

**IN THE HIGH COURT OF UTTARAKHAND**  
**AT NAINITAL**

HON'BLE THE CHIEF JUSTICE SRI G. NARENDAR  
AND  
HON'BLE SRI JUSTICE ALOK MAHRA

**24<sup>TH</sup> APRIL, 2025**

**WRIT PETITION (S/B) No. 105 OF 2025**

Sheetal Gurung.

...Petitioner

Versus

Uttarakhand Pay Jal Nigam and others.

...Respondents

Counsel for the petitioner. : Sri D.S. Patni, learned Senior Counsel  
assisted by Sri Dharmendra Barthwal,  
learned counsel.

Counsel for respondent nos. 1, 2 : Sri S.S. Chauhan, learned counsel.  
& 3.

Counsel for respondent nos. 4 to : Sri R.K. Raizada, learned Senior  
6. Counsel assisted by Ms. Mamta Bisht,  
learned counsel.

**ORDER** : (per Sri G. Narendar, C.J.)

Heard Sri D.S. Patni learned Senior Counsel  
assisted by Sri Dharmendra Barthwal, learned counsel for  
the petitioner; Sri S.S. Chauhan, learned counsel for  
respondent nos. 1 to 3; and Sri R.K. Raizada, learned  
Senior Counsel assisted by Ms. Mamta Bisht, learned  
counsel for respondent nos. 4 to 6.

2. The legality of the degree awarded by the  
Institution of Engineers, Ludhiana, from where private  
the respondent nos. 4 to 6 had allegedly completed their  
degree, is in question. This Court need not travel far for

supportive material. The Office Memorandum dated 05.08.2008, issued by the Uttarakhand Pay Jal Nigam, i.e. respondent no. 1, *prima facie* appears to be a complete answer. The Office Memorandum reads as under :

*"Uttarakhand Drinking Water Resources Development and Construction Corporation*

*Head Office: 11- Mohini Road, Dehradun*

*Letter No. 2779 / Chief Engineer Order /*

*Date 05.08.08*

**Office memorandum**

*Applications are being received from time to time from junior engineers working in the department for pursuing higher education such as B. Tech. AMIE and in the said application forms, it is being mentioned that they have received higher education from Rajasthan Vidyapeeth University (Udaipur), Rajasthan, whereas the said institution is not recognized by UGC, which has been mentioned by Deputy Secretary University Grant Commission, Bahadur Shah Zafar Marg, New Delhi in his letter No. F-63/(Centre)/2003 (CPP-1) dated 03.07.2006 as follows: -*

*"The Committee recommended that the name of the Institute may be removed from the public notice dated 3rd August, 2005 posted on the UGC website keeping in view the undertaking furnished by Sri Janardan Rai Nagar Rajasthan Vidyapeeth, Udaipur to the effect that they have stopped admitting students from 18th August, 2005 and on advertisement to this effect has already been published in the newspaper.*

*Candidates who have completed the above mentioned higher education from the said institution before 18.08.2005 have been given special exemption and further recognition has been cancelled. Action will be taken to grant approval for AMIE higher education to only one institution "The Institution of Engineers (India) Calcutta" which is already recognized.*

*The approvals given earlier by the head office for doing*

*B.Tech./ANIE from the said institution (Rajasthan Vidyapeeth University (Udaipur) Rajasthan) after the said date are hereby cancelled. In future, any branch officer under the region will not be able to cancel the approval.*

*Applications for pursuing higher education from Rajasthan Vidyapeeth University (Udaipur) Rajasthan will not be forwarded to this office.*

**It is also directed that in future, permission to do AMIE will be given only from "The Institution of Engineers (India) Calcutta". No permission will be given to pursue higher education (AMIE) from any other institution.**

(Emphasis by this Court)

*Signature*

*(R.N. Verma) Chief Engineer (Min.)"*

3. On a plain reading of the aforesaid Office Memorandum, it is apparent that respondent nos. 1 & 2 had taken a categorical decision that all such Junior Engineers, who desired to undertake and complete the course of study in AMIE, were required to do the same, only with the Institution of Engineers (India) Calcutta, and the last paragraph categorically states that no permission will be given to pursue higher education (AMIE) from any other Institution.

