

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NOS.4667-4668 OF 2018  
(ARISING OUT OF SLP(C) NOS.8497-8498 OF 2015)

ABDUL MOTIN

APPELLANT(S)

VERSUS

MANISANKAR MAITI & ORS. ETC.

RESPONDENT(S)

With C.A. No.4669/2018 (@ SLP(C) No.11708/2015)  
C.A. No.4670/2018 (@ SLP(C) No.13663/2015)  
C.A. Nos.4673-4675/2018 (@ SLP(C) Nos.25129-25131/2015)  
C.A. Nos.4671-4672/2018 (@ SLP(C) Nos.18396-18397/2015)

O R D E R

C.A. Nos.4667-4668/2018 (@ SLP(C) Nos.8497-8498/2015),  
C.A. No.4669/2018 (@ SLP(C) No.11708/2015) and C.A.  
No.4670/2018 (@ SLP(C) No.13663/2015)

Leave granted.

The West Bengal College Service Commission (for short, the 'Commission') prepared a panel for the post of Principal of Non-Government Colleges affiliated to the Universities of the State of West Bengal. In the said panel, Dr. Nandan Bhattacharya ranked first, Dr. Abdul Motin stood second and Dr. Mani Shankar Maity stood third. Since Dr. Bhattacharya refused to accept the offer of appointment for the said post, the Commission recommended the name of Dr. Abdul Motin who ranked second in the panel for appointment as Principal. Thereafter,

two writ petitions were filed separately - one by Dr. Mani Shankar Maity and another by Dr. Abdul Motin.

In Writ Petition being W.P. No.20024(w) of 2012, Dr. Mani Shankar Maity challenged the acceptability of the Ph.D degree granted by the Netaji Subhas Open University as an essential academic qualification for the post of Principal. According to him, Dr. Motin who ranked second in the panel was an ineligible candidate as his Ph.D degree which he obtained from Netaji Subhas Open University, cannot be accepted as a valid Ph.D degree by the Commission. Dr. Maity contended that since first empanelled candidate viz., Dr. Nandan Bhattacharya having refused to accept the offer for his appointment for the post of Principal, and the second empanelled candidate viz., Dr. Motin being ineligible, he should be appointed as Principal by the Commission.

On the other hand, in Writ Petition being W.P. No.10296(w) of 2013, Dr. Abdul Motin sought direction to the concerned Authority for appointing him to the Post of Principal as he ranked second in the panel and the first empanelled candidate viz., Dr. Nandan Bhattacharya refused to accept the appointment for the said post.

Learned Single Judge of the High Court allowed the writ petition filed by Dr. Maity, and held *inter alia* that Ph.D degree obtained by Dr. Motin from Netaji Subhas Open University cannot be accepted as a valid Ph.D degree for the post of Principal and accordingly, a direction

was given to recast the panel for the post of Principal. The writ petition filed by Dr. Motin was dismissed by the learned Single Judge for an identical reason. The learned Single Judge made it clear that Dr. Motin whose Ph.D degree was conferred by Netaji Subhas Open University did not hold equivalent qualification to that held by Dr. Maity because Ph.D degree of the latter was conferred by Calcutta University which is a formal conventional university.

Being aggrieved, Dr. Motin preferred two appeals being MAT No.1068 of 2014 and MAT No.20007 of 2014 before the Division Bench of the High Court. The Division Bench dismissed the said appeals with a direction that selection process may be concluded in the light of the judgment and order passed by the learned Single Judge subject to the condition as imposed by it *vide* the impugned order. Hence, these appeals by special leave being preferred by Dr. Abdul Motin and the other appellant i.e. the Registrar, Netaji Subhas Open University.

The only issue that arises in the instant appeals is whether a Ph.D degree conferred by an Open university under the Netaji Subhash Open University Act, 1997, and a Ph.D degree conferred by a regular University ought to be treated differently for the purpose of appointment for the post of Principal/Lecturer/Reader etc., in the non-government colleges where such Ph.D degree is an

essential qualification.

We have heard learned counsel appearing for the parties and perused the record.

At this stage, we might note as a matter of fact that Dr. Mani Shankar Maity who ranked third and was proposed to be appointed as Principal in pursuance of the judgment/s of the High Court, would have retired in January, 2018, even if he had accepted the appointment in pursuance of the said judgments of the High Court. Thus, there is no rival claim on the said post today. Dr. Abdul Motin who ranked second in the panel, has not reached the age of superannuation till date.

