by promotion by considering such of the employees who satisfy the conditions of eligibility including the minimum period of service and who are adjudged, suitable by the process of selection. This cannot be equated with upgradation of posts which are required to be filled by placing the existing incumbents in the higher grade without subjecting them to the rigour of selection.

36. In view of the above discussion, we hold that the Railway Board did not commit any illegality by directing that the existing instructions with regard to the policy of reservation of posts for Schedule Castes and Scheduled Tribes will apply at the stage of effecting promotion against the additional posts and the Tribunal committed serious illegality by striking down para 14 of Letter dated 9-10-2003.

37. Before parting with this aspect of the case, we consider it necessary to reiterate the settled legal position that matters relating to creation and abolition of posts, formation and structuring/restructuring of cadres, prescribing the source/mode of recruitment and qualifications, criteria of selection, evaluation of service records of the employees fall within the exclusive domain of the employer. What steps should be taken for improving efficiency of the administration is also the preserve of the employer. The power of judicial review can be exercised in such matters only if it is shown provision or is patently arbitrary or is vitiated due to mala fides. The Court cannot sit in appeal over the judgment of the employer and ordain that a particular post be filled by direct recruitment or promotion or by transfer. The Court has no role in determining the methodology of recruitment or laying comparative evaluation of the merit of the candidates. The Court cannot, suggest the manner in which the employer should

structure or restructure the cadres for the purpose of improving efficiency of administration.

(Emphasis supplied)

18. in view of the aforesaid enunciation of law we are of the considered opinion that the prescription of requirement for having DCA cannot be treated to be arbitrary or irrational to invite the wrath of Article 14 of the Constitution of India. Therefore, we hold the Rule to be intra vires.

19. The next aspect which requires to be dwelled upon is whether there has been a change of condition in the advertisement by issuing the letter-circular. The instructions for holding the Patwari Examination has been brought on record as Annexure-P/16. The question arises whether the instructions run counter to the Rules 2008 or the Advertisement. The relevant portion being translated into English read as under:

3. The DCA certificates submitted by the candidates were sent by some Collectors to this Office which were forwarded, to the University concerned for verification and requisite information as regards their veracity was sought. It was apprised by the Universities that even if an institution is recognised/affiliated/registered affiliated with the University then too it has no right to issue any kind of certificate. The DCA certificates if issued by an institute under its seal and signature are invalid. The certificate issued only by the University under its seal and signature are valid. Similarly, the DOEACC Society has informed that the for computers the "O" Level Certificates issued by the DOEACC Society Delhi are valid. The certificates issued by an institution affiliated with DOEACC are invalid.

4. Hence, it is instructed that only those DCA certificates of the selected candidates for the post of "Patwari" shall be valid which have been issued by the University under its seal and signature. The DCA certificates containing seal and signature of the institutes which are registered/recognized/affiliated by the University, being illegal shall be held invalid. Similarly, if any institute which is affiliated with DOEACC then the "O" Level Certificate issued only by the DOEACC Society, Delhi under its seal and signature shall be held valid but not the certificates issued by the affiliated institute.

20. The submission of the learned Counsel for the Petitioners is that the Rule prescribes for obtaining of "O" Level Certificate from DOEACC/IETE or one year diploma in computer application (DCA) from an institute fun by registered/recognised/affiliated to a UGC recognized University or higher education in computer and that means a registered and recognized institute can issue a Diploma in Computer Application and that having been produced the same should suffice, whereas vide letter-circular dated 27-7-09 it is mandated the certificate given by the institute is not to be accepted and it has to be given by the institute with seal and signature of the competent authority of the University. Similar prescription is also there from DOEACC Society, New Delhi. Thus, what is provided in the letter-circular is that the seal and signature of the competent

authority of the University. As has been submitted by Mr. Shukla, learned Counsel appearing for the Petitioners, the same runs counter to the Rules if the Rule is held valid. It is contended by him that an additional qualification is required as per the said letter-circular which is not in existence in the Rule. The learned Counsel submitted that even if a qualification is prescribed in the form of an advertisement the same cannot be materially changed by later executive instructions.

