

HIGH COURT OF JUDICATURE AT ALLAHABAD

Neutral Citation No. - 2024:AHC:94194-DB

A.F.R.

Judgement Reserved on 18.4.2024

Judgement Delivered on 24.05.2024

Court No. - 40

Case :- SPECIAL APPEAL DEFECTIVE No. - 9 of 2024

Appellant :- Basic Shiksha Adhikari

Respondent :- Laxmi Shakya And 3 Others

Counsel for Appellant :- Manvendra Singh,Prabhakar
Awasthi,Vijay Kumar Maurya

Counsel for Respondent :- C.S.C.,Siddharth Khare

Hon'ble Mahesh Chandra Tripathi,J.

Hon'ble Anish Kumar Gupta,J.

(Per: Anish Kumar Gupta,J.)

1. Heard Mr. Manvendra Singh, learned counsel for the appellant, Mr. Ambrish Shukla, learned Additional Chief Standing Counsel for the State respondent, Mr. Siddharth Khare, learned counsel appearing for the contesting-respondent and perused the record.

Order on Delay Condonation Application

2. Delay in filling the present appeal has been explained to the satisfaction of the Court. Learned counsel for the respondent has no objection if the delay condonation application is allowed. Accordingly delay in filing the appeal is condoned.

3. The delay condonation application stands allowed.

Order on Appeal

4. The instant special appeal has been preferred against the judgement and order dated 10.04.2023, passed by the learned Single Judge in Writ A No. 1111 of 2023 (Laxmi Shakya vs. State of U.P. and 3 Others) whereby the learned Single Judge has allowed the writ petition and set-aside the order dated 31.12.2022, passed by the District Basic Education Officer, Mainpuri, whereby the services of the respondent no.1/petitioner, Laxmi Shakya, were terminated on the ground that the petitioner has obtained the certificate of High School and Intermediate, twice and has also obtained overlapping degrees of B.A, B.Sc. and also the overlapping degree of B.T.C. and M.Sc.

5. The brief facts of the case are that the State Government has notified the vacancies for recruitment on the post of Assistant Teacher in the year, 2018, known as “Assistant Teacher Recruitment Examination, 2018”. The petitioner/respondent no.1 having possessed the requisite qualifications, participated in the examination and qualified the same. In terms of the said qualifications, on passing of the said examination the petitioner was issued an appointment letter dated 05.09.2018. On the basis of the aforesaid appointment letter dated 05.09.2018, she has joined Prathmik Vidyalaya, Nagla Ahir Block Kisni, District Mainpuri on the post of Assistant Teacher on 07.09.2018 and was discharging her duties. In the meantime, the petitioner/respondent was married to one Sandeep Kumar s/o Sughar Singh. When her matrimonial relationship with Sandeep Kumar became strained, Sughar Singh, the father of Sandeep Kumar and father-in-law of the petitioner/respondent no.1, made an online complaint on Jansunwayi Portal (IGRS) on 31.07.2021 alleging therein that the petitioner has obtained the certificates and passed the High School, Intermediate examination twice on the overlapping years and she has also obtained the overlapping degrees of B.A./B.Sc. It is also

alleged that she had also completed the degree of M.Sc. and B.T.C. simultaneously. On such complaint being made the District Basic Education Officer had issued a notice dated 13.08.2021 to the petitioner/respondent no.1. Thereafter, another notice was issued on 01.10.2021 by the District Basic Education Officer, Mainpuri and by the said notice, payment of salary to the petitioner was stopped. The petitioner/respondent has submitted her reply to the aforesaid notice dated 01.10.2021 on 18.10.2021.

6. Relying upon the judgement of ***Kuldeep Kumar Pathak Vs. State of U.P. & others (2016) 3 SCC 521*** and the another judgement of this Court in passed in ***Special Appeal Defective No. 898 of 2020 (Board of Basic Education and Another vs. Arvind Prakash Dwivedi and 2 Others)***, the said notice dated 01.10.2021 was challenged by the petitioner/respondent in Writ A No. 18268 of 2021 (Laxmi Shakya Vs. State of U.P. and 2 others). The said writ petition was disposed of vide order dated 17.12.2021 directing the District Basic Education Officer, Mainpuri to take a decision in the matter most expeditiously and preferably within a period of two weeks from the date of production of a certified copy of the order. Thereupon, on 23.12.2021, the petitioner/respondent submitted a copy of the order dated 17.12.2021 alongwith her reply and claimed to set-aside the notice dated 01.10.2021 and to restore her salary. Pursuant to the aforesaid representation dated 23.12.2021, the District Basic Education Officer, Mainpuri, directed the Block Education Officer to conduct an inquiry with regard to the allegations levelled against the petitioner and thereafter on 29.01.2022, the District Basic Education Officer, Mainpuri, withdrew the order of stoppage of payment of salary after completion of the inquiry by the Block Education Officer. The petitioner/respondents also submitted the reply dated 02.03.2022 before the Block Development Officer wherein she has categorically stated that she has submitted the following

documents for appearing in the Assistant Teacher Recruitment Examination, 2018, which are as under:-

क्रम सं०	परीक्षा का नाम	वर्ष	अनुक्रमांक	श्रेणी	शिक्षण संस्था का नाम	बोर्ड/विवि का नाम
1	हाईस्कूल	2010	1558864	प्रथम	ऋषिभूमि इं०को०	यू०पी० बोर्ड
2	इण्टर	2012	1134721	प्रथम	सौरिख कन्नौज	
3	बी०एस० सी०	2015	6055893	प्रथम	गंगा सिंह महाविद्यालय हुसैनपुर कन्नौज	छत्रपति शाहूजी महाराज वि०वि० कानपुर
4	बी०टी० सी०	2017	18410351	प्रथम	देवांशू समाज कल्याण सेवा महाविद्यालय महादेव नगर सौरिख कन्नौज	परीक्षा नियामक प्राधिकारी उत्तर प्रदेश
5	टेट.	2017	18104026 56	उत्तीर्ण	-	

7. The original copies of the above documents were also produced by the respondent/petitioner at the time of the counselling which were duly verified by the Department and having found the documents genuine, she was selected and appointed on the post of Assistant Teacher. She has also stated with regard to the strained relationship with her husband due to which the instant complaint has been lodged by the father-in-law of the respondent/petitioner.

