

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 28<sup>TH</sup> DAY OF NOVEMBER 2025



PRESENT

THE HON'BLE MR. VIBHU BAKHRU, CHIEF JUSTICE

AND

THE HON'BLE MR. JUSTICE C M JOSHI

WRIT APPEAL NO. 1201 OF 2024 (S-PRO)

**BETWEEN:**

1. M/S HINDUSTAN AERONAUTICS LIMITED  
OVERHAUL DIVISION  
BANGALORE COMPLEX  
P.B. NO. 1786,  
BANGALORE - 560 017  
REPRESENTED BY IT'S  
GENERAL MANAGER.

...APPELLANT

(BY SRI PRADEEP S. SAWKAR, ADVOCATE)

**AND:**

1. SMT. INDIRA SHANKAR  
AGED ABOUT 66 YEARS  
W/O SRI LATE E SHANKAR  
FLAT NO. DS8, SVS  
ANANDA NILAYAM  
YERRAIANA PALYA  
RAMAMURTHYNAGAR  
BANGALORE - 560 016.

...RESPONDENT

(BY SRI CYRIL PRASAD PAIS, ADVOCATE FOR C/R-1)

THIS WRIT APPEAL IS FILED UNDER SECTION 4 OF THE  
KARNATAKA HIGH COURT ACT PRAYING TO ISSUE A WRIT  
OF CERTIORARI OR ANY OTHER APPROPRIATE WRIT,



ORDER OR DIRECTION QUASHING THE IMPUGNED ORDER NO.O/HR/Misc/664/1795-B/2014 DATED 04.06.2014 ISSUED BY THE RESPONDENT APPENDED TO THE PETITION AS ANNEXURE F.

THIS WRIT APPEAL HAVING BEEN HEARD AND RESERVED FOR JUDGMENT, COMING ON FOR PRONOUNCEMENT THIS DAY, JUDGMENT WAS PRONOUNCED AS UNDER:

CORAM: HON'BLE MR. VIBHU BAKHRU, CHIEF JUSTICE  
and  
HON'BLE MR. JUSTICE C M JOSHI

**CAV JUDGMENT**

(PER: HON'BLE MR. VIBHU BAKHRU, CHIEF JUSTICE)

1. The appellant, Hindustan Aeronautics Limited [hereafter '**HAL**'] – a public sector undertaking, under the aegis of the Department of Defence Production, Ministry of Defence, Government of India – has filed the present appeal impugning an order dated 01.04.2024 [**impugned order**], passed by the learned Single Judge of this Court in Writ Petition No.30867/2014 (S-PRO) captioned 'Smt. Indira Shankar v. M/s. Hindustan Aeronautics Limited'. The said writ petition was filed by the respondent impugning an order dated 04.06.2014 cancelling the respondent's promotion order dated 01.07.2013, whereby the respondent was

promoted to the post of Grade - III. Consequently, the respondent was reverted to the post of HR Officer (Grade-II). The said reversion order was premised on the basis that the respondent did not hold the necessary qualification for grant of promotion from Grade-II to Grade-III.

2. The learned Single Judge allowed the writ petition. The learned Single Judge held that the reversion order dated 04.06.2014 was based on a circular dated 20.09.2012 [**the 2012 Circular**], de-recognizing the qualifications acquired from Bharatiya Vidya Bhavan, Rajendra Prasad Institute of Communication and Management, Mumbai, issued by the General Manager of HAL. The learned Single Judge found that the General Manager had no authority to de-recognize any qualification and the aforementioned Circular was without any statutory basis. Additionally, the Court held that institutions such as Rajendra Prasad Institute of Communication Studies operated under the ambit of Indian law and the diplomas conferred by such institutions affiliated to recognized entities, such as Bharatiya Vidya Bhavan, are presumed to adhere to the prevailing standards of educational quality and integrity, absent any evidence to the contrary. Aggrieved by the said decision, HAL has preferred the present appeal.

