



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
ORDERS RESERVED ON : 26.07.2016
ORDERS DELIVERED ON : 05.08.2016
CORAM

THE HON'BLE MR. JUSTICE M. VENUGOPAL

W.P. (MD) No.12239 of 2016

and

W.M.P. (MD) Nos.9328 & 9329 of 2016

Sree Krishna Education Trust,
Represented by its
Founder and Managing Trustee,
Dr.K.Balaraman

.. Petitioner

vs.

1.The Secretary to Government of Tamilnadu,
Agriculture Department,
Fort St.George, Chennai - 600 009.

2.The Secretary to Government of Tamilnadu,
Finance Department, Fort St.George,
Chennai 600 009.

3.The Vice Chancellor and Chairman,
Board of Management,
Tamilnadu Agricultural University,
Coimbatore, Tamilnadu.

4.Mr.K.Ramasamy
The Vice Chancellor and Chairman,
Board of Management,
Tamilnadu Agricultural University,
Coimbatore, Tamilnadu.

5.The Registrar,
Tamilnadu Agricultural University,
Coimbatore 641 003,
Tamilnadu.

.. Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorari calling for the records pertaining to the impugned order made in proceedings No.E1/AC.131/II.4/2016 dated 03.07.2016 issued by the 5th Respondent and quash the same.

For Petitioner : Mr.Isaac Mohanlal
Senior Counsel
for Mr.D.Sadiq Raja

For R1 and R2 : Mr.K.Mahesh Raja
Government Advocate

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For R3 to R5 : Mr.A.Thirumurthy

**ORDER**

The Petitioner has preferred the present writ petition praying for passing of an order by this Court in calling for the records relating to the impugned order, in proceedings No.E1/AC.131/II.4/2016, dated 03.07.2016, issued by the Fifth Respondent/Registrar, Tamilnadu Agricultural University, Coimbatore.

2.The Long Germane Writ Facts:-

2.1.The Petitioner/College of Agricultural Technology, Theni, Theni District was started in the academic year 2010-2011 based on the sanction of the First Respondent/Secretary to Government of Tamil Nadu, Agriculture Department, followed by affiliation accorded by the Fifth Respondent/Tamil Nadu Agricultural University, Coimbatore. As a matter of fact, a Memorandum of Understanding was entered between the Fifth Respondent/Registrar, Tamil Nadu Agricultural University, Coimbatore and the Petitioner, on 7.7.2010. As pointed out by the Standing Committee report dated 2.5.2007, the required infrastructures and other facilities were developed in respect of the College. The College had required number of eminent Faculty Members, well-equipped Library, well-equipped Laboratories, Hostel, Orchard, fields, and other facilities, etc. Therefore, a request was made on 25.4.2011 to the Third Respondent seeking to increase the admission strength of the students for B.Sc (Agri) Degree course from 60 to 120 seats. Taking into account the infrastructural facilities available in the College, the Fifth Respondent/Tamil Nadu Agricultural University, Coimbatore, by means of proceedings dated 20.6.2011 provisionally approved the proposal for increasing the admission strength of B.Sc. (Agri) degree course from 60 to 120 seats from the academic year 2011-2012 onwards with a rider that infrastructure and other facilities should be fulfilled within three months. Indeed, all the infrastructural facilities required for the additional strength were fulfilled and the College has the infrastructural facilities to have additional new courses. In fact, number of representations have been given to the authorities to grant approval for increase in the strength of the B.Sc (Agri) Degree Course from 120 to 240 as well as affiliation to have B.S(Agri Business Management), B.Tech (Horticulture).

2.2.The Fifth Respondent/Tamil Nadu Agricultural University, Coimbatore in regard to enhancement of seats, through communication dated 15.6.2015, intimated that request for additional strength of 120 for B.Sc (Agri) Course will be considered after the inspection by the Standing Committee to ascertain the facilities as per the TNAU Guidelines. In regard to affiliation for the two new courses, it has been turned down by the Fifth Respondent on the ground that both B.S (Agri Business Management) and B.Tech (Horticulture) are self-supporting courses, which cannot be supported for affiliation. There is no whisper in the said communication, as to the inadequate infrastructural facilities. The Fifth Respondent/Tamil Nadu Agricultural University, Coimbatore had issued an Information Brochure, Under Graduate Admission 2015, the Tamilnadu Agricultural University dated nil, wherein it was stated that the candidates admitted during the Counseling under the TNAU quota (50 per cent) in private affiliated Colleges should pay the first year fee prescribed by the Tamilnadu Government to TNAU on the date specified in the admission allotment letter. Aso, it was made clear in the said



brochure that private affiliated Colleges are not permitted to collect the first year fee or any other fee from the newly admitted candidates. Inasmuch as the same is not in consonance with the Tamilnadu Agricultural University Act 1971, besides, the agreement entered between the Fifth Respondent/Tamil Nadu Agricultural University, Coimbatore and the Petitioner herein, a writ petition in W.P.(MD)No.10807 of 2015 was preferred before the Madurai Bench of this Court, challenging the above said portion of the Information Brochure under Graduate Admission 2015 issued by the Fifth Respondent/Tamil Nadu Agricultural University, Coimbatore. In M.P.(MD)No.2 of 2015 in the said Writ Petition, this Court on 13.06.2015 was pleased to grant interim injunction and since the interim order of injunction was granted, the Fifth Respondent/Tamil Nadu Agricultural University, Coimbatore by means of proceedings dated 3.7.2015 reverted back Dr.K.Sivasubramanian who was on deputation as Dean In charge of the College abruptly. Since the Dean was withdrawn by the University, a request was made by the Petitioner to permit the Trust to appoint a Dean for the College by way of direct recruitment by following the norms of TNAU / ICAR. However, there was no reply from the University. Therefore, the Fifth Respondent/Tamil Nadu Agricultural University, Coimbatore by means of communication dated 5.10.2015 asked the Petitioner to renew the Memorandum of Understanding entered between the University and the Petitioner Trust. Pursuant to the same, the Petitioner College gave objections for renewal of M.O.U on the ground that there is no clause as to the renewal of Memorandum of Understanding once in four years and the same is against the ingredients of Tamilnadu Agricultural University Act 1971 and Statutes of the Tamilnadu Agricultural University and its regulations.

2.3.As a matter of fact, a due reply was sent by the College relating to the ownership of the land possessed by it. In fact, the Third Respondent/Vice Chancellor and Chairman, Board of Management, Tamil Nadu Agricultural University, Coimbatore, had developed grudge against the College, particularly against the Petitioner/College, because of the fact that it approaches the Court as against the portion of the information Brochure Under Graduate Admission 2015. Moreover, no intimation, as to the meeting convened with the affiliated Colleges, was given to the Petitioner/College. In one of the meetings convened by the second Respondent/Secretary to Government of Tamilnadu, Finance Department, a direction was issued that any one representing the Petitioner College should leave the meeting hall and indeed other representatives of the private affiliated Colleges intimated the same to the Petitioner/College.

2.4.When that be the fact situation, to the utter shock and surprise of the Petitioner/College, the Fifth Respondent/Tamil Nadu Agricultural University, Coimbatore, vide order dated 30.3.2016 issued a show cause notice by invoking Section 5 (j) of the Tamilnadu Agricultural University Act 1971 as to withdraw the temporary affiliation granted by the Tamilnadu Agricultural University, Coimbatore vide order No.E1/970/2007, dated 7.7.2010 and directed the Petitioner/College to submit explanation within fifteen days from the date of receipt of the subject notice as to why the said temporary affiliation given as aforesaid should not be withdrawn. In the said show cause notice, it was mentioned that infrastructural facilities were not developed and the conditions were not satisfied. Apart from that, in paragraph Nos.9 to 15 of the said show



cause notice, the following details are found:-

(a). The Founder and Managing Trustee of Sree Krishna Education Trust did not come forward to sign the fresh MOU which was sent to him in this office letter NO E1/Sree Krishna Edn Trust/MoU/2015 dated 05.10.2015 when all the remaining Trusts executed the MoU with the University which amounts to deliberate breach of one of the conditions prescribed in the order of the University which granted affiliation on 07.07.2010.

