
Before G.S. Singhvi & N.C. Khichi, JJ.

Gursharanjit Singh and another—*Petitioners*

versus

State of Punjab and others,—*Respondent*

CWP No. 2521 of 97

20th May, 1997

Constitution of India, 1950—Arts. 226/227—University Grants Commission Act, 1956—Ss. 2(f) & 3—Recruitment of S.S. Masters—Minimum qualification B.A. B.Ed. —B.Ed degree awarded by black listed institute—Such institution not even a University—B.Ed. degree granted by such institutions not valid.

Held, that an institution can be treated as a University only if it falls within the meaning of Section 2(f) of the University Grants Commission Act, 1956. It must be held that an institution which is not a University established or incorporated by or under a Central Act, or a Provincial Act or a State Act, or which has not been declared as a deemed University cannot be treated as a University for the purposes of the Act of 1956. It has not been shown to us that the Varanasy Sanskrit Vishawavidyalaya is a University established by a Central Act or a State Act nor the notification declaring it to be a deemed University has been placed before the Court. It is, therefore, reasonable to take the view that the Varanasy Sanskrit Vishawavidyalaya is not a University within the meaning of Section 2(f) of the Act of 1956 and the degrees etc. awarded by the Varanasy Sanskrit Vishawavidyalaya cannot be treated as degrees awarded by a University.

Further held, that the Varanasy Sanskrit Vishawavidyalaya which is said to have awarded Shiksha Shastri degrees stands black listed by the University Grants Commission. In the eyes of the University Grants Commission, the Varanasy Sanskrit Vishawavidyalaya is a bogus institution and the degrees etc. awarded by it are not recognised for the purpose of employment.

The Government of Punjab was further directed to take steps for termination of services of all those teachers who have secured employment on the basis of degrees/diplomas/certificates issued by the bogus institutions like Varanasy Sanskrit Vishawavidyalaya.

(Paras 9 & 19)

Dr. M.S. Rahi, Advocate, *for the petitioner.*

Charu Tuli, DAG, Punjab, *for the respondent.*

JUDGMENT

G.S. Singhvi, J.

(1) Whether a person who has passed Shiksha Shastri examination conducted by Varanasy Sanskrit Vishawavidyalaya is eligible to be appointed as S.S. Master in the service of the Government of Punjab is the only question which arises for adjudication in this petition.

(2) In order to decide the aforementioned question and also to decide whether the petitioners are eligible to be considered for selection as S.S. Masters, we may briefly notice the facts.

(3) The petitioners have passed the matriculation examination conducted by the Punjab School Education Board, B.A. examination from Punjabi University, Patiala and Shiksha Shastri examination conducted by the Varanasy Sanskrit Vishawavidyalaya. They applied for recruitment as S.S. Masters in response to the advertisement issued by the Department Selection Committee (Teaching), Punjab in the year 1995. At the time of interview, the Departmental Selection Committee told the petitioners that they were not eligible and, therefore, their candidature cannot be considered. The petitioners have questioned the decision of the Departmental Selection Committee on the following two grounds:—

- (i) after having accepted their applications and having called them for interview, the respondents are estopped from challenging their eligibility;
- (ii) the decision taken by the Government of Punjab in 1994 on the issue of recognition of examinations conducted by the Varanasy Sanskrit Vishawavidyalaya cannot be applied to them because they had passed Shiksha Shastri examination prior to that decision.

(4) Dr. M.S. Rahi argued that the petitioners had passed the Shiksha Shastri examination through correspondence course keeping in view the letter dated 29th September, 1992 issued by the Director, Department of Employment, Punjab in which it was that the B.Ed. degrees awarded by Varanasy Sanskrit Vishawavidyalaya and Anamalai University are recognised by the Punjab University. Dr. Rahi submitted that the petitioners cannot be deprived of the benefit of the B.Ed. degrees secured by them because Varanasy Sanskrit Vishawavidyalaya is a deemed University. He argued that the decision taken by the government

in the year 1994 cannot be made applicable to the petitioners because they were awarded degrees prior to 1st September, 1994. Dr. Rahi then argued that after having made the petitioners to believe that the examinations, conducted by the Varanasy Sanskrit Vishwavidyalaya are duly recognised by the Government of Punjab and after having accepted their candidature for recruitment as S.S. Masters, the Departmental Selection Committee cannot ignore them at the time of selection. He submitted that the action of the respondents is patently arbitrary and unconstitutional. The learned Deputy Advocate General submitted that the Varanasy Sanskrit Vishwavidyalaya has been black-listed by the University Grants Commission and, therefore, the petitioners who have got degrees of Shiksha Shastri from Varanasy Sanskrit Vishwavidyalaya cannot be considered for appointment as S.S. Masters. Mrs. Tuli placed before the Court a photostat copy of the circular No. 17/17/95-4PP I/212, dated 2nd January, 1996 issued by the Department of Personnel and Administrative Reforms (Personnel Policies-I Branch), Government of Punjab in view of the order dated 31st March, 1995 passed by the Court in C.W.P. No. 6959 of 1994 '*Balwinder Singh v. The Nawanshahr Central Co-op. Bank Ltd.*' and argued that the petitioners who are in possession of degrees awarded by a fake and bogus institution have no legal right to seek issuance of a *mandamus* directing the respondents to consider them for appointment in government service.

