

CWP-15209 of 2021 (O&M)

288 (13 cases)

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

Date of Decision: 21.12.2022

1) CWP-15209 of 2021 (O&M)

Arun KumarPetitioner

Versus

State of Haryana and othersRespondents

2) CWP-1722 of 2017 (O&M)

Manohar Lal Rajpal and othersPetitioners

Versus

State of Haryana and othersRespondents

3) CWP-13412 of 2017 (O&M)

SunitaPetitioner

Versus

State of Haryana and othersRespondents

4) CWP-24439-2017 (O&M)

Bajrang LalPetitioner

Versus

State of Haryana and othersRespondents

5) CWP-2173 of 2020 (O&M)

Sanjeev Tanwer and othersPetitioners

Versus

State of Haryana and othersRespondents

6) CWP-15155 of 2020 (O&M)

Girish KumarPetitioner

Versus

State of Haryana and othersRespondents

7) CWP-3927 of 2020 (O&M)

Rahul Kairon and othersPetitioners

Versus

State of Haryana and othersRespondents

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8) CWP-12856 of 2021 (O&M)

Mohan LalPetitioner

Versus

State of Haryana and othersRespondents

9) CWP-4141 of 2020 (O&M)

Nitin Saini and othersPetitioners

Versus

State of Haryana and othersRespondents

10) CWP-16606 of 2017 (O&M)

Tarsem Lal and anotherPetitioners

Versus

State of Haryana and othersRespondents

CORAM: HON'BLE MR. JUSTICE ARUN MONGA

Present: Mr. Satbir Gill, Advocate
for the petitioner(s) in CWP-1722-2017.

Mr. G.P. Singh, Advocate
for the petitioner(s) in CWP-13412-2017.

Mr. Gurminder Singh, Senior Advocate with
Mr. Jatinder Singh Gill, Advocate,
for the petitioner in CWP-15209-2021.

Ms. Rinky Gupta, Advocate for
Mr. P.S. Jammu, Advocate
for the petitioner(s) in CWP-2173-2020.

Mr. Ajay Kripal Singh, Advocate for
Mr. Aman Pal, Advocate,
for the petitioners in CWP-24439-2017.

Mr. I.S. Pabla, Advocate
for the petitioner(s) in CWP-15155-2020.

Mr. Arnav Singh, Advocate for
Mr. S.K. Nehra, Advocate for the petitioner(s) in
CWP-3927-2020.

Mr. Naveen, Advocate for
Mr. Sanjiv Gupta, Advocate
for the petitioner(s) in CWP-12856-2021.

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Ms. Amrita Garg, Advocate and
Ms. Anjali Sheoran, Advocate
for the petitioners in CWP-4141-2020 and
for intervenors in CM-2624-CWP-2020 in CWP-1722- 2017
and in CM-2623-CWP-2020 in CWP-13412- 2017.

Mr. Vinod Bhardwaj, Advocate,
for the petitioners in CWP-16606-2017.

Ms. Shruti Jain Goyal, DAG Haryana.

Mr. D. S. Patwalia, Senior Advocate with
Mr. A.S. Chadha, Advocate for respondents No.5 to 9
in CWP-15209- 2021.

Mr. R.P. Dangi, Advocate for respondents No.11 to 15 in
CWP-1722-2017, for respondents No.9 to 12 in CWP-
15209-2021, for respondents No.4 to 8 in CWP- 15155-2020,
for respondents No.6 to 15 in CWP- 3927-2020 & for
respondents No.6 to 16 in CWP- 4141-2020.

Mr. Anurag Goyal, Advocate
for respondent No.6 to 10 and 12 to 14 in CWP-24439-2017.

Mr. Chanakya Pandit, Advocate,
for respondent No.3 in CWP-15155-2020.

Mr. R.K. Ravesh, Advocate
for respondent No.4 in CWP-1722-2017 & CWP-2173-2020.

Mr. Saurabh Chawla, Advocate for
Mr. Nitin Kaushal, Advocate,
for respondent-AICTE in CWP-1722-2017 and
CWP-15209-2021.

Mr. Daanish Mahajan, Advocate and
Mr. Jaskirat Singh, Advocate for
Mr. Prateek Mahajan, Advocate for respondent No.5
in CWP-2173-2020

Mr. R.K. Malik, Senior Advocate with
Mr. Sandeep Dhull, Advocate
for respondents No.6 to 8 in CWP- 1722-2017 and
for respondents No.6 to 8 in CWP-13412-2017.

Ms. Sudeepti Sharma, Advocate with
Ms. Mehak Kanwar, Advocate
for respondents No.9 & 10 in CWP-1722-2017.

Ms. Tavleen Kaur, Advocate for
Mr. A.S. Virk, Advocate and
Mr. Nahar Singh, Advocate for respondent No.6
in CWP-2173-2020.

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Mr. Jagbir Singh, Advocate for respondent No.4 in CWP-15209-2021, CWP-12856-2021, CWP-4141-2020 & CWP-3927-2020.

Mr. H. S. Poonia, Advocate for
Mr. Rajesh Sheoran, Advocate
for respondent No.5 in CWP-1722-2017.

ARUN MONGA, J.

Grievance of the petitioners, succinctly, arises out of the recognition, accorded, if any, alternatively the proposal to do so, to the B.Tech. (Civil Engineering) degree that was earned by the private respondents 5 to 8 through a weekend course from Deen Bandu Chhottu Ram University of Science and Technology, Murthal, Haryana. It is also claimed that this course is not approved by the All India Council for Technical Education (AICTE). Recognition/approval by AICTE is not mandatory, is the counter contention. More of it later. Reverting to the lis, the main issue warranting adjudication herein is whether an in-service Junior Engineer, who has attained the B.Tech. degree by a weekend/part time course, that is believed by the petitioners to be unlawful, is entitled to be considered for promotion to the position of a Sub Divisional Officer under the quota meant for degree holders ?

2. Vide this common order, bunch of above mentioned ten petitions are being disposed of as not only the facts but even the issues raised therein are also similar. For brevity, facts are being taken from CWP No.15209 of 2021 i.e., the latest of the petition in the bunch, wherein all the developments post filing of the first petition have since been comprehensively covered.

