

AND IN THE MATTER OF
The legal validity of the Regulations mentioned above

AND IN THE MATTER OF
The constitutional and legal validity of the letters dated 10-07-2012 and 16-07-2012 both bearing No.F.No.11-15/2011-AR(TS.II) issued by Respondent No.1 to the Petitioner

AND IN THE MATTER OF
The constitutional and statutory validity of letter no.F.No.2-1/PC/AICTE/DIST.POLICY/2012/66 dtd. 27-02-2013 issued by Respondent No.3 to the Petitioner.

IN THE MATTER OF:

The Institution of Electronics and Telecommunication Engineers

...Petitioners

Versus

Union of India & Others

...Respondents



MEMO OF PARTIES

IN THE MATTER OF:

The Institution of Electronics and Telecommunication Engineers (IETE)

Through its Secretary General,
2, Institutional Area, Lodhi Road,
New Delhi - 110 003

A society registered under the Societies Registration Act, 1860

...Petitioner

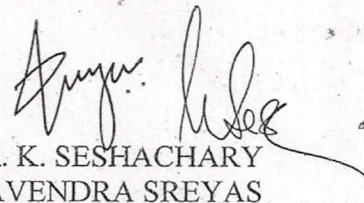
Versus

1. Union of India
Through The Secretary to the Government of India,
Ministry of Human Resource Development,
Department of Higher Education,
Shastri Bhavan, New Delhi 110 001

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2. Union of India
Through The Secretary to the Government of India,
Ministry of Personnel , Public Grievances and Pensions,
Department of Personnel and Training,
North Block, New Delhi – 110 001
3. All India Council for Technical Education (AICTE)
Through its Chairman,
7th Floor, Chanderlok Building,
Janpath, New Delhi 110 001
4. Union of India
Through The Secretary to the Government of India,
Ministry of Science and Technology,
Department of Scientific and Industrial Research,
Technology Bhavan, New Mehrauli Road,
New Delhi – 110 016

...Respondents

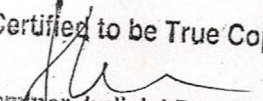


MR. K. SESHACHARY
& T.V.S. RAGHAVENDRA SREYAS
Advocates for the Petitioner,
133, Lawyer's Chamber,
Supreme Court Compound,
New Delhi- 110 001

Place: New Delhi
Date: 13.5.2013



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\$~57 & 60

* IN THE HIGH COURT OF DELHI AT NEW DELHI

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Date of Decision : 23rd May 2013

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W.P.(C) 3239/2013 & CM 6125/2013

THE INSTITUTION OF ELECTRONICS AND
TELECOMMUNICATION ENGINEERS (IETE) Petitioner

Through : Mr.M.S. Ganesh, Sr. Adv. with Mr.K.
Seshachary and Mr.T.V.S.
Raghavendra, Adv.

versus

UNION OF INDIA & ORS. Respondents

Through : Mr.Sachin Datta, Adv. for respondent
no.1, 2 and 4.
Mr.Amitesh Kumar, Adv. for
respondents no.3.

W.P.(C) 945/2013

THE INSTITUTION OF CIVIL ENGINEERS (INDIA) Petitioner

Through : Mr.Aman Lekhi, Sr. Adv. with
Mr.Pramod Jalan, Adv.

versus

UNION OF INDIA AND ANR Respondents

Through : Mr.Saqib, Adv. for respondent no.1.
Mr.Amitesh Kumar, Adv. for
respondents no.2.

CORAM:

HON'BLE MR. JUSTICE G.S.SISTANI

G.S.SISTANI, J. (Oral)

1. By W.P.(C)3239/2013, the petitioner seeks quashing of the impugned orders dated 10.7.2012 and 16.7.2012, and the O.M. dated 6.12.2012 issued by respondent no.1 primarily on the ground that the same are without any executive-cum-legislative competence of respondent no.1 and they are in violation of petitioners' fundamental rights.



