

**THE HON'BLE THE ACTING CHIEF JUSTICE SRI DILIP B.BHOSALE
AND
THE HON'BLE SRI JUSTICE P. NAVEEN RAO**

Writ Appeal No.268, 285, 286, 644, 640 & 643 of 2016

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Dated: 28-07-2016

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In W.A. No.268 of 2016:

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CMR College of Engineering & Technology, Kandlakoya
Village, Medchal Road, Hyderabad, sponsored by
MGR Educational Society, rep. by its Secretary &
Correspondent C.Gopal Reddy ... Appellant

And

1. The Jawaharlal Nehru Technological University
(Hyderabad), rep. by its Registrar, Kukatpally,
Hyderabad, and others. ... Respondents

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In W.A. No.285 of 2016:

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S.R. Engineering College (An autonomous college),
Ananthasagar Village, Hasanparthy Mandal, Warangal Dist.,
sponsored by Sri Rajeshwara Educational Society, Rep.
by its Secretary and Correspondent A. Madhukar Reddy ... Appellant

And

1. The Jawaharlal Nehru Technological University
(Hyderabad), rep. by its Registrar, Kukatpally,
Hyderabad, and others. ... Respondents

In W.A. No.286 of 2016:

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Malla Reddy Engineering College (An autonomous college),
Maisammaguda Village, Dhulapally Mandal, Rangareddy Dist.,
sponsored by CMR Educational Society, Rep.
by its Secretary and Correspondent C. Mahender Reddy ... Appellant

And

1. The Jawaharlal Nehru Technological University
(Hyderabad), rep. by its Registrar, Kukatpally,
Hyderabad, and others. ... Respondents

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In WA No.644 of 2016:

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Malla Reddy Engineering College (An autonomous college),
Maisammaguda Village, Dhulapally Mandal, Rangareddy Dist.,
sponsored by CMR Educational Society, Rep.

by its Secretary and Correspondent C. Mahender Reddy ... Appellant

And

1. The Jawaharlal Nehru Technological University
(Hyderabad), rep. by its Registrar, Kukatpally,
Hyderabad, and others. ... Respondents

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In WA No.640 of 2016:

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CMR College of Engineering & Technology, Kandlakoya
Village, Medchal Road, Hyderabad, sponsored by
MGR Educational Society, rep. by its Secretary &
Correspondent C.Gopal Reddy ... Appellant

And

1. The Jawaharlal Nehru Technological University
(Hyderabad), rep. by its Registrar, Kukatpally,
Hyderabad, and others. ... Respondents

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In WA No.643 of 2016:

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S.R. Engineering College (An autonomous college),
Ananthasagar Village, Hasanparthy Mandal, Warangal Dist.,
sponsored by Sri Rajeshwara Educational Society, Rep.
by its Secretary and Correspondent A. Madhukar Reddy ... Appellant

And

1. The Jawaharlal Nehru Technological University
(Hyderabad), rep. by its Registrar, Kukatpally,
Hyderabad, and others. ... Respondents

**THE HON'BLE THE ACTING CHIEF JUSTICE SRI DILIP B.BHOSALE
AND
THE HON'BLE SRI JUSTICE P. NAVEEN RAO**

Writ Appeal No.268, 285, 286, 644, 640 & 643 of 2016

COMMON JUDGMENT: (per Hon'ble The Acting Chief Justice Dilip B.Bhosale)

These six writ appeals arise from two orders dated 3.7.2015
passed in W.P.No.7873 of 2015 and batch, and dated 17.3.2016 passed
in WPMP No.5539 of 2016 in W.P. No.7873 of 2015, seeking review of

the order dated 3.7.2015. The first three appeals are against the order dated 3.7.2015, whereas the remaining three appeals are against the order dated 17.3.2016.

