

Government Advocate

For the proforma respondent No.2  
in W.P (C) No. 8 (K) of 2014

: Mr. Limawapang,  
Advocate

Date (s) of hearing

: 09-09-2014

: 04-11-2014

Date of Judgment

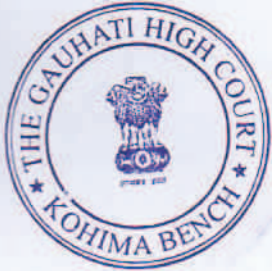
: 16.06.2015

**JUDGMENT & ORDER**  
**(CAV)**

W.P (C) No. 217 (K) of 2013 and W.P (C) No. 8 (K) of 2014 pertains to the same question of facts and the reliefs sought for being identical, both these writ petitions are disposed of by this common judgment and order.

2. Heard Mr. Taka Masa, learned senior counsel assisted by Mr. Arenlong, learned counsel appearing for the petitioner in W.P (C) No. 217 (K) of 2013. Also heard Mr. C.T. Jamir, learned senior counsel assisted by Mr. Wati Jamir, learned counsel appearing for the petitioner in W.P (C) No. 8 (K) of 2014 as well as Mr. T. Koza, learned counsel appearing for the respondent No. 2 and 3 i.e University Grants Commission in both the writ petitions, Ms. V. Suokhrie, learned Additional Senior Government Advocate for the proforma State respondents and Mr. Limawapang, learned counsel for the proforma respondent No. 2 in W.P (C) No. 8 (K) of 2014.

3. Mr. Taka Masa, learned senior counsel appearing for the petitioner i.e The Global Open University, Nagaland in W.P. (C) No. 217 (K) of 2013 (hereinafter the 'petitioner university') submits that the Global Open University, Nagaland, (in short, 'TGOUN') was established under the provision of the Global Open University, Nagaland Act, 2006 (Act 3 of 2006) by the Global Open University Nagaland (Amendment)







Act 2011 (Act 6 of 2011), the University has been declared as the State University and was notified in the Gazetted on 29-06-2011. The University has been duly recognized under Section 2 (f) of the UGC Act, 1956 and is the only State Open University in the field of Distance Education which has been functioning since 2006 in the State of Nagaland. The University is one of the Open Distance Learning Institute in the North-East and since its inception, the University had made repeated strides in providing quality Distance Education to thousands of student in the country, more particularly, the North-East and the State of Nagaland. Considering that the Open and Distance Learning (ODL) has evolved as one of the effective mode of education and training, the University also offers education through distance mode. In 1985, the University Grants Commission (in short 'UGC') came out with a detailed regulations for maintenance of standard of instructions for the grant of first degree through Non-Formal/Distance Education with the enactment of the Indira Gandhi National Open University ( in short 'IGNOU') Act, 1985. With the enactment of the IGNOU Act, 1985, regulation of ODL system changed and the IGNOU being a University of Open and Distance Learning was also entrusted with the responsibility of laying norms and maintaining standard of Distance Education System in the country. He also submits that the National Education Policy, 1986 has accepted Distance Education as an effective instrument for democratization of education. Though, the IGNOU was given the authority to regulate the ODL System, yet it remained only a University till 1991, when a proper statutory authority in the name of Distance Education Council (in short 'DEC') was established under Statute 28 of IGNOU Act, 1985 and the DEC has been given the responsibility for promotion and coordination of the open university and distance education system and for determination of its standard.





4. In the year 2008, the petitioner university submitted an application along with all relevant documents to the DEC for recognition of the programmes offered by the University through Distance Mode. Accordingly, an inspection was carried out by the DEC on 16-05-2008 and thereafter, on 02-06-2008, the University was accorded a provisional recognition for a period of one year with effect from 02-06-2008. Before the expiry of the said period of one year, the University in consonance with the Recognition Policy of DEC had requested the DEC by a communication dated 15-04-2009 for grant of regular recognition for the next five years. The said letter was followed up by another letter dated 08-05-2009 requesting the DEC to extend the recognition and further to evaluate the performance of the University. There being no positive response from DEC, the University had from time to time requested the DEC to extend the recognition of the University by letters dated 10-07-2009, 12-10-2009, 22-02-2010 and 09-03-2010. The University further deposited the Inspection Fee of Rs. 1,00,000/- only in favour of IGNOU which was also communicated by letter dated 25-02-2010 to the Director, DEC. As the University being a State University, letters were sent by the concerned authorities of the State to the Chairman, DEC requesting to give recognition to the University. In fact, the Minister, Urban Development and Higher Education, Nagaland by a letter dated 14-03-2011 had also requested the Vice-Chancellor, IGNOU and the Chairman, DEC as well as the Minister, Human Resource Development, Government of India for extension of recognition to the University. The said letter was followed up by another letter dated 27-07-2011 by the concerned Minister of the State of Nagaland to the Union Minister for Human Resources Development and Chairman, DEC, bringing to their notice that the University has been declared as a State University and therefore, to recognize its distance learning programmes. It was only by letter dated



