THE HONOURABLE SRI JUSTICE M.S.RAMACHANDRA RAO

WRIT PETITION No.22037 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.86,000/- 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 candidate 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, 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 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 28-01-2016 its proposal seeking fixation of fee for B.E and B.Tech courses at Rs.1,60,000/- per student per annum along with the data sought for.

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.07-04-2016 addressed to the petitioners and both the letters dt.12-04-2016 and 07-04-2016 were received by the 2nd petitioner simultaneously.

12. Petitioners contend that they sought appointment from the Chairman of the TAFRC, met him on 25-04-2016 and explained their stand. They contend that in the said meeting the Chairman observed that the salary expenditure of Non-teaching staff, over and above 30% of the salary expenditure of teaching staff, is not permissible in view of the report dt.07-04-2015 of the National Fee Committee constituted by the All India Council for Technical Education (for short, 'AICTE')

under the Chairmanship of Justice Sri Krishna, a retired Supreme Court Judge. According to the petitioners, their counsel brought to the notice of the Chairman of the TAFRC that the said report is only a recommendation made to the AICTE, that it is an internal document between the said Committee and the AICTE, and till such report is accepted by the AICTE and Regulations are framed under the AICTE Act on the lines of the said recommendation, the said report has no statutory force. Petitioners contended that they submitted to the Chairman that the expenditure claimed under this head is justified because the non-teaching staff of the 2nd petitioner-institution are much seniors than the teaching staff, that they have reached higher scales of pay and also because of implementation of the Tenth State Pay Revision Commission.

13. They contended that the Chairman of the TAFRC then proceeded further with respect to *other deficiencies.* Since these were purely based on accounts, and clarifications in regard thereto would take considerable time, the petitioners requested the Chairman to convene a separate meeting with the auditors appointed by the TAFRC to provide clarification on this point.

14. According to them, this request was accepted and on 30-04-2016, a meeting was convened with the auditors. They contend that they clarified all the points raised under the heading *other deficiencies* with supporting documents and the auditors appeared to be satisfied with the clarifications.

15. They contend that in the subsequent meeting held with the Chairman of the TAFRC on 10-05-2016 also all the items shown in *other deficiencies* mentioned in the letter dt.07-04-2016 were accepted, but during the meeting the Chairman again mentioned that the following items would be disallowed:

(i) Expenditure on non-teaching staff over and above 30% of teaching staff expenditure.

(ii) Not considering of 10% inflation for the 2nd and 3rd years.

(iii) Deduction of income received under the various Heads from the total expenditure.

16. Petitioners submitted a detailed memorandum on 20-05-2016 clarifying on all the above three objections and also as regards the scope of the enquiry to be conducted by the TAFRC as laid down in 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].**

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

18. 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

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

the schedule for exercising options from 05-07-2016 to 11-07-2016 and release of allotments on 14-07-2016.

19. 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.86,000/- for the Block Period 2016-17 to 2018-19 in the 2nd petitioner college instead of Rs.1,60,000/- per student per academic year proposed by the petitioner.

20. 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

21. On 08-07-2016, the above Writ Petition was admitted and in W.P.M.P.No.27902 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... "*

THE ORDER IN WRIT APPEAL No.544 of 2016

22. This order of the learned single Judge was questioned by the petitioners in W.A.No.544 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."*

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

Contentions of the petitioners

24. Petitioners contend *inter alia* that that private unaided professional institutions have a basic right to fix their own tuition fee, 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).

25. They contended that the TAFRC disallowed several heads of expenditure on the basis of which fee proposal was submitted by 2nd respondent on the ground of lack of supporting material. They contended that if the chartered accountant firm 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 notice 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.

26. 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 infructuous; Writ Petitions filed challenging fee fixation by the

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

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.21229 of 2013 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; and that the meager enhancement given by the AFRC was questioned by the petitioner in W.P.No.41293 of 2014 which was allowed on10-03-2016 by this Court but had not been implemented.

27. 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. He contended that it was rejecting the items of expenditure submitted by the institutions without putting the institutions on notice of the reasons for doing so.

