THE HONOURABLE SRI JUSTICE M.S.RAMACHANDRA RAO

WRIT PETITION No.22186 of 2016

ORDER:

The Writ Petition was filed by the petitioners challenging G.O.Ms.No.21 Higher Education (TE/A2) dt.04-07-2016 issued by the State of Telangana fixing the fees structure for under graduate Engineering (B.E/B.Tech) as Rs.91,000/- for the Block Period 2016-17 to 2018-19 in the 2nd petitioner college run by the 1st petitioner-Society on the basis of letter dt.02-07-2016 of the Telangana Admissions and Fee Regulatory Commission (for short, 'TAFRC'), which is the 2nd respondent herein.

2. The 1st petitioner is a Society established under the A.P. (Telangana Area) Public Societies Registration Act, 1350 Fasli and the 2nd petitioner Engineering College is under it's management. The 2nd petitioner college is a self financing unaided professional institution.

3. In exercise of the powers conferred by Section 15 read with Sections 3 and 7 of the Andhra Pradesh Educational Institutions (Regulation of Admissions and Prohibition of Capitation Fee) Act, 1983, the then State Government of Andhra Pradesh issued G.O.Ms.No.6 Higher Education (EC-2) Department dt.08-01-2007 framing the Andhra Pradesh Admission and Fee Regulatory

Committee (for Professional Courses offered in Private Unaided Professional Institutions) Rules, 2006 [for short, 'the Rules'].

4. Under these Rules, the State Government constituted an Admission and Fee Regulatory Committee (for short, 'AFRC,) for regulating the admissions and fixation of fee to be charged from candidates seeking admission into private unaided minority and non-minority professional institutions consisting of a retired Judge of the High Court as Chairman and Members as specified in Rule 3 thereof.

5. Rule 4 of the said Rules laid down the procedure to be followed by the AFRC for fee fixation and the factors which should be taken into account by it.

In particular it mandated in sub Rule (i) of Rule 4 that the AFRC should call for, from each institution, on its proposed fee structure well in advance before the date of issue of notification for admission for the academic year along with all the relevant documents and books of accounts for scrutiny.

Sub Rule (ii) provided that the AFRC shall decide *whether the fees proposed by the institution is justified and does not amount to profiteering or charging of capitation fee.*

Sub Rule (iii) empowered the AFRC to approve or alter the proposed fee for each course to be charged by the institution and mandated that it shall give the institution an opportunity of being heard before fixing any fee or fees.

Sub Rule (v) stated that the AFRC shall communicate the fee structure as determined by it to the Government, for notification; and

Sub Rule (vi) provided that the fee or scale of fee determined by the AFRC shall be valid for a period of three years.

6. After the bifurcation of the erstwhile State of Andhra Pradesh into the new State of Telangana and the residuary State of Andhra Pradesh with effect from 02-06-2014, invoking Section 101 of the AP Reorganization Act, 2014, the State of Telangana adopted G.O.Ms.No.6 dt.8.1.2007 vide G.O.Ms.No.26 Higher Education (TE/A2) Department dt.22.7.2015 and constituted the 2nd respondent-Committee (TAFRC) as the Admission and Fee Regulatory Committee for the State of Telangana.

7. G.O.Rt.No.160 Higher Education (TE/A2) Department dt.22-07-2015 was issued by the State of Telangana (the 1st respondent) appointing members and Chairman of the TAFRC.

8. The TAFRC issued a notification dt.23-11-2015 inviting private unaided professional institutions in the State of Telangana to submit relevant data on line relating to the year 2014-15, together with their audited financial statement for the years 2013-14 and 2014-15 by 23-12-2015 as per guidelines made available by it from 24-11-2015. The TAFRC stated that it would *review and determine* the fee structure for B.E/B.Tech and other courses in private unaided professional institutions for the Block Period 2016-17 to 2018-19.

9. The 2nd petitioner submitted on 30-01-2016 its proposal seeking fixation of fee for B.E and B.Tech courses at Rs.1,54,000/- per student per annum along with the data sought for. On 11-04-2016, petitioners contend that they sought an appointment from the Chairman of the TAFRC, met him and made submissions in respect of provision for expenditure towards payment of salaries to the teaching staff as per 6th Pay Revision Commission recommendations and claim towards expenditure incurred for rent, and that the Chairman informed that insofar as rent is concerned, it would not be possible to consider the same.

10. On 12-04-2016, the TAFRC addressed a letter stating that on verification of the data submitted by the 2nd petitioner the following three deficiencies were noticed:

> (i) Mistakes in PAN Numbers (List enclosed).
>
> (ii)The list of persons shown to be working in your College are also shown to be working in other Colleges (list enclosed); and
>
> (iii) Other deficiencies.

11. Petitioners contend that the third deficiency i.e. "other deficiencies" were described in a letter dt.11-04-2016 addressed to the petitioners and both the letters dt.12-04-2016 and 11-04-2016 were received by the 2nd petitioner simultaneously.

12. Petitioners contend that they submitted a detailed memorandum on 28-04-2016 explaining each of the deficiencies with

all supporting documents, that the Chairman of the TAFRC also gave opportunity on 06-05-2016 to explain the deficiencies and the said meeting was also attended by the Auditors and Consultants of the TAFRC. According to the petitioners, the decision in **Consortium of Engineering Colleges Managements Association (CECMA) and others Vs. Government of Andhra Pradesh, rep. by its Principal Secretary, Higher Education Department and others**[1] was also brought to the notice of the Chairman of the TAFRC. Petitioners contend that it was informed to the petitioners that a sum of Rs.8.62 crores under certain heads of expenditure would be disallowed. Petitioners contend that no reasons were assigned why those items were being disallowed nor did the TAFRC explain as to why they constitute "profiteering" or "capitation". They contend that the component of rent, which had been allowed by this Court in its order dt.10-03-2016 in W.P.No.21246 of 2013 which comprises an amount of Rs.4.80 crores, was also disallowed by the TAFRC.

13. Petitioners contend that the TAFRC addressed a letter dt.10-06-2016 asking for certain staff details of the 2nd petitioner institution and those details were furnished on 21-06-2016 with supporting documents.

14. Petitioners contend that thereafter they had not received any notice from the TAFRC seeking any clarification on any matter.

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[1] 2012 (3) ALT 686 (DB)

15. They contend that the Telangana State Council for Higher Education (3rd respondent) placed on its web site on 30-06-2016, a notification dt.29-06-2016 styled as "admission notification" fixing the schedule for exercising options from 05-07-2016 to 11-07-2016 and release of allotments on 14-07-2016.

16. Thereafter, the TAFRC addressed a letter to the 1st respondent enclosing minutes of its meeting held on 01-07-2016 along with its recommendations regarding the fee structure for B.E/B.Tech and other courses for the block period 2016-17 to 2018-19, and on that basis the impugned G.O.Ms.No.21 Higher Education (TE/A2) Department dt.04-07-2016 was issued fixing the fees structure for under graduate Engineering (B.E/B.Tech) as Rs.91,000/- for the Block Period 2016-17 to 2018-19 in the 2nd petitioner college instead of Rs.1,54,000/- per student per academic year proposed by the 2nd petitioner.

