

A

VARUN SAINI & ORS.

v.

GURU GOBIND SINGH INDRAPRASHTHA UNIVERSITY

(Writ Petition (Civil) No. 853 of 2014)

B

OCTOBER 16, 2014

[DIPAK MISRA AND UDAY UMESH LALIT, JJ.]

Education/Educational Institutions:

C

All India Council for Technical Education Act, 1987 – Technical courses – Counseling and admission by authorities of the University – Adherence of schedule pertaining to approval by All India Council for Technical Education – Notification by the University to provide a fresh round of counseling (supplementary counseling) after the cut-off date – Challenged to, upto Supreme Court – Subsequently Notification withdrawn – Thereafter, writ petition filed seeking extension of time schedule which would give rise to conducting of another round of counseling – Held: Weighing the issue on the scales of larger public interest in the facts of case and the relief sought, the solution offered by the University accepted as that would subserve the cause of justice – Certain directions issued as regards counseling and admission.

D

E

F

Disposing of the Writ Petitions, the Court

G

HELD: 1.1 Weighing the issue on the scales of larger public interest in the obtaining factual matrix, the relief sought and the plausible solution offered by the University can be accepted as that would subserve the cause of justice. In these courses, the university can keep the pace. Such an agonizing situation inviting national waste could have been avoided had AICTE and the University would have been more careful, cautious and circumspect. However, to do complete justice,

H

certain directions have been issued in the larger public interest and ultimately subserve the cause of justice.[Para 24, 25, 26][388-F-G; 389-B, D] A

1.2 It was submitted that the problem occurs every year, for despite days for counselling are fixed, adequate number of students are not called for counselling, as a result of which, many students who have cleared the CET do not get an opportunity to undertake the counselling and eventually the admission does not take place. It is in the sphere of university administration. But when the problem is recurrent, the University is told to hold counselling in such a manner within the stipulated time in the schedule so that all the seats are filled up if there are eligible candidates for such counselling. The University cannot behave like an alien to the national interest. It is imperative to state, a concerted effort has to be made by the AICTE and the University to avoid recurrence of this kind of piquant and agonising situations. Perceived from any perspective, it does not augur a healthy situation. Had the AICTE functioned within the time frame in respect of the process the matter would not have given rise to such a situation. Similarly, had the University conducted the counselling with utmost responsibility keeping in view the number of seats that were available in the approved institutions and the number of students that have qualified in the Common Entrance Test, possibly the gravity of the problem would have been less. [Para 27][389-D-G; 390-B-D] B
C
D
E
F

1.3 In a State of good governance, a problem is taken note of so that appropriate and timely steps are taken to avoid any recurrence. The authorities who are incharge of giving approval, preparing syllabus, imparting education and carrying on such other activities, are required to behave with responsibility. Lack of concern is only indicative of the beginning of destruction. That G
H

A cannot be allowed to occur. Therefore, the AICTE and
the University are cautioned to see to it that things are
done on time following the fixed time schedule. Time is
extended for carrying out the on-line counselling till 21st
of October, 2014. The students who have already taken
B admission in colleges shall not be permitted to
participate in the supplementary counselling, and the
students who are attending classes in any institution
without the counseling shall be deemed not to have been
admitted and, therefore, they will be eligible to participate
C in the on line counseling. The students those are
selected for admission and allotted to the respective
colleges on merits shall take admission forthwith. The
students after being allotted to a particular college shall
be put in a separate Section as they shall be required to
D attend extra-working classes. The educational
institutions have to seriously impart education with the
help and aid of teachers, if necessary, by providing
adequate means and facilitation for the teachers. The
University shall constitute a team to see whether classes
E are held or not. Unless a student gets the requisite
attendance of 75% on the basis of the computation held,
regard being had to the entire teaching days, he shall
not be permitted to appear in the examination. The time
schedule originally fixed in *Parshavnath Charitable Trust*
F case shall remain in force and be religiously followed in
the subsequent years. [Paras 28, 29][390-E-G; 391-B-H]

*Parshvanath Charitable Trust v. All India Council
for Technical Education* 2012 (11) SCR 1057 :
G (2013) 3 SCC 385; *Association of Management
of Private Colleges v. All India Council for
Technical Education and others* (2013) 8 SCC
271; *Bharathidasan University v. All India Council
for Technical Education* 2001 (3) Suppl.
H SCR 253 : (2001) 8 SCC 676; *T.M. Pai*

VARUN SAINI v. GURU GOBIND SINGH INDRAPRASHTHA UNIVERSITY 367

Foundation v. State of Karnataka 2002 (3) Suppl. SCR 587 : (2002) 8 SCC 481 - referred to. A

Case Law Reference:

2012 (11) SCR 1057 referred to Para 3
(2013) 8 SCC 271 referred to Para 7 B
2001 (3) Suppl. SCR 253 referred to Para 7
2002 (3) Suppl. SCR 587 referred to Para 7

CIVIL ORIGINAL JURISDICTION: Writ Petition (Civil) No. 853 of 2014. C

Under Article 32 of the Constitution of India.

