

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

CWP No. 8062 of 2014
Reserved on: 02.12.2015
Date of decision: 17.12.2015

Devki Nandan and anotherPetitioner(s)

Versus

Kurukshetra University, Kurukshetra and others ...Respondent(s)

CORAM: HON'BLE MR. JUSTICE G.S.SANDHAWALIA

Present: Mr. Sajjan Singh Malik, Advocate for the petitioner(s)
(in CWP Nos. 8062 & 24507 of 2014).

Mr. Wazir Singh, Advocate for the petitioner(s)
(in CWP Nos.9553 of 2014 & 3078 of 2015).

Mr. Sant Lal Barwala, Advocate for the petitioner(s)
(in CWP Nos.10049, 11224, 11943, 12147, 12260, 12270 &
12292 of 2014).

Mr. V.D.Sharma, Advocate for the petitioner(s)
(in CWP Nos.10942, 12367, 12396 & 14269 of 2014)
and for Mr. Jyoti Parshad Sharma, Advocate,
for the petitioners (in CWP No. 6621 of 2015).

Mr. Manoj Sharma, Advocate for the petitioner(s)
(in CWP Nos.11892, 122291 & 11915 of 2014).

Mr. Vishavdeep Singh Rana, Advocate for the petitioner(s)
(in CWP No.8705 of 2014).

Mr. J.P.Sharma, Advocate for the petitioner(s)
(in CWP No.6621 of 2015).

Mr. Manjeet Singh, Advocate for
Mr. J.S.Manipur, Advocate for the petitioner(s)
(in CWP No. 20404 of 2014).

Mr. Brijinder Kaushik, Advocate for the petitioner(s)
(in CWP No.8992 of 2014).

Mr. Vivek Kaushik, Advocate for the petitioner(s)
(in CWP No.9405 of 2014).

Mr. Dinesh Kumar, Advocate for the petitioner(s)
(in CWP No.10439 and 10796 of 2014).

Mr. A.S.Virk, Advocate for respondent-Kurukshetra
University, Kurukshetra.

Mr. Bhupinder Dalal, Advocate,
for Mr. R.S.Budhran, Advocate for respondent no.2
(in CWP No.8062 of 2014).

Ms. Kamaldeep Kaur, Advocate for
Mr. Amrit Paul, Advocate for respondent no.2
(in CWP No.10049 of 2014).

Mr. Varun Gupta, Advocate for respondent no.2
(in CWP no.7868 of 2014).

Mr. Ashok Kumar Sharma, Advocate for
Mr. S.K.Sharma, Advocate for respondent no. 3.

Mr. Jai Bhagwan, Advocate for respondent no. 3.
(in CWP No.10439 of 2014).

Mr. Rajdeep Singh Cheema, Advocate for respondents
no.2 and 3 (in CWP No.20404 of 2014).

G.S.SANDHAWALIA, J.

This judgment shall dispose of 34 writ petitions i.e. CWP Nos. 8062, 9553, 7868, 8631, 8705, 8992, 9405, 9417, 10049, 10439, 10665, 10796, 11748, 11892, 10942, 12291, 12517, 11224, 11915, 11943, 12147, 12260, 12270, 12292, 12367, 12396, 12673, 12717, 12718, 14269, 20404, 24507 of 2014 and CWP Nos. 3078 and 6621 of 2015.

Challenge in the present bunch of cases, which are 34 in number is to the order wherein, the respondent-university took a decision to cancel the admissions of the ineligible students on account of they having passed their qualifying examinations from the Eastern Institute for Integrated Learning in Management University, Sikkim (in short 'the EIILM University') through distant mode. The reason for the university to take a decision was that neither the mode of studying nor the proof of submitting

any information regarding their mode of passing the qualifying examination had been given in spite of opportunity being given by the university. The petitioners had been studying in different courses i.e. B.Ed., M.A., M.B.A., LL.B., M.Sc. and M.Com. in the respondent-university on the strength of the qualifying examination passed from the EIILM University. However, in order to appreciate the facts in controversy, the details are being taken from CWP No. 8062 of 2014 in which the impugned order was passed on 20.03.2014 (Annexure P-5).