17. The said G.O.Ms.No.21 Higher Education (TE/A2) Department dt.04-07-2016 is assailed in the Writ Petition.

The interim order granted by the Single Judge

18. On 08-07-2016, the above Writ Petition was admitted, the following interim order was passed:

> *"There shall be interim direction that the Convener while giving admissions, shall notify to the students about their impending liability to pay the differential amount, if any, depending on the result of the Writ Petition. In addition to the same, the petitioner-*

> *Managements are entitled to obtain an undertaking from each of the students to the same effect... "*

THE ORDER IN WRIT APPEAL No.545 of 2016

19. This order of the learned single Judge was questioned by the petitioners in W.A.No.545 of 2016. The Division Bench took note of the fact that the learned Single Judge, while passing the above order expressed his desire to decide the Writ Petitions on merits expeditiously, and passed the following order disposing of the said appeal:

> " *The respondents are directed to file counter affidavit in Writ Petitions within two (2) weeks from today with an advance copy thereof to learned advocates on record for the petitioners. The Writ Petitions are allowed to file reply within one week from the date of service of counter-affidavit. We request learned Single Judge to decide the Writ Petitions expeditiously. We grant liberty to the appellants to seek revival of these appeals, if the Writ Petitions are not decided on or before 30-09-2016. We make it clear that we have not considered merits of the case."*

20. Thereafter, counter-affidavits were filed by respondent Nos.1 and 2.

Contentions of the petitioners

21. Petitioners contend *inter alia* that private unaided professional institutions have a basic right to fix their own tuition fee, that the role of the TAFRC is not to review and determine the fee structure, and the TAFRC can only see *whether the elements of profiteering or capitation are there in the fee proposal of an institution or not.* They contend that an education institution cannot

be called upon to explain the receipts and the expenses as before a chartered accountant but this is what the TAFRC has done. They relied upon the decision in **Cochin University of Science and Technology and another Vs. Thomas P.John and others**[2] and **Consortium of Engineering Colleges Managements Association (CECMA) and others** (1 supra).

22. They contended that the TAFRC disallowed several heads of expenditure on the basis of which fee proposal was submitted by 2nd petitioner on the ground of lack of supporting material and contended that if the chartered accountant firm assisting the TAFRC or the TAFRC had any doubt or had noticed deficiencies in the data and documents furnished, the 2nd petitioner should have been called upon by a written communication to furnish specified material, documents, records, or to explain any specific discrepancy noticed or inadequate data or material required. They contend that without seeking such material from the 2nd petitioner at any point of time, the TAFRC made it's recommendation to 1st respondent.

23. It is alleged that the TAFRC deliberately delayed the process till after the admission notification was issued by the 3rd respondent so that educational institutions would have no time to pursue any challenge to the fee fixation done by it. Counsel for petitioners pointed out how fee fixation, which was challenged in this Court for the Block Periods 2006-07 to 2008-09, 2009-10 were dismissed as

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[2] (2008) 8 S.C.C. 82

infructuous; that the Writ Petitions filed challenging fee fixation by the AFRC for the Block Period 2010-11 to 2012-13 were allowed by a Division Bench in **Consortium of Engineering Colleges Managements Association (CECMA) and others** (1 supra), but in the Special Leave Petitions, the Supreme Court directed consideration only for one year 2012-13 by the AFRC, that the AFRC considered and its decision was questioned again in Writ Petitions which are still pending; for Block Period 2013-14 to 2015-16, by virtue of an interim order dt.26-04-2014 in W.P.No.27185 of 2012 and batch, disallowed claims were reconsidered and meager enhancement was given by the AFRC on 12-09-2014, but the 1st respondent has not issued any notification; that the meager enhancement given by the AFRC was questioned by the petitioner in W.P.No.21246 of 2013 which was allowed on 10-03-2016 by this Court, but had not been implemented.

24. Learned counsel for petitioners contended that the TAFRC was following its own norms without specifying them in advance with the sole idea to reduce the fee proposed by an institution under the pretext of said norms and was rejecting the items of expenditure submitted by the institutions without putting the institutions on notice of the reasons for doing so.

25. He also contended that under G.O.Ms.No.6 dt.08-01-2007, it was for the full TAFRC to hear the submissions of the petitioners but

only the Chairman gave an audience to the petitioners and the proceedings were therefore vitiated.

26. Learned counsel for the petitioners contended that the 2nd petitioner-Institution was established in 1997 as per the then regulations of AICTE and running in long-term leased accommodation was permissible under the said regulations; from 2005, AICTE had asked for documents in support of ownership of the premises for approval, but in relation to cases such as those of the 2nd petitioner where approvals had been given earlier, AICTE allowed them to continue in long-term leased premises; and that the AICTE had accorded renewal of approvals to the 2nd petitioner-College since 2005 till 2016 – 17.

27. He contended that under the head of 'Rent', the petitioners had claimed expenditure of Rs.4.8 crores but the same was not allowed by the TAFRC on the ground that the 2nd petitioner-College is not permitted to run in rented premises and that the said property is registered in the name of wife of the Member Secretary of the 1st petitioner. He contended that instead of allowing rent, depreciation on the buildings were allowed to an extent of Rs.1 crore only on 16.50 lakh Sq.Ft. building and in doing so, the TAFRC exceeded its jurisdiction and such action was not within the scope of its powers.

28. He contended that under the head 'Legal Expenses', the 2nd petitioner had claimed Rs.20,21,000/- but the TAFRC had allowed only 60% and disallowed the rest on the ground that the same was

spent for non-academic purpose. He contended that the amount claimed under this head represented payments made to Advocates for various Court cases before the High Court, AFRC, Caveats, etc., and they also related to the running of the College. He contended that even though valid documents evidencing this payment were available, the 2nd respondent never asked for them and that therefore this entire claim ought to have been allowed.

29. He contended that a sum of Rs.10.91 lakhs was claimed under the head 'Donations', but it was disallowed by the TAFRC on the ground that the 2nd petitioner had no obligation to give such donations and burden the students for the said amount. He contended that the donation was made to Lebenshilfe, Visakhapatnam which was running a school for physically and mentally challenged children; that the donation of Rs.1 lakh per month is paid by petitioners to this institution; that this payment is evidenced by valid documents but without asking for them, this claim was disallowed.

30. He contended that under the head 'Training and Placement' a sum of Rs.14,42,103/- was claimed by the petitioners but only 60% of the same was allowed by the TAFRC holding that no authentic material is produced in support of the entire expenditure showing that it is spent for students' training and for placement services. He pointed out that training in placement activity is conducted by the 2nd petitioner-College for students to enable them to get good placements in Companies; that the strength of the students is 5,674 and this is

essential for their career. It is pointed out that valid documents evidencing this payment are available, but the 2nd respondent never asked for them.