28. 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.

29. Learned counsel for the petitioners contended that the TAFRC could not have taken a view that expenditure of non-Teaching Staff over and above 30% of the expenditure incurred for Teaching Staff cannot be allowed on the basis of the report of Justice Sri Krishna to the AICTE, which report has not been accepted by the AICTE and when the AICTE had not communicated any guidelines to the TAFRC or to the Colleges that the above norm should be applied for fee fixation.

30. 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.

31. He contended that the TAFRC, instead of taking the strength of old fee paying students as 4320, took it to be 3960; and, instead of taking the strength of students paying new fee as 3960, took it to be 4320.

32. It was further contended that several items of expenditure claimed by the petitioners were not taken into account by the TAFRC on the ground that sufficient material was not produced by the petitioners, but the TAFRC or its Auditors never informed the petitioners that the material supplied by the petitioners was inadequate or insufficient and no communication was received by petitioners to

supply the deficient material with regard to the claims of expenditure which were disallowed by the TAFRC.

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 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 involves disputed questions of fact.

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[3] (2011) 10 SCC 592

37. It contended that expenditure of non-teaching staff over and above 30% of the expenditure incurred for Teaching Staff cannot be allowed and the TAFRC has allowed 25% extra towards inflation and furtherance.

38. 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.

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

<u>Contentions of the 1^{st} respondent</u>

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

41. 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.

42. 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.07-04-2016 issued by 2nd respondent. The matter was then posted to 24-10-2016.

THE ORDER DT.22.10.2016 OF THE TAFRC

43. On that day, proceedings dt.22-10-2016 of the 2nd respondent were filed furnishing reasons for recommending a fee of Rs.86,000/- per student per annum only as fee for the Block period 2016-17 to 2018-19 instead of Rs.1,60,000/- claimed by the petitioners.

44. In the said order dt.22-10-2016, the TAFRC dealt with 12 heads of expenditure which the 2nd petitioner wanted to be taken into account for determining whether the amount of Rs.1,60,000/- per student per year for the Block period 2016-17 to 2018-19. It gave reasons for not accepting wholly or partly the figures mentioned by the 2nd petitioner.

45. Thereafter W.P.M.P.No.44495 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

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

> *(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 review of the decision of the TAFRC in this Writ Petition?*
>
> *(c) Whether the order dt.22.10.2016 passed by the TAFRC giving reasons for recommending Rs.86,000/- only instead of Rs.1,60,000/- 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?*

THE CONSIDERATION BY THE COURT

Point (a) :

47. 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.

48. 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 the parameter before such 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.

49. 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, that they should refrain from 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 made clear 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

[4] (2005) 6 SCC 537

of the Committee being quasi-judicial in nature, would always be subject to judicial review.

50. 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. However, 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 be called upon to justify the levy of a fee with mathematical precision....*
>
> *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, an educational institution cannot be called upon to explain the receipts and the expenses as before a Chartered Accountant." (emphasis supplied)*

[5] (2003) 6 SCC 697

51. 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).

52. 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.

53. It held that if the Chartered accountant 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.

54. 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 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.

55. 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.

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[6] 2007 (4) KLT 530

56. 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.

57. Point (a) is answered accordingly.

Point (b) :

58. 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.

59. 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.

60. 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.86,000/- per student per annum in 2nd petitioner college for the Block period 2016-17 up to 2018-19 by the TAFRC, that too 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 first the same first and at a later point of time sought to get it modified on account of any subsequent event.

61. 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).

62. 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.

63. Point (b) is answered accordingly.

<u>Point (c) and (d)</u>:

64. Under these points I will consider whether the order dt.22.10.2016 passed by the TAFRC giving reasons for recommending Rs.86,000/- only instead of Rs.1,60,000/- 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.

65. 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.

66. 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.

67. 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, 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. But if in the 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.