(5) Admittedly, in the advertisement issued by the Departmental Selection Committee for recruitment of Lecturers and Teachers including S.S. Masters/Mistresses minimum qualification prescribed is B.A., B.Ed. The petitioners could have been considered for appointment as S.S. Masters if they fulfilled the essential qualification. As far as the degree of B.A. is concerned, there is no controversy between the parties that the petitioners possess B.A. degrees awarded by the Punjabi University which has been established by law enacted by the State Legislature. However, there is a serious dispute regarding the B.Ed. degree possessed by the petitioners. While Dr. Rahi contends that the Varanasy Sanskrit Vishwavidyalaya is a University established by law or at least a deemed University and the degree of Shiksha Shastri awarded by it was recognised as equivalent to the B.Ed. degree awarded by the Universities in the State of Punjab till the issuance of the letter dated 29th September, 1994, the learned Deputy Advocate General submitted that Varanasy Sanskrit Vishwavidyalaya is neither a University established by law nor a deemed University within the

meaning of Section 3 of the University Grants Commission Act, 1956 and as such, the petitioners cannot be considered for appointment as S.S. Masters. Mrs. Tuli laid emphasis on the fact that the Varanasy Sanskrit Vishawavidyalaya has been declared to be a bogus institution by the University Grants Commission and argued that no one who is in possession of the degrees awarded by that institution can be considered for public employment.

(6) Section 2(f) and Section 3 of the Act of 1956 which are relevant to the controversy involved in this petition are quoted below for reference purposes:—

“Section 2(f):—‘University’ means a University established or incorporated by or under a Central Act, a Provincial Act or a State Act, and includes any such institution as may, in consultation with the University concerned, be recognised by the Commission in accordance with the regulations made in this behalf under this Act.

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Section 3:—Application of Act to institution for higher studies other than Universities:

The Central Government may, on the advice of the Commission, declare, by notification in the Official Gazette, that any institution for higher education, other than a University shall be deemed to be a University for the purposes of this act shall apply to such institution as if it were a University within the meaning of clause (f) of Section 2.”

(7) A look at the provisions quoted above shows that an institution can be treated as a University only if it falls within the meaning of Section 2(f) of the Act of 1956. As a logical corollary, it must be held that an institution which is not a University established or incorporated by or under a Central Act, or a Provincial Act or a State Act, or which has not been declared as a deemed University cannot be treated as a University for the purposes of the Act of 1956. It has not been shown to us that the Varanasy Sanskrit Vishawavidyalaya is a University established by a Central Act or a State Act nor the notification declaring it to be a deemed University has been placed before the Court. It is, therefore, reasonable to take the view that the Varanasy Sanskrit Vishawavidyalaya is not a University within the meaning of Section 2(f) of the Act of 1956 and the degrees etc. awarded by the

Varanasy Sanskrit Vishawavidyalaya cannot be treated as degrees awarded by a University.

(8) Although, on the basis of Annexures P4 and P5 the petitioners have made an attempt to show that the Varanasy Vishawavidyalaya is a University but the learned counsel could not place any material to substantiate the fact that the Varanasy Vishawavidyalaya which has awarded the degree of Shiksha Shastri to the petitioners is a University established by law or it is a deemed University. We, therefore, hold that the petitioners who have passed Shiksha Shastri examination conducted by the Institute and who have been awarded degrees of Shiksha Shastri by it are not eligible for recruitment as S.S. Masters and the decision of the respondents not to consider them for appointment as S.S. Masters does not suffer from any illegality.

(9) Another reason why the plea of the petitioners regarding their eligibility for appointment as S.S. Masters does not deserve acceptance is that the Institute which is said to have awarded Shiksha Shastri degrees to them stands black-listed by the University Grant Commission. The University Grants Commission issued circular dated 26th June, 1991 declaring that as many as 27 institutions including the Varanasy Sanskrit Vishawavidyalaya are bogus or non-existent and degrees, diplomas etc. awarded by these institutions are not recognised for the purpose of employment under the government. This declaration has been repeated by the University Grants Commission and the list was circulated by it to various governments on 30th June, 1994. It is, therefore, evident that in the eyes of the University Grants Commission the Varanasy Sanskrit Vishawavidyalaya is a bogus institution and the degrees awarded by it are not recognised for the purpose of employment etc. The petitioners have not challenged the authority of the University Grants Commission to black-list such bogus institutions. Therefore, the petitioners cannot rely on the degree of Shiksha Shastri for the purpose of substantiating their claim for appointment as S.S. Masters.