2. W.P.No.7873 of 2015 was filed by the appellants asking for a *Writ of Mandamus* declaring the action of Jawaharlal Nehru Technological University, Hyderabad (for short, 'the University') in seeking to collect 'common services fee' from them in relation to the students pursuing Undergraduate and Postgraduate Engineering Courses in Private Unaided Institutions in the State of Telangana for the block period 2013-14 to 2015-16. They also challenged the action of the State in not excluding the "Private Autonomous Colleges" from payment of "common services fee" to the University as fixed under various Government Orders. The appellants further prayed for a consequential direction to the University not to collect fees towards 'common services'.

3. For the sake of convenience, the petitioners in W.P.No.7873 of 2015, who are appellants in these appeals, shall be hereinafter referred to as "the appellant-colleges" or "colleges".

4. Learned Advocate General for the State of Telangana initially raised a preliminary objection as to maintainability of the three appeals arising from the order dated 17.3.2016, passed in Review petition, on the ground that original order dated 3.7.2015 passed in a batch of writ petitions, including W.P.No.7873 of 2015, was not challenged. In support, he placed reliance upon the judgment of the Supreme Court in ***Bussa Overseas Properties (P) Ltd. v. Union of India***^[1]. He raised the objection when it was not revealed that the appellant-colleges have also filed separate writ appeals against the order dated 3.7.2015, passed in the batch of writ petitions, including the writ petition filed by them, along with applications for condonation of delay. Learned Advocate General, after having come to know, did not press the preliminary

objection. We, therefore, proceeded to hear all learned counsel for the parties on merits of the case.

5. The appellant-colleges were established for the purpose of promoting and developing technical/higher education in the State. In January, 2014, they were conferred autonomous status by the University Grants Commission (UGC). The autonomous status is valid till the end of academic year 2019-20.

5.1 The Government of Andhra Pradesh (for short, 'the Government') issued three G.Os. namely G.O.Ms.No.57, dated 6.7.2013; G.O.Ms.No.66, dated 30.7.2013 and G.O.Ms.No.75, dated 16.8.2013 providing fee structure for Undergraduate and Postgraduate Engineering, MBA and MCA Courses respectively in Private Unaided Institutes in the State for the academic years 2013-14, 2014-15 and 2015-16. The G.Os. were issued on the basis of the recommendations made by the Andhra Pradesh Admission and Fee Regulatory Committee (for short, 'AFRC'), that was constituted under the provisions of the Andhra Pradesh Admission and Fee Regulatory Committee (for Professional Courses offered in Private Un-aided Professional Institutions) Rules, 2006 (for short, 'Rules, 2006'). It is not in dispute that the appellant-colleges were granted an opportunity of being heard by AFRC before recommending the fee structure. On the basis of the recommendations, the aforementioned G.Os. were issued for the block period - 2013-14 to 2015-16. Accordingly, the appellant-colleges collected fees from its students for the academic year 2013-14 and remitted the same to the University without demur.

5.2 By G.O.Ms.No.57, the Government notified the fee and special fee structure for Undergraduate Engineering Courses, whereas G.O.Ms.No.66 notified the fee structure for Postgraduate courses, and G.O.Ms.No.75 for MBA and MCA courses in Private Unaided Institutions

for three years block period from 2013-14 to 2015-16. Though G.Os. are different, the challenge raised to the clause therein is common, which provides for collection of fee towards “common services” rendered by the University from students by the appellant-colleges to be remitted to the University. In these appeals, we are concerned with G.O.Ms.No.57, dated 6.7.2013 (for short, G.O.57) and Clause (c) of paragraph-3 therein which provides for collection of Rs.1,500/- per annum per student during the course towards “common services” rendered by the University by the colleges to be remitted to the concerned University (for short, ‘common services fee’).

