

SL. No	Date	Office Notes, reports, orders or proceedings or directions and Registrar's order with Signatures	COURT'S OR JUDGES'S ORDERS
			<p>C482 No.2203 of 2019</p> <p><b><u>Hon'ble Sharad Kumar Sharma, J.</u></b></p> <p>Mr. Sandeep Kothari, learned counsel for the applicant.</p> <p>Mrs. Meena Bisht, learned Brief Holder for the State.</p> <p>This is bunch of three C482 Applications. Two of them which relate to the academic staff are being decided separately.</p> <p>In C482 Application No.2203 of 2019, the case of the applicant was that the applicant was appointed as a Headmaster as back as on 01.07.1995 and his appointment was approved by the District Education Officer on 14.10.1996. At the stage, when the applicant was inducted into service, the institution was not in grant-in-aid and at that time he was holding a qualification of B.Ed./ B.T.C. having completed the same from Bhartiya Shiksha Parishad, Lucknow, Uttar Pradesh. When the institution was supposed to be reckoned as a grant-in-aid institution in pursuance to the G.O. dated 24.05.2005, the procedure, which is prescribed therein, is that the working strength of the institution, a schedule of working staff is prepared along with their respective</p>

		<p>qualifications, which is forwarded to the District Education Officer, who verifies their credentials and it is thereafter finding them to be valid and qualified, in accordance with the rule, the grant-in-aid is granted to the institution.</p> <p>It is not in dispute that thereafter, after completing the process, as provided under G.O. dated 24.05.2005, the institution of the applicant was brought under grant-in-aid and, as a consequence to it, he continued to work there as Headmaster in Savitri Siksha Niketan, Junior High School, Harrawala, District Dehradun.</p> <p>While he continued to function in the said capacity, the FIR was registered against him, being FIR No.267 of 2017 for the alleged involvement of the present applicant in commission of offence under Section 420 of the IPC. In the FIR, thus registered on 21.09.2017, the reason for attracting the offence under Section 420 of the IPC was, on the ground, that as per G.O. No.751/XXIV-2/2005 dated 24.05.2005 was not strictly complied with at the time of seeking grant-in-aid by showing the strength of the institution, which included the name of the present applicant showing his qualification of having completed his B.Ed. from Bhartiya Shiksha Parishad, Lucknow, Uttar Pradesh, which according to the complainant/</p>
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		<p>respondent no.2, it was not a recognized qualification. The different aspect to the said offence is that a qualification being not recognized, which is a different aspect altogether, then filing of a fraudulent document, to avail the benefit of appointment or being included in the list of grant-in-aid employees of the institution which has been recognized by the Educational Authorities.</p> <p>It had never been the case of the respondent that, the applicant has produced a fraudulent document for the purpose of procurement of his appointment and the theory of that the institution from where the applicant has completed his B.Ed examination i.e. from Bhartiya Shiksha Parishad, Lucknow, Uttar Pradesh, was not a recognized institution, the applicant cannot be attributed, at all, to have involvement in commission of offence under Section 420 of the IPC, for the reason being that, the entire responsibility of verification of document, at the stage, when the applicant was initially appointed on 01.07.1995 or when the approval to his appointment was granted on 14.10.1996 or, at the stage, when the institution was brought in grant-in-aid, the responsibility of verification of the credentials, including the educational qualifications, was supposed to be discharged by respondent no.2.</p>
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			<p>As such, if they have persisted to continued the applicant ever since his initial appointment on 01.07.1995, based on the qualification of B.T.C. having procured from the Bhartiya Shiksha Parishad, Lucknow, Uttar Pradesh, the applicant cannot be said to have committed a fraud in getting an appointment and its continuance, and its consequential recognition being brought under the grant-in-aid.</p> <p>As such, as against the present applicant, it cannot be said that his appointment or his approval and his inclusion of his being in the list of sanctioned strength of the institution after the institution being grant-in-aid, the present applicant was, at all, instrumental in playing any fraud or misleading the respondent to bring an offence under Section 420 of the IPC, because that had never been an intention since he was initially appointed on 01.07.1995 till the institution was brought in grant-in-aid.</p> <p>In that eventuality, none of the elements prescribed under Section 420 of the IPC could be said to be made out against the present applicant which, at all, could have been taken as a basis for registration of Criminal Case No.6309 of 2018, “State Vs. Yaspal Sharma and Others” wherein he has been summoned by an order of 10.12.2018 to be tried for the offence</p>
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		<p>under Section 420 to be read with Section 120B of the IPC.</p> <p>Thus, having held that the applicant was not instrumental in playing any fraud or deriving a wrongful benefit by relying upon the alleged fraudulent educational credentials, the applicant cannot be held to be responsible for commission of offence under Section 420 of the IPC.</p> <p>Hence, the C482 Application No.2203 of 2019, “Ajay Kumar Singh Vs. State of Uttarakhand and Another, would stand allowed. As a consequence thereto, the proceedings of Criminal Case No.1504 of 2019, “State Vs. Yaspal Sharma and Others”, pending consideration before the Court of the learned Judicial Magistrate, Doiwala, District-Dehradun, would hereby stand quashed qua the present applicant only.</p> <p style="text-align: right;"><b>(Sharad Kumar Sharma, J.)</b> 31.07.2023</p> <p>Sukhbant</p>
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