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

69. 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. <u>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.</u> 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*

[7] (1947) 2 All.E.R 680

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)

70. 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 Service Unions v. Minister for the Civil Service[9] *(commonly known as CCSU case). <u>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</u>. (See CIT v. Mahindra and Mahindra Ltd.*[10]*)"*

71. 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*

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[8] (2005) 5 SCC 181
[9] (1984) 3 ALL.E.R 935
[10] 1983 (4) SCC 932

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.

72. 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 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*

[11] (2006) 8 SCC 200

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)

73. 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 is Rs.86,000/- only and not Rs.1,60,000/- proposed by the petitioner for the Block period 2016-17 to 2018-19.

74. 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 one after the other.

75. *Re: <u>Disallowance towards salaries paid to teaching staff on the ground that they did not have requisite qualifications (item 2 in the table at para-2 of the order dt.22-10-2016)</u>*: A sum of Rs.19,20,267/- (wrongly mentioned as Rs.19,28,60,267/- in the order dt.22-10-2016 of TAFRC) was disallowed by the TAFRC on the ground that the relevant staff were not having requisite qualifications.

Petitioners contend that this issue was not mentioned in the notice dt.07-04-2016 issued by the TAFRC, that it was not raised in the meeting with the Auditors on 30-04-2016 and so the petitioners also therefore did not refer to it in their memo dt.20-05-2016. They contend that for the first time this disallowance was mentioned in the worksheet annexed to the counter-affidavit. They contend that it is outside the purview of the TAFRC to go into the issue whether any of teaching staff were having or not having requisite qualifications and that the said issue is within the purview of the AICTE only. They contend that the TAFRC exceeded its powers by going into this aspect.

Though the learned counsel for the TAFRC sought to support this view of the TAFRC, he was not able to point out how, in exercise of the power conferred on it under Rule 4 of G.O.Ms.No.6 Higher Education (EC.2) Department dt.08-01-2007, the TAFRC can go into the issue of possession by teaching staff of relevant qualifications. He also could not show in which correspondence addressed to the petitioners, the TAFRC indicated its *prima facie* view to the petitioners of its intention to disallow this head of expenditure.

I find considerable force in the contention of the learned counsel for the petitioners. The TAFRC cannot, in the absence of a mandate under the Rule or any judicial precedent, transgress its jurisdiction and go into matters beyond its jurisdiction.

I am therefore of the opinion that the TAFRC's action in disallowing this head of expenditure cannot be sustained and it is outside its jurisdiction to go into the qualifications possessed by the teaching staff engaged by the 2nd petitioner and only the AICTE could have raised this issue.

76. *Re : non-teaching staff salaries (item 3 in the table at para-2 of the order dt.22-10-2016)*:: Out of an amount of Rs.6,20,68,398/-, claimed by petitioners as allowable expenditure for non-teaching staff salaries, a sum of Rs.1,78,21,948/- was disallowed by the TAFRC on the ground that it exceeded the prescribed limit of 1/3rd of salaries of the teaching staff.

Though in the said order it is stated that the norms do not allow that much, what norms it followed are not referred to. In the statement annexed to the worksheet filed along with the counter-affidavit of the TAFRC, there is a reference to the report of Justice B.N. Sri Krishna, former Judge of Supreme Court, who was appointed as Chairman of a Committee constituted by the AICTE called the National Fee Committee. The said Committee is said to have submitted a report on 07-04-2015 to the AICTE suggesting that the salaries expenditure of non-teaching staff over and above 30% of the salary expenditure for teaching staff, ought not to be allowed.

Sri A. Abhishek Reddy, learned counsel for TAFRC reiterated the same. When specifically questioned by the Court whether the said report has been accepted by the AICTE and whether the AICTE has communicated any such decision to the TAFRC, he stated that recommendation of the said Committee has not yet accepted by the AICTE and no communication has been received by the TAFRC from the AICTE laying down such a norm.

In the absence of any such decision by the AICTE adopting the norm suggested by the National Fee Committee (that salaries expenditure of non-teaching staff over and above 30% of the salary expenditure of teaching staff cannot be allowed), it is not open to the TAFRC to apply the said norm while going into the question whether the expenditure towards non-teaching staff claimed by the petitioners in its entirety should be taken into account or not.

