

THE HON'BLE SRI JUSTICE A.V.SESHA SAI

W.P.Nos.19604, 19718, 19879, 20626, 21229, 21246, 2025, 19613, 19614, 19616, 19621, 19629, 19634, 19669, 19679, 19684, 19686, 19694, 19708, 19722, 19729, 19730, 19745, 19751, 19757, 19760, 19761, 19763, 19768, 19770, 19791, 19795, 19813, 19833, 19835, 19857, 19877, 19889, 19900, 19908, 19914, 19920, 19927, 19928, 19930, 19931, 19934, 19936, 19938, 19940, 19941, 19950, 19956, 19959, 19960, 19968, 19973, 19981, 20002, 20010, 20029, 20048, 20080, 20092, 20101, 20105, 20108, 20112, 20114, 20143, 20153, 20154, 20169, 20186, 20198, 20199, 20212, 20245, 20246, 20249, 20333, 20338, 20339, 20341, 20358, 20375, 20396, 20459, 20463, 20464, 29469, 20471, 20524, 20652, 20681, 20706, 20741, 20791, 20792, 20794, 20795, 20796, 20866, 20873, 20980, 21293, 21303, 21636, 21645, 21656, 21686, 21822, 21829, 21833, 21994, 22023, 22208, 22224, 22232, 22256, 22320, 22323, 22329, 22333, 22351, 22360, 22508, 22733, 22942, 23033, 23035, 23036, 23180, 23188, 23400, 23478, 23487, 23565, 23963, 24095, 24291, 24361, 24427, 24592, 24924 and 29686 of 2013 & 40770, 38046, 38209 and 40807 of 2014.

COMMON ORDER:

For the sake of convenience, this Court deems it apt and apposite to deal with W.P.Nos.21229 and 21246 of 2013, 40770, 38046, 38209 and 40807 of 2014 as one set of cases and rest of the writ petitions as separate set

Institutions for the Block period 2013-2014 to 2015-2016. By virtue of the said notification dated 27.12.2012, the AFRC required the managements of all concerned Private Unaided Professional Colleges to submit the relevant data, relating to the year 2012-2013, together with the audited Financial Statements for the year 2011-2012. The petitioners herein submitted their respective proposals along with the documentary evidence for the Block period 2013-2014, 2014-2015 and 2015-2016. Subsequently, the AFRC, after putting the petitioners on notice, submitted its reports in the month of July, 2013.

2.2. The State Government thereafter vide G.O.Ms.No.57, Higher Education (EC/A2) Department, dated 06.07.2013 notified the fee structure as recommended by the AFRC. Questioning the said recommendations of the AFRC and the consequential notification issued by the State Government, some of the petitioners filed W.P.Nos.21229 and 21246 of 2013 and the petitioners in W.P.Nos.40770, 38046, 38209 and 40807 of 2014 filed WP.Nos.20412, 19726, 19889 and 20413 of 2013, and this Court on 26.04.2014 passed an order and the operative portion of the said order reads as follows:

“However, the fact remains that for what reasons some of the components contained in the statements furnished by the colleges have been turned down have not been put across for the respective colleges to have a chance or an opportunity to explain to the satisfaction of the AFRC. The decision of the AFRC in that regard, to the extent of denying certain amounts of expenditure perhaps each college can be said to have suffered a handicap. If a proper hearing is accorded to the writ petition colleges, in whose cases some of the claims made by them have been turned down by the AFRC, they would be in a better position to appreciate the reasons behind the claim and then the decision taken thereafter will have a full fledged reflection of proper consideration in respect thereof. Therefore, while putting off the further date of hearing of these cases to 10.07.2014, I direct the AFRC to provide a brief hearing of not exceeding two hours duration to those colleges who make a request to provide such a specific and brief hearing to satisfy the AFRC that the claims, which have not been found favour by the AFRC are legitimate and can be explained to the satisfaction of the AFRC. Therefore, all such colleges/writ petitioners (confined

on record for the petitioners in WP.Nos.40770, 38046, 38209 and 40807 of 2014 and Sri Sudesh Anand and Sri A. Abhisekh Reddy, learned Standing Counsel for the AFRC for the States of Andhra Pradesh and Telangana on record, respectively, apart from perusing the material available on record.

4. Submissions/Contentions of Sri M.Ravindranath Reddy:

4.1. The Proceedings under challenge are erroneous, contrary to law and material on record, violative of Articles 14, 19 (1) (g) and 141 of the Constitution of India and contrary to the Judgments of the Hon'ble Apex Court and this Court.

4.2. The questioned proceedings are opposed to the very spirit and object of the provisions of the Andhra Pradesh Educational Institutions (Regulation of Admissions and Prohibition of Capitation Fee) Act, 1983 and the Andhra Pradesh Admission and Fee Regulatory Committee (for Professional Courses offered in Private Un-Aided Professional Institutions) Rules, 2006.

4.3. The impugned action tantamounts to infliction of unreasonable restrictions on the petitioners' constitutional right guaranteed under Article 19 (1) (g) of the Constitution of India.

4.4. The absence of supporting reasons for the recommendations of the AFRC would be fatal to the entire exercise undertaken by the AFRC.

4.5. None of the institutions including the petitioners were given specific show-cause notices, pointing out the reasons as to why any of the proposals made by the colleges were not found to be acceptable.

4.6. If the procedure under the relevant rules and the orders of the Hon'ble Apex Court were to be undertaken, the proposals of every institution should be considered on their own merits and in the event of the AFRC not being in agreement with the proposals, it is obligatory on the part of

the AFRC to issue notice to the institution for hearing and thereafter take a decision on the recommendations to be made and the institution-wise verification is also mandatory on the part of the AFRC.

4.7. Despite placing the copies of the Judgments of the Hon'ble Apex Court and this Court before the AFRC, the AFRC did not consider the same.

4.8. Written submissions/contentions submitted by the petitioners on 08.07.2014 were also not considered.

4.9. Despite submitting a memo dated 11.08.2014 with a request to furnish copy of the decision of AFRC consequent upon the hearing, the AFRC did not furnish the same which is violative of the directions as contained in paragraph 150 (xii) of the Judgment of a Division Bench of this Court in **CONSORTIUM OF ENGINEERING COLLEGES MANagements ASSOCIATION (CECMA) AND OTHERS ETC. ETC. v. GOVERNMENT OF ANDHRA PRADESH^[1]**.

4.10. The AFRC, without pointing out any elements of profiteering and capitation fee, in an unreasonable and arbitrary manner, disallowed certain claims and the AFRC did not record valid and cogent reasons for the said refusal.

4.11. The complexity of the issues, by any stretch of imagination, cannot be a valid ground for refusal to undertake the exercise stipulated by the statute.

4.12. Since the respondents did not adhere to the earlier judgments of the Hon'ble Apex Court and this Court, petitioners are entitled for positive directions from this Court.

In support of his submissions and contentions, Sri M.Ravindranath Reddy, learned counsel for the petitioners placed reliance on the Judgments of the Hon'ble Apex Court and other Courts and this Court in **T.M.A. PAI FOUNDATION AND ORS.**

