

Government of Jammu and Kashmir
Public Works (R&B) Department
Civil Secretariat, J&K, Jammu

Subject: Degree acquired through Vinayaka Mission's Research Foundation Tamil Naidu (VMRF).

Government Order No. 189 -PW(R&B) of 2020
D a t e d: 26 06-2020

WHEREAS, vide Govt. Order No. 38-PW(R&B) of 2019 dated 14.01.2019 and Government Order No. 459-PW(R&B) of 2019 dated 22-10-2019 the degrees of AEs/ JE's who have acquired Degrees through Vinayaka Mission's Research Foundation Tamil Naidu (VMRF) were accepted by the department from the date they have qualified their degree.

AND WHEREAS, Er. Abnish Sharma, Junior Engineer (Mech.) has approached the department through legal Notice No. Ab/L/2019 dated 29-07-2019, along with the result and copies of certificates of validation of Degree acquired through AICTE Special Examination conducted during December 16th to 19th, 2018 in second phase, detailed as under:

Name of the official	Designation	Name of the institution where from the degree has been obtained	Result of exam conducted by AICTE
Er. Abnish Sharma	JE (Mech.)	VMRF	Qualified under Roll No. 22800009 and Enrolment No. T5926A0023

AND WHEREAS, As per the judgment dated 03.11.2017 passed by the Hon'ble Supreme Court in bunch of appeal c/w appeal titled Orissa Lift Irrigation corporation Limited V/s Rabi Sankar Patro and Others, where under the Hon'ble Supreme Court, while accepting the view of Punjab and Haryana in Kartar Singh's case, has set aside the ex-post facto approvals granted by UGC in the cases of the candidates enrolled during the academic session 2001-2005 and directed that the Degree in Engineering awarded by the concerned deemed Universities (i.e VMRF-TN, IASE Gandhi Vidyamandir, Sardarshahr Rajasthan, JRN Vidyapeeth Udaipur, Rajasthan and AARI, Allahabad, U.P) stands suspended with further direction that the AICTE shall device the modalities to conduct an appropriate test/ tests both in written examination as well in practical's through the National Institutes of Technology in respective States where ever the students are located. The operative part of the detailed order reveals as under:-

Para 46:

"Having found the entire exercise of grant of ex-post-facto approval to be incorrect and illegal, the logical course in normal circumstances would have been not only to set aside such ex-post-facto approvals but also to pass consequential directions to recall all the degrees granted in pursuance thereof in respect of courses leading to award of degrees in Engineering. However, since 2004 UGC Guidelines themselves had given liberty to the concerned Deemed to be Universities to apply for ex-facto approval, the matter is required to be considered with some sympathy so that interest of those students who were enrolled during the academic session 2001-2005 is protected. Though we cannot wish away the

fact that the concerned Deemed to be Universities flagrantly violated and entered into areas where they had no experience and started conducting courses through distance education system illegally, the over bearing interest of the concerned students persuades us not to resort to recall of all the degrees in Engineering granted in pursuance of said ex-post-facto approval. However, the fact remains that the facilities available at the concerned Study centers were never checked nor any inspections were conducted. It is not possible at his length of time to order any inspection. But there must be confidence and assurance about the worthiness of the concerned students. We, therefore deem it appropriate to grant some chance to the concerned students to have their ability tested by authorities competent in that behalf. We, therefore, direct that all the degrees in Engineering granted to students who were enrolled during the academic years 2001 to 2005 shall stand suspended till they pass such examination under the joint supervision of AICTE-UGC in the manner indicated hereinafter. Further every single advantage on the basis of that degree shall also stand suspended".

Para 47:

"The AICTE is directed to devise within one month from the date of this judgment modalities to conduct appropriate test/ tests both in written examination as well as in practical's for the concerned students admitted during the academic sessions 2001-2005 covering all the concerned subjects. It is entirely left to the discretion of AICTE to come out with such modalities as it may think appropriate and the tests in that behalf shall be conducted in the National Institutes of Technology in respective States wherever the students are located. The choice may be given to the students to appear at the examination which ideally should be conducted during May-June, 2018 or on such dates as AICTE may determine. Not more than two chances be given to the concerned students and if they do not pass the test/ tests their degrees shall stand recalled and cancelled. If a particular student does not wish to appear in the test/ tests, the entire money deposited by such student towards tuition and other charges shall be refunded to that student by the concerned demand to be University within a month of the exercise of such option. The students be given till 15th of January, 2018 to exercise such option. The entire expenditure for conducting the test/ tests in respect of students who wish to undergo test/ tests shall be recovered from the concerned deemed to be Universities by 31.03.2018, if they clear the test/ tests within the stipulated time, all the advantages or benefits shall be restored to the concerned candidate. We make it clear at the cost of repetition that if the concerned candidates do not clear the test/ tests within the time stipulated or choose not to appear all the test/ tests, their degree in Engineering through distance education shall stand recalled and cancelled. It goes without saying that any promotion or advancement in career on the basis of such degree shall also stand withdrawn, however any monetary benefits or advantages in that behalf shall not be recovered from them".

AND WHEREAS, consequent upon the said judgment several reviews were filed before the Hon'ble Supreme Court against the said judgment and while accepting the plea in review M.A. No. 38 of 2018 in C.A No. 17907/2017 the Hon'ble Court vide order dated 22.01.2018 has been pleased to direct as under:

"We therefore, as one time relaxation in favour of those candidates who were enrolled during the academic years 2001-2005 and who, in terms of the judgment are eligible to appear at the test to be conducted by AICTE direct:

- a. All such candidates, who wish to appear at the forthcoming test to be conducted by AICTE in May-June 2018 and who exercise option to appear at the test in terms of the judgment, can retain the degree in question and



all the advantages flowing there from till one month after the declaration of the result of such test or till 31.07.2018 whichever is earlier.