WITH

Writ Petition (C) Nos. 854, 855, 857, 883, 867, 884 of 2014. D

Mukul Rohatgi, AG, C.A. Sundaram, Gopal Jain, Amit Sibal, Parag Tripathi, Ravi Sikri, Sr. Advs., Ravikiesh K. Sinha, Rakesh Sinha, Abhijat P. Medh, Mohit Chadha, Anil Kumar Tandale, Sanjay Sharawat, Ratish Kumar, M.M.S. Attri, Divya Roy, Vaibhav Kalra, Ms. Sumedha Dang, Ms. Mahima Gupta, Anish Chawla, Ms. Ranjeeta Rohatgi, Amitesh Kumar, Ms. N. Annapoorani, Advs with them for the appearing parties. E

The Judgment of the Court was delivered by

DIPAK MISRA, J. 1. Education is the spine of any civilised society. Formal education has its own significance, for it depends upon systemic imparting of learning regard being had to the syllabus prescribed for the course and further allowing space for cultivation by individual endeavour. The sacrosanctity of formal education gains more importance in the field of technical studies because theory, practical training and application in the field cumulatively operate to make a student an asset to the country and, in a way, enables him to achieve excellence as contemplated under Article 51A of the F
G
H

- A Constitution. The natural corollary, in the ultimate eventuate, is the acceleration of the growth of the nation. But, a pregnant one, when an attitude of apathy or lackadaisical propensity or proclivity of procrastination of the statutory authorities creeps in as a consequence of which the time schedule meant for
- B approval of the educational institutions and commencement of the courses is not adhered to, a feeling of devouring darkness seems to reign supreme as if "things fall apart". There is a feeling of discomfiture - how to find out a solvation to the agonizing problem in exercise of the jurisdiction under Article
- C 32 of the Constitution of India, for there are some compelling reasons to do so to protect the national interest as well as not to scuttle the aspirations of young students or to comatose their hopes stating that all cannot be well in the State of Denmark and there should not be a Sisyphean endeavour. We are
- D constrained to commence with such a prologue as the present batch of writ petitions pertains to counselling and admission in certain categories of courses which are approved and controlled from many a spectrum regard being had to the sustenance of standard in education by the All India Council
- E for Technical Education (for brevity, "AICTE"), and also some categories of courses which are directly governed by the statutes and regulations of the University, namely, Guru Gobind Singh Indraprastha University (hereinafter referred to as "the University") in the backdrop of extension of time schedule fixed
- F by this Court in respect of technical courses.

2. The controversy involved in this batch of cases has a past, which requires to be exposted with requisite respect for chronology. We have already indicated at the beginning that in all these cases, we are concerned with the adherence to
- G schedule pertaining to approval by AICTE, counselling and admission by the authorities of the University. That being the centripodal issue, our advertence shall remain restricted to the said arena. At this juncture, we may state that at the appropriate stage, we shall refer to some necessitous facts
- H from W.P.(C) No. 853/2014.

3. We are obligated to sit in a time machine to appreciate how the schedule was fixed by the AICTE under the All India Council for Technical Education Act, 1987 (for brevity, "the 1987 Act") and the Regulations framed thereunder and how the said schedule was appositely re-fixed by this Court in *Parshvanath Charitable Trust Vs. All India Council for Technical Education*¹. In the said decision, a two-Judge Bench scanning the anatomy of the 1987 Act, observed thus:

"17. The provisions of the All India Council for Technical Education Act, 1987 (for short 'the AICTE Act') are intended to improve the technical education system throughout the country. The various authorities under the AICTE Act have been given exclusive responsibility to coordinate and determine the standards of higher education. It is a general power given to evaluate, harmonise and secure proper relationship to any project of national importance. Such coordinated action in higher education with proper standard is of paramount importance to the national progress.

18. The provisions of the AICTE Act, including its Preamble, make it abundantly clear that AICTE has been established under the Act for coordinated and integrated development of the technical education system at all levels throughout the country and is enjoined to promote qualitative improvement of such education *in relation to* planned quantitative growth. The AICTE is required to regulate and ensure proper maintenance of norms and standards in technical education system. AICTE is to further evolve suitable performance appraisal system for technical institutions and universities incorporating norms and mechanisms in enforcing their accountability. It is required to provide guidelines for admission of students and has the power to withhold or discontinue grants to such technical institutions where norms and standards

¹(2013) 3 SCC 385

A laid down by it and directions given by it from time to time are not followed. The duty and responsibility cast on AICTE implies that the norms and standards to be set should be such as would prevent isolated development of education in the country".

B 19. Section 10 of the AICTE Act enumerates various powers and functions of AICTE as also its duties and obligations to take steps towards fulfilment of the same. One such power as envisaged in Section 10(k) is to

C "grant approval for starting new technical institutions and for introduction of new courses or programmes in consultation with the agencies concerned".