5.3 It is not in dispute that the appellant-colleges collected common services fee from students, who were admitted for the academic year 2013-14, and that they have no objection for collecting the said fee from the same batch till they complete their course, and for remitting the said amount to the University. The objection of the appellant-colleges is not to the collection of Rs.1,500/- per annum per student towards common services, but their objection is for remitting the said amount to the University. The colleges claim that after having acquired autonomous status, they are entitled to retain the said amount collected from the students. It is not in dispute that the appellant-colleges have collected common services fee from students for all three years. It is also not in dispute that they have not remitted the said amount to the University for the academic years 2014-15 and 2015-16. It appears, and also not in dispute that the colleges had issued cheques in respect of the common services fee collected by them even for 2014-15 and 2015-16 but the cheques were not realized. Till filing of the writ petitions, the colleges did not approach the Government or the AFRC seeking modification of fee structure, insofar as common services fee is concerned, after they acquired autonomous status.

5.4 The appellant-colleges claim that they always maintain high

standards of teaching and, as such, are reckoned as amongst the top institutions for technical education in the State of Telangana and in view thereof, they are conferred autonomous status by UGC in January, 2014. According to the colleges, Private Autonomous Colleges and Private Unaided Colleges stand on a complete different footing. University does not render any services to the autonomous institutions except awarding degrees to their students, for which a separate fee of Rs.600/- is collected from successful students by the University. As such, services relating to admission/ registration/recognition as well as the services classified under the head 'common services' in the G.Os. are not rendered by the University in autonomous colleges. According to them, all those services, after acquiring autonomous status, are rendered by them to their students, and therefore, they are entitled to retain the fees collected for 2014-15 and 2015-16. In other words, the colleges claim that the fees collected by them towards common services, after acquiring autonomous status, need not be remitted to the University as provided for in G.O.Ms.No.57.

6. In this backdrop, the appellant-colleges and some other institutions/colleges approached this Court by way of writ petition under Article 226 of the Constitution of India. Writ Petitions were, however, dismissed by learned single Judge with the following observations made in the concluding paragraphs.

"G.O.Ms.No.57, Higher Education (EC/A2) Department, dated 06.07.2013, was issued pursuant to the recommendations made by the AFRC which was constituted pursuant to a decision of the Supreme Court. The committee is headed by a retired Judge of this Court. **The committee fixes the fee in order to have uniformity among all institutions imparting technical education. The common services fee of Rs.1,500/- was included and the said amount has to be remitted to the concerned University.** Along with common services fee, there are other fees mentioned which are supposed to be collected by the institutions. **No student came to this Court challenging the collection of amount.** Strangely, the institutions filed the present Writ Petitions challenging that part of the Government Order. **Though the G.O. was issued in the year 2013, the Writ Petitions are filed in the year, 2015. The petitioners cannot be aggrieved parties because when they collected fee from the students,**

they are supposed to remit to the University as per the G.O.

In view of the above, the Writ Petitions are liable to be dismissed and are, accordingly, dismissed. If the concerned institutions have not collected the said amount, the reasons under which they have not collected have to be informed to the University and it is for the University to take necessary action in pursuance thereof.”
(*emphasis supplied*)

6.1 It appears from the contents of the writ petition and also the order passed by learned single Judge, the question of the appellant-colleges acquiring autonomous status was not argued and in view thereof all appellants filed Review WPMP No.5539 of 2016 in W.P.No.7873 of 2015. Review was sought on the ground that learned Judge proceeded to pass order on the premise that the colleges are not autonomous, and that it was completely overlooked that in autonomous colleges “common services” are taken care of by the college itself and the University does not render any service. This aspect of the matter was not considered and hence the order dated 3.7.2015, passed in the writ petition, needs to be reviewed. The order passed in the review reads thus:

“The petitioners filed this review petition seeking to review the order dated 3.7.2015 in a batch of cases including W.P.No.7873 of 2015 on the ground that their colleges are autonomous colleges and they are under no obligation to pay the common services fee collected from the students to the University, as the University is not rendering any service to their colleges towards common service.

This Court dismissed the batch of cases on the ground that the institutions are not the aggrieved persons and no student has come up before this Court challenging the collection of common services fee.