In these circumstances, Mr. Anip Sachthey, learned counsel appearing on behalf of the respondent-Commission, states that they have no objection in case Dr. Abdul Motin is appointed to the post of Principal in question.

We, accordingly, direct the respondent-Commission to recommend the name of Dr. Abdul Motin for appointment as Principal for the non-Government Colleges within a period of one month from today.

It is made clear that the above arrangement shall take care of the claims of the rival parties. However, we find that the impugned judgment/s passed by the Division Bench of the High Court needs to be considered for it does not lay down good law.

The High Court relied on the judgment rendered in the case of *Annamalai University vs. the Secretary to the Government, Information and Tourism Department & Ors.* - (2009) 4 SCC 590, for holding that a qualification conferred by an Open University cannot be treated at par with a qualification conferred by a regular university.

Having heard learned counsel appearing for the parties and having considered the ratio in the case of *Annamalai University (supra)*, we are of the view that the effect of that decision is to the contrary. In *Annamalai University (supra)*, this Court observed that the University Grants Commission Act which was enacted by Parliament under Entry 66 List I of the Seventh Schedule to the Constitution of India, was so enacted for effectuating co-ordination and determination of standards in Universities. Its provisions are binding on all universities whether conventional or open and its powers are very broad. The Regulations framed under that Act apply equally to open universities as well as also to formal conventional universities *vide para (40), (41) and (42)* of the said judgment which read as under :

"40. The UGC Act was enacted by Parliament in exercise of its power under Entry 66 List I of the Seventh Schedule to the Constitution of India whereas the Open University Act was enacted by Parliament in exercise of its power under Entry 25 of List III thereof. The question of repugnance of the provisions of the said two Acts, therefore, does not arise. It is true that the Statement of Objects and Reasons of the Open University Act shows that the formal system of education had not been

able to provide an effective means to equalize educational opportunities. The system is rigid inter alia in respect of attendance in classrooms. Combinations of subjects are also inflexible.

41. Was the alternative system envisaged under the Open University Act in substitution of the formal system, is the question. In our opinion, in the matter of ensuring the standard of education, it is not. The distinction between a formal system and informal system is in the mode and manner in which education is imparted. The UGC Act was enacted for effectuating co-ordination and determination of standards in Universities. The purport and object for which it was enacted must be given full effect.

42. The provisions of the UGC Act are binding on all universities whether conventional or open. Its powers are very broad. The Regulations framed by it in terms of clauses (e), (f), (g) and (h) of sub-section (1) of Section 26 are of wide amplitude. They apply equally to open universities as also to formal conventional universities. In the matter of higher education, it is necessary to maintain minimum standards of instructions. Such minimum standards of instructions are required to be defined by UGC. The standards and the coordination of work or facilities in universities must be maintained and for that purpose required to be regulated. The powers of UGC under sections 26(1)(f) and 26(1)(g) are very broad in nature. Subordinate legislation as is well known when validly made becomes part of the Act. We have noticed hereinabove that the functions of UGC are all-pervasive in respect of the matters specified in clause (d) of sub-section (1) of section 12-A and clause (a) and (c) of sub-section (2) thereof"

We might also take note of communications dated 05.5.2004 and 14.10.2013 made by the University Grants Commission to the Registrar/Director of all Universities, which are as follows :

"F1-52/2000 (CPP-II)

5<sup>th</sup> May 2004

The Registrar/Director  
of all the Indian Universities (Deemed,  
State, Central Unversities/Institutions  
of National Importance)

Subject : Recognition of Degrees awarded by  
Open Universities.

Sir/Madam,

.....  
.....  
.....  
.....

May, I therefore request you to treat the  
Degree/Diploma/Certificates awarded by the Open  
Universities in conformity with the UGC  
notification on Specification of Degrees as  
equivalent to the corresponding awards of the  
traditional Universities in the country.  
Yours faithfully,

(Dr. [Mrs.] Pankaj Mittal)  
Joint Secretary  
University Grants Commission

AND

"F. No. UGC/DEB/2013

Dated : 14.10.2013

The Registrar/Director  
of all the Indian Universities  
(Deemed, State, Central  
Universities/Institutions of  
National Importance)

Subject : Equivalence of Degree awarded by Open  
and Distance Learning (ODL) Institutions at par  
with Conventional Universities/Institutions.

Sir/Madam,

.....  
.....  
.....  
.....

Accordingly, the Degrees/Diplomas/Certificates awarded for programmes conducted by the ODL institutions, recognized by DEC (erstwhile) and UGC, in conformity with UGC notification on specification of Degrees should be treated as equivalent to the corresponding awards of the Degree/Diploma/ Certificate of the traditional Universities/Institutions in the country.