(b). Also, Sree Krishna Trust did not fulfill the infrastructural facilities prescribed for B.Sc (Agriculture) in the Guidelines of norms and affiliation of Institutions to TNAU for offering for B.Sc (Agri) degree programme and thus committed a breach of Trust, bonafide belief and expectation and the Trust failed to fulfill its commitments, bounden duty and mandatory requirements for offering good education for the single course viz. B.Sc (Agriculture). Therefore the demand of the Sree Krishna Education Trust to grant affiliation to offer additional courses was also not considered.

(c). Besides, the Management of the College of Agricultural Technology has collected examination fees from the students, but failed to remit the required 65 per cent of the examination fee to the University in one lump sum but sent the examination fee in piece meal, as stated in its letter dated 5.12.2015. Further as admitted by the College in its letter dated 22.3.2016 the College is in arrears of remittance of the examination fee of Rs 7,05,237/- for the academic years from 2012-2015 and the College has applied for time upto June 2016. As per the report of the Controller of Examinations of the University (vide letter dated 21.03.2016) also the actual total amount due from the College comes to Rs.7,13,102/-. Thus the management of Sree Krishna Education Trust is not proper in remitting the examination fee due to the University, knowing well that non remittance of examination fee may lead to debarring the students from writing the examination besides creating administrative inconvenience to the University.

(d). Further the Sree Krishna Education Trust does not possess the absolute title of the lands as prescribed in the "Guidelines of norms for affiliation of Institute to TNAU for offering B.Sc (Agri) degree course" received during Nov 2015. Though the replies of the Trust state that they own adequate lands, no document showing the title of the lands in favor of the Trust / College has been produced.

(e). Further the title of the lands is not in the name of the Trust or College as the lands are owned by a private limited under the companies Act 1956 viz. Lotus Gardens Private Limited, Bangalore and therefore the Trust/College does not possess the absolute title of the lands. Besides when this major deficiency was pointed out in this office letter dated 22.09.2015 (reference 5th cited) to the Trust, the Trust did not take any efforts to convey /acquire the title of the lands allotted to



the College. Thus the Trust does not possess the title of the lands as prescribed in the Guidelines and stands disqualified for running the College.

(f). The Management of the CAT having agreed to engage a Professor of the University as the Dean of the CAT on deputation basis and on foreign service terms and conditions in the MOU, later refused to pay leave salary to the Dean and thereby made the Dean to leave the College to enable the Trust engaging unqualified, retired old teachers aged about 70 years on payment of a meager salary which is against the ICAR/University/Govt norms denying good quality of agriculture education to the students.

(g). Further the Management of the College did not pay salary on the last working day of the month to the Dean of the University on deputation with the College but took their own time to disburse the salary. Therefore the University was forced to pay salary to the Dean from the fee collected from the students of the 1st year and paid the balance amount to the College. While so, the Sree Krishna Education Trust has made a false allegation of collection of students' money by the University and non-payment to the College.

2.5.As per the conditions of the University, the Trust had signed the Memorandum of Understanding with the University on 7.7.2010. Further neither in the Tamilnadu Agricultural University Act 1971 nor Statutes of the Tamilnadu Agriculture University nor its regulations nor in the hand book of guidelines for establishing Agricultural College, anything is stated pertaining to the fresh / renewal of Memorandum Of Understanding between the Tamilnadu Agricultural University and affiliated Colleges. As against the communication dated 5.10.2015, objections were sent to the University on 18.2.2016. As such, it cannot be construed as deliberate breach of one of the conditions prescribed in the order of the Notification dated 7.7.2010.

2.6.Besides the above, even in the notification dated 7.7.2010, it was mentioned only to execute a MOU with TNAU before commencement of the course, which does not speak about the renewal of the MOU once in four years. It is false to state that the Petitioner had not satisfied the infrastructural facilities prescribed for B.Sc (Agri) in the guidelines of norms for affiliation of institutions to TNAU for offering B.Sc (Agri) Degree programme and thus committed a breach of Trust bonafide belief and expectation of the University. In fact, the Standing Sub Committee conducted an inspection on 30.4.2014 and pointed out certain minor deficiencies in their report and all the deficiencies as pointed out by the said Committee were rectified and action taken report was forwarded to the University. Even in the report of the Standing Committee, which is lateral point of time to the show cause notice dated 18.06.2016, in the remarks column it was mentioned that 'Examination fees are remitted in time.'

<https://hcservices.courts.gov.in/hcservices/> to the absolute title of the lands as prescribed in the guidelines for the norms of affiliation of the Institute with TNAU for offering B.Sc (Agri) Degree course, it is to be pointed out that the



said guidelines were issued subsequent to the affiliation granted to the Petitioner/College. In fact, the said guideline was issued in the year November 2015. Even then, as per the direction of the University, title was transferred in the name of the Trust and the copy of the registered Sale Deed was submitted before the Fifth Respondent/Tamil Nadu Agricultural University, Coimbatore. Continuing further, the University withdrew the Dean on his own accord on volition. In the said circumstances, the permission has been sought for to appoint a Dean by way of direct recruitment with eligible qualification as required by the TNAU / ICAR. However, no reply was given in this regard. Also that the management paid salary to the Dean of the University on deputation in time and there were no lapses in the payment of salary which warranted the University to pay the salary to the Dean from the fee collected from the students of the first year as alleged in the show cause notice. In reality, with respect to all affiliated Colleges, the University paid salary of the Dean from the fee collected from the students of first year of respective Colleges. As such, it could be inferred that the allegations made in the show cause notice are not correct and also that the Trust had produced all the records besides information as sought for by the University.

2.8.As a matter of fact, the issuance of the show cause notice dated 30.03.2016 suffers from the vice of arbitrariness, malafide, pre determination, non application of mind. In fact, in W.M.P.No.12438 of 2016 in W.P.No.14238 of 2016 an interim stay was granted for a limited period and on 02.06.2016 the stay was extended till 20.6.2016. When the stay of all further proceedings pursuant to the issuance of show cause notice was very much in force, the Fifth Respondent/Tamil Nadu Agricultural University, Coimbatore sent a communication to the Petitioner on 08.06.2016 as to visit of Standing Committee of TNAU on 10.6.2016 to assess the infrastructure and other facilities available for continuing B.Sc (Agri) degree course. Since the College is fully equipped with vast extent of campus covering 130 acres with all facilities like academic block with 20 class rooms, 8 + 6 Laboratories, Hostel for Boys and Girls which could accommodate 800 students with all basic facilities but the standing committee though not approved by Board of Management as required under law, without any locus standi hurriedly visited the campus with a preconceived notion and left without verifying the facts besides conducting field inspection. When the matter came up for hearing on 20.06.2016 this Court extended the stay till 12.8.2016 with a rider to notify the students about the pendency of the writ petition besides the admission of students by the Institution for the current academic 2016-17 is subject to the result of the writ petition. On 27.6.2016, this Court was pleased to observe that in the light of the subsequent development in the form of the Standing Committee Report dated 10.6.2016 the Respondent University is at liberty to serve the same to the Petitioner and eliciting its response shall proceed further in accordance with law and posted the matter for final hearing 25.7.2016. Under the said circumstances, on 21.6.2016 the report of the Standing Committee dated 10.6.2016 was sent to the Petitioner/College along with covering letter seeking to rectify the deficiencies pointed out therein at the earliest. In the said communication, there was no whisper as to our response for the standing committee inspection report but only directed us to rectify the deficiencies.



2.9.Further, on 2.7.2016 a communication was received from the Fifth Respondent/Tamil Nadu Agricultural University, Coimbatore addressed to the Petitioner/College stating it had not responded to the inspection report of the Standing Committee and further requested College to send its response for the Standing Committee report immediately. A detail reply about the factual aspect besides the preconceived notion nurtured by the Members of the Standing Committee was sent by the Petitioner/College and even without providing a reasonable time to respond to the report of the Standing Committee, the Fifth Respondent/Tamil Nadu Agricultural University, Coimbatore straightway reduced the students strength from 120 to 60 on 4.7.2016. In fact, no communication was made to Petitioner in this regard the Petitioner came to know from the vacancy position of affiliated Colleges which was published in the First Phase of Counseling which was held between 4.7.2016 to 10.7.2016. Only 39 seats were allotted in favour of the Petitioner College under the government quota which is 65% of the reduced strength of 60. The Petitioner/College received a impugned communication dated 03.07.2016 issued by the Fifth Respondent/Tamil Nadu Agricultural University, Coimbatore on 08.07.2016, wherein it was mentioned that the academic council of Tamil Nadu Agricultural University, Coimbatore, in their 131st Meeting held on 03.07.2016, had accepted the report of standing committee and approved for reduction of B.Sc (Agri) Student admission strength from 120 to 60 for the academic year 2016-17 to the Petitioner's College considering its infrastructural facilities etc.