31. He further contended that while the petitioners claimed 10% inflation for each of the academic years in the Block period, the TAFRC took into account 10% inflation only for the first year of the Block period and inexplicably denied it for each of the other two years.

32. He also questioned the action of the TAFRC in disallowing other claims without giving valid reasons.

Contentions of the TAFRC (2nd respondent)

33. Counter-affidavit was filed by the TAFRC through its Consultant refuting the above allegations. It is contended that the Writ Petition itself challenging G.O.Ms.No.21 dt.04-07-2016 is not maintainable either on facts or on law and the only remedy open to the petitioners is to seek enhancement for the next Block period and it is liable to be dismissed.

34. It is stated that the TAFRC proposes the fee based on the data relating to expenditure and income submitted by individual colleges and after taking into account the legally permissible expenditure of the institutions. It is stated that fee is fixed keeping in mind the infrastructure facilities available, the investments made, salaries paid to the Teachers and staff etc. and there cannot be any

profiteering or element of capitation fee. It stated that it has power to scrutinize the books of accounts and the documents submitted by the colleges and if the expenditure submitted by them is justified, it recommended the same to the Government for issuing necessary notification, but if the fee proposed by a college is not supported by relevant documents, or if the books of accounts are not supported by relevant valid documents, or if supporting documents are produced only for the purpose of claiming a higher fee, it has ample power to reject the fee proposed by the institution and propose a separate fee. It contended that once fee is determined by the TAFRC for a Block period of three years, the same cannot be altered till the completion of the said period. Reliance was placed on the decision of the Supreme Court in **Fee Regulatory Committee Vs. Kalol Institute of Management and others**[3] and it is contended that no interim orders can be passed in the Writ Petition permitting the petitioners to collect more fee than what is recommended by it. It is stated that the TAFRC did not act arbitrarily or beyond the power conferred on it and it was acting to reduce the burden of reimbursement of fee being extended by the Government to certain classes of students.

35. It is contended that the TAFRC has exercised its power properly by following the procedure, issuing notification and individual notices to the colleges and after considering the documents and books of accounts of each individual college and proposed the fee. It is stated that 99% of the colleges accepted the fee fixed by the

[3] (2011) 10 SCC 592

TAFRC and that all the institutions were explained and given reasons for rejecting certain expenditure and the same were discussed during the process of fee fixation.

36. It claimed that it had functioned in a fair and transparent manner and that fixation of fee by it cannot be gone into under Article 226 of the Constitution of India by this Court since it involves disputed questions of fact.

37. It contended that as per regulations of the AICTE, which is the competent authority for granting the approval for running the institution, the colleges should have their own buildings and they cannot operate from rented premises. It is submitted that as per AICTE Approval Process Hand Book 2016-2017 Chapter – III, 1- *No institution can offer Technical program or course without approval of the council. Provided further that any institution offering technical program without approval of the council, shall be termed as un-approved; (a) it is started without prior approval by the council, (b) it is working in the temporary location / at location not approved by the council;* as per the said Process Hand Book, the institution / society has to submit the documents shown in appendix – 16 and as per Sub-Clause – 17 of the said appendix, the applicant has to file documents showing ownership in the name of the applicant; and that in view of the above, the petitioner cannot run the institute from a rented premises and the approval is liable to be cancelled.

38. It is contended that petitioners have shown in their expenditure statement that they have rented premises on lease for running the colleges, that the owners of the said rented premises are none other than the promoters of the institution and the college cannot run in a rented premises. According to the TAFRC, for the reasons mentioned above, the expenditure claimed towards rent was disallowed, but by taking a liberal view, amount was allowed towards depreciation for that portion of the building.

39. It is contended that the petitioner has got substantial income other than the income accrued from fee collected from the students etc., for the previous period. The same is included in the accrual of income and the same was taken into consideration for arriving at appropriate fee, which has an impact in the fee allowable for the college. It is stated that the TAFRC has scrupulously examined various other items and allowed reasonable expenditure under various heads and has seen that inflated, unreasonable expenditures were not included so that the final fee amount is wholly reasonable. The TAFRC has conducted the whole exercise in a scientific manner and evaluated the fee proposals in a fair and transparent manner.

40. Along with the counter-affidavit of 2nd respondent, a work sheet, statement of disallowances and reasons for such disallowance with an annexure were filed by the 2nd respondent.

<u>Contentions of the 1st respondent</u>

41. The learned Government Pleader for Education appearing for 1st respondent adopted the contentions of the learned counsel for TAFRC and contended that basing on the recommendations of the TAFRC, the 1st respondent had issued the impugned G.O.

42. The matter was heard on 29-09-2016, 30-09-2016, 13-10-2016, 14-10-2016, 17-10-2016, 24-10-2016 and 25-10-2016.

43. On 17-10-2016, the learned Standing Counsel for the 2nd respondent stated that the 2nd respondent would pass a reasoned order as to why the 2nd respondent had not accepted the contentions raised in the reply dt.20-05-2016 given by the petitioners to the show cause notice dt.28-04-2016 issued by 2nd respondent. The matter was then posted to 24-10-2016.

<u>THE ORDER DT.22.10.2016 OF THE TAFRC</u>

44. On that day, proceedings dt.22-10-2016 of the 2nd respondent were filed furnishing reasons for recommending a fee of Rs.91,000/- per student per year only for the Block period 2016-17 to 2018-19 in respect of the 2nd petitioner instead of Rs.1,54,000/- claimed by the 2nd petitioner.

45. In the said order dt.22-10-2016, the TAFRC dealt with 20 heads of expenditure which the 2nd petitioner wanted to be taken into account for determining whether the amount of Rs.1,54,000/- per student per year for the Block period 2016-17 to 2018-19 and gave

reasons for not accepting wholly or partly the figures mentioned by the 2nd petitioner.

46. Thereafter W.P.M.P.No.44530 of 2016 was filed by petitioners challenging the said order dt.22-10-2016 also and the same was allowed on 25-10-2016. The matter was also heard on that day and on 27-10-2016 and 31-10-2016.

THE POINTS FOR CONSIDERATION

(a) What is the scope of enquiry by the TAFRC under the G.O.Ms.No.6 Higher Education (EC.2) Department dt.08.01.2007 in regard to the fee proposals submitted by private un-aided professional institutions ?

(b) Whether the respondents are right in their submissions that the Writ Petition is not maintainable because the petitioners are seeking in this Writ Petition a review of the decision of the TAFRC fixing the fee?

(c) Whether the order dt.22.10.2016 passed by the TAFRC giving reasons for recommending Rs.91,000/- only instead of Rs.1,54,000/- proposed by the petitioners as the fee for the B.E./B.Tech courses for the Block period 2016-17 to 2018-19 per student per annum is sustainable in law ?