Therefore on this point I hold that the decision of the TAFRC is arbitrary and it has taken into account irrelevant considerations (a non-existent norm) while determining whether the entire amount of Rs.6,20,68,398/-, claimed by petitioners as allowable expenditure for non-teaching staff salaries, should be accepted or not.

77. *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 10% inflation 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.

There is no reference in the order dt.22-10-2016 passed by the TAFRC as to 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 also vitiated by non-consideration of the relevant factor of inflation for the Second and third year of the Block period.

78. *Re: Disallowance towards gratuity amounts paid to staff who have left the service of the 2^{nd} petitioner ((item 7 in the table at para-2 of the order dt.22-10-2016)*: As regards the claim for expenditure towards gratuity of the staff who had left the 2^{nd} petitioner institution of Rs.3,48,665/- (Item No.7), the TAFRC had disallowed it on the ground that there is no question of incurring this liability.

This finding is clearly perverse and unsustainable since the liability to pay gratuity, which is a service benefit of every employee who retires from service, is a statutory liability and no employer can ignore it or avoid it.

Therefore, this head of expenditure ought to have been allowed by the TAFRC subject to verification of the same.

79. *Re: Affiliation fee of Rs.4,44,863/- ((item 8 in the table at para-2 of the order dt.22-10-2016)*: The TAFRC in its notice dt.07-04-2016 mentioned that this head of expenditure claimed by the 2^{nd} petitioner would not be allowed and that only AICTE fee is allowed.

Petitioners contend that in the meeting with the Auditors held on 30-04-2016 they had clarified that this is the amount paid towards AICTE fee only and it is not affiliation fee or other fee.

However, in the order dt.22-10-2016, a new reason is assigned that the same is collected from students.

No reason is assigned by the TAFRC why it disbelieved the statement of the 2nd petitioner that this sum represents the AICTE fee only and why it treated it as “Affiliation Fee”. It has also not clarified what it meant by words “Affiliation Fee”.

If this expenditure had been incurred by the 2nd petitioner for AICTE fee only and it is supported by relevant material, it was incumbent on the part of the TAFRC to allow this head of expenditure.

Nothing prevented the TAFRC from asking the petitioners by a written notice to substantiate their plea with supporting material. This has not been done for reasons unknown in spite of the fact that in **Consortium of Engineering Colleges Managements Association (CECMA) and others** (1 supra), the Division Bench of this Court has suggested that this should be done.

Therefore, the finding of the TAFRC on this head of expenditure also cannot be sustained.

80. *__Re: Merit Awards and financial assistance (item 9 of the table in para-2 of the order dt.22-10-2016__):* A sum of Rs.5,57,681/- claimed as expenditure under this head by 2nd petitioner was disallowed on the ground that it was not required expenditure and it

was voluntarily extended to some students for which others cannot be burdened.

It is not in dispute that in an earlier round of litigation initiated by the petitioners and others, this issue was considered by this Court in common order dt.10-03-2016 in W.P.No.19604 of 2014 and batch. This Court had held that these Merit Awards are in the nature of incentives offered by the college and there is no justification to deny this claim which would encourage the student community to do well in studies.

Though it is stated by Sri A. Abhishek Reddy, learned counsel for TAFRC that there is an appeal filed against this order of the learned Single Judge, it is not disputed that the said appeal has not even been listed for admission and there is no order therein staying the operation of the order of the learned Single Judge.

Therefore the TAFRC, being a party to the said order, is bound by the ratio therein and as long as the said order stands, it is bound to follow it and implement it. Therefore it ought to have allowed this head of expenditure claimed by the 2nd petitioner.