2.10.The stand of the Petitioner is that without awaiting for its reply, on 03.07.2016 the subject impugned order was passed thereby reducing the students admission strength from 120 to 60 for the academic year 2016-2017. Though the Counselling commenced on 04.07.2016, it was received by the Petitioner only on 08.07.2016. The signature dated 05.07.2016 of the Deputy Registrar (Education) would substantiate the Petitioner's contention. For the name sake, a response was sought for and without even providing 24 hours time, the subject order has been passed. There were many instances to the fact that the Fourth Respondent is bent on creating all sorts of troubles to close the Petitioner College. One instance is that every year the Tamilnadu Agricultural University would issue a information Brochure for Under-Graduate admissions. As usual, Tamilnadu Agricultural University, Under - Graduation Admissions 2016 - Information Brochure was published in the website of the University wherein in the caption of College details, Table - 2, i.e. Courses offered at affiliated Colleges of TNAU, a asterisk has been marked as against the course offered by our College. Below the above stated tabular column, it was found that the said asterisk is meant for "subject to the decision / approval of the University". It is seen from the Brochure that the said asterisk is also found against 'Athiyamaan College of Agriculture and Research, Hosur' and 'Krishna College of Agriculture and Technology, Usilampatti'. The two Colleges were yet to be affiliated for want of standing committee reports. In respect of the Petitioner College, there is no necessity to mark asterisk as against the name of the Petitioner College in the said Information Brochure and this was made at the instigation of the fourth Respondent to create confusion among the students who sit for Counseling in the University. A communication was addressed to the Fifth Respondent/Tamil Nadu Agricultural University, Coimbatore on 12.5.2016 to remove the asterisk as found against our



College in the Information Brochure issued by the University for Under Graduate admissions 2016. But so far neither the asterisk was removed nor was any reply made by the University to substantiate the same.

2.11. Now, the Standing Committee had given a recommendation not only to reduce the students strength from 120 to 60 but also give six months time to improve the infrastructure facility and staff strength, failing which, the affiliation may be withdrawn permanently from the next academic year. If the report is accepted in toto then, the Petitioner is to be given a show cause notice to submit its explanation and a summary enquiry will be conducted pursuant to the reply and later suitable orders are to be passed. Further, if the report is accepted in toto, then the earlier show cause notice becomes infructuous. Without considering the Petitioner's reply nor conducting any summary enquiry, straightway the students strength was reduced as per impugned order which amounts to arbitrariness, malafide, violation of principles of natural justice, non application and pre determination of mind against the procedures contemplated under law, besides orders passed by this Court. Hence, the Petitioner/College has filed the writ petition.

3. The Gist of Counter of the Fifth Respondent:-

3.1. Because of the lack of infrastructural facilities in the Petitioner/College (i.e. availability of 44.3% out of 100 %), the Respondent has issued the Show Cause Notice dated 30.03.2016 to the Petitioner/College, calling upon it to show cause as to why the affiliation granted to the Petitioner-College should not be withdrawn, against which, the Petitioner had already filed W.P.No.14328 of 2016 before the Principal seat of this Court and the same is pending. Inasmuch the impugned order was issued due to the lack of infrastructure and the Writ Petition filed in respect of the same is pending, as stated supra, the present writ petition filed by the Petitioner is clearly abuse of process of Law and the Court. Therefore, the writ petition is liable to be dismissed on that score.

3.2. As a matter of fact, in the interim order passed on 27.06.2016 in W.P.No.14328 of 2016, the Principal Seat of this Court had granted liberty to the Fifth Respondent to serve the standing committee report to the Petitioner and after eliciting their response, shall proceed further in accordance with law. In fact, the Standing Inspection Committee report was already sent on 21.06.2016 to the Petitioner/College and the Petitioner/College had not responded and therefore, a reminder was sent on 02.07.2016. Even then, the Petitioner had not responded and in view of the Counseling process for admission of students for the year 2016-2017 was fixed, the Academic Council which met on 03.07.2016, has taken stock of the infrastructure and situation at all the Agricultural Colleges (including private Agricultural Colleges) and had considered the lack of infrastructure in the Petitioner/College and non compliance with the policy to fulfill the infrastructure under the guise of "interim stay order" granted against the Show Cause Notice, dated 30.03.2016. Further, considering the direction given by the Hon'ble Court on 27.06.2016, the Academic Council had decided to reduce the admission strength from 120 to 60 in the interest of the students, since the Standing Committee report says that the infrastructural facility available is 44.3% out of 100 %. As such, the impugned order was passed based on the infrastructure, which



is correct one and well within the powers and jurisdiction of the Academic Council. The Petitioner/College had not fulfilled the infrastructure even now for admission strength of 60 students and though the six months time granted in G.O.(D) No.123 Agriculture (AU) Department dated 21.06.2010 lapsed (i.e. even before six years). In fact, the Petitioner/College had not inclined to abide by other conditions prescribed by the University in the MOU, i.e. renewal of MOU etc and thereby violated the condition prescribed for approval to start and run the Agricultural College, which is in gross violation of the conditions.

3.3.Indeed, on the bonafide belief that the Petitioner would create all infrastructural facilities, the increase in admission strength from 60 to 120 was provisionally approved, but taking advantage of the bonafide belief and expectation of the Respondent/University, the Petitioner has dodged to create infrastructure and even applied to increase the admission strength of students from 120 to 240 per year and took the behind screen activities to compel the University to comply with the demand of increase of strength. Hence, based on the Committee report, dated 16.06.2016, the Respondent/University is not inclined to increase the students strength and since the existing infrastructure is only 44.30% as per the SCORE CARD of the Standing Committee, the Academic Council had decided to reduce the admission strength from 120 to 60 considering the academic requirement, welfare and performance of the students of the Petitioner/College to fall in line with the academic standard being maintained in the University Colleges. Therefore, the reduction of students' admission strength is valid in law.

3.4.Because of the insufficient infrastructure available in the Petitioner/College for a single Course i.e. B.Sc.(Agri.) course, the request made to offer new courses so as to mint money without the required infrastructure facilities was not considered by the University, which is well within the domain of Experts of the University and valid in law. In regard to the Admission Information Brochure, 2015 the University had directed the candidates being admitted to the private Colleges, also to remit the First year fee to the University. It is pointed out that as per the conditions of MOU, the University offered to provide the services of Senior Professors to serve as Principals in the Private Agricultural College on Foreign Service terms and conditions, to take up responsibility of students education and to maintain their performance on par with the student of University Colleges and the private Colleges accepted the same. In respect of two Colleges (including the Petitioner/College), they had not paid the salary to the Professor deputed to serve as Principal on the last working of the month as per the Government norms. Apart from that, the Petitioner/College had not paid "Leave salary" also to the deputed Professor, though there is a provision for "reimbursement of leave salary" from the University, under Foreign service terms and conditions. Therefore, the deputed Professors did not want to continue in the service of Private Colleges and to protect the interest and livelihood of the University Professors deputed to Private Colleges, the University decided to collect the First year fee alone at the time of admission of students and to pay the salary of the deputed Professors and refunded the balance amount to the Colleges.

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3.5.As a result of denial of Leave Salary, a Professor deputed to the Petitioner/College to serve as Principal had relinquished the post

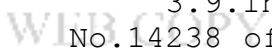


and reverted to University. Accordingly, after the disbursal of salary, the balance amount was refunded to the Petitioner/College, but the Petitioner/College filed W.P.(MD) No.10807 of 2015 against the said provision in the Admission Information Brochure 2015 and this Court granted Interim Injunction and as such, the First year fee was not collected by the Respondent/University, from the students admitted to the Petitioner/College during the year 2015 and the notification was made for the same and the writ petition is pending.

3.6.It is to be pointed out that as per Condition No.12 in G.O.(D) No.123, Agriculture (AU) Department, dated 21.06.2010, wherein a permission was granted to start the College, which was mentioned that the Petitioner College has to comply with the conditions prescribed by the University and the said condition prescribed in the MOU was accepted by the Petitioner. In fact, when the University had revised the MOU considering the further developments and latest Rules and Regulations in the agriculture education, the Petitioner/College alone refused to sign the renewed MOU and further the Petitioner induced other Private Agricultural Colleges to raise objections to each and every decision of the University, but all other Colleges executed renewed MOU, but the Petitioner alone is denying. As such, the University has taken action in accordance with the conditions prescribed in the aforesaid Government Order in G.O.(D)No.123, Agriculture (AU) Department, dated 21.06.2010, and the same was accepted by the Petitioner, which is well within the jurisdiction of the University.

