A RUNGTA ENGINEERING COLLEGE, BHILAI & ANOTHER

v.

CHHATTISGARH SWAMI VIVEKANAND TECHNICAL UNIVERSITY & ANOTHER

(Writ Petition (Civil) No.653 of 2014)

B SEPTEMBER 25, 2014

[J. CHELAMESWAR AND A.K. SIKRI, JJ.]

All India Council for Technical Education Act, 1987 – C *ss.2(h), 3 and 10(k) – Establishment and running of institutions imparting technical education – Regulation of – Held: Educational institutions imparting technical education are amenable to the control of AICTE under the 1987 Act in certain aspects and the regulatory authority of the State, and* D *Universities established by or under a legislation of the State, in certain other aspects.*

All India Council for Technical Education Act, 1987 – ss.2(h), 3 and 10(k) –Authority to grant/decline affiliation to institution imparting technical education – Objections of E *respondent-University for declining affiliation to first petitioner college – Challenge to – Held: Each one of the objections squarely fell within the sweep of one or the other areas which only the AICTE had the exclusive jurisdiction to deal with – None of them fell within the area legally falling within the* F *domain of the respondents – Only course of action available for the respondents was to bring the shortcomings noticed by them to the notice of the AICTE and seek appropriate action against the petitioner college – Decision of respondent not to grant affiliation to the first petitioner college wholly* G *untenable – The Chhattisgarh Swami Vivekanand Technical University Act, 2004.*

Disposing of the writ petition, the Court

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HELD:1. Educational institutions imparting technical education are amenable to the control of AICTE under the All India Council for Technical Education Act, 1987 in certain aspects and the regulatory authority of the State, and Universities established by or under a legislation of the State, in certain other aspects. [Para 32] [810-G-H]

2. In the instant case, each one of the objections which according to the respondent formed the basis for declining affiliation to the first petitioner institution, squarely fall within the sweep of one or the other areas which only the AICTE has the exclusive jurisdiction to deal with. None of them are demonstrated to be matters falling within the area legally falling within the domain of the respondents. AICTE, on inspection of the Ist petitioner college reported that the Ist petitioner college fulfils all the conditions prescribed by the norms and standards laid down by AICTE. The respondents did not make any specific assertion that such a report of the AICTE is factually incorrect. Assuming for the sake of argument that, in the opinion of the respondents, the petitioner college has not in fact fulfilled any one of the conditions required under the norms specified by the AICTE, the only course of action available for the respondents is to bring the shortcomings noticed by them to the notice of the AICTE and seek appropriate action against the petitioner college. [Para 42] [815-A-D]

3. The decision of the respondent not to grant the affiliation to the first petitioner college is wholly untenable and is required to be set aside. [Para 43] [815-E]

State of T.N. and Another v. Adhiyaman Educational & Research Institute and Others **(1995) 4 SCC 104: 1995 (2) SCR 1075;** *Jaya Gokul Educational Trust v. Commissioner & Secretary to Government Higher Education Department,*

A *Thiruvanathapuram, Kerala State and Another* **(2000) 5 SCC 231: 2000 (2) SCR 1234 and** *Bhartia Education Society v. State of H.P.* **(2011) 4 SCC 527: 2011 (2) SCR 461 – referred to.**

B **Case Law Reference:**

1995 (2) SCR 1075	**referred to**	**Para 33**
2000 (2) SCR 1234	**referred to**	**Para 34**
2011 (2) SCR 461	**referred to**	**Para 34**

C CIVIL ORIGINAL JURISDICTION : Writ Petition (Civil) No. 653 of 2014.

Under Article 32 of the Constitution of India.

D T. Mahipal for the Petitioner.

Vikrant Singh Bais for the Respondents.

The Judgment of the Court was delivered by

E **J. CHELAMESWAR, J.** 1. A Society called GDR Educational Society claims to be running a number of colleges. It is claimed in the writ petition that the 'first petitioner' is one of such colleges and the second petitioner is a Secretary of the said Educational Society.

F 2. The All India Council for Technical Education (hereinafter referred to as "AICTE") is a body constituted under Section 3 of the All India Council for Technical Education Act, 1987 (hereinafter referred to as "1987 Act"). The AICTE was established for "proper planning and co-ordinated development G of the technical education system throughout the country, the promotion of qualitative improvement of such education in relation to planned quantitative growth and the regulation and proper maintenance of norms and standards in the technical education system and for matters connected therewith".