(Vikram Sahay)  
Director (Admn.)  
University Grants Commission"

In view of the observations in the case of *Annamalai University* (supra) and the above directive, we are of the view that as a consequence, Ph.D degree issued by an Open University and another Ph.D degree issued by a formal conventional university must, therefore, be treated at par having been so issued under the uniform standards prescribed by University Grants Commission Act.

In this view of the matter, we allow these appeals, set aside the judgments and orders passed by the Division Bench as also the learned Single Judge of the High Court, and direct that the operative order shall be in force as stated above.

C.A. Nos.4673-4675/2018 (@ SLP(C) Nos.25129-25131/2015)  
and C.A. Nos.4671-4672 (@ SLP(C) Nos.18396-18397/2015)

Leave granted.

These appeals are disposed of in terms of the order passed in C.A. Nos.4667-4668/2018 (@ SLP(C) Nos.8497-8498/2015), and connected cases, as above.

We, accordingly, direct Respondent No.3 - West Bengal College Service Commission, to recommend the name of appellant viz., Sumana De, for appointment as Lecturer in the non-government degree colleges, within a period of one month from today.

.....J  
[S. A. BOBDE]

.....J  
[L. NAGESWARA RAO]

New Delhi;  
May 02, 2018.

ITEM NO.4

COURT NO.7

SECTION XVI

S U P R E M E C O U R T O F I N D I A  
R E C O R D O F P R O C E E D I N G S

Petition(s) for Special Leave to Appeal (C) No(s).8497-8498/2015

(Arising out of impugned final judgment and order dated 24-12-2014 in MAT No.1068/2014 and order dated 24-12-2014 in MAT No. 2007/2014 passed by the High Court At Calcutta)

ABDUL MOTIN

Petitioner(s)

VERSUS

MANISANKAR MAITI & ORS. ETC.

Respondent(s)

WITH SLP(C) No.11708/2015 (XVI)  
SLP(C) No.13663/2015 (XVI)  
SLP(C) Nos.25129-25131/2015 (XVI)  
SLP(C) Nos.18396-18397/2015 (XVI)

Date : 02-05-2018 These petitions were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE S.A. BOBDE  
HON'BLE MR. JUSTICE L. NAGESWARA RAO

For Petitioner(s) Mr. Jaideep Gupta, Sr. Adv.  
Mr. Kunal Chatterji, AOR  
Ms. Maitrayee Banerjee, Adv.  
Mr. Saurav Gupta, Adv.

Mr. Rauf Rahim, AOR

Mr. Gaurav Jain, Adv.  
Ms. Abha Jain, AOR

For Respondent(s) Mr. Jaideep Gupta, Sr. Adv.  
Mr. Kunal Chatterji, AOR  
Ms. Maitrayee Banerjee, Adv.  
Mr. Saurav Gupta, Adv.

Mr. R.K. Gupta, Adv.  
Mr. A.K. Singh, Adv.  
Mr. Shekhar Kumar, AOR

Mr. Suhaan Mukerji, Adv.  
Ms. Astha Sharma, Adv.  
Mr. Vishal Prasad, Adv.  
Mr. Amjid Maqbool, Adv.  
Mr. Amit Verma, Adv.

For M/S. PLR Chambers And Co., AOR

Mr. Chanchal Kumar Ganguli, AOR

Mr. Anip Sachthey, AOR

Ms. Anjali Chauhan, Adv.

Ms. Ria Sachthey, Adv.

Mr. Avijit Bhattacharjee, AOR

Mr. Gaurav Jain, Adv.

Ms. Abha Jain, AOR

Mr. Apoorv Kurup, AOR

Mr. A.C. Boxipatro, Adv.

UPON hearing the counsel the Court made the following  
O R D E R

SLP(C) Nos.8497-8498/2015, SLP(C) No.11708/2015 and SLP(C)  
No.13663/2015)

Leave granted.

These appeals are allowed in terms of the signed order.

Pending interlocutory applications, if any, stand  
disposed of.

SLP(C) Nos.25129-25131/2015 and SLP(C) Nos.18396-18397/2015

Leave granted.

These appeals are disposed of in terms of the signed  
order.

Pending interlocutory applications, if any, stand  
disposed of.

(SANJAY KUMAR-II)  
COURT MASTER (SH)

(INDU KUMARI POKHRIYAL)  
ASST.REGISTRAR

(Signed Order is placed on the file)