

HIGH COURT OF MADHYA PRADESH : BENCH AT INDORE
S. B.: Hon'ble Ms. Justice Vandana Kasrekar

W.P. No.5575/2017
Pankaj Gehlot & Anr.

Vs.

The State of M.P. & Ors.

Shri L.C. Patne, learned counsel for the petitioners.

Shri Aditya Choudhary, learned Govt. Advocate for the
respondent Nos.1 to 3/State.

Shri Aniket Naik, learned counsel for the respondent no.4.

ORDER

(Passed on this 16th day of May, 2019)

Per Ms. Vandana Kasrekar, J.

The petitioners have filed the present petition against the illegal, arbitrary and malafide order of cancellation of their appointment dated 31/07/2017 issued by the respondent no.3, cancelling the appointment of the petitioners by holding them ineligible for appointment on the post of Accountant under respondent no.2 on the ground that the PGDCA certificates obtained by the petitioners from respondent no.4 Maharishi Mahesh Yogi Vedic University is not recognized by the University Grants Commission(UGC) as per the information available on 13/06/2017.

2. The M.P. Professional Examination Board, Bhopal has published an advertisement for appointment on the post of Accountant on contractual basis under respondent no.2. As the petitioners were fully eligible for appointment on the said post, therefore, they submitted their applications. They were called upon to appear in a written test scheduled to be held on 5/04/2015 for which test admit cards were also issued to them.

3. The petitioners appeared in the aforesaid written

examination as Scheduled Tribe, Scheduled Caste Category candidates respectively. The petitioners were called upon to attend the counseling and choice filling. On the basis of their positive merit, the petitioners were selected and appointed on the post of Accountant in Janpad Shiksha Kendra, Ranapur and Janpad Shiksha Kendra, Petlawad respectively by appointment order dated 15/06/2017. Both the petitioners submitted their joining on their respective posts on 16/06/2017.

4. Both the petitioners have been working diligently and to the best of their abilities, yet to their utter surprise, the CEO-cum-District Project Director, District Education Centre, District Jhabua issued the petitioners a notice dated 21/06/2017, calling upon them to offer their explanation over the genuineness of their PGDCA certificate to which the petitioners submitted separate detailed replies on 25/07/2017, but to the utter surprise of the petitioners, by the impugned order dated 31/07/2017, the appointment of the petitioners have been abruptly cancelled by the respondent no.3 illegally, arbitrarily and without issuing any show cause notice to the petitioners and without affording them any opportunity of hearing in gross violation of principles of natural justice and fair play as well as in gross violation of terms and conditions of their contractual appointment. Being aggrieved by that order, the petitioners have filed the present petition.

5. Learned counsel for the petitioners submit that the petitioners have obtained the PGDCA Diploma course from respondent no.4/University, which is recognized course in the year 2014 even by the University Grants Commission(UGC).

Therefore, the subsequent de-recognition of the University by the UGC, from where the petitioners have obtained the PGDCA Diploma is hardly of any consequence. He further submits that in the advertisement, it has not been mentioned that the candidates must have obtained PGDCA course from an institution recognized by the UGC. He further relied on the judgment of the Division Bench of this Court in the case of **Neelesh Shukla & Ors. Vs. State of M.P. & Ors.**, passed in W.P. No.8419/2009 decided on 5/10/2009 along with other connected writ petitions and submits that once the mark-sheet has been issued under the seal of the University and if signature of the Competent Authority of the University then the said degree is valid degree.

6. He further submits that the impugned action on the part of respondent is manifestly illegal, arbitrary, and in violation of principles of natural justice and fair play as also the terms and conditions of their contractual appointment. In such circumstances, he submits that the impugned action on the part of the respondents is liable to be set aside.

7. The respondent no.1 to 3 have filed their reply and in the said reply, the respondents have stated that the petitioners have produced the certificate of PGDCA issued in the year 2014, passed from the Maharishi Mahesh Yogi Vedic Vishwavidyalaya and the said University is not recognized by the UGC. The respondents have further stated that the appointment of the petitioners were cancelled not only on the ground that the Maharishi Mahesh Yogi Vedic Vishwavidyalaya is not recognized by UGC, but on the ground that the said Course has been completed by the petitioners as “**an Off-campus Institute**” and as per the

guidelines issued by the State Government in that regard are very clear that a candidate having a diploma from a private Off Campus Institute shall not be liable for getting the post. In such circumstances, the respondents have stated that the petition deserves to be dismissed.