**Prefatory facts:**

3. HAL is a public sector undertaking, *inter alia*, engaged in manufacturing, supply and over-hauling of Fighter and Transport Aircrafts and Helicopters. It also provides a range of ancillary services. The respondent took up employment with HAL in the year 1984. During her employment with HAL, she acquired the qualification of the Bachelor of Arts from Mysore University in the year 1986.

4. The respondent obtained a Post Graduate Diploma in Personnel Management and Industrial Relations from Bharatiya Vidya Bhavan, Rajendra Prasad Institute of Communication and Management, Mumbai [hereafter '**the Institute**'] during April 2004. The said qualification was entered in the respondent's personal records on 23.08.2004.

5. Thereafter, in the year 2005, the respondent was promoted to Grade I Officer. Subsequently, the respondent was further promoted to the post of Joint Executive Assistant (Grade II) with effect from 01.07.2009. The said post was subsequently re-categorized/re-classified as 'HR Officer'.

6. HAL issued a Circular dated 11.08.2006 [the **2006 Circular**], which prescribed eligibility criteria for promotions in Non-Technical Disciplines to persons possessing professional qualifications. In terms of the 2006 Circular, a candidate possessing PG Degree/ Diploma in the concerned discipline involving a course of one-year duration, from a recognized University/Institution was eligible for promotion. The relevant extract of the 2006 Circular is set out below:

"iii) Workmen in Scales-8, 9 & 10 possessing the Qualification of University Degree + PG Degree/Diploma in the concerned Discipline (of atleast one year duration acquired from a recognized University/Institution before 23.6.06) (as against the date of 30.11.03 indicated in Corporate Office Circular No.HAL/P&A/DM(N)/27(1)/97/623 dated 18th Nov. 2004), will be eligible for consideration for promotion against the vacancies earmarked for professionally Qualified Workmen, on completion of one year service in Scale-8, in the concerned Non-Technical Discipline. Further, Workmen in Scales-8, 9 & 10 possessing the qualification of University Degree/Diploma in Engg. + Graduate Diploma in Materials Management (GDMM should have been acquired before 23.6.06) would be eligible for consideration for promotion in the IMM Discipline (Purchase & Stores Depts), against vacancies earmarked for Professionally Qualified workmen, on completion of one year Service in Scale-8."

7. The Vigilance Department of HAL undertook a verification on the recognition of the status of the Institute, Bharatiya Vidya Bhavan, Rajendra Prasad Institute of Communication and

Management, Mumbai and it was ascertained that the Institute was not affiliated to any recognized University. It was also not accorded any recognition by the University Grants Commission [**UGC**] or All India Council for Technical Education [**AICTE**]. The Director and Regional Officer, AICTE, Northern Regional Office confirmed that the Institute was not approved by AICTE. Further, the Regional Officer, AICTE, Western Regional Office, also confirmed that the Institute was never approved by AICTE.

8. The HAL states that after receipt of report of the Vigilance Department, the Corporate Office of HAL issued the 2012 Circular stating that the qualification acquired by any candidate from the Institute would not be considered as a professional qualification and will not be recognized for the purpose of recruitment and promotions in HAL.

9. HAL also states that although the 2012 Circular was issued to all Departments, including HR Department of HAL, the respondent's name featured in the promotion list, notwithstanding that she did not satisfy the eligibility conditions. It is also contented on behalf of HAL that it is possible that the respondent deliberately included her name in the list of eligible candidates/officers.

10. On 11.07.2013, the respondent was promoted to the post of Deputy Manager (HR), Grade III in Human Resource Department of the Overhaul Division of HAL with effect from 01.07.2013. The said promotion was granted on the premise that the respondent had acquired a Post Graduate Diploma in the concerned discipline from a recognized University/Institution prior to 23.06.2006. HAL states that it subsequently discovered that the said premise was erroneous as the respondent had not acquired Post Graduate qualification from a recognized University/Institution. Accordingly, the reversion order dated 04.06.2014 was passed, cancelling the respondent's promotion order dated 11.07.2013 and reverting her to the post of Grade-II with effect from 01.07.2013.