3.7.As per the norms, the land used by the College should be in their own name or on long time lease of the College or Trust or Society, which is running the College so as to have continuous practical class by way of cultivation in the same land by the students as a part of agricultural education syllabi and curricula. However, in respect of Petitioner/College, the land was not in the name of College or Trust, but the land is owned by some other body viz. Lotus Gardens Private Ltd., Bangalore, which is a clear violation of accepted condition. Moreover, many reports received on encroachment, land grabbing, threatening, coercion etc. from local public. Therefore, the Respondent/University had issued the Show Cause Notice, dated 30.03.2016, which is under interim stay before the Principal Seat of this Court.

3.8.As regards the allegation made against the Fourth Respondent, it is denied as misleading and false. Further, the Fourth Respondent is very much interested in the academic performance of all the students, who are getting Degrees from the Respondent/ University, since the University is world renowned and is getting schemes and projects from National and International Agencies, bodies etc. and further so many Civil Service Appointees are the alumni of this University and hence, the Fourth Respondent is taking all efforts to retain the name and fame of the University. When more than 15 Colleges had not faced any problem and had not refused to comply with the conditions prescribed in the interest of the academic performance of their students, the Petitioner, who was a former Member of the 'Board of Management of the University' (Supreme policy making body) wants to use his earlier position and to remain without fulfilling and maintaining the infrastructure and other facilities to the College and students. Therefore, there is no 'Bias' or



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matter of fact, the Fifth Respondent/University had sent the SCORE CARD to the Petitioner/College, for which, a reply was sent on 19.07.2016 by the Petitioner/College and in fact, the Petitioner/College had not furnished reply for each and every deficiency noted in the Score Card, but it has furnished its "self evaluation report granting full scores" to most of the items of infrastructures and without any evidence which is untenable in law. As such, the allegation made on malafide, violation of principle of natural justice and predetermination are false and deserved to be rejected.

3.12.The Fifth Respondent/University has every power to constitute any committee to find the facts and accordingly, the committee's inspection to the private Colleges is accepted in the MOU and accordingly, the Standing Committee constituted from time to time had inspected the Petitioner/College. In fact, there is no reason to deny to accept the report of the Standing Committee.

3.13.In regard to the allegation of violation of principle of natural justice, it is to be pointed out that, since the show cause notice, dated 30.03.2016 as well as the standing committee report was communicated on 21.06.2016 and reminder issued on 02.07.2016 but there was no response of the Petitioner/College to the same till the passing of the impugned order, dated 03.07.2016, all these would point out that the Petitioner had not utilised the due opportunity provided to it. Therefore the plea of violation of principle of natural justice is to be rejected.

3.14.Also, in the respect of averment of predetermination made by the Petitioner/College in the writ petition, there is no proof for that and as such, the same is to be rejected as malafide.

3.15.The Petitioner/College cannot expect the Fifth Respondent/University to be a silent spectator, while the Petitioner/College is not taking care of fulfilling the requirement for students' education, academic performance and welfare. The standing committees report has not been specifically denied by producing the records for fulfillment of the deficiencies or inviting the Standing Committee for re-inspection. However, the Petitioner/College has chosen to come before the Court whenever any direction is issued in the interest of students education, academic performance and welfare etc. In respect of some Medical Colleges, due to lack of infrastructure facilities, the students had agitated and were distributed and transferred to other Colleges and in such circumstances, the University became answerable for not monitoring the Colleges. Therefore, to avoid such a contingency, the Fifth Respondent/University has taken action, which is not malafide and illegal.

4. The Submissions of the Petitioner/College:-

4.1.According to the Learned Senior Counsel for the Petitioner/College, the impugned order, dated 03.07.2016 issued by the Fifth Respondent/University, to the Petitioner/College, in and by which, the reduction of students strength was made from 160 to 60 for the academic year 2016-2017, is an illegal and arbitrary one and the same is liable to be set aside.



4.2.The Learned Senior Counsel for the Petitioner/College, urges before this Court that the impugned order, dated 03.07.2016 passed by the Fifth Respondent/Registrar (Incharge) of the Tamil Nadu Agricultural University, Coimbatore, is against the order passed by this Court in W.M.P.No.12438 of 2016 in W.P.No.14238 of 2016 on the file of the Principal Bench of this Court, wherein it was clearly mentioned that the Respondents should serve the Standing Committee report and after eliciting its response, the Fifth Respondent/University shall proceed further in accordance with law. In this connection, it is represented on behalf of the Petitioner/College that the communication was sent on 21.06.2016 along with the copy of Standing Committee Report seeking to rectify the deficiencies at the earliest. But no where an explanation was sought for in the communication and only on 02.07.2016, an explanation was sought, for the report of the Standing Committee.

4.3.At this stage, the Learned Senior Counsel for the Petitioner/College, projects an argument that without waiting for the explanation, on 03.07.2016 itself, the impugned in the subject matter in issue was passed by the Fifth Respondent and in fact, no sufficient time was given to the Petitioner/College to submit its reply and also no enquiry, much less a summary enquiry was conducted and to ascertain the veracity of the Standing Committee Report. As such, it is the plea of the Petitioner/College that the impugned order passed by the Fifth Respondent/Registrar (Incharge), Tamil Nadu Agricultural University, Coimbatore, is invalid in Law.

4.4.The Learned Senior Counsel for the Petitioner/College, submits that even in the Communication of the Fifth Respondent/University, in regard to the Inspection Standing Committee, there is no reference to any Resolution passed in the 'Board of Management' for inspecting the Petitioner/College by the Standing Committee and therefore, the Standing Committee has got no jurisdiction to inspect the Petitioner/College and any report filed by it cannot be relied upon. Even if any report is filed, then the procedure to be followed, is to ascertain the view by obtaining reply from the Petitioner/College and after conduct of enquiry, then only an order must be passed. In the present case, it is pointed out on behalf of the Petitioner/College that straightaway the impugned order, dated was passed by the Fifth Respondent/University by reducing the students strength, which is against the procedure contemplated under Law, Statutes and Regulations of the University.

4.5.It is the contention of the Petitioner/College that the act of the Third and Fifth Respondent suffers from vice of predetermination of mind and earlier Standing Committee visited the Petitioner's College on 30.04.2014 pointing out certain minor deficiencies, which were constructive in nature and the same were implemented in letter and spirit and filed action taken report thereon. Under the said circumstances, the so called Standing Committee, which inspected on 10.06.2016 has not taken into consideration the earlier standing committee report and action taken thereon. In this connection, the Learned Senior Counsel for the Petitioner/College takes a plea that from that point, the inspection should have commenced, but the reading of the remarks which is against their own findings would clearly establish that they want to satisfy their master for vested reasons.



4.6. At this juncture, the Learned Senior Counsel for the Petitioner/College, relies on the decision of the Hon'ble Supreme Court in **AL-KARIM EDUCATIONAL Trust v. STATE OF BIHAR** reported in (1996) 8 SCC 330, wherein at special Page No.336, at paragraph No.11, it is observed as under:-

"In the matter of grant of affiliation, it is ordinarily for the State Government after consulting the Medical council of India to arrive at a decision. However, if it is found that the affiliation is being withheld unreasonably or the decision is being prolonged for one reason or the other, this Court would, though reluctantly, be constrained to exercise jurisdiction. We must make it clear that we are not diluting the importance of fulfilling the essential pre-requisite set by the Medical Council before granting recognition. The facts of this case are very special and exceptional. In the present case, we take note of the following aspects:

(a) The appellant institution was granted temporary affiliation nearly 6 years ago (29.12.1989).

(b) More than three years ago, (on 16.7.1992) this Court directed that students may be admitted and permitted to take examination, subject to certain conditions and this has been so done.

(c) In view of the earlier orders of this that affiliation should be granted to the appellants.

(d) On more than three occasions, this Court, after perusal of the affidavits of the parties and report of the concerned authorities about the deficiencies pointed out, directed time-bound inspections, by Medical Council of India, along with other authorities bearing in mind that we are concerned with the post establishment stage.