The petitioners, in the said case, have pleaded that they took admission in the EIILM university in the course of Bachelor of Arts. As per the certificates attached, they graduated in the year 2012. They applied for getting admission in the LL.B. Course (professional), a three year course and were given admission and attended classes till the 4th semester with the respondent no. 2-college which is affiliated to the respondent-university. On account of their result not being declared and non-allotment of their registration number, they were asked to get their documents verified from EIILM university. A perusal of the letter dated 25.04.2013 would go on to show that respondent no. 2-college recommended their case for registration on the strength of the verification got done by them from the EIILM university. It is apparent that thereafter, they continued with their studies before the impugned order was passed on 20.03.2014. The case of the petitioners is that the EIILM university was duly recognized by the University Grants Commission (in short 'UGC')-respondent no. 3 as per the information taken by them under the Right to Information Act, 2005 (Annexure P-7) and, therefore, the university was not justified in not allowing them to continue their course and complete the same. They having

spent sufficient time and money and wasted their precious academic years, were entitled for continuation of their studies. In connected cases, specially pertaining to the Bachelor of Education courses, the petitioners have already completed the one year course.

The respondent-university, in its reply, has taken the plea that the petitioners had not disclosed that whether they had passed their qualifying examination by way of regular mode or through distant education mode. Regular courses of the university were recognized by UGC or AICTE whereas, distant education courses were recognized by Distance Education Council (in short 'DEC') and the Indira Gandhi National Open University (in short 'IGNOU'), New Delhi. The EIILM University was an approved university of UGC and its regular courses were recognized as such. However, distant courses were not approved by the DEC. A communication dated 21.08.2012 had been received (Annexure R-1/1) from the IGNOU that the EIILM University, Sikkim was not recognized by DEC. The Joint Committee of UGC, AICTE and DEC had accorded course wise recognition to the EIILM university for only one academic year i.e. 2009-10 to offer the following programmes through distant mode:-

- (i) B.A. (Hospitality and Tourism)
- (i) Bachelor in Computers Application (BCA)
- (ii) Masters in Business Administration (MBA)

Reference was made to the letter dated 09.09.2009 (Annexure R-1) issued by DEC that the EIILM university could only offer programmes in distant mode which were confined to the State of Sikkim only. While scrutinizing the documents sent by respondent no. 2-college for registration of candidates for the session 2012-13, certain discrepancies had been found.

The degrees of qualifying examinations whether they were approved by IGNOU or not was the issue and the university asked the respondent no. 2-college to direct the students who had submitted certificates of qualifying examinations from EIILM university to obtain an equivalency certificate from IGNOU vide letter dated 22.11.2012 (Annexure R-1/2). Since large number of students with certificates of different courses from EIILM university had taken admissions in the session 2012-13 in various colleges and departments of the university and it was not clear whether they had studied as regular students by way of distant education mode or from off campus centers. Accordingly, the students were asked to obtain the equivalency certificates of the qualifications from IGNOU in respect of the examinations passed by them. None of the students submitted the requisite documents that they had been regular students of the campus. Their qualification was not as per norms as approved by the DEC and vide letter dated 05.04.2013 (Annexure R-1/3), the required information was asked upto 20.04.2013, failing which, the admission would stand cancelled. An application dated 17.04.2013 was received from petitioner no. 1 (Annexure R-1/4) asking for more time to furnish the information and the respondent-university also sought more information from neighbouring universities regarding eligibility of students. A perusal of Annexure R-1/5 would go on to show that another application was also received from petitioner no. 1 dated 25.04.2013 that he wanted to get the mark sheet verified from the regional center of EIILM university at New Delhi and prayed for time. A Committee was constituted on 29.08.2013 to consider the admission cases of 368 students, who had taken admission in different courses and it was decided that the admission be not recognized and the results be withheld.

The Committee consisted of the Dean (Academic Affairs), Dean of Colleges, Controller of Examinations and the Assistant Registrar (Academic) and in its meeting held on 05.09.2013 , it was found difficult to regularize the admission. The colleges, institutes and departments were asked to tell the students to get their documents verified from EIILM university whether they had passed through distant mode or not. Accordingly, communication dated 14.10.2013 (Annexure R-1/7) was sent to the respondent no. 2-college asking them that the students should get it verified from the said university whether they had passed the examination through distant mode or regular mode. Thereafter, respondent no. 2, vide letter dated 29.10.2013 (Annexure R-1/8) submitted the information in respect of the students that they had passed the qualifying examination from the said university and the verification had been done, however, the mode of their passing was not given. A request was again made on 20.11.2013 (Annexure R-1/9) regarding the regular mode or distant mode and similar request dated 04.12.2013 and 03.01.2014 was made. Finally, vide decision dated 20.02.2014 (Annexure R-1/12), it was decided by the Committee that the result would only be declared where proof of regular mode was given. The students who had not submitted any proof regarding the mode of passing the qualifying examination even after getting final opportunity, their result would be cancelled. The recommendation of the Committee was approved on 04.03.2014 by the Vice Chancellor. Thereafter, respondent no. 2-college was informed vide the impugned letter. Accordingly, dismissal of the writ petition was prayed.

