

IN THE HIGH COURT OF DELHI AT NEW DELHI

Judgment delivered on: March 02, 2022

+ W.P.(C) 11420/2019

SIDDHARTHA THOMAS Petitioner

Through: Mr. Prashant Bhushan and
Mr. Devesh Agnihotri, Advs.

versus

COUNCIL OF ARCHITECTURE & ANR. Respondents

Through: Mr. Naveen R. Nath, Sr. Adv. with
Mr. Anirudh Bhat, Adv. for CoA
Mr. Pradeep Kumar Sharma, Adv.
for R-2

CORAM:

HON'BLE MR. JUSTICE V. KAMESWAR RAO

J U D G M E N T

V. KAMESWAR RAO, J

1. The present petition has been filed by the petitioner with the following prayers:

“In view of the facts and circumstances stated above, it is prayed that this Hon’ble Court may be pleased to: -

- a. Set aside the letter dated 11.12.2018 Ref. No. CA/28/2018/Regn. of the Council of Architecture wherein it arbitrarily rejected the application of the petitioner for registration as an architect in India.*
- b. Direct the Respondents to hold that degree of M.A. Hons, in Architecture granted by University of Edinburgh, U.K. is recognized architectural qualification in India and is sufficient to enrol the petitioner as an architect in India.*
- c. Direct the Respondent No. 1 to enrol the petitioner in their register as M.A. Hons., in Architecture in order to allow him to practise as an architect in India.*

d. Issue such other writ, direction or order, which this Hon'ble court may deem fit and proper under the facts and circumstances of the case."

2. It is the case of the petitioner and so contended by Mr. Prashant Bhushan, learned counsel appearing for the petitioner that the petitioner had obtained a Degree of Master of Arts with Honours in Architecture from the University of Edinburgh, United Kingdom, after four years of rigorous training. The Degree obtained by the petitioner has full prescription and validation from Architectural Registration Board and Royal Institute of British Architects of United Kingdom, making the petitioner a Part-I qualified Architect. It is his submission that vide notification dated February 21, 1973 and also December 20, 2012, the Central Government issued a list of architectural qualifications granted by the Universities or other institutions outside India as recognised qualifications for registration under the Architects Act, 1972 ('Act of 1972', for short). According to him, the said qualifications added to the Schedule of the Act of 1972 "a Degree" from the University of Edinburgh, as recognised for the purpose of the said Act. In this regard, he has drawn my attention to entry 6 of the said notification which reads as under:

"Degree of Architecture awarded by the Universities of Cambridge, Durham, Edinburgh, Glasgow, Liverpool, London, Manchester, Sheffield and Wales."

3. He states that the petitioner in order to register himself as an Architect in India had applied to respondent No.1 under Section 26 of the Act of 1972 for registration, vide letter dated November 29, 2018, since the petitioner was desirous to return to India and to work here.

However, the application of the petitioner was rejected on the ground that the qualification possessed by the petitioner, i.e., Degree of Master of Arts with Honours in Architecture awarded by the University of Edinburgh is not a recognised qualification as per the Schedule of Act of 1972 and therefore the petitioner could not be registered as an Architect in India. He submitted, in fact, the University of Edinburgh provides M.A. (Hons.) Degree in Architecture, which is a bachelor / under-graduate degree with a duration of four years. He has also drawn my attention to the curriculum which has been undertaken by the petitioner to get his degree in Architecture from the Edinburgh University. He stated, petitioner had vide his letter dated December 13, 2018 to the respondent No.1 clarified that the Degree possessed by him is a recognised Degree as per the Act of 1972 and had also referred to “*higher education achievement report*” of the University of Edinburgh issued to the petitioner which clearly states that the B.A. and M.A. Professional Degrees in Architecture have accreditation in United Kingdom. He has heavily relied upon the Judgment of the Coordinate Bench of this Court in the case of *Nirupa Puliye v. Council of Architecture and Anr., W.P.(C) 863/2017* dated July 24, 2017, wherein this Court while interpreting the term ‘degree’ in entry 6 to the Schedule of Act of 1972 had held that the said entries are wide enough to be that of a Bachelor’s degree or a Master’s degree. Thus, so long as the student is awarded a Degree in Architecture from any of the specified Universities in United Kingdom, the qualification as required for being registered as an Architect in India would be met. He stated, despite such a clear Judgment of the Coordinate Bench of this Court,

respondent No.1 has held to the contrary that the aforesaid case is not applicable to the petitioner as the petitioner has acquired a Master's Degree in Arts. According to Mr. Bhushan, the nomenclature is totally irrelevant as the degree possessed by the petitioner, i.e., Master's of Arts with Honours in Architecture is a Degree in Architecture. The denial of the registration as an Architect in the country is in violation of Article 19 (1)(g) of the Constitution. The action of the respondents/state must be just and fair and not arbitrary.