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3. Issuance of an appropriate writ in the nature of Certiorari has been sought for setting aside office order/letter dated 18.01.2021 (Annexure P-2) whereby a meeting of the Departmental Promotion Committee has been convened for considering amongst others, the private respondent Nos. 5 to 8, who are currently serving as Junior Engineer (JE) and have obtained the degree of B.Tech. (Civil Engineering) through a weekend course from a State University (Respondent No. 4), for their contemplated promotion on the post of Sub Divisional Engineer (SDE) against quota for degree holder Junior Engineers. Furthermore, prayer is also for issuance of writ in the nature of Mandamus commanding the official respondents to consider the name of the petitioner, who obtained the B.Tech (Civil) degree as a regular whole time student and is eligible for promotion to the post of SDE (Civil), instead of private respondents against quota for degree holders.

4. Factual narrative first.

4.1. Petitioner is a B.Tech (Civil) degree holder having obtained the degree as a regular whole time student. He was directly recruited as Junior Engineer (Civil) on 24.05.2006 and joined as such in Haryana Public Works (B&R) Department. Under Rule 6 of the Punjab Service of Engineers Class-II, PWD (Building and Roads Branch) Rules, 1965 (*hereinafter referred to as '1965 Rules'*), appointments to the next higher post of Sub Divisional Engineer are made 50% by direct recruitment, 11% by promotion *from members of Haryana Public Works Department Building and Roads Junior Engineers (Engineering) Service possessing the degree qualification prescribed in Appendix 'B' of the 1965 Rules and remaining by promotion from other sources.*

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4.2. DPC meeting was convened to adjudge the suitability of JEs (Civil) for promotion as Sub Divisional Engineers (Civil) against quota for degree holders. Pursuant thereto, vide impugned letter dated 18.01.2021 (Annexure P-2), names of respondents No.5 to 8 have been included in the list of eligible JEs under Degree Holder category. Per petitioner, they are not eligible being mere Diploma Holders and weekend/part time course of respondent No.4 State University leading to their B.Tech degrees has not been approved by the All India Council for Technical Education (for short 'AICTE').

4.3. Respondents 5 to 8, during service, took admission in 4 years B.Tech (Civil Engineering) Weekend Course in respondent No.4-University for academic Session 2011-2012 in the 'Weekend Programme for Working Professionals'. Petitioner pleads that the said B.Tech (Weekend) Civil Engineering Course has not been approved by AICTE-respondent No.3. Realizing the illegality committed, only in 2013 the University – respondent No.4 changed the nomenclature of the course from 'weekend programme' to 'part-time' B.Tech Course for the purpose of getting *ex-post facto* approval from AICTE for its weekend (renamed as 'part-time') B.Tech (Civil Engineering) Course. However, the request of respondent No.4 for *ex-post facto* approval was declined by respondent No. 3 vide letter 20/23.05.2013 (Annexure P-6). Petitioner approached the official respondents No. 1-2 and requested them not to consider the private respondents for promotion since the degree obtained by them through 4 years' weekend or part-time course was neither acceptable nor valid. Notwithstanding, no action has been taken by them till date. Hence, the present petition.

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5. In the return filed by the State (official respondents No. 1-2), rather a stance of neutrality has been taken. It has only been mentioned therein that since matter regarding quashing letter dated 18.01.2021 (Annexure P-2) qua respondents No.5 to 8 is pending adjudication and stay has been granted by this Court by way of interim order, the question of promoting the private respondents does not arise at all.

6. In the written statement filed by University-respondent No.4, *inter alia*, following defense has been taken.

6.1. University being a State Govt. University established under an Act of Haryana State Assembly and duly recognized by UGC under Section 2(F) & 12(B) of UGC Act, is fully empowered to award degrees under Section 22 of the UGC Act, 1956 in the manner it deems fit. In the year 2009, University introduced a weekend programme of B.Tech (Civil Engineering). This was done with due approval of Academic Council of the University in its 2nd meeting held on 06.10.2009 under item No.10, with representative of the Technical Education Department of the State Government. It was followed by approval of the Executive Council of respondent No.4-University in its 9th meeting held on 04.02.2010 under item No.11. Further, it is stated that in the 18th meeting of Executive Council of the University/respondent No.4 held on 29.03.2013 under item No.25, the nomenclature of weekend programme was changed to part time programme. Respondents no. 5 to 8 have thus validly obtained their B.Tech (Civil Engineering) Degree through the said course.

6.2. Respondent No. 4 further relied on the minutes of the meeting of Haryana State Board of Technical Education held on

10.05.2011, as conveyed to the Engineer-in Chief Haryana, Public Health Engineering Department. Same are as below:-

"That the B.Tech. programme weekend classes (Saturday & Sunday) run by Deenbandhu Chhotu Ram University of Science & Technology, Murthal (Sonapat) are valid presuming that the university fulfills the prescribed norms laid by the AICTE. Being a State University offering programs in own campus in regular mode (not in distance mode) the approval of joint committee of UGC-DEC-AICTE is not necessary."

6.3. In defense it is also pleaded that even the AICTE issued public notice (date not mentioned in pleadings) that no prior approval of AICTE was required for any new technical course to be commenced by a university. Relevant part of the said public notice is as under:-

"(iv) The Hon'ble Supreme Court of India in case of Bharathidasan University & Another V/S AICTE & Others has interpreted the provision of the AICTE Act and has held that although university do not require prior approval of the AICTE to commence a new department or course and programmes in technical education, however, universities have obligation or duty to confirm to the standards; and norms laid down by the AICTE. For the purpose of ensuring coordinated and integrated development of technical education and maintenance of standards, AICTE may cause an inspection of the University, which has to be as per the provisions under relevant rules/regulations of the AICTE. Further, all institutions running technical education programmes in collaboration with any University require prior approval of AICTE."

7. Having heard the respective counsels and taken note of their competing contentions and after going through the rival pleadings, I shall now proceed to deal with the same and render my opinion thereon.

8. The arguments of the learned Counsels for the respective petitioners are substantially hinged on three fundamental tenets viz.

a).approval of AICTE for any technical education is a *sine qua non*;

b). University, be it a State or private University, is also bound by AICTE norms *qua* technical education;

c).non approval of the technical education by AITCE and/or violation of AICTE norms renders the resultant technical degree as complete nullity.

8.1. In support of their arguments reliance was placed on various judicial precedents by the learned counsels for the respective petitioners i.e., *Orissa Lift Irrigation Corporation Limited vs. Rabi Sankar Patro and others*¹, *Vinit Garg and others vs. University Grants Commission and others*² as well as *AICTE vs. Surinder Kumar Dhawan and others*³.