23-04-2012 that the DEC had informed the University that the Chairman, DEC had constituted an Expert Committee to visit the University for the purpose of evaluating its infrastructure and other support services. Accordingly, from 11-05-2012 to 13-05-2012, the said Expert Committee carried out inspection of the University.

5. The learned senior counsel for the petitioner also submits that after the inspection was carried out from 11-05-2012 to 13-05-2012, the Additional Development Commissioner, Planning and Co-ordination Department, Government of Nagaland by a letter dated 15-05-2012 requested the Chairman and member of the Expert Committee for recognition of all 178 courses offered by the University. While the petitioner was awaiting a positive response, for grant of recognition to the University they were however shocked to learn that in the list of 'Recognition accorded by the Distance Education Council to the Universities/Institutions for offering programme through distance mode' which was published by the DEC in its website, the duration of recognition in respect of the University is shown as 2008-2009. He further submits that the same implies that there is no recognition accorded to the University post 2009. He submits that in terms of the recognition policy of the DEC, the provisional recognition accorded to the University ought to continue till a decision was taken on the basis of the report submitted by the Expert Committee. However, in case of the petitioner university only the year 2008-2009 was shown and which was not in consonance with the recognition policy.

6. Accordingly, a writ petition was filed before this Court by some students which was registered as W.P (C) No. 187 (K) of 2012 praying for a direction to the DEC to extend the provisional recognition given to the University till final decision is taken by the competent authority. The said writ petition was disposed of by an order dated 07-08-2013







directing the DEC to extend the provisional recognition with effect from 02-06-2009 till the time of taking a decision on the report of the Expert Committee with regard to according regular recognition to the University. Another writ petition, being W.P (C) No. 5039/2012 was filed before the High Court of Delhi at New Delhi praying *inter-alia* for issuance of a writ of mandamus and/or any other appropriate writ or direction to the respondents to amend the recognition accorded by the DEC to the University/Institutions for offering programmes through Distance Mode as published in the official website of the DEC by clearly publishing in the said list that the recognition of the Global Open University Nagaland is subsisting and continuing. However, during the pendency of the said writ petition, the University Grants Commission has issued the impugned letter dated 27-08-2013 conveying its decision not to grant recognition to the University for offering programmes through distance mode in view of the negative recommendation of the Expert Committee. Consequently, the said writ petition became infructuous and the same was withdrawn.

7. The learned senior counsel further submits that even if the University Grants Commission is to act on the negative recommendation of the Expert Committee, it was incumbent on the part of the UGC to at least issue a show cause notice to the petitioner before issuing the impugned letter dated 27-08-2013. However, the University was never furnished with a copy of the negative recommendation of the Expert Committee nor was any show cause notice issued to the University and the same was done in violation of the principles of natural justice.

8. Mr. Taka Masa, learned senior counsel for the petitioner also submits that in the list of the recognition accorded by the DEC to the Universities/Institutions for offering programmes through distance mode in respect of the petitioner University at the column for





