



[2024:RJ-JD:48925]

**HIGH COURT OF JUDICATURE FOR RAJASTHAN AT
JODHPUR**

S.B. Civil Writ Petition No. 5828/2018

Sada Ram S/o Shri Swarupa Ram, R/o Village Chen Nagar,
Seshva, Chitalwala, Tehsil Sanchore, District Jalore.

----Petitioner

Versus

1. The Rajasthan Rajya Vidhyut Utpadan Nigam Ltd.,
Vidhyut Bhawan, Janpath, Jyoti Nagar, Jaipur Through Its
Secretary Admn..
2. The Chief Controller Of Accounts Hq, Rajasthan Rajya
Vidhyut Utpadan Nigam Ltd., Vidhyut Bhawan, Janpath,
Jyoti Nagar, Jaipur.
3. The Senior Accounts Officer Gipl, Giral, Barmer.
4. The Registrar, Eastern Institute For Integrated Learning
In Management, 8Th Mile, Budang, Malabassey, West
Sikkim.

----Respondents

For Petitioner(s)	:	Mr. B. S. Sandhu Mr. D. S. Sodha Mr. Divik Mathur
For Respondent Nos. 1 to 3	:	Mr. Ravi Bhansali, Sr Advocate assisted by Mr. Vipul Dharnia

JUSTICE DINESH MEHTA
Order**02/12/2024**

1. By way of the present writ petition, the petitioner has challenged the order dated 17.04.2018 passed by the respondent No.2, whereby his appointment made by order dated 10.03.2015 was cancelled and services were terminated.

2. Mr. Sandhu, learned counsel for the petitioner submitted that petitioner had obtained degree of Master of Business Administration (for short 'MBA') from Eastern Institute for Integrated Learning in Management University, Sikkim



(hereinafter referred to as "the EIILM University") during the year 2010-12 and thereafter when the advertisement for the post of Junior Accountant was issued by the respondent-Nigam, he appeared in the Common Written Competitive Examination held on 22.12.2013 and was declared successful and was offered appointment on 10.03.2015.

3. It is the case set up by the petitioner that when he was called for document verification on 10.09.2014, he produced the mark-sheet issued to him by the EIILM University, in order to establish that he has done MBA in Finance, being requisite educational qualification for the post and submitted an affidavit/undertaking that he would submit the degree of MBA by 30.09.2014.

4. The petitioner was allowed to join, however, upon submitting an affidavit that MBA degree would be submitted as and when received by him.

5. According to the petitioner, in a bid to obtain the degree from the EIILM University, when he made correspondence with the University, he found that said University has been closed and FIR has been registered against its management.

6. Learned counsel for the petitioner invited Court's attention towards the web copy of the order/judgment dated 02nd November, 2016 passed by the High Court of Sikkim [WP(C) No.33 of 2015] and pointed out that by way of notice dated 30th April, 2015, the EIILM University was ordered to be dissolved and submitted that since the entire record was with the Central Bureau of Investigation (CBI), the petitioner could not obtain his degree. He contended that the petitioner had valid reason for not



producing the degree by 30.09.2014 and thus, the order impugned dated 17.04.2018 cancelling petitioner's appointment is illegal and arbitrary.

7. Learned counsel submitted that the sole reason given by the respondents is that he has failed to produce the degree, whereas the facts and circumstances clearly suggest that the petitioner was unable to produce the same for valid reasons. He argued that once the petitioner has furnished marks-sheets of both the year showing that he has completed MBA, his appointment ought not to have cancelled, as degree is inconsequential. He prayed that the order dated 17.04.2018 be quashed.

8. He submitted that the petitioner has filed an additional affidavit dated 26.11.2024 along with photo copy of his bank statement in order to show that a Demand Draft of Rs.62,280/- was got issued on 22.06.2012 and for such purpose a cheque bearing No. 133464 issued in the name of bank was debited from his account.

9. It was further submitted that the petitioner has now cleared MBA degree from Suresh Gyan Vihar University by distance education in the year 2019-21 and alternatively prayed that the respondent be directed to consider the same and irregularity (if any), be ordered to be ratified.

10. Mr. Bhansali, learned Senior Counsel appearing for respondent Nos.1 to 3 submitted that petitioner has produced fake mark-sheets and has failed to produce the valid degree in spite of undertaking he had given, that the same would be produced by 30th September, 2014. He added that the petitioner had failed to



produce the same though a notice was issued by the respondents to produce MBA degree on 20.09.2017.

11. He invited Court's attention towards the mark-sheets, which the petitioner has produced and highlighted that the undertaking/affidavit, which the petitioner had furnished shows that he has done MBA in the year 2012-13, whereas the mark-sheets, which petitioner has produced show that he had purportedly passed the First and second Year MBA in academic year 2010-11 and 2011-12 respectively. He submitted that mark-sheets appear to have been issued on 25th August, 2011 and 8th February, 2013 and argued that even the affidavit given by the petitioner is incorrect.

12. Inviting Court's attention towards the additional affidavit submitted by the petitioner on 26.11.2024, learned Senior Counsel submitted that if the document submitted at Page No. 100 (Annexure-AA2) is compared with the mark-sheets placed by the petitioner at Page Nos. 19-20, it shows that there is an apparent discrepancy in Enrollment number. He submitted that at Page Nos. 19-20, the mark-sheets contain Enrollment No. EIILMU/10/F51786, whereas at page 100 (Annexure-AA2), the Enrollment number is PRV/929/32/Y385091.

13. Mr. Bhansali submitted that the respondents tried to get the petitioner's credential verified from said University but has failed. He submitted that said University and the mark-sheets issued by it are bogus and no credence can be given to the mark-sheets issued by it.