(e) At one stage, it came to light that the original deficiencies having been removed, new or further deficiencies were pointed out by the Medical Council of India, which were ordered by this Court to be removed.

(f) Finally, the appellants filed a tabular statement along with an affidavit dated 4.9.1995, stating that even the new deficiencies pointed out have been removed and the averments in that behalf stand uncontradicted.

(g) The appellants claim to be a minority institution and the difficulties/ or even the imponderables to start a new institution, cannot be gainsaid. To insist on fulfilling all requirements, at a stretch in modern conditions, is not a practical proposition and ordinarily, only those aspects or requirements, which in the minimal will give a good start for effectively imparting education, with ancillary requisites may be considered sufficient, in the extra-ordinary circumstances of this case.

(h) It is impractical to insist, for a fool proof or absolute adherence to all requirements without regard to their importance or relevance, for the purpose of imparting



education, in a practical way, especially because the institution has begun to function, students admitted to institution have taken the examination and the fate of a good many number of students should not hang in the balance in an unending or everlasting manner.

(i) In the final analysis, the question to be posed, is whether there exists the minimal and satisfactory requirements to keep the matter going, and not whether better arrangements that will render the set up more efficient and more satisfactory, should be insisted as "a wooden" rule.

(j) It may be that there are some minor deficiencies here and there which call for rectification. Time can certainly set right such matters. What is required is a total, practical, overall view in the light of the latest tabular statement filed along with the affidavit dated 4.9.1995. material placed before the Court goes to show that there has been "substantial" though not literal compliance with the deficiencies pointed out in the latest report dated 28.6.1995.

(k) Lapse of time and the turn of events call for urgent action and any delay on that score will entail untold hardship to the students and the institution."

5. The Submissions of Respondent Nos.3 to 5:-

5.1.The Learned Counsel for the Respondents 3 to 5, contends that the Fifth Respondent/University issued an order granting provisional affiliation for B.Sc., (Agri) Course, only in respect of the academic year 2010-2011 with students admission strength of 60, prescribing important conditions that all the conditions specified by the Government and the University should be fulfilled within six months, the infrastructure and other facilities should be filled within six months, failing which the affiliation will be withdrawn and the Trust should abide by the conditions if any prescribed by the University and the same is as under:-

"Sri Krishna Education Trust agrees to fulfill all the infrastructural facilities as prescribed in the "Guidelines of Norms for affiliation of Institute to TNAU for offering B.Sc. (Agri.) course for the students strength of 60" and other facilities within six months (i.e. 06.01.2011) failing which affiliation will be withdrawn from next academic year and the post of Dean of Agricultural College shall be filled up with an officer of the University on foreign service terms and conditions and TNAU has right to disaffiliate the institute for sufficient and reasonable cause with the approval of Academic Council and Board of Management after issuing three months notice."

5.2.At this stage, the Learned Counsel for the Respondents 3 to 5, brings it to the notice of this Court that on 20.06.2011, the Petitioner/College was permitted to increase students' admission strength to 60 with a condition to fulfill the infrastructure and other facilities for the same within three months but the same was not fulfilled and that on 31.07.2015, a complaint was received from one, Amaravathi on



grabbing of her land by Petitioner/College etc. and on 24.08.2015, the Government had directed the University to take action on the complaint of Amaravathi. The Learned Counsel for the Respondents 3 to 5, by referring to the letter of the Fifth Respondent, dated 22.09.2015, addressed to the Petitioner/College submits that the Petitioner/College was required to rectify the deficiencies in its ownership of land of the Petitioner/College/Trust, construction of buildings and hostel to cope with the students requirement and to furnish a report on the complaint received against Trust on land grabbing of private land, encroachment of forest land, illegal quarrying of earth, rough stone, illicit tapping of electricity and water, etc. Before 30.11.2015.

5.3.Further, it is represented on behalf of the Respondents 3 to 5 that on 5.10.2015, the Fifth Respondent/Registrar (incharge), Tamilnadu Agricultural University, Coimbatore, requested the Petitioner/College, to renew the 'Memorandum Of Understanding', which contains new conditions to cope up with the development of academic and introduction of on-line admission system etc.

5.4.The Learned Counsel for the Respondents 3 to 5, by referring to the Petitioner's reply dated 19.10.2015, submits that the Petitioner had not produced land ownership records, but furnished a reply that the 'Board of Trustees' of Petitioner/Trust, will provide undertaking from the Board of M/s.Lotus Gardens Private Limited, for leasing of their land for the College. As such, the Petitioner/Trust/College, did not have its own land and in respect of the complaining of one Amaravathi, the Petitioner/College had furnished a reply that it is beyond the concern of the University and therefore, it is represented on behalf of the Respondents 3 to 5 that the averments/allegations made against the Petitioner/Trust appears to be true.

5.5.The Learned Counsel for the Respondents 3 to 5, refers to the Petitioner's reply, dated 26.10.2015, wherein the Petitioner/College/Trust had denied to renew the 'Memorandum Of Understanding' and thus the Petitioner/Trust violated the Government's prescribed and the accepted conditions of affiliation by referring to a writ petition, which was projected against the collection of fee from the students at the time of admission by the University and the same is not related to MOU.

5.6.The Learned Counsel for the Respondents 3 to 5, brings it to the notice of this Court that the Standing Committee visited the Petitioner/College to find out the fulfilment of infrastructures and other facilities developed by it after the grant of interim stay order dated 18.04.2016, against the show cause notice passed in W.P.No.14238 of 2016 before the Principal seat of this Court. In fact, it is represented on behalf of the Respondents 3 to 5 that the Standing Committee on 16.06.2016 furnished its 'Score Card Report' on each and every item to be available for running the College and furnished a report that **"Overall compliance is only 44.31%" against 100%.** That apart, it is also submitted on behalf of the Respondents 3 to 5 that on 18.06.2016, the Standing Committee had furnished a report based on the Score Card and



in the said report, the following important deficiencies are mentioned:-

"(i). Total absence of Botanical garden (20 acres)
Total absence of woodlands (5 acres)

(ii). The existing four laboratories can accommodate 30 to 40 students and Soil science lab. can accommodate only 35 students at a time whereas the admission strength is 120 per year and the facilities are poor.

(iii). There is no laboratory for the following courses:

Biochemistry,
Seed Technology,
Crop Physiology
Food science
Environmental sciences
Biotechnology
Veterinary and Animal Sciences

(iv). Library facility is very poor.

Library is inadequate for current strength of 480 days for four years.

Only 1350 books are available after the passing of six years from the establishment of the College.

(v). No placement cell.

(vi). No central instrumentation facility with essential instruments, viz. HPLC, GC, GLC, HPTLC, AAS, pH Meter, Colorimeter, Pressure Plate apparatus, Flame photometer, EC meter etc.

(vii). Hostel facilities is only partial. 5 boys accommodate in each room and 5 or 6 girls are accommodated in each room.

(viii). No medical facilities.

(ix). Practical classes are not conducted by taking the students to fields as crops are not raised systematically in different seasons.

(x). Teaching staff are not sufficient. (only 16 teachers + 3 retired staff are working).

(xi) NSS students are used as labours for harvesting, weeding, stone picking from field.

(xii) Sports materials are inadequate.

(xiii). No generator.

(xiv). No shelf, chair and table in the hostel."



reduce the student strength from 120 to 60 from the academic year 2016-2017 and further the Standing Committee had mentioned that if the infrastructure facility and staff strength is not improved in the next 6 months, the affiliation may be withdrawn permanently from next academic year. Furthermore, it is the plea of the Respondent 3 to 5 that the Fifth Respondent/Registrar of University had forwarded the Standing Committee's Report and recommendation dated 18.06.2016, on 21.06.2016, to the Petitioner/College, which is like a show cause notice and in the Vacate Stay Petition filed by the Respondent/University, in WMP.No.17379 of 2016, the matter was heard and the Principal Bench of this Court on 27.06.2016, had passed the order directing the Respondent/University to serve the copy of the Standing Committee Report and after eliciting the response of the Petitioner/College to proceed further in accordance with Law.

5.8.The Learned Counsel for the Respondents 3 to 5 vehemently contends that the Petitioner had not responded to the report and recommendation dated 18.06.2016 communicated on 21.06.2016 and therefore, on 02.07.2006, the Fifth Respondent issued a reminder to the Petitioner/College and requested to sent its response immediately.