The UGC was impleaded subsequently vide order dated 21.07.2015. In its short reply filed, it was brought to the notice of this

Court that the distant education courses being run by EIILM university, a private University have been discontinued immediately. The action had been taken by the said respondent on receiving a complaint that the centers were issuing degrees to students without conducting any exams of practicals and misleading them by promoting information on the website and selling degrees by charging money instead of providing classes or conducting exams. Similar plea was taken regarding the recognition of only one academic year as per the letter dated 09.09.2009 for 3 courses above noted for the academic session 2009-10. No further recognition had been accorded to the EIILM University to offer programmes through distant mode and the university was not recognized for any programme in the open and distant learning mode.

Counsel for the petitioners have accordingly argued that the university was recognized as per the UGC and was at Sr. No. 433 in the list of approved universities and, therefore, the petitioners were entitled for the declaration of the result. Information had been taken from the university itself on 07.08.2013 (Annexure P-8) that students had done their Graduation from the said university and whose result had been declared. Reference was made to one Sh. Jai Bhagwan.

Secondly, it was argued that the courses have already been completed and, therefore, the university at this point of time was estopped from holding the result. The question of promissory estoppel was put forth and reliance was placed upon judgments of the Apex Court in *The Kurukshetra University, Kurukshetra*, AIR 1976 SC 376; *Shri Krishan vs. Rajendra Parsad Mathur vs. Karnataka University*, 1986 (Supp) SCC 740; *Ashok Chand Singhvi vs. University of Jodhpur*, 1989 (1) RSJ 361;

Sanatan Gauda vs. Berhampur University, 1990 (2) RSJ 55 and judgments of this Court in *Ranshir Singh Sangwan vs. Kurukshetra University and another, 1998 (1) RSJ 317; Devender Singh vs. Kurukshetra University and another, 2001 (2) RSJ 638* and *Sumir Nagpal and another vs. Punjab School Education Board and others, 2000 (4) RSJ 25* in support of their case.

Counsel for the respondent-university, on the other hand, submitted that the EIILM university, Sikkim was only authorized to conduct three courses for one academic year 2009-10 within its own territorial jurisdiction. The said courses could be conducted through distant education mode only in the Sikkim State and to franchise any study center was not permissible. The DEC and IGNOU were the only authorized agencies to give permission to the universities to issue qualifications awarded by the said mode as per notification dated 01.03.1995 and under Statute 28 of IGNOU. Thereafter, in view of letter dated 16.05.2015 by UOI, UGC and AICTE were responsible for Open and Distant Learning (ODL) Education system. Vide letter dated 28.05.2013, the regulatory responsibility had been entrusted to the UGC. It was accordingly submitted that the EIILM University, Sikkim had never any authority to issue degrees by way of distant learning beyond the jurisdiction of the State and the petitioners had failed to show any proof that they had studied by regular mode. Their qualifying examinations were not recognized and, therefore, the decision of the university to not declare the result was justified.

Regarding the laxity shown by the university in processing the applications and permitting the petitioners to sit in the examinations, reference was made to the various correspondences and opportunity given

to the petitioners to complete their paper work and show the proof of study by way of regular mode. In spite of repeated opportunities and correspondence, the students had taken more time only but not produced their requisite proof of mode of study and resultantly, the result had not been declared and thereafter, cancelled by the Committee. The decision was taken keeping in interest the academic standards and thus, was not liable to be interfered with. The petitioners themselves were responsible for delaying the non-production of the requisite certificates and now could not turn around and submit that since they had studied the course or almost completed it, the university would be bound by the principle of promissory estoppel.

Thus, in view of the above arguments raised, two questions arise for consideration before this Court which are as under:-

- (i) Whether the EIILM University was competent to issue degrees of the qualifying examination by way of distant mode since admittedly, the petitioners have failed to show or place any material on record that they had attended classes and studied by way of regular mode?
- (ii) Whether principle of promissory estoppel would be applicable for the benefit of the petitioners and whether they are entitled for the declaration of the results and continuation of the studies?

Issue No. (i) Whether the EIILM University was competent to issue degrees of the qualifying examination by way of distant mode since admittedly, the petitioners have failed to show or place any material on record that they had attended classes and studied by way of regular mode?

A perusal of the permission granted vide letter dated 09.09.2009 by the IGNOU to the EIILM university would go on to show

that the Joint Committee of the UGC, AICTE and DEC had accorded recognition for a period of one year academic course i.e. 2009-10 for the above said below mentioned three courses.