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3. One of the functions of the AICTE under Section 10(k)[1] of the said Act is to grant approval for starting new 'technical institutions' and for introduction of new courses or programmes in consultation with technical agencies.

4. "Technical Institution" is defined under Section 2(h) as follows:

> "2(h) "technical institution" means an institution, not being a University which offers courses or programmes of technical education and shall include such other institutions as the Central Government may, in consultation with the Council, by notification in the Official Gazette, declare as technical institutions."

5. "Technical Education" is defined under Section 2(h) as follows:

> "2(g) "technical education" means programmes of education, research, and training in engineering technology, architecture, town planning, management, pharmacy and applied arts and crafts and such other programme or areas as the Central Government may, in consultation with the Council, by notification in the Official Gazette, declare."

6. AICTE granted approval by its proceedings dated 07.04.2013 in favour of a society called the GDR Educational

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1. Section 10. Functions of the Council. It shall be the duty of the Council to take all such steps as it may think fit for ensuring coordinated and integrated development of technical education and maintenance of standards and for the purposes for performing its functions under this Act, the Council may-

   (k) grant approval for starting new technical institutions and for introduction of new courses of programmes in consultation with the agencies concerned.

A Society[2] to conduct five different courses of engineering[3] indicated in the said proceedings for the academic year 2013-2014 in the "1st petitioner college"[3a] which has been established by the said society with a total intake capacity of 300 students.

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7. It is stated in the communication granting approval dated 07.4.2013 as follows:

> "The approval is valid for two years from the date of issue of this letter for getting affiliation with respective University
C and fulfilling State Govt. requirements for admission. If institution is unable to start in the academic session 2013-14 due to reason mentioned above, the institution will have to apply On-line on AICTE web portal in the next academic session for continuation of approved intake 2013-14.
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> The Society/Trust/Institution shall obtain necessary affiliation/permission from the concerned affiliating University as per the prescribed schedule of the University/ Admission authority etc."

E 8. The Chhattisgarh Swami Vivekanand Technical University is established by The Chhattisgarh Swami Vivekanand Technical University Act, 2004 (25 of 2004) (hereinafter referred to as the "2004 Act"). The preamble of the Act indicates the purpose of the Act:

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> "An Act to establish and incorporate a University of Technology for the purpose of ensuring systematic, efficient

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2. & 3a Unfortunately, the details of the Society - whether it is registered Society
G or not, if registered under what law it is registered - are not specified in the writ petition. (It is highly doubtful whether a legal proceeding in the name of a College is maintainable. Modern lawyers appearing on either side in such litigation do not trouble themselves with such questions and Judges who ask such questions are considered not sensitive to the "public interest"!)

H 3. 1. Mechanical, 2. Civil, 3. Electrical & Electronics , 4. Electrical and 5. Computer Science & Engineering

and qualitative education in engineering and technological subjects including Architecture and Pharmacy at Research, Post Graduate Degree and Diploma level and to provide for matters connected therewith or incidental thereto". A

9. The University is constituted under Section 3 of the Act which declares that such University shall have perpetual succession, common seal and is capable of suing and being sued by its name. The objectives of the University are specified under Section 4. Section 4(13) stipulates that one of the objectives is "to admit to its privileges colleges or polytechnics not maintained by the University, to withdraw all or any of these privileges and to take over the management of Colleges or Polytechnics in the manner and under conditions prescribes by the Statute or the Ordinance". B C

10. Section 6 declares that the jurisdiction of the University shall extend to the whole of the State of Chhattisgarh. Section 6(2) stipulates that "notwithstanding anything contained in any other law for the time being in force, any College or Polytechnic or institution imparting Technical Education and situated within the limits of the area specified under sub-section (1) shall, with effect from such date as may be notified in this behalf by the State Government, be deemed to be associated with and admitted to the privileges of the University and shall cease to be associated with other University or Board in the manner prescribed by Statute or Regulation". Obviously, any institution imparting technical education as defined under Section 2(26) of the Act situated within the limits of State of Chhattisgarh is deemed to be associated with and admitted to privileges of the University. D E F

11. Section 23 of the 2004 Act stipulates that the Executive Council, a body constituted under Section 22 of the Act, shall be the supreme authority of the University with various powers and duties specified under Section 23. One of them is "to admit Colleges or Polytechnics to the privileges of the University on G H

A the recommendation of the Academic Council and subject to the provisions of this Act and Statute and to withdraw any of the privileges and to take over the management of the College or Polytechnic in the manner and under conditions prescribed by the Statute and Ordinance".