D It is important to see that AICTE is empowered to inspect or cause to inspect any technical institution in clause (p) of Section 10 without any reservation whatsoever. However, when it comes to the question of universities, it is confined and limited to ascertaining the financial needs or its standards of teaching, examination and research. The inspection may be made or caused to be made of any department or departments only and that too, in such manner as may be prescribed, as envisaged in Section 11 of the AICTE Act.

E 20. All these vitally important aspects go to show that the Council (AICTE) created under the AICTE Act is not intended to be an authority either superior to or to supervise and control the universities and thereby superimpose itself upon such universities merely for the reason that they are imparting teaching in technical education or programmes in any of their departments or units. A careful scanning of the provisions of the AICTE Act and the provisions of the University Grants Commission Act, 1956 in juxtaposition, will show that the role of AICTE vis-à-vis the universities is only advisory, recommendatory and one of providing guidance, thereby

H

VARUN SAINI v. GURU GOBIND SINGH INDRAPRASHTHA UNIVERSITY [DIPAK MISRA, J.] 371

subservient the cause of maintaining appropriate standards and qualitative norms and not as an authority empowered to issue and enforce any sanctions by itself. Reference can be made to the judgments of this Court in the case of *Adarsh Shiksha Mahavidyalaya v. Subhash Rahangdale* [(2012) 2 SCC 425], *State of Tamil Nadu v. Adhiyaman Educational & Research Institute* [(1995) 4 SCC 104] and *Bharathidasan University v. All India Council for Technical Education* [(2001) 8 SCC 676].”

4. The Court referred to various other facets and adverted to All India Council For Technical Education (Grant of Approval for Starting New Technical Institutions, Introduction of Courses or Programmes and Approval of Intake Capacity of Seats for the Courses or Programmes) Regulations, 1994 and noted the Schedule to said Regulations which read as under:-

Sl. No.	Stage of processing application	Last date by which the processing should be completed.
(1)	(2)	(3)
1.	For receiving proposals by Bureau RC	31 st December
2.	For Bureau RC to screen the application and (a) to return the incomplete applications to the applicants, and (b) to forward the applications to (i) State Government concerned (ii) University or State Board concerned, for their comments (iii) Regional Officer to arrange visits by Expert Committees, and (iv) Bureaus MPCD, BOS and RA for their comments	

A	3.	For receiving the comments from (i) the State Government (ii) the University or the State Board, and (iii) the Regional committee based on the Expert Committee's report, and (iv) from the Bureaus MPCD, BOS and RA	15 th March
B			
C	4.	For consideration of the comments from the State Governments, Universities or State Boards, Regional Committees, and Bureaus of the Council by the State level Committee	31 st March
D	5.	For recommendations to be made by the Central Task Force	15 th April
E	6.	For communicating the final decision to the State Government or the University Grants Commission, under intimation to the Regional Office, Director of Technical Education, applicant, University or State Board	30 th April
F			

5. After reproducing the schedule, the Court ruled that adherence to the same is mandatory and not directory, for non-adherence of the schedule can result in serious consequences and can jeopardise not only the interest of the college students but also the maintenance of proper standards of technical education. It further observed that the authorities concerned, particularly AICTE should ensure proper and timely action upon the application submitted to it and it must respond to the applicant within a reasonable time period and should not allow

H

the matter to be dragged till the final date giving rise to avoidable peculiarities by all stakeholders. After so stating, the Court also took note of the act that there seem to be some variation in the schedule issued under Regulation 8(15) and the duties reflected in the Handbook. After noticing that, the two-Judge Bench opined that the admission schedule should be declared once and for all rather than making it a yearly declaration. Emphasis was laid on the consistency and smoothness in admission process. It has also been stated that there has to be a fixed and unaltered time schedule for admission to the colleges so that the students know with certainty and well in advance the admission schedule that is to be followed and on the basis of which they can exercise their choice relating to college or the course. The Court referred to the schedule that was submitted before it for admission for the academic year 2013-2014. Eventually, the Court fixed an appropriate schedule which is as follows:

“The appropriate Schedule, thus, would be as follows:

Event	Schedule
Conduct of entrance examination (AIEEE/State CET/Management quota exams, etc.)	In the month of May
Declaration of result of qualifying examination (12 th exam or similar) and entrance examination	On or before 5 th June
1 st round of counselling/admission for allotment of seats	To be completed on or before 30 th July
2 nd round of counselling for allotment of seats	To be completed on or before 10 th July
Last round of counselling for allotment of seats	To be completed on or before 20 th July

A	Last date for admitting candidates in seats other than allotted above	30 th July However, any number of rounds for counselling could be conducted depending on local requirements, but all the rounds shall be completed before 30 th July
B	Commencement of academic session	1 st August
C	Last date up to which students can be admitted against vacancies arising due to any reason (no student should be admitted in any institution after the last date under any quota)	15 th August
D	Last date of granting or refusing approval by AICTE	10 th April
E	Last date of granting or refusing approval by University/State Government	15 th May

After fixing the schedule, the Court thought it appropriate to rule that:

F "42. The admission to academic courses should start, as proposed, by 1st August of the relevant year. The seats remaining vacant should again be duly notified and advertised. All seats should be filled positively by 15th August after which there shall be no admission, whatever be the reason or ground.

