2021 INSC 783

REPORTABLE

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 7031 of 2021
(Arising out of S.L.P.(Civil) No. 8670 of 2007)

DEVENDER BHASKAR & ORS. …APPELLANT(S)

VERSUS

STATE OF HARYANA & ORS. …RESPONDENT(S)

J U D G M E N T

S. ABDUL NAZEER, J.

1. Leave granted.

2. This appeal is directed against the order of the Division Bench of the High Court of Punjab and Haryana at Chandigarh challenging the order dated 22.02.2007 passed in CWP No. 20630 of 2006 in Suman Lata and Ors. vs. State of Haryana and Ors.

3. The appellants herein were impleaded as respondents before the High Court as the outcome of the result of the said writ petition was likely to affect their service career. Respondent nos. 1 to 3 herein, namely, The State of Haryana, Director, School Education, Haryana and Haryana Staff Selection Commission were arrayed as respondent nos. 1 to 3 in the writ petition. Most of the private respondents in this appeal were writ petitioners before the High

Court and some of the respondents herein are interveners. For the sake of convenience, the parties are referred to in their respective ranking before the High Court.

4. The dispute draws its genesis from the advertisement No.6/2006, dated 20.07.2006 (Annexure-P8) which was issued by the Haryana State Staff Selection Commission (for short, 'Commission') inviting applications to fill up 816 posts of Arts and Crafts teachers in the State of Haryana. The eligibility criteria for the same amongst others was as under:

> "(i) Matric from Haryana School Education Board or an equivalent qualification recognized by the Haryana School Education Board.
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> **(ii) Two year Diploma in Art and Craft examination conducted by the Haryana Industrial Training Department or an equivalent qualification recognized by the Haryana Education Department.**
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> (iii) Knowledge of Hindi upto Matric Standard."
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> **(emphasis added)**

5. The case of the petitioners is that they passed their matriculation with the subject of Arts and Crafts/Drawing or they have passed the subject of Arts and Crafts/Drawing in their matriculation as additional subject. All the petitioners passed their two-year diploma in Art and Craft from the Kurukshetra University. The petitioners, on the basis of their qualifications, applied for the aforesaid post to the Commission. Their applications were not entertained by the Commission for the reason that they had passed their two-year diploma in Art and Craft from Kurukshetra University which is not recognized as equivalent

qualification by the Haryana Education Department, which led to the filing of the writ petitions in the High Court.

6. On 12.12.2006, the Director of School Education Haryana, Chandigarh, addressed a letter to all the District Education Officers/District Elementary Education Officers in which it was informed that diploma in Art and Craft conducted by the Director, Industrial Training and Vocational Education, Haryana, is the only recognized course in the State of Haryana. This letter further stated that the diploma/certificates in Art and Craft from the Kurukshetra University are not recognized for the purpose of appointment for Arts and Crafts Teacher in the State of Haryana. The petitioners have also challenged the validity of this letter in the writ petitions before the High Court.

7. Respondents no.1 to 3 filed objections opposing the writ petition. It was contended that the diploma in Art and Craft is given by the Industrial Training and Vocational Education Department, Haryana, to the students who attend regular class room teaching. Most of the subjects are practical subjects and their studies cannot be possible through distance education. The diploma granted by the Kurukshetra University in Art and Craft through distance education is not a teacher training course. Therefore, it cannot be equated with the diploma given through regular class room studies. Moreover, the said diploma is only for the purpose of self-employment and the same is not recognized for the purpose of teacher training course by the Education

Department as well as by the Department of Industrial Training and Vocational Education, Haryana.

8. The private respondents in the writ petitions have also taken similar contentions and sought for dismissal of the writ petitions. The High Court, on consideration of the contentions of the learned counsel for the parties and on perusal of the materials placed on record, allowed the writ petitions. The High Court held that the petitioners have a legal right to be considered for the post of Arts and Crafts teachers with the strength of the diploma secured by them from the Kurukshetra University.

9. Learned counsel for the appellants herein (private respondents in the writ petitions) submitted that the diploma in Art and Craft granted by the Kurukshetra University is not equivalent to the diploma in Art and Craft given by the Industrial Training and Vocational Education Department, Haryana. It is not recognised by the Haryana Education Department. The diploma in Art and Craft by the Industrial Training and Vocational Education Department, Haryana, is given to the students who attend regular class room teaching. Most of the subjects are practical subjects and their studies cannot be possible through distance education. The diploma in Art and Craft granted by the said University is only for enhancing academic qualification. In this connection, learned counsel has drawn our attention to Annexures R-1 to R-3 enclosed along with the counter affidavit filed by the second respondent. It is argued that the question is not whether diploma in Art and Craft by the Kurukshetra University

through distance education is invalid or illegal. Rather, the question is whether the said diploma by the Kurukshetra University is an ‘equivalent qualification’ to the diploma in Art and Craft examination conducted by the Haryana Industrial Training Department. It was also contended that ‘equivalence’ is a technical matter and this Court cannot direct the authorities to recognize it as equivalent when the expert’s view is otherwise.