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12. In view of the requirement of securing the affiliation of the concerned University as stipulated by the order of approval (07.04.2013) by AICTE, it appears that an application was made to the said University to grant affiliation to the first petitioner college which was rejected in a meeting of the C Executive Council of the University dated 13.5.2013.[4]

13. Aggrieved by such decision, a Writ Petition (C) No.847 of 2013 came to be filed by the petitioners herein before the High Court of Chhattisgarh at Bilaspur. The said writ petition D was disposed of by an order dated 28.6.2013 directing consideration of the representation to be made by the petitioners after giving them an opportunity of being heard in person. The operative portion of the order is as follows:

E "Shri Shrivastava, learned counsel appearing for the respondent/university submits that he has no objection if a representation is made, and in the event, a representation is made, the same will be considered in accordance with law as expeditiously as possible. He further submits that the petitioner may also be heard in F person, if so desired by the petitioner.

In view of the above submissions made by learned counsel appearing for the parties, if the petitioners makes a representation with a period of one week from today, as

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4. Since none of the applicant institutions fulfil the AICTE norms as pointed out in the inspection reports and admission made in the compliance affidavits of the existing of deficiencies, the affiliation for academic session 2013-14 for new college, new courses and increase in intake is liable to be refused. However, for the current courses in the existing colleges H affiliation is recommended.

agreed and consented by both the parties, the petitioner may appear before the authorities of the respondent/ university. The respondent/university is also directed to consider and decide the representation within a period of two weeks from the date of receipt of the representation, in accordance with law, on its own merit and perspective." A B

14. The petitioners submitted a representation dated 01.7.2013. A communication dated 17.7.2013 was sent to the petitioners signed by the Registrar of the University purporting to grant affiliation for the academic session 2013-14 for the various courses specified therein for total intake capacity of 300 students with a rider that such affiliation is subject to approval of the Executive Council of the University[5]. It is the specific case of the University that such a decision was taken by the Vice-Chancellor in exercise of the powers under Section 14(4) read with Section 23(12) of the 2004 Act. Pursuant to such affiliation order, the petitioners admitted more than some 200 students. C D

15. On 28.12.2013, the petitioners once again applied for affiliation for the academic session 2014-15. E

16. On 03.3.2014, the 31st meeting of the Executive Council of the University was held wherein the provisional affiliation granted on 17.7.2013 by the Vice-Chancellor was considered. The Executive Council took note of the fact that in an earlier meeting dated 10.8.2013 the Executive Council had referred the case to the Advocate General for opinion and as F

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5. In the light of the Order of Hon'ble High Court dated 28th June 2013, and the submission of documents fulfilling the shortcomings as well as the undertaking in this regard, affiliation for the academic session 2013-14 is hereby granted for the following courses with following intake capacity. G

   Computer Science & Engineering - 60, Mechanical Engineering - 60, Electrical Engineering - 60, Electrical & Electronics Engineering - 60; and Civil Engineering - 60. (Total: 300)

   The above affiliation is subject to approval by University Executive Council. H

A opinion was not forthcoming for various reasons, the Executive Council took a decision as follows:

> "The conditional affiliation granted vide letter No.CSVTU/ Affil/2013-2014/2013/2963 dated 17.7.2013 should be
B withdrawn.
>
> Students admitted may be transferred to other colleges in a legal, lawful and rationale manner.
>
> The Executive Council unanimously took a decision to
C place the matter before the Hon'ble Chancellor for his final decision in the matter."

17. The question of ratification of the affiliation granted to the first petitioner College once again came for consideration in 33rd meeting of the Executive Council on 29/30.4.2014.
D Once again it was decided:

> "Based on the majority decision proposal of ratification of affiliation stands turned down, taking into account the aforesaid facts. Keeping the future of admitted students,
E a letter be written to the Director-Technical Education and Secretary-Technical Education, to transfer the students to other colleges where seats are vacant."

The said decision was communicated to the petitioners
F herein on 01.5.2014.