9. Defending the respondents, the learned State counsel as well as the learned counsels appearing for the respective private respondents opposed the petition *inter alia* on the ground that in the light of an Apex Court judgment rendered in *Bharathidasan University vs. All India Council for Technical Education*⁴ read with *Orissa Lift Irrigation Corporation Limited's case* (supra), the University being an independent entity does not require approval of AICTE for imparting technical education. They further argued that in any case it is not borne out either from the pleadings or shown on record that the AICTE norms are not being followed by Deenbandhu Chhotu Ram University of Science and Technology (DCRUST). Essentially, they unanimously argued that DCRUST having been set up through an act of State Legislative Assembly of Haryana, vide Act No.29 of 2006 and being an approved University under Section 2(F) read with Section 12B of the UGC Act, is an independent statutory creature fully empowered to award degrees under Section 22 of the UGC Act, 1956. . The argument is that once the

¹ (2018) 1 Supreme Court Cases 468

² 2019(4) S.C.T. 245

³ (2009) 11 SCC 726

⁴ 2001(8) SCC 676

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University has been validly set up by the State, it is completely irrelevant whether the degree of B.Tech was awarded through a Weekend course or a Part-Time course or a Full Time course as long as the decision was taken in accordance with law by the academic counsel of the University to start the said degree course. They also pointed out that the representative of Technical Education Department of the State Government had also participated in the meeting of Academic Council of the University and therefore, no fault can be found with the degrees awarded by the University to private respondents simply because the education was imparted through a Weekend course.

9. Interestingly, both sides have though relied equally upon Apex Court judgment rendered in *Orissa Lift Irrigation Corporation Limited's case* (supra), but by giving different interpretations, projecting it to be favourable qua their respective stand taken herein. Respondents have more particularly also relied upon *Bharathidasan University's case* (supra), which clearly lays down that permission, prior or *post facto*, for starting a technical course is required only in the case of technical education in an institution other than university or deemed university, and is not required in the present case as the education is being imparted by the University itself.

10. Before proceeding further, let us first have a look at AICTE letter dated 19.02.2018 (Annexure R-5/7) which has been relied both by the official as well as the private respondents to support their arguments that AICTE itself had conveyed to the Engineer-in-Chief, Haryana, PWD (B&R) Branch, Chandigarh that DCRUST being a University can conduct

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technical courses without AICTE approval. For better appreciation of this contention, the letter *ibid* is reproduced herein below:-

“To

*The Registrar,
For Engineer-in-Chief, Haryana
PWD (B&R) Branch, Chandigarh.*

*Sub: Verification of B.Tech (Civil Engineering) awarded by
Deenbandhu Chhotu Ram University of Science and
Technology (DCRUST), Murthal.*

Sir,

*Kindly refer your Memo No.12389/EII dated
24.01.2018 on the above noted subject.*

*We would like to inform you that AICTE accords
approval to B.Tech Part-Time courses to provide facility for
pursuing technical education to professional having
professional experience and Part-Time courses are treated at
par with regular courses. As stated by Deenbandhu Chhotu
Ram University of Science and Technology, Murthal of vide
their letter No.DCRUST/Acad/AA-3/2017/355 dated
11.01.2017, they can conduct technical courses without
AICTE approval being University.*

*Regards,
Sd/- 19.2.18
(Prof. Rajive Kumar)
Advisor-1*

Policy and Academic Planning Bureau”

10.1. Reading of the above letter, on first flush indeed gives an impression that the University herein can also grant *approval to* conduct *Part-Time* technical courses like *B.Tech* without AICTE approval. However, when analysed a little deeper and read in its entirety and in the right context, the meaning of the text, in my opinion, conveys otherwise. To my mind, what the letter really conveys is that it is within the domain of the AICTE to accord approval to Part-Time B.Tech. courses meant for working professionals having the work experience and that the Part-Time courses approved by the AICTE are to be treated at par

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with regular courses. Thus, the letter clearly shows it is within the domain of the AICTE to accord approval to Part-Time B.Tech. Obviously and by implication the letter also shows that it is beyond the jurisdiction of respondent No. 4 University to accord approval for Part-Time B.Tech courses and though the University can approve/conduct the technical courses other than Part-Time B.Tech courses without AICTE approval. It cannot, therefore, be said, as suggested on behalf of the contesting respondents, that in terms of the letter dated 19.02.2018 (Annexure R-5/7) *ibid*, respondent No. 4 University was/is competent to accord approval even for week-end and/or Part-Time B.Tech course. Any such interpretation of the letter would render its opening part, according which it is within the domain of the AICTE to accord approval to Part-Time B.Tech course, as wholly meaningless and redundant or else would show that the contents of the letter are self contradictory. I am of the opinion that the contents of the letter have to be read in its entirety, harmoniously and in a rational and reasonable manner.

10.2. My above view is further fortified by deposition of respondent No. 3 (AICTE) in its reply affidavit dated 31.08.2021, which reads as under:-

“1. That the AICTE was established with a view to proper planning and co-ordinated development of the technical education system throughout the country, the promotion of qualitative improvement of such education in relation to planned quantitative growth and the regulations and proper maintenance of norms and standard in the technical education system and for matters connected therewith under the All India Council for Technical Education Act 1987.

2. That there was no provision of four years B.Tech Course weekend mode for working through professionals during year 2011-2012 as far as AICTE is concerned.

3. That the contents of para No.7 of the writ petition are admitted to the extent that the respondent No.4 had submitted an application for grant of post-facto approval of the course from weekend to part-time in the year 2013 and the same was refused by the answering respondent vide letter dated 20/23.05.2013 (Annexure P-6).”

10.3. In letter dated 20/23.05.2013, referred as Annexure P/6 in the aforesaid affidavit, respondent No. 3 had informed respondent No. 4 *inter alia* that regards the latter's request for granting post-facto approval to Part Time courses which were run previously as week-end courses, there was no provision for grant of post-facto approval to Part Time courses.

10.4. Firstly, this letter Annexure P/6 and affidavit dated 31.08.2021 filed behalf of respondent No. 3 (AICTE) read together show that approval of the AICTE (respondent No. 3) was required for the Part Time B.Tech courses which were run previously as week-end courses. Secondly, the very fact that respondent No. 4 had applied to respondent No. 3 for granting post-facto approval to Part Time courses which were run previously as week-end courses, shows that the former itself had then found that the approval of the AICTE (respondent No. 3) was required for the Part Time B.Tech courses which were run previously as week-end courses. It is not shown or even alleged if there has been any subsequent change in the situation, dispensing with the requirement of approval of the AICTE (respondent No. 3) for the Part Time B.Tech courses. It does not, therefore, lie in the mouth of respondent No.4 now to contend that there is no requirement of any such approval from the AICTE for the Part Time B.Tech courses which were run previously as week-end courses.