(d) Whether G.O.Ms.No.21 Higher Education (TE/A2) Department dt.04.07.2016 issued by the 1st respondent on the basis of the recommendation of the TAFRC is valid and sustainable ?

47. On the basis of the pleadings and contentions of the parties, the following points arise for consideration by this Court :

THE CONSIDERATION BY THE COURT

Point (a) :

48. Under this point, I shall consider the question as to what is the scope of enquiry by the TAFRC under the G.O.Ms.No.6 Higher Education (EC.2) Department dt.08.01.2007 in regard to the fee proposals submitted by private un-aided professional institutions.

49. A Seven-Judge Bench of the Supreme Court considered several issues relating to fixation of fee in private un-aided professional and non-professional educational institutions, whether minority and non-minority, in **P.A. Inamdar v. State of Maharashtra**[4] . The Bench held that every such institution is free to devise its own fee structure but the same can be regulated in the interest of preventing profiteering and that no capitation fee can be charged. It held that education is charity and job of a Fee Regulatory Committee is to ensure that educational institutions do not charge such fee as is not required for the purpose of fulfilling this object which means *cost plus reasonable surplus for expansion and growth of the institution*. It held that the Committee has to determine fee for each college depending upon its peculiar conditions and its assets and availability of funds.

50. It held that Committees dealing with admissions and fee structure are expected to be more sensitive and to act rationally and reasonably with due regard for realities and they should refrain from

[4] (2005) 6 SCC 537

generalizing fee structures and, where needed, should go into accounts, schemes, plans and budgets of an individual institution for the purpose of finding out what would be an ideal and reasonable fee structure for that institution. It declared that *in case of any individual institution, if such Committee is found to have exceeded its powers by unduly interfering in the administrative and financial matters of the un-aided private professional institutions, the decision of the Committee being quasi-judicial in nature, would always be subject to judicial review.*

51. In **Thomas P. John** (2 supra), the Supreme Court elaborated on the same issue and considered the judgment in **P.A. Inamdar** (4 supra) and other decisions. The Court reiterated that an educational institution must be left to its own devices in the matter of fixation of fee, though profiteering or imposition of capitation fee is to be ruled out and that some amount towards surplus funds available to an institution must be visualised and permitted. *It held that an educational institution cannot be called upon to explain the receipts and expenses as before a Chartered Accountant.* It referred to the decision in **Islamic Academy of Education v. State of Karnataka**[5], and held that in the said judgment the Supreme Court visualised a periodic revision of fees. It declared :

> *"11. ... ...We are also of the opinion that the matter relating to the fixation of a fee is a part of the administration of an educational institution and it would impose a heavy onus on such an institution to*

[5] (2003) 6 SCC 697

> *<u>be called upon to justify the levy of a fee with mathematical precision....</u>*
>
> *16.... an educational institution must be left to its own devices in the matter of fixation of fee though profiteering or the imposition of capitation fee is to be ruled out and that some amount towards surplus funds available to an institution must be permitted and visualised, but it has also been laid down by inference that if the broad principles with regard to fixation of fee are adopted, <u>an educational institution cannot be called upon to explain the receipts and the expenses as before a Chartered Accountant."</u> (emphasis supplied)*

52. The decisions in **Islamic Academy of Education** (5 supra) and **P.A. Inamdar** (4 supra) were considered by a Division bench of this Court in **Consortium of Engineering Colleges Managements Association (CECMA) and others** (1 supra).

53. While reiterating the principles laid down in the above decisions, in the context of the exercise of powers by an Admission and Fee Regulatory Commission constituted under G.O.Ms.No.6 Higher Education (EC.2) Department dt.08.01.2007, the Division Bench in **Consortium of Engineering Colleges Managements Association (CECMA) and others** (1 supra) held that there is no power to the State itself to fix and notify a fee structure and if it did so, it would interfere with the operational autonomy of self financing educational institutions. It held that the Admission and Fee Regulatory Committee (for short, 'AFRC') should take into account the infrastructure and facilities available, the investments made, the salaries paid / payable to the teachers and staff and factor a

reasonable surplus towards future development, maintenance or expansion and/or betterment of the institution. It *read down* Section 7 of the A.P. Educational Institutions (Regulation of Admission and Prohibition of Capitation Fee) Act, 1983 and Rule 4 of G.O.Ms.6 Higher Education Department dt.08.01.2007 which dealt with the power of the AFRC to decide whether the fees proposed by an institution is justified or not. The Bench held that the TAFRC can analyse the fee proposals submitted by the educational institutions to verify whether they incorporate or camouflage any profiteering or capitation fee and to approve, modify or alter the fee structure proposed by each institution, only for the purpose of excising *protanto* any element of profiteering/capitation fee. If not, the AFRC should accept the fee proposal submitted by the institution.

54. It held that if the C.A. Firm or the AFRC had any lingering doubt or had noticed deficiencies in the data and documents furnished, it should call upon the concerned educational institution through a written communication to furnish specified material, documents, records, or to explain any specific discrepancy noticed; or any inadequate data or material required.

55. It referred to the decision of the Kerala High Court in **Malankara Orthodox S.C.M. College v. Fee Regulatory Committee**[6] wherein it was held by the Kerala High Court that there ought to be a clear finding as to areas where there is an element of

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[6] 2007 (4) KLT 530

profiteering or capitation fee embedded in proposals of the institution and if such element is found by the AFRC, it ought to point out the same to the management in clear terms so that the latter could either explain the same or rectify the anomaly pointed out.

56. This judgment in **Consortium of Engineering Colleges Managements Association (CECMA) and others** (1 supra) is binding on the respondent no.1 and the TAFRC, and both of them are expected to act without deviating from the principles laid down therein.

57. So I hold on point (a) that an educational institution must be left to its own devices in the matter of fixation of fee though profiteering or imposition of capitation fee is to be ruled out and that some amount towards surplus funds available to an institution must be visualised and permitted; that an educational institution cannot be called upon to explain the receipts and expenses as before a Chartered Accountant; and the matter relating to the fixation of a fee is a part of the administration of an educational institution; and it would impose a heavy onus on such an institution to be called upon to justify the levy of a fee with mathematical precision.

58. Point (a) is answered accordingly.

<u>Point (b)</u> :

59. Under this point, I will deal with the contention raised by the TAFRC that the present Writ Petition is not maintainable on the

ground that the fee fixed by the TAFRC cannot be changed or altered during the currency of the Block period and that the only remedy open to the petitioners is to seek enhancement for the next Block period.

