

# CENTRAL INFORMATION COMMISSION

(Room No.315, B-Wing, August Kranti Bhawan, Bhikaji Cama Place, New Delhi 110 066)

**Prof. M. Sridhar Acharyulu (Madabhushi Sridhar)**

Central Information Commissioner

**CIC/CC/A/2014/001770-SA**

**Ram Kishan Sharma v. PIO, UGC**

**Important Dates and time taken:**

<b>RTI:</b> 16.05.2014	<b>FAO:</b> 18.09.2014	<b>SA:</b> 13.10.2014
Disposed of with directions	<b>Hearing:</b> 27.09.2016	<b>Decided on:</b> 27.09.2016

## **Parties Present:**

1. Appellant: Absent.

Public authority: Mr. Satish Kumar, Under Secretary and PIO, UGC is present.

## **FACTS:**

2. The appellant had sought for: (a) the details and the list of appropriate education programmes of comparable quality specified or approved by the UGC for the purpose of career advancement scheme etc, and (b) whether the training programme for 'script development for preparing audio video tapes' conducted by IGNOU New Delhi is specified or approved by the UGC as appropriate continuing education programme of comparable quality as mentioned in career advancement scheme of UGC.

3. The PIO, Mr. Satish Kumar, Under Secretary of UGC has simply stated in his reply on 18.07.2014 that "the UGC does not have information on the queries". Thereafter, the appellant filed First Appeal. The First Appellate Authority, Dr. (Mrs) Renu Batra, Joint Secretary, UGC as a responsible officer should have considered what was asked at least. She simply declared that in her

considered view the reply given by the PIO was satisfactory. So, the appellant approached the Commission.

### **Analysis:**

4. The appellant is seeking clarification regarding validity of a course conducted by IGNOU for the purpose of career advancement scheme. This can be clarified either by UGC or IGNOU. They did not write to each other on this question. During the hearing of second appeal, the PIO states that clarifications could not be provided under the RTI Act.

5. The UGC established in November 1956 as a statutory body of the Government of India through an Act of Parliament for the coordination, determination and maintenance of standards of university education in India. (See the official website of UGC, <http://www.ugc.ac.in/page/Genesis.aspx>) The preamble of UGC Act 1956 says: "An Act to make provision for the co-ordination and determination of standards in Universities and for that purpose, to establish a University Grants Commission".

6. There is a right to information provision within UGC Act in Section 12 (h) & (i). Section 12 gives general power to determine and maintain the standards of teaching, examination and research. Section 12 of UGC Act says:

It shall be the general duty of the Commission to take, in consultation with the Universities or other bodies concerned, all such steps as it may think fit for the promotion and co-ordination of University education and for the determination and maintenance of standards of teaching, examination and research in Universities, and for the purpose of performing its functions under this Act, the Commission may- ...

(h) **collect information on all such matters relating to University education in India and other countries as it thinks fit and make the same available to any University;**

(i) require a University to furnish it with such information as may be needed relating to the financial position of the University or **the studies** in the various branches of learning undertaken in that University, together with all the rules and regulations relating to the **standards of teaching** and examination in that University respecting each of such branches of learning;

7. Thus, the Section 12 of the UGC Act read with the RTI Act 2005, UGC has a duty to collect and provide information to the citizens seeking it. In 1984, the UGC Act was amended and powers of Regulation of fees and prohibition of donations in certain cases were added as Section 12 A(1).