continuance of Provisional Recognition, nothing has been mentioned and the same is kept blank whereas with regard to other similarly situated Universities it is indicated as "Till the Committee visits and submits its recommendation and a decision is taken". The same amounts to discrimination, inasmuch as, the University should have been considered at par with other equally circumstanced Universities in the list. He also submits that the recognition policy of DEC provides that provisional recommendation would continue till the expert committee visit the institution and a decision is taken regarding its regular recognition. Therefore, before a decision was taken on the basis of the report of the expert committee, the DEC could not have acted on the negative recommendation of the expert committee and the same would indicate that the DEC had already made up its mind not to recognize the University for imparting distance education mode. He further submits that that impugned letter dated 27-08-2013 was issued by the UGC basing on the negative recommendation of the expert committee constituted by the DEC knowing fully well about the incompetence and the lack of authority on the part of the DEC to oversee the function of other Universities which are also autonomous bodies created by an Act of the respective Legislative Assembly. The same is therefore not justified and is liable to be interfered with. The Statute 28 of IGNOU Act, 1985 by which the DEC was established having been repealed, the UGC should have ignored the negative recommendation of the expert committee constituted by the DEC and instead the UGC should have constituted its own expert committee to inspect the University and therefore, the action of the UGC by issuing the impugned letter 27-08-2013 is not sustainable in law. In the facts and circumstances of the case, he submits that the UGC having acted on the negative recommendation made by an expert committee that does not have the competency or the authority to oversee the Universities was bad in law and more



importantly, it affects the future career of thousands of University students and therefore, the same should be interfered with.

9. Learned senior counsel for the petitioner submits that the Memorandum of Understanding (MOU) between the UGC, AICTE and the DEC has been signed on 10-05-2007 for a period of three years. By the said memorandum, the terms of reference of MOU stipulates that the Joint Committee will decide the composition of the Expert Committee to visit the institutions to verify the norms and standards, if required and the Expert Committee shall be headed by a Chairman and in addition comprise two experts in Distance Education and two expert each in relevant field of Technical and General Education. Thereafter, the recommendation of Expert Committee will be placed before the Joint Committee for consideration and approval. He submits that the MOU dated 10-05-2007 was not extended beyond the said three years. When there has been no extension of the MOU, the Expert Committee so constituted to visit the petitioner university more particularly on 11-05-2012 to 13-05-2012 was without any competency inasmuch as, there was no existence of the MOU when the nomination of the Expert Committee was made on 23-04-2012. That being the position, no recommendation/observation of the said Expert Committee so nominated on 23-04-2012 would have any legal basis. The respondents therefore, could not have acted upon the same and as such, the impugned order is liable to be quashed on this count alone.

10. Mr. Taka Masa, learned senior counsel for the petitioner submits that the Ministry of Human Resource Development, Government of India has constituted a Committee to suggest measures to regulate the standard of education being imparted through distance mode. The said committee in its report has observed that the authority of the DEC as regulator is questionable inasmuch as, although the DEC is a





statutory body created under IGNOU Act, 1985, questions have been raised about its competency/authority to oversee the functions of other Universities which are also autonomous bodies created by an Act of respective State Legislature and have the authority to create their own norms and standard, therefore, the DEC appears to be lacking moral authority on the Universities. Accordingly, the IGNOU by a Notification dated 04-05-2013 with the approval of the President of India in his capacity as the Visitor has repealed the Statute 28 IGNOU ACT, 1985 by which the DEC was established with immediate effect. Consequently, the UGC by Notification dated 17-06-2013 notified that the Commission shall act as regulator for Higher Education (excluding Technical Education) through open and distance learning (ODL) and Universities offering any programmes/courses in ODL mode shall require, *inter-alia*, recognition from the Commission. He submits that the reasons for repealing the Statute 28 of IGNOU Act, 1985 was due to the adverse report of the Expert Committee against the DEC.

In support of his submissions, learned senior counsel has placed reliance in the cases of :- (i) *H.P Gupta and Another-vs- Union of India and Others*, reported in (2002) 10 SCC 658, (ii) *Jet Ply Wood (P) Ltd and Another -vs- Madhukar Nowlakhia and Others*, reported in (2006) 3 SCC 699, (iii) *Union of India and Another -vs- Union of India and Others*, reported in (1985) 3 SCC 398, (iv) *Jayrajbhai Jayantibhai Patel-vs- Anilbhai Nathubhai Patel and Others*, reported in (2006) 8 SCC 200 and (v) *Annamalai University -vs- Secretary to the Government, Information and Tourism Department and Others*, reported in (2009) 4 SCC 590.