60. Sri A.Abhishek Reddy, learned Standing Counsel placed reliance on the judgment of the Supreme Court in **Kalol Institute of Management and others** (3 supra). That was a case where the Fee Regulatory Committee appointed by the State of Gujarat had determined the fees for the students of the un-aided professional colleges and institutions in that State for the three academic years 2008-09, 2009-10 and 2010-11. After such a determination was done, the State Government accepted recommendations of the 6th Pay Commission for revision of pay and allowances of the employees w.e.f. 01-01-2006. Thereafter, various private Engineering and Technical colleges and Institutions sought revision of fees for the students admitted in their colleges and institutions before the Fee Regulatory Committee on the ground that they have to pay their Teaching and non-Teaching Staff the revised pay and allowances as per the recommendations of the 6th Pay Commission. The Fee Regulatory Committee declined to revise the fees. The High Court however set aside the said decision and remitted the matter again to the Fee Regulatory Committee for fresh consideration. This was challenged by the Fee Regulatory Committee in the Supreme Court. The Supreme Court held that the fee structure determined by the Fee

Regulatory Committee binds the colleges and institutions for three years and the fee so determined shall be applicable to the students who are admitted to a professional educational College or institution in that academic year, and shall not be revised till the completion of his professional course in that college or institution. While holding that the High Court could not have directed the revision of the fees already fixed by the Fee Regulatory Committee for the above three years, it held that the colleges and institutions were entitled to recover the extra cost on account of payment of revised pay and allowances to the teaching and non-teaching staff through the fees collected from the students for the next three years.

61. In my opinion, the said decision cannot apply to the present case because the petitioners are challenging the very initial fixation of fees for B.E. / B.Tech courses at Rs.91,000/- per student per annum in 2nd petitioner college for the Block period 2016-17 up to 2018-19 by the TAFRC. This challenge is at the commencement of the Block period *immediately after* the 1st respondent issued G.O.Ms.21 Higher Education (TE/A2) Department 04.07.2016 accepting the recommendation of the TAFRC fixing the fee. The petitioners have not accepted the same and at a later point of time sought to get it modified on account of any subsequent event.

62. Admittedly, the decision of the TAFRC has been held to be a quasi judicial decision amenable to judicial review even in para

no.150 of the judgment of the Supreme Court in **P.A. Inamdar** (4 supra).

63. Therefore, the contention of the respondents that the Writ Petition, challenging the recommendation of fee structure by TAFRC and the consequential decision of the 1st respondent is not maintainable, is rejected.

64. Point (b) is answered accordingly.

Point (c) and (d):

65. Under these points I will consider whether the order dt.22.10.2016 passed by the TAFRC giving reasons for recommending Rs.91,000/- only instead of Rs.1,54,000/- proposed by the petitioners as the fee for the B.E./B.Tech courses for the Block period 2016-17 to 2018-19 per student per annum and the G.O.Ms.No.21 Higher Education (TE/A2) Department dt.04.07.2016 are sustainable in law.

66. I have already discussed under point (a), the nature and scope of enquiry by the TAFRC under Rule 4 of the G.O.Ms.No.6 Higher Education (EC-2) Department dt.08-01-2007 framing the Andhra Pradesh Admission and Fee Regulatory Committee (for Professional Courses offered in Private Unaided Professional Institutions) Rules, 2006 which has been adopted by the State of Telangana vide G.O.Ms.No.26 Higher Education (TE/A2) Department dt.22-07-2015.

67. In particular I have noted that as per the decisions of the Supreme Court in **P.A.Inamdar** (4 Supra) and **Thomas P. John** (2 supra), an educational institution must be left to its own devices in the matter of fixation of fee though profiteering or imposition of capitation fee is to be ruled out and that some amount towards surplus funds available to an institution must be visualised and permitted; that an educational institution cannot be called upon to explain the receipts and expenses as before a Chartered Accountant; and the matter relating to the fixation of a fee is a part of the administration of an educational institution; and it would impose a heavy onus on such an institution to be called upon to justify the levy of a fee with mathematical precision.

68. It is also settled law that Committees dealing with admissions and fee structure have to be sensitive and act rationally and reasonably with due regard for realities and where needed, they should go into accounts, schemes, plans and budgets of an individual institution for the purpose of finding out what would be an ideal and reasonable fee structure for that institution. If in the case of any individual institution, such Committee is however found to have exceeded its powers by unduly interfering in the administrative and financial matters of the un-aided private professional institutions, the decision of the Committee being quasi judicial in nature, would always be subject to judicial review.

69. This takes us to the permissible grounds for judicial review.

70. Lord Greene in **Associated Provincial Picture Houses Ltd. v. Wednesbury Corpn**[7] held (All ER pp. 682 H-683 A) as follows:

> *"… It is true that discretion must be exercised reasonably. Now what does that mean? Lawyers familiar with the phraseology used in relation to exercise of statutory discretions often use the word 'unreasonable' in a rather comprehensive sense. It has frequently been used and is frequently used as a general description of the things that must not be done. For instance, a person entrusted with a discretion must, so to speak, direct himself properly in law. He must call his own attention to the matters which he is bound to consider. He must exclude from his consideration matters which are irrelevant to what he has to consider. If he does not obey those rules, he may truly be said, and often is said, to be acting 'unreasonably'. Similarly, there may be something so absurd that no sensible person could even dream that it lay within the powers of the authority. … In another, it is taking into consideration extraneous matters. It is unreasonable that it might almost be described as being done in bad faith; and in fact, all these things run into one another."*
>
> *Lord Greene also observed (KB p. 230 : All ER p. 683 F-G)*
>
> *"… it must be proved to be unreasonable in the sense that the court considers it to be a decision that no reasonable body can come to. It is not what the court considers unreasonable. … The effect of the legislation is not to set up the court as an arbiter of the correctness of one view over another."*
>
> *(emphasis supplied)*

71. The Supreme Court in **State of NCT of Delhi v. Sanjeev**[8], referred to the above judgment and held:

> *"16. … … One can conveniently classify under three heads the grounds on which administrative action is subject to control by judicial review. The first ground is "illegality", the second "irrationality", and the third "procedural impropriety". These principles were highlighted by Lord Diplock in Council of Civil*

[7] (1947) 2 All.E.R 680
[8] (2005) 5 SCC 181

> *Service Unions v. Minister for the Civil Service*[9] *(commonly known as CCSU case). If the power has been exercised on a non-consideration or non-application of mind to relevant factors, the exercise of power will be regarded as manifestly erroneous. If a power (whether legislative or administrative) is exercised on the basis of facts which do not exist and which are patently erroneous, such exercise of power will stand vitiated. (See CIT v. Mahindra and Mahindra Ltd.*[10]*)" (emphasis supplied)*

72. The Supreme Court then referred to the **Wednesbury Corpn.** case (7 supra) and held that to arrive at a decision on "reasonableness" the court has to find out *if the administrator has left out relevant factors or taken into account irrelevant factors*. The decision of the administrator must have been within the four corners of the law, and *not one which no sensible person could have reasonably arrived at*, having regard to the above principles, and must have been a bona fide one. The decision could be one of many choices open to the authority but it was for that authority to decide upon the choice and not for the court to substitute its view.