(10) The stage is now set to consider some of the judicial precedents.

(11) In C.W.P. No. 6959 of 1994 *Balwinder Singh v. The Nawanshahr Central Co-op. Bank Ltd.* decided on 31st March, 1995, a Division Bench of this Court upheld the termination of the service of the petitioner on the ground that he had secured employment on the basis of a fake degree. While dismissing the

writ petition with costs, the Court directed the Governments of Punjab and Haryana to issue written instructions against the appointment of the persons possessing degrees and other qualifications awarded by the institutions which have been declared to be bogus by the University Grants Commission by making following observations :—

“Before parting with the case, we would like to express our dismay that despite the directives issued by the Government of India on the basis of decision taken by the U.G.C. regarding the bogus Universities and fake degrees, various departments of the Governments have not taken prompt steps to bring it to the notice of the appointing authorities that persons possessing such degrees/other qualifications should not be given employment in the Government as well as its agencies and instrumentalities. We, therefore, direct that copy of this order be sent to the Chief Secretaries to the Governments of Punjab and Haryana so that they may issue necessary instructions to all concerned to refrain from giving appointments to persons possessing degrees and other qualifications awarded by the institutions which have been declared to be bogus by the UGC.”

(12) In compliance of the directions given by the Court, the Government of Punjab issued circular dated 2nd January, 1996 and made it imperative for the recruiting authorities not to give appointment to any person possessing degrees and other qualifications awarded by the institutions which have been declared bogus by the University Grants Commission.

(13) In C.W.P. No. 11884 of 1993 *Pawan Kumar vs. Haryana State Electricity Board and another* decided on an identical issue was examined by another Division Bench of which one of us (G.S. Singhvi, J.) was a member. After making reference to two earlier orders passed by the Court on 24th November, 1992 and 30th March, 1993 in C.W.P. No. 2688 of 1992 *Tara Chand and another vs. Haryana State Electricity Board, Panchkula etc.* and C.W.P. No. 2898 of 1993 *Parshotam Das Havildar vs. H.S.E.B. & others* respectively as well as the provisions of the Act of 1956, the Court observed:—

“A bare look at the above quoted provisions shows that a University can be treated as a University only if it is covered by Section 2(f) or is treated as a deemed

Unviersity under section 3. No institution which does not fall within the ambit of either of the two provisions can be treated as a University in India. Apparently, without there being any legal existance, albeit Varanaseya Sanskrit Vishwavidyalaya has been issuing marks-sheets, certificates and Degrees to the candidates. We are not in a position to record a definite conclusion as to whether Annexure P1 or like documents are forged or that any racket is working in this State with whose help the employment-seekers get marks-sheets and certificates but in the face of the fact that Varanaseya Sanskrit Vishwavidyalaya is not a University under the University Grants Commission Act, there can be no manner of doubt that the examinations conducted by it and the certificates/ Degress awarded by it cannot be treated as sufficient for entitling a person to claim admission to higher course or employment in the service of the Government. *Annexure R. 1 dated 26th June, 1991 issued by the University Grants Commission unequivocally brings out the true character of as many as 27 Universities including the Varanaseya Sanskrit Vishwavidyalaya. Even though this document does not specifically make a reference to the examinations of Matriculation or Purva Madhyama of the Varanaseya Sanskrit Vishwavidyalaya, we have no doubt in our mind that since the institution itself is not a genuine one, the examinations conducted by it or the marks-sheets/ certificates issued by it cannot be regarded as genuine and on the basis of passing of such an examination the petitioner or similarly situated persons cannot claim any relief from this Court in the form of writ of mandamus.*

We are conscious of the fact that co-ordinate Benches of this Court have allowed writ petitions of the candidates who had passed examinations conducted by the Varanaseya Sanskrit Vishwavidyalaya but a look at the order dated 24th November, 1992 (Annexure P2) clearly shows that full material regarding the status of Varanaseya Sanskrit Viswavidyalaya was not placed before the Court. It was also not brought to the notice of the Court that the said Vishwavidyalaya was not a University as defined under the University Grants Commission Act. We are of the considered opinion that if full facts had been brought to the notice of the co-ordinate Benches the result of the writ petitions may have been

different.”