5.9.The Learned Counsel for the Respondents 3 to 5 submits that since there was no response from the Petitioner to the Standing Committee's report and recommendation to reduce the students strength from 120 to 60 from this years, on 03.07.2016, the Academic Council of the Respondent University, which is the Supreme Statutory Body in respect of Academic matters, decided to reduce the admission strength of the Petitioner College from 120 to 60 from 2016-2017 and the same was communicated to the Petitioner/College, which is now asked in the present writ petition in W.P. (MD)No.12239 of 2016 before this Court.

5.10.The Learned Counsel for the Respondents 3 to 5, invites the attention of this Court to the effect that on 07.07.2016, only after the passing of the order reducing the admission strength from 120 to 60 on 03.07.2017, the Petitioner sent the reply dated 07.07.2016 for the Standing Committee report and even in this reply, the Petitioner has admitted that certain deficiencies, all very constructive pointed out by the Standing Committee on 30.04.2014 was implemented. However, the Petitioner in the reply had not chosen to comply with the deficiencies pointed out by the Standing Committee on 18.06.2016, but demanded to restore the original strength of 120. Further, the Fifth Respondent sent Score Card of the Standing Committee to Petitioner to take up the remedial measure under each and every item. However, on 19.07.2016, the Petitioner had not furnished any reply on the fulfillment of the deficiencies pointed in the said SCORE CARD, but sent its own Self Assessment Score stating that the College has 925/1000 score i.e. "A" grade, which is not acceptable one.

5.11.The Learned Counsel for the Respondents 3 to 5 submits that the guidelines issued in 2007, is only for 60 students admission per year and as directed in the G.O.Ms.No.123, the Petitioner has to fulfill all the infrastructural facilities within 6 months time granted therein as well as directed by the University in the order dated 07.07.2010 and as agreed by the Petitioner in the MOU signed on 07.07.2010. Further, it is projected



on the side of the Petitioner/College/Trust from the beginning was granted time, but it had not satisfied the same for 60 students.

5.12. The Learned Counsel for the Respondents 3 to 5 refers to Clause 4 of the 'Memorandum Of Understanding' dated 07.07.2010 in and by which, it is represented before this Court that "the Petitioner has agreed to create and modify the infrastructural facilities as per the recommendations of the Standing Committee to meet the development in the education of Agriculture, as and when directed by the TNAU and within the time limit prescribed for the same." and as such, an arguments is projected on the side of the Respondents 3 to 5 that it is not open to the Petitioner/College/Trust to create even if additional facilities are required or prescribed by the University. In this connection, the Learned Counsel for the Respondents 3 to 5 cites a decision of the Hon'ble Supreme Court in **ST. JONS TEACHERS TRAINING INSTITUTE, MADURAI VS. STATE OF TAMIL NADU** reported in **1993 (3) SCC. 595**, wherein at special page No.605, at paragraph No.14, it is observed as follows:-

"Mr. Shanti Bhushan appearing in civil appeals arising out of Special Leave Petitions No. 6762-63/93 has contended that the appellants institutes started functioning in the year 1984. They were refused recognition and as such they challenged the order by way of a writ petition before the High Court. The Learned Counsel has invited our attention to the judgment of the High Court dated November 3, 1987 in the said writ petition wherein it is held as under:-

"Consequently, the orders of the Respondents 2 and 3 are set aside a writ of mandamus will issue directing the third Respondent to grant recognition to the Petitioner-institute with effect from 27th September, 1984. This writ petition is allowed with costs."

Mr. Shanti Bhushan contended that the impugned Recognition Rules cannot be made applicable to the institutions which have already been established and given recognition by the State Government under directions of the Court. Relying upon the above quoted judgment of the High Court Learned Counsel has contended that his clients were given recognition with effect from 1984 under the directions of the High Court and as such the impugned Recognition Rules which came into force in the year 1989 cannot be made applicable to them. It is not disputed by Mr. Shanti Bhushan, that under the directions of the High Court temporary recognition was given to his clients, though according to him the order of the Government granting temporary recognition was challenged before the High Court- and the said petition was also disposed of by the impugned judgment. We see no force in the contention of the Learned Counsel. All those institutes which did not have permanent recognition before the issue of the Recognition Rules are bound to comply with the said conditions before they are entitled to permanent recognition. The High Court was justified in holding that the institutions which were operating on the basis of temporary recognitions, either under the orders of the Courts or otherwise, shall to



comply with the recognition rules to enable them to earn recognition."

5.13. The Learned Counsel for the Respondents 3 to 5 relies on the decision of the Hon'ble Supreme Court in **BABA MUNGIPA MEDICAL COLLEGE AND RESEARCH CENTRE STUDENTS GUARDIAN FORUMS AND ANOTHER VS. GOVT. OF TRIPURA AND OTHERS** reported in **AIR 1997 SC 3999**, wherein at paragraph Nos.3 to 5, it is observed and held as under:-

"3. The case of the Trust is that there is no reason not to grant recognition to this College. Some deficiencies in the facilities to be provided by the College have been noted by the Medical Council of India. Those defects will be cured once the College gets recognition. If the College is not recognised by the Medical Council, the students who have already been admitted will be seriously prejudiced. It has been prayed on behalf of the students also that the Medical Council of India should be directed to grant recognition to the College set up by the Trust.

4. As inspection was carried out by the Medical Council on the direction given by this Court on 28th July, 1997. A copy of the Inspection Report has been filed in this Court. It appears from the Report that the said inspection was carried out by a team of doctors deputed by the Medical Council of India on 23rd and 24th September, 1997. The Report noted various deficiencies in the College. It also noted that the College does not have a proper building and has not yet acquired the land to construct the building. On behalf of the College authorities, it has been stated that the land is expected to be given by the Government very soon and construction will start immediately.

5. We are of the view that until and unless the defects pointed out by the Medical Council are removed, there cannot be any question of granting recognition to the College. The College authorities will be entitled to cure the defects pointed out in the Report. After curing the defects, they may apply to the Medical Council for a further inspection. It is for the Medical Council of India to decide whether the College had all the facilities for imparting proper medical education. But on the facts brought out in the Report, no direction can be given to the Medical Council of India or the Union of India to take any step for granting recognition to the College. Admission of First Year students to the College even before grant of the recognition by the Medical Council of India or affiliation by the University was a very irresponsible step. The College is directed not to admit any student till it obtains proper recognition. I.A.No.5 is disposed of as above."

5.14. The Learned Counsel for the Respondents 3 to 5 refers to the decision of the Hon'ble Supreme Court in **DENTAL COUNCIL OF INDIA v. SUBHARTI K.K.B. CHARITABLE Trust** reported in **2001 (5) SCC 486**, at special Page No.496, wherein at paragraph No.12, it is observed as follows:-

<https://hcservices.ecourts.gov.in/hcservices> present, there is tremendous change in social values and environment. Some persons consider nothing wrong in commercialising education. Still however, private institutions



cannot be permitted to have educational 'shops' in the country. Therefore, there are statutory prohibitions for establishing and administering educational institution without prior permission or approval by the concerned authority. On occasions, the concerned authorities, for various reasons, fail to discharge their function in accordance with the statutory provisions, rules and regulations. In some cases, because of the zeal to establish such educational institution by persons having means to do so, approach the authorities, but because of red-tapism or for extraneous reasons, such permissions are not granted or are delayed. As against this, it has been pointed out that instead of charitable institutions, persons having means, considering the demands of the market rush for establishing technical educational institutions including medical College or dental College as a commercial venture with sole object of earning profits and/or for some other purpose. Such institutions fail to observe the norms prescribed under the Act or the Regulations and exploit the situation because of ever increasing demand for such institutions. In such cases, permission is refused by the authorities without there being any bias or extraneous considerations. It is, therefore, submitted that Courts normally should not interfere with a decision taken by the expert body such as Medical Council or Dental Council by straightway issuing mandamus directing the authority to grant approval or permission to establish such institution. Where the authority has refused approval, the institution may not be well equipped to impart education and may not have qualified teachers, staff or other infrastructure necessary for running the institution. If permission is straightway granted by the Court, society, education and ultimately the students suffer."