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11. The arguments canvassed by the learned Counsel for the contesting respondents are premised entirely on and by isolating the latter part of the AICTE letter dated 19.02.2018 (Annexure R-5/7) and wholly ignoring its former part. When the letter is read in entirety, homogeneously and harmoniously, the emerging view which appeals to the commonsense would be that a) it is the AICTE which accords approval to B.Tech. Part-Time courses and ; b) said Part-Time course can be conducted with the AICTE approval. In any case, here is a case where the course in question is not even a Part-Time course as the same was introduced for the first time with a novel nomenclature as a Weekend course. Therefore, I am unable to accept the contention on behalf of the respondents that approval of the AICTE was not necessary for the B.Tech. Part-Time course, which was initially named as the Weekend course.

12. Definitely, a Part-Time course where classes are conducted either on day to day basis or on alternate days or even in the evening stands on a much higher footing than a Weekend course where classes are confined tightly and squeezed for 2 days in a week. Another aspect which cannot be lost sight of is the limited comprehensive capacity of a human mind. It would be too much to expect and say that a person, who has already been through the rigors of whole time and exhausting work continuously for first 5 days of the week, would on 6th and 7th days of the week, still have the full and normal energy and ability to undergo 2 days of intensive classroom studies in the highly specialized and technical subject of engineering and again get back to work, next day without any break in between and continuous repeat the same year after year for 4

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long years. In my opinion, all that seems completely against the concept of ‘imparting meaningful education to evolve a healthy mind’. Needless to say, that a fatigued body and stale mind having worked whole time continuously for 5 days and then for the remaining days of the week sandwiched with back to back classes for B.Tech involving intensive studies in the highly technical subject of engineering would hardly be left with any time or energy for self-study required for in depth understanding and appreciation of the course subject. It would at best only lead to a paper degree without there being any real addition to the subject knowledge and mental growth of the person more particularly when the subject of studies is of higher level technical and expert nature requiring constant and focused understanding.

13. Obviously, it is in this backdrop, that AICTE declined approval to the Weekend course vide letter dated 13.03.2015 (Annexure P-6 in CWP No.3927 of 2020), which the University itself provided under the RTI Act, stating that the Weekend programme was not approved by AICTE. Not only that, the meaning of letter dated 19.02.2018 (Annexure R-5/7) becomes clearer when read with letter dated 20.05.2013 (Annexure P-3 in CWP No.3927 of 2020) reproduced as below:-

“F.No.NWRO/HR/I-758700663/2012-13 May 20, 2013

*The Registrar,
Deenbandhu Chhotu Ram University of Sc. & Tech.
Murthal, Sonapat 131039
Haryana*

*Sub: Post Facto Approval from 2009 onwards to B.Tech. in
CivilEngg.*

P.G. Diploma Course

Part Time Courses- Reg.

Ref: 1) Letter No.DCRUST/Acad/8120-8121 dated
12/04/2013;

2)LetterNo.DCRUST/10305 dtd. 08/05/2013;

3)LetterNo.DCRUST/Acad/8122-8123 dtd.
12/04/2013.

Please refer to the letters under reference above regarding grant of post-facto approval to the subject cited Courses. The issues raised in your letters referred above have been examined and the following may be noted in respect of each:

1. Grant of post-facto for B.Tech. in Civil Engineering:

The matter relating to grant of the B.Tech. Civil Engineering Course from 2009 onwards was examined. Regional Committee, Chandigarh made its recommendations after considering the recommendations made by Expert Visit Committee which visited your institute on 10/09/2012. We have intimated the RO-NWRO, Chandigarh to look into the matter. Copy of the letter is enclosed.

2. Regarding granting approval to the PG Diploma (for Courses as mentioned in your letter dtd. 08/05/2013):

You may be aware that Hon'ble Supreme Court has set a deadline for granting EOA for the AY 2013-14 as 30/04/2013 for those applications which were received in time on portal before closing date. We are constrained to stick to the time-schedule given by the Apex Court. Therefore, it is not possible to give approval at this stage. The above courses may be applied online for the next AY 2014-15 as per the approval process applicable.

3. Conducted Part Time Courses:

As regards your request for granting post-facto approval to Part Time Courses which were run previously as weekend courses, it is informed that there is no provision for grant of post-facto approval to Part Time Courses. Therefore, the same may be applied online for the next AY 2014-15 as per the approval process applicable.

Sd/-
(Dr. M.K. Hada)
Advisor (Approval)"

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A perusal of the above clearly reflects that a *post facto* approval was indeed sought by the University which was denied on the ground that there is no provision for grant of *post facto* approval for a Part-Time course. In fact, the above letter (Annexure P-3) is rather more clear and in no uncertain terms and puts to rest the ambiguity, if at all there was any, caused by letter Annexure R-5/7 dated 19.02.2018.

14. There is another aspect of the matter, which I feel is equally important, that is, the parity given to B.Tech Part-Time courses approved by the AICTE with regular courses, as stated in letter Annexure R-5/7 dated 19.02.2018 of the AICTE. Based on that parity, weekend B.Tech graduates also claim the similar benefit. Giving the said parity on the face of it seems highly arbitrary in view of the fact that a regular B.Tech. candidate has to undergo either a National level or State level Entrance Examination to get into a College, whereas for the Weekend or Part Time course there is no such requirement. On top of it, one does not know as to what is the criteria for admission in the Weekend or Part Time courses in the absence of any competitive examination. All this goes to show that it is a tailor-made course for working professional to obtain a degree so that they can overcome the hurdle of the service rules which provide certain special promotional avenues for degree-holders.

15. As regards the over emphasis laid by the respondents on ***Bharathidasan University's*** judgment (supra), the same has also been put to rest by the Apex Court itself in a subsequent judgment rendered in ***Vinit Garg's*** judgment (supra), wherein it has been held as below:-

“xxxx xxxx xxxx

10. In *Orissa Lift Irrigation Corporation Limited-I*, reference was made to All India Council for Technical

Education Act, 1989 (hereinafter referred to as 'AICTE Act') and distinction was drawn between 'technical education' and 'technical institution' as defined in Section 2(g) and 2(h) respectively to observe that functions of the AICTE stipulated under sub-clauses (a), (d), (e), (f), (l) and (n) of Section 10 of the AICTE Act are concerned with the broader facets of 'technical education', while functions enumerated under sub-clauses (k), (m), (p) and (q) deal with matters concerning 'technical institutions' and the functions as set out in sub-clauses (g) and (o) apply to both 'technical institutions' and universities imparting 'technical education'. Sub-clauses (b), (d) and (f) of Section 10 deal with, inter alia, coordination of the technical education in the country at all levels; promoting innovation, research and development, establishment of new technologies, generation, adoption and adaptation of new technologies to meet the development requirements; and promoting effecting link between technical education and systems and other relevant systems. Drawing on the distinction between 'technical education' and 'technical institution' and multifarious functions of the AICTE prescribed by Section 10 of the AICTE Act, it was held that the AICTE is the sole repository of power to lay down parameters or qualitative norms for 'technical education' and it would, therefore, not matter whether the term 'technical institution' would exclude a university/deemed to be university. What should be course content, what subjects should be taught and what should be the length and duration of the courses as well as the manner in which those courses be conducted is a part of the larger concept of 'technical education'. Any idea or innovation in that field is also a part of the concept of 'technical education' and must, as a matter of principle, be in the exclusive domain of the AICTE.