Learned senior counsel also submits that the petitioner University has filed two additional affidavits and the respondents have not filed any counter-affidavit against such additional-affidavits. Therefore, all





averments made in both the additional-affidavits should be deemed to have been admitted by the respondents. He therefore places reliance in the cases of *Naseem Bano (Smt) -vs- State of U.P and Others, reported in 1993 Supp (4) SCC 46* and *Dhairya Nath Kakati @ Dhairya Ram Kakati-vs- Union of India & Ors, reported in 1997 (2) GLT 150.*



11. Mr. C.T. Jamir, learned senior counsel assisted by Mr. Wati Jamir, learned counsel appearing for the petitioners in W.P (C) No. 8 (K) of 2014 while adopting the submissions made by the learned senior counsel for the petitioner in W.P (C) No. 217 (K) of 2014 further submits that the TGOUN in the State of Nagaland has thousands of students studying in different vocational and job oriented Bachelor's as well as Master's Degree. The present petitioners due to their personal difficulties were unable to pursue their study in regular universities and as such, they joined the TGOUN as the said university was duly recognized by the DEC and was providing regular and distance education. It was only in the month of July, 2012 that the petitioners have come to learn that the DEC had not recognized the TGOUN. He also submits that the visit of Expert Committee constituted by the DEC with effect from 11-05-2012 to 13-05-2012 was without any authority inasmuch as, by that time, the MOU signed between the UGC, AICTE and DEC on 10-05-2007 had already expired. Further, the UGC had taken a decision upon the report of the Expert Committee after a gap of more than one year by which time, the dissolution of DEC had already taken place. Therefore, considering the facts and circumstance of the case, as the respondents have acted upon a report made by an Expert Committee having no authority, the interest and welfare of the students of TGOUN should be protected and the impugned letter dated 27-08-2013 should be quashed and set aside.





12. Mr. T. Koza, learned counsel appearing on behalf of the respondent Nos. 2 and 3 i.e. The University Grants Commission countering both the writ petitions, submits at the outset that no challenge has been made to the report of the Expert Committee nor the decision of the UGC which was officially communicated to the Vice-Chancellor of TGOUN and both the writ petitions having identical prayer has challenged only the impugned letter dated 27-08-2013 issued by the UGC. Further, considering that the order has been officially communicated to the Vice-Chancellor of TGOUN, the petitioner (s) in both the writ petitions has failed to amend their respective writ petitions and therefore the present writ petition is not maintainable and as such, the same should not be entertained. He submits that while recognition was given to the petitioner university by letter dated 02-06-2008 there were certain terms and conditions that were required to be complied by the petitioner university. The letter dated 02-06-2008 further stipulates that it is the responsibility of the university to follow the norms prescribed by the concerned regulatory bodies or seek their recognition for professional/technical programme (s) which will be the sole responsibility of the university. The respondents has decided not to grant recognition to the petitioner university for offering programme through distance mode by the impugned letter dated 27-08-2013 as the Expert Committee comprising the nominees of the UGC, AICTE and DEC which was constituted to visit the petitioner university on 11-05-2012 to 13-05-2012 had submitted negative recommendation. He also denies that the petitioner university has been offered programmes through distance education since 2006 and submits that the recognition by the DEC was given for a period of only one year i.e with effect from 02-06-2008 to 01-06-2009 to offer programmes through distance mode and that the provisional recognition was not granted after the expiry of one year due to the negative recommendation of the Expert Committee.



It was on the repeated requests made by the petitioner university that on 11<sup>th</sup> to 13<sup>th</sup> May, 2012 the Expert Committee visited the petitioner university and found that petitioner university did not fulfill the criteria for grant of recognition on the ground that course design and development process followed by the university was not adequate and insufficient, the university lacks any linkage with industry/Government/NGO etc in the delivery of programme, the university was found short of adequate qualified faculty as per the UGC norms and that the university was deficient in faculty development programmes in the last three years. Further, it was found that the university falls short of participating in faculty improvement programmes in the area of distance education and that there was inadequate infrastructure for running its courses and to offer the programme through distance education mode. The Expert Committee had further found that the university had inappropriate infrastructure and mechanism for delivery of course content/instruction, which are the backbone of ODL system and it does not have learner support system. It was further found that the university lacked transparency in receipt and expenditure of funds. It is further submitted that several representations/complaints were received by the DEC against the petitioner university regarding violation of norms laid down by the DEC. Such complaints refers to violation of DEC norms on territorial jurisdiction, minimum duration for programme, offering research programmes, charging exorbitant fees and selling degrees etc. The DEC had further received written complaint from the former Vice-Chancellor, Nagaland along with report of Deputy Commissioner, Nagaland pointing out several false claims made by TGOUN regarding acquisition of land, infrastructure, non-faculty, non-building, non-repairing of the temporary building allocated by the Government for temporary occupation of the university, non-payment of salaries to the staff.