4. On the other hand, Mr. Naveen R. Nath, learned Sr. Counsel appearing for the respondent No.1 would contest the submissions made by Mr. Bhushan to state that vide the impugned order dated December 11, 2018, the respondents had though by stating that the petitioner cannot be registered as an Architect, had called upon him to also approach the respondent No.2 for initiation of further action. In other words, it is his submission that respondent No.1 has no role to play with regard to inclusion of a particular qualification of a foreign University in the Schedule to the Act of 1972. In this regard he has drawn my attention to Section 15 of the Act of 1972 to contend that it is the Central Government which after consultation with the Council directs through a notification in the Official Gazette for the inclusion of any qualification in the subject of Architecture granted by a University located outside India. He stated that, noting the qualification obtained by the petitioner being M.A. (Hons.) in Architecture as different from a Degree in Architecture as is stipulated in the notification issued by the Government of India in the year 1973 and also in the year 2012, even then the petitioner having done a

course for a duration of four years, would not meet the requirements of the schedule and as such the petitioner was not registered as an Architect by the respondent No.1. He stated, no doubt respondent No.2 had called upon respondent No.1 to examine the request of the petitioner under Section 15 of the Act of 1972 and make a suitable recommendation to the said Ministry; in furtherance of which respondent No.1 had vide letter dated February 18, 2019 written to the petitioner to provide information relating to his qualification in the form enclosed. Regrettably, petitioner in response to the said communication had vide his letter dated May 12, 2019 by relying upon the Judgment of the Coordinate Bench of this Court in *Nirupa Puliyel (supra)* and also by relying upon the notifications (which have been referred to above) called upon the respondents to register him as an Architect with the Council of Architecture under the Act of 1972. In other words, petitioner has failed to give the information as sought for through an application form at page 89 of the petition. In the end, he states, respondent No.1 is ready to examine the request of the petitioner in terms of Section 15 of the Act of 1972 and make suitable recommendation to the Ministry, but in the absence of such information which was to be supplied by the petitioner, respondent No.1 is unable to do so.

5. Having considered the submissions made by the counsel for the parties, suffice to state vide the impugned communication dated December 11, 2018, respondent No.1 had rejected the request of the petitioner for registration as an Architect. Thereafter on further correspondence, respondent No.1 vide letter dated February 18, 2019

has stated as under:

“This refers to your letter dated 11.02,2019, addressed the Secretary (Dept. Of Higher Education). University of Human Resource Development, Shastri Bhavan, New Delhi regarding the recognition of Masters of Arts with Honours in Architecture for the purpose of Architects Act, 1972, In this regard, you are requested to provide information related to your qualification in the format enclosed herewith. Please do the needful at the earliest.”

6. Respondent No.1 had also enclosed a form for recognition of foreign qualification to be filled and submitted by the petitioner to the respondent No.1, who shall examine the issue and make suitable recommendation to respondent No.2. The submission of Mr. Bhushan is primarily by relying upon the notifications issued on February 21, 1973 and also December 20, 2012, which are with regard to a degree awarded by the University of the United Kingdom which is recognised by India. Clause 6 thereof has already been reproduced above. A perusal of the same would reveal that the same stipulates that “*Degree of Architecture*” awarded by different Universities of the United Kingdom including the University of Edinburgh. The submission of Mr. Nath is primarily that the Degree of Architecture is different from a Degree like M.A. (Hons.) Architecture. That apart, he also stated that the reliance placed by Mr. Bhushan on the Judgment of *Nirupa Puliye (supra)* is not applicable in the facts of this case, inasmuch the petitioner in the said case had the qualification of Degree of Master in Architecture from the University of Edinburgh in Scotland and the course duration was of six years unlike the case of petitioner, which is of four years and it is in these circumstances, respondent No.1 rejected

the application of the petitioner for registration.

7. The submission of Mr. Nath is appealing. The Coordinate Bench has held that Degree in Architecture to be a Bachelor's Degree or Master's Degree. Thus, so long as a student is awarded a Degree in Architecture from any of the specified universities in United Kingdom, the qualification as required for being registered as an Architect in India would be met. It is on such ground that this Court had allowed the petition. Whereas in this case, the petitioner has obtained a degree of Master of Arts with Honours in Architecture, being a course with a duration of four years. Whether it can be construed to be a Degree in Architecture in conformity with Clause 6 as reproduced above, shall be an issue.

8. During the course of his submissions Mr. Nath would also submit that the UGC recognising the nomenclature of degrees awarded by the University and the Council has accepted the Degree of B. Arch. as a recognised qualification and not a Master of Arts Degree as a qualification, though looks appealing on a first blush but on a deeper consideration, it needs to be rejected. The degrees recognised/specified by the UGC are India specific, which can be awarded by Indian institutions and not foreign ones which nomenclature can be different from the one prescribed by the UGC. But his submission that the Degree from a foreign institute cannot be recognised mechanically, but requires an assessment of the Course content, duration entry qualifications and other qualitative assessment, etc., or follows a regime of reciprocity with foreign Institutes, or is subject of a formal Government to Government Treaty, or understanding is appealing.

This I say so, in view of the fact that the B.Arch. Degree awarded under the University system in India is of a duration of five years after 10+2, and the M.A.(Hons) degree possessed by the petitioner is an under graduate degree with a course duration of four years.

9. This Court is of the view that the Judgment relied upon by Mr. Bhushan in *Nirupa Puliyel (supra)* is clearly distinguishable on facts.

10. In the given facts and with the paucity of expert information/opinion on the subject matter concerned, coupled with the fact that the power ultimately vests with the Central Government in consultation with the respondent No.1 in terms of Section 15 of the Act of 1972 to recognise a degree awarded by a Foreign University, this Court directs that appropriate shall be for the petitioner to provide the information as sought for by respondent No.1 in terms of its letter dated February 18, 2019 within a period of six weeks from today. The respondent No.1 shall examine the petitioner's request under Section 15 of the Act of 1972 and proceed thereafter in accordance with law. The consideration must be effected by respondent No.1 within a period of six weeks from the date of receipt of information from the petitioner and if any recommendation is made by respondent No.1, then respondent No.2 shall take a decision within six weeks thereafter.

11. With the above directions, the petition is disposed of. No costs.

V. KAMESWAR RAO, J

MARCH 02, 2022/jg