G 43. We find that the above Schedule is in conformity with the affiliation/recognition schedule aforementioned. They both can co-exist. Thus, we approve these admission dates and declare it to be the law which shall be strictly adhered to by all concerned and none of the authorities shall have the power or jurisdiction to vary these dates of

H

admission. Certainty in this field is bound to serve the ends of fair, transparent and judicious method of grant of admission and commencement of the technical courses. Any variation is bound to adversely affect the maintenance of higher standards of education and systemic and proper completion of courses.”

7. At this stage, it is seemly to refer to a subsequent decision in **Association of Management of Private Colleges Vs. All India Council for Technical Education and others**². In the said decision, certain educational institutions, being aggrieved by an order passed by the High Court of Judicature of Madras, had approached this Court on the foundation that the High Court had erroneously interpreted the 1987 Act, for the High Court had opined that the University is not required to take permission from AICTE, but its affiliated colleges are required to do so. The High Court has further ruled that the appellants colleges therein should get their course of MCA ratified by AICTE as per the prescribed format, which according to the appellants, was in contravention of the settled principles of interpretation of statutes as stated in **Bharathidasan University V. All India Council for Technical Education**³. The two-Judge Bench referred to **Parshvanath Charitable Trust(supra), T.M. Pai Foundation V. State of Karnataka**⁴, the definition of ‘technical education’ and ‘technical institution’ in the dictionary clause of the Act and certain provisions of University Grants Commission Act, 1956, the Regulations framed under the said Act and came to hold as follows:

“52.the AICTE Act does not intend to be an authority either superior or to supervise or control the universities and thereby superimpose itself upon the said universities merely for the reason that it is laying down certain teaching standards in technical education or programmes formulated in any of the department or units.

²(2013) 8 SCC 271

³(2001) 8 SCC 676

⁴(2002) 8 SCC 481

A It is evident that while enacting the AICTE Act, Parliament was fully alive to the existence of the provisions of the UGC Act, 1956 particularly, the said provisions extracted above. Therefore, the definition of “technical institution” in Section 2(h) of the AICTE Act which authorizes AICTE to do certain things, special care has consciously and
B deliberately been taken to make specific mention of university, wherever and whenever AICTE alone was expected to interact with a university and its departments as well as constituent institutions and units. It was held
C after analyzing the provision of Sections 10, 11 and 12 of the AICTE Act that the role of the inspection conferred upon the AICTE vis-a-vis universities is limited to the purpose of ensuring proper maintenance of norms and standards in the technical education system so as to
D conform to the standard laid down by it with no further or direct control over such universities or scope for any direct action except bringing it to the notice of UGC. In that background, this Court in *Bharathidasan University* case made it very clear by making the observation that it has examined the scope of the enactment as to whether
E the AICTE Act prevails over the UGC Act or the fact of competent entries fall in Entry 66 List I vis-a-vis Entry 25 of List III of the VII Schedule of the Constitution.

F 53. A cumulative reading of the aforesaid paragraphs of *Bharathidasan University* case which are extracted above makes it very clear that this Court has exempted universities, its colleges, constituent institutions and units from seeking prior approval from AICTE. Also, from the reading of paragraphs 19 and 20 of *Parashvanath*
G *Charitable Trust* case it is made clear after careful scanning of the provisions of the AICTE Act and the University Grants Commission Act, 1956 that the role of AICTE vis-a-vis universities is only advisory, recommendatory and one of providing guidance and has
H

no authority empowering it to issue or enforce any sanctions by itself.” A

8. After the aforesaid judgment was delivered, a writ petition No. 895/2013 was filed which was taken up on 24.3.2014 wherein the Court passed the following order:

“Rule nisi. B

Having regard to the important issue involved in the Writ Petition, we think that it will be appropriate if the matter is heard by a Bench of three Judges.

The matter may be listed accordingly within six months from today.” C

9. In SLP(C) No. 7277/2014, on 17.4.2014, the following order came to be passed:

“In the counter affidavit filed on behalf of respondent No.1, i.e., All India Council for Technical Education (AICTE), it is stated that Approval Process Handbook (2013-14) is presently in force and the same has been extended and made applicable for the Academic Year 2014-15 as well. D E

AICTE shall now proceed in accordance with the Approval Process Handbook for the Academic Year 2014-15 insofar as the members of the petitioner Association and all colleges and institutions situated similarly to the members of the petitioner Association are concerned and necessary orders shall be issued by AICTE within ten days. F

Prayer for interim relief is ordered accordingly.”