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2. Learned senior counsel for the petitioner in W.P.(C)3239/2013 submits that the petitioner institute came into existence in the year 1953 and by a notification dated 24.6.1959 the erstwhile Ministry of Education granted recognition to the petitioner for Graduate Membership Examination of the IETE. It is the case of the petitioner that the recognition has been granted to the petitioner from time to time. Senior counsel further submits that on 10.1.2006 by MHRD's letter to IETE permanent recognition of Diploma course in Electronics and Telecommunications Engineering run by IETE was granted to the petitioner. In the letter dated 10.01.2006 it was made clear that the recognition would be permanent in nature unless it is withdrawn due to the deficiencies identified by AICTE or the genuine complaints received against the institutions. Senior counsel also submits that neither any complaint has been received against the petitioner institute nor any deficiencies have been pointed out by the AICTE. Senior counsel further contends that in terms of the communication dated 10.7.2012 the petitioner was informed that the Government of India had decided to review the curriculum, mode of delivery of programme, its duration, etc., by the concerned Regulator and until such review is complete the institutions with permanent recognition will not make any fresh admission. Alternatively, the institutions were given an option of realigning its curriculum with the National Vocational Educational Qualification Framework and proceeded further. Thereafter O.M. dated 6.12.2012 was issued, which reads as



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under:

OFFICE MEMORANDUM

In modification of Order F.no.11-15/2011-AR (TS.II) dated 10.07.2012 and to facilitate the institutions during transition period, following decision has been taken in the Ministry:

- (i) Above order dated 10.07.2012 regarding cases of recognition in perpetuity for equivalence in Central Government job, stands withdrawn.
- (ii) All those students who are enrolled with the institutions with permanent recognition upto 31.05.2013 would be eligible for consideration in accordance with MHRD office memorandum/order in force pertaining to their course for equivalence in Central Government jobs. However, these concerned orders will cease to have effect from 01.06.2013 onwards.
- (iii) After 31.05.2013, based on the review by the regulator, i.e., AICTE, a decision on continuation of the certification of equivalence of degree/diploma shall be taken by statutory regulators.
- (iv) Statutory regulars should review the fresh proposals/extensions as per their statute and regulations.

2. In case, the institution desires to opt for realigning curriculum with NVEQF, it is advised to use this transition period upto 30.05.2013 for necessary action in this regard.

This issues with the approval of the Competent Authority.”

3. It is pointed out by senior counsel for the petitioner that on 27.2.2013 the petitioner had received a communication from the AICTE informing the petitioner that the AICTE had been assigned the task by MHRD for creating rules, regulations and norms for implementing technical education through distance learning/mixed mode/blended learning methodologies. The petitioner was requested to provide a copy of the current methodology of programmes, which



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are being conducted, norms followed and the curriculum prescribed, so that the Committee could deliberate on the same and take appropriate decisions. The communication dated 27.2.2013 reads as under:

"To.

Dr.S. Pal
President, IETE
2 Institutional Area
Lodhi Road, New Delhi-110003

Dear Sir,

AICTE has been assigned the task by MHRD of creating rules, regulations and norms for implementing technical education through distance learning/mixed mode/blended learning methodologies.

An Expert Committee has been formed to create a Policy framework for the above. The Committee is scheduled on March 7, 2013 at 10.00 a.m.

You are requested to provide a cop of the current methodology of the programmes you conduct, norms as you follow, and the curriculum that you prescribe before the Committee so that the Committee can deliberate on the same and take appropriate decisions.