4. The admitted fact, even according to learned Senior Counsel for respondent nos. 4 to 6, and also according to learned counsel for respondent nos. 1 to 3, is that permission was sought by private respondent nos. 4 to 6 to pursue and complete the engineering course

(AMIE) from the Institution at Ludhiana, and that the letter for permission was made in the year 2009, i.e. after the bar/ prohibition that was imposed by the official respondents. The letter granting permission is said to have been issued in the year 2010, and therein it was specifically stated that they should pursue, and complete the degree with the Institution of Engineers (India) Calcutta. This is discernable from a reading of the Office Memorandum bearing Letter No. 471/P.C.Camp.Ex.Add.Ass.Eng./08 dated 05.09.2024. The opening paragraph of the Office Memorandum throws light on this fact. It reads as under :

*".....But due to doubt regarding the validity of the degree course to be done from AMICE, the said engineers were given permission to do the degree course from The Institution of Engineer (India) Kolkata....."*

5. Thus, the completion of the course from the Institute at Ludhiana, *prima facie*, was without prior permission. That apart, after the completion of the course, representations were made by the private respondents, which representations came to be rightly rejected by the department, as far back as, in the year 2013. The non-consideration of the representations dated 29.09.2013 and 30.09.2013 led to filing of a Writ Petition, seeking equivalence of degree issued by AMICE

(India) Ludhiana, with the degree issued by AMIE (India) Calcutta. The Writ Petition came to be disposed of, with a direction to consider the representations. The representations came to be rejected in the year 2013 itself.

6. Thereafter, another Writ Petition was filed in the year 2014, and the rejection of the representations was the subject matter. The Writ Petition came to be disposed of by recording the submission that the decision taken by the High Powered Committee dated 29.11.2013, has not been considered by the first respondent. It is pertinent to note that this report was in view of a prayer by certain employees of the Central Government, and had nothing to do with the services of the State Government.

7. Regulation 11 of the Uttarakhand Pey Jal Sansadhan Vikas Evam Nirman Nigam Engineering Service Regulations 2012, pertaining to Technical Qualifications, reads as under :

**“Technical Qualifications**

11. **(1)** No any person shall be direct recruit in Civil branch of service until-

(a) for the said purpose he hold Graduation degree or equivalent degree in Civil Engineering from any

**recognized Institution** by the Government or a University established by the Law; (Emphasis by this Court)

*(b) passed part 'A' or 'B' examination of Associate Membership/ Membership Examination of Civil Institutions of Engineers India.*

**(2)** No any person shall be direct recruit in Electrical/Mechanical branch of service until –

*(a) for the said purpose be hold Graduation degree or equivalent degree in Electrical and/or Mechanical Engineering from any recognized Institution by the Government or a University established by the Law;*

*(b) passed part 'A' or 'B' examination of Associate Membership/ Membership Examination of Electrical and/or Mechanical Institutions of Engineers India.*

**(3)** No any Additional Assistant Engineer or Computer of the Uttarakhand Peyjal Sansadhan Vikas Evam Nirman Nigam shall be promoted on the post of Assistant Engineer (Civil or Electrical/ Mechanical) till he pass such eligibility examination prescribed by the Nigam or obtained technical qualification provided in the regulation 5 (1) and 5 (2)."

8. From a reading of Regulation 11(1) (a) & (b), it is apparent that the only Institute, that is recognized under the Rules, even as on today, is the Associate Membership/ Membership Examination of Civil Institutions of Engineers India. A reading of the Regulations of 2012, and the Office Memorandum dated 05.08.2008, makes it is apparent that the official respondents had not recognized the degrees that were

“obtained” from the Institution of Civil Engineers (India) Ludhiana (Punjab) (AMICE).

9. That apart, reliance is placed on the judgment of the Hon’ble Apex Court, which was in relation to a dispute raised by the employees of the Union Government. Reliance is placed by the learned counsel for the Pey Jal Nigam on the judgment of the Hon’ble Apex Court in the case of ***Institution of Mechanical Engineers (India) through its Chairman v. State of Punjab and others, (2019) 16 SCC 95***. Reference is made to paragraph nos. 49 & 50, which read as under :

