

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 13TH DAY OF AUGUST, 2020

PRESENT

THE HON'BLE MRS.JUSTICE B.V.NAGARATHNA

AND

THE HON'BLE MR.JUSTICE RAVI V.HOSMANI

WRIT PETITION NO.9115/2020 (GM-RES-PIL)

BETWEEN:

Sharan Desai,
M.Arch, USA,
Area of Specialization Architecture
Aged about 55 years
S/o late Shri. Hanamanth Rao Desai
Ex MLA, Afzalpur, Kalaburagi District,
M-Block, Apt No.106, First Floor,
Renaissance Exotica
Jakkur Plantation Road
Benglauru-560 064. ...Petitioner

(By Sri Sharan Desai, Party-in-Person,-through
Video Conference)

AND:

1. The Ministry of Human Resource Development
Represented by Deputy Secretary
Department of Higher Education
Government of India,
Technical Education Bureau
Shastri Bhavan,
New Delhi-110 115.
2. The Council of Architecture (COA)
Represented by its Registrar-Secretary,
India Habitat Centre, Core-6A,
1st Floor, Lodhi Road, New Delhi-110 003.

3. The Department of Higher Education
Government of Karnataka
Represented by its Principal Secretary
Room No.654, 6th Floor, M.S. Building,
Dr. B.R. Ambedkar Veedhi
Bengaluru-560 001.
4. The Visvesvaraya Technological
University (VTU), Government of Karnataka
Represented by its Registrar
“ Jnana Sangama”, Santi Bastawad Road
Machhe, Belgaum-590 018.
5. The University of Mysore
Represented by its Registrar
Krishnaraja Boulevard Road
K.G.Koppal, Mysuru-570 006.
6. The Manipal University
Represented by its Registrar
Manipal-576 104.

...Respondents

This Writ Petition is filed under Articles 226 and 227 of the Constitution of India praying to quash the letter of approval and the extension of approval for M.Arch courses (COA), for the following Architecture Institutions herein Karnataka State vide Annexures-V, W, X, Y, Z, AA, AB, AC and AD; and to issue an order to withdraw all M.Arch Degrees, illegally approved and regulated by the R-2 (COA) and M.Arch Degrees awarded by the R-4, Visvesvaraya Technological University (VTU), the R-5, University of Mysore and the R-6 the Manipal University are invalid and illegal as they have no legitimacy and etc.

This Writ Petition coming on for orders “*through Video Conference*” this day, **NAGARATHNA J.** made the following:-

ORDER

This writ petition is filed by the petitioner who is stated to have specialized in Architecture, having acquired a degree of M. Arch in United States of America (USA). The petitioner has stated that this writ petition has been filed in public interest and the petitioner has sought the following reliefs;

- i. Issue a writ of certiorari quashing the letter of approval and the extension of approval for M. ARCH courses provided, approved and regulated by the Respondent No.2 (COA), for the following Architecture Institutions here in Karnataka State vide Annexure-V, Annexure-W, Annexure-X, Annexure-Y, Annexure-Z, Annexure-AA, Annexure-AB, Annexure-AC and Annexure-AD.
- ii. Issue an order to withdraw all M.ARCH Degrees, illegally approved and regulated by the Respondent No.2 (COA) and M. ARCH degrees awarded by the Respondent No.4, Visvesvaraya Technological University (VTU), the Respondent No.5, University of Mysore and the Respondent No.6 the Manipal University are INVALID and ILLEGAL as they have no LEGITIMACY.