73. This was reiterated in **Jayrajbhai Jayantibhai Patel v. Anilbhai Nathubhai Patel**[11], where the Supreme Court summed up the law on the subject in the following words:

> *"18. ...it is manifest that the power of judicial review may not be exercised unless the administrative decision is illogical or suffers from procedural impropriety or it shocks the conscience of the court in the sense that it is in defiance of logic or moral standards but no standardised formula, universally applicable to all cases, can be evolved. Each case has to be considered on its own facts, depending upon the authority that exercises the power, the source, the nature or*

[9] (1984) 3 ALL.E.R 935
[10] 1983 (4) SCC 932
[11] (2006) 8 SCC 200

scope of power and the indelible effects it generates in the operation of law or affects the individual or society. Though judicial restraint, albeit self-recognised, is the order of the day, yet an administrative decision or action which is based on wholly irrelevant considerations or material; or excludes from consideration the relevant material; or it is so absurd that no reasonable person could have arrived at it on the given material, may be struck down. In other words, when a court is satisfied that there is an abuse or misuse of power, and its jurisdiction is invoked, it is incumbent on the court to intervene. It is nevertheless, trite that the scope of judicial review is limited to the deficiency in the decision-making process and not the decision.

19. The following passage from Professor Bernard Schwartz's book Administrative Law, (3rd Edn.) aptly echoes our thoughts on the scope of judicial review:

"Reviewing courts, the cases are now insisting, may not simply renounce their responsibility by mumbling an indiscriminate litany of deference to expertise. Due deference to the agency does not mean abdication of the duty of judicial review and rubber-stamping of agency action: [W]e must accord the agency considerable, but not too much deference; it is entitled to exercise its discretion, but only so far and no further."

Quoting Judge Leventhal from Greater Boston Television Corpn. v. FCC he further says:

"…the reviewing court must intervene if it 'becomes aware … that the agency has not really taken a "hard look" at the salient problems, and has not genuinely engaged in reasoned decision-making.…' "

(emphasis supplied)

74. Keeping in mind these parameters of judicial review, I shall examine the order dt.22-10-2016 of the TAFRC wherein reasons were given by it *after* the present Writ Petition was filed justifying the recommendation made by it to the 1st respondent that fee structure for the B.E/B.Tech courses in the 2nd petitioner college ought to be

Rs.91,000/- only and not Rs.1,54,000/- proposed by the petitioner for the Block period 2016-17 to 2018-19.

75. In the said order the TAFRC had given a table in paragraph-2 dealing with the reasons why certain heads of expenditure claimed by the petitioners were not allowed or only partly allowed. I shall deal with some of these items.

76. *Re: consideration inflation @ 10% for each of the three years of the Block period (this item was not mentioned at all in the table at para-2 of the order dt.22-10-2016)*: It is not in dispute that the petitioners claimed inflation @ 10% for each of the academic years in the Block period, but the TAFRC took into account 10% inflation only for the first year of the Block period (i.e., 2016-17) and inexplicably denied it for each of the other two years. This aspect was specifically mentioned in the memorandum dt.20-05-2016 submitted by the petitioners to the TAFRC.

In the order dt.22-10-2016 passed by the TAFRC it gave no reason why it had taken into account 10% inflation only for the academic year 2016-17 (the first year of the Block period) and why it had not taken into account 10% inflation for the next two academic years 2017-18 and 2018-19.

This implies that the TAFRC presumed that there would be no inflation for the academic years 2017-18 and 2018-19 forming part of the Block period in question. Such a presumption is contrary to the reality that inflation is a continuous event and cannot be presumed to be absent totally in any year. It is a view which no reasonable man can take.

Though Sri A.Abhishek Reddy, learned counsel for TAFRC sought to contend that the worksheet appended to the counter-affidavit showed that 10% inflation was taken into account for all three years, the worksheet does not corroborate the same.

Then he contended that the rate of inflation claimed for each of the years in the Block period by the petitioners at 10% was high, but this reason is not given by the TAFRC in its order for not taking into account inflation for the academic years 2017-18 and 2018-19.

Thus, the decision of the TAFRC in regard to this issue is vitiated by non-consideration of the relevant factor of inflation for the second and third year of the Block period.

77. *Re: Disallowance of expenditure incurred for rent:*

Next I shall deal with the reasons given by the TAFRC for disallowance of the expenditure of Rs.4.8 crores under the head 'Rent'. The reasons given by the TAFRC for disallowing this amount are:

> *"The college has claimed rent of Rs.4.80 crores. As the college is not permitted to run in rented premises, the same is not allowed. Further, the property is in the name of wife of the Member-Secretary. Instead of allowing rent, the depreciation on the building is allowed to an extent of Rs.1 crore on 16.50 lakh Sq.Ft. building (corresponding portion)."*

In the counter, reliance is placed by the TAFRC on the AICTE approval process Handbook 2016-17 Chapter III and Appendix 16 and Sub-Clause 17 thereof.

Appendix 16 of the above document deals with "*setting up of new technical institution offering technical programme at Degree / Post-Graduate etc.*", and Sub-Clause 17 thereof deals with submission of documents showing ownership in the name of the applicant in the form of registered sale deed / irrevocable gift deed (registered) / irrevocable registered Government lease for a minimum period of thirty years, etc.

Appendix 17 however deals with extension of approval to *existing* Technical Institution. Sub-Clause (4) thereof deals with "*the registration document establishing that the land on which the concerned Technical Institution is located is in legal possession of sponsoring Trust / Society as the case may be.*"

In my opinion, Appendix 17 is the appropriate appendix and not Appendix 16 as contended by the TAFRC. It is Appendix 17 Sub-Clause (4) which permits existing Technical Institutions to be run in premises where they have lawful possession, i.e., possession under a registered lease.

In fact, it is not disputed that the 2nd petitioner-Institution has been in existence since at least twenty years and at the time it commenced functioning, the AICTE (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 were in vogue. Regulation 5(2)(a) of said regulations provided that an application for starting Technical Institution shall be in Form I. Form I stated clearly "*requisite area of land must be in possession of the proposed institution either by a clear title or registered lease deed, as per Rules of the State Authorities, in the name of the Society / Trust / Institution*". The said Form I stated that a copy of the land registration papers / *registered lease deed* should be enclosed to the application. It is not in dispute that till date, AICTE approval to the 2nd petitioner-College is existing and at no point of time did the AICTE revoke it or refuse to extend it on the ground that it is running in a rented premises.

Moreover, even the TAFRC regulations notified for 2016-17 to 2018-19 Block period stated "*either rent or depreciation will be allowed on the buildings. In respect of rents, the institution shall obtain rent fixation certificate from the concerned Executive Engineer of R & B Department and registered rental agreement also should be provided.*"

Thus, in the face of the TAFRC regulations and the AICTE Handbook Appendix 17, the stand of the TAFRC that it would not allow the claim of Rs.4.8 crores towards rent claimed by the 2nd petitioner-College cannot be accepted. It has clearly acted contrary to law and without application of mind to the above legal position.

