

SECTION -X

IN THE SUPREME COURT OF INDIA CIVIL ORIGINAL JURISDICTION WRIT
PETITION (CIVIL) NO. 724 OF 2020

IN THE MATTER OF -

Praneeth Kand Others

....Petitioners

-Versus-

University Grants Commission and Others

....Respondents

NDOH – 18.08.2020

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Filed By –

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SHORT WRITTEN SUBMISSIONS ON BEHALF OF THE PETITIONERS

1. That Impugned Guidelines dated 06.07.2020, vide which the Respondent No.1 UGC has directed all Universities/ Colleges across India to conduct final year Examinations by 30.09.2020, **are legally as well constitutionally untenable** and thus liable to be outrightly set aside.

2. **Violation of Section 12 of UGC Act –**

- (i) In its Counter Affidavit, the Respondent No.1 UGC has stated that the Guidelines dated 06.07.2020 have been formulated u/s 12 of the University Grants Commission Act, 1956, (“UGC” Act). The said Section 12 **casts a statutory Duty upon UGC to formulate such Guidelines “In consultation with the Universities or other bodies concerned”**.

However, while formulating impugned Guidelines dated 06.07.2020, the Respondent UGC **has failed to “Consult” with Universities or “Other Bodies”**. It has purportedly just relied upon the recommendations of “Kuhad Committee”, however, the “Kuhad Committee” can’t be construed as either “University” or “Other Bodies”. Secondly, the said “Kuhad Committee” did not consist of any health expert or epidemiologists, rather it was only comprising of academicians alone and hence it did not qualify the statutory test of Section 12 of the UGC Act, in the present COVID-19 pandemic scenario.

Moreover, the **UGC has failed to specify the names and other details of the specific Universities or “other bodies”, who**

were allegedly consulted before formulation of Guidelines

dated 06.07.2020 and hence the same are liable to be quashed on this ground alone.

(ii) Furthermore, a bare perusal of Section 12 reveals that the **UGC can only “Recommend” and “Advise” the Universities and cannot “Enforce” its Guidelines** formulated under Section 12. Hence, the compulsory nature of the Guidelines dated 06.07.2020 is further violative of the said Section 12 of the UGC Act.

3. **Violation of Section 14 of UGC Act** – Section 14 of the UGC Act states that if a University fails to comply with any recommendation made by the UGC under Section 12, then the **UGC may only withhold from the said University, the grants proposed to be made out of the Fund of the Commission.** Thus, it is clear from the above that the Impugned Guidelines dated 06.07.2020, directing the Universities to compulsorily conduct Final Year Examinations by 30.09.2020, is furthermore violative of Section 14 of the UGC Act.
4. **Violation of Section 22 (1) of UGC Act** – Section 22 (1) of the UGC Act states that the “Right of conferring or granting degrees shall be exercised only by a University”. Thus, the **claim of the Respondent No.1 UGC that it won’t provide degrees** to those students who don’t appear in final year examination, is patently violative of S. 22 (1) of the UGC Act.
5. **Violation of Regulation 6.3 of the UGC (Minimum Standards of Instruction for the Grant of the First Degree through Formal Education) Regulations, 2003**–The said Regulation 6.3 mandates that the “Nature of final examination, whether written or oral or both, in respect of each course, **shall also be made known to the students at the beginning of the academic session.** It is, therefore, respectfully submitted that the Respondent **UGC cannot be permitted to made known the format of its final year examination on 06.07.2020 i.e. after the academic session** of the final year students ended.

6. **Violation of Article 21:** This Hon'ble Court has held in a plethora of Judgments that **"Right to Life" under Article 21 of Constitution of India, includes within its purview, the "Right to Health"**. In the instant case, the Impugned Guidelines dated 06.07.2020, vide which the Respondent No.1 UGC has decided to conduct final year exams despite COVID-19 pandemic outbreak, are undoubtedly violative of "Right to Health" and "Right to Life" of the Petitioners herein and a number of similarly situated students.

7. **Violation of Article 14:** It is respectfully submitted that the Impugned Guidelines dated 06.07.2020 are further violative of the fundamental right to equality of the final year students on many counts. **Firstly**, there is a **sheer violation of fundamental right to equality of those students, who are unable to appear in these examinations due to COVID-19 crisis**, as compared to those students, who are duly appearing in these exams.

Secondly, the **students who passed their final year examinations last year, received their final marksheets/ degrees mostly by 31.07.2019**. However, the students of this year may be getting the similar final marksheets/ degrees by the end of September or even later, **which will be discriminatory and may be depriving them from various job/ admission opportunities**.

Thirdly, the Impugned Guidelines dated 06.07.2020 also **arbitrarily discriminates between the final year students, who would be forced to appear in the upcoming examinations and the intermediate year students**, who have been exempted from appearing in their exams.

8. **Violation of Unlock-3 Guidelines:** In its Affidavit submitted before this Hon'ble Court, the MHA has vaguely submitted that although vide Unlock-3 Guidelines dated 29.07.2020, it has directed that schools, colleges, educational and coaching institutions will continue to remain closed till 31.08.2020, however, the universities/ institutions will be exempted from the said restrictions for the limited purpose of holding Final Term Examinations/ evaluation work in terms of UGC Guidelines. It is respectfully submitted in this regard that aforesaid assertion of the Respondent MHA is vague, ambiguous and self-contradictory. The

Respondent has failed to appreciate that **infrastructure wise “Universities” have no existence without colleges and educational institutions.** If colleges and educational institutions will remain closed then the instant large scale examination cannot be conducted in Universities alone.