11. Being aggrieved by the same, the respondent preferred the writ petition asserting that the Institute was recognized by the Government of India [GOI] and consequently the 2012 Circular was not given effect to. She claimed that she was promoted to the post of Deputy Manager (HR), Grade III in the Human Resources Department of Overhaul Division of HAL, as she satisfied the eligibility conditions.



**3. Application of Act to institutions for higher studies other than Universities.**

—The Central Government may, on the advice of the Commission, declare, by notification in the Official Gazette, that any institution for higher education, other than a University, shall be deemed to be a University for the purposes of this Act, and on such a declaration being made, all the provisions of this Act shall apply to such institution as if it were a University within the meaning of clause (f) of Section 2.

14. The Institute is neither a University within the meaning of Section 2(f) of the UGC Act nor deemed University under Section 3 of the UGC Act. It is also relevant to refer to clauses (g), (h) and (i) of Section 2 of the All India Council of Technical Education Act, 1987 [**AICTE Act**]. The said clauses are set out below:

2. Definitions.- \*\*\*                      \*\*\*                      \*\*\*                      \*\*\*

"(g) "technical education" means programmes of education, research and training in engineering technology, architecture, town planning, management, pharmacy and applied arts and crafts and such other programme or areas as the Central Government may, in consultation with the Council, by notification in the Official Gazette, declare;

h) "technical institution" means an institution, not being a University which offers courses or programmes of technical education, and shall include such other institutions as the Central Government may, in consultation with the Council, by notification in the Official Gazette, declare as technical institutions;

(i) "University" means a University defined under clause (f) of section 2 of the University Grants Commission Act, 1956 (3 of 1956) and includes an

institution deemed to be a University under section 3 of that Act."

15. Although the Institute falls within the broad definition of "technical institution" as defined under Section 2(h) of the AICTE Act, however, there is no dispute that AICTE has not accorded any recognition to the Institute. Clearly, the Institute is not recognized by AICTE, which is the statutory body charged with the function of maintaining the standards of technical education.

16. The Government of India, Ministry of Education and Social Welfare (Department of Education) issued an Office Memorandum dated 15.01.1979 recognizing the Diplomas in Journalism; Public Relations; and Marketing and Sales Management awarded by Bharatiya Vidya Bhavan (the Institute) for the purposes of recruitment to superior posts and services in the appropriate field under the Central Government. The same was further confirmed by the Government of India by an Office Memorandum dated 29.04.1980. The Government of Karnataka had also recognized the said diplomas by orders dated 12.02.1979 and 11.02.1982.

17. It is the respondent's case that in view of the Office Memorandum issued by the Government of India and the Government of Karnataka, the diploma granted by the Institute is

considered as recognized for the purposes of HAL's Circular dated 11.08.2006. The question whether the Government could accord any recognition to technical courses and the role of AICTE in technical education, fell for consideration of Supreme Court in ***Institution of Mechanical Engineers (India) v. State of Punjab : (2019) 16 SCC 95***. In the aforesaid context, the Supreme court Court observed as under:

"38. The role of AICTE in technical and management education was emphasised in National Policy of Education, published by the Government of India in 1986, which was noted by this Court in Orissa Lift Irrigation Corpn. case [Orissa Lift Irrigation Corpn. Ltd. v. Rabi Sankar Patro, (2018) 1 SCC 468]. The Regulations concerned issued by AICTE in the year 1994 were also considered under which no course or programme could be introduced by any technical institution except with the approval of AICTE. Paras 23.2 and 23.3 of the decision had extracted relevant portions of the National Policy of Education and the Regulations concerned of AICTE as under: (SCC pp. 497-98)

"23.2. In 1986, National Policy on Education was published by the Government of India, Part VI of which dealt with Technical and Management Education, Paras 6.6, 6.8 and 6.19 of the Policy were-

'6.6. In view of the present rigid entry requirements to formal courses restricting the access of a large segment of people to technical and managerial education, programmes through a distance learning process, including use of the mass media will be offered. Technical and management education programmes, including education in polytechnics, will also be on a flexible modular pattern based on credits, with provision for multi-point entry. A strong guidance and counselling service will be provided.

\*\*\*

6.8. Appropriate formal and non-formal programmes of technical education will be devised for the benefit of women, the economically and socially weaker sections, and the physically handicapped.