11. Accordingly, the Court in Orissa Lift Irrigation Corporation Limited-I distinguished the decision in Bharathidasan University (supra), which had, relying upon the definition in clause 2(h) on the meaning of the term 'technical institution', held that a deemed to be university established under a state law was entitled to start courses in 'technical education' without any approval of the AICTE. This was done by limiting Bharathidasan University's (supra) application to courses/programmes integrally adjunct/connected to the sanctioned and permitted courses and programmes, and not to new and different courses/programmes like award of B.Tech. degrees through distance learning mode. On role of the AICTE

and distance learning as a mode for acquiring B. Tech degrees, it was held in Orissa Lift Irrigation Corporation Limited-I that:

“48. Technical education leading to the award of degrees in Engineering consists of imparting of lessons in theory as well as practicals. The practicals form the backbone of such education which is hands-on approach involving actual application of principles taught in theory under the watchful eyes of demonstrators or lecturers. Face to face imparting of knowledge in theory classes is to be reinforced in practical classes. The practicals, thus, constitute an integral part of the technical education system. If this established concept of imparting technical education as a qualitative norm is to be modified or altered and in a given case to be substituted by distance education learning, then as a concept AICTE ought to have accepted it in clear terms. What parameters ought to be satisfied if the regular course of imparting technical education is in any way to be modified or altered, is for AICTE alone to decide. The decision must be specific and unequivocal and cannot be inferred merely because of absence of any guidelines in the matter. No such decision was ever expressed by AICTE. On the other hand, it has always maintained that courses leading to degrees in Engineering cannot be undertaken through distance education mode. Whether that approach is correct or not is not the point in issue. For the present purposes, if according to AICTE such courses ought not to be taught in distance education mode, that is the final word and is binding—unless rectified in a manner known to law. Even National Policy on Education while emphasising the need to have a flexible, pattern and programmes through distance education learning in technical and managerial education, laid down in Para 6.19 that AICTE will be responsible for planning, formulation and maintenance of norms and standards including maintenance of parity of certification and ensuring coordinated and integrated development of technical and management education. In our view, whether subjects leading to degrees in Engineering could be taught in distance education mode or not is within the exclusive domain of AICTE. The answer to the first limb of the first question posed by us is therefore clear that without the

guidelines having been issued in that behalf by AICTE expressly permitting degree courses in Engineering through distance education mode, the deemed to be universities were not justified in introducing such courses.”

From the dictum laid down above, it is plainly clear that approval of the AICTE was mandatory for starting the aforesaid courses. Admittedly, approval of the AICTE was not obtained by TIET, Patiala.

xxxx xxxx xxxx

14. The foregoing analysis becomes clear when we read Orissa Lift Irrigation Corporation Limited-I in its entirety, particularly the immediately preceding paragraph, i.e. paragraph 48 as quoted above, wherein it has been specifically stipulated and mandated that whether subjects leading to degrees in engineering would be taught in distance education mode or not is within the exclusive domain of the AICTE.

15. In view of the aforesaid statutory provisions and lack of prior approval of the UGC or AICTE, we do not think that TIET, Patiala was competent to award graduation degrees in technical courses via distance mode.

xxxx xxxx xxxx

27. In Orissa Lift Irrigation Corporation Limited-I, this Court, took note of the order dated 29th December, 2012 issued by the Ministry of Human Resource Development, Government of India in view of the recommendations suggested in the Madhava Menon Committee report for regulating the standards of education being imparted through distance mode to hold that the unilateral approvals of the DEC were invalid. It was observed:

“55. Para 3 of the notification dated 22.11.1991 which constituted DEC shows that there was no representation for any Member or representative of AICTE. The provisions of IGNOU Act show that the Study Centres as defined in the IGNOU Act are that of IGNOU and not of any other University or Institution. The concept of distance education under sub-clause (v) of Section 5 is also in relation to the academic programmes of IGNOU. It undoubtedly has powers under Clauses (vii), (xiii) and (xxiii) to cooperate with other Universities but the IGNOU Act nowhere

entitles IGNOU to be the Controlling Authority of the entire field of distance education of learning across the Country and in relation to programmes of other Universities or Institutions as well. The Order dated 29.12.2012 issued by MHRD therefore correctly appreciated that DEC created under statute 28 of IGNOU Act could not act as a regulator for other Universities. In any event of the matter, the policy Guidelines issued from time to time made it abundantly clear that DEC alone was not entitled to grant permission for open distance learning and appropriate permissions from the requisite authorities were always required and insisted upon. Despite such policy statements, DEC went on granting permissions without even consulting AICTE. Such exercise on part of DEC was completely without jurisdiction.

The said order, the Court noted, had definitively vested the UGC and AICTE, among other statutory regulators, with powers to regulate technical courses imparted through distance learning mode and made it mandatory for institutions intending to impart such courses to seek their approval and recognition, observing as under:

“The Central Government in exercise of the powers conferred by sub-section 1 of section 20 of the UGC 1956 and the AICTE Act, 1987 hereby directs:—

The UGC and AICTE as already empowered under their respective Acts, would also act as a regulator for Higher Education (excluding Technical Education) and Technical Education through open & Distance Learning (ODL) mode respectively Universities are empowered under their respective Act to offer any programme course including in Technical Education in the conventional mode. However, if they offer any programme/course in ODL mode they would require recognition from the UGC, AICTE, NCTE and other such regulators of the conventional mode of education in those areas of study.

xxxx xxxx xxxx”

Aforesaid enunciation reflects that judgment passed in Bharathidasan’s case supra has been clarified and distinguished to mean that approval of AICTE is mandatory.