Considering the seriousness of the level of irregularities and credibility of the petitioner university to be highly questionable, the Expert Committee had made the negative recommendation. Learned counsel for the respondent/UGC also submits that apart from the allegations already made against the petitioner university there were news clipping in the media with regard to leveling of charges of irregularities/ fakeness against the university. Therefore, considering all these factors, a conscious decision was taken not to give recognition till the Expert Committee visit the university and submit its recommendation.

13. He further submits that when the Expert Committee after visiting the university had made its negative recommendation, Vice-Chancellor of TGOUN was accordingly informed by the respondents conveying its decision not to grant recognition to TGOUN for offering programmes through distance mode. He also submits that the provisional recognition was given to the petitioner university by a letter dated 02-06-2008 and that the petitioner university was required to comply with certain norms which have not been done/fulfilled and therefore, the provisional recognition has not been extended beyond 01-06-2011. The Expert Committee had given its report based only on facts after conducting physical verification of the petitioner university and therefore there could be no doubt on the negative recommendation made by the Expert Committee. He also submits that the petitioner having already approached the Delhi High Court and having withdrawn the same with no liberty being granted, they cannot file the present petition and if at all, it was found necessary, they should have approached the same Court and not this Court. In the facts and circumstances of the case and considering the serious allegations and the shortcomings of the petitioner university, the respondents had taken a decision in order to protect the interest and welfare of thousands of students inasmuch as, education should be imparted properly and not in a haphazard manner





and submits that the present writ petitions having no merit should be dismissed.

14. I have considered the submissions forwarded by the learned counsel for the parties.

15. The relevant part of the recognition policy of the DEC is extracted herein below:-

" II. Continuance of Provisional Recognition

Such institutions which are given provisional recognition and subsequently apply to DEC for Regular Recognition are given continuation of the recognition till the Expert Committee visits the Institution and the decision is taken regarding its regular recognition."

This Court has considered the list of University/Institution approved by the Distance Education Council (as on 16-08-2011) which is annexed to W.P (C) No. 217 (K) of 2013 at page 82 therein. A consideration of the same would indicate that against other Universities who are similarly placed with the petitioner University were given provisional recognition till the committee visits and submits its recommendation and a decision is taken. This had not been done with regard to the petitioner university and instead the relevant column has been kept blank. When the aforesaid list of universities were published as on 11-08-2011, the Expert Committee so nominated on 23-04-2012 to visit the petitioner university from 11-05-2012 to 13-05-2012 had not made its visit. It is also important to note that the Expert Committee gave its report on 13-05-2012 and the decision of the UGC not to grant recognition to the petitioner university for offering programmes through distance mode was conveyed by the impugned letter dated 27<sup>th</sup> August, 2013. Therefore, the action of the respondents not giving provisional recognition to the petitioner university as on 16-08-2011 was without any basis and therefore this Court is of the considered opinion that the





respondents has discriminated the petitioner university vis-à-vis the other similarly situated universities.

16. Statute 28 of the IGNOU was repealed causing dissolution of DEC of IGNOU by Office Memorandum dated 16-05-2013 issued by the Government of India, Ministry of Human Resource Development, Department of Higher Education. The same is reproduced below:-

" F.No.6-20/2010-D1  
Government of India  
Ministry of Human Resource Development  
Department of Higher Education

Shastri Bhawan, New Delhi  
Dated 16h May, 2013.

**OFFICE MEMORANDUM**

Subject : Repeal of Statute 28 of the Indira Gandhi National Open University to cause dissolution of DEC of IGNOU Notification –regd.

The undersigned is directed to say that a Notification No. IG-Admn (G)/DEC/2013/3057 dated 01.05.2013 regarding repealing of statute 28 of the IGNOU Act and thereby dissolution of the Distance Education Council (DEC) of Indira Gandhi National Open University IGNOU has been issued by the IGNOU (copy) enclosed. Hence, the DEC of the IGNOU stands dissolved.