10. Learned counsel for the respondent-State of Haryana has supported the submissions advanced by the learned counsel for the appellants/private respondents in the writ petition.

11. On the other hand, learned counsel for the writ petitioners-respondents herein would submit that the Kurukshetra University was incorporated under the provisions of the Kurukshetra University Act, 1986 and that all the qualifications awarded through distance education by this University stand automatically recognized for the purpose of employment to the posts and services under the Central Government. The Government of Haryana has repeatedly confirmed the two-year diploma in Art and Craft course offered by the Kurukshetra University. In this connection, they have relied on the communications issued by the State Government and its Instrumentalities dated 02.11.1999, 27.05.2005 and 30.05.2005. He prays for dismissal of the appeal.

12. We have carefully considered the submissions of the learned counsels of the parties made at the Bar and perused the materials placed on record.

13. As noticed above, the advertisement dated 20.07.2006 was issued by the Commission inviting applications for filling up of 816 posts of Arts and Crafts teachers in the State of Haryana. One of the important eligibility criteria was a two-year diploma in Art and Craft Examination conducted by the Haryana Industrial Training Department or an equivalent qualification recognized by the Haryana Education Department. The writ petitioners are holders of two-year diploma in Art and Craft from the Kurukshetra University. Therefore, the question for consideration is whether the diploma in Art and Craft by Kurukshetra University through distance education is recognized by the Haryana Education Department as an equivalent qualification to the diploma in Art and Craft Examination conducted by the Haryana Industrial Training Department.

14. The materials on record clearly suggest that the Art and Craft Course is a highly practical oriented course and the appointee teachers have to train the students in Art and Craft which is a practical subject. The diploma in Art and Craft is given by the Industrial Training and Vocational Education Department, Haryana, to the students who attend regular class room teaching. Most of the subjects are practical subjects and their study is not possible through distance education. The Kurukshetra University grants the diploma in Art and Craft through distance education. This diploma cannot be equated with the diploma given through regular class room studies. In fact, in a meeting convened by the Financial Commissioner and Principal Secretary, Industrial Training and

Vocational Education Department on 27.11.2003, it was decided to ask the Kurukshetra University to discontinue the said course from the next academic sessions i.e. 2004-2005 as it was running through distance education and the same was not in the best interest of the students. The Kurukshetra University has issued a caution notice in various leading newspapers in which it was made clear that some institutions who had given misleading advertisement for Kurukshetra University course of Art and Craft as a teacher training course. It was also clarified that the diploma in Art and Craft from the Kurukshetra University does not guarantee any specific job. The Minutes of the Meeting held on 27.11.2003 under the Chairmanship of Financial Commissioner and Principal Secretary to the Government of Haryana makes this position very clear which is as under:

> "Minutes of the meeting held on 27.11.2003 at 11 AM under the chairmanship of Financial Commissioner and Principal Secretary to Govt. Haryana, Industrial Training & Vocational Education Department regarding Art & Craft course started by Kurukshetra University, Kurukshetra from the session 2003-2004.
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> Present
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> 1. Sh. Dhanpat Singh, IAS
> Higher Education Commissioner, Haryana.
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> 2. Sh. Rajbir Singh, IAS
> Director, Industrial Training & Vocational
> Education, Haryana.
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> 3. Sh. L.C. Gupta
> Director, Correspondence courses,
> Kurukshetra University, Kurukshetra
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> _____

1. Director Industrial Training informed that Kurukshetra University, Kurukshetra has started a 2 Year Art & Craft Course through distance education from this year 2003-2004. The University did not take the permission from either the Education Department or Industrial Training & Vocational Education Department.

2. Mr. L.C. Gupta pointed out that the University can start correspondence courses at their own level and there was no need to seek the permission from Govt. of Haryana/Education Department. He further told that the public was informed that the course being conducted by them would not guarantee a job.

3. A two year Art & Craft Teachers Training Course is already being run by the Department of Industrial Training & Vocational Education, Haryana. By starting a course of a similar nature, Kurukshetra University, Kurukshetra has stepped into the domain of the Industrial Training & Vocational Education Department. It has further created a confusion in the mind of general public as both the above courses are similar and it may cause unrest in the youth who has taken admission in this course as it is not recognized.