(14) In *Satnam Kaur v. State of Haryana and others* (1) the court again examined a similar issue in the context of the degrees etc. awarded by Gandhi Hindi Vidyapeeth, Prayag (U.P.). After discussing the issue, the Court held:—

“Record of this case shows that for recruitment to the post of Language Teacher the minimum prescribed qualifications are Giani and Language Teacher’s Certificate. The Government of Haryana has issued instructions detailing the qualifications recognised by it for the purpose of recruitment in its services and the courses and examinations of Gandhi Hindi Vidyapeeth, Prayag are not included in the list of recognised qualifications. Annexure R1 further shows that the U.G.C. has cautioned various Universities and educational institutions as well as the Governments against admission of students in the fake and self-styled universities. At Item No. 8 of this document appears the name of Gandhi Hindi Vidyapeeth, Prayag, Allahabad (U.P.). It is, thus, evident that in the eyes of the U.G.C. the Gandhi Hindi Vidyapeeth, Prayag is a bogus institution. It is also, clear from the record that neither the Government of Haryana nor the U.G.C. has recognised the Language Teachers Examination conducted by Gandhi Hindi Vidyapeeth, Prayag. There may have been some justification in the claim of the petitioner for recruitment to the service or regularisation in the service if she was possessed with the certificate issued by the University established by law in India or a Deemed University as defined under the University Grants Commission Act, 1956, but it is not in dispute that the petitioner does not possess such qualification. For the purpose of recruitment in the service of the Government of Haryana or for regularisation of her service the petitioner cannot seek a writ of mandamus unless she is able to show that she possesses the qualifications recognised by the Government of Haryana. When recruitment is made to the service of a particular State, the Government of the State is fully justified in insisting that the candidate

seeking recruitment must possess the qualifications recognised by that Government. Perusal of Annexure P1 also shows that only those *ad hoc* Class III employees are entitled to be regularised in service who possess the prescribed qualifications for the posts at the time of appointment on *ad hoc* basis and as the petitioner has failed to show that she possessed the requisite qualifications, we do not find any substance in her claim that a direction be issued to the respondents to regularise her service only on the ground that some other persons have been given benefit of regularisation of service on the basis of direction given by the Court or even otherwise.”

(15) In that very judgment, the Court rejected the plea of discrimination and observed:—

“The plea of discrimination raised by the learned counsel for the petitioner also merits rejection because jurisdiction of the Court under Article 226 cannot be exercised for commission of an illegality on the ground that in some other case a wrong action has been taken by the Government. Writs are issued for enforcing the constitutional and legal rights and not for perpetuation of an illegality or violation of the provisions of law. Articles 14 and 16 of the Constitution of India guarantee equality before law but do not guarantee equality where comparison is sought to be made on the basis of an illegal action. Therefore, even though the Government might have committed illegality in appointing another person as Language Teacher on the basis of the qualifications not recognised by the Government of Haryana, we do not find any justification to issue a writ of mandamus in favour of the petitioner.”

(16) In C.W.P. No. 16051 of 1996 *Daljeet Kaur & others v. State of Punjab and others*, decided on 11th October, 1996 and C.W.P. No. 2834 of 1997 *Paramjit Kaur and another v. State of Punjab and others* decided on 15th May, 1997, the Court has rejected the claim of the petitioners, which was made on the basis of the degrees etc. awarded by Varanasy Sanskrit Vishawavidyalaya.

(17) The aforementioned precedents support the conclusion that the persons possessing qualifications/degrees awarded by the

bogus institutions are not entitled to be considered for recruitment to public services.

(18) In the result, the writ petition is dismissed.

(19) Before parting with the case, we consider it our constitutional obligation not to ignore the stark fact that the officials of the Government of Punjab have been instrumental in recruiting large number persons who are not qualified to hold the posts of Teachers. It is, therefore, necessary that the Government of Punjab takes prompt steps for preventing such recruitment in future and at the same time take corrective measures to dispense with the services of the unqualified/untrained teachers. We, therefore, direct the Government of Punjab to issue written instructions to all the concerned officers that in future no appointment be given on the posts of Teachers to the persons who do not possess the minimum academic/training qualifications. We also direct the Government of Punjab to take steps for termination of services of all those Teachers who have secured employment on the basis of degrees/diplomas/certificates issued by the bogus institutions like Varanasy Sanskrit Vishawavidyalaya and who have not completed three years service. However, before passing any adverse order the competent authority must afford an opportunity of hearing to the concerned person.

(20) Those who have rendered service for three years or more should be given an opportunity to acquire the requisite qualification within a stipulated time and in case of failure of such persons to acquire the requisite qualification appropriate action should be taken by the Government to dispense with their service.

(21) The Director of Public Instructions (Schools), Punjab should send a report to this Court regarding compliance of this direction within a period of six months of the receipt of a copy of this order.

(22) The Registrar of this Court is directed to send copies of this order to the Chief Secretary, Government of Punjab, the Secretary, Education, Punjab and the Director of Public Instructions (Schools), Punjab for compliance.

(23) The file of the case be listed after six months in order to find out whether the respondents have complied with this order or not.