



2025:AHC:150228

HIGH COURT OF JUDICATURE AT ALLAHABAD

WRIT - A No. - 19283 of 2023

Abhinav Tiwari

.....Petitioner(s)

Versus

State Of U.P. And 5 Others

.....Respondent(s)

Counsel for Petitioner(s)	:	Rajesh Kumar, Shree Prakash Giri
Counsel for Respondent(s)	:	Diptiman Singh, Ashok Srivastava, Avneesh Tripathi, C.S.C., Dhananjay Awasthi, M.N. Singh, Rahul Jain

Court No. - 4

A.F.R.

HON'BLE AJIT KUMAR, J.

1. Heard Sri Rajesh Kumar and Sri Shree Prakash Giri, learned counsel for the petitioner, Sri G.K. Singh, learned Senior Advocate assisted by Sri Avneesh Tripathi, learned counsel for the U.P. Public Service Commission, Sri Ashok Srivastava, learned counsel for respondent no. 6, Sri Rahul Jain, learned counsel appearing for University Grants Commission, Sri Diptiman Singh, learned counsel for the University of Allahabad and Sri P.K. Srivastava, learned Additional Chief Standing Counsel.
2. The controversy in the present case centres around the status of the qualification of Post Graduate Diploma in Computer Application (in short 'PGDCA') issued by the autonomous constituent institute of University of Allahabad namely the Ewing Christian College, Allahabad, whether to be treated as equivalent to 'O' level certificate issued by the DOEACC Society. The controversy arose on account of a fact that petitioner applied against the post of Review Officer and Assistant Review Officer in U.P. Secretariat with requisite qualification presenting certificate of Post Graduate Diploma in Computer Application issued by the said institute. The candidature was not being accorded due consideration at the stage of preparation of final select list on the ground that such certificate cannot be treated as equivalent to the 'O' Level certificate issued by the DOEACC Society.
3. After the exchange of pleadings by the respective parties, specially the Uttar Pradesh Public Service Commission (in short 'UPPSC'), this court asked from the University Grants Commission (in short 'UGC') under its order dated 20.05.2025 as to whether the UGC permitted a recognized autonomous institute of a University to grant such PGDCA certificate.
4. On the last date Sri Rahul Jain, learned counsel appearing for UGC had clarified the stand of the UGC on the issue by referring to clause 10 of the UGC Guidelines 2012-17 which permitted such autonomous college/institute to start Diploma courses both Under Graduate and Post Graduate level or even certificate courses without prior approval of the University concerned.
5. Thus, according to Sri Jain, the ECC which is an autonomous constituent institute of University of Allahabad was fully justified in running PGDCA

course and issuing certificate in respect thereof. The Court was then to consider as to whether such certificate can be taken to be equivalent to 'O' level certificate or not and referring to the advertisement and clause given therein providing for 'O' level certificate or equivalent certificate issued by a recognized University, the Court was prima facie satisfied that ECC being autonomous constituent institute of University of Allahabad, the PGDCA certificate was liable to be taken as equivalent to 'O' level certificate issued by the DOEACC Society.

6. In the circumstances, while the Court was proceeding to pass final order, Sri Avneesh Tripathi, learned counsel appearing for UPPSC had prayed for adjournment on the ground that Sri G.K. Singh, learned Senior Advocate appearing in this case. Matter was accordingly adjourned for today by passing a detailed order on 22.08.2025 which is reproduced hereunder:

"Heard Shri Shree Prakssh Giri, learned counsel for petitioner, Shri Rahul Jain, learned counsel for University Grants Commission, Shri Avneesh Tripathi, learned counsel for Public Service Commission, Shri Ashok Srivastava, learned counsel for respondent No. 6 and Shri Diptiman Singh, learned counsel for respondent No. 7.

The dispute is with regard to the status of certificate of post-graduate diploma in computer application issued by autonomous institute, namely, Ewing Christian College, Centre for Computer Science and whether this certificate is a qualification recognized equivalent to one required under the advertisement issued by Public Service Commission on 27.09.2016 for the post of Review Officer (Accounts)/ Assistant Review Officer in the U.P. Secretariat which required 'O' Level certificate in computer application from an institute recognized by the Government.