10. In SLP(C) No. 7277/14, IA No. 2-3/2014 were filed. In the said applications, on 09.05.2014, a four-Judge bench, passed the following order: G

“The order dated 17.4.2014 passed by this Court is clarified and it is directed that prior approval of All India H

A Council for Technical Education (AICTE) is compulsory and mandatory for conduct of a technical course including the MBA/Management course by an existing affiliated Technical College and also new Technical College which will require affiliation by a University for conduct of its
B Technical Courses/Programmes for the academic year 2014-15.

The time given in the order dated 17.4.2014 is extended by 10.6.2014.

C IA Nos. 2 & 3 of 2014 stand disposed of as above.”

11. Thereafter, a bunch of writ petitions and I.A. No.6 in SLP(C) No. 7277/2014 were filed. The Court referred to the schedule in **Parshvanath Charitable Trust** (*supra*) and taking note of the stand of the AICTE, directed as follows:

D “In the application, the AICTE has averred that it has received 7280 applications from existing technical institutions in the country, of which 6751 applications have been processed already and the remaining 529
E applications are pending consideration as on 4th June, 2014. Since the exercise was of this magnitude, all applications could not be processed so as to comprehensively respond to the directions of this Court, reproduced above. Mr. L. Nageswara Rao, learned
F Additional Solicitor General, states that if time is extended by one week, all the remaining applications shall also be processed by AICTE. The prayer in the Writ Petitions is substantially the same since the stand of the AICTE is that although, after due consideration, EOA for
G Academic year 2014-15 is recommended, because of the deadline given by this Court, the approval cannot be granted.

There can be no gainsaying that every eligible student/ candidate desirous of participating in further

H

education, especially where resources and institutions are available, should be accommodated so long as academic standards are not undermined. A

We are satisfied that if the respondent - AICTE is granted seven more days within which to decide all pending applications, these overriding interests shall be addressed. It is in these circumstances that we modify previous orders in the following manner: B

The AICTE is granted seven days within which to take a decision on all the applications pending before it. It shall first take up the applications in which it has already expressed willingness to grant approvals, but have not done so in deference of the Orders of this Court. Thereafter, the concerned Universities/State Authorities/Bodies which have the powers of granting affiliation shall take a decision on that subject within one week. It is for these reasons that the first round of counselling/admission for allotment of seats which was to be completed by 30th June, 2014 will now be completed by 15th July, 2014. The second round of counselling shall be completed by 22nd July, 2014 and the last round of counselling shall be completed by 29th July, 2014. In this manner, the date of commencement of the Academic Session, as laid down by this Court above, shall not be disturbed. C D E F

It is made clear that all the Colleges who have been cleared for intake of students for the Academic Year 2014-2015, as envisaged in the process above, shall be cleared and considered for admitting students for the current Academic Year. Learned Senior Counsel appearing for the petitioners in some of the Writ Petitions apprehends that the respondents may adhere to Annexure P-7. We think that that would not be appropriate in view of the orders contained herein." G

H

A 12. In spite of the aforesaid order, the grievance, as
submitted by Mr. Mukul Rohtagi, learned Attorney General for
Union of India appearing on behalf of AICTE as well as for the
University still subsisted. In SLP(C) No. 21901/2014, a two-
Judge Bench, appreciating the core fact that the concerned
B institution had been granted approval way back in 2011 and
struggling to commence the first academic session, directed
as follows:-

C "...We find it appropriate to direct the respondents to
allow the petitioner to commence the academic session
within one week from today by adhering to the different
steps laid down by this Court. The counselling shall be
conducted on the basis of the merit list prepared by the
concerned competent authority, for which a Notification
shall positively be issued by tomorrow i.e. 14.08.2014.
D The students who have already been admitted to other
institutions, will not have the option to seek admission in
the petitioner-institution.

E The counselling process, in terms of the directions
issued by this Court shall be completed by 19.08.2014,
and the admissions shall be finalised under all
circumstances by 20.08.2014."

13. Further substantiating the reason, the Court observed:
F "The reason for us to extend the schedule expressed by
this Court in its earlier orders, is based on the fact, that
the institution in question i.e. the petitioner before this
Court had assailed the action of the Anna University
before the High Court by filing a writ petition as far back
G up to 21.07.2014 (when the impugned order was
passed) that the deadlines have been crossed. The last
date for finalising admissions has yet not crossed. The
denial of commencement of the academic session would
cause extensive financial loss to the petitioner, despite
H

the fulfilment of all essential norms. It is in these peculiar circumstances that the instant order has been passed.” A

14. As the chronology of events would further uncurtain IA No. 46/2014 was filed in **Parshvanath Charitable Trust** (supra) for extension of time and the Court, on 11.08.2014, while dealing with the Schedule in respect of the State of Andhra Pradesh and Telangana, directed as follows: B

“Having heard the learned counsel for the parties and taking into consideration the fact that State of Telangana has been created recently on 2.6.2014 and both the States i.e. newly created State of Telangana and the State of Andhra Pradesh may face some difficulty to complete the admission process within the time stipulated. C