8. The respondent no.4 has filed the reply and in the said reply, the respondent has stated that Maharishi Mahesh Yogi Vedic Vishwavidyalaya has been created by way of a statute namely, Maharishi Mahesh Yogi Vedic Vishwavidyalaya, Act, 1995(hereinafter referred to as "the 1995 Act"). The Act received the assent of the Governor on 25/11/1995 and was published in the Madhya Pradesh Gazette dated 29/11/1995.

9. Sub-clause (ii) to (xxviii) of Section 4 refers to the various other powers such as granting diplomas and certificates to organize and undertake extra-mural studies; conferment of honorary degree; facilities for distance education system. The petitioners completed their studies of Post Graduate Diploma in Computer Application(PGDCA) from the respondent no.4/Institute in the Academic Year 2013 and 2014. Accordingly, upon completion of the course, the mark-sheets were issued to them in June, 2013 and June 2014.

10. The UGC issued the communication dated 7/11/2014 and 22/05/2015 stating that since the University is self financed University, its name is included in the list of State Private University as maintained by the University Grants Commission. The current status of the respondent/University, which is being reflected in the Website of the UGC to be a private University, which has been taken note of by Rajya Shiksha Kendra, Bhopal and perhaps thus, on that account,

the appointment to the petitioners is being denied. The dispute declaring the University to be a private University came into existence on 7/11/2014 and much prior to that the petitioners had already prosecuted their studies and mark-sheets were also issued to them.

11. Heard learned counsel for the parties and perused the record.

12. In the present case, the petitioners have submitted their applications for appointment on the post of Accountant on contractual basis. They have completed their selection process. As the petitioners were fully eligible for appointment on the said post, therefore, they submitted their applications. They were called upon to appear in a written test scheduled to be held on 5/04/2015 for which test admit cards were also issued to them. The petitioners were called upon to attend the counseling and choice filling. On the basis of their positive merit, the petitioners were selected and appointed on the post of Accountant. Both the petitioners submitted their joining on their respective posts on 16/06/2017. Thereafter, the CEO-cum-District Project Director, District Education Centre, District Jhabua issued the petitioners a notice dated 21/06/2017, calling upon them to offer their explanation over the genuineness of their PGDCA certificate to which the petitioners submitted separate detailed replies on 25/07/2017, but to the utter surprise of the petitioners, by the impugned order dated 31/07/2017, the appointment of the petitioners have been abruptly cancelled by the respondent no.3 without issuing any show cause notice to the petitioners and without affording them any opportunity of hearing.

13. In the present case, from perusal of the record it

reveals that the petitioners have completed their PGDCA Course in the year 2013 & 2014. At that time, the said post was recognized by UGC. However, subsequently, in the year 2017, the UGC on its website has informed that the PGDCA Course/certificates obtained from the off-campus of the University, is not recognized certificate and on the basis of that ground, the respondents have not issued the appointment order to the petitioners. As stated above, when the petitioners have completed their PGDCA Course, at that time the said post was recognized by UGC, therefore, in subsequent disqualification incurred by the respondent no.4 University, it would not dis-entitle the petitioners from being appointed. It is not the case of the respondents that the PGDCA Course obtained by the petitioners in the year 2014 is fake, false, fabricated or was not recognized at the relevant point of time. Before declaration of status to be private University, the answering respondents were well competent to recognized/Associate Institution through which, the education was being imparted and, thus, at the time of prosecution of PGDCA courses by the petitioners and issuance of the mark-sheets, the University was a State University and, therefore, the mark-sheets issued to the petitioners are valid.

14. The Division Bench of this Court in the case of **Neelesh Shukla & Ors.(supra)** has held that the Diplomas, certificates issued by respondent/University with a seal and signature of the Competent Authority of the University is valid.

15. In the present case, the certificate which is issued to the petitioners, it bears seal and signature of the Competent Authority of the University and, therefore, as per the

aforesaid judgment, it is valid. The respondent no.4/University has power to issue the certificate of various Diploma courses such as granting granting Diplomas and granting certificates for various courses. That, in the advertisement also, it is not mentioned that the candidates are required to produce certificate of PGDCA from the recognized University.

16. Thus, in the light of the aforesaid, I allow this writ petition and the impugned order dated 31/07/2017 is, hereby, quashed and the respondents are directed to re-instate the petitioners forthwith on the post of Accountant under respondent no.2 by granting the petitioners all other consequential and monetary benefits including salary.

With the aforesaid, the writ petition stands disposed of.

(Ms. Vandana Kasrekar)
Judge

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