Eight courses were not recommended vide the same letter and the programmes which had been recognized were also only within the State of Sikkim. The relevant part of the letter reads as under:-

“To,

The Vice Chancellor
**Eastern Institute for Integrated
Learning in Management University (EIILM)**
Jorethang, Dist. Namchi,
Sikkim-737121

Sub: *Recognition of **EIILM University, Jorethang** by the
Distant Education Council-reg.,*

Dear Sir/Madam,

With reference to your application seeking recognition of Distance Education Council for offering programmes through distance education mode. I have been directed to inform you that based on the recommendations of the Joint Committee of UGC-AICTE-DEC, your University/Institution has been accorded recognition for a period of one year academic year w.e.f. academic year 2009-10 for offering following programmes through distance education mode:

1. PROGRAMES RECOMMENDED FOR ONE YEAR

S. No.	Name of the Programme	Duration	Eligibility
1	B.A. (Hospitality & Tourism)	3 years	10+2 from a recognized Board
2	BCA	3 years	10+2 or equivalent/3 year Diploma from State Board of Technical Education and six month Computer Course from reputed Institution OR 3 year Diploma IT/CS from a State Board of Technical Education.

S. No.	Name of the Programme	Duration	Eligibility
3	MBA	3 years	BBA/BBM from a recognized university OR 3-year Graduation with 6 month Management Diploma from an Institute and min 1 year managerial/supervisory experience in reputed Organisation thereafter OR 3 year graduation and 3 year managerial/supervisory experience in a reputed Organisation thereafter.

Clause (i), (vi) and vii) read thus:-

“1. The institution will offer only such programmes through distance mode which are offered by the institution through regular face-to-face mode and approved by the Joint Committee of UGC-AICTE-DEC as mentioned in this letter. The institution will not offer any other programme through distance mode other than those approved by the Joint Committee of UGC-AICTE-DEC.

6. Regarding territorial jurisdiction for offering programmes through distance mode, the latest UGC notifications will prevail over all previous notifications and circulars. As per the UGC notification, State Universities (both private as well as Government funded) can offer programmes only within the State and Deemed Universities from the Headquarters and in no case outside the state. However, Deemed Universities may seek the permission to open off campus centers in other states and offer distance education programmes through the approved off campuses only after approval of UGC and DEC, Central Universities will also adhere to the UGC norms. The territorial jurisdiction for the institutions (both private as well as Government funded) shall be the headquarters, and in no case outside the State. Thus, the territorial jurisdiction of your institution shall be Sikkim State.

7. The Distance Education Council prohibits franchising of Study Center. Thus, your institution will not franchise any Study Center.”

The reading of the above said clauses would go on to show that the said university had no such permission to conduct any other distant education modes outside the State of Sikkim. The petitioners, as noticed, have not placed any material on record to show that they had studied by way of regular mode within the State of Sikkim. It is a matter of fact that they are all residents of the State of Haryana. The university had given them several opportunities by asking them to get the due verification. Reference can be made to the letters dated 02.11.2012, 05.04.2012, 14.10.2013, 29.10.2013, 20.11.2013, 04.12.2013 and 03.01.2014. After the requisite number of opportunities, the cancellation was done taking into account the letter issued by IGNOU dated 21.08.2012 (Annexure R-1), which also noted that there was only recognition for one academic year for the 3 courses within the territorial jurisdiction of the State of Sikkim. The matter, on being brought to the notice of the university authorities was deliberated upon, as noticed by setting up the Committee which sought information from other universities of the area including MDU, Rohtak, Panjab University, Chandigarh, Punjabi University, Patiala, Guru Jambheshwar University of Science and Technology and Chaudhary Devi Lal University, Sirsa. Accordingly, a decision was taken to ask the students to get the requisite information whether they had passed their qualifying examination through distant mode or regular mode. On account of non-supply of requisite information, the final decision was taken on 20.02.2014, which reads as under:-

“iv) The Committee was apprised that there is a requirement of recognition and equivalence of the courses as per Equivalence Book of KUK which is appearing at Page No. 317 Sr. No. 44(i) & (ii), reproduced below:

(i) The Bachelor degree of minimum 3-year duration be recognized as equivalent to corresponding degree of similar nomenclature, subject to approval of Distance Education Council (IGNOU), Maidan Garhi, New Delhi-110 068.

(ii) That Master degree of 2 year duration or more preceded by 3 year Bachelor Degree course be recognised as equivalent to corresponding degree of similar nomenclature, subject to approval of Distance Education Council (IGNOU), Maidan Garhi, New Delhi – 110 068”

In view of the above, the committee recommended as under:

i) The results of those students who have passed their qualifying examinations from EIILM University through Regular mode (who submitted the proof of regular course of EIILM University, Sikkim), if otherwise eligible, may be declared for the session 2012-2013 after allotting the registration numbers.

ii) The admissions of those students who have passed their qualifying examinations from EIILM University, Sikkim through Distance mode or whose mode has not been mentioned, and who have not submitted any proof/information regarding mode of passing the qualifying examination from EIILM University, Sikkim either by the College/Institutes/Departments or by the candidates even after giving the final opportunity to them by the university, may be cancelled.”