Sri S. Satyam Reddy, the learned Senior Counsel appearing for the petitioners, submits that in view of the University not rendering any service, it cannot insist the petitioners colleges for payment of the common services fee collected from the students.

I am afraid this issue cannot be decided by this Court under Article 226 of the Constitution of India, as the impugned Government Order i.e., G.O.Ms.No.57, dated 06.07.2013, was issued pursuant to the decision taken by the Fee Regulatory Committee constituted for determination of the fee of the institutions. If the petitioners have any grievance, they have to approach the Fee Regulatory Committee and produce necessary material before it, based on which, the Government may take a decision for issuing another Government Order in respect of autonomous colleges.

The review petition is, accordingly, dismissed.”

(emphasis supplied)

7. Counter-affidavit was not filed by the University in the main writ petition. The University, however, filed counter-affidavit in review petition denying the contentions raised by the appellant-colleges therein. They have also given break-up of the services rendered by the University under different heads, contemplated under clause (c) of paragraph-3 of G.O.Ms.No.57, even to autonomous colleges. The table in the counter-affidavit filed by the university giving break-up of the services rendered by University under different heads reads thus:

Services	Amount	Work Related to	University Responsibility
Examination Services	Rs.500/-	College/ University	Responsibility of the University is to i. To receive the attendance, internal marks, laboratory marks, external marks and generate Original Degree Certificates and send to the students through speed post. ii. To conduct Convocation along with all the University Constituent Colleges and all the Affiliated Colleges including Autonomous colleges. iii. For the maintenance of students data for life-time, even after completion of course, including Autonomous colleges. iv. Improving security features of the certificates and software development. v. University provides data and record even after completion of the course, whenever verification is made by the Government department, Private sector in India or abroad for any query relating to the student of the Colleges including Autonomous.

Academic Audit	Rs.200/-	University	Academic Audit will be done by the University annually for all the colleges to meet the standards of University.
Curriculum Revision & Content Development*	Rs.650/-	College/ University	The University prepares the syllabus and revises it once every two to three years for all UG and P G Courses for all the colleges. The Autonomous Colleges are permitted to have 20% variation in syllabus. Also e-learning content is prepared at University level and available for all the colleges. The University also approves the general Academic Calendar.
Staff Training	Rs.200/-	University	The University imparts training to all teachers of the affiliated colleges in the form of refresher courses/Orientation courses which are useful for Career Advancement Scheme and the logistical costs are borne by the University.
Co-ordination Meetings	Rs.50/-	University	Several coordination meetings are held for all the colleges including academic meetings, examination meetings, Video conferences, NSS and Sports meetings.
University Publications	Rs.50/-	University	The college students also shall have access to the University publications for better interaction like spectrum and other journals.
Website Maintenance	Rs.200/-	College/ University	Even though each college has got its own website whether Autonomous or not, the general information from the University and college based information shall be placed in the University website from time to time. Website has details of all the faculty and college facilities of all Colleges as per the University/AICTE norms. This is very useful for all the students especially during admission process and to advertise the facilities and standards of the Colleges.

7.1 The University in the counter-affidavit claimed that they incur

expenses as indicated in the table on each student, and therefore, the appellant-colleges after having collected common services fee, cannot retain that amount on any ground whatsoever and they are under obligation to make over the said fees to the University. The University has also stated that the appellant-colleges have not challenged G.O.57, and therefore, it is not open for them to now come before the Court and state that the University is not entitled to collect the said fee from them. In other words, it is stated that once having collected common services fee from the students in the name of University, it is not open to the appellant-colleges to retain that amount and if they do so, that would be contrary to Rules, 2006 and so also the directions issued by the Supreme Court in *Islamic Academy of Education v. State of Karnataka*^[2] and in *P.A. Inamdar v. State of Maharashtra*^[3].