18. Aggrieved by the said decision, the petitioners filed Writ Petition No.423 of 2014 before this Court. On 12.5.2014, this Court issued notice on the said writ petition. On 19.5.2014, the said writ petition was disposed off. The operative portion
G of the said order reads as follows:

> "Be that as it may, it is agreed that the Executive Council shall look into the matter again in so far as academic year 2013-2014 is concerned, we remit the case back to the
H Executive Council to take a decision afresh after giving

due opportunity to the petitioners to present their case before the Executive Council and pass reasoned order thereon within four weeks.

As far as academic year 2014-2015 is concerned, it is pointed out by Mr. Varma, learned senior counsel that the application of the petitioner – College along with the applications submitted by other colleges for affiliation are already under consideration.

In view thereof, in so far as academic year 2014-2015 is concerned, the Executive Council shall take a decision in the aforesaid manner by 15th July 2014 after following the due procedure."

19. It can be seen from the order that it is an agreed order to the effect that the Executive Council will once again examine the question of granting affiliation to the first petitioner college insofar as it pertains to the academic year 2013-2014. Coming to the question of affiliation for the academic year 2014-2015, this Court directed the Executive Council to take a decision by 15.7.2014.

20. Pursuant to the said order, the petitioner submitted another representation on 23.5.2014 praying that a decision be taken on the issue of grant of affiliation for the academic year 2014-2015.

21. On 04.6.2014, AICTE granted approval for the academic year 2014-2015 to conduct seven different courses (five graduate and two diploma courses) with a total intake of 540 students, the details of which may not be necessary for the present purpose.

22. On 11.6.2014, an opportunity for oral hearing was granted by the Executive Council in its 36th meeting. Finally, by a communication dated 19.6.2014, the University informed the second petitioner herein that the Executive Council of the

A University in its meeting held dated 11.6.2014 took a decision by majority to disapprove the provisional affiliation granted on 17.7.2013 to the first petitioner. The said communication reads as follows:

B "Pursuant to the Order of the Hon'ble Supreme Court dated 19.5.2014, the Executive Council of the University met o 11.6.2014, where a majority decision was taken to disapprove the provisional affiliation granted on 17.7.2013 to Rungta Engineering College, Bhilai. Therefore, the status of Runga Engineering College, Bhilai stands "dis-
C affiliated" for the academic session 2013-14. A copy of the minutes of the Executive Council, citing reasons for disapproving the provisional affiliation granted to Rungta Engineering College, Bhilai, is enclosed for your kind information."

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23. By another communication dated 01.7.2014, which was received by the petitioner on 09.7.2014, the University informed the second petitioner as follows:

E "Pursuant to the Order of the Hon'ble Supreme Court dated 19.05.2014, the Executive Council of the University met on 11.06.2014 and a majority decision was taken to disapprove the provisional affiliation granted to Rungta Engineering College, Bhilai on 17.07.2013. Now, the status of Rungta Engineering College, Bhilai stands "Dis-
F affiliated" for the academic session 2013-14.

The above has been communicated to you vide letter no.1109 dated 19th June 2014. The application for 2014-15 is an extension of affiliation to the College. **The**
G **decision taken in the Executive Council on 11.06.2014 was to dis-affiliate the College, therefore the extension of 14-15 does not arise as the College has already been dis-affiliated.**"

(emphasis supplied)

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24. Hence the writ petition.

25. The petitioners challenged the impugned order on the ground that it violates Articles 14 and 19(1)(g) of the Constitution of India. It is also argued by the learned counsel for the petitioners that the respondents decided not to grant affiliation on the basis of considerations which are factually incorrect and areas which are not within their legal competence to exercise.

26. On the other hand, the respondent resisted the writ petition on the ground that the first petitioner College does not satisfy various conditions contemplated under AICTE norms and also Statute 19 of the University. It is the case of the first respondent University that by a communication dated 26.4.2013 the second petitioner was informed of the various shortcomings. The relevant portion of the communication reads as follows:

> "Based on the recommendations of the Inspection Committee constituted by Chhattisgarh Swami Vivekanand Technical University, Bhilai, for the affiliation of courses of your Institution, the institution has been found to be suffering from the following deficiencies:
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> 1. Teaching staff (Assistant professor, Associate Professor, Professor) appointed on adhoc basis be selected through the University Selection Committee as per statute 19 of CSVTU and as per AICTE norms. Selection of process be initiated at the earliest to maintain Cadre ratio as per norms.
>
> 2. Principal be appointed as per Statute-19 of the University.
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> 3. Student teacher ratio be improved as per norms.
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> 4. Govt. NoCs to conduct 1st year classes for the session 2013-14 be submitted.