*“49. However, the fact remains that the equivalence to the Certificates awarded by the appellant was granted by the MHRD in consultation with AICTE up to 31.05.2013 as is evident from Notification dated 06.12.2012 issued by the Central Government and Public Notice issued by AICTE in August, 2017. These communications also indicate that all those students who were enrolled up to 31.05.2013 would be eligible for consideration in accordance with MHRD office memorandum/order in course. Though we have laid down that the Certificates issued by the appellant on successful completion of its bi-annual examination to its Members cannot be considered to be equivalent to a Degree, an exception needs to be made in favour of students enrolled up to 31.05.2013 and benefit in terms of the Notification dated 06.12.2012 and Public Notice as aforesaid ought to be extended to such candidates. The candidates had opted to enroll themselves so that they could appear at the examinations conducted by the appellant under a regime which was put in place by the Central Government itself and the course content as well as the curriculum were reviewed by the AICTE. However, the aforementioned Notification and Public Notice were clear that after 01.06.2013 the orders concerned granting equivalence would cease to have any effect. (Emphasis by this Court)*

*50. In the circumstances we do make an exception in favour of such candidates enrolled up to 31.05.2013 and declare that the conclusions drawn in the present matter will apply after 01.06.2013. The Certificate awarded by the appellant to such candidates enrolled up to 31.05.2013 shall be considered equivalent to a Degree in Mechanical Engineering for the purpose of employment in Central Government."*

10. A reading of paragraph no. 50, aforesaid, would show that the conclusions drawn are for the purposes of consideration of equivalence of degree in Mechanical Engineering, for the purpose of employment in the Central Government alone, and it was in this context that the reference to the report of 2013 of the Committee is made.

11. In the case on hand, initially the request of respondent nos. 4 to 6, having been rejected, and the same having attained finality, the respondents could not have reviewed their decision, in the absence of any power of review conferred on them under the Statute. It is no more res-integra, that the power of review is a statutorily conferred power. The respondents, having rejected the claim, and the same having attained finality, the respondents could not have undone what they had caused in 2013 itself. That apart, another interesting development, that has taken place is that respondent

nos. 4 to 6 had been recruited to the post of Assistant Engineer under the 50% quota under Regulation 5(1)(a)(ii)(1). The Department, having processed the recruitment of the private respondents under the above stream of recruitment, it is not made known as to how they could have been re-recruited under Regulation 5(1)(a)(ii)(2). Part III of the Regulations, which deals with Recruitment, identifies or classifies four sources or streams of recruitment, i.e. 39 percent of the posts by direct recruitment through the Public Service Commission; 50 percent posts by promotion amongst such Junior/ Additional Assistant Engineer; 8.33 percent posts by promotion from amongst the Junior/Additional Assistant Engineer, who have "obtained Graduate degree in Civil Engineering or Electrical/ Mechanical Engineering from any recognized Institution or Associate Member of Institution of Engineers (India) within ten years from the date of selection, and with prior approval of the Nigam". Next is that 2.67 percent posts by promotion on the basis of seniority from amongst computers.

12. The private respondent nos. 4 to 6, having been recruited to the post, under the 50 percent posts by promotion, on the ground that they have completed ten

years of service, it is not known under which provision of law, the stream of recruitment could have been disturbed or changed, and the petitioner re-recruited under the 8.33 percent quota.

13. Regulation 5 clearly refers to the appointments as recruitment. The moot point would be then what is the date of recruitment of these private respondents. Whether it is the date of recruitment to the post of Junior Engineer as on the date they were recruited under the 50 percent quota, or should their date of recruitment be 05.09.2024, when they were recruited under the 8.33 percent quota.

14. A plain reading of the aforesaid Rule does not permit recruitment with retrospective effect. In that view of the matter the petitioner, in our *prima facie* opinion, has made out a case that the impugned proceedings and the subsequent promotion (which have now been kept in abeyance by proceedings of even date), are in the teeth of the Regulations of 2012. Reliance on the rulings of the Hon'ble Apex Court, in our *prima facie* opinion is misplaced.

15. Hence, there shall be a stay of the consideration of the candidature of the private

respondent nos. 4 to 6 for re-recruitment under the 8.33 percent quota. Insofar as, other private respondent nos. 7 to 11 are concerned, it is *prima facie* demonstrated before the Court that they are ineligible to be considered under the 8.33 percent quota, as they have not completed their examination within the stipulated ten years from the date of selection.

16. Issue notice to private respondent nos. 7 to 11.

17. List this case on 25.06.2025, along with other connected cases.

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**G. NARENDAR, C.J.**

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**ALOK MAHRA, J.**

Dt: 24<sup>th</sup> April, 2025  
Rahul