21. In this context we may fruitfully refer to the decision in *Dr. Chetkar Jha Vs. Dr. Vishwanath Prasad Verma and Others*, wherein the Apex Court has held as under:

12. ...Admittedly, the Vice-Chancellor had obtained such approval for filling up the vacancy by direct, recruitment and also for the advertisement in terms of the Statute laying down the qualifications for the post. Once, therefore, such an approval had been obtained, no further approval would be necessary for the various consequential steps which would have to be taken to bring about the appointment and fill in the vacancy. Furthermore, the revision in the advertisement became necessary because the advertisement given by the Commission was not in conformity with the University Statute and the requisition made by the Vice-Chancellor for which he had already obtained the Chancellor's approval. In other words, he had the advertisement revised so as to bring it in accord with his requisition which was sanctioned by the Chancellor. That could only be done by removing the limitation under which contrary to the Statute only candidates with M.A. Degrees in Political Science could apply. The Chancellor, therefore, was in error in holding that the revised advertisement required his approval and that in the absence of such approval it was invalid or that the Commission's recommendation and the appointment by the Syndicate based thereon were bad in law on that account.

22. In *N.T. Bevin Katti, etc., Vs. Karnataka public Service Commission and others*, it has been held as follows:

13. ...Where proceedings are initiated for selection by selection made by the selecting authority or the Public Service Commission unless the amended rules or the amended Government orders issued in exercise of its statutory power either by express provision or by necessary intendment indicate that amended Rules shall be applicable to the pending selections. See *P. Mahendran and others Vs. State of Karnataka and others*,

23. In *Gopal Krushna Rath Vs. M.A.A. Baig (Dead) by Lrs. and Others*, the Apex Court has ruled thus:

6. When the selection process has actually commenced and the last date for inviting applications is over, any subsequent change in the requirement regarding qualification by the University Grants Commission will not affect the process of selection which has already commenced. Otherwise it would involve issuing a fresh advertisement with the new qualifications. In the case of *P. Mahendran and*

others Vs. State of Karnataka and others, at 416 : AIR 1990 SC 405 this Court has observed:

It is well settled rule or construction that every statute or statutory rule is prospective unless it is expressly or by necessary implication made to have retrospective effect.

The Court further observed that:

Since the amending rules were not retrospective, it could not adversely affect the right of those candidates who were qualified for selection and appointment on the date they applied for the post, moreover, as the process of selection had already commenced when the amending Rules came into force, the amended Rules could not affect the existing rights of those candidates who were being considered for selection as they possessed the requisite qualifications prescribed by the Rules before its amendment.

7. In the present case, therefore, the Appellant possessed the necessary qualifications as advertised on the last date of receiving applications. These qualifications were in accordance with the Rules/guidelines then in force. There is also no doubt that the Appellant obtained higher marks than the original Respondent No. 1 at the selection. There is no challenge to the process of selection, nor is there any allegation of mala fides in the process of selection.

24. In Sonia Vs. Oriental Insurance Co. Ltd. and Others, the Apex Court referred to the decision rendered in N.T. Bevin Katti, etc., Vs. Karnataka public Service Commission and others, and expressed the view thus:

10. In N.T. Devin Katti v. Karnataka Public Service Commission, this Court has held that where selection process has been initiated by issuing an advertisement inviting applications, selection should normally be regulated by the rule or order then prevalent and also when advertisement expressly states that the appointment shall be made in accordance with the existing rule or order, subsequent amendment in the existing rule order will not affect the pending selection process unless contrary intention is expressly or impliedly indicated.