5. Journals be procured in the Library as per norms. E-Journals in digital library and other books related to general proficiency be procured.

6. Proper timing of librarian is needed as proper entry of books in accession register be maintained.

7. Safety measures be installed at Structure, Library, Labs and Workshop.

8. Internet connectivity in Computer lab be improved.

9. Separate strong room be provided in exam control room.

10. Flow charts, lab manuals of laboratory & layout of lab be displayed.

11. Lux meter be used to check the illumination in the different areas like Class rooms & laboratory of the campus.

12. Playground facility be improved.

13. Licence software & communication skill be developed as per norms.

14. List of experiments as per University scheme be displayed on the notice boards with signature of Prof. I/c and lab attendant.

15. All weather roads in general be improved and set back distance of the boundaries be maintained as per municipal bye building.

16. Anti ragging cell, women's cell and counselling cell be formed & displayed in the campus.

17. Demarcation of parking, Canteen & other amenities be improved.

18. Anvil accessories of the workshop be made available.

19. Gas pipe line be provided with commercial gas cylinder along with shower be provided in the Chemistry lab.

20. Seating arrangement like stool be provided for the students in the labs.

21. Supporting laboratory staff be appointed as per norms & working hours of library be displayed.

Specifying class rooms, Labs, Library, Computer centres, Drawing Hall, Workshop, Seminar hall on the approved building plans, floorwise, (on photocopies of the original Approved building Plans without any reductions in size) be submitted to the University.

Sports fee if any be submitted.

Processing fee of Rs.30,000/- be submitted.

An affidavit on non judicial stamp paper of Rs.50/- by Trust/Society/Principal regarding the steps taken for the Compliance of rectifying of the above deficiencies is to be submitted to the University latest by 29.4.2013."

27. In response to the said communication, the GDR Educational Society sent a reply dated 29.4.2013, the substance of which is that all the alleged shortcomings pointed out in the communication of the University dated 26.4.2013 are either without any factual basis or had in fact been complied with.

28. In the light of sharp difference of opinion between the petitioners and the first respondent University, during the

pendency of the present writ petition, we thought it fit to call upon AICTE by the order dated 08.8.2014 to "inspect the petitioner's College and submit a report whether the petitioner has complied with all the requirements of law". In view of the said direction, AICTE conducted inspection and reported. The substance of which is that the petitioner College has complied with all the requirements of law.

29. The respondent University and the State very vehemently argued that notwithstanding the opinion expressed by AICTE there are still some shortcomings examined in the light of the norms and standards of the University for granting affiliation to any institution imparting technical education.

30. It is argued that the University, which is a statutory body brought into existence pursuant to an enactment made by the legislative assembly of the State of Chhattisgarh, is obliged to discharge the duties enjoined upon it by the 2004 Act and it cannot be prevented from discharging its obligation of being satisfied that the petitioner institution qualifies for affiliation in terms of the norms and standards prescribed by it in discharge of its statutory powers and compelled to grant affiliation notwithstanding the fact that the University is not satisfied with the eligibility of the first petitioner College for affiliation.

31. The authority of the States and the Universities established by the States to regulate the establishment and running of institutions imparting technical education has been a subject matter of a long debate in various judgments of this Court.

32. Educational institutions imparting technical education are amenable to the control of AICTE under the 1987 Act in certain aspects and the regulatory authority of the State, and Universities established by or under a legislation of the State, in certain other aspects.