\*\*\*

6.19. The All India Council for Technical Education, which has been given statutory status, will be responsible for planning, formulation and maintenance of norms and standards, accreditation, funding of priority areas, monitoring and evaluation, maintaining parity of certification and awards and ensuring the coordinated and integrated development of technical and management education. Mandatory periodic evaluation will be carried out by a duly constituted Accreditation Board. The Council will be strengthened and it will function in a decentralised manner with greater involvement of State Governments and technical institutions of good quality.'

23.3. The AICTE (Grant of Approval for Starting New Technical Institutions, Introduction of Courses or Programmes and Approval of Intake Capacity of Seats for Courses or Programmes) Regulations were issued in 1994 ("the 1994 AICTE Regulations", for short). Clause 4 of these Regulations was to the following effect:

'4.0. Requirement of grant of approval

4.1. After the commencement of these Regulations,

(a) No new Technical Institution or University Technical Department shall be started; or

(b) No course or programme shall be introduced by any Technical Institution, University including a Deemed University or University Department or College or;

(c) No Technical Institution, University or Deemed University or University Department or College shall

continue to admit students for Degree or Diploma courses or programmes;

(d) No approved intake capacity of seats shall be increased or varied;

Except with the approval of the Council."

39. It was laid down in the said decision that AICTE is the sole repository of power to lay down parameters or qualitative norms for "technical education" and that it was within the exclusive domain of AICTE to consider whether subjects leading to degrees in Engineering could be taught in distance education mode or not. The issue whether courses leading to degrees in engineering could be taught through distance education learning was dealt with in extenso. It was laid down that by very nature, practical training would be an essential and integral part of engineering courses and that until and unless a clear policy was laid down by AICTE, no courses in engineering could be taught or imparted through distance education mode. It was held that in the absence of any guidelines having been issued by AICTE expressly permitting courses leading to degrees in Engineering through distance education, no such courses could be introduced. The consistent, stand taken by AICTE was also noted in the said judgment".

18. The Supreme Court has, in unambiguous terms, held that after enactment of AICTE Act, the field concerning technical education would fall within the domain of AICTE and no other authority, including the Ministry of Human Resource Development would have any power to recognize any qualification equivalent to a degree. We consider it apposite to extract the following paragraphs from the said decision:

"42. In terms of Section 22(1) of the UGC Act, right to confer degrees can be exercised only by a university established or incorporated by or under a Central Act, a Provincial Act or a State Act or by an institution deemed to be a university under Section 3 of the UGC Act or by an institution specially empowered by an Act of Parliament to confer or grant degrees. The idea appearing in sub-section (1) of the said Section 22 is made emphatically clear by sub-section (2) which stipulates:

"Save as provided in sub-section (1), no person or authority shall confer, or grant, or hold himself or itself out as entitled to confer or grant, any degree".

The intent of Parliament is clear that it is only that body which is referred to in sub-section (1) of Section 22, that is competent to confer or grant degrees. The appellant does not fall under any of these categories enumerated in Section 22(1) of the UGC Act.

43. In Orissa Lift Irrigation Corpn. Ltd. v. Rabi Sankar Patro, (2018) 1 SCC 468, it also arose for consideration whether a deemed to be university, without taking appropriate prior permission could start courses leading to degrees in Engineering through open distance learning. That aspect of the matter does not arise in the present case and it is also not the case of the appellant, that it is entitled to award degrees in Engineering. Its submission however is, having been conferred the status of being equivalent to degrees in Engineering in respect of certificates awarded by it, the appellant is entitled to continue having such benefit or advantage. There is nothing on record either in the form of any statutory provision or any statutory regulations or any scheme under which such equivalence could be granted by MHRD. It appears that claims made by various institutions like the appellant were considered on case-to-case basis and equivalence was granted by MHRD. The first of those communications was of the year 1976 when the AICTE Act was not in force. If the mandate of Section 22 disentitles any authority or person other than those specified in Section

22(1) to award degrees, there is no power or authority in anyone including MHRD to award such equivalence.