- b. This facility is given as one time exception so that those who have the ability and can pass the test in the first attempt itself should not be put to inconvenience. If the candidates pass in such first attempt, they would be entitled to retain all the advantages. But if they fail or choose not to appear, the directions in the judgment shall apply, in that the degrees and all advantages shall stand suspended and withdrawn. At the cost of repetition, it is made clear that no more such chances or exceptions will be given or made. They will undoubtedly be entitled to appear on the second occasion in terms of the judgment but this exception shall not apply for such second attempt.
- c. We direct AICTE to conduct the test in May-June 2018 and declare the result well in time, in terms of our directions in the judgment and this order. AICTE shall however extend the time to exercise the option to appear at the test suitably".

AND WHEREAS, AICTE issued a public notice on its website exhorting upon all students/candidates enrolled during the academic session 2001-2005 in the aforesaid University to register on AICTE Website www.aicte.india.org for appearing in the examination in the months of Jun & December, 2018 across India in NITs, PEC Chandigarh and Anna University, to validate the degrees awarded by them.

AND WHEREAS, vide letter No F-No.13-60/P&AP/SC-Legal/Dist.Edu./2019/968 dated 26.04.2019 AICTE has clarified that the examination of both the phases i.e June & Dec. 2018 were successfully completed in a scheduled time. The result was declared in July 2018 for first phase and in Feb. 2019 for the 2nd phase of examination. After conducting of examination /test the result was published and up loaded on the website and all the organization /government department were requested to verify the results by visiting the list of successful candidate on AICTE website and also the online certificate issue to them.

AND WHEREAS, Er.Abnish Sharma, was initially appointed as draftsman on 27.03.1989. Thereafter, the official has been promoted as Junior Engineer (Mechanical) on the basis of three years diploma issued by the J&K State Board of Technical Education on 09.02.2004.

AND WHEREAS, his name figured in the seniority list of Junior Engineer Mechanical Diploma Holder and also placed as Assistant Engineer (Mechanical).

AND WHEREAS he passed in May 2006 his degree in Mechanical Engineering from Vinayaka Mission Research Foundation, Tamil Nadu under Enrolment No.T5926A0023 and thereafter, vide Government Order No.383-PW(R&B) of 2008 dated 25.06.2008, he was placed at S.No.162 of the final seniority list of Junior Engineer(Mechanical) Degree Holder.

AND WHEREAS, his name was deleted from the list of Junior Engineers(Mechanical) degree holders. The deletion of the name was also stayed in SWP No.94/2011 filed by him.

AND WHEREAS, in the meanwhile the genuineness of degrees of Vinayaka Mission research Foundation Tamil Nadu became subject of court cases in Orissa High Court and Punjab and Haryana High Court and that matter landed before the Hon'ble Supreme Court in Civil Appeal No.17869-1789 of 2017 as mentioned above.

AND WHEREAS, since the degree certificate of the official issued in the month of May, 2006 by Vinayak Mission Research Foundation Tamil Nadu has been validated by the AICTA UGC pursuant to the Hon'ble Supreme Court Judgment, the benefit of the degree be given to the applicant w.e.f. 05/2006.

NOW, THEREFORE, in compliance to the decisions of Hon'ble Supreme Court of India, dated 03.11.2017 and 22.01.2018, the clarification issued by the AICTE dated 26.04.2019, the degrees qualification of Er. Abnish Sharma, Junior Engineer (Mech.) is accepted from the date as under:-

Name of the official	Designation	Result of exam conducted by AICTE	Date from which the degree accepted.
Er. Abnish Sharma	JE (Mech.)	Qualified under Roll No. 22800009 and Enrolment No. T5926A0023	05/2006

The above acceptance of the degree qualification shall be subject to the following condition that:-

- He shall seize to be diploma holders from the date of issuance of this order.
- The decision of treating him as degree holders shall be final and no application of reverting back as diploma holder shall be entertained
- It shall be subject to the outcome of court cases, if any, pending in the Hon'ble Supreme Court/any other competent court of law which is not in the immediate knowledge of the Department.
- The official shall be treated as degree holder from the date of passing of degree or date of appointment as Junior Engineer whichever is later.

By order of the Government of Jammu and Kashmir.

Sd/-
(Shailendra Kumar) IAS
Principal Secretary to the Government

No: PW(R&B)/HRM/UGC-AICTE/Exam/2018
Copy to the:-

Dated 21.06.2020

- 1 Joint Secretary (J&K) Ministry of Home Affairs Government of India.
- 2 Commissioner /Secretary to the Government, PHE/I&FC Department
- 3 Commissioner/Secretary to the Government, Higher Education Department.
- 4 Secretary to the Government, General Administration Department.
- 5 Director Archeology & Achieves, J&K, Srinagar
- 6 Development Commissioner Works, PW(R&B) Department.
- 7 OSD to Advisor (B) for information of the Hon'ble Advisor.
- 8 Chief Engineer, MED Jammu/Kashmir.
- 9 Concerned Officer.
- 10 Pvt. Secretary to the Principal Secretary to Government, Public Works (R&B) Department for information of Principal Secretary.
- 11 I/c Website PW(R&B) Department.
- 12 Government Order file/Stock file.
- 13 Monday return.

(Rajnish Kumar)KAS
Additional Secretary to the Government,