8. In response to the clarification sought for by the Block Education Officer vide its letter dated 07.03.2022, the petitioner/respondent has further submitted her explanation on 10.3.2022 to the effect that except the B.Sc. Examination, she has no concern with any other documents nor she has any knowledge about the same. However, she has admitted that before taking admission in B.T.C. course, she has taken the admission in M.Sc. And after taking the admission in B.T.C., she has not attended the classes in M.Sc. course. However, she has appeared in the

examination of M.Sc. as well but she has not utilized her M.Sc. Mark sheet or certificate at any stage. She has also submitted application for surrendering the mark sheet and degree of M.Sc. before the University concerned, which is under process.

9. The said Block Education Officer has submitted an inquiry report dated 23.03.2022. After submission of the said inquiry report, the District Basic Education Officer, Mainpuri, vide order dated 11.04.2022, has further directed the Block Education Officer, Mainpuri to conduct a fresh inquiry with regard to the overlapping degrees obtained by the petitioner/respondent in the year, 2014 B.A. Part - I and B.Sc. Part-II, in the year, 2015 B.A. Part - II and B.Sc. Part-III, in the year, 2016 B.A. Part - III, M.Sc. Part-I and B.T.C. Part- I and in the year, 2017 M.Sc. Part - II and B.T.C. Part-II.

10. In pursuance of the aforesaid order dated 11.04.2022, the Block Education Officer again submitted his report on 06.05.2022 whereby the Block Education Officer has informed that with regard to the Educational qualification of Laxmi d/o Sri Ashok Kumar, she has obtained the record from Swargiya Mahadev Prasad Smarak Mahila Mahavidyalaya, Husainpur Saurikh, Kannauj and Ganga Singh Mahavidyalaya, Sultanpur Saukhik, Kannauj and has found as under:-

"1. जिसमें स्व० महादेव प्रसाद स्मारक महिला महाविद्यालय हुसैनपुर सौरिख जनपद कन्नौज द्वारा शैक्षिक अभिलेख प्रमाणित कर उलब्ध कराये गये हैं जिसमें आपके द्वारा वर्ष 2011 में हाईस्कूल अनुक्रमांक: 1579885, परिणाम उत्तीर्ण जतिथि-15.07.1995 अंकित की गयी है, और इण्टरमीडिएट में वर्ष 2013 अनुक्रमांक: 1137929 परिणाम प्रथम श्रेणी ओनर्स तथा बी०ए० प्रथम वर्ष, द्वितीय वर्ष तृतीय वर्ष अनुक्रमांक: 6157728 परिणाम प्राप्तांक / पूर्णांक: 677/900 प्रथम श्रेणी।

2 गंगा सिंह महाविद्यालय सुल्तानपुर, सौरिख, जनपद कन्नौज द्वारा शैक्षिक अभिलेख प्रमाणित उपलब्ध कराये गये हैं जिसके आपके द्वारा हाईस्कूल परीक्षा-2010 अनुक्रमांक: 1558864 परिणाम पास, इण्टरमीडिएट—2012 अनुक्रमांक: 1134721 परिणाम प्राप्तांक / पूर्णांक 361/500 प्रथम श्रेणी, बी०एस०सी० प्रथम वर्ष, द्वितीय वर्ष तृतीय वर्ष-2015, अनुक्रमांक-6055893, प्राप्तांक / पूर्णांक 1197/1000 उत्तीर्ण श्रेणी प्रथम श्रेणी, एम०एस०सी० प्रथम, द्वितीय, वर्ष 2017-

अनुक्रमांक: 2033264, परिणाम- प्रासांक / पूर्णांक-335/1000 उत्तीर्ण श्रेणी प्रथम तथा उपस्थिति विवरण प्राचार्य द्वारा उपलब्ध नहीं कराया गया है।"

11. On the basis of the aforesaid report submitted by the Block Education Officer, the report from the University and the Secretary Education Board Allahabad, were also obtained and in the meantime on 21.12.2022, a show cause notice was further issued to the petitioner/respondent and in response to the aforesaid show cause notice, the petitioner respondent has submitted a detailed reply wherein she has categorically stated that she has passed the High School vide Roll No. 1558864 in the year, 2010 and her date of birth being 15.09.1995, Intermediate Roll No. 1134721 in the year 2012, B.Sc. Roll No. 6055893 in the year 2015, B.T.C. Roll No. 18410351 in year, 2017 and TET Roll No. 1810402656 in the year, 2017. She submits that in addition to the aforesaid degree, she has also obtained the degree of M.Sc. which was erroneously taken in the same session alongwith B.T.C. Realizing her mistake, she has already made an application for surrender of the degree of M.Sc. before the University concerned and she has not used that M.Sc. Degree in any selection process. She has reiterated with regard to the strained relationship with her husband and her in-laws and has submitted the copies of the aforesaid degrees of High School, Intermediate, B.Sc., B.T.C. and T.E.T. However, she has stated that she has no concern with the other marksheet and certificate of High School, Intermediate and the B.A. degree. As she has no connection with the said documents therefore the same were denied.