8 . Mr. C.V. Mohan Reddy, learned Senior Counsel on behalf of one of the appellant colleges made leading submissions. Mr. S. Niranjan Reddy also made submissions. We do not propose to make a detailed reference to their submissions at this stage since in the course of the judgment we will be dealing with all those submissions making reference thereto.

8.1 The contentions urged on behalf of the appellant colleges are two-fold. Firstly; after the appellant-colleges are conferred autonomous status by UGC, they render all “common services” contemplated by G.O.57 to their students, and that the University ceased to have any role to play in respect of those services. It was specifically submitted that after the appellant-colleges became autonomous, the University stopped rendering common services as reflected in G.O.57, and the colleges render all those services to its students, and therefore, they are entitled to retain the “common services fee” collected by them from the students for the academic years 2014-15 and 2015-16. In support of this

contention, our attention was invited to the guidelines for autonomous colleges issued by the UGC.

Mr. C.V. Mohan Reddy submitted, the guidelines clearly demonstrate that the appellant-colleges have complete freedom to determine course syllabus, examinations and nature of study, and has the freedom to prescribe payment of relevant fee in that regard. The University, therefore, cannot insist for payment of common services fee collected by the appellant-colleges. It was also submitted, on the basis of the guidelines, the role of University is very limited and it is only to the extent of promoting autonomy and conferring the degree. The University cannot interfere with the running of autonomous colleges. In short, it was submitted that prescription of common services fee payable to the University is wholly impermissible and completely illegal, by the appellant-colleges, once they having acquired autonomous status. It was further submitted that the recommendations of the AFRC are only recommendatory in nature and the same ought to be considered in the light of the services provided by the University. In the present case, the appellant-colleges, being autonomous institutions, provide all services/facilities mentioned in G.O.57 and no services are being provided by the University, is not entitled to receive common services fee collected by them.

Secondly; it was submitted that any fee collected must have a commensurate bearing with the actual services provided. In fact, it was submitted, any administrative decision or action must be guided by principles of reasonableness, fairness and precision and must keep a nexus to a permissible object. The action of the University in charging common services fee does not satisfy these requirements as it lacks any permissible object or bears any reasonable nexus thereto. The University can levy such fee that bears out and discloses the proportionate services rendered by it in relation to such fee. In support of this contention, Mr. S. Niranjan Reddy, learned counsel for one of the appellant-colleges placed reliance upon the following decisions: **Chief**

Commissioner v. Delhi Cloth & Gen. Mills Co. Ltd.^[4]; ***Indian Mica Micanate Industries v. State of Bihar***^[5]; ***State of T.N. v. TVL South Indian Sugar Mills Assn.***^[6]; and ***State of Maharashtra v. Salvation Army, Western India Territory***^[7].

8.2 Our attention was also invited to Act, 1983, in particular Section 7 thereof and Rules, 2006 to contend that the University can always issue a separate notification for any common services fee provided to Autonomous Institutions/ Colleges. Section 25 (1) (j) of Jawaharlal Nehru Technological Universities Act, 2008 (for short, 'JNTU Act, 2008') empowers the University to make statutes for collection of fee and the fee prescribed under this provision is unrelated to the fee prescribed by AFRC. The University, therefore, cannot claim any entitlement under G.O.57. Mr. S. Niranjan Reddy also submitted that the G.Os. need not be challenged, and in the alternative submitted, that they have been effectively challenged to the extent of the appellant-college's case. The prayer in the writ petition, he submitted, is seeking a direction against both, the University and the Government, in not excluding the institution from payment of common services fee to the University. Thus, to that extent, he submitted, G.O. has been challenged. After drawing our attention to the order in Review petition, wherein G.O.57 is referred as impugned G.O., he submitted that it shows that the learned Single Judge understood the challenge in the petition, as that to G.O.57. In the alternative, he submitted that G.O.57 is applicable to all Institutions, and therefore, is not required to be struck down, but is only required to exclude autonomous colleges. Lastly; it was submitted that the petitioners cannot approach AFRC or Government, as observed by learned Single Judge, for deciding the issue relating to the requirement of paying common services fee.