16. In the above backdrop, I may also like to refer few interlocutory orders passed during pendency of the instant bunch of writ proceedings. Matter was earlier heard by another Coordinate Bench presided over by Amol Rattan Singh, J. (as he then was in this Court). Following court orders passed by him in CWP No. 1722 of 2017 from time to time, being apposite, are reproduced below for ready reference:-

Order dated 29.08.2017

“Since learned counsel for respondent No. 4 is not present and a request for an adjournment has also been made by Mr. G.P. Singh, learned counsel for the petitioner in CWP No. 13412 of 2017, due to a personal problem, adjourned to 22.09.2017.

To be taken up at 3.30 P.M.

The Registrar of the Deen Bandhu Chottu Ram University of Science and Technology, Murthal, Distt. Sonipal, i.e. respondent No. 4 in CWP No. 1722 of 2017, will file an affidavit annexing therewith a comparative chart showing the number of classes attended by respondents No. 6 to 8, to obtain a degree in Civil Engineering, comparing it with the number of classes that a student attending college on regular basis, towards obtaining such a degree (after obtaining a diploma), would attend, (i.e. not be weekend classes but by daily classes).

The qualification of the faculty teaching “weekend students” studying for a B.Tech. Degree, will also be shown by the Registrar, stating on affidavit as to whether the faculty that is teaching such students meets with the norms laid down by the AICTE.

If the affidavit is not filed, the Registrar of the said University shall remain present in the Court. The Registry is directed to also convey the order of this Court to the Registrar of the said University.

A copy of this order be given to the learned counsel for respondent No. 4 under the signatures of the Special Secretary of this Court.

A photocopy of this order be placed on the files of the other connected matters.”

Order dated 28.09.2017

“Pursuant to the order dated 29.08.2017, a short affidavit of Sh. B.P. Malik, Dean Academic Affairs, is already on record (dated 18.09.2017), annexing therewith a comparative chart showing the number of classes attended by a regular student in the three year programme, i.e. 171 classes and the number

of classes attended by a weekend programme student, i.e. 148 classes, during the B.Tech. Civil Engineering Regular Programme and B.Tech. Civil Engineering Weekend Programme, respectively. A perusal thereof shows that it has been stated that the regular faculty of the University also taught students of the weekend course, as the classes are taken on Saturdays, Sundays and holidays, and their qualifications were as per the norms of the AICTE.

It is also stated that any guest faculty was engaged, his/her qualification was also as per AICTE norms.

However, an adjournment slip has been filed on behalf of learned counsel for the petitioner on the ground that he is unwell.

Adjourned to 27.10.2017.

Interim order to continue till the next date of hearing only and specifically. It is made clear that if the matter is not argued by counsel for the petitioner on the next date of hearing, the interim order shall stand automatically vacated without any further order needed from this Court in that regard.

A copy of the affidavit filed be given to all learned counsel for the petitioners in all these cases, as also to counsel for the State.

A photocopy of this order be placed on the files of the other connected matter.”

Order dated 27.10.2017

“Though prima-facie this Court sees no reason to agree with the petitioners, in view of the fact that those who attended the weekend technical course in the respondent University, attended 148 classes over a period of 4 years and the petitioners and others like them, who obtained a degree after a regular 3 year course, attended 171 classes, and therefore the difference of classes for the entire degree period is only 23, learned counsel for the petitioners wish to address further arguments on the matter.

Adjourned to 01.11.2017.

In the meanwhile, learned counsel for the University would take positive instructions as to whether 148 classes required to be attended by the private respondents were spread out over the entire course of 4 years or for any lesser period than that; and similarly, whether 171 classes that were to be attended by the petitioners and others like them were for the entire course of 3 years, or a lesser period.

A photocopy of this order be placed on the file of the other connected cases.”

Order dated 01.11.2017

“Pursuant to the order dated 27.10.2017, Mr. R.K. Ravesh, learned counsel appearing for respondent No. 4 (Deen Bandhu Chhottu Ram University of Science and Technology),

has submitted data on a rough paper, with regard to the number of classes attended by students undertaking the regular course for obtaining a B.Tech. Degree as also those attending a weekend course for the same degree.

The Registrar of the University is directed to file an affidavit giving therein the following information:-

i. The number of classes conducted in each semester in the 4 year weekend course; as also, the number of classes conducted in each semester in the 3 year course. (It is clarified that this Court is specifically asking for the number of classes prescribed to be attended in the 3 and 4 year courses, and not the number of weeks). The duration of each period/class for both the courses, be also given, alongwith number of hours of study required to be undertaken by the students in each course;

ii. As to whether the same faculty members as were teaching the regular course students over a 5 or 6 day period during the week, were also teaching the weekend course students on Saturdays and Sundays; and if so, as to when such faculty members actually availed any holidays as are normally availed of by all teachers and other working people, i.e. by either a weekend of two days or a single day break on a Sunday;

iii. The reason as to why the weekend degree course was discontinued by the University.

The affidavit be filed within 10 days.

Adjourned to 14.11.2017.

A copy of the affidavit be given in advance of the next date of hearing to the learned counsel for the petitioners.

If the affidavit is not filed within the stipulated period, the Registrar of the University shall remain present personally present in the Court.

A copy of this order be given to the learned counsel for respondent No. 4, i.e. the Deen Bandu Chhottu Ram University of Science and Technology, under the signature of the Bench Secretary.”

Order dated 14.11.2017

“Upon an affidavit of the Registrar of the University (respondent No. 4) having been filed in Court today, in terms of the order of this Court dated 01.11.2017, Mr. G.P. Singh, learned counsel appearing for the petitioners in CWP No. 13412 of 2017, submits that the number of classes shown to be prescribed per week are not possible to have been conducted in a two day period (on Saturday and Sunday).

He wishes to place on record certain material to counter the aforesaid affidavit.

Adjourned to 23.01.2018.

A photocopy of this order be placed on the files of the other connected cases.”

17. Subsequently, on earlier an occasion, while hearing instant CWP No.15209 of 2021, following preliminary observations vide order dated 16.08.2021 were made by me also :-

“Learned senior counsel, inter alia, relies on AICTE norms and standards of technical education and contends that AICTE is the governing body of technical education in India, including imparting of education for award of the degrees in Engineering (B.Tech). He points out that respondents No. 5 to 8 claim to have obtained degree of B.Tech. through weekend classes from Deen Bandhu Chhottu Ram University of Science and Technology (respondent No. 4), which is a State run/managed University. Learned senior counsel contends that it is rather strange that the State Government has introduced an engineering course/degree, which is in direct conflict with the Central Government enactment i.e. All India Council for Technical Education Act, 1987.

Notice of motion.

Learned State counsel and learned counsel representing respondent No. 3 and respondents No. 5 to 8, on advance service, join proceedings and accept notice on behalf of the respondent-State of Haryana, respondent No. 3 and respondents No. 5 to 8, respectively and seek time to file return.