12. The said show cause notice dated 21.12.2022 also required the petitioner to appear before the District Selection Committee on 28.12.2022 for personal hearing, failing which her services would be terminated. In response thereto the petitioner appeared before the District Selection Committee on 28.12.2022 and submitted her reply, as aforesaid. The Selection Committee was not satisfied with the reply submitted by the petitioner and on the basis of the

records found that the petitioner has obtained appointment by concealing the material fact for the High School and Intermediate Certificate as well as degree of Graduation and has also altered her date of birth. Thereupon, the District Selection Committee recommended her termination from the date of her initial appointment. Thereafter, vide order dated 31.12.2022, the services of the petitioner/ respondent no.1 were terminated by the District Basic Education Officer, Mainpuri, holding that the petitioner/respondent has passed the High School and Intermediate examination twice and has obtained two degrees of Graduation and has passed the B.T.C. course alongwith the M.Sc. The said order dated 31.12.2022 was challenged in Writ A No. 1111 of 2023, which has been allowed by the impugned order dated 10.04.2024, against which the present Special Appeal has been filed.

13. Learned Single Judge relying upon the judgement of ***Kuldeep Kumar Pathak(supra)*** and ***Laxmi Shanker Yadav vs. State of U.P. and 4 Others*** in **Writ-A No. 5394 of 2021** and the judgement dated 19.11.2022 passed by the Division Bench of this Court in ***Special Appeal No. 37 of 2022 (the Basic Eduction Board, U.P. Prayagraj and Another vs. Laxmi Shekhar Yadav)*** has allowed the said writ petition, holding that appellant/respondent could not place any regulation for the statutory requirement to demonstrate that obtaining two degrees simultaneously is prohibited.

14. Learned counsel for the appellant submits that the Judgement of ***Kuldeep Kumar Pathak (supra)*** is distinguishable as the same was on different facts where the appellant therein had got the second degree in one subject in the same year which was permissible under law but in the instant case two degrees of two regular courses were simultaneously obtained twice mentioning different date of births, which is not permissible.

15. Learned counsel for the appellant has further relied upon of Regulation regarding the examination issued under Intermediate Education Act, 1921. The Clause 17(4) and (5) reads as under:-

"Part-2 Chapter XII (General Regulation Regarding Exam)

Clause-17(4) & (5)

(4) परीक्षार्थी इस विनियम के अन्तर्गत एक बार में केवल एक ही परीक्षा (हाईस्कूल अथवा इण्टरमीडिएट) में प्रविष्ट हो सकेंगे।

(5) हाईस्कूल तथा इण्टरमीडिएट की सम्पूर्ण परीक्षा में सम्मिलित होने वाले परीक्षार्थी इस विनियम के अन्तर्गत परीक्षा में बैठने के पात्र नहीं होंगे।"

16. Relying upon the aforesaid provisions, learned counsel for the appellant submits that there is a clear bar to obtain overlapping degrees of High School and Intermediate in the same session. Likewise, learned counsel for the appellant submits that the petitioner/respondent has obtained overlapping degrees of B.A. and B.Sc. as well as the overlapping degrees of B.T.C. and M.Sc. which are regular courses and cannot be obtained in one session in view of the U.G.C. Regulation. Clause 4 of the Ordinance relating to examination creating bar on students to obtain two degrees and also containing guidelines issued by the U.G.C., has been placed on record.

17. Learned counsel for the appellant further submits that as per report dated 06.05.2022, submitted by the Block Education Officer, Kishni, the petitioner/respondent no.1 has obtained the following degrees as per the record received from Swargiya Mahadev Prasad Smarak Mahila Mahavidyalaya, Husainpur Saurikh, Kannauj, which reads as under:-

क्रम	परीक्षा का नाम	वर्ष	अनुक्रमांक	श्रेणी	परीक्षा संस्था का नाम	जन्मतिथि
1	हाईस्कूल परीक्षा प्रमाण पत्र	2011	1579885	पास	मा०शि०प०उ०प्र०	15.07.1995
2	इण्टरमिडिएट परीक्षा प्रमाण पत्र	2013	1137929	पास	तदैव	
3	बी०ए० प्रथम	2014	4187947	पास	सी०एस०जे०एम०	

	रेगुलर अंकपत्र				वि०वि० कानपुर	
4	बी०ए० द्वितीय रेगुलर अंकपत्र	2015	2176284	पास	तदैव	
5	बी०ए० तृतीय रेगुलर अंकपत्र	2016	6157728	प्रथम	तदैव	

18. The petitioner has obtained the following degrees as per the record received from Ganga Singh Mahavidyalaya, Sultanpur Saukhik, Kannauj, which reads as under:-

क्रम	परीक्षा का नाम	वर्ष	अनुक्रमांक	श्रेणी	परीक्षा संस्था का नाम	जन्मतिथि
1	हाईस्कूल परीक्षा प्रमाण पत्र व अंकपत्र रेगुलर	2010	1558864	पास	मा०शि०प० उ०प्र०	15.09.1995
2	इण्टरमिडिएट परीक्षा प्रमाण पत्र व अंकपत्र रेगुलर	2012	1134721	पास	मा०शि०प० उ०प्र०	
3	बी०एस०सी० प्रथम रेगुलर अंकपत्र	2013	0758949	पास	सी०एस०जे०एम०वि ०वि० कानपुर	
4	बी०एस०सी० द्वितीय रेगुलर अंकपत्र	2014	2058848	पास	तदैव	
5	बी०एस०सी० तृतीय रेगुलर अंकपत्र	2015	6055893	पास	तदैव	
6	एम०एस०सी० प्रथम रेगुलर अंकपत्र	2016	5033315	पास	तदैव	
7	एम०एस०सी० प्रथम रेगुलर अंकपत्र	2017	2033264	पास	तदैव	