From the perusal of the advertisement it clearly transpires that as far as the post of Assistant Review Officer in U.P. Secretariat is concerned a candidate is required to possess bachelor's degree from a University established by law in India or qualification recognized by government equivalent thereto and having 'O' Level certificate issued by DOEACC Society or qualification equivalent thereto and must possess minimum speed of 25 words per minute in Hindi typewriting. A note appended thereto provides for preference to be given to candidate knowing English Typewriting also.

The dispute was only with regard to the petitioner's qualification having post-graduate diploma in computer application whether to be an equivalent qualification to 'O' Level certificate or not since petitioner possessed the post-graduate diploma certificate in computer application from an autonomous institute namely the Computer Centre of Ewing Christian College, Allahabad.

The counsel appearing for University Grants Commission was directed to obtain instructions as to whether this above institution was listed for the purposes of grant of certificate. Shri Rahul Jain, learned Advocate appearing for University Grants Commission submits that as per his instructions there is no such list available with the respondents but the University Grants Commission has recognized this autonomous institute which is Ewing Christian College and as per clause 10 of the 2012-17 guidelines meant for autonomous colleges such autonomous colleges are entitled to start diploma courses both under-graduate and post-graduate or

even certificate courses without the prior approval of the University. The diploma certificate was, however required to be issued under seal of the college.

I find that the post-graduate diploma certificate obtained by the petitioner under the seal of the college namely Ewing Christian College Centre for Computer Science, an autonomous college of Allahabad University running Centre for Computer Science.

Shri Avneesh Tripathi, learned Advocate appearing for Public Service Commission seeks 48 hours time to come back with fresh instructions from the Commission about the certificate appended as annexure No. 2 to the petition.

List this matter on 27.08.2025."

7. Having heard learned counsel for the respective parties and having perused the records, I proceed to examine the matter as to whether PGDCA certificate issued by the autonomous constituent institute of University of Allahabad namely ECC, can be taken at par with/ equivalent to 'O' level certificate issued by the DOEACC Society which a candidate is required to possess for the purposes of selection and appointment on the post in question under the advertisement.

8. While Mr. Giri and Mr. Shukla appearing for the petitioner have reiterated their previous arguments, today in support of their arguments have taken the Court towards the stand of the State Government vide circular letter dated 20.10.2023 in which for the post of ARO (Accounts) certain certificates issued by certain Universities have taken to be equivalent to 'O' level certificate. For ready reference, clause 4 of the circular letter is reproduced hereunder:

4 सहायक समीक्षा अधिकारी(लेखा) के ऐसे अभ्यर्थियों की संख्या जिनके पास 'ओ' लेवल कम्प्यूटर के स्थान पर अन्य समक्ष प्रमाण पत्र है। 2016 एवं 2017 का अलग-अलग विवरण।	चयन वर्ष 2016 में 'ओ' लेवल के समक्ष अर्हता प्रमाण-पत्र प्राप्त करने वाले उत्तर प्रदेश शासन में सहायक समीक्षा अधिकारी (लेखा) के पद पर कार्यभार ग्रहण करने वाले अभ्यर्थियों की संख्या -10 है।
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- 1- विलियम कैरी यूनिवर्सिटी, शिलांग, मेघालय।
- 2- हिमालयन यूनिवर्सिटी ईटानगर अरुणाचल प्रदेश।
- 3- अरुणाचल यूनिवर्सिटी ऑफ स्टडीज, अरुणाचल प्रदेश।
- 4- यूनिवर्सिटी आफ इलाहाबाद।
- 5-माखनलाल चतुर्वेदी, राष्ट्रीय पत्रकारिता एवं संचार विश्वविद्यालय भोपाल।
- 6- सेंटर आफ कम्प्यूटर इजुकेशन इंस्टीट्यूट ऑफ प्रोफेशनल स्टडीज यूनिवर्सिटी ऑफ इलाहाबाद।

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डा० सी०वी० रमन यूनिवर्सिटी, बिलासपुर, (सी०जी०)

