

REPORTABLE

IN THE SUPREME COURT OF INDIA

ORIGINAL WRIT JURISDICTION

**WRIT PETITION (CIVIL) No. 905 OF 2018**

Jai Singh and Ors.

...Petitioners

Versus

University Grants Commission and Ors.

...Respondents

**J U D G M E N T**

**Uday Umesh Lalit, J.**

1. Seven petitioners who had enrolled themselves in the years 2004 and 2005 in courses leading to award of Degree in Engineering through Open Distance Learning by respondent No.4 - Janardan Rai Nagar Rajasthan Vidyapeeth (deemed to be University), have filed the present Writ Petition seeking following reliefs:

- i) Issue a writ of Mandamus or any other suitable Writ directing the Respondents more particularly the Respondent No.2/AICTE to issue a clarification that the degree in technical education granted to the petitioners herein by the Respondent Universities through Open & Distance Learning Mode are valid, do not require AICTE approval, and will be treated at par with corresponding Degrees granted by any traditional University/AICTE recognized Institution in the Country.

- ii) Issue a Writ in the nature of Mandamus or any other Writ/Direction/Order, commanding the respondents and their men, agents and servants not to declare the technical degrees obtained by the Writ Petitioners as well as similarly circumstanced persons as null.
- iii) Issue a Writ in the nature of Mandamus or any other Writ/Direction/Order, declaring the degrees obtained through distance education mode or off campus mode to be valid for all purposes.
- iv) Issue a Writ in the nature of Certiorari or any other Writ/Direction/Order, quashing all steps taken by the Respondents No. 1 to 7 and their men, agents and servants for declaring any degree granted and/or obtained through distance education mode as illegal and consequentially declare such steps as illegal.
- v) Issue a Writ in the nature of Certiorari or any other Writ/Direction/ Order, calling upon the Respondents to certify and produce all necessary records relating to the present case and on perusal thereof quash and/or set aside and/or declare the same to be illegal.
- vi) Grant an ex-party, ad-interim injunction against the respondents restraining the respondents to give effect to directions contained in Paras 66-66.13 of (2018) 1 SCC 468 titled *Orissa Lift Irrigation Corporation Limited Vs. Rabi Shankar Patro and Ors.* till the final adjudication of the present Writ Petition.

2. The controversy in question including the issue whether a Deemed to be University, without there being any approval from the AICTE, could start courses leading to award of Degrees in Engineering through Open Distance Learning came up for consideration before this Court in *Orissa Lift Irrigation Corporation*

*Limited vs. Rabi Shankar <sup>1</sup>Patro and Ors.* While rejecting the submission that the Deemed to be Universities were also entitled to similar protection as was accorded to State or Central Universities in terms of decision of this Court in *Bharathidasan University and anr. vs. All India Council for Technical Education and Ors.*<sup>2</sup>, following directions were issued by this Court in Para 66 of its judgment in *Orissa Lift Irrigation* (supra):

“66. Accordingly, we direct:

**66.1.** The 1994 AICTE Regulations, do apply to deemed to be universities and the deemed to be universities in the present matter were not justified in introducing any new courses in technical education without the approval of AICTE.

**66.2.** Insofar as candidates enrolled during the academic sessions 2001-2005, in the present case the ex post facto approvals granted by UGC and their authorities concerned are set aside.

**66.3.** Consequent to aforesaid Direction II, all the degrees in Engineering awarded by deemed to be universities concerned stand suspended.

**66.4.** AICTE shall devise the modalities to conduct an appropriate test(s) as indicated in para 58 above. The option be given to the students concerned whose degrees stand suspended by 15-1-2018 to appear at the test(s) to be conducted in accordance with the directions in para 58 above. Students be given not more than two chances to clear test(s) and if they do not successfully clear the test(s) within the stipulated time, their degrees shall stand cancelled and all the advantages shall stand withdrawn as stated in paras 57 and 58 above. The entire expenditure for conducting the test(s) shall

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1 (2018)1 SCC 468

2 (2001)8 SCC 676


be recovered from the deemed to be universities concerned by 31-3-2018.

**66.5.** Those students who do not wish to exercise the option, shall be refunded entire money deposited by them towards tuition fee and other charges within one month of the exercise of such option. Needless to say, their degrees shall stand cancelled and all advantages/benefits shall stand withdrawn as mentioned in para 58.

**66.6.** If the students clear the test(s) within the stipulated time, all the advantages/benefits shall be restored to them and their degrees will stand revived fully.