4. The Art & Craft Teachers Training Course being conducted by IT & VE Department is a recognized Vocational Course whereas the course of Art & Craft started by Kurukshetra University, Kurukshetra is a course conducted through distance education and hence both these courses cannot be equated.

It was decided that Kurukshetra University, Kurukshetra may be requested through the Education Department, Haryana to discontinue this course from the next Academic Session 2004-2005."

15. The caution notice by the Kurukshetra University is as under:

"DIRECTORATE OF CORRESPONDENCE COURSES
KURUKSHETRA UNIVERSITY, KURUKSHETRA

CAUTION NOTICE

Some Institutions/Organisations have given advertisements in various newspapers/media and have invited Computer/Management/other Centres to get affiliation/franchises of Kurukshetra University for running different courses of the Directorate of Correspondence Courses. It is clarified that all these advertisements are illegal and in violation of Clause-4 of the terms and conditions of the Agreement for Service Providers which clearly states that "in no case the Second Party (Service Provider) shall be allowed to authorize any other agency/centre, other than the study centres run by it, to enroll students to any course of this

University and any violation will lead to cancellation of this arrangement without any notice and no refund of any fee and security will be allowed". Therefore, the persons entering into any such illegal arrangements will be doing so at their own risk and responsibility.

Some institutions/parties have also given misleading advertisements for the Kurukshetra University Course of Diploma in Art & Craft as a teachers training course. It is also clarified that all DCC courses including Diploma in Art & Craft are Kurukshetra University approved courses and do not guarantee any specific job. Hence, the University will in no way be responsible for any such misleading advertisements. In case of any doubt and for further clarifications if any, please contact at phone 01744-238518.

DIRECTOR"

16. The Director and Under Secretary to the Government of Haryana in his letter dated 24.11.2003 to the Higher Education Commissioner, had clearly stated that the diploma course in Art and Craft by the Kurukshetra University has not been given recognition by the Education Department. This letter is as under:

"From

The Director,
Industrial Training & Vocational Education Department,
Haryana

To

1. Sh. Dhanpat Singh,
   Higher Education Commissioner, Haryana
   Higher Education Department.

2. Director Correspondence Course
   Kurukshetra University, Kurukshetra.

Memo No.T-3/Art & Craft/Complaint/26586
Dated 24.11.2003

Subject : Regarding Art & Craft Professional Diploma through Correspondence from Kurukshetra University

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The Kurukshetra University, Kurukshetra has started two years Art & Craft Professional Diploma Course through Correspondence Course. This Diploma Course has not been given recognition by

Education Department and Industrial Training & Vocational Education Department, Haryana.

2. The Finance Commissioner and Secretary to Government of Haryana Industrial Training & Vocational Education Department has called a meeting on 27.11.2003 at 11 A.M. in Room No.335, IIIrd Floor, New Secretariate Sector-17, Chandigarh to consider the matter of recognition course being run through correspondence course by Kurukshetra University. You are requested to kindly attend this meeting.

Sd/-

Director & Under Secretary to Govt. of Haryana
Industrial Training & Vocational Education Department,
Haryana"

17. The following table manifests that both the courses are not equivalent courses.

Sl.No.	**Arts and Crafts Training course from Department of Industrial Training and Vocational Education, Haryana**	**Arts and Crafts Diploma from Kurukshetra University, Kurukshetra**
1.	Regular Course having 2 theory papers and 8 practicals.	Correspondence course having 2 theory papers and 6 practicals.
2.	Admissions on the basis of merit i.e. Matric's percentage with Drawing as one of the subject.	No eligibility criteria only 10+2 is the eligibility in any stream. No merit determination and no age bar.
3.	Reservation policy applicable.	No reservation policy.
4.	Limited seats i.e. 30 students consists of one unit.	No limited seats.
5.	Internal assessment of 160 marks.	No internal assessment.
6.	Regular practical classes in lab such as: - a) Wood work; b) Clay modeling; c) Painting; d) Applied Art; e) Scale Geometry; f) Design and poster; & g) Still life.	No regular practical classes as the same is correspondence course.

18. It is also relevant to state here that Kurukshetra University itself has clarified that the diploma in Art and Craft started by it through correspondence is not meant for appointment to the post of Arts and Crafts Teachers. In fact, Kurukshetra University has never claimed that the aforementioned diploma is valid for appointment of Arts and Crafts Teachers. The Registrar of Kurukshetra University in a public notice dated 27.09.2004 has clarified that this degree is meant for enabling the students to become self-employed. None of the documents produced by the petitioners would indicate that the diploma in Art and Craft awarded by the Kurukshetra University is equivalent to the two-year diploma in Art and Craft Examination conducted by the Haryana Industrial Training Department. In its letter dated 24.12.2004, at Exhibit P-4, the Kurukshetra University has clearly stated that the University does not guarantee any specific job for any of the courses including the diploma in Art and Craft.