The action denying the benefit of declaration of result is to the students who had done the qualifying examination through distant mode or who had not brought any information regarding the mode of their studies in spite of opportunities having been given. Counsel for the respondent-university was well justified by referring to the notification dated 01.03.1995 to point out that approval from DEC and IGNOU that EIILM was authorized which was necessary for the qualifications awarded through distant education by the universities established under the Act of Parliament or State Legislature was the factor which was validly kept in mind by the university authorities. The authorization granted vide notification reads thus:-

“RECOGNITION OF QUALIFICATIONS FOR EMPLOYMENT”

*To be Published in Gazette-I
Part-I Section-I*

*Ministry of Human Resource Development
(Department of Education)*

*New Delhi
Dated the 1st March, 1995*

NOTIFICATION (44)

On the recommendation of the Board of Assessment for Educational Qualifications, the Government of India has decided that all the qualifications awarded through Distance Education by the Universities established by an Act of Parliament or State Legislature, Institutions Deemed to be Universities under Section 3 of the UGC Act, 1956 and Institutions of National Importance declared under an Act of Parliament stand automatically recognized for the purpose of employment to posts and services under the Central Government, provided it has been approved by Distance Education Council, Indira Gandhi National Open University, K 76, Hauz Khas, New Delhi-110016 and wherever necessary by All India Council for Technical Education, I.G. Sports Complex, I.P. Estate, New Delhi-110002.”

The argument of counsel for the petitioners that the said university was a recognized university is without any basis since the dispute in issue pertains to the mode of study whether by regular mode or by distant education. Nothing has been shown that the EIILM university was duly authorized to grant degrees by way of distant education beyond its territorial jurisdiction by the competent authorities. Statute 28 of IGNOU had declared the DEC as an authority of the IGNOU under Section 16 of the IGNOU Act for distant education systems in the educational pattern of the country and for coordination and determination of standards of teaching and evaluation of research. As per sub clause (4) of Statute 28, the powers and functions of the DEC were such way which provided it to take all steps for the promotion of open university/distant education systems and its coordinated development and regarding the determination of its standards and for developing the network of open universities. Nothing could be shown in that manner that the said permission had thus been granted to the EIILM university. Statute 28 which now stands repealed in view of the notification dated 09.05.2013 would go on to show that the interim arrangements and options of DEC have now to be dealt with by UGC and AICTE as per the letter dated 16.05.2013 issued by the Union of India, Ministry of Human Resource Development. As noticed, UGC, in its reply, has also taken the same line as the respondent-university and has rather taken the stand that the EIILM University was misleading students and selling degrees without conducting any exams or practicals. The same was being done outside its jurisdiction without the approval of the UGC/DEC.

A perusal of the notification dated 10.06.2015, issued by the Ministry of Human Resources Development, would also go on to show that

in furtherance of the notification dated 01.03.1995, the issue of open and distant learning mode of education would stand automatically recognized, provided it has been approved by the UGC. The notification reads as under:

*“(EXTRACT FROM THE GAZETTE OF INDIA, PART I SEC. I,
dated 25th July 2015)*

*MINISTRY OF HUMAN RESOURCE DEVELOPMENT
(DEPARTMENT OF HIGHER EDUCATION)*

New Delhi, the 10th June 2015

No. F. 6-1i2013-DI-Whereas by the notification of the Government of India in the Ministry of Human Resource Development (Department of Higher Education) Number 44 dated 1st March, 1995 published in the Gazette of India, Part 1, Section I, it had been decided that all the qualifications awarded through Distance Education by the Universities established by an Act of Parliament or State Legislature, Institutions Deemed to be Universities under Section 3 of the University Grants Commission Act, 1956 and Institutions of National Importance declared under an Act of Parliament stand automatically recognized for the purpose of employment to posts and services under the Central Government, Provided they have been approved by Distance Education Council, Indira Gandhi National Open University, New Delhi and wherever necessary by All India Council for Technical Education, New Delhi.

And whereas the Ministry of Human Resource Development, Department of Higher Education vide its order dated 29th December, 2012 and 25th February, 2014 has entrusted the regulatory work of Open and Distance Learning (ODL) mode of education in the higher education system to the University Grants Commission (UGC).

And whereas, Indira Gandhi National Open University vide its notification dated 1st May, 2013 has dissolved the Distance Education Council of the University.