Section 12A (2) says that UGC may 'without prejudice to the generality of the provisions of section 12 if, having regard to –

- a) the nature of any course of study for obtaining any qualification from any university;
- b) the types of activities in which persons obtaining such qualification are likely to be engaged on the basis of such qualification;
- c) the minimum standards which a person possessing such qualification should be able to maintain in his work relating to such activities and the consequent need for ensuring, so far as may be, that no candidate secures admission to such course of study by reason of economic power and thereby prevents a more meritorious candidate from securing admission to such course of study; and
- d) all other relevant factors, the Commission is satisfied that it is necessary so to do in the public interest, it may, after consultation, with the university or universities concerned specify by regulations the matters in respect of which fees may be charged, and the scale of fees in accordance with which fees shall be charged in respect of those matters on and from such date as may be specified in the regulations in this behalf, by any college providing for such course of study from, or in relation to, any student in connection with his admission to, and prosecution of, such course of study: Provided that different matters and different scales of fees may be so specified in relation to different universities or different classes of colleges or different areas.

(3) Where regulations of the nature referred to in sub-section (2) have been made in relation to any course of study, no college providing for such course of study shall –

- a) levy or charge fees in respect of any matter other than a matter specified in such regulations;
- b) levy or charge any fees in excess of the scale of fees specified in such regulations, or
- c) accept, either directly or indirectly, any payment otherwise than by way of fees; or any donation of gift (whether in cash or kind), from,

or in relation to, any student in connection with his admission to, and prosecution of, such course of study.

(4) If, after making, in relation to a college providing for a specified course of study, an inquiry in the manner provided by regulations, and after giving such college a reasonable opportunity of being heard, the Commission is satisfied that such college has contravened the provisions of subsection (3), the Commission may, with the previous approval of the Central Government, pass an order prohibiting such college from presenting any students then undergoing such course of study therein to any university for the award of the qualification concerned.

Section 14 says:

S 14: If any University grants affiliation in respect of any course of study to any college referred to in subsection (5) of section 12A in contravention of the provisions of that sub-section or fails within a reasonable time to comply with any recommendation made by the Commission under section 12 or section 13, or contravenes the provision of any rule made under clause (f) or clause (g) of subsection (2) of section 25, or of any regulation made under clause (e) or clause (f) or clause (g) of section 26, the Commission, after taking into consideration the cause, if any, shown by the University for such failure or contraventions **may withhold from the University the grants proposed to be made out of the Fund of the Commission.**

Section 22 (1) The right of conferring or granting degrees 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 specially 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.

(3) For the purposes of this section, "degree" means 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.

As per Section 12 and 12A, the UGC can regulate the standards and the fee prescribed for a program resulting in the award of a degree. If a degree or program is objected to by the UGC, any University or institution cannot award that degree, and if it still awards, it is an offence under Section 24.

**Section 24, Penalties:** Whoever contravenes the provisions of section 22 or section 23 shall be punishable with fine which may extend to one thousand rupees, and if the person contravening is an association or other body of individuals, every member of such association or other body who knowingly or wilfully authorises or permits the contravention shall be punishable with fine which may extend to one thousand rupees.

8. The UGC emblem contains a Sanskrit motto sentence "*jnaan vijnaan vimukthaye* (=Knowledge liberates), which also imposes a duty to provide at least information, if not the 'knowledge'. Information in the form of 'clarification' also liberates the appellants under RTI Act from certain doubts.

9. Thus, the UGC being an academic regulatory has statutory duty to inform/educate the people about the courses/degrees and their validity. It is the core function and power of the UGC to prescribe standards and recognise universities/institutions and their courses, and thus they have a responsibility to clarify. The policy of UGC must include providing clarifications for such genuine doubts. This is such clarification, that none other than UGC can give. The Commission surprised at the way the public authority is refusing to clarify taking shelter under technical interpretation of right according to section 2(f) of RTI Act. They have to read the RTI Act with the UGC Act, and any conclusion without reading these two enactments together would lead to undue denial that amounts to abdication of UGC's duty to inform, which was prescribed by two statutes that being its basic function.

### **Decision:**

#### **Read the UGC Act with the RTI Act**

10. The Commission considers this as a policy-deficit in the public authority exposed by such RTI applications. The RTI Act mandates UGC under section 4(1)(c) & (d) to voluntarily disclose such aspects of their educational policy to the people affected including the appellant in this case.

