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THE TIMES OF INDIA

Online Newspaper Clipping Service
Dtd-Friday, 14th, August- 2020

Page No.01

Decision to scrap final year exams void: UGC

New Delhi: The University Grants Commission told the Supreme Court on Thursday that the decision of Maharashtra and Delhi governments to cancel final year college examinations citing the pandemic was void ab initio (invalid at the outset) and could not override the commission's directions to universities to conduct final year exams by September 30 through online or offline modes, reports **Dhananjay Mahapatra**.

It said over 400 varsities had either completed final exams or planned to do so using the prescribed modes.

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Draft EIA note in Hindi, English not enough: SC

The Supreme Court on Thursday asked the Delhi high court to consider the Centre's constitutional caveats against its recent order directing publication of draft Environment Impact Assessment (EIA) notification in all 22 languages. However the SC also said, "Can the public (in rural areas of Karnataka, Maharashtra or Nagaland) understand the notification issued in Hindi and English?" **Page 15**

UGC: Decisions to cancel final exam encroachment on legislative field

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Neither the Disaster Management Act, 2005, nor the Epidemic Diseases Act, 1897, empower the state authority or the state government to take decisions that affect or impact the standards of higher education. Under the UGC Act, it is the UGC alone which is mandated to maintain such standards. Therefore, the decisions of the state authority and the state government (to cancel final examinations) are an encroachment on the legislative field of coordinating and determining the standards of higher education," the UGC said in its affidavit. In an earlier statement, the UGC had said of the 640 universities that had submitted responses, more than 400 had either completed final exams or planned to do so using the prescribed modes.

During the last hearing, solicitor general Tushar Mehta had told a bench headed by Justice Ashok Bhushan that the states' decision to cancel final year examinations would put students in difficulty as degrees awarded without examination may not get UGC recognition. However, the SC had asked the UGC to examine if states could issue such a direction under the Disaster Management Act in view of the Covid-19 pandemic.

The UGC, in its affidavit filed through advocate Apoorv Kurup, said Maharashtra could not fall back on the DM Act to encroach into a domain exclusively reserved for the commission. "The State Disaster Management Authority's June 18 decision not to hold last year final semester examination of both professional and non-professional courses and the consequent government resolution dated June 19 as well as the state authority's July 13 decision reiterating non-holding of examination, are in violation of the UGC's April 29 and July 6 guidelines, which must be followed by universities/institutions and, as such, are void ab initio," the commission said. The UGC emphasised the need to conduct terminal or final examinations, saying it was a crucial step in the academic career of a student.

'Harmonise right to privacy with right to public health'

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New Delhi: Digital rights experts have raised serious concerns over Kerala government's decision to access Call Detail Records of Corona positive patients for contact tracing, saying that the move has led to "illegal expansion of police powers" and urged that measures should be taken to harmonise the right to privacy with the right to public health.

"CDR checks are primarily location checks since they reveal tower location of calls, but they also leave behind a huge trail of data. This is similar to Aarogya Setu's data collection method, but with visible police power and minus private sector access," Bengaluru-based activist Anivar Aravind told **TOI**.

According to him, the biggest concern with the initiative is that the state has sanctioned the project, which has led to "illegal expansion of police powers."

However, sources in a central agency pointed out that the sourcing of CDRs is different from interception as only details of calls made/received are sought, without tapping the contents of the



Accessing Call Detail Records of Corona positive patients "illegal expansion of police powers", say experts

conversations. The police is empowered under Section 91 of CrPC as well as Section 5(2) of the Indian Telegraph Act to summon CDRs for the purposes of investigation.

Kerala CM Pinarayi Vijayan had announced in a press brief that the state government was using the CDR of corona patients to chart out a "route map" in order to trace who they came in contact with. But according to experts, this is not an accurate way of contact tracing.

"When using CDRs to trace contacts based on GPS or cell tower location, at a busy intersection all individuals may be listed as contacts, which is not the case," said Kazim Rizvi, founder of tech-policy think tank The Dialogue. According to Ka-

zim, there can be less intrusive ways of dealing with the pandemic.

"The 2017 right to privacy judgment lays down a three-part test for any action that could potentially violate one's fundamental right to privacy. It needs to be towards a legitimate purpose, needs to be legal and proportional to the ends it seeks to address... In the absence of data protection law and a surveillance framework, this (kind of data collection) promotes distrust in the government. Measures should be taken to harmonise the right to privacy with the right to public health," said Rizvi, while asserting that police accessing CDRs is "detrimental to individual privacy".

Advocacy group Internet Freedom Foundation executive director, Apar Gupta, told **TOI** that governments can only access CDRs legally under the Telegraph Act, 1885, which gives the state the power to intercept communication in case of a threat to national security.

"It's a pre-independence law, so it gives wide and sweeping powers to the state. But the Kerala government does not seem to be operating under this Act," Gupta said.

NEET can't be online for those abroad: NTA

Body was responding to a plea in SC

LEGAL CORRESPONDENT
 NEW DELHI

The NEET (National Eligibility cum Entrance Test) for undergraduate medical courses cannot be held online for candidates abroad, the National Testing Agency (NTA) has told the Supreme Court.

The specialised body, which conducts examinations for higher educational courses, said the Medical Council of India (MCI) had made it very clear that NEET was mandatorily held in the paper-book format for all candidates. It is a policy decision of the NTA. The conduct of these exams was purely within the MCI's domain.

An NTA affidavit said, "There is nothing to show the MCI has taken the decision illegally or arbitrarily."

The NTA was responding to an order of the apex court to respond to a petition filed by the parents of over 4,000 NEET candidates in West Asia for a direction to either allocate exam centres in these foreign countries or postpone the exams.

"The examination cannot be conducted abroad as the NEET (UG) has to be held in a single shift at the same time on the same day to maintain uniformity... Question paper and other exam materials have to be transported from the NTA Headquarters to a large number of exam centres in various

Optional Class 12 exams in Sept., says CBSE

NEW DELHI

The optional exams for improvement of performance in Class 12 board examination are proposed to be held in September, the Central Board of Secondary Education (CBSE) said on Thursday. The results of the exams, which were cancelled in view of the pandemic, were announced last month on the basis of an alternative assessment scheme. The compartment examination for Classes 10 and 12 are also being planned in September while dates will be announced soon, it said. PTI

cities securely," the affidavit said.

The NEET cannot be compared with Joint Entrance Examination (JEE) conducted for engineering and technical courses. The preparation was more rigorous and there were far fewer seats for the former than in the latter, the NTA said.

It was responding to the parents' argument that the JEE had centres in foreign countries as well.

The JEE is both an online and offline mode examination.

The parents, represented by advocates Haris Beeran and Pallavi Pratap, had asked the court to step in and spare their children from being forced to travel to India to take their exams amid the pandemic.