19. Learned counsel for the appellant therefore submits that it is categorically clear that petitioner/respondent no1. has maintained two parallel certificates of High School, Intermediate and Graduation degrees mentioning different date of births and has obtained the selection by concealing one set of educational certificates. With regard to the aforesaid submissions, learned counsel for the appellant further relied upon the report received

from the U.P. Secondary Education Board dated 07.10.2022, which reads as under:-

क्रम	हा०/इण्टर	वर्ष	अनुक्रमांक	नाम	माता का नाम	पिता का नाम	जन्मतिथि	पूर्णांक	प्रासांक	श्रेणी	अभ्युक्ति
01	H.S.	2010	1558864	Laxmi Shakya	Shashi Kumari	Ashok Kumar	15.09.1995	600	GRAD E	PASS	पुष्टित
02	Int.	2012	1134721	Laxmi Shakya	Shashi Kumari	Ashok Kumar	-	500	361	Ist	पुष्टित
03	H.S.	2011	1579885	Laxmi	Shashi Prabha	Ashok Kumar	15.07.1995	600	GRAD E	PASS	पुष्टित
04	Int	2013	1137929	Laxmi	Shashi Prabha	Ashok Kumar	-	1000	871	Ist-H	पुष्टित

20. Learned counsel for the appellant further submits that as per Regulation 5 of Chapter XII issued under the Intermediate Education Act, 1921, 75 % attendance is required. Similarly, as per the University guidelines as available on the website of the Chhatrapati Shahu Ji Maharaj University, Kanpur, as contained in General and Miscellaneous Ordinances and Chapter XXVIII-B, the minimum requirement for appearing in any University Examination is 75 % attendance. Unless, that requirement is fulfilled, the candidate cannot be permitted to appear in the examination.

21. Learned counsel for the appellant further submits that the judgement as were pronounced by the Apex Court in ***Kuldeep Kumar Pathak (supra)*** as well as in ***Laxmi Shanker Yadav (Supra)***, were passed on the basis that there is no regulatory framework available prohibiting two simultaneous degrees. However, as per the aforesaid regulations issued under the Intermediate Education Act as well as the Ordinance available in the website of the University, there is sufficient prohibition that no person can simultaneously obtain two degrees of regular courses as there is a requirement of 75 % attendance prior to appearing in the examination. Therefore, the aforesaid judgement passed by the Apex Court in ***Kuldeep Kumar Pathak (supra)*** and Division Bench by this Court in ***Laxmi Shanker Yadav (Supra)***, are not the

good law as the same were passed in ignorance of the aforesaid regulatory framework available on record.

22. *Per contra*, learned counsel for the petitioner/respondent no.1 submits that as per the report of U.P. Secondary Education Board, Allahabad dated 07.10.2022, the first two items relate to the petitioner/respondent no. 1 herein, which have been duly verified by the Board. However, the other two items with regard to the High School in the year, 2011 and Intermediate in the year 2013 did not belong to the petitioner herein. They are of some other persons and she has not obtained the High School and Intermediate Certificates as stated in item nos. 3 and 4 in the report dated 07.10.2022 of the Board. It has been further submitted that she is not aware of the degrees of B.A. as has been relied upon by the appellant to contend that the petitioner has simultaneously obtained these degrees of B.A. alongwith B.Sc. The said degrees does not belong to the petitioner Inasmuch as the said High School, Intermediate and B.A. degrees were of one Laxmi d/o Ashok Kumar and mother's name is Shashi Prabha whereas in her case her name is Laxmi Shakya and her mother's name is Shashi Kumari and father's name is Ashok Kumar. Therefore, the petitioner cannot be connected with the aforesaid certificates of High School and Intermediate of 2011-13 as well as the B.A. Degrees of 2014, 2015 and 2016. The counsel for the petitioner/respondent has placed reliance on the reply of the petitioner wherein she has categorically stated that though she has taken admission in the M.Sc. Course, prior to taking admission in the B.T.C. course and after taking admission in B.T.C. course she has not attended any of the classes of M.Sc. Course. However, she has appeared in the M.Sc. Examination and when she has realized her mistake, she has already surrendered her M.Sc. degree to the University concerned and she has never utilized the same in any selection process or anywhere else for getting any benefit of the said degrees. The documents which she has submitted at the time of appearing in the

examination as well as her selection and at the time of counselling, the same were duly verified and after due verification she was given appointment and none of the authorities have ever found that the documents submitted by the petitioner were forged, fabricated and are not genuine. Therefore, merely because due to a matrimonial dispute, her father-in-law has made a false complaint based on some irrelevant documents, which have no connection with the petitioner, hence her services cannot be terminated. The judgement passed by the learned Single Judge is based on settled principles of law as has been laid down in ***Kuldeep Kumar Pathak (supra)*** and ***Laxmi Shanker Yadav (Supra)*** by the Division Bench of this Court. Therefore, no interference is called for against the judgement and order dated 10.04.2022 passed by the learned Single Judge.