81. As regards some other items referred to below, the TAFRC rejected them on the following grounds:

1.	*An amount of Rs.3,84,891-00 towards repairs and maintenance and for others was disallowed, as no details of expenditure was mentioned.*
5	*Out of Rs.17,20,575-00 claimed towards advertisement charges, an amount of Rs.4,30,142-00 was disallowed as material for the entire amount was not available and reasonable amount was*

	allowed.
6	*Towards visiting faculty - An amount of Rs.13,66,703-00 was claimed under this head and 50% of the amount claimed (Rs.6,83,352-00) was allowed, as there is no authentic material for the expenditure.*
10.	*An amount of Rs.19,893-00 is disallowed as no details of expenditure was produced.*
11.	*Out of Rs.10,04,717-00 claimed towards vehicle hire charges, an amount of Rs.7,53,538-00 was disallowed, as the amount was felt too unreasonable and not supported by authentic material*
12.	*Refreshment charges – Rs.4,15,680-00 was disallowed, as that was not a required expenditure and no authentic material is produced to show that the same was spent.*

I have already noted that, in exercise of powers under rule 4 of G.O.Ms.No.6 dt.8.1.2007, the matter relating to the fixation of a fee is a part of the administration of an educational institution, that an educational institution cannot be called upon by TAFRC to explain the receipts and expenses as before a Chartered Accountant, 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.

A perusal of the above reasons given by the TAFRC shows that it expected the petitioners to match every detail of expenditure with mathematical precision by producing relevant material. Obviously it expects the 2nd petitioner to explain the receipts and expenses as before a Chartered Accountant. Thus is not the scope of enquiry by it as explained in **Thomas P. John** (2 supra).

Also in the **Consortium of Engineering Colleges Managements Association (CECMA) and others** (1 supra), it was held by a Division Bench of this Court that 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.

Thus the TAFRC clearly misdirected itself as to the nature and scope of it's enquiry and acted as if it is a Chartered Accountant or an Income Tax Assessment Officer scrutinising the expenditure claimed under the above heads by the 2nd petitioner.

Also, the Division bench in **Consortium of Engineering Colleges Managements Association (CECMA) and others** (1 supra) had 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. There is no material placed on record by the TAFRC to show that it had called upon the 2nd petitioner to produce the deficient material on any of the above heads of income after it's letter dt.7.4.2016 and after the 2nd petitioner gave explanation to those items in the personal hearing held on 10.5.2016 and in the Memorandum dt.20.5.2016. Thus the TAFRC acted contrary to the directions in the **Consortium of Engineering Colleges**

Managements Association (CECMA) and others (1 supra) case. This also vitiates it's recommendation.

82. Counsel for petitioner contended that the TAFRC, instead of taking the strength of old fee paying students as 4320, took it to be 3960; and, instead of taking the strength of students paying new fee as 3960, took it to be 4320. Therefore the TAFRC also needs to ascertain the correct strength of students paying the old fee and the new fee and proceed to determine the issue whether the sum of Rs.1,60,000/- per student per annum claimed by the 2nd petitioner is correct or not.

83. 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. Consequently, its recommendation sent to the 1st respondent on 02-07-2016 insofar as the 2nd petitioner institution is concerned, is unsustainable in law. So 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.

84. Therefore, 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 this order within a specified time.

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

CONCLUSION AND RELIEF

86. 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.1,60,000/- 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.

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

88. 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), 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. 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.21229 of 2013 and batch, the disallowed claims were reconsidered and meager enhancement was given by the AFRC through proceedings dt.12-09-2014, but 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.41293 of 2014 permitting the petitioners to collect tuition fee at Rs.1,15,400/- subject to the result of the Writ Petition on condition that the petitioners shall refund the balance between Rs.1,09,300/- and Rs.1,15,400/- 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.1,09,300/-.

89. It is not in dispute that on 08-07-2016, the above Writ Petition was admitted and in W.P.M.P.No.27902 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... "*

90. Though this order was questioned in W.A.No.544 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.

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

a) The petitioners shall furnish supporting material in respect of items mentioned in para-78,79 and 81 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 consider the claims for expenditure made by the petitioners which are discussed in 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.74,000/-(representing the difference between Rs.1,60,000/- claimed by the petitioners and Rs.86,000/- 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 re-fixed in excess the sum of Rs.86,000/- 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.74,000/- 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.

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

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

JUSTICE M.S.RAMACHANDRA RAO

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