33. This Court in *State of T.N. and Another v. Adhiyaman*

Educational & Research Institute and Others, (1995) 4 SCC 104, after considering the constitutional scheme of various entries of List I and List III of the Seventh Schedule and the language of the 1987 Act and the Madras University Act concluded that the 1987 Act is referable to Entry 66 of List I. The field of "determination of standards in institutions for higher education, or research and scientific and technical institutions" is exclusive to the Parliament and any law made by the Parliament referable to the said field is paramount. The 1987 Act empowers the AICTE, a body constituted under the said Act "to evolve suitable performance appraisal systems incorporating norms and mechanisms for maintaining accountability of the technical institutions" and lay down "norms and standards for courses, curricula, staff pattern, staff qualifications, assessment and examinations, fixing norms and guidelines for charging tuition fee and other fees, granting approval for starting new technical institutions or introducing new courses or programmes". This Court categorically held "Thus, so far as these matters are concerned, in the case of the institutes imparting technical education, it is not the University Act and the University but it is the Central Act and the Council created under it which will have the jurisdiction". Consequently, this Court held "after coming into operation of the Central Act" the provisions of any other State law overlapping on the area covered by the Central Act "will be deemed to have become unenforceable...". The argument that the State legislature can stipulate norms of higher standards even in those areas which are covered by the AICTE is clearly rejected by this Court.

34. The question whether the State Government as a matter of policy, can decline to grant approval/permission for the establishment of a new engineering college in view of the perception of the State Government that the opening of new colleges will not be in the interest of the students and employment, fell for consideration of this Court in *Jaya Gokul Educational Trust v. Commissioner & Secretary to Government Higher Education Department,*

A *Thiruvanathapuram, Kerala State and Another*, (2000) 5 SCC 231. This Court held that the State could not have any policy outside the AICTE Act and indeed if it had a policy, it should have placed the same before the AICTE and that too before the latter granted permission.

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35. The question of the authority of a University to grant or decline affiliation squarely fell for consideration before this Court in *Bhartia Education Society v. State of H.P.*, (2011) 4 SCC 527. The case arose under the National Council for Teachers Education Act, 1993 (hereinafter referred to as "NCTE Act") the C scheme of which is also identical to the AICTE Act. This Court held as follows:-

> "19. ... On the other hand, "recognition" is the licence to the institution to offer a course or training in teacher D education. Prior to the NCTE Act, in the absence of an apex body to plan and coordinate maintenance of the norms and standards in the teacher education system, Government and universities/boards. After the enactment of the NCTE Act, the functions of NCTE as "recognising E authority" and the examining bodies as "affiliating authorities" became crystallised, though their functions overlap on several issues. The NCTE Act recognises the role of examining bodies in their sphere of activity.

36. This Court examined the scope of Section 16 of the F NCTE Act which prohibited the grant of affiliation by any "examining body" - (a University) to any institution conducting a course for training people for the occupation of teaching unless such institution obtained recognition from the competent authority under the NCTE Act. Though, this Court made it clear G that the "examining body" (University) does not have any discretion to refuse affiliation with reference to any of the factors which ought to be considered by NCTE while granting recognition, recognised that the "examining body" has the authority to demand compliance with its norms in a limited area

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regarding the "eligibility of the candidates" and "manner of admission" of students etc.

37. It was further held :-

> "22. ... For example, NCTE is required to satisfy itself about the adequate financial resources, accommodation, library, qualified staff, and laboratory required for proper functioning of an institution for a course or training in teacher education. Therefore, when recognition is granted by NCTE, it is implied that NCTE has satisfied itself on those aspects. Consequently, the examining body may not refuse affiliation on the ground that the institution does not have adequate financial resources, accommodation, library, qualified staff, or laboratory required for proper functioning of the institution. But this does not mean that the examining body cannot require compliance with its own requirements in regard to eligibility of candidates for admissions to courses or manner of admission of students or other areas falling within the sphere of the State Government and/or the examining body."

At para 24, this Court indicated the areas where the "examining body" can stipulate norms, the non-compliance with which norms authorise the examining body to cancel the affiliation.

> "24. The examining body can therefore impose its own requirements in regard to eligibility of students for admission to a course in addition to those prescribed by NCTE. The State Government and the examining body may also regulate the manner of admissions. As a consequence, if there is any irregularity in admissions or violation of the eligibility criteria prescribed by the examining body or any irregularity with reference to any of the matters regulated and governed by the examining body, the examining body may cancel the affiliation irrespective of the fact that the institution continues to enjoy

A the recognition of NCTE. Sub-section (6) of Section 14 cannot be interpreted in a manner so as to make the process of affiliation, an automatic rubber-stamping consequent upon recognition, without any kind of discretion in the examining body to examine whether the institution
B deserves affiliation or not, independent of the recognition."