We allow the prayer. Both the States of Telangana and Andhra Pradesh and the competent authorities will complete the counselling and admission in engineering colleges and other institutions by 31st August, 2014 in accordance with law. The extension of time will be applicable to the State of Andhra Pradesh and newly created State of Telangana and not the other State.” D E

15. Be it noted, IA Nos. 50-56/2014 were filed in **Parshvanath Charitable Trust** (supra) case and the Court advertng to the earlier table and the table submitted by the AICTE, issued the following directions: F

“Earlier when the matter was taken up by this court on 19th August, 2014 in I.A. No. 50,51 & 52, the following order was passed:

“The petitioners may file an additional affidavit enclosing a chart showing the date they intend to (i) get counselling of students, (ii) admit the students, (iii) start the course, (iv) number of classes to be attended as per law (iv) the day when the course will be completed as per the norms, (v) the month in which G H

A admit card will be issued and (vi) the examination schedule to commence.

Post the matter on 25th August, 2014."

B The aforesaid order was passed with a view to know whether the students will suffer if the period of counselling an admission is extended and whether the petitioners will be in a position to complete the sessions within time schedule.

C The additional affidavit has been filed on behalf of the Applicant I.A. NO. 50/2014 showing therein details of the existing v Academic Calendar Year 2014-2015 which reads as follows :

D	State of academic session as per Supreme Court	1 st of August (University started their classes on 19 th August, 2014	No. of Days considering 5 days a week – Holidays*
	Actual date of start of classes	20 th of August	71-06 = 65 teaching days
E	Last of teaching	29 th of November	
	Issue of Admit Card	1 st of Dec (Admit Card are issued on line)	
F	Preparation Leave for Exam	1 st Dec – 14 th Dec	14 Days
	Start of Semester examination	15 th of December, 2014	
G	End of Semester examination	10 th of Jan., 2015	
	Start of second semester	15 th of January, 2015	

H

VARUN SAINI v. GURU GOBIND SINGH INDRAPRASHTHA UNIVERSITY [DIPAK MISRA, J.] 383

The Applicants have now proposed the academic calendar for admission in their Colleges/Institutions, without loss of teaching days, making Saturdays as teaching days :

Start of academic session	1 st of September	No. of Days considering 6 days a week – Holidays*
Last day of teaching	29 th of November	78-6 = 72 teaching days
Issue of Admit Card	1 st of Dec. (Admit card are issued on line)	
Preparation, Leave for Exam	1 st Dec – 14 th Dec	14 Days
Start of Semester examination	15 th of December, 2014	
End of Semester examination	10 th of Jan., 2015	
Start of second semester	15 th of January, 2015	

The learned counsel appearing on behalf of other applicants and AICTE submits that there is no objection if the Academic Calendar Year proposed by the applicant – International Institute of Technology & Business, Sonapat and others in I.A. No. 50/2014 is allowed. It may be allowed to be applied to other institutions who have filed similar applications.

Having heard the learned counsel for the parties, we direct to implead the applicants as party to C.A. No. 9048/2012, extend the cut-off for counselling and admission as fixed by the final judgment and order dated 13th December, 2012 passed in C.A. NO.9048/2012 by

A one week i.e. 5th September, 2014 with clear understanding that they will admit the students and complete the Session as per the time schedule shown and recorded above.

B This extension of time for Counselling and Admission shall be applicable to the Colleges/Institutions who have filed the applications for impleading as the parties to the present appeal and the Colleges and Institutions for whom permission has been sought by AICTE.”

C 16. We have referred to the orders passed by this Court in a sequential manner only to highlight that for the academic year 2014-15 there was some cavil with regard to the jurisdiction of AICTE till the four-Judge Bench by order dated 9.5.2014 clarified prior approval of AICTE is compulsory and mandatory for conduct of technical course including MBA/
D Management course by exiting affiliated technical college and also including technical college which would require affiliation by a university for conduct of its technical process/programmes
E being had to the special features of each case.

17. In the case at hand it is submitted by Mr. Rohatgi that the university had issued a notification on 28.8.2014 to provide a fresh round of counselling (supplementary counselling) after
F 15.8.2014 which was the cut-off date. The said notification issued by the university challenged before the High Court of Delhi. The learned Single Judge issued notice in the Writ Petition but did not pass an interim order. In Intra-Court Appeal the Division Bench by an order dated 3.9.2014 gave liberty to
G the university to go ahead with the supplementary counselling for non-AICTE courses/ non-NCTE courses and granted liberty to move this court for extension of time. Assailing the aforesaid order Special Leave Petition (C) No. 24442 of 2014 was filed and this court on 8.9.2014 passed the following order:-

H

“Issue notice.

Ms. Asha Jain Madan, Advocate for the respondent, on caveat, has entered appearance and accepts notice.