When the registered rental document is produced before it admittedly and payment of rents is established by documentary evidence, it is not open to the TAFRC to refuse to look into the same or give any weight to it.

The other ground taken by the TAFRC to justify its disallowance of the rent of Rs.4.8 crores, i.e., that the rented premises is in the name of wife of Member Secretary. Firstly in India, women have a right to own property, to manage the same and deal with it in the same manner like men with all attendant rights available in law. The ownership of property by a woman cannot be ignored and it cannot be presumed that her husband is the actual owner. There is no prohibition in law for the wife of a Member Secretary to hold property or to lease it out to the institution for running the college. On what principle of law the TAFRC opined that if the premises leased by the institution belonged to the wife of the Member Secretary, the lease cannot be accepted as a genuine one, is not indicated. Such a view is, in my opinion contrary to law and unacceptable.

Therefore, I hold that there are no valid reasons for the TAFRC to reject the claim for expenditure of Rs.4.8 crores by the 2nd petitioner-College towards rents.

78. *Re: Legal Expenses of Rs.20,21,000:*

Under the head 'Legal Expenses', the 2nd petitioner had claimed Rs.20,21,000/-, but the TAFRC had allowed only 60% and disallowed the rest on the ground that the same was spent for non-academic purpose.

Learned counsel for the petitioner contended that the amount claimed under this head represented payments made to Advocates for various Court cases before the High Court, AFRC, Caveats, etc., and they related to the running of the College. He contended that even though valid documents evidencing this payment were made available, the 2nd respondent never asked for them and that therefore this entire claim ought to have been allowed.

Sri A. Abhishek Reddy, learned counsel for TAFRC supported the recommendation of the TAFRC allowing only 60% of the amount claimed and contended that this is an expenditure for non-academic purpose and could not have been allowed beyond 60%.

As per Rule 4 (iv)(d) of the Rules is bound to keep in mind expenditure on administration and maintenance and under Clause (iv) (g) of Rule 4 any other relevant factor. It cannot be said that legal expenses incurred by 2nd petitioner to defend litigation initiated against it or to protect its interests by itself initiating litigation are not allowable expenditure. The plea of the TAFRC that it is "non-academic" expenditure and hence not allowable, is unacceptable and perverse. If the 2nd petitioner is able to substantiate the said expenditure towards legal expenses by proper documentation, the TAFRC has to allow the same.

79. *Re: Donations:*

The learned counsel for the petitioner contended that a sum of Rs.10.91 lakhs was claimed under the head 'Donations' and this entire amount was disallowed by the TAFRC on the ground that the 2nd petitioner had no obligation to give such donations and burden the students for the said amount. He contended that the donation was made to Lebenshilfe, Visakhapatnam which was running a school for physically and mentally challenged children; that the donation of Rs.1 lakh per month is paid by petitioners to this institution; that this payment is evidenced by valid documents but without asking for them, this claim was disallowed.

I do not agree with the submission of the learned counsel for the petitioner and hold that this head of expenditure was rightly disallowed by the TAFRC for the reasons assigned by it.

80. *Re: Training and Placement:*

The learned counsel for the petitioner contended that under the head 'Training and Placement', a sum of Rs.14,42,103/- was claimed by the petitioners but only 60% of the same was allowed by the TAFRC holding that no authentic material is produced in support of the entire expenditure showing that it is spent for students' training and for placement services. He pointed out that training in placement activity is conducted by the 2nd petitioner-College for students to enable them to get good placements in Companies; that the strength of the students is 5,674 and this is essential for their career. It is pointed out that valid documents evidencing this payment are available but the 2nd respondent never asked for them.

The TAFRC disallowed 40% of the amount claimed on the ground that no authentic material is produced in support of the entire expenditure.

But there is no evidence to show that the TAFRC had asked the 2nd petitioner to produce the material in support of the said expenditure. The TAFRC is obligated by the decision of the Division Bench in **Consortium of Engineering Colleges Managements Association** (2 supra) to seek such information from the 2nd petitioner if it entertained any doubt in that regard. Therefore if the petitioners produce the said material in support of the expenditure under this head, the TAFRC has no choice but allow it.

81. *Re: Advertisement expenditure:*

The petitioners claimed Rs.90,43,467/- under this head but only 60% of it was allowed on the ground that only to that extent it is reasonable. If the expenditure incurred under this head is supported by adequate material, I see no reason why expenditure under this head as claimed by the 2nd petitioner cannot be allowed in its entirety.

82. *Re: Some other heads of income:*

The TAFRC had disallowed the following the heads of expenditure claimed by 2nd petitioner on the ground that authentic material in support of the entire expenditure incurred is not produced.

S.No.	Item	Reasons
1.	Graduation day expenses	Rs.5,31,446/- is claimed under this head. Out of this an amount of Rs.3.50 lakhs is allowed and the remaining amount is disallowed as a part of the amount is collected from the students and also there is no supporting material in support of the entire expenditure.
2.	Travelling expenses	Rs.66,08,039/- is claimed under this head. Out of this 60% is allowed, as there is o authentic material in support of the entire expenditure incurred, showing the entire amount is spent and also on the basis of realonableness.
3.	Repairs to building	Out of Rs.1,99,35,765/- an amount of Rs.1,50,00,000/- has been allowed on the basis of reasonableness and material furnished. The balance is disallowed as capital expenditure.
4.	Repairs to electrical equipments	Out of Rs.31,07,607/- an amount equal to 75% is allowed, on the basis of reasonableness and the material furnished.

In this regard as already stated above the TAFRC is obligated by the decision of the Division Bench in **Consortium of Engineering Colleges Managements Association** (1 supra) to seek such information from the 2nd petitioner if it entertained any doubt in that regard. Therefore if the petitioners produce the said material in support of the expenditure under this head, the TAFRC has no choice but allow it.

83. The approach of the TAFRC seems to suggest that it expects the institutions to justify expenditure with mathematical precision as

before a Chartered Accountant. This is impermissible as laid down by the Supreme Court in **Thomas P John** (2 supra).

84. Thus for the foregoing reasons, I hold that that the exercise done by the TAFRC for determination of fee structure for the Block Period 2016-17 to 2018-19 in regard to the 2nd petitioner institution suffers from several defects.

85. Consequently, its recommendation sent to the 1st respondent on 02-07-2016 insofar as the 2nd petitioner institution is concerned, is unsustainable in law. Accordingly, G.O.Ms.No.21 Higher Education (TE/A2) Department dt.04-07-2016 insofar as the 2nd petitioner institution is concerned is vitiated and is unsustainable.

86. Accordingly, both the recommendation made by the TAFRC to the 1st respondent on 02-07-2016 as well as G.O.Ms.No.21 Higher Education (TE/A2) Department dt.04-07-2016 insofar as the 2nd petitioner institution is concerned are set aside. Therefore the 2nd respondent TAFRC has to redo the exercise keeping in view the contents of this order within a specified time.