Now, THEREFORE, the Central Government hereby notifies that all the degrees/diplomas/certificates including technical education degrees/diplomas awarded through Open and Distance Learning mode of education by the University

established by an Act of Parliament or State Legislature, Institutions Deemed to be Universities under Section 3 of the University Grants Commission Act, 1956 and Institutions of National Importance declared under an Act of Parliament stand automatically recognized for the purpose of employment to posts and services under the Central Government provided they have been approved by the University Grants Commission.

SHASHI PRAKASH GOYAL

Joint Secretary (TEL)”

As noticed above, the UGC itself has towed the same line as the University, in its reply and held out that the courses offered by EIILM had not been approved by it and therefore, no benefit can be granted to the petitioners. In such circumstances, decision was rightly taken by the academic experts of the respondent-university, that the issue of degrees were by way of distant education and thus without any basis and authority of law. In such circumstances, the university is well justified in denying any recognition to the said degrees on the basis of which, the petitioners were further wanting to seek higher education. It is settled principle that the opinion of the academic experts, even otherwise, is not to be interfered with by the Courts who are not to substitute the said opinion in the absence of any arbitrary action or legal lacuna.

In the facts and circumstances of the present case, nothing could be shown regarding the faulty decision taken by the respondent-university. A faint argument was raised that students are admitted by a Common Entrance Test in the State of Haryana for the B.Ed. course and similarly situated universities had granted degrees to students who had passed their qualifying examination from EIILM university.

In the opinion of this Court, if any such decision had been

taken by the other universities, it would not be binding upon the respondent-university as such who, in its own wisdom, is free to take a decision on the basis of a valid criteria regarding the validity of the degrees issued by the EIILM university beyond its competence in view of the limited permission given to it. Thus, if other universities in the State of Haryana have acted to the contrary, no fault can as such be found as Article 14 does not apply in the negative sense.

Thus, in view of the above discussion, this Court comes to the conclusion that the degrees which have been issued to the petitioners are by way of distant mode which, the EIILM university had no jurisdiction or competence to issue. The petitioners having failed to bring to the notice of the University any material or evidence that they had studied the said courses within the State of Sikkim cannot now urge that they are entitled for the benefit of the said degrees, on the basis of which, they are wanting to pursue further studies. The decision of the University to deny them the continuation of the courses and declaration of results is, thus, justified.

(ii) Whether principle of promissory estoppel would be applicable for the benefit of the petitioners and whether they are entitled for the declaration of the results and continuation of the studies?

Regarding the other issue which arises for consideration regarding the factum of promissory estoppel, as noticed above, various opportunities were given to the petitioners to rectify any lacuna and to show to the university whether the petitioners had studied by regular mode or not.

As noticed above, a final decision taken on 20.02.2014 in principle after referring the matter to a committee and the university has granted the benefit of recognition to those students who had studied by way

of regular mode in view of the fact that EIILM university was recognized. It was only regarding the competence to issue degrees on the basis of distant mode of education. A policy decision was to be taken and in view of that, a Committee was set up and opportunities were granted to the students to bring to the notice of the university authorities the mode of study. Wherever the students could show that they had studied by way of regular mode, the benefit has been granted. An interim order was also passed by this Court on 24.02.2015 that it is open to the petitioners to produce reliable material before the university to show that they had studied by way of regular mode and the university would decide the said issue.

As noticed above, the petitioners have failed to show any such material on record. The issue of promissory estoppel, in the present case thus does not arise. As noticed, repeated communications were done by the university and the students were given opportunities to get the documents duly verified regarding their regular mode. Once the certificates and degrees in favour of the petitioners were itself void, then the petitioners cannot submit that the admissions taken on the basis of such void degrees are liable to be regularized.

The Apex Court in, ***Central Board of Secondary Education vs. Nikhil Gulati and another, 1998 (2) RSJ 153***, while declining to interfere under Article 136 of the Constitution, however, noticed that ineligible students were being promoted under Court orders which were instances of aberrations which should not be treated as precedents in future. That the Rule of Law was being put to mockery and the Rule of Man was being promoted, was put forth.