We have been apprised, in the course of hearing of this petition for the purposes of admission, that the University has issued a notification dated 28.08.2014, which is prior to the order passed by the High Court. The said notification, as submitted by Mr. Sibal, is likely to affect the schedule fixed by this Court for AICTE and other statutory authorities like, NCTE, etc. It is also urged at the Bar by virtue of this notification being worked out, the students who have been admitted to a particular course, may be dislodged or try their option for other courses as a consequence of which the educational institutions would likely to face a hazard. Be that as it may, Mr. Maninder Singh, learned ASG shall explain the impact and effect of the notification issued on 28.08.2014.

As an ad interim measure, it is directed there shall be stay of operation of the order dated 3.09.2014 passed by the High Court of Delhi at New Delhi in LPA No. 576/2014 and the Notification referred to hereinabove.

List on 12.09.2014.”

When the matter was listed thereafter, a statement was made by the counsel appearing for the university that the notification dated 28.8.2014 which was the subject matter of the writ petition in the High Court was withdrawn. Taking note of the said submission, the following order came to be passed.

“Heard Mr. Maninder Singh learned Additional Solicitor General appearing for the University. It is submitted by the learned Additional Solicitor General that the University has taken a decision to withdraw the Notification dated 28th August, 2014.

A In view of the aforesaid, the impugned order passed by the Division Bench of the High Court is set aside and the Writ Petition © No.5696/2014 pending in the High Court of Delhi, is deemed to have been disposed of."

B 19. Thereafter the present batch of writ petitions have been filed fundamentally for extension of time schedule which would logically give rise to conducting of another round of counselling. It is contended in the writ petition that more than six thousand seats are vacant and there are thousand of students who are qualified in CET and there is no justification not to fill up the said seats. It is asseverated that due to no fault of the educational institutions which are self-financed are likely to suffer enormous financial loss and the students who have cleared the entrance test and are meritorious would lose one year. Be it stated, the notification issued by the university covered the following courses:-

D "(a) B.Tech/M. Tech. (Dual Degree)/B.Tech. CET Code 31;

(b) BBA, CET Code 125

E (c) BCA CET Code 114

(d) B. Com., CET Code 146

(e) B.Ed. CET Code 122

F (f) BJMC, CET Code 126

(g) BA, LLB/BBA, LL.B. CET Code 121

(h) MBA, CET Code 191

(i) MCA, CET Code 105

G (j) LE to B.Tech. CET Code 128 and 129"

H 20. It is not disputed that courses covered under (a), (h), (i) and (j) are covered by AICTE Regulations. B.Ed. CET Code 122 is covered under the NCTE Act and Regulations framed thereunder. Courses covered under, (b), (c), (d), (f)

and (g) are directly governed by the university statutes and regulations. In the present case we are not dealing with the controversy pertaining to the cases under the NCTE Act, 1993. A

21. First, we shall dwell upon the courses that are regulated by the 1987 Act and the 1994 Regulations. It is submitted by the learned counsel for the petitioners, namely, the institutions and the students, that AICTE did not adhere to the schedule as far as the counselling is concerned and the University played possum with the schedule and further created a chaos by allowing the students who had already taken admissions in certain institutions to participate in the supplementary counselling which is impermissible on the face of the prospectus issued by the university. Mr. Rohtagi, learned Attorney General would submit that AICTE, after the pronouncement of the judgment in **Association Management of Private Colleges'** case was uncertain of its jurisdiction/ authority till it was conferred the power although by an interim order on 9.5.2014 in **Orissa Technical Colleges Association's** case, and that uncertainty caused delay. We have been apprised that the matter is pending before a three-Judge Bench and the AICTE has proceeded solely on the basis of the interim order. As far as the issuance of the notification in respect of ten courses having access to all candidates including the students who had already taken admission, learned Attorney General submitted, that such inclusion was contrary to the prospectus and also erroneous on many a score. B C D E F

22. Let it be clearly stated that we appreciate that for the academic year 2014-15, there were certain unforeseen circumstances. First, a question mark was put on the authority of AICTE, (ii) second, there was bifurcation of States of Andhra Pradesh to two states, namely State of Andhra Pradesh and State of Telengana, and (iii) third, number of seats had remained vacant despite students having qualified and desirous of taking of the courses. G

A 23. In our considered opinion, these are significant
special features that have occurred in the academic year 2014-
15. There are two ways to look at the fact situation. It can be
perceived with a myopic attitude or it can be appreciated,
B regard being had to multitudinous consequences. We have
been apprised by the learned Attorney General that if time is
granted for on-line counselling it can commence w.e.f. 20th of
October, 2014 and would be over within two days and thereafter
classes can start. He has reproduced a letter dated 11th of
C October, 2014 issued by the Vice-Chancellor how the University
would carry out the supplementary counselling. We think it apt
to reproduce the same:-

- D • "University would be agreeable to carry out a
supplementary counselling for admissions for
remaining vacant seats from the eligible CET qualified
candidates.
- E • The University has further decided that only vacant seats
will be filled up from eligible CET qualified students
as per their merits, who have not taken admissions
as yet.
- F • The university also agrees that no further dislocation
will be carried out for any students who are already
admitted in the programmes at any college/institute."