23. The first question which arose before this Court is that whether a person can be permitted to pursue two regular courses of the High School and Intermediate as well as at the Graduation and Post Graduation level in one session. Before considering this issue, it will be relevant to note down the relevant portion of the judgement of the Apex Court in ***Kuldeep Kumar Pathak (supra)*** which reads as under:-

".....7. We are of the opinion that both the submissions of the learned Senior Counsel are valid in law and have to prevail. The High Court has been influenced by the argument of the respondents that simultaneous appearance in two examinations by the appellant in the same year was "contrary to the Regulations". However, no such Regulation has been mentioned either by the learned Single Judge or the Division Bench. Curiously, no such Regulation has been pointed out even by the respondents. On our specific query to the learned counsel for the respondents to this effect, he expressed his inability to show any such Regulation or any other rule or provision contained in the U.P. Intermediate Education Act, 1921 or Supplementary Regulations of 1976 framed under the aforesaid Act or in any other governing Regulations. Therefore, the entire foundation of the impugned judgment of the High Court is erroneous.

8. It is also pertinent to note that the appellant's intermediate examination and result thereof was not in question before the U.P. Board. No illegality in the admission in that class has been pointed out by the respondents. The alleged charge of simultaneously appearing in

two examinations, one of the U.P. Board and other of the Sanskrit Board, was with respect to Class X and equivalent examination which did not relate to admission in intermediate course. The only provision for cancelling the said admission is contained in Regulation 1 of Chapter VI-B. It details the procedure for passing the order of punishment cancelling intermediate results and, inter alia, prescribes that a committee consisting of three different members is to be constituted and entrusted with the responsibility of looking into and disposing of cases relating to unfair means and award appropriate penalty as specified in the Regulations itself. However, there is no allegation of any unfair means adopted by the appellant in the instant case and, therefore, that Regulation has no applicability. Even otherwise, no such committee was constituted. Therefore, having taken admission in intermediate on the basis of past certificate issued by a separate Board, which was recognised, and not on the basis of the result of Class X of the U.P. Board, the appellant derived no advantage from his examination of the U.P. Board while seeking admission in intermediate course. Thus, from any angle the matter is to be looked into, the impugned orders dated 20-4-2011 and 10-5-2011 passed by the respondents are null and void, apart from the fact that they are in violation of the principles of natural justice....."

24. Relying upon the aforesaid judgement of **Kuldeep Kumar Pathak (supra)**, Coordinate Bench of this Court has also decided the **Special Appeal Defective No. 898 of 2020 (Board of Basic Education and Another vs. Arvind Prakash Dwivedi and 2 Others)** on 21.10.2020, wherein this Court has observed as under :-

".....It is not in dispute that at the relevant time the respondent-petitioner could have obtained two qualification simultaneously and the respondent-petitioner as such possessed requisite qualification to hold the post of Assistant Teacher as well as the further promotional post....."

25. A similar view has taken by the Division Bench of this Court in **Special Appeal 37 of 2022 (The Basic Education Board, U.P. Prayagraj and Another vs. Laxmi Shankar Yadav)** on 19.11.2022 wherein this Court has observed as under:-

".....10. Having perused the record and considered the rival submissions, we may observe that no doubt it may appear improbable as to how a person could obtain two degrees simultaneously but that cannot be taken as a ground to annul both the degrees. There has to be an exercise to annul either one or both the degrees on the basis of material collected, after giving opportunity of hearing to the holder of such a degree. Such an exercise has to be on case to case basis. Here, what is important is that neither the B.A. degree obtained from Awadh University, Faizabad, nor the Shastri degree obtained from Sampurnanand Sanskrit Vishwavidyalaya, has been cancelled. Importantly, the petitioner had sought appointment by relying on the Shastri degree and on the basis of the marks obtained therein the petitioner was placed in the select list and was ultimately selected and

*appointed. At this stage, it be noticed that the learned single Judge has returned a specific finding that the opposite party counsel could not place any regulation/ statutory enactment or even an order having statutory flavour to demonstrate that obtaining of two degrees simultaneously is prohibited. The learned standing counsel despite our request could not demonstrate that the said finding is incorrect. The U.G.C. clarificatory letter dated 15th January, 2016 on which the appellant has placed reliance only deprecates obtaining of two degrees simultaneously, but it does not mandate the University to annul the degree so obtained. In so far the clarificatory letter dated 4th December, 2020 is concerned that also does not mandate the authorities to cancel the candidature of a candidate who has set up such degrees but requires a case to case examination. In the instant case, the petitioner has set up Shastri degree obtained from Sampurnanand Sanskrit Vishwavidyalaya, Varanasi for the purposes of selection in the recruitment process undertaken by the appellants. **This degree has admittedly not been cancelled. In our view, therefore, unless the professed qualification is annulled or is found in the teeth of statutory regulation or order, rendering the same ineffective or null, it would not be permissible to overlook or discard the same. "***

(Emphasis Supplied)

26. From the perusal of the judgements as noted hereinabove, it is amply clear that all those judgements were passed primarily on the ground that learned counsel for the parties could not bring on record any of the regulations prohibiting a person from obtaining Degrees/Certificates of two parallel, overlapping, simultaneous courses. As per the Chapter XII of the Regulation issued under the Uttar Pradesh Intermediate Education Act, 1921, Clause 19 -क, specifically prohibits as under:-

"19-क. हाईस्कूल (कक्षा 9 एवं 10) तथा इण्टरमीडिएट परीक्षा में अभ्यर्थी केवल एक ही माध्यम (संस्थागत अथवा व्यक्तिगत) से आवेदनपत्र भर कर परीक्षा में सम्मिलित हो सकता है। किसी भी दशा में अभ्यर्थी को एक परीक्षावर्ष में एक से अधिक संस्था / संस्थाओं से संस्थागत अथवा व्यक्तिगत अथवा दोनों प्रकार से आवेदन-पत्र भरने अथवा परीक्षा में सम्मिलित होने की अनुमति नहीं होगी। तथ्यों को छिपाना अपराध होगा। इस विनियम के उल्लंघन का दोषी पाये जाने वाले अभ्यर्थियों की अभ्यर्थिता निरस्त कर दी जायेगी तथा उनके विवरण यदि परिषदीय अभिलेखों में अंकित हो गये हैं, तो उन्हें विलुप्त करा दिया जायेगा अथवा अभ्यर्थी के परीक्षा में, अनियमित रूप से सम्मिलित होने की दशा में परीक्षाफल निरस्त कर दिया जायेगा, जिसका सम्पूर्ण उत्तरदायित्व अभ्यर्थी का होगा।"