5.15. Also in the aforesaid decision at page Nos. 497 and 498, at paragraph No. 16, it is observed as follows:-

"There cannot be any dispute that normally the court should not interfere with the functioning of the educational institutions, particularly, expert bodies like the MCI or the DCI. Still however, the question is posed that if such bodies act arbitrarily for some ulterior purpose, whether the court has the power to set right such arbitrary exercise of power by such authorities. We find the answer to this question in the affirmative. We also agree with the Learned Solicitor General that educational institutions should not be permitted to be commercialized for earning money, but at the same time, the courts can do very little in this field as it is the function of the expert bodies, such as, Medical Council of India or the Dental Council of India. However, citizens would lose faith in such institutions if the allegations made in this appeal are repeatedly made with regard to the Inspection Reports and approval by the Central Government. We leave this question for the Central Government to deal with appropriately as it is the function of the concerned authorities to plug the



loopholes and see that in such matters nothing hanky panky happens."

6. **Discussions and Findings:-**

6.1. At the outset, this Court pertinently points out that the First Respondent/Secretary to Government of Tamilnadu, Agriculture Department, Fort St. George, Chennai -9, as per G.O.(D) No.123 Agriculture (AU) Department dated 21.06.2010, issued orders permitting the Petitioner to establish the Institute in the name and style of 'College of Agricultural Technology' at Kullapuram, Theni District for offering B.Sc (Agri) Degree Course after duly obtaining affiliation from the Fifth Respondent from the academic year 2010-2011 together with other conditions. More particularly, all the aspects in the report of the Standing Committee (Contition No.2) was to be satisified and six months time was granted to fulfil the conditions (Condition No.11) and that the Respondent/University would follow its guidelines for grant affiliation to the Agriculture College (Condition No.12). Furthermore, on 07.07.2010, the Respondent/University passed an order granting provisional affiliation for B.Sc (Agri) Degree Course only from the academic year 2010-2011 with students strength of 60 prescribing important conditions that the conditions prescribed by the Government and the University should be fulfilled within six months, the infrastructure and other facilities should be filled up within six months, failing which, the affiliation would be withdrawn and the Trust should abide by the conditions, if any, prescribed by the University.

6.2. It comes to be known that on 07.07.2010, the Petitioner had signed a 'Memorandum Of Understanding' with the Respondent/University and the important condition is that **Sri Krishna Education Trust agrees to fulfill all the infrastructural facilities** as prescribed in the "Guidelines of Norms for affiliation of Institute to TNAU for offering B.Sc. (Agri.) course for the students strength of 60" and other facilities within six months (i.e. 06.01.2011) failing which affiliation will be withdrawn from next academic year and the post of Dean of Agricultural College shall be filled up with an officer of the University on foreign service terms and conditions and TNAU has right to disaffiliate the institute for sufficient and reasonable cause with the approval of Academic Council and Board of Management after issuing three months notice."

6.3. Moreover, on 20.06.2011, the Petitioner/College, was permitted to increase the students' admission strength from 60 to 120 with a condition to fulfill the infrastructure and other facilities for the same within three months etc. Added further, it is represented on behalf of the Respondents 3 to 5 that based on the complaint of one Amaravathi dated 31.07.2015, that a land was grabbed by the Petitioner, the Government had directed the University to take action on the said complaint and on 22.09.2015, the Fifth Respondent/Registrar, Tamilnadu Agricultural University, Coimbatore, had requested the Petitioner/College to rectify the deficiencies in the ownership of the land of the Petitioner/College/Trust. Before 30.11.2015, on 5.10.2015, the Fifth Respondent/Registrar, Tamilnadu Agricultural University, Coimbatore, had requested the Petitioner to renew the 'Memorandum Of Understanding' which contains new conditions to cope up with the development of academic and introduction of onlilne admission system etc.



6.4.As a matter of fact, it is represented on behalf of the Respondents 3 to 5 that the Petitioner/College had not produced land ownership records, but furnished a reply on 19.10.2015 stating that the Board of Trustees of the Petitioner/Trust will provide an undertaking from the Board of M/s.Lotus Gardens Private Limited, for leasing of their land for the College. In regard to the complaint of one Amaravathi, the Petitioner/College/Trust, gave a reply that it is beyond the concern of the University.

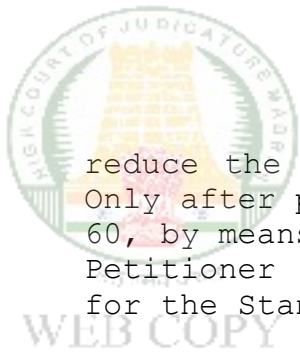
6.5.In the instant case, it transpires that the Petitioner had filed W.P.(MD)No.10807 of 2015, before the Madurai Bench of this Court, challenging the Admission Information Brochure for the year 2015, since it is the plea of the Petitioner that the same is not in consonance with the Tamilnadu Agricultural University Act, 1971, besides the agreement entered into between the Fifth Respondent/Tamilnadu Agricultural University, Coimbatore and the Petitioner. It appears that in M.P.(MD)No.2 of 2015 in W.P.(MD)No.10807 of 2015, an interim injunction was granted on 13.06.2015.

6.6.It is also represented on behalf of the Respondents 3 to 5 that the Petitioner/College had not paid the 'Leave salary' to the Principal of the Petitioner/College (though under foreign service terms and conditions, the Petitioner/College should pay leave salary and reimburse the same amount from the University). As such, the Professor reported relinquished the post of the Principal of the College, for which, it is the stand of the Respondents 3 to 5 that the University ought not to be blamed.

6.7.Apart from the above, it is brought to the notice of this Court that the Fifth Respondent/Registrar of the University issued show cause notice on 30.03.2016 basically to the Petitioner/College on the ground of lack of infrastructural facilities and the Petitioner/College challenged the same before the Principal seat of this Court in W.P.No.14238 of 2016 and on 18.04.2016, an interim stay was granted. Further, on 20.06.2016, the interim order was extended with a rider to put on notice to the students concerned about the pendency of the writ petition.

6.8.It is to be noted that on 21.06.2016, the Fifth Respondent/Registrar (Incharge), Tamilnadu Agricultural University, Coimbatore, forwarded the Standing Committee's report and recommendation dated 18.06.2016 to the Petitioner and on 27.06.2016, the Respondent/University's WMP.No.17379 of 2016 in W.P.No.14238 of 2016, was heard and the Principal Bench of this Court passed an order directing the Respondent/University to serve copy of the Standing Counsel Report and after eliciting the response of the Petitioner, was directed to proceed in accordance with Law. In fact, since the Petitioner had not responded to the report of the Standing Committee and the recommendation dated 18.06.2016 (communicated to the Petitioner on 21.06.2016), the Fifth Respondent issued a reminder to the Petitioner on 02.07.2016, whereby and where under, a request was made to serve its response for the Standing Counsel Report immediately.

6.9.In the instant case, since the Petitioner had not responded to the Standing Committee's report and recommendation to reduce the students strength from 120 to 60, the academic Council of the Respondent/University (Supreme statutory body in respect of academic matters), had decided to



reduce the admission strength of the Petitioner/College from 120 to 60. Only after passing of an order reducing the admission strength from 120 to 60, by means of proceedings of the Fifth Respondent, dated 03.07.2016, the Petitioner sent a reply on 07.07.2016 addressed to the Fifth Respondent, for the Standing Committee report.

6.10. The core stand of the Petitioner is that the Fifth Respondent/University on 21.06.2016, addressed a letter to the Petitioner, to rectify the deficiencies recorded in the Standing Committee Report, dated 16.06.2016 and suggestion to reduce admission strength to 60.

6.11. At this stage, this Court, pertinently mentions that in the communication dated 21.06.2016 of the Fifth Respondent/Tamilnadu Agricultural University, Coimbatore, nowhere an explanation was sought for from the Petitioner, but a perusal of the said letter, dated 21.06.2016 clearly indicates that the copy of the Standing Committee report (inspected on 10.06.2016) for rectification of the deficiencies at the earliest, was sent to the Petitioner/Trust/College and in fact, it was also mentioned that the details of land document provided by the Trust will be verified and the land details will be sent separately. As a matter of fact, only on 02.07.2016, an explanation was sought for the report of the Standing Committee. Indeed, in the letter bearing No.E1/W.P.No.14238/2016, dated 02.07.2016, the Fifth Respondent/Registrar (Incharge), Tamilnadu Agricultural University, Coimbatore, addressed to the Petitioner had requested for sending for response for the Standing Committee Report immediately. On the next day on 03.07.2016, by means of proceedings in reference No.E.1/AC.131/II.4/2016, dated 03.07.2016, the Registrar (incharge) of the Fifth Respondent/University, has passed the following order:-

"The Academic Council of Tamil Nadu Agricultural University, Coimbatore, in their 131st Meeting held on 03.07.2016 has accepted the report of Standing Committee and approved for reduction of B.Sc.(Agri) student admission strength from 120 to 60 for the academic year 2016-2017 to College of Agricultural Technology, Kullapuram, Theni, considering their infrastructural facilities. Hon'ble High Court, Madras, has permitted for the above said reduction of student strength to College of Agricultural Technology, Kullapuram, Theni run by Sree Krishna Educational Trust, Bangalore."