F 24. Weighing the issue on the scales of larger public
interest in the obtaining factual matrix we are inclined to state
that the relief sought and the plausible solution offered by the
University can be accepted as that would subserve the cause
of justice. In these courses, the university, as submitted before
us, can keep the pace. The students who would be taking
G admissions subject to our order, be put in one section in the
allotted colleges so that they can attend classes for an extra
hour. That apart their holidays shall be curtailed as per the
directions of the University. An undertaking to the said effect
can be taken from the students. Every student shall have the

H

requisite 75% attendance of the original number of classes. In case, there will be any shortage of attendance it shall be sternly dealt with. A

25. Be it noted, such an agonizing situation inviting national waste could have been avoided had AICTE and the University would have been more careful, cautious and circumspect. However, to do complete justice, we have issued the aforesaid directions. This is in the larger public interest. At this juncture we may fruitfully recapitulate an ancient saying:- B

“Yadapi Sidhham, Loka Virudhham
Na Adaraniyam, Na Karaniyam” C

26. As the present fact situation depicts the larger public interest and ultimately subserve the cause of justice we extend the time for on-line counselling till 20th of October, 2014. D

27. At this juncture, we have been apprised by Mr. P.P. Rao and Mr. Sundram, learned senior counsel appearing for the petitioners that the problem occurs every year, for despite days for counselling are fixed, adequate number of students are not called for counselling, as a result of which, many students who have cleared the CET do not get an opportunity to undertake the counselling and eventually the admission does not take place. We are absolutely conscious that it is in the sphere of university administration. But when the problem is recurrent we command the University to hold counselling in such a manner within the stipulated time in the schedule so that all the seats are filled up if there are eligible candidates for such counselling. The University cannot behave like an alien to the national interest. Another aspect which requires to be noted is that a blame game has been going on by the educational institutions on the one hand and the AICTE and the University on the other, and on certain occasions between the AICTE and the University. All of them function in the field of education. Such kind of cavil and narrowness is likely to create a concavity in the educational culture of the country. Therefore, E F G H

- A all concerned must remember that education charts the way where a civilized man slaughters his prejudices. Any education properly imparted is a constant allurements to learn. It is inconceivable that the authorities who are in charge of controlling the sphere of education to behave like errant knights
- B justifying their own fanciful deeds. Law expects a rational perception, logical approach and a studied and well-deliberated decision from all the authorities. It is imperative to state, a concerted effort has to be made by the AICTE and the University to avoid recurrence of this kind of piquant and
- C agonising situations. Perceived from any perspective, it does not augur a healthy situation. Had the AICTE functioned within the time frame in respect of the process the matter would not have given rise to such a situation. Similarly, had the University conducted the counselling with utmost responsibility keeping
- D in view the number of seats that were available in the approved institutions and the number of students that have qualified in the Common Entrance Test, possibly the gravity of the problem would have been less.

- E 28. In a State of good governance, a problem is taken note of so that appropriate and timely steps are taken to avoid any recurrence. The authorities who are incharge of giving approval, preparing syllabus, imparting education and carrying on such other activities, are required to behave with responsibility. Lack of concern is only indicative of the
- F beginning of destruction. That cannot be allowed to occur. Therefore, we caution the AICTE and the University to see to it that things are done on time following the fixed time schedule. We ingeminate, at the cost of repetition, that we have extended the time because of the situation that has prevailed this year
- G but if due efforts are taken, we are certain that same would not be required. We hasten to clarify the time schedule originally fixed in **Parshvanath Charitable Trust** case has to be treated as the schedule for all coming years. Any modification that has been done, as is manifest from the various orders which
- H we have reproduced hereinbefore, including the present

judgment, have been passed for the academic session 2014-15 in the special features of each case. Be it stated, avoidance of unpleasant litigation is a progressive step in a civilised society governed by rule of law. A

29. To sum up: B

(a) Time is extended for carrying out the on-line counselling till 21st of October, 2014. B

(b) The students who have already taken admission in colleges shall not be permitted to participate in the supplementary counselling, and the students who are attending classes in any institution without the counseling shall be deemed not to have been admitted and, therefore, they will be eligible to participate in the on line counseling. C

(c) The students those are selected for admission and allotted to the respective colleges on merits shall take admission forthwith. D

(d) The students after being allotted to a particular college shall be put in a separate Section as they shall be required to attend extra-working classes. The educational institutions have to seriously impart education with the help and aid of teachers, if necessary, by providing adequate means and facilitation for the teachers. E

(e) The University shall constitute a team to see whether classes are held or not. F

(f) Unless a student gets the requisite attendance of 75% on the basis of the computation held, regard being had to the entire teaching days, he shall not be permitted to appear in the examination. G

(g) The time schedule originally fixed in *Parshavnath Charitable Trust*. (supra) shall remain in force and be religiously followed in the subsequent years. H

- A (h) Ex consequenti, the writ petitions are disposed of on above terms. There shall be no order as to costs.

Nidhi Jain

Petitions disposed of.