

**IN THE HON'BLE SUPREME COURT OF INDIA
CIVIL ORIGINAL JURISDICTION
WRIT PETITION (CIVIL) NO. 739 OF 2020**

IN THE MATTER OF:

YUVA SENA

...PETITIONER

VERSUS

UNIVERSITY GRANTS COMMISSION ...RESPONDENTS
& ORS.

**AFFIDAVIT ON BEHALF OF THE RESPONDENT—
UNIVERSITY GRANTS COMMISSION—IN REPLY TO
THE AFFIDAVIT DATED 15.08.2020 ON BEHALF OF
THE STATE OF ODISHA**

MOST RESPECTFULLY SHOWETH:

I, Dr. Nikhil Kumar,

working as Education Officer, University Grants Commission, and presently at New Delhi, do hereby solemnly swear and affirm as follows:-

1. That I have been appointed as the officer-in-charge on behalf of the Respondent-University Grants Commission (the "UGC" or "Answering Respondent") in the present matter and I am well conversant with the facts and circumstances of the present case. As such, I am competent to swear the instant affidavit on behalf of the UGC.

2. That I have read and understood the contents of the affidavit dated 15.08.2020 filed by the State of Odisha in the present writ petition (hereinafter, the "State's Affidavit").
3. That, at the outset, the UGC denies all the averments in the State's Affidavit, save and except those that are specifically admitted in the instant affidavit.
4. That, additionally, the UGC has already submitted a common counter affidavit dated 30.07.2020 in reply to the present writ petition. The contents of the same are not being repeated herein for the sake of brevity, however the same may be read as part and parcel of the instant affidavit.
5. That the contents of para nos. 1, 2 and 3 of the State's Affidavit need no reply, except to say that the present writ petition is devoid of merits and therefore deserves to be dismissed *in limine*.
6. With respect to the contents of paras. 4 and 7 of the State's Affidavit, it is humbly submitted that the State Government's letter dated 18.06.2020 is in contravention of the UGC's Guidelines, particularly the Revised Guidelines dated 06.07.2020. For the reason set out in the various Affidavits/Replies filed by UGC in the present batch of matters, it is reiterated that any decision by a State Government (or State Authority) to cancel the final year/terminal semester examination and to graduate

students without such an examination by employing an 'alternative evaluation method' would violate the UGC's Guidelines and would impact the standards of higher education which the UGC alone is mandated to maintain under the UGC Act which is traced to Entry 66 of List I of Schedule VII of the Constitution. It is also submitted that the State Governments cannot take the plea that their decision to cancel the final year/terminal semester examinations is legally valid if they give students the option to appear in a special examination to be held at a later date because the UGC has taken a policy decision backed by statute in the interest of students that universities/institutions must conduct their final examinations by the end of September 2020. Per para. 2 of the UGC's Revised Guidelines, a student of the terminal semester/final year may be given the opportunity to appear in special examination if he/she was unable to appear "for whatsoever the reason (s) may be" in such final examinations that are conducted by a university / institution before the end of September 2020 as per the UGC Guidelines. As such, the State Government's letter dated 18.06.2020 which contravenes the UGC Guidelines is void *ab initio*.

7. That the contents of paras. 5 and 12 of the State's Affidavit have already been dealt with/refuted by the UGC in its various Affidavits/Replies that have been filed in the resent batch of matters. UGC craves leave to rely upon

the same, which are not being repeated herein for the sake of brevity.

- 8. That the concern expressed by the State Government in para. 6 of the State's Affidavit are entirely unfounded. The UGC's Guidelines have more than adequately addressed the need for conducting final (timed) examinations, and have also given flexibility to universities / institutions to conduct such examinations by various modes and means as long as the sancity and quality of the examination process is not compromised.
- 9. That, the contents of paras. 8 to 10 of the State's Affidavit need no response from the UGC. It is however reiterated that the decision with respect to school examinations is materially different and cannot be equated with the policy decision taken by the UGC for conducting the final examinations in the interests of maintaining the standards of higher education in India.
- 10. That the contents of para. 11 of the State's Affidavit are repetitive and have already been dealt with by the UGC in the paragraphs above.
- 11. That, the contents of para. 13 of the State's Affidavit are wrong and are hence denied. For the reasons set out above, the accompanying writ petition deserves to be dismissed *in limne*.

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12. That the contents of paras. 14 and 15 need no reply from UGC. The State Government is put to strict proof of the same.
 13. That the present affidavit is bona-fide and in the interest of justice.

APOORV KURUP
Advocate for the Respondent No. 1/ UGC

DATED: 17.08.2020
NEW DELHI

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DEPONENT

VERIFICATION:

I, the above named deponent, do hereby verify that the facts stated in the above affidavit are true to my knowledge. No part of the same is false and nothing material has been concealed therefrom.

Verified at New Delhi, on the 17th day of August, 2020.

DEPONENT

IN THE HON'BLE SUPREME COURT OF INDIA
CIVIL ORIGINAL JURISDICTION

I.A.No. of 2020

in

WRIT PETITION (CIVIL) NO. 739 OF 2020

IN THE MATTER OF:

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UNIVERSITY GRANTS COMMISSION ...RESPONDENTS
& ORS.

**APPLICATION FOR EXEMPTION FROM FILING DULY
NOTARIZED COUNTER-AFFIDAVIT**

MOST RESPECTFULLY SHOWETH:

1. That the present petition has been filed by the Petitioner *inter-alia* seeking challenging the Guidelines dated 06.07.2020, vide which Respondent No.1 (UGC) therein has directed the universities/colleges to conduct terminal semester/final year Examinations by September 2020.
2. That due to the ongoing COVID-19 pandemic, the Applicant (UGC) herein has not been able to duly notarize the Affidavit (dated 17.08.2020) without notarization in the present petition. That the Applicant (UGC) undertakes to file the duly notarized affidavit (dated 17.08.2020) as soon as the normal court functioning resumes.
3. That the present application is bonafide and in the interest of justice.

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PRAYER

The Applicant, therefore, most respectfully prays that this Hon'ble Court may be pleased to:

- a) Allow the present application and permit the Applicant/UGC to file the Affidavit (dated 17.08.2020) without notarization;
- b) Pass such further or other orders as this Hon'ble Court may deem fit, just and necessary in the interest of justice.

AND FOR THIS ACT OF KINDNESS THE PETITIONER AS
IN DUTY BOUND SHALL EVER PRAY

Through:

APOORV KURUP

Advocate for the Respondent No. 1/ UGC

Dated:17. 08.2020

New Delhi

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& ORS.**

AFFIDAVIT

I, Dr. Nikhil Kumar,

**working as Education Officer, University Grants
Commission, and presently at New Delhi, do hereby solemnly
swear and affirm as follows:**

- 1. That I am conversant with the facts and circumstances of
the case and as such am competent and duly authorized to
swear the instant affidavit on behalf of the Applicant/ UGC
herein.**
- 2. That the accompanying application [I.A.s] has been
drafted under my instructions. I have read and understood
the contents of said application, and I admit it as correct**

to my knowledge and belief based on the records of the
case.

DEPONENT

VERIFICATION

I, the above named deponent, do hereby verify that the contents of the above affidavit are true and correct. No part of it is false and nothing material has been concealed therefrom.

Verified at New Delhi on the 18th August, 2020

DEPONENT