**66.7.** As regards students who were admitted after the academic sessions 2001-2005, their degrees in Engineering awarded by the deemed to be universities concerned through distance education mode stand recalled and be treated as cancelled. All benefits secured by such candidates shall stand withdrawn as indicated in para 59 above. However, the entire amount paid by such students to the deemed to be universities concerned towards tuition fees and other expenditure shall be returned by the deemed to be universities concerned by 31-5-2018, as indicated in para 59.

**66.8.** By 31-5-2018 all the deemed to be universities concerned shall refund the sums indicated above in para 66.7 and an appropriate affidavit to that extent shall be filed with UGC within a week thereafter.

**66.9.** We direct CBI to carry out thorough investigation into the conduct of the officials concerned who dealt with the matters and went about granting <sup>543</sup> permissions against the policy statement, as indicated in para 60 above and into the conduct of institutions who abused their position to advance their commercial interest illegally. Appropriate steps can thereafter be taken after culmination of such investigation.

**66.10.** UGC shall also consider whether the deemed to be university status enjoyed by JRN, AAI, IASE and VMRF calls for any

withdrawal and conduct an inquiry in that behalf by 30-6-2018 as indicated above. If the moneys, as directed above, are not refunded to the students concerned, that factor shall be taken into account while conducting such exercise.

**66.11.** We restrain all deemed to be universities to carry on any courses in distance education mode from the academic session 2018-2019 onwards unless and until it is permissible to conduct such courses in distance education mode and specific permissions are granted by the statutory/regulatory authorities concerned in respect of each of those courses and unless the off-campus centres/study centres are individually inspected and found adequate by the statutory authorities concerned. The approvals have to be course specific.

**66.12.** UGC is further directed to take appropriate steps and implement Section 23 of the UGC Act and restrain deemed to be universities from using the word “university” within one month from today.

**66.13.** The Union of India may constitute a three-member Committee comprising of eminent persons who have held high positions in the field of education, investigation, administration or law at national level within one month. The Committee may examine the issues indicated above and suggest a road map for strengthening and setting up of oversight and regulatory mechanism in the relevant field of higher education and allied issues within six months. The Committee may also suggest oversight mechanism to regulate the deemed to be universities. The Union of India may examine the said report and take such action as may be considered appropriate within one month thereafter and file an affidavit in this Court of the action taken on or before 31-8-2018. The matter shall be placed for consideration of this aspect on 11-9-2018.”

3. The present petitioners having enrolled themselves in 2004 and 2005 are covered by directions 66.4 and 66.7. It was stated at the bar that they did appear at the examination so conducted by the AICTE.

4. It was, however, submitted by Mr. Soli J. Sorabjee, learned senior advocate on behalf of the petitioners, *inter alia*, that the case of the petitioners was covered by one time exception granted by this Court in the case of ***Jawaharlal Nehru Technological University vs. The Chairman and Managing Director, Transmission Corporation of Telangana Ltd. & Ors.***<sup>3</sup> decided on 10<sup>th</sup> April, 2018. Para 2 of said decision dated 10<sup>th</sup> April, 2018 had quoted the earlier order dated 16<sup>th</sup> February, 2018 passed in said matter which brings out the factual distinction. Relevant part of said para 2 was as under:

“On 16.02.2018 the following order was passed:

‘Permission to file the special leave petition is granted.

Learned Attorney General has pointed out that in view of the judgment of this Court in “Bharathidasan University & Anr. vs. All India Council for Technical Education & Ors.”, (2001)8 SCC 676, no prior approval of the All India Council for the Technical Education (AICTE) is required by the petitioner – University for starting engineering courses.

The petitioner-University is a State University and it gave admissions in transparent manner only to the Government Employees. There was a contact programme and faculty was available. Practical work also held. DEC

gave ex-post facto approval. The standards have not been compromised. ....”

5. Jawaharlal Nehru Technological University being a State University was completely covered by the decision of this Court in *Bharathidasan* (supra) and as such reliance on the decision in *Jawaharlal Nehru Technological University* (supra) case would not be of any assistance to the petitioners. Mr. Sorabjee learned senior advocate further relied upon certain documents including ex-post facto approvals which aspects have already been noticed and dealt with in the judgment of this Court in *Orissa Lift Irrigation* (supra). We, therefore, see no reason to take a different view in the matter. The present petition is completely covered by the decision of this Court in *Orissa Lift Irrigation* (supra) and not by the decision of this Court in *Jawaharlal Nehru Technological University* (supra).

6. This petition, thus, is devoid of any merits and is dismissed.

.....J.  
(Abhay Manohar Sapre)

.....J.  
(Uday Umesh Lalit)

New Delhi;  
September 24, 2018.