- iii. Issue an order to refund all charges/fees/inspection money collected by the Respondent No.2, (COA) from various Architectural Institution/Schools of Architecture, facilitating and offering unapproved/illegal M. ARCH courses here in Karnataka State.
- iv. Issue an order to compensate and give appropriate relief to innocent students, who are currently studying at these seven School of Architecture vide Annexure-V, Annexure-W, Annexure-X, Annexure-Y, Annexure-Z, Annexure-AA, Annexure-AB, Annexure-AC and Annexure-AD, in M. ARCH Courses, ILLEGALLY, approved and regulated by the Respondent No.2 and awarded M. ARCH degrees illegally in various allied specializations under Visvesvaraya Technological University (Respondent No.4) since 2005, University of Mysore (Respondent No.5) and Manipal University (Respondent No.6) here in Karnataka State.
- v. Issue any other appropriate writ, order or direction as deemed fit under the facts and circumstances of the above case, in the interest of justice.

2. We have heard the petitioner who has appeared in person through video conference at length.

3. The main grievance of the petitioner is that certain Institutions and Universities in the State of Karnataka are awarding M.Arch degrees without there being any proper regulation of the said course which is contrary to law. According to the petitioner, M.Arch degrees are being illegally approved by the second respondent-The Council of Architecture, although it does not have any power to approve the said degrees or regulate the said course. Petitioner contended that the second respondent – The Council of Architecture is illegally collecting fees, charges and inspection charges from various institutions or schools of architecture so as to facilitate the said institutions to offer unapproved/illegal M.Arch course and degrees in the State. He contended that innocent students who are studying in the following schools of architecture at Bengaluru or Universities namely;

- i) M.S.Ramaiah Institute of Technology, Bengaluru.
- ii) School of Architecture, R.V.College of Engineering, Mysore Road, Bengaluru.
- iii) BMS School of Architecture, Bengaluru.
- iv) SJB School of Architecture & Planning, Kengeri, Bengaluru.
- v) IMPACT School of Architecture, Sahakaranagar, Bengaluru.
- vi) School of Planning and Architecture, University of Mysore, Mysore.
- vii) Manipal School of Architecture and Planning, Manipal University, Manipal. (Karnataka) and
- viii) Visvesvaraya Technological University, (VTU), Belagavi.

have to be compensated as M.Arch course which has been prosecuted by them and degrees being conferred by the said institutions are illegal and not recognized as per law.

4. During the course of his submission, the petitioner drew our attention to the Architects Act, 1972, (hereinafter referred to as 'the Act' for the sake of convenience) and particularly to the Schedule

dealing with qualifications which has to be read along with Section 14 of the said Act. He has contended that Section 14 of the Act deals with recognition of qualifications granted by authorities in India and if a particular qualification does not find place in the Schedule, then the said qualification cannot be recognized qualification for the purpose of the Act. He further contended that M.Arch degree which is a post graduate degree in Architecture does not find a place in the said Schedule. Therefore, the second respondent Council has no authority or jurisdiction to approve M.Arch course in the aforesaid institutions and universities which are conducting the said course nor can the degrees awarded by the said institutions be recognized under the Act. Further the second respondent Council has no authority to regulate the M.Arch programme nor has it any authority to approve the programme. He submitted that innocent students who have prosecuted their M.Arch programme in the aforesaid institutions are being misled by the second respondent Council

without being aware of the fact that the said programme is one which cannot be approved by the second respondent Council. Therefore, the aforesaid prayers have been sought in public interest.

5. Having heard the petitioner in person at length we have perused the Architects Act, 1972 in detail. The object and purpose of the said Act is to provide for the registration of Architects and for matters connected therewith. The Council of Architecture – second respondent herein has been constituted as per Section 3 of the Act comprising of the President, Vice-President as well as members. Recognition of qualifications granted by authorities in India (for the purpose of the Act) is dealt with in Section 14 of the Act which reads as under:

14: Recognition of qualifications granted by authorities in India.-(1) *The qualifications included in the Schedule or notified under Section 15 shall be recognized qualifications for the purposes of this Act.*

(2) Any authority in India which grants an architectural qualifications not included in the Schedule may apply to the Central Government to have such qualification recognized, and the Central Government, after consultation with the Council, may, by notification in the Official Gazette, amend the Schedule so as to include such qualification therein, and any such notification may also direct that an entry shall be made in the Schedule against such architectural qualification declaring that it shall be a recognized qualification only when granted after a specified date:

Provided that until the first Council is constituted, the Central Government shall, before, issuing any notification as aforesaid, consult an expert committee consisting of three members to be appointed by the Central Government by notification in the Official Gazette.