In Central Airmen Selection Board vs. Surender Kumar Das,

(2003) 1 SCC 152, the Apex Court held that the principle of promissory estoppel is based on equitable principles and a person who has misled the authorities cannot invoke the said principle. The observations read as under:-

"7. The question, therefore, is whether in a case of this nature the principle of promissory estoppel should be invoked. It is well known that the principle of promissory estoppel is based on equitable principles. A person who has himself misled the authority by making a fake statement, cannot invoke this principle, if his misrepresentation misled the authority into taking a decision which on discovery of the misrepresentation is sought to be cancelled. The High Court has proceeded on the basis that the petitioner had not made any misrepresentation in his application to the effect that he had passed the Intermediate examination. As we have found above, this finding of the High Court is erroneous, contrary to record and therefore must be set aside. In his application, the respondent had claimed that he had passed the Secondary examination as well as the Higher Secondary +2 examination, and it is clear from the counter affidavit filed on behalf of the appellants that his candidature was considered on the basis that he had passed the Higher Secondary +2 examination, as in that case he was entitled to claim relaxation in the matter of age. However, the mark sheet annexed to the application disclosed that the respondent had failed in the subject Chemistry and therefore, his claim in the application, that he had Gupta Shivani 2014.03.10 15:50 passed the Higher Secondary +2 examination, was I attest to the accuracy and integrity of this document High Court Chandigarh factually incorrect and a clear

misrepresentation. In these circumstances we are satisfied that the respondent could not be permitted to invoke the principle of promissory estoppel, and the High Court was clearly erred in law in invoking the said principle in the facts of this case. The judgment and order of the High Court therefore cannot be sustained."

In similar circumstances, the Supreme Court in *Mahatma Gandhi University and another vs. Gis Jose and others, 2009 (1) RSJ 438* set aside the order of the High Court wherein, the student had secured only 53.3% marks in a qualifying examination against the minimum requirement of the cut off marks as 55%. The submission that the student had never misrepresented was rejected. It was held that once an irregular admission had been given in breach of Rules, she should not be allowed to complete the course and to write the examination and the same would be illegal. It was held that misplaced sympathy should not be shown in total breach of rules. The relevant observations read thus:-

*"9. The misplaced sympathies should not have been shown in total breach of the Rules. In our opinion, that is precisely what has happened. Such a course was disapproved by this Court in *Regional Officer, CBSE vs. Ku. Sheena Peethambaran and Others* [(2003) 7 SCC 719]. In paragraph 6 of the Judgment, this Court observed as follows :*

"6. This Court has on several occasions earlier deprecated the practice of permitting the students to pursue their studies and to appear in the examination under the interim orders passed in the petitions. In most of such cases, it is ultimately pleaded that since the

course was over or the result had been Gupta Shivani 2014.03.10 15:50 I attest to the accuracy and integrity of this document High Court Chandigarh declared, the matter deserves to be considered sympathetically. It results in very awkward and difficult situations. Rules stare straight into the face of the plea of sympathy and concessions, against the legal provisions.....".

10. In the present case, the college where the student was admitted, in breach of all possible rules allowed her not only to complete the course but also to write the examination which was totally illegal."

Reliance can also be placed upon the judgment of the Apex Court in *The Registrar, Rajiv Gandhi University of Health Sciences, Bangalore vs. G. Hemlatha and others, 2012 (8) SCC 268*, where it had been held that once the eligibility criteria is prescribed, it must be strictly adhered to and any dilution or tampering with it will work injustice on other candidates. In *Priyadarshini College of Computer Science and another vs. Manish Kumar and others, 2013 (11) SCC 802* the Apex Court held that every candidate applying for a particular course is required to go through the instructions thoroughly including the eligibility criteria and after fulfilling the required conditions, fill in the application form and cannot claim any benefit of his own wrong.

A Division Bench of this Court in *Manmeet Sharma vs. State of Haryana and others, 2008 (4) SLR 498* also held that admission could not be regularized where the eligibility itself was not there. Reliance was also placed upon the Division Bench judgment of the Sikkim High Court in *WP(C) 04 of 2013, Sikkim Manipal University vs. IGNOU and others*

decided on 26.06.2015 wherein, the issues of the distant education were discussed in detail. The said judgment would be rather of no help to the petitioners since the issue in question therein was whether the petitioner university had been permitted to run the distant education programmes outside the territorial limits.

Accordingly, a finding had been recorded that the petitioner-university, in that case, had been consistently granted permission and, therefore, it was entitled for recognition of its programmes through ODL mode. Rather, the said judgment elaborates upon the competence of DEC and IGNOU to supervise distant education studies and the power of the UGC which enjoys a supervening position. As noticed, the UGC has also filed its affidavit which does not support petitioners and rather castigates the EIILM university for conducting courses beyond its territorial jurisdiction.

Coming to the judgments cited by counsel for the petitioners wherein, on account of having studied the course, petitioners seek regularization of their studies and the benefit of declaration of results.