6.12. In this connection, it is not out of place for this Court to make a significant mention that 'aim of Rules of Natural Justice' is to secure justice or to put it negatively to prevent miscarriage of Justice. Really speaking, the Principles of Natural Justice/Rules of Natural Justice do not supplant the Law of the land, but supplement it. Ordinarily, in a given case, no decision can be arrived at without 'Hearing the aggrieved/affected person/party'.

6.13. The essential features of Fair hearing are:-

- (1) Issuance of Prior Notice;
- (2) Right to make representation; and
- (3) Right to be Heard.



6.14. Furthermore, no order having any Civil consequence, can be passed without following the 'Rules of Natural Justice'. In this connection, this Court aptly points out the decision of the Hon'ble Supreme Court in **MOHINDER SINGH GILL v. CHIEF ELECTION COMMISSIONER, NEW DELHI** reported in **AIR 1978 SC 851**, whereby and where under, it is held that the 'Term Civil Consequences' undoubtedly covers infractions of not merely property or personal rights, but of Civil liberties, material deprivation and non-pecuniary damages.

6.15. Also, the Principle of Natural Justice is 'to Hear' the other party. In fact, in the decision in **RIDGE V. BALDWIN** reported in **(1964) AC 40**, 'the need to observe the Rule of Hearing the other party' in administrative proceedings was vividly stated.

6.16. It is to be remembered that if there is a power to decide to the detriment/prejudice for a person, then, duty to act judicially is implicit in exercise of such power. Also that, an appearance of 'injustice' is denial of 'Justice', as opined by this Court.

6.17. Besides the above, the Rules of Natural Justice cannot be avoided and mere non-observance of these non-statutory Rules are adequate enough to set aside an administrative quasi judicial orders/findings. After all, 'Fairness of Procedure', is the corner stone of legality. The non-observance of Natural Justice itself is a proof of prejudice and proof of prejudice independently of proof of denial of Natural Justice, was unnecessary, as opined by this Court.

6.18. In the instant case on hand, the Fifth Respondent/Registrar (Incharge), Tamilnadu Agricultural University, Coimbatore, in reference No.E1/W.P.No.14238/2016, dated 02.07.2016, addressed to the Petitioner had observed that the Standing Committee in the report in respect of reduction of students strength from 120 to 60 and time limit of six months for improving the infrastructure facility and staff strength was already sent on 21.06.2016 and the same was forwarded. On 23.06.2016 and further informed that the Petitioner's response in this regard was not received so far. Apart from that, the Petitioner/Trust was requested to send its response for the Standing Committee report immediately. However, the Fifth Respondent/Registrar (Incharge), Tamilnadu Agricultural University, Coimbatore, by proceedings bearing reference No.E1/AC.131/II.4/2016, dated 03.07.2016, had communicated the decision in respect of the reduction of students strength at 60 from the academic year 2016-2017 (in respect of B.Sc. (Agri) Degree Programme), considering the infrastructural facilities of the Petitioner/College, run by Sri Krishna Educational Trust, Bangalore.

6.19. At this stage, this Court pertinently points out that in between the letter dated 02.07.2016 of the Fifth Respondent/Registrar (Incharge), Tamilnadu Agricultural University, Coimbatore and proceedings



dated 03.07.2016 of the Fifth Respondent/Registrar (Incharge), Tamilnadu Agricultural University, Coimbatore, there was a gap of only one day. In the letter dated 02.07.2016 of the Fifth Respondent/Registrar (Incharge), Tamilnadu Agricultural University, Coimbatore, the Petitioner/College, was requested to send its response for the Standing Committee Report immediately and no time limit was prescribed expressly in the said communication of the Fifth Respondent for sending the response of the Petitioner/College. Since on the next day viz., 03.07.2016, the Fifth Respondent/Registrar (Incharge), Tamilnadu Agricultural University, Coimbatore, had communicated the decision in regard to the reduction of students strength at 60 in respect of B.Sc. (Agri) degree programme from the academic year 2016-2017 in respect of the Petitioner's College, this Court is of the considered view that the Petitioner/College was not provided with adequate/reasonable time to submit its response for the Standing Committee Report in question. As such, this Court comes to a resultant conclusion that there is violation of Principles of Natural Justice. Viewed in that perspective, the decision of the Academic Council (the supreme body in respect of academic affairs) to reduce the students admission strength from 120 to 60 to the Petitioner's College (based on the premise that the petitioner has no reply to the Standing Committee's Report) is *per se* not correct, in the Eye of Law. Therefore, the impugned proceedings of the Fifth Respondent/Registrar (Incharge), Tamilnadu Agricultural University, Coimbatore, dated 03.07.2016 communicating the reduction of strength at 60 from the academic year addressed to the Petitioner suffers from legal infirmity. Resultantly, this Court, to prevent an aberration of justice and to promote substantial cause of justice, interferes with the impugned order, dated 03.07.2016 of the Fifth Respondent/Registrar (Incharge), Tamilnadu Agricultural University, Coimbatore, and sets aside the same.

6.20. In fine, the writ petition is allowed leaving the parties to bear their own costs. The impugned proceedings in No.E1/AC.131/II.4/2016 of the Fifth Respondent/Registrar (Incharge), Tamilnadu Agricultural University, Coimbatore, dated 03.07.2016, is hereby set aside by this Court for the reasons assigned in this writ petition. The Academic Council of the Respondent/University is directed to look into the reply of the Petitioner/Trust/College, dated 07.07.2016 in threadbare fashion (for the Standing Committee Report) and to take a final decision in the subject matter in issue by providing necessary opportunity to the Petitioner/College/Trust by adhering to the Principles of Natural Justice and to pass a reasoned speaking order on merits in a fair, free, with an open unbiased mind and that too, in a dispassionate manner, within a period of six weeks from the date of receipt of a copy of this order, ofcourse in the manner known to Law and in accordance with Law. In case, before the Academic Council, the Petitioner/Trust/College is in requirement of any personal hearing, then, if situation so warrants, the Petitioner/Trust/College may be provided with an opportunity of personal hearing and to take a necessary decision in the subject matter in issue. Also, it is made quite clear by this Court that <https://hc-services.courts.gov.in/hc-services> submits a detailed reply for the SCORE CARD report sent to the Petitioner/Trust/College, within a week from the date of receipt of a copy of this order, then, the Standing Committee is directed



to examine the same and in case, if the Standing Committee comes to a conclusion to reinspect the Petitioner/College, then, the same shall be carried out by the Committee, ofcourse, after putting the Petitioner/College/Trust on prior notice. Further, based on the report of the Standing Committee, the Academic Council of the Fifth Respondent/University is to reconsider the issue in question. The connected Miscellaneous Petitions are closed.

Sd/

Assistant Registrar(T&P)

/TRUE COPY/

Sub Assistant Registrar

To:

1.The Secretary to Government of Tamilnadu,
Agriculture Department,
Fort St.George, Chennai - 600 009.

2.The Secretary to Government of Tamilnadu,
Finance Department, Fort St.George,
Chennai 600 009.

3.The Vice Chancellor and Chairman,
Board of Management,
Tamilnadu Agricultural University,
Coimbatore, Tamilnadu.

4.Mr.K.Ramasamy
The Vice Chancellor and Chairman,
Board of Management,
Tamilnadu Agricultural University,
Coimbatore, Tamilnadu.

5.The Registrar,
Tamilnadu Agricultural University,
Coimbatore 641 003,
Tamilnadu.

+1cc to M/S.A.Thirumurthy, Advocate in SR.No.42340

+1cc to M/S.D.Sadiq Raja, Advocate in SR.No.42138

PRE-DELIVERY ORDER MADE IN
W.P.(MD) No.12239 of 2016
05.08.2016

rj2

PA/AAL-MPA/SAR III/05.08.2016/27P/8C(IT)