
(2018) 07 CAT CK 0011

In the Central Administrative Tribunal

Case No : Original Application No. 412 Of 2016

Nitin Kumar Dubey

APPELLANT

Vs

Union Of India And Ors

RESPONDENT

Date of Decision : 27-07-2018

Acts Referred:

Chhatisgarh Niji Kshetra Vishwavidalaya (Sthapana Aur Vininyaman) Adhiniyam 2002
— Section 5, 5(1), 6
University Grants Commission Act, 1956 — Section 22

Citation : (2018) 07 CAT CK 0011

Hon'ble Judges : Nita Chowdhury, Member (A); S.N. Terdal, J

Bench : Division Bench

Advocate : Akshat Shrivastava, Pankaj Pandey, Yogendra Kumar Verma, Girish Tripathi, Apoorv Kurup, G. Kaushal, Suparna Srivastava, Tushar Mathew

Final Decision : Dismissed

Judgement

Nita Chowdhury, Member (A)

1. This Original Application (OA) has been filed by the applicant seeking the following reliefs:-

"i. This Hon'ble Tribunal may kindly summon the entire relevant records pertaining to the instant controversy from the respondents for its kind perusal.

ii. This Hon'ble Tribunal may be pleased to quash/set-aside the communication cum order dated 30-10-2015.

iii. This Hon'ble Tribunal may kindly be pleased to direct the respondents no.1 to 3 to issue appointment order in favour of the applicant for the post of TGT (Maths).

iv. Any other order or orders that this Hon'ble Tribunal deem fit and proper in the facts and circumstances of the case may kindly be passed.

v. Award the cost of the instant lis."

2. The grievance of the applicant is against the order dated 30.10.2015 by which he has been informed by the respondent no.3 - Regional Officer of Navodaya Samiti that inspite of being selected, he cannot be issued appointment order for the post of TGT (Maths) in Navodaya Vidyalaya School as his BSc. Degree could not be verified and that the respondent no.6 - Private Universities Regulatory Commission has informed that during the time when the applicant did his BSc from erstwhile Gurukul University, Raipur, it did not have affiliation from the University Grants Commission.

3. It is submitted that the erstwhile Gurukul University, Raipur was a private University established under Section 5(1) of the Chhattisgarh Niji Kshetra Vishwavidyalaya (Sthapana Aur Vininyaman) Adhiniyam 2002 and got closed down as a result of the judgment of the Hon'ble Supreme Court in the case of Professor Yashpal & Ors. v. State of Chhattisgarh (2005)5 SC 420 which is clear from the reply given by the Private Universities Regulatory Commission of the State of Chhattisgarh. The applicant had cleared his B.Sc from erstwhile Gurukul University, Raipur and was awarded his degree much before the date of the judgment. Thus, the applicant, who had passed out and was given his marksheet and degree much before the aforesaid judgment is not to be declared ineligible. This is precisely what has been held by the Madhya Pradesh High Court in the case of Ved Prakash Sharma & Ors. v. State of MP & Ors.ILR [2011]MP 1187. It is also averred that the University having been established under a State Act had statutory backing and was also eligible to award degrees under Section 22 of the University Grants Commission Act, 1956 as is clear from communication dated 29.01.2004 made by respondent no.1 itself. The applicant had also cleared his B.Ed on the basis of his BSc degree as well as CTET examination.

4. In reply to the OA, the respondent no.6 - Chhattisgarh Private Universities Regulatory Commission, submitted that vide judgment dated 11.02.2005 passed in the case of Prof. Yashpal (supra), the Hon'ble Supreme Court declared the provisions of Sections 5 and 6 of the Adhiniyam as ultra vires the Constitution and further quashed the State Government notifications notifying the establishment of private universities. Consequently, all the private universities established under the Adhiniyam, including the Gurukul University, Raipur, from where the present applicant had obtained his BSc degree (on 12/1/2005) also ceased to exist.