In *Sanatan Gauda's case (supra)*, the issue was regarding the admission to the final law classes when the result of pre-law examination and inter-law examination were not declared. The appellant had secured less than 39.5% marks in M.A. Degree and his admission was being denied as 40% was the requirement. An interim order had been passed by the Apex Court whereby, the petitioner had been permitted to continue his final law course and Apex Court finally held that the requirement of 39.5% marks was only for Graduates of Bachelor of Arts and not to the higher degree examination, taking into consideration the rules and accordingly, keeping in view that the student had studied, the appeal was allowed. Further

directions were also issued that it was the bounden duty of the university to scrutinize the matter thoroughly before permitting the appellant to appear in the examination. It was not a case where the petitioner did not have the requisite eligibility right from day one.

In *Shri Krishna's case (supra)*, reference was made to the Statute in question and it was factually noticed that the student had never written to the university that he had attended the prescribed number of lectures and in spite of shortage, he had been allowed to attend classes and there was ample time and opportunity for the university authorities to find out the defect and they had permitted him to give the examination and then could not deny him the benefit of the result. It was recorded that no fraud was proved in that case. The factum of fraud, in the present case, is apparent on the record, as degrees, have been awarded in the absence of any authority.

In *Ashok Chand Singhvi's case (supra)*, the question before the Apex Court was whether an application had been submitted for the study leave for prosecuting the studies in the B.E. Degree course. It was accordingly noticed that there was no suppression on the part of the appellant and there was a mistake committed by the Vice Chancellor and the Dean of the faculty of Engineering while considering his application. The permission had been granted though the employee had less than 60% marks in the diploma examination passed by him, which was done by observing that the faculty staff should be given a chance to improve their qualifications and it was a special case. But subsequently, the order granting admission was put in abeyance, which was the subject matter of challenge. It was, in such circumstances, on account of no fault of the

petitioner therein, the benefit of continuing with the admission was given.

The judgment in *Rajendra Parsad Mathur's case (supra)* would show that the students were not aware that the Ist year B.Sc. examinations of the Rajasthan and Udaipur universities were recognized as equivalent to the pre-university examinations of the Pre-University Education Board, Bangalore and, therefore, it was held that they should not suffer for the sins of the management of the engineering colleges.

Similarly, the Division Bench in *Ranshir Singh Sangwan's case (supra)*, recorded a finding that the personal contract programme required 75% attendance which was compulsory but there was no intimation given to the students for attending the said programme, which was a *sine qua non* before the said provision could be enforced by the University. Thus, the university was directed to declare the result of the LL.M. course which was done by way of distant education.

In *Devender Singh's case (supra)*, after declaration of the result, the student had sat in the supplementary examination of English. Thereafter, the result was withheld on account of the fact that he was ineligible to appear in the same. A finding was accordingly recorded that no opportunity was even granted to the petitioner and the order revising his marks in the subject of Geography wherein, he had been granted grace marks and on account of which he was allowed to sit in the compartment examination, was held to be without any basis. Resultantly, it was directed to declare the result of the petitioner for the paper he had appeared during the supplementary examination.

Similarly, in *Sumir Nagpal's case (supra)*, the Court was of a view that the admission forms of the middle standard examinations had

been scrutinized by the school in which the students had taken admission and then by the respondent-Board. No notice had been given by the Board to the school, from which the students had passed their examination and, therefore, the Board could not hold out that the school was never recognized or affiliated.

As noticed above, in the present case, the university, in the absence of any authorization from the competent authority, has issued the degrees which was not by way of regular mode. In the absence of any authority from the DEC/UGC and IGNOU, it could not have done so. A perusal of the degrees (Annexure P-1) also, would go on to show that there is no reference to any institute affiliated to the university, from which the petitioners would have studied. The same would have shown that they had done their Bachelor of Arts (General) by way of a regular mode since admittedly, the course is of three years duration and the petitioners had reportedly passed out in 2012. In the absence of the petitioners having attended classes in any institute which is affiliated to the EIILM University or its study center within the State of Sikkim, it is apparent that the petitioners have got degrees by way of distant education while sitting in the State of Haryana, of which they are permanent residents. Thus, they cannot now turn around and say that merely because they have completed their courses or are half way through the same, they have an absolute right of declaration of the result. The details have already been mentioned above that the University, from the initial start itself, had started making efforts to verify the mode of study and has even afforded reasonable opportunities also to the petitioners to show cause and supply necessary information regarding the mode of study. The same was never complied with by the

petitioners and, therefore, they cannot turn around and contend that there was no opportunity as such.

Accordingly, keeping in view the above discussion, question no. (ii) is answered against the petitioner regarding the issue of promissory estoppel.

Accordingly, the writ petitions are dismissed and the decision of the university to cancel the examination and the result of the petitioners is justified and does not warrant any interference.

17.12.2015
shivani/sailesh

(G.S. SANDHAWALIA)
JUDGE