19. The documents, Exhibit P-2 to P-4, do not claim that the course in question has been recognized as equivalent to two-year Diploma in Art and Craft examination conducted by the Haryana Industrial Training Department or an equivalent qualification recognized by the Haryana Education Department.

20. We have already noticed that one of the eligibility criteria for appointment to the post of Arts and Crafts teacher as per the advertisement dated 20.07.2006 is a “two-year Diploma in Art and Craft examination

conducted by the Haryana Industrial Training Department or an equivalent qualification recognized by the Haryana Education Department." It was made clear by the Industrial Training and Vocational Educational Department, Haryana, that diploma in Art and Craft Course by the Kurukshetra University is conducted through distance education and that this course cannot be equated with two-year diploma in Art and Craft Course awarded by the Haryana Industrial Training Department. Recognition of the said Course by the State of Haryana, as held by the High Court, is entirely different from its equivalence. When the experts in the Education Department have held the diploma in Art and Craft by the Kurukshetra University is not equivalent to the two-year diploma in Art and Craft awarded by the Haryana Industrial Training Department, we are of the view that the High Court was not justified in equalizing them.

21. In **Mohammad Shujat Ali & Ors. v. Union of India & Ors**[1], it was held that the question regarding equivalence of educational qualifications is a technical question based on proper assessment and evaluation of the relevant academic standards and practical attainments of such qualifications. It was further held that where the decision of the Government is based on the recommendation of an expert body, then the Court, uninformed of relevant data and unaided by technical insights necessary for the purpose of determining equivalence, would not lightly disturb the decision of the Government unless it

1 (1975) 3 SCC 76

is based on extraneous or irrelevant considerations or actuated *mala fides* or is irrational and perverse or manifestly wrong.

22. In **J. Ranga Swamy v. Government of Andhra Pradesh and Others,**[2] this Court held that it is not for the court to consider the relevance of qualification prescribed for various posts.

23. In **State of Rajasthan & Ors. v. Lata Arun,**[3] this Court held that the prescribed eligibility qualification for admission to a course or for recruitment to or promotion in service are matters to be considered by the appropriate authority. It was held thus:

> "13. From the ratio of the decisions noted above, it is clear that the prescribed eligibility qualification for admission to a course or for recruitment to or promotion in service are matters to be considered by the appropriate authority. It is not for courts to decide whether a particular educational qualification should or should not be accepted as equivalent to the qualification prescribed by the authority."

24. In **Guru Nanak Dev University v. Sanjay Kumar Katwal & Anr.,**[4] this Court has reiterated that equivalence is a technical academic matter. It cannot be implied or assumed. Any decision of the academic body of the university relating to equivalence should be by a specific order or resolution, duly published. Dealing specifically with whether a distance education course was equivalent to the degree of MA (English) of the appellant university therein, the

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2 (1990) 1 SCC 288
3 (2002) 6 SCC 252
4 (2009) 1 SCC 610

Court held that no material had been produced before it to show that the distance education course had been recognized as such.

25. In **Zahoor Ahmad Rather & Ors. v. Sheikh Imtiyaz Ahmad & Ors.**[5], it was held that the State, as an employer, is entitled to prescribe qualifications as a condition of eligibility, after taking into consideration the nature of the job, the aptitude required for efficient discharge of duties, functionality of various qualifications, course content leading up to the acquisition of various qualifications, etc. Judicial review can neither expand the ambit of the prescribed qualifications nor decide the equivalence of the prescribed qualifications with any other given qualification. Equivalence of qualification is a matter for the State, as recruiting authority, to determine.

26. Having regard to the above, in our view, the High Court has erred in holding that the diploma/degree in Art and Craft given by the Kurukshetra University is equivalent to two-year Diploma in Art and Craft examination conducted by the Haryana Industrial Training Department or diploma in Art and Craft conducted by Director, Industrial Training and Vocational Education, Haryana.

27. Resultantly, the appeal succeeds and it is accordingly allowed. Consequently, the Judgment and Order of the High Court in C.W.P. No.20630 of 2006 and connected matters, impugned herein, are set aside and the writ

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5 (2019) 2 SCC 404

petitions are dismissed. Pending applications, if any, shall stand disposed of. There shall be no order as to costs.

…….……J.
(S. ABDUL NAZEER)

…….……J.
(KRISHNA MURARI)

New Delhi;
November 24, 2021