8- क्लोरेक्स टीचर्स यूनिवर्सिटी, अहमदाबाद गुजरात।

9- महात्मा ज्योतिबा फुले रूहेलखण्ड विश्वविद्यालय।

10- महर्षि महेश योगी विधिक विश्वविद्यालय, मध्य प्रदेश।

9. Learned Advocates have also drawn the attention of the Court towards the report of a three member Committee constituted by UPPSC to assess and appreciate the claim set up by the candidates for the PGDCA certificate to be taken at par with the 'O' level certificate and it came out with an opinion that the PGDCA accorded by various Universities and Organizations is liable to be taken as equivalent to 'O' level certificate issued by the National Institute of Electronics & Information Technology (in short 'NIELIT'). It is worth mentioning here that NIELIT is no new body but a new name of DOEACC Society. Para 7 of the recommendations made by the Committee constituted by the UPPSC is reproduced hereunder:

"Post Graduate Diploma in Computer Application (PGDCA)/ Diploma in Computer Application (DCA) accorded by various Universities and organizations/ any other diploma in Computer Application/ Computer Science/ IT will be considered as equivalent to 'O' level of NIELIT provided

(i) The course is minimum one year and maximum two years duration.

(ii) The course structure must contain practical / internship/ training/ project work.

(iii) The course certificates must have been issued by a recognized University established by UGC/ state government/ central government or any organization of state/ central government.

(iv) If any certificate has been issued by any affiliated/ associate/ constituent college/ center of the University without the endorsement of the competent authority of the University, it will be rejected."

10. Sri Giri has also argued and vehemently so that the right to determine a qualification as an equivalent qualification which is prescribed under the Rules, lies solely within the domain of State Government, the chief employer and not the recommending body namely the UPPSC.

11. Under the circumstances, therefore, the UPPSC is not justified to question the decision taken by the State Government, nor in any manner can constitute a committee to examine a particular qualification to be considered as equivalent to the one prescribed under the Rules or not. It is argued that in all such circumstances when there is a doubt created in the matter of qualification to be treated as equivalent to the one prescribed under the Rules, it is required for the UPPSC to refer the matter to the State Government to either come with an opinion straightway by taking it from the department concerned or to constitute a committee to assess and appreciate

the controversy so as to give a formal opinion in the matter.

12. Meeting the submissions so advanced by learned Advocate appearing for the petitioner, Sri G.K. Singh, learned Senior Advocate has relied upon the decision of coordinate bench of this Court in the matter of **Vikas & 80 Others v. State of U.P. & 2 Others, and other connected matters, 2021 (9) ADJ 59** and has placed summation part of the judgment as contained in para 54 thereof. Para 54 of the judgment is reproduced hereunder:

"In view of the aforesaid discussion the Court records the following conclusions:-

A. The prescription of a qualification is a matter of recruitment policy which stands reserved for the employer to formulate bearing in mind the nature of functions and duties attached to a particular post. Courts must recognise the secondary function that they are expected to perform in this regard restricting the scrutiny of review to whether the qualifications as prescribed can be said to be arbitrary or irrational.

B. It is not the function of the Court to adjudge or evaluate the suitability or desirability of a particular qualification that may be prescribed. Here too, the Courts must exercise due restraint and desist from treading down this path since these issues must be left to the fair judgment and assessment of the employer and the experts in the field.

C. The issue of an equivalent qualification being accepted would only arise where the rules do envisage and provide that such a qualification would also be liable to be considered. In the absence of an express stipulation in that respect being provisioned for in the relevant rules, no occasion would arise for the Court to examine that question.

D. The Court reiterates the position as enunciated in Asheesh Kumar that a contention with respect to equivalence can only arise where the rules in question do permit an equivalent degree as conferring eligibility upon a candidate to participate in the selection process.

E. Zahoor Ahmad Rather is a binding authority for the proposition that equivalence of qualifications is not a matter which should be determined in exercise of the power of judicial review. The Supreme Court went on to observe that the question of whether a particular qualification is to be regarded as equivalent is a matter for the recruiting authority to determine. The Court also bears in mind the decision in Sandeep Shriram Warade where the Supreme Court in more categorical terms held that questions of equivalence would fall outside the domain of judicial review.