On a Court query, as to how could a University produce Engineers with regular B.Tech. degree by imparting weekend education and what if tomorrow, the State Government also sets up medical colleges to produce physicians with MBBS Degrees by their claiming to have undergone weekend education, learned State counsel is unable to react to the same. While on the other hand, learned counsel for the private respondents contends that it is incorrect to suggest that AICTE does not permit conducting of weekend education for imparting of B.Tech. Degree.

Prima facie, it seems that imparting of regular degrees in the specialized and technical streams of education i.e. Engineering and Medical by way of weekend education, is not permissible under the AICTE norms and standards of technical education. One wonders, if the State Government is doing a service to the nation by providing weekend education in such super-specialized technical education streams and/or is creating backdoor avenues for making ineligible candidates eligible, to be appointed on those positions, wherein, the eligibility is to have a regular degree course. Thereby, promoting heart burn and inequality amongst those candidates who have obtained their degrees by way of regular education after competing qua the same through all

India entrance examinations and taking admissions strictly based on their merit. Such a course, on the face of it, appears to give preference to those, who are not otherwise meritorious by providing a backdoor channel of promotion.

Be that as it may, let a return be filed.

Adjourned to 27.08.2021.

Meanwhile, no promotion(s) shall be effected by the State Government on the basis of degrees obtained by weekend education by any of the serving candidate.

File of CWP No. 1722 of 2017 be also tagged with the present case file since learned State counsel submits that the similar controversy involved therein is already pending before this Court.”

I have not been able to dissuade myself from the interim observations as noted herein above after reflecting all over again on the same by going through the record/pleadings and the arguments of the respective counsel. Reasons are more than one, some already discussed in preceding paragraphs and rests are in the succeeding part.

18. The contention that despite being a case of technical degree i.e. B.Tech. (Civil Engineering), the University is not bound by the norms prescribed by AICTE, is also unacceptable. A bare look into the statement of objects and reasons and the relevant provisions of the AICTE Act would reveal otherwise. Indubitably, AICTE is an expert statutory body set up in the field of technical education. The very fundamental purpose of AICTE is to lay down the norms and standards qua technical education.

18.1. AICTE was set up by Union through parliamentary legislative route/enactment under AICTE Act as per Entry 66 of List I of Constitution of India. For ready reference, the relevant Entry 66 of in List I of the 7th Schedule of Constitution of India is reproduced herein:-

“66. Co-ordination and determination of standards in institutions for higher education or research and scientific and technical institutions.”

18.2. Whereas, University herein has been set up by the State under Entry 25 of List III of 7th Schedule, as against AICTE set up under Entry 66, *ibid.* Entry 25 is as below:-

“25 Education, including Technical Education, Medical Education and Universities subject to provisions of entries 63,64, 65, and 66 of List I; Vocational and Technical Training of Labour.”

Harmonious reading of Entry 25 of List III of 7th Schedule vis-a-vis Entry 66 of List I of Constitution of India leaves no manner of doubt that Entry 25 is subject to Entry 66 *ibid.*

18.3. In the aforesaid context, reference may also be had at this stage to Supreme Court judgment rendered in ***Dr. Preeti Srivastva and another Versus State of Maharashtra and others***⁵, wherein *inter alia* it is held as under:-

“35. The legislative competence of Parliament and the legislatures of the States to make laws under Article 246 is regulated by the VIIth Schedule to the Constitution. In the VIIth Schedule as originally in force, Entry 11 of List II gave to the State an exclusive power to legislate on

“education including universities, subject to the provisions of Entries 63, 64, 65 and 66 of List I and Entry 25 of List III.”

Entry 11 of List II was deleted and Entry 25 of List III was amended with effect from 3.1.1976 as a result of the Constitution 42nd Amendment Act of 1976. The present Entry 25 in the Concurrent List is as follows:

“25. Education, including technical education, medical education and universities, subject the provisions of Entries 63,64, 65, and 66 of List I; vocational and technical training of labour.”

Entry 25 is subject, inter alia, to Entry 66 of List I. Entry 66 of List I is as follows:

⁵(1999) 7 SCC 120

“66. Coordination and determination of standards in institutions for higher education or research and scientific and technical institutions.”

Both the Union as well as the States have the power to legislate on education including medical education, subject, inter alia, to Entry 66 of List I which deals with laying down standards in institutions for higher education or research and scientific and technical institutions as also coordination of such standards. A State has, therefore, the right to control education including medical education so long as the field is not occupied by any Union legislation. Secondly, the State cannot, while controlling education in the State, impinge on standards in institutions for higher education. Because this exclusively within the purview of the Union Government. Therefore, while prescribing the criteria for admission to the institutions for higher education including higher medical education, the State cannot adversely affect the standards laid down by the Union of India under Entry 66 of List I. Secondly, while considering the cases on the subject it is also necessary to remember that from 1977, education, including, inter alia, medical and university education, is now in the Concurrent List so that the Union can legislate on admission criteria also. If it does so, the State will not be able to legislate in this field, except as provided in Article 254.

1. *It would not be correct to say that the norms for admission have no connection with the standard of education, or that the rules for admission are covered only by Entry 25 of List III. Norms of admission can have a direct impact on the standards of education. Of course, there can be rules for admission which are consistent with or do not affect adversely the standards of education prescribed by the Union in exercise of powers under Entry 66 of List I. For example, a State may, for admission to the postgraduate medical courses, lay down qualifications in addition to those prescribed under Entry 66 of List I. This would be consistent with promoting higher standards for admission to the higher educational courses. But any lowering of the norms laid down can and does have an adverse effect on the standards of education in the institutes of higher education. Standards of education in an institution or college depend on various factors. Some of these are:-*

- (1) the caliber of the teaching staff;*
- (2) a proper syllabus designed to achieve a high level of education in the given span of time;*
- (3) the student-teacher ratio;*
- (4) the ratio between the students and the hospital beds available to each student;*

- (5) the caliber of the students admitted to the institution;*
- (6) equipment and laboratory facilities, or hospital facilities for training in the case of medical colleges;*
- (7) adequate accommodation for the college and the attached hospital; and*
- (8) the standard of examinations held including the manner in which the papers are set and examined and the clinical performance is judged.”*

Judgment, supra, (Emphasis supplied) makes it clear that State or Universities cannot act against the norms prescribed by a body created under Entry 66 of List I and that any part of the regulation or decisions of the former contrary thereto would have to yield to the norms of the Central Regulatory body set up under an Act of the Parliament.