14. Learned senior counsel submitted that the petitioner is not only guilty of producing forged documents of his educational qualification, but is also guilty of producing such fraudulent



documents before the Court in a bid to get a decision in his favour. He also argued that since the petitioner has failed to obey his undertaking and produce the degree as undertaken, the respondents were justified in cancelling his appointment.

15. He strenuously argued that the petitioner had graduated in subject – Arts that too in the year 1999 and therefore, it cannot be believed that he has done MBA in Finance in the year 2012 - after thirteen years of completing Bachelor degree in Arts.

16. In rejoinder, Mr. Sandhu, learned counsel for the petitioner relied upon a judgment dated 20.07.2004 passed by this Court in the case of **Vinod Kumar vs. The State of Rajasthan & ors. (S.B. Civil Writ Petition No. 5850/1993)** and submitted that the petitioner is entitled for validation of his appointment, as it had become impossible to produce the degree, as the record of the EIILM University was seized by the CBI and thereafter the University was dissolved.

17. Heard learned counsel for the parties.

18. The petitioner's case is liable to be dismissed on the sole argument advanced by Mr. Bhansali, learned Senior Counsel that the petitioner has failed to adhere to his undertaking, which he had furnished stating that he would submit the degree by 30.09.2014 so also because he has failed to meet Condition No. 20 of the appointment order (10.03.2015).

19. The Condition No. 20 of the appointment order reads thus:-

"20. The appointment is provisional and subject to verification of Degree/Mark-sheet of Educational/ Professional/Higher qualification from the issuing authority."



20. Admittedly, the petitioner has failed to produce the degree despite issuance of final notice by the respondent - Nigam and violated the Condition No. 20 of the appointment order so also the undertaking he had furnished. The petitioner is, therefore, not entitled to claim any relief. But, closing this case only on this note would not be proper; this Court would like to record a finding that not only the mark-sheets, which the petitioner had produced are fake and phony but also he has tried to mislead the Court by producing spurious documents. The degree is either bought or procured from 'EIILM University' or some fraudster but not earned and acquired.

21. It is to be noted that the mark-sheet for the first year is claimed to have been issued on 25th August, 2011 and for the second Year on 08th February, 2013 by the EIILM University. As against this, the evidence of sending fee, which the petitioner has produced shows that the Demand Draft was issued on 22.06.2012.

22. This Court fails to comprehend that if the fee was paid/deposited on 22nd June, 2012, how did the petitioner get admission in the MBA course in the year, 2010 ?

23. That apart, the mark-sheet which the petitioner has produced does not reflect that the course was done through correspondence or distance learning, whereas he claims to have done the course through distance learning.

24. There is a clear discrepancy in the Enrollment number as depicted on the mark-sheets, which the petitioner has produced with the writ petition (Page 19-20) vis-a-vis the mark-sheet, which has been produced as Annexure-AA2 (Page-100). In Para



No. 6 of the additional affidavit dated 26.11.2024, the petitioner has asserted that the result was published online, however, neither any date has been given nor does the document (Annexure-AA2) give an indication that the same has been downloaded from the web-site of the University.

25. During the previous date of hearing (25.11.2024), the Court had interacted with the petitioner in order to ascertain his bonafides. The petitioner stated that he did his MBA through distance learning and went to Sikkim only to take examinations. He produced a Demand Draft (in original) of Rs.1,500/- drawn in the name of the University to contend that he had sent said draft as charges for the degree but the same had returned back. This Court wonders that why would someone send a Demand Draft payable at Delhi to a University situated in Sikkim ?

26. It is a matter of concern that during the interaction, the petitioner failed to aptly respond to even basic questions as to where the said EIILM University is situated and how did he reach all the way to Sikkim. This Court does not expect the petitioner to keep railway tickets etc. but the petitioner was unable to produce particulars of fee (if any) deposited by him muchless fee receipts. The Colleges take fee for each semester apart from the exam fees. Curiously enough, the Demand Draft of Rs.1,500/- he showed to the Court was sent to the address of the EIILM University at Sikkim but the draft was payable at Service Branch, Delhi.

27. The petitioner is a graduate in arts and has no formal study of accounting.



28. So far as petitioner's alternative argument that his subsequent degree of MBA, which he has obtained in the year 2019 be accepted and petitioner's appointment be validated is concerned, this Court is of the considered view that subsequent acquisition of qualification cannot be taken into account as the possession of degree of MBA (Finance) was a condition precedent for appearing in the recruitment process.

29. If the petitioner's mark-sheets given by the EIILM University is held invalid or ignored, then, obviously at the time of appearing in the recruitment process in the year, 2013, the petitioner did not have requisite educational qualification to vie for the competitive examination for the post of Junior Accountant.

30. The judgment in the case of **Vinod Kumar (supra)**, which has been cited by Mr. Sandhu is clearly distinguishable on facts, inasmuch as in the case of Vinod Kumar (supra) the Institute which granted the degree was not recognized at the relevant time, whereas in the instant case the mark-sheets, which have been produced by the petitioner are fraudulent and his assertion that he has done MBA (from the EIILM University, Sikkim) is false. The course being not recognized cannot be equated with a case where the University is a fraud or the mark-sheets are fake and bogus.

31. That apart, in the era of cut-throat competition, a candidate who has produced fake mark-sheets cannot claim equity and pray that the degree he has obtained subsequently be considered.

32. The mark-sheets obtained by the petitioner are void-ab-initio and the employment obtained on the basis of the mark-sheets issued by such fake/unrecognized and fraudulent institution is an illegal appointment.



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33. This Court is therefore, of the considered view that petitioner neither has a case on merit nor is he entitled for any equitable consideration.

34. The writ petition is, therefore, dismissed.

35. Cost is made easy.

36. Stay petition also stands dismissed, accordingly.

(DINESH MEHTA),J

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