\*\*\*

46. In the present case, the communication dated 26-5-1976 under which the certificate issued by the appellant was recognised to be equivalent to a degree in Mechanical Engineering from a recognised Indian University, does not indicate any statutory provision under which such equivalence could be granted or conferred. *This point becomes more crucial, as after the enactment of the AICTE Act, the entirety of the field concerning "technical education" is kept in the domain of AICTE by Parliament. Section 10 of the AICTE Act entitles AICTE not only to lay down norms and standards for courses, curriculum and such other facets of "technical education" but also entitles it under clause (l) to advise the Central Government in respect of grant of charter to any professional body or institution in the field of technical education conferring powers, rights and privileges, etc. Going by the width of the power, after the enactment of the AICTE Act, even such privileges could be conferred only after express advice of AICTE and within the confines of various statutory provisions.*

(emphasis added)

47. Consequently, neither can the appellant claim, as a matter of right to be entitled to confer any degree nor can it claim that certificate awarded by it must be reckoned to be equivalent to a degree in Mechanical Engineering."

19. The learned Single Judge had rightly concluded that the General Manager (HR) of HAL, was not empowered to recognize or de-recognize any qualification conferred by the Institute (Bharatiya Vidya Bhavan).

20. As stated above, HAL is a public sector enterprise, which obviously does not have the jurisdiction to recognize or de-recognize any course, either Degree or Diploma. Having stated the above, it is also clear that the Institute is not recognized by AICTE to confer any Degree or Diploma. The 2012 Circular was premised on the information gathered by the Vigilance Wing to the aforesaid effect.

21. As held by the Supreme Court in the ***Institution of Mechanical Engineers (India) v. State of Punjab*** (*supra*), after the enactment of the AICTE Act, the entire field concerning technical education falls within the domain of AICTE. Concededly, the Institute is not recognized by the AICTE and therefore, the post-graduate diploma conferred by the Institute to the respondent in the discipline of Industrial Relations and Personnel Management, is not a recognized qualification.

22. The Office Memorandum dated 29.04.1980 issued by the Government of India, Ministry of Education and Culture, Department of Education, does not further the case of the respondent. By virtue of the said Official Memorandum, the provisional recognition accorded by the Department of Education to the Diploma in Industrial Relations and Personnel Management

awarded by the Institute, was confirmed. However, the said notification expressly states that the same is issued for purposes of recruitment to superior posts and services under the Central Government in the appropriate field.

23. Secondly, after the enactment of the AICTE Act, only the AICTE can set the standards of technical education and grant accreditation to Institutions rendering technical education.

24. It is also contended that HAL is a separate and independent entity and is thus entitled to determine the norms for recruitment and promotions of its employees. HAL had specifically averred in its statement of objections that it "does not merely follow Government orders of recognition of educational qualifications for recruitment and promotions". Thus, unless such orders are adopted by the HAL as its policy, the same would not determine the entitlement of candidates to recruitment or promotions. It is also material to note that the respondent claims that she was entitled to promotion from Grade-II to Grade-III on the basis of the 2006 Circular issued by HAL. HAL has subsequently clarified, by the 2012 Circular, that Diploma with qualifications from the said Institute, "will not be considered as recognized / Professional Qualifications for the purposes of Recruitments and Promotions in

the Company, henceforth." The use of the word 'henceforth', makes it amply clear that the 2012 Circular is applicable prospectively. Thus, the respondent's promotion from Grade-I to Grade-II in the HR Department with effect from 01.07.2009, was not disturbed.

25. We may also note that the respondent had not impugned the 2012 Circular, in as much as, no prayer was sought to set aside the same. We are not persuaded to accept that the respondent was entitled to promotion, contrary to the HAL's policy.

26. In the given circumstances, we find no infirmity with the order dated 04.06.2014 in terms of which the respondent was reverted back to Grade-II with effect from 01.07.2009. The appeal is, accordingly, allowed and the impugned order is set-aside.

**Sd/-  
(VIBHU BAKHRU)  
CHIEF JUSTICE**

**Sd/-  
(C M JOSHI)  
JUDGE**

SD / KS