Recognition of architectural qualifications granted by authorities in foreign countries is dealt with in Section 15 of the Act. Section 16 of the Act

empowers the Central Government, after consultation with the Council of Architecture, to amend the Schedule by directing that entry be made therein in respect of any architectural qualification. Section 17 of the Act deals with effect of recognition which reads as under:

17. Effect of recognition:

Notwithstanding anything contained in any other law, but subject to the provisions of this Act, any recognized qualification shall be a sufficient qualification for enrolment in the register.

Section 21 of the Act speaks of minimum standard of architectural education, which reads as under:

21. Minimum standard of architectural education.- *The Council may prescribe the minimum standards of architectural education required for granting recognized qualifications by colleges or institutions in India.*

Section 28 deals with entry of additional qualification, which reads as under:

28. Entry of additional qualification.- *An architect shall, on payment of such fee as may be prescribed by rules, be entitled to have entered in the register any further recognized qualification which he may obtain.*

Section 35 speaks about effect of registration, which reads as under:

35. Effect of registration.- (1) *Any reference in any law for the time being in force to an architect shall be deemed to be a reference to an architect registered under this Act.*

(2) *After the expiry of two years from the date appointed under subsection (2) of section 24, a person who is registered in the register shall get preference for appointment as an architect under the Central or State Government or in any other local body or institution which is supported or aided from the public or local funds or in*

*any institution recognized by the
Central or State Government.*

6. On a conjoint reading of said Sections along with qualifications mentioned in the Schedule it is apparent that the qualifications mentioned in the Schedule which have to be read along with Section 14 of the Act, is for the purpose of recognizing the qualifications in order to register the name of the person who has acquired the said qualification in the register maintained by the Council of Architecture. Once the name of a person who has the requisite qualification is registered, then such person would get preference for appointment of architect under the Central or State Government or any other local body or institution recognized by the Central or State Government. Therefore, one of the objects and purposes of the Act is recognition of the qualification as per the Schedule for the purpose of registration of a person who has acquired the requisite qualification for professional practice in the field of architecture.

Hence, if any additional qualification finds a place in the Schedule and the person has acquired such a qualification, he has the recognized qualification for enrollment in the Register maintained under the Act.

7. The Architects Act, 1972 although states that the Council for Architecture – second respondent herein may prescribe minimum standard for architectural education required for granting recognized qualifications by colleges or institutions in India, the same is only for the purpose of registration under the Act. That all persons who have acquired any of the qualifications mentioned under the Schedule to Section 14 of the Act could seek registration under the Act. This does not mean that any course concerning architecture if not listed under the Schedule to Section 14 of the Act would per-se become an illegal or unrecognized course. As already noted, the entry of the qualifications in the Schedule to Section 14 of the Act is for the purpose of registration under the Act. This does not bar any

person from acquiring any other qualification in Architecture, even though such a qualification may not find a place in the Schedule to Section 14 of the Act. On perusal of the Schedule we find that M.Arch programme does not find a place under the Schedule. It would only mean that the acquisition of such qualification by a person would not enable him to get his name entered in the register as an additional qualification, as the said course is a post graduate course.

8. M.Arch is a programme which can be prosecuted by a person who has already acquired a bachelor's degree in Architecture awarded by any recognized Indian University established by the Act of Central or State Legislature. Therefore, even if a person whose name is registered under the provisions of the Act in the register meant for architects on having acquired a bachelor's degree in Architecture and thereafter acquires M.Arch degree programme, he may not be entitled to get his name registered in

the register by way of an additional qualification. We have already stated, M.Arch degree is a degree which is not recognized under the Schedule, though a degree which is not recognized for the purpose of registration under the Act would not imply that such a degree is per-se illegal.