With regards,

Yours sincerely,

(Prof.A. Bajasekaran)"

4. The sum and substance of the submission of learned senior counsel appearing on behalf of the petitioner in W.P.(C)3239/2013 is that despite all information having been supplied no final decision has been taken in the matter. It is further submitted by senior counsel for the petitioner that there are no rules, regulations or guidelines,



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which have been circulated or informed to the petitioner informing as to what is the criteria the petitioner has to meet prior to 31.5.2013. It is next submitted by the senior counsel that the petitioner is willing to cooperate but by the O.M. dated 6.12.2012 the petitioner has been informed that the students who have been enrolled with the petitioner institution with permanent recognition upto 31.5.2012 would be eligible for consideration in accordance with the MHRD office Memorandum/order in force pertaining to their Course for the equivalence in Central Government job, however, these concerned orders will cease to have effect from 01.06.2013 onwards.

5. Learned senior counsel for the petitioner submits that in the absence of any reason or explanation offered to the petitioner the effect of such O.M. dated 6.12.2012 would be that the fate of the students would be in uncertainty and, thus, the students, who have been admitted, would not be assured as to whether they are entitled to apply for the jobs in the Central Government or not and their fate cannot be made to hang in uncertainty when there are no notified norms in the matter. Senior counsel further submits that before such an O.M. could have been issued the respondents should have put the norms in place so that the institutions are aware as to what are the criteria they have to meet.
6. Learned counsel appearing on behalf of respondent no.3, AICTE, submits that AICTE is well within its right to frame a policy for



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changing the norms and also to regulate the method and the courses which are offered. Counsel further submits that decisions were taken at the highest level and the purpose of the same is review of the curriculum, mode of delivery of the programme, its duration and the Regulator will review the same and after review a decision on the continuation of the certificate of equivalence of degree would be taken by the Regulator.

7. In W.P.(C)945/2013 it is pointed out by counsel for the respondent AICTE that the petitioner in the said writ petition had not favourably responded to the letter dated 27.2.2013.

8. Learned senior counsel for the petitioner in W.P.(C)945/2013 draws the attention of the Court to the order dated 6.3.2013 passed by this Court wherein counsel for the respondent had submitted that the letter dated 27.2.2013 has been issued only to those institutions, who had requested for hearing in the matter with regard to the distance education, to enable them to give their suggestions. It is in that context that the learned counsel for the petitioner had stated that the petitioner had not sought any hearing in the matter. On the said date, counsel for respondent no.2, AICTE, had also stated that respondent no.2, AICTE, had undertaken this exercise with respect to all the institutions and not in respect of the petitioner. Senior counsel for the petitioner, however, submits that the petitioner would be willing to provide all the necessary information to the respondents to enable them to ascertain for themselves as to



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whether a decision can be taken with regard to the curriculum, mode of delivery of the programme and its duration, etc., or not.

9. Learned counsel for the respondent, AICTE, has strongly urged before this Court that not only the AICTE is well within its right to issue such an O.M. but since the AICTE Act itself provides that the AICTE is the Regulator of the curriculum and the procedure, which is to be followed by the institutions.
10. Learned senior counsel for the petitioners submit that at this stage the Court should grant protection to the petitioners to the extent that the deadline of 31.5.2013 should not come in their way of granting admissions and also leaving the fate of the students in uncertainty, more particularly, for the reasons that the institutions are not aware as to the criteria what they have to met.
11. I have heard counsel for the parties and considered their submissions. Having regard to the stand taken by counsel for the parties, the O.M. dated 6.12.2012 qua the petitioners only with respect to the deadline of 31.5.2013 shall remain stayed till the next date of hearing, however, it is made clear that the admissions, which are made, will be subject to final orders, which will be passed in the writ petition.
12. On the last date of hearing, it was stated that it would not be necessary to file reply in W.P.(C)3239/2013. Today, it is pointed out by counsel for the respondents that it would be necessary to file a



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reply in W.P.(C)3239/2013 keeping in view the difference in facts. Let counter affidavit in W.P.(C)3239/2013 and reply to CM 6125/2013 be filed within four weeks from today. Rejoinder, if any, be filed within four weeks thereafter.

13. List on 6.8.2013.

sd

(G.S.SISTANI)
JUDGE

MAY 23, 2013
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