11. In fact, the UGC has to understand the doubts of such students or parents and recognize the need for clarification arising out of such RTI applications and prepare the FAQs accordingly. The UGC should entrust a team to scrutinize such requirements out of the RTI applications and continuously increase the number of clarifications under FAQs. The increase in the number of RTI applications

seeking such clarifications reflect on the public authority leading to an inference that the UGC is not properly communicating to the people about the validity of courses and degrees.

12. The RTI Act has provided a tool to the people to find out such clarifications. Instead of physically approaching or telephonically asking the applicant has paid Rs.10/- in the form of RTI fee, creating an obligation on the public authority to respond. Hence, the Commission directs the respondent authority not to refuse to give clarifications. If not, the commission would be compelled to initiate penal proceedings and also direct the public authority to pay compensation to the appellants in similar circumstances because appellant's RTI request was a necessity arising out of non-performance of its duty under section 4(1)(c) & (d) of RTI Act. Though section 4 is not directly enforceable by the Commission, the information sought was to be voluntarily disclosed; the RTI application and this appeal demand the CIC to take necessary action to secure access to implement the RTI Act. The information unsought is not prohibited by any exemption. Even if appears to be a clarification which could be denied under first part of Section 2(f), it has to be given under second part of Section 2(f) as UGC Act provided access to that information held by UGC concerning the Universities- both public and private.

### **Duty of the University Grants Commission (UGC)**

13. The Commission surprised at the way the public authority is refusing to clarify an academic doubt. The UGC being an academic regulatory has statutory duty to inform/educate the people about the courses/degrees and their validity as mandated by the law discussed above. The UGC cannot forget that they recognise universities/institutions and their courses after examining the compliance with prescribed standards. The appellant is not seeking any opinion. The policy of UGC must be providing clarifications for such genuine academic doubts. Though it appears to be technically right according to section 2(f), it leaves student community in confusion regarding validity of a course. Not informing the validity of a course amounts to abdication of their duty to inform, as that duty was prescribed by the statute and that is their basic function.

14. The increase in the number of RTI applications based on doubts reflects negatively on the public authority leading to an inference that the UGC is not

properly communicating to the people. The UGC should have a team to scrutinize such requirements out of the RTI applications and continuously increase the number of clarifications under FAQs. The RTI Act mandates under section 4(1)(c) & (d) UGC to voluntarily disclose such aspects of educational policy to the affected people including the appellant in this case. Hence, the Commission under section 19(8)(a)(iv) require the public authority to make necessary changes in their practice and under 19(8)(a)(iii) publish this clarification as information in the form of FAQs.

### **Enforceability of Section 4 through other sections**

15. The Public Authorities generally plead that the section 4 is not directly enforceable by the Commission, but the information sought in this appeal is supposed to be voluntarily disclosed under Section 4 of the RTI Act. They denied when same was sought under Section 3. A citizen's RTI request necessitates enforcement of the right by the Commission. Thus, the UGC or any public authority cannot refuse to give clarifications if it is part of their duty. In these circumstances, the Commission holds that the Section 4(1)(b), (C) and (d) will become enforceable and has every authority to initiate penal proceedings under Section 20, if the information disclosable under three sub clauses of Section 4 was sought under an RTI application under Section 3 read with Section 6 of RTI Act.

16. The Commission directs the PIO, Mr. Satish Kumar to show-cause why penalty should not be imposed against him for refusing to inform and abdication of responsibility both under the UGC Act and the RTI Act, and directs the public authority to explain why it should not be ordered to pay compensation/costs to the appellant, within 21 days from the date of receipt of this order. The Commission also directs the PIO to file compliance report complying with the directions in this order within 30 days from the date of receipt of this order. This second appeal is disposed of accordingly.

Sd/-

(M. Sridhar Acharyulu)  
Central Information Commissioner

Authenticated true copy

(Dinesh Kumar)  
Deputy Registrar

Addresses of the parties:

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