18.4. Adverting to the AICTE Act, some of the relevant provisions thereof need may also be noticed, as reproduced herein under:-

“Section 2 (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 Council, by notification in the Official Gazette, declare;

2 (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 Gazettee, declare as technical institutions;

2(i) “University” means a University defined under clause (f) of Section 2 of University Grants Commission Act, 1956 and includes an institution deemed to be a University under Section 3 of the Act.

Section 10- Functions of the Council :

(1) It shall be the duty of the Council to take all such steps as it may think fit for ensuring coordinated and integrated development of technical and management education and maintenance of standards and for the purpose of performing its functions under this Act, the Council may-

(a) xxxx xxxx xxxx

(b) Coordinate the development of technical education in the country at all levels;

xxxx xxxx xxxx

(g) evolve suitable performance appraisal systems for technical institutions and Universities imparting technical education, incorporating norms and mechanisms for enforcing accountability;

(i) lay down norms and standards for courses, curricular, physical and instructional facilities, staff pattern, staff qualifications, quality instructions, assessment and examination;

(o) provide guidelines for admissions of students to technical institutions and Universities imparting technical education;”

Perusal of the afore-said provisions clearly show that very specific and spot on task assigned to AICTE is to lay down the norms for technical education in Universities as well. Universities can not, therefore, turn around to canvass that being independent creature of another statute, flouting AITCE norms by them in technical education would enjoy any special immunity.

18.5. Role of AICTE has been put to rest by Supreme Court of India as per renditions *Orissa Lift Irrigation Corporation Limited*⁶, and *Vinit Garg and others versus UGC*⁷. It is held therein that AICTE is the sole repository of power to lay down parameters or qualitative norms for “**technical education**”. To be noted that, there is a categorical difference between “technical institution” and “technical education”. Same has been amply elucidated by the self-speaking language of provisions contained in AICTE Act. If a regular technical education course is to be modified, it can only be done as per AICTE norms. Decision qua compliance of norms must be specific and unequivocal by the AITCE. Such a decision cannot

⁶(2018) 1 SCC 468 (Para 45 to 48)

⁷2019 (4) S.C.T. 245 (Para 10 & 11)

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be inferred, merely by seeking shelter under the ruse of absence of AITCE guidelines on the matter.

18.6. Pertinently, in the return filed by AICTE, it has been specifically stated and, rightly so, that the *ex-post facto* approval sought by respondent University was declined vide letter dated 20.05.2013 (Annexure P-6). Furthermore, categorical stand taken therein is that there is no provision for week-end course. *Ex-post facto* approval sought by the University was thus declined.

19. In the overall analysis, it is held weekend B.Tech degree qualifications warranted an AICTE approval qua its norms, which was not obtained by University, and such degrees are held to be non-compliant of AICTE norms in the absence of specific approval qua the same. There cannot be a presumption of complying with norms and thus inferring a deemed AITCE approval. Being so, weekend course degree cannot be treated at par with the qualification of a degree prescribed in Appendix B of the Punjab Service of Engineers class II, PWD (Buildings & Roads Branch) Rules 1965.

20. To summarize the discussion above, though at the cost of reiteration, the following points are culled out :

- (a). AICTE's categorical stand that it had not approved or provided for a four-year B-Tech Course through weekend mode for the academic year 2011-2012 is legally valid;
- (b). University itself determined that the weekend course was not in accordance with the AICTE format and thus, decided to change its name to Part-time programme instead. [See minutes from the Executive Council of the University dated 29.03.2013 (Annexure

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P-5)]. The reasons given and the decision taken basis thereof are held to be lawful.

- (c). Even after the nomenclature change from weekend course B.Tech to part time course B.Tech, the AICTE specifically declined to give an ex-post facto approval via a letter dated 20.05.2013 (Annexure P-6) due to valid legal reasons.
- d). University itself admitted, in response to a Right to Information (RTI) application, that the Weekend program was not compliant with the AICTE norms. Said program was consequently terminated on 29th March, 2013. The University, therefore, cannot take contradictory stances on the matter by blowing hot and cold in the same breath.
- e). Approbating and reprobating still further, it is borne out that both State and State University, in totally self-incongruous manner, simultaneously supported and opposed AICTE norms. While, every year, it sought/seek the extension of the regular Course Bachelor of Technology (B.Tech) Degree since the academic year 2012-13 onwards (as per Annexure P-16), but for weekend course B.Tech it claims immunity from such norms. This is evidently absurd and is a highly conflicting and legally unsustainable position, since the university itself has requested for approval of the regular courses to be in line with the norms set by AICTE and yet it claims that the weekend courses do not have to be in line with the said norms or have AICTE approval.
- f). An attentive examination of AICTE's public announcement/advertisement No. UB/4(03)/2011 (Annexure R-6)

published in 2011 clearly demonstrates that the University needs to observe the guidelines and regulations set by AICTE. Since no AICTE certification regarding the compliance of norms is available, it cannot be presumed that University has fulfilled the AICTE pre-requisites in this case. Thus, the respondents' reliance on the notice/advertisement Annexure R-6 is completely wrong and misplaced. Besides, a mere public announcement cannot override a legal rule/obligation.

21. As an upshot, it is apparent on record that the Part Time/Weekend B.Tech program could not have been commenced by respondent University without the approval of the AICTE. Thus, the qualification B.Tech degree obtained by the private respondents through weekend/part time course not approved by the AICTE cannot be treated at par with the qualification of a degree prescribed in Appendix B of the Punjab Service of Engineers class II, PWD (Buildings & Roads Branch) Rules 1965 for appointment by promotion as Assistant Engineer/Sub Divisional Engineer from the service/cadre of the Haryana Public Works Department, Buildings & Roads Junior Engineers (Engineering) Service against the 11% promotion quota for degree holder Junior Engineers. It is held that said degrees do not confer eligibility on the private respondents for promotion as Assistant Engineer against the quota for Graduate Engineers. No benefit can be granted on the basis of such a qualification for promotion against the 11% promotion quota meant for degree holder Junior Engineers. It is held accordingly.

22. Resultantly, the Writ petitions filed by regular degree-holders are allowed and impugned office order dated 18.01.2021 to consider the

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candidature of respondents No.5 to 8, basis of weekend/part time degree course, is quashed. Department is at liberty to proceed by excluding their names from zone of consideration against the quota meant for degree holders.

23. Pending application(s), if any, shall also stand disposed of.

**(ARUN MONGA)
JUDGE**

December 21, 2022

ashish

Whether speaking/reasoned: Yes/No

Whether reportable : Yes/No