2. As per this Ministry's Order dated 29-12-2012 issued to University Grants Commission (UGC) and All India Council for Technical Education (AICTE), the role of DEC of IGNOU and its all responsibilities will not be performed by UGC and AICTE as envisaged in their respective Acts. Accordingly, UGC and AICTE has to take up with immediate effect all the regulatory responsibilities of the Open and Distance Learning (ODL) education system in their respective jurisdiction.

3. In future all matters relating to Distance Education shall be dealt with by the UGC and the AICTE.

( B.K. Bhadri)  
Assistant Educational Advisor (DE)  
Tel: 011-23388037





This was followed by a Notification dated 17-06-2013 issued by the University Grants Commission, New Delhi stating that " *WHEREAS, IGNOU vide its Notification No. IG/Admn (G)/DEC/2013 dated May 4<sup>th</sup>, 2013, with the approval of the President of India, in his capacity as the Visitor, has repealed the aforementioned Statute 28 of IGNOU Act, 1985 and has deleted the said Statute with immediate effect.*" The said Notification further stipulates that the Commission in exercise of its powers conferred under Section 12 of the UGC Act, 1956, hereby adopts the 'Guidelines of DEC on Minimum Requirements for Recognition of ODL Institutions'

17. This Court has also considered the submissions made in both the writ petitions that the MOU signed between the UGC, AICTE and the DEC on 10-05-2007 for a period of three years was not extended thereafter. More importantly, there is no rebuttal on the part of the respondents to this effect in their counter-affidavit.

The nomination of the Expert Committee to visit the petitioner university was issued by a letter dated 23-04-2012. The same is reproduced herein below :-

" Dr. Bharat Bhushan  
Director.

F.No. DEC/GOU/DMPR/NG  
Date: 23.04.2012

Sub: Nomination of Expert Committee to visit The Global Open University Nagaland-Reg.,

Dear Sir,

This has reference to your letter No.VC-2012/4 dated 04.04.2012 for recognition of The Global Open University, Nagaland for offering programmes through Distance Mode and visit of the expert committee from 11-05-2012 to 13-05-2012. In his connection, I am





directed to inform you that the Chairman, DEC has acceded to your request and constituted an Expert Committee to visit the University for the following purposes:

1. To conduct an enquiry into various complaints received against the University and submit its recommendation;
2. The evaluate infrastructure at headquarters, provision for student support services, delivery mechanism, library facilities, faculty/staff, self-instructional nature of study materials and general preparedness to offer programmes through Distance Mode;
3. Submit the final recommendations to the DEC on programme wise recognition.

You are kindly requested to make necessary arrangements during the visit i.e 11-13 May, 2012 for the boarding and lodging of the Chairperson and Expert Committee members on behalf of The Global Open University, Nagaland and reimburse TA/DA and sitting fees to the members as per Govt. of India/IGNOU rules.

You may contact the undersigned or Dr. R.T. Borkar, Deputy Director, DEC (M:+91-9540552666)

With regards.

Yours Sincerely,

(Bharat Bhushan)

This letter was also endorsed to the Office of the Vice-Chancellor, IGNOU. The fact that the MOU dated 10-05-2007 was not extended from the said period of three years, ie. 10-05-2010 is also not controverted by the respondents. Therefore, this Court is of the considered opinion that the letter dated 23-04-2012 issued by the Director of IGNOU was without authority inasmuch as, there was no MOU beyond 10-05-2010. Accordingly, the Expert Committee so constituted would have no legal basis in absence of an MOU being extended and therefore the





recommendation made by the so constituted Expert Committee whether in the negative or in positive would have no force.

18. From the counter-affidavit filed by the respondent Nos. 2 and 3, what transpires is that the issuance of the impugned letter dated 27-08-2013, informing the petitioner university about the decision of the UGC not to grant recognition for offering programmes through distance mode was in view of the negative recommendation of the Expert Committee. The impugned letter dated 27-08-2013 is also quoted herein below for the sake of convenience:-



“ UNIVERSITY GRANTS COMMISSION  
Distance Education Bureau  
DEC Building, IGNOU Campus, Maidan Garhi, New Delhi 110068  
T: 091-1129533340, 29572634  
F:+91-11-29536668