F. Deepak Singh lays emphasis on the fact that the qualifications which are specifically provided for alone would determine the eligibility of a particular candidate. It further held that where the rules do not envisage or permit candidates holding a better qualification specifically, they must be viewed as being excluded from consideration. Deepak Singh thus clarifies the legal position that merely because a candidate perceives that a qualification held by him is superior or better, that alone would not entitle him to be considered as eligible unless the rules of selection so ordain or provide for a higher qualification being accepted.

G. It would neither be permissible to expand upon the prescribed qualification nor should the Court substitute its own view to hold a higher qualification to be equivalent to that which has been prescribed.

H. Absent a stipulation in the Rules which govern the selection in question, it would be impermissible to recognise the petitioners as being eligible to apply or participate in the selection process. Those Rules do not envisage equivalence being accorded to what may be perceived to be a "higher" or "better" qualification. Absent such a provision being statutorily engrafted, the Court finds no justification to expand the field of eligibility in the exercise of its powers of judicial review.

I. The letter of 20 July 2021 merely elicits the views of the respondents for the consideration of the Commission. In fact, as is evident from a careful reading of the concluding part of that communication, the State had forwarded its views solely for the purposes of inviting the "advise" and "suggestions" of the Commission. That communication neither represents nor is it capable of being interpreted as constituting a definitive opinion of the State and its desire for the same being accepted and acted upon by the Commission.

J. The communication of 9 June 2020 must be understood and appreciated in the backdrop of the relevant Rules which envisaged preference being accorded to qualifications higher or better than the O level certificate. The aforesaid position is evident from a conjoint reading of Rules 10 and 11 thereof. The Rules which apply to the present recruitment carry no provision like Rule 11. In view of the aforesaid, the Court is of the considered opinion that the aforesaid communication also does not advance the case of the petitioners here.

K. The obligation to lay down an unambiguous selection criterion which flows from and forms the essence of the rights conferred by Articles 14 and 16 of the Constitution, would necessarily include a duty being recognised as bearing upon the selecting and recruiting body to predetermine and formulate a well-defined criterion of eligibility. This facet which forms an integral part of any selection process cannot be postponed for determination after the selection process has commenced.

L. The statement of the law in Prashant Kumar Jaiswal and Mukul Kumar Tyagi clearly warrants the recordal of the conclusion that the issue of equivalence must necessarily be predetermined and cannot be left to the vagaries of the recruiting or selecting body taking a decision in that regard either after the commencement of the selection or not taking a view on that question at all."

13. After referring to the *ratio* laid down in the judgment vide para 54, Sri Tripathi has referred to the final directives issued under para 56 and 57 and submitted that the State Government was in fact directed to take a stand in the matter so as to remove the confusion and doubt.

14. The sheet anchor argument advanced by learned counsel appearing for the UPPSC is that once the petitions filed by the candidates were dismissed by this Court, the legal position stood intact and since the subsequent selections pursuant to the advertisement issued in 2017 have been finalized in terms of the legal position that stood then, it would not be appropriate and

equitable at this stage to re-open the merit list of 2016 selection which has been finalized though subsequent to 2017 selection. Thus, it is argued that the clarification made by the State Government should be taken as prospective one for future selection and not the selection in question.

15. Having heard learned counsel for the respective parties and having perused the records, two questions arise for consideration of this Court:

(a) Whether UPPSC is justified in taking stand contrary to what has already been taken by the State Government in clarifying the position of equivalence *qua* PGDCA viz-a-viz 'O' level certificate issued by the DOEACC?

(b) Whether in the face of the fact that selections have taken place taking the legal position as then stood *qua* 2017 advertisement as obviously the State Government's letter is subsequent one, should it be equitable and in the interest of justice to direct the Commission to re-draw the merit list taking into consideration the PGDCA certificate issued by the concerned Universities recognized under the Government letter?

16. Coming to the first question, I would like here to refer para 54(A) of the judgment cited by Sri Tripathi. Paragraph no. 54(A) in a quite unequivocal terms and very categorically holds that the recruitment policy falls within the sole domain of employer to formulate bearing in mind the nature of functions and duties attached to a particular post and in the absence of any such decision by the State Government, vide paragraph no.54(B), the Court clarifies that it cannot adopt the role of State Government and therefore, should desist from applying any such qualification as equivalent one and therefore, the issue should be left to the assessment of employer alone. The Court further vide para 54(C) provided that the Rules become dominant factor in determining the equivalence and reading down this paragraph with para 54(A), it is for the State Government now to provide for the same.