(Emphasis Supplied)

27. Similarly, Clause 5 of the Chapter XII of the aforesaid Regulation mandates as under:-

"5. (1) मान्यता प्राप्त संस्था, प्रत्येक शैक्षिक वर्ष में कम से कम 220 कार्य दिवसों में खुली रहेगी जिसमें परीक्षाओं तथा पाठ्यानुवर्ती कार्य -कलाप के दिवस भी सम्मिलित हैं। प्रतिबन्ध यह है कि "पत्राचार शिक्षा सतत् अध्ययन सम्पर्क योजना" के अन्तर्गत पंजीकृत छात्र के सम्बन्ध में कार्य दिवसों की उपर्युक्त संख्या 75 कार्य दिवस होगी तथा इसके साथ सम्बन्धित छात्र को पत्राचार शिक्षा संस्थान द्वारा प्रेषित पाठ्य सामग्री को निर्धारित प्रक्रिया के अनुसार अध्ययन करना होगा।"

(Emphasis Supplied)

28. From the plain reading of the aforesaid provisions, by no stretch of imagination it can be concluded that a person can appear in High School and Intermediate Examination twice simultaneously. The only liberty granted under Clause 17 (1) and (2) is that a person who has passed High School and Intermediate Examination may appear in one subject or maximum five subjects and again can get a certificate of passing of the said subjects. However, no separate certificate with regard to the same examination shall be issued to such a person. Clause 19-क which came into force with effect from 28.07.2021 provides that no person can appear in the same academic year in the High School or Intermediate examination from two different institutions and concealment of such facts will be treated as a violation of these rules and candidature of such candidate shall be cancelled. If any documents have been recorded in the Board's Examination, the same shall be deleted and if any candidate appears in violation of such condition, his/her result shall be cancelled and the candidates shall be wholly responsible for the same. In view of the aforesaid statutory regulatory framework with regard to High School and Intermediate examination no candidate can appear simultaneously in two examinations from two different institutions. If he/she appears in such a manner, the result thereof even if declared shall be cancelled. Clause 17 (1), (2), (3), (4) and (5) of Chapter XII Part - II- B of the Regulations under the Intermediate Education Act, 1921, reads as under:-

"17. इन विनियमों की शर्तों के होते हुए भी निम्नलिखित श्रेणी के परीक्षार्थी भी व्यक्तिगत परीक्षा के रूप में प्रविष्ट हो सकते हैं-

(1) कोई परीक्षार्थी जिसने हाईस्कूल अथवा उसके समकक्ष परीक्षा उत्तीर्ण की है, बाद की हाईस्कूल परीक्षा में एक अथवा अधिकतम पांच विषयों में (कम्प्यूटर विषय छोड़कर) प्रविष्ट हो सकता है और ऐसा परीक्षार्थी यदि सफल हो जावे तो वह अतिरिक्त लिए उत्तीर्ण विषय अथवा विषयों में परीक्षा उत्तीर्ण होने का प्रमाण-पत्र पाने का अधिकारी होगा और उसे कोई श्रेणी नहीं दी जायेगी।

(2) कोई परीक्षार्थी जिसने इण्टरमीडिएट अथवा समकक्ष कोई परीक्षा उत्तीर्ण की है बाद की इण्टरमीडिएट परीक्षा में एक अथवा अधिकतम चार विषयों (कम्प्यूटर वर्ग तथा व्यवसायिक वर्ग के विषयों को छोड़कर) बैठ सकता है और वह परीक्षार्थी यदि सफल हो जाय तो उसके द्वारा उपहृत किये गये विषय अथवा विषयों में उत्तीर्ण होने का प्रमाण-पत्र पाने का अधिकारी होगा और उसे कोई श्रेणी नहीं दी जायेगी। प्रतिबंध यह है कि विषय अथवा विषयों का चुनाव केवल एक वर्ग तक ही सीमित हो।

(3) इस विनियम के अन्तर्गत सम्मिलित होने वाले परीक्षार्थी उन विषय अथवा विषयों का

चयन नहीं कर सकेंगे, जो उनके द्वारा पूर्व की हाईस्कूल तथा इण्टरमीडिएट परीक्षा में जिसमें वह उत्तीर्ण हुए थे, लिए गये थे साथ ही परीक्षार्थी आधुनिक भारतीय, विदेशी तथा शास्त्री भाषा समूहों के प्रत्येक समूह में से केवल एक ही भाषा का चयन कर सकेंगे।

(4) परीक्षार्थी, इस विनियम के अन्तर्गत एक बार में केवल एक ही परीक्षा (हाईस्कूल अथवा इण्टरमीडिएट) में प्रविष्ट हो सकेंगे।

(5) हाईस्कूल तथा इण्टरमीडिएट की संपूर्ण परीक्षा में सम्मिलित होने वाले परीक्षार्थी इस विनियम के अन्तर्गत परीक्षा में बैठने के पात्र नहीं होंगे।"

29. With regard to the Higher Education, the University Grants Commission (U.G.C.) in its regulation with regard to the U.G.C. (Minimum Standards of Instructions for the Grant of the First Degree through Formal Education) Regulation, 2003, and UGC (Minimum Standard of Instruction for the Grant of the Master's Degree through Formal Education) Regulation 2003 have categorically provide that:-

"5.8 The minimum number of lectures, tutorials, seminars and practicals which a student shall be required to attend for eligibility to appear at the examination shall be prescribed by the University, which ordinarily shall not be less than 75% of the total number of lectures, tutorials, seminars, practicals, and any other prescribed requirement."