F.No. DEB/GOU/DMPR/NGL/2012  
Date: 27<sup>th</sup> August, 2013

To,

The Vice Chancellor  
The Global Open University  
Opposite Railway Station  
Dimapur-797112  
Nagaland

Sub: Proposal for recognition-reg.,

Sir/Madam,

1. This has reference to the application of your University seeking recognition of erstwhile Distance Education Council for offering programmes through distance mode
2. Attention in this regard is also invited to Notification F.No. 1-4/2013 (CPP-II), dated 17<sup>th</sup> June, 2013 of University Grants Commission with regard to transfer of regulatory functions of the Open and Distance Learning (ODL) system from Indira Gandhi National Open University (IGNOU) to UGC (copy enclosed)



recommendation made by the so constituted Expert Committee whether in the negative or in positive would have no force.

18. From the counter-affidavit filed by the respondent Nos. 2 and 3, what transpires is that the issuance of the impugned letter dated 27-08-2013, informing the petitioner university about the decision of the UGC not to grant recognition for offering programmes through distance mode was in view of the negative recommendation of the Expert Committee. The impugned letter dated 27-08-2013 is also quoted herein below for the sake of convenience:-



“ UNIVERSITY GRANTS COMMISSION  
Distance Education Bureau  
DEC Building, IGNOU Campus, Maidan Garhi, New Delhi 110068  
T: 091-1129533340, 29572634  
F:+91-11-29536668

F.No. DEB/GOU/DMPR/NGL/2012  
Date: 27<sup>th</sup> August, 2013

To,

The Vice Chancellor  
The Global Open University  
Opposite Railway Station  
Dimapur-797112  
Nagaland

Sub: Proposal for recognition-reg.,

Sir/Madam,

1. This has reference to the application of your University seeking recognition of erstwhile Distance Education Council for offering programmes through distance mode
2. Attention in this regard is also invited to Notification F.No. 1-4/2013 (CPP-II), dated 17<sup>th</sup> June, 2013 of University Grants Commission with regard to transfer of regulatory functions of the Open and Distance Learning (ODL) system from Indira Gandhi National Open University (IGNOU) to UGC (copy enclosed)



3. An expert committee comprising nominees of UGC, AICTE and DEC was constituted which visited your Institute and submitted its recommendations. In view of negative recommendations of the Expert Committee, the commission has decided not to grant recognition to your University for offering programmes through distance mode.

This issue with the approval of the competent authority.

Yours faithfully,

(D.C. Sharma)  
Dy. Director"



19. This Court has also considered the contentions of the respondents that there had been various complaints against the petitioner university and such complaints were also a basis upon which Expert Committee had given its negative recommendation. If that be the case, a duty is cast upon the Expert Committee as well as the respondent Nos. 2 and 3 to have issued a notice upon the petitioner university to show cause after furnishing a copy of the Expert Committee report dated 13-05-2012. From a perusal of the materials available on record, this Court has noticed that such steps were not taken and the same would amount to violation of the principles of natural justice inasmuch as, the impugned decision not to grant recognition to the petitioner university for offering programmes through distance mode was taken behind the back of the petitioner.

20. In the facts and circumstances of the case and as discussed herein above, this Court is of the considered opinion that the petitioner (s) has made out a case calling for interference of this Court. Accordingly, the impugned letter dated 27-08-2013 issued by the UGC is set aside and quashed.

It shall be however open to the respondents more particularly, the respondent Nos. 2 and 3 to constitute an Expert Committee to inspect the petitioner university afresh and thereafter take an appropriate



decision with regard to recognition of the petitioner university to offer courses through distance mode subject to provision being available to take recourse to such steps.

The respondents are directed to extend provisional recognition to the petitioner university i.e. The Global Open University, Nagaland till such time the Expert Committee, if so constituted by the respondents submits its report and a decision is taken in that respect.

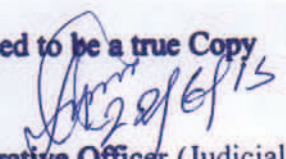
21. With the above observations and directions, both the writ petitions are allowed.

22. No costs.

  
**JUDGE**

*akum*

**Certified to be a true Copy**

  
**Administrative Officer (Judicial)**  
**Gauhati High Court**  
**Kohima Bench**  
**Authorised U/S 76 Act. 1 of 1872**