17. It is in these very lines of the legal principles laid down under the authority of this Court and Supreme Court that the Court in the case of Ashish Kumar this Court reiterated that in respect of equivalence *qua* a certificate can only arise where the Rules in question do permit equivalent degree/ certificate as conferring eligibility upon a candidate to participate in selection process.

18. The *ratio* of the judgment, therefore, is very obvious that it is for the State Government to formulate a recruitment policy and lay down the Rules *qua* academic qualification, equivalent qualification and other eligibility criteria.

19. Coming to the Rules in question, I find that for the post of ARO the rules do provide so also advertisement that one must possess 'O' level certified issued by DOEACC Society or equivalent qualification or certificate.

20. The question of equivalence, therefore, which was germane to the issue, fell absolutely within the authority of the State Government. The State Government in the present case clarified its stand that the 'O' level certificate issued by certain Universities that included University of Allahabad to be equivalent to PGDCA certificate required under the relevant recruitment rules. It is not doubted by either of the parties that the degree and certificate

is issued by the University of Allahabad to which ECC, Prayagraj is a constituent institute, and therefore, such cases where the Post Graduate Diploma courses are being run by such a institute under the aegis of University of Allahabad as its constituent institute/ college, then such certificate issued would value equivalent to the one like 'O' level certificate prescribed under the Rules for the purpose of recruitment.

21. This being the legal position emerging out of the circular letter issued by the State Government dated 20.10.2022 which is being reproduced hereinabove, in my considered view it does not lie within the authority of the UPPSC to take a contrary stand. Interestingly, neither the UPPSC has doubted the stand if the State Government, nor it has questioned its own committee's stand vide its opinion dated 10.12.2019 that the PGDCA will be considered as equivalent to 'O' level certificate issued by NIELIT erstwhile DOEACC, nor learned Senior counsel for the UPPSC could demonstrate before the Court any contrary stand taken by the State Government, nor could place any judgment which may provide that even if the State Government has provided for correction or clarification in respect of requisite qualification, that should not be adopted in the process of selection which is still underway.

22. In the circumstances, therefore, the first question stands answered in favour of the petitioner.

23. In so far as the second question is concerned, that relates to the argument that once the selection process has already reached to final stage and pursuant to subsequent advertisement issued in 2017, the selection has already been carried out in terms of the legal position *qua* qualification as it stood then prior to 20.10.2023 and hence in respect of the selection which is being finalized *qua* earlier advertisement, the *status quo* as to qualification as was then existing, should not be changed.

24. Thus, argument advanced by learned Senior Advocate in support of above question is to be rejected only. I find that the Government has clarified its position regarding equivalence vide letter dated 20.10.2025 in terms of 2016 selection which is quite apparent vide clause 4 which is reproduced hereinabove.

25. It is true that rules of the game cannot be changed once the advertisement has given selection process effect to and there may be circumstances where many candidates may be possessing such qualification may not have applied but in my considered view as I have already held in the judgment that a clarificatory stand by the State Government can always be taken during continuance of selection process. Since it lies in the domain of the State Government to clarify its position regarding equivalence of qualification, more especially when the rules and the advertisement did provide for equivalent qualification to be applicable, I do not see anything wrong or otherwise illegal if this clarification issued by the State Government is made applicable to the selection underway/ stage of preparation of final select list.

26. In view of the above, the second question also stands answered in favour of the petitioner.

27. In view of the above, writ petition succeeds and is accordingly **allowed**.

28. Writ of mandamus is issued to the U.P. State Public Service Commission to treat petitioner's candidature on merit considering his PGDCA certificate as equivalent to the 'O' level certificate required under the advertisement and under the relevant service rules for the post of ARO (Accounts) in respect of the selection pursuant to the advertisement dated 19.07.2016.

August 27, 2025
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(Ajit Kumar,J.)