25. In Mohd. Sohrab Khan Vs. Aligarh Muslim University and Others, their Lorships relying on the decision rendered in Secretary, A.P. Public Service Commission Vs. B. Swapna and Others, and expressed the as under:

28. In A.P. Public Service Commission v. B. Swapna, at para 14 it was held by this Court that norms of selection cannot be altered after commencement of selection process and the rules regarding qualification for appointment, if amended, during continuation of the process of selection do not affect the same.

29. Further at para 15 of B. Swapna case it was held that the power to relax the eligibility condition, if any, to the selection must be clearly spelt out and cannot be otherwise exercised. The said observations are extracted herein below: (SCC pp. 159-60, paras 14-15)

14. The High Court has committed an error in holding that the amended rule was operative. As has been fairly conceded by learned Counsel for Respondent 1 applicant it was the unamended rule which was applicable. Once a process of selection starts, the prescribed selection criteria cannot be changed. The logic behind the same is based on fair play. A person who did not apply because a certain criterion e.g. minimum percentage of marks can make a legitimate grievance, in case the same is lowered, that he could have applied because he possessed the said percentage. Rules regarding qualification for appointment if amended during continuance of the process of selection do not affect the same. That is because every statute or statutory rule is prospective unless it is expressly or by necessary implication made to have retrospective effect. Unless there are words in the statute or in the rules showing the intention to affect existing rights the rule must be held to be prospective. If the rule is expressed in a language which is fairly capable of either interpretation it ought to be considered as prospective only. (See *P. Mahendran v. State of Karnataka* and *Gopal Krishna Rath v. MAA Baig.*)

15. Another aspect which this Court has highlighted is scope for relaxation of norms. Although the Court must look with respect upon the performance of duties by experts in the respective fields, it cannot abdicate its functions of ushering in a society based on the rule of law. Once it is most satisfactorily established that the Selection Committee did not have the power to relax essential qualification, the entire process of selection so far as the selected candidate is concerned gets vitiated. In *P.K. Ramachandra Iyer v. Union of India* this Court held that once it is established that there is no power to relax essential qualification, the entire process of selection of the candidate was in contravention of the established norms prescribed by advertisement. The power to relax must be clearly spelt out and cannot otherwise be exercised.

26. The present controversy is to be tested on the anvil of the aforesaid pronouncement of law. The question that emanates for consideration is whether the letter-circular in effect runs counter to the Rule and whether it travels beyond the stipulations in the advertisement. Before we delve into factual scenario in this contextual set up and the submissions propounded by the learned Counsel for the parties, we think it apposite to notice a few decisions in the field. In *Union of India and Ors. v. Sh. Somasundaram Viswanath and Ors.* AIR 1988 SC 2255, it has been held as follows:

6. ...If there is a conflict between the executive instructions and the rules made under the proviso to Article 309 of the Constitution of India, the rules made under proviso to Article 309 of the Constitution of India prevail, and if there is a conflict between the rules made under the proviso to Article 309 of the Constitution of India and the law made by the appropriate Legislature the law made by the appropriate Legislature prevails....

27. In *Senior Superintendent of Post Offices, Allahabad and Others Vs. Izhar Hussain*, a two-Judge bench of the Apex Court has stated thus:

...A statutory rule cannot be modified or amended by executive instructions. A valid rule having some lacuna or gap can be supplemented by the executive instructions, but a statutory rule which is constitutionally invalid cannot be validated with the support of executive instructions. The instructions can only supplement and not supplant the rule.

28. In *Ram Dayal Prajapati Vs. State of M.P. and Others*, , it has been held as under:

14. In the case of *Additional District Magistrate (Rev.) Delhi Admn. v. ShriRam* AIR 2000 SC 2143 "it has been stated that it is a well recognized principle of statute that conferment of rule making power by an Act does not enable the rule making authority to make rule which travels beyond the scope of the enabling Act or which is inconsistent therewith or repugnant thereto.