30. In view of the aforesaid Regulations, 2003, no person could have been able to obtain two parallel simultaneous degrees in the same session from different institutions as he/she will be lacking 75% attendance in either of the courses as both cannot be attended by the same person with 75% attendance, as required under the guidelines.

31. On 15.01.2016, the U.G.C. has issued a clarification on allowing the students to pursue two degrees simultaneously, which reads as under:

"विश्वविद्यालय अनुदान आयोग
University Grants Commission
(मानव संसाधन विकास मंत्रालय, भारत सरकार)
(Ministry of Human Resource Development, Govt. of India)
बहादुरशाह ज़फ़र मार्ग, नई दिल्ली-110002
Bahadur Shah Zafar Marg, New Delhi-110002
Ph: 011-23239337, 23236288,
Fax: 011-23238858, email: jssandhu.ugc(@)nic.in

15th January 2016

F. No.: 1-6/2007(CPP-II)

PUBLIC NOTICE

SUBJECT: CLARIFICATION ON ALLOWING STUDENTS TO PURSUE TWO DEGREES SIMULTANEOUSLY.

*The Commission had sought the comments of the Statutory Councils. **The responses, so far, received do not endorse the idea of allowing the students to pursue two degree simultaneously.** Therefore, the universities shall conduct their programmes in accordance with the First Degree and Master Degree Regulations, 2003 prescribed by the UGC and also follow the norms and parameters prescribed by the Statutory Council concerned, wherever relevant.*

(Jaspal S. Sandhu)
Secretary"

32. The aforesaid clarification was considered by the learned Single Judge of this Court in **Writ A No. 13888 of 2019 (Shilpa Saroha vs. State of U.P. and 2 Others)** and held that it is not possible for a common human to remain present for two courses at the same time or even score minimum required attendance as a regular student in both institutions simultaneously. Therefore, it is nothing but a fraud.

33. Subsequently, in the month of April, 2022, first time, the U.G.C. has issued guidelines enabling students for pursuing two academic programmes simultaneously, which reads as under:-

"Guidelines for Pursuing Two Academic Programmes Simultaneously

Background

The National Education Policy NEP 2020 states that pedagogy must evolve to make education more experiential, holistic, integrated, inquiry-driven, discovery-oriented, learner-centred, discussion-based, flexible, and, of course, enjoyable. The policy envisions imaginative and flexible curricular structures to enable creative combinations of disciplines for study, that would offer multiple entry and exit points, thus, removing currently prevalent rigid boundaries and creating new possibilities for life-long learning and centrally involve critical and interdisciplinary thinking.

With the rapid increase in demand for higher education and limited availability of seats in regular stream, several Higher Education Institutions (HEIs) have started a number of programmes in Open and Distance Learning (ODL.) mode to meet the aspirations of students. It has also led to the emergence of online education programmes which a student can pursue within the comforts of her/his home. The issue of allowing the students to pursue two academic programmes simultaneously has been examined by the Commission keeping in view the proposals envisaged in the National Education Policy - NEP 2020 which emphasizes the need to facilitate multiple pathways to learning involving both formal and non-formal education modes.

In view of above, UGC has framed the following Guidelines.

Objectives

To allow the students to pursue two academic programmes simultaneously keeping in view the following objectives envisaged in NEP 2020:

- *recognizing, identifying, and fostering the unique capabilities of each student, by sensitizing teachers as well as parents to promote each student's holistic development in both academic and non-academic spheres;*
- *no hard separations between arts and sciences, between curricular and extra-curricular activities, between vocational and academic streams, etc. in order to eliminate harmful hierarchies among, and silos between different areas of learning;*
- *Multidisciplinarity and a holistic education across the sciences, social sciences,*
- *arts, humanities, and sports for a multidisciplinary world in order to ensure the*
- *unity and integrity of all knowledge; enabling an individual to study one or more specialized areas of interest at a deep level, and also develop character, ethical and constitutional values, intellectual*
- *curiosity, scientific temper, creativity, spirit of service.*
- *offering the students, a range of disciplines including sciences, social sciences, arts, humanities, languages, as well as professional, technical, and vocational subjects to make them thoughtful, well-rounded, and creative individuals.*
- *preparing students for more meaningful and satisfying lives and work roles and enable economic independence.*

Guidelines

1. ***A student can pursue two full time academic programmes in physical mode provided that in such cases, class timings for one programme do not overlap with the class timings of the other programme.***
2. ***A student can pursue two academic programmes, one in full time physical mode and another in Open and Distance Learning (ODL)/Online mode; or up to two ODL/Online programmes simultaneously.***
3. ***Degree or diploma programmes under ODL/Online mode shall be pursued with only such HEIs which are recognized by UGC/Statutory Council/Govt. of India for running such programmes.***
4. ***Degree or diploma programmes under these guidelines shall be governed by the Regulations notified by the UGC and also the respective statutory/professional councils, wherever applicable.***
5. ***These guidelines shall come into effect from the date of their notification by the UGC. No retrospective benefit can be claimed by the students who have already done two academic programmes simultaneously prior to the notification of these guidelines.***

The above guidelines shall be applicable only to the students pursuing academic programmes other than Ph.D. programme.