87. Points (c) and (d) are decided accordingly in favor of the petitioners.

<u>CONCLUSION AND RELIEF</u>

88. Learned counsel for petitioners contended that considering the manner in which the respondents have dealt with the issues in the past, there is every possibility of the issue remaining pending for a

long time and the petitioners being deprived of collecting the appropriate fee from the students even for this Block period 2016-17 to 2018-19. He therefore sought a direction from this Court to permit the petitioners to collect Rs.1,54,000/- per student per annum for this Block period and refund the same to the students in the event the fee is fixed by the TAFRC afresh below the said figure.

89. This prayer of petitioners was opposed by the learned counsel for TAFRC and the learned Government Pleader.

90. It is not in dispute that Writ Petitions challenging fee structure fixed by the State Government on the basis of AFRC recommendations for the Block periods 2006-07 to 2008-09 and 2009-10 came to be dismissed as infructuous since by the time the Writ Petitions came up for hearing, the students admitted had passed out.

For the Block period 2010-11 to 2012-13, Writ Petitions filed by petitioners challenging the fee structure were allowed on 29-10-2011 (the **Consortium of Engineering Colleges Managements Association (CECMA) and others** (1 supra) case), but in the Special Leave Petition the Court directed consideration for only one year 2012-13. Pursuant to the said order, the AFRC considered and passed orders. But these were also challenged in Writ Petitions, which are pending.

For the Block period 2013-14 to 2015-16, by way of an interim order dt.26-04-2014 in W.P.No.21246 of 2013 and batch, the disallowed claims were reconsidered and meager enhancement was given by the AFRC through proceedings dt.12-09-2014. However the 1st respondent had not given any Government Notification in that regard. Petitioners challenged the inaction of the State Government and an interim order was granted on 18-06-2015 in W.P.No.41229 of 2014 permitting the petitioners to collect tuition fee at Rs.91,000/- subject to the result of the Writ Petition on the condition that the petitioners shall refund the balance between Rs.91,000/- and Rs.79,900/- to the students from whom it was collected in the event the Writ Petition was disposed of holding that the tuition fee is only Rs.79,900/-.

91. It is not in dispute that on 08-07-2016, the present Writ Petition was admitted and in W.P.M.P.No.27278 of 2016, the following order was passed:

> *"There shall be interim direction that the Convenor while giving admissions, shall notify to the students about their impending liability to pay the differential amount, if any, depending on the result of the Writ Petition. In addition to the same, the petitioner-Managements are entitled to obtain an undertaking from each of the students to the same effect... "*

92. Though this order was questioned in W.A.No.545 of 2016 by petitioners, it was not set aside by the Bench in its order dt.15-07-2016 and the Bench directed the matter to be heard and disposed of.

93. In view of these circumstances, in order to balance the interests of the petitioners and the students and to avoid any hardship to either, I deem it appropriate in the interest of justice to issue the following directions:

a) The petitioners shall furnish supporting material in respect of items mentioned in paras-78-82 of this order and also in regard to any other aspect they feel is necessary to the TAFRC within one week from the date of receipt of copy of this order;

b) The 2nd respondent TAFRC shall reconsider the claims for expenditure made by the petitioners discussed in paras-78-82 of this order and also their claim for taking into account the aspect of inflation at 10% per annum for 2017-18, 2018-19, after giving a personal hearing to the petitioners through their counsel, within four (04) weeks from the date of receipt of this order and make a recommendation to the 1st respondent of the fee structure for B.E./B.Tech courses in the 2nd petitioner college for the Block period 2016-17 to 2018-19 with reasons for such recommendation and also communicate the same to the 2nd petitioner;

c) Within two weeks of receipt of the recommendation from the TAFRC, the 1st respondent shall notify the same in accordance sub-Rule (v) of Rule 4 of the A.P. Admission and Fee Regulatory Committee (for Professional Courses offered in

Private Un-Aided Professional Institutions) Rules, 2006 adopted by the 1st respondent vide G.O.Ms.No.26 Higher Education (TE/A2) Department dt.22-07-2015;

d) The petitioners shall inform the students admitted to the 2nd petitioner college in the academic year 2016-17 for the B.E/B.Tech courses that they shall obtain a Demand Draft/Bankers cheque for a sum of Rs.63,000/- (representing the difference between Rs.1,54,000/- claimed by the petitioners and Rs.91,000/- for the B.E./B.Tech course recommended by the TAFRC which was notified by the 1st respondent vide G.O.Ms.No.21 dt.04-07-2016) in the name of "the Registrar (Judicial), High Court of Judicature at Hyderabad for the State of Telangana and the State of Andhra Pradesh" and handover the same under proper acknowledgment to the Principal of the 2nd petitioner college within two (02) weeks from the date of receipt of a copy of this order;

e) within one week of the receipt by him of Demand Drafts/Bankers cheques, the Principal of the 2nd petitioner college shall hand them over to the Registrar (Judicial), High Court of Judicature at Hyderabad for the State of Telangana and the State of Andhra Pradesh along with a list of students, their addresses and in which course of which year they are studying;

f) the Registrar (Judicial), High Court of Judicature at Hyderabad for the State of Telangana and the State of Andhra

Pradesh shall open a Savings Bank account in the State Bank of Hyderabad, High Court Branch, Hyderabad and deposit the Demand Drafts/Bankers cheques handed over to him by the Principal of the 2nd petitioner college or his representative to the credit of the said account and intimate the same to the 2nd petitioner college;

g) after making such deposit, he shall invest the same in an interest bearing Fixed Deposit/ Term deposit for at least one year;

h) and after the TAFRC had re-determined the fee structure for the B.E/B.Tech courses for the Block period 2016-17 to 2018-19 in respect of the 2nd petitioner college and it is notified by the 1st respondent , the amount representing the fee refixed in excess the sum of Rs.91,000/- already paid by the students, shall be transferred by the Registrar (Judicial), High Court of Judicature at Hyderabad for the State of Telangana and the State of Andhra Pradesh to the 2nd petitioner college along with the interest accrued thereon ;

i) the balance, if any, left after such transfer together with interest shall be handed over to the Principal of the 2nd petitioner college or his representative, who shall refund the same proportionately to each of the students who had made the payment of the sum of Rs.63,000/- referred to above with accrued interest within four (04) weeks of receipt by the 2nd petitioner college of the amount from the Registrar (Judicial), High Court of Judicature at Hyderabad for the State of Telangana and the State of Andhra Pradesh.

94. The Writ Petition is allowed with the above directions. No costs.

95. As a sequel, the miscellaneous petitions, if any pending, shall stand closed.

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JUSTICE M.S.RAMACHANDRA RAO

Date: 14-11-2016
Kvr/Vsv/Ndr