9. We have also perused the provisions of All India Council For Technical Education Act, 1987 (AICTE Act for the sake of convenience). Under the said Act Section 2(g) defines 'technical education', *interalia* to include architecture, town planning and such other programmes or areas as the Central Government may, in consultation with the Council, by notification in the Official Gazette, declare. 'Technical Institution' is defined under Section 2(h) of the AICTE Act, 1987 to mean an institution, not being a University, which offers courses or programmes of technical education, and shall include such other institutions as the Central Government may, in consultation with the Council, by notification

in the Official Gazette, declare as technical institutions.

10. It is not the case of the petitioner that the aforesaid institutions are not technical institutions nor is it the case that they are not recognized institutions. The grievance of the petitioner appears to be that the programme offered by the aforesaid institutions namely, M.Arch programme, not being recognized under the Act is illegally being conducted by the said institutions and second respondent Council is regulating the said programme and permitting the said institutions to confer degrees, whereas it has no authority to do so.

11. As we have already noted, under Section 21 of the Act, the Council can prescribe minimum standard of architectural education required for granting recognized qualifications by colleges or institutions in India. The said provision cannot be restricted to only under-graduate education not only to the courses or programmes which have been listed

in the Schedule. The Council has authority to prescribe the minimum standards of architectural education across the spectrum. That is to say the minimum standards of education to be maintained by the recognized universities and institutions which are conducting such programmes in India, even though they do not find a place under the Schedule.

12. Even otherwise, the University Grants Commission Act, 1956 ('UGC Act' for short) meant to make provision for the co-ordination and determination of standards in Universities and for that purpose, to establish a University Grants Commission. Section 22 of the said Act prescribes the right to confer degrees.-

22 (1) The right of conferring or granting degree shall be exercised only by a University established or incorporated by or under a Central Act, a Provincial Act or a State Act or an institution deemed to be a University under Section 3 or an institution

especially empowered by an Act of Parliament to confer or grant degrees.

(2) Save as provided in sub-section (1), no person or authority shall confer, or grant, or hold himself or itself out as entitled to confer or grant, any degree unless it has the right to confer such degrees as per sub-section (1) of Section 22 of the UGC Act.

13. The expression 'degree' is defined to mean any such degree as may, with the previous approval of the Central Government, be specified in this behalf by the Commission by notification in the Official Gazette. Unless M.Arch programme is recognized by the Central Government and notified in the Official Gazette by the UGC, the institutions or universities may not have the authority to conduct such a programme. It is not the case of the petitioner herein that the universities or institutions referred to above have no authority to conduct the M.Arch programme and to confer degrees to the students. The contention of the petitioner is that the second respondent –

Council of Architecture has no authority to approve the degrees or regulate the course etc.,. We do not think that the petition would call for any further consideration, inasmuch as we have held that recognition of the degree as per the Schedule r/w Section 14 of the Act is only for the purpose of registration of the degree holder under the provisions of the Act. The non-mention of a particular course or degree in the Schedule to the Act, would not per-se imply that such a degree is an unrecognized degree or an illegal degree. It is needless to clarify that the object and purpose of entering the degrees in the Schedule to the Act is only for the purpose of recognizing the same under Section 14 of the Architect Act in order to register the name of the degree holder in the register maintained by the Council and not for any other purpose so as to enable him or her to carry on the profession of an architect.

14. In fact the qualification for entry in the register maintained by the Council is stated in

Section 25 of the Act. One such qualification is to hold a recognized qualification and recognized qualification is as recognized under Section 14 r/w 15 of the Act for the purpose of entry of the name in the register maintained by the Council so as to enable such person to carry on the profession in the field of architecture in India.

15. In the circumstances, we do not find any merit in the contentions of the petitioner nor in the writ petition.

Hence, the writ petition is ***dismissed***.

**Sd/-
JUDGE**

**Sd/-
JUDGE**

*AP/-