Based on the above guidelines, the universities can devise mechanisms, through their statutory bodies, for allowing their students to pursue two academic programmes simultaneously as mentioned above."

(Emphasis Supplied)

34. From the plain reading of the aforesaid guidelines, it appears that in pursuance of the New Education Policy in 2020 the Government enables a person to pursue two academic programmes subject to the aforesaid guidelines to the effect that such academic programmes are not overlapping to each other and timing of classes at different times or one full time course on physical mode and the other course is by way of open and distance learning mode or online mode. The aforesaid guidelines specifically provides that no retrospective benefit can be claimed by the students who have already done two academic programmes simultaneously prior to the notification of these guidelines which categorically indicates that prior to the aforesaid guidelines issued in the month of April, 2022, no person was allowed to pursue two full time academic programmes in physical modes simultaneously.

35. From the aforesaid discussion, it is crystal clear that as per the guidelines issued by the U.G.C., no person could undergo two full time academic programmes simultaneously and it is only after April, 2022, with certain restrictions as provided in the guidelines, it has been provided to a student for pursuing two academic programmes simultaneously. The U.G.C. has permitted the persons to undergo two academic programmes simultaneously subject to the conditions as laid down in the aforesaid guidelines.

36. Coming back to the present case, it has been alleged in the instant case that the petitioner/respondent no.1 has undergone the course narrated in paragraph '17' hereinabove alongwith courses narrated in paragraph '18'. However, the petitioner/respondent no.1 has categorically denied to have undergone the courses narrated in paragraph '17' hereinabove. She has only admitted the High School and Intermediate Marksheets and Certificates which have been verified by the U.P. Secondary Education Board, Allahabad, as mentioned in paragraph '18' hereinabove. There is also a doubt as to whether Laxmi Shakya referred in SN. 1 and 2 in the table or Laxmi referred in SN. 3 and 4 of the said table are the same persons?

37. Though, in the light of the provisions of 19-क, of Chapter XII of the Regulations issued by the U.P. Intermediate Education Act, 1921 no person could have undergone the examination of High School,(IX to X), and Intermediate, (XI to XII) simultaneously either as a regular student or a private student and it is also provided that if any person is found to have appeared in two simultaneous examinations, his result shall be declared a nullity. However, the exercise of declaring result as a nullity of a candidate who appeared in two simultaneous examinations, is to be done by the Examination Board concerned. Likewise, in the case of higher education though a person was prohibited from undertaking two regular courses simultaneously prior to April,

2022, however, if any such person has undergone such examination the same could be cancelled only by the Examination Body and merely because a person is having two degree and certificates simultaneously, on the basis of the same his/her employment cannot be terminated on this ground unless the certificates, which have been produced by such candidate at the time of his/her appointment are found to be forged, fabricated or declared a nullity by the competent Examination Board.

38. In the instant case, though in the inquiry conducted by the Block Education Officer under the dictate of the District Basic Education Officer, it is found that the petitioner/respondent no.1 has undergone two educational courses simultaneously. However, none of them have been declared a nullity by the competent Examination Board. Rather, the certificates which have been used by the petitioner/respondent no.1 have been found to be genuine on verification by the concerned Examination Body. Unless, the same is declared, null and void by the competent Examination Body, the services of petitioner/respondent no.1 cannot be terminated on the aforesaid ground as has been observed by the Co-ordinate Bench of this Court in *Laxmi Shanker Yadav (Supra)*.

39. Similarly, relying upon judgements of the Division Bench of this Court in *Kuldeep Kumar Pathak (supra)* and *Laxmi Shanker Yadav (Supra)*, *A. Dharmraj vs. The Educational Officer Puddukkottai & Others : (2022) 11 SCC 692*, this Court has passed the judgement on 21.3.2023 in *Special Appeal No. 124 of 2023 (Rao Mohammad Arif vs. State of U.P. and 4 Others)*, which reads as under:-

"24. Since the learned counsel for the appellant had not pointed out a single provision, which puts an embargo in possession of two degrees obtained in the same academic year, thus, this Court finds its inability to hold the selection and appointment of the writ petitioner illegal. Our view further gathers support from the fact that it is neither the case set out in the order impugned of the second respondent / Joint Director of Education, Saharanpur Region, Saharanpur nor from the arguments so advanced before us that the writ petitioner did not

possess the minimum necessary qualifications for being selected and appointed as Assistant Teacher (Science).

*25. More so, it is also the case of the writ petitioner as pleaded in the paragraphs-'10' and '11' of the writ petitioner that **the writ petitioner had surrendered the BUMS degree, thus, we do not find any error committed by the learned Single Judge in allowing the writ petitioner while quashing the order dated 05.04.2014 of the second respondent. Additionally, it has not been demonstrated before us that the degrees in question have been either withdrawn or cancelled.** "*

(Emphasis Supplied)

40. Thus, in view of the aforesaid observations, the appeal fails and the same is **dismissed** without any orders to the cost.

41. Consequently, the appellant/respondents are directed to permit the petitioner/respondent no.1 herein to discharge her duties on the post on which the petitioner was appointed and the petitioner shall also be entitled for payment of salary with continuity in service and all consequential benefits.

Impleadment Application No. 1 of 2024.

42. Since the special appeal filed by the Department has already been dismissed, the impleadment application filed by Sughar Singh, father-in-law of the petitioner/respondent no. 1 requires no consideration and is hereby **rejected**.

Order Date :- 24.05.2024

Shubham Arya

(Anish Kumar Gupta, J.) (M.C. Tripathi, J.)