9. In its Affidavit filed in the instant case, the Respondent MHA has claimed that it decided to grant permission to the Respondent UGC to conduct final year exams in the academic interest of the students. However, the ***academic interest of few students cannot outweigh the right to health and right to life of a larger section of students.***

10. Vide its Guidelines dated 29.04.2020, the Respondent No.1 UGC had decided to conduct final year examinations between July 1 to July 15, 2020. However, due to spurt of COVID-19 cases on 06.07.2020, it postponed it further. Applying the same logic, the said final year exams should be again postponed as the COVID Cases in India were 6.97 Lakh on 06.07.2020 and are more than 27 Lakh today.

11. The Respondents have ignored the deadly incessant flood in the states like Assam, Bihar and North-Eastern States, which has killed more than hundreds of people and has badly affected more than 100 Districts of these states, making it virtually impossible to conduct either online or offline exams. In the previous years, the university exams were conducted in the month of May-June and thus they remain unaffected by flood. But this year, keeping the final exams during flood time is unjust.

12. The Respondent UGC has further failed to take into account the poor internet availability in the Rural areas of our Country and in the UT of J&K, Possibility of Hacking/ Tampering with the result, lack of safety etc. with respect to the proposed online exams.

13. The Respondent UGC has further failed to take into account the fact that many states of India have already announced Complete Lockdown. Many big cities have several containment zones. Free movement of students will be restricted and will cause lot of harassment. And most importantly, there is non-availability of free

Air/ Rail/ Bus/ Other Transport movement in many parts of the country.

14. **The Respondent UGC has failed to appreciate that as of today, even UGC does not know as to when the COVID-19 Crisis will subside and when the proposed special examination will be conducted.**
15. **That almost no real or virtual classes have been conducted during last 4-5 months in most of the colleges across India.**
16. **The Respondents have further ignored the concerns and grievances of those students who are not living in the close proximity of the Examination Centres and who will face a lot of difficulties in getting rented/ PG accommodations across India.**
17. **The Respondent UGC has further failed to take into account the concerns and grievances of those students have returned to their hometowns in different states.**
18. **The Respondent UGC has further failed to take into account that the Covid19 has been found to be airborne and thus there is strong possibility of the students getting infected while appearing in such exams.**
19. **That while directing the Universities/ Institutions across India to conduct final year examinations by 30.09.2020, the Respondents have completely overlooked the problems of those final year students, who have already secured jobs as campus placements or enrolled in private Indian Universities or Foreign Universities and who need to have their final year marksheets/ degrees in their hands on or before 31.07.2020.**
20. **That it is respectfully submitted that most courses now a days follow semester pattern, meaning thereby that subjects change every semesters. It effectively means that a final year/ final term student has already completed 85-90% of his/ her case and even studied the final semester. In such a case, there is no harm, if he/ she is awarded aggregate of previous semester marks.**

21. At the end of their degrees, one semester for all such students would be evaluated on the basis of past performance or some other viable evaluation parameter such as internals. Premier institutions such as IITs & NLUs have done away with final year exams and have evaluated their final year students on the basis of past performance and additional parameters where ever applicable. It is respectfully prayed that these are extra-ordinary times and thus the humble Petitioners are praying for extra-ordinary kind indulgence of this Hon'ble Court to their plights.

22. **OR IN THE ALTERNATIVE:** The humble Petitioners had submitted few additional documents before this Hon'ble Court on 12.08.2020, which have been placed at page number 439 to 468 of the Common Compilation Volume II. On page number 468, the Petitioners have submitted a copy of the Public Notice issued by the Chief Minister of Madhya Pradesh, wherein, following mechanism has been suggested—

“Final Year (Third Year) Degree is very important for the future of the students and hence it has been decided that the final year students will not be required to go to the Examination Centres for appearing in the Examination. Paper will be sent to you through online and you can write answers while sitting at your home only. Government is making thousands of Collection Centres in the High School, Higher Secondary Schools etc. for collection of copies, where you can deposit your answer sheet”

Thus, in the event of non-cancellation of the final year examination, the aforesaid mechanism may also be adopted for those students, who are unable to appear in Online Exams. Those students, who are able to participate in Online Exams, should be given the option of Online Exam alone, through Whatsapp/ Email/ Website etc.

23. The Petitioners are also alternatively seeking direction from this Hon'ble Court to the Respondents to inter-alia, issue notifications directing all Universities and Employers across India to provisionally admit the final year students of the colleges/ institutions recognized by UGC, in the Admissions to higher classes and/or job opportunities, even in the absence of their final year marksheet/ degrees, till the time they appear in the special examinations to be conducted by UGC.

24. Hence, in view of the above, the Writ Petition filed by the humble Petitioners, deserves to be allowed in terms of the prayers made. Or, the alternative submissions made hereinabove, may kindly be granted in the interest of justice.

Filed and Submitted By-

**Alakh Alok Srivastava
Counsel for the Petitioners**

**Place – New Delhi
Dated – 17.08.2020**