15. in the case of *Agricultural Market Committee Vs. Shalimar Chemical Works Ltd.*, it was laid down that if a delegated legislation creates a legal fiction which is beyond the scope of principal Act the same has to be regarded as ultra vires.

29. The submission of Mr. Shukla, learned Counsel for the Petitioners is that the Rule 1.8 basically stipulated a certificate of one year diploma from an institute and the advertisement also stipulated accordingly. Clause 1.8 of Chapter I of the advertisement has been pressed into service. The same being translated into English reads as follows:

1.8 Educational qualifications -

Passing of Higher Secondary or High School (10+2) is necessary. In addition, "0" Level Certification from DOEACC/IETE or one year Diploma in Computer Application (DCA) from an institute run by a registered/recognized/affiliated with the University recognized by the UGC or higher education in computer.

30. From the aforesaid it is perceptible that what has been really stipulated is that a candidate must have one year Diploma in Computer Application (DCA) from an institute affiliated/registered/recognised by a University which is recognised by the University Grants Commission. The letter-circular provides that the certificate issued by a University containing seal, and signature would be valid. The certificate issued by the institute on its own seal and signature of its authority is not to be accepted. The submission of Mr. Deepak Awasthi and Mr. Avinash Zargar is that the Rule and the advertisement are absolutely clear that the diploma course should be from an institute run by a recognized/registered/affiliated by a University which is recognized by the University Grants Commission. It is their stand that it is the University which issues a degree or diploma. In this context we may refer with profit to Section 6 of the *Madhya Pradesh Vishwavidyalaya Adhiniyam, 1973* which deals with the powers of the University. Sub-section (9) empowers the University to institute degrees, diplomas, certificates and other academic distinctions. Sub-section (10) empowers the University to confer degrees and other academic distinctions on

the basis of examinations, evaluation or any other method of testing. Sub-section (12) confers power on the University to withdraw degrees, diplomas, certificates and other academic distinctions for good and sufficient reasons. Thus, from the said provision it is clear crystal that it is the University which confers diplomas, degrees, certificates and other academic distinctions.

31. Be it noted, many of the candidates had produced certificates from the institutes run under the Maharshi Mahesh Yogi Vedic Vishwavidyalaya Adhiniyam, 1995 which is an Act to establish and incorporate a University in the State of Madhya Pradesh and to provide for education and prosecution of research in Vedic learnings and practice and to provide for matters connected therewith or incidental thereto. The University as has been defined under the Act means the Maharshi Mahesh Yogi Vedic University established under this Act. Section 4 of the Act deals with powers of the University. Sub-Section 4(1)(a) of Section 4 read as under:

4(i)(a) grant, subject to such conditions as the University may determine, diplomas or certificates and confer degrees or other academic distinctions on the basis of examination, evaluation or any other method of testing on, persons and withdraw any such diplomas, certificates, degrees or other academic distinctions for good and sufficient cause;

Section 2(1) defines -"institution". It reads as under:

"Institution" means an academic institution, not being a college, maintained by the University.

Section 2(o) defines "recognised institution" which is as under:

Recognised institution "means an institution of higher learning recognised by the University.

32. Thus, it is evincible that Section 4 of the Act deals with powers of the University. Sub-section (vi) empowers the University to establish and maintain colleges, institutions and Halls. The institutions are established by the University but the diplomas are eventually conferred by the University itself. What is required by the letter-circular is to produce diplomas or certificates with the seal of the University and with the signature of the competent authority of the University. Hence, there is no change in the terms incorporated in the advertisement. It does not remotely transgress the stipulation in the Rule. What the letter-circular postulates is only the method how the certificate is to be produced as per law. It is in accord with the Rule and the advertisement. Therefore, we are unable to accept the spacious submissions raised by the learned Counsel for the Petitioners that the same transgresses the Rule or the advertisement.

33. Consequently, we perceive no merit in the writ petitions and accordingly, they are dismissed without any order as to costs.