38. Similarly, under the scheme of the 1987 Act, as noticed by this Court in para 30 of the *Adhiyaman Educational & Research Institute case (supra),* under Section 10 of the Central Act, **the Council is entrusted with the power to lay**
C **down norms and standards for courses, curricula, staff pattern, staff qualification, assessment and examination, fixing norms and guidelines for charging tuition fees etc. and further held that in these matters the University will have no authority.**
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39. The respondents heavily relied upon the last sentence of para 24 of the decision in ***Bhartia Education Society*** *(supra)* (extracted earlier) to assert that the respondents still have the necessary authority to grant or decline affiliation.

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40. We are of the opinion that the respondents are reading that sentence out of the context. The judgment was very clear as to the areas which are exclusively within the jurisdiction of the NCTE whose satisfaction regarding the compliance with the standards prescribed by it in those areas is final and the areas
F where the "examining body" has authority to lay down its own norms (such as eligibility of the students for admission to a course and the manner of admission).

41. We apply the principles of law mentioned above to the
G facts of the present case. The various objections which (according to the respondent) formed the basis for declining affiliation to the first petitioner institution are contained in the communication dated 26.4.2013 which was extracted in detail at para 26 (supra).

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42. An examination of all the objections mentioned in the said communication would reveal that each one of those objections squarely fall within the sweep of one or the other areas which only the AICTE has the exclusive jurisdiction to deal with. None of them are demonstrated before us to be matters falling within the area legally falling within the domain of the respondents. AICTE, on inspection of the Ist petitioner college reported that the Ist petitioner college fulfils all the conditions prescribed by the norms and standards laid down by AICTE. The respondents did not make any specific assertion that such a report of the AICTE is factually incorrect. Assuming for the sake of argument that, in the opinion of the respondents, the petitioner college has not in fact fulfilled any one of the conditions required under the norms specified by the AICTE, the only course of action available for the respondents is to bring the shortcomings noticed by them to the notice of the AICTE and seek appropriate action against the petitioner college[6].

43. We are, therefore, of the opinion that the decision of the respondent not to grant the affiliation to the first petitioner college is wholly untenable and is required to be set aside. The same is accordingly set aside. Since the respondent did not decline the affiliation to the first petitioner college either on the ground that the petitioner college is admitting wholly ineligible students as per the norms stipulated by the respondent University or that the admission procedure prescribed by the respondents is not being complied with by the petitioners or on any other ground that the petitioners violated any one of the

6. ***Jaya Gokul Educational Trust Vs. Commissioner & Secretary to Government Higher Education Department, Thiruvanathapuram, Kerala State and Another*** [(2000) 5 SCC 231] - "27.....Once that procedure laid down in the AICTE Act and Regulations had been followed under Regulation 8(4), and the Central Task Force had also given its favourable recommendations, there was no scope for any further objection or approval by the State. We may however add that if thereafter, any fresh facts came to light after an approval was granted by AICTE or if the State felt that some conditions attached to the permission and required by AICTE to be complied with, were not complied with, then the State Government could always write to AICTE, to enable the latter to take appropriate action."

A stipulations made by the University which the University is legally competent to make, we have no option but to direct the respondents to grant affiliation to the petitioner college. The operative portion of the judgment of this Court has already been pronounced on 01.9.2014. Therefore, we are not reiterating the
B same.

EPILOGUE

44. We are sorry to say that in the entire writ petition, we did not find any information whether the GDR Educational
C Society is a body recognized/registered under any enactment. If it is recognized, what is the relevant enactment under which the same is registered? So-called first petitioner has no existence in the eye of law and is not capable of suing or being sued, though the second petitioner is a natural person who is
D capable of suing and being sued. The bold assertion that the impugned action is violative of Article 19(1)(g) of the Constitution made in the petition is a highly doubtful assertion vis-à-vis both the petitioners. The rights under Article 19 are only guaranteed to the citizens. The so-called first petitioner
E cannot be a citizen, not even a person. Whether the right asserted by the second petitioner under Article 19 is a right to practise any profession or to carry on any occupation, trade or business is not known. No arguments are advanced on either side. Modern lawyers do not trouble themselves with such
F questions! Any judge asking these questions perhaps is considered "not sensitive to the public interest"! However, the whole exercise undertaken by the respondent is certainly violative of Article 14 of the Constitution and, therefore, we have examined the issue.

G 45. The writ petition stands disposed off accordingly.

Bibhuti Bhushan Bose Writ Petition disposed of.