5. It is also stated that subsequently, vide letter dated 24.09.2015, respondent no.3 requested the respondent no.6 to verify the genuineness of the BSc degree certificate issued by the erstwhile Gurukul University, Raipur to the applicant. In response thereto, the respondent no.6, vide letter dated 15.10.2015, informed Respondent No.3 as under:-

"1. The erstwhile Gurukul University, Raipur was established by Government of Chhattisgarh vide Notification No.F-75-70/2003/HE/38 dated 18/7/2003..

2. As a result of the judgment of Hon'ble Supreme Court of India delivered on

11/2/2005 in Writ Petition (Civil) No.19 of 2004 filed by Prof. Yashpal and others Vs. State of Chhattisgarh and others, all erstwhile Private Universities established under the provisos of the Chhattisgarh Niji Kshetra Vishwa Vidhyalaya (Sthapana Aur Viniyaman) Adhiniyam 2002 have ceased to exist.

3. According to the direction of the Hon'ble Supreme Court of India vide its judgment delivered on 11.2.2005 (Para 45 & 46), erstwhile Private Universities had taken affiliation with either Pt. Ravishankar Shukla University, Raipur or Guru Ghasidas University, Bilaspur as an institution under Statute 27(A) of State University. Erstwhile Gurukul University had taken affiliation with Pt. Ravishankar Shukla University, Raipur...

4. The Right to confer Degrees is mentioned in section 22(1) & (2) of the UGC Scheme, which is reproduced below:-

22(1) The right of conferring or granting degrees shall be exercised only by a University established or incorporated by or under a Central Act, a Provincial Act or a State Act or an institution deemed to be a University under section 3 or an institution specially empowered by an Act of Parliament to confer or grant degrees.

(2) Save as provided in sub-section(1), no person or authority shall confer, or grant, or hold himself or itself out as entitled to confer or grant, any degree.

5. The verification of validity of certificate issued by erstwhile Private Universities does not come under the purview of this Commission.

6. Erstwhile Gurukul University, Raipur has no recognition from the University Grants Commission during the period Shri Nitin Kumar Dubey got his degree."

6. The respondent no.4 - University Grants Commission, in its reply, submits that erstwhile Gurukul University, Raipur was a University which was established under Section 5(1) of the Chhattisgarh Niji Kshetra Vishwavidhyalaya (Sthapana Aur Vininyaman) Adhiniyam, 2002 (the "Act of 2002"). The constitutionality of the Act of 2002 was under challenge before the Hon'ble Supreme Court in the case of Prof. Yashpal (supra) and the Act of 2002 was struck down. As such, Gurukul University, Raipur ceased to exist in light of the directions issued by the Hon'ble Supreme Court in Prof. Yashpal's case.

7. A similar submission has been made by the respondent no.5 - State of Chhattisgarh in its reply. Para 2 thereof states that grievance of the applicant is in respect of validity of degree awarded by Gurukul University, Raipur, respondent no.8 herein, a private University established under Chhattisgarh Nijikshvetra Vishvidyalaya (SthapnaaurViniyaman) Adhiniyam 2002 which had provided for establishment of private universities for higher education in the State of Chhattisgarh. The said Adhiniyam 2002 was enacted vide Notification dated 04.02.2002. Hence in view of the fact that the Hon'ble Supreme Court in the case of Prof. Yashpal (supra) had passed the orders in the matter and because the applicant had cleared his exam from the university which had been

de-recognized, the respondents have not committed any mistake in withdrawing the letter of appointment issued to the applicant.

8. Heard both sides and perused the pleadings available on record and also the judgment of the Hon'ble Supreme Court in the case of Prof. Yashpal (*supra*). The reply of respondents, especially no.R-6, i.e. Chhattisgarh Private Universities Regulatory Commission, which quite clearly states that erstwhile Gurukul University, Raipur has no recognition from the University Grants Commission during the period the applicant got his degree. Hence, once degree of the applicant was not found to be valid, the respondents are correct in affirming that they had no option but to withdraw the offer of appointment issued to the applicant. Accordingly, the OA is found to be without merit and the same is dismissed. No costs.