9. Per contra, learned Advocate General for the State of Telangana after inviting our attention to judgments of the Supreme Court in ***Islamic Academy of Education*** (supra) and ***P.A. Inamdar*** (supra) and so also to the relevant provisions of the Act, 1983 and Rules, 2006 submitted that under any circumstances the appellant-colleges after having accepted the fees prescribed by AFRC for the block period 2013-14 to 2015-16, turn around and seek the relief as prayed in the writ petition. He submitted that once having collected the common services fee from the students, the appellant-colleges do not have any legal as well as moral right to retain that amount contending that all services contemplated by G.O.57 are rendered by them. He stoutly denied the submissions made on behalf of the appellant-colleges that after acquiring autonomous status they (colleges) render all services to their students, including the common services contemplated by G.O.57, and that the University has absolutely no role to play in respect thereof. In support of this submission, he invited our attention to the guidelines for autonomous colleges, issued by UGC to contend that the guidelines also clearly demonstrate that the University, even in respect of autonomous colleges has lot of responsibilities and require to render services and all that are relatable to the heads of common services listed in clause (iii) of paragraph-3 of G.O.Ms.No.57. He, therefore, submitted that, even if it is assumed that some services, which University was rendering earlier are not rendered by it in case of autonomous colleges, it cannot be stated that the University does not render any services to colleges. As a matter of fact, he submitted, in view of autonomous status, some more services are being rendered by the University which, they were not rendering earlier. Lastly, he submitted that it is not necessary to establish that those who pay the fee must receive direct benefit of the services rendered for which the fee is being paid. In other words, he submitted what has to be seen is whether there is a broad and general co-relationship between the totality of the

fee on one hand, and the totality of the expenses of the services on the other. In support of this contention, he placed reliance upon the judgment of the Supreme Court in ***Vijayalakshmi Rice Mill v. Commercial Tax Officers***^[8] and ***Amar Nath Om Prakash v. State of Punjab***^[9]. Lastly, he submitted that the G.Os. were issued by the Government in exercise of the powers under clause (iv) of Rule 4 of Rules, 2006 read with Section 7 of Act, 1983, fixing common services fee by AFRC. The appellant-colleges have neither challenged the provisions of the Act nor the Rules nor the G.Os. nor the Determination Report of AFRC. There is no pleading or any ground to that effect either in the writ petition or in the prayer clause. He, therefore, submitted that in the teeth of the provisions of the Act and the Rules made thereunder and finality of the determination and consequential G.Os., it is binding on all colleges including autonomous appellant-colleges even after acquiring autonomous status to remit common services fee collected by them. In any case, the colleges have no option but to remit the fee collected by them in the name of the University to them. The appellant's prayer for retention of fee is not justified. Their prayer for retention of the collected amounts from the students in the name of the University amounts to profiteering or commercialization of education which has been prohibited by the provisions of the Act and the judgment of the Supreme Court.

10. At this stage, before we consider the challenge, we would like to have a glance at the judgments and the relevant provisions of the Act, 1983 and Rules, 2006. In ***Islamic Academy of Education*** (supra) the Supreme Court, among other, considered the question "whether educational institutions are entitled to fix on their own fee structure?" While dealing with this question, it was observed that the fee structure for each institute must be fixed keeping in mind the infrastructure and facilities available, the investments made, salaries paid to the teachers

and staff, future plan for expansion and/or betterment of the institution, etc. Then it was further observed that there can be no profiteering and capitation fee, cannot be charged. The Supreme Court also considered its judgment in *T.M.A. Pai Foundation v. State of Karnataka*^[10] and issued directions, in order to give effect to the said judgment, to the respective State Governments/concerned authority to set up, in each State, a committee headed by a retired High Court Judge, who shall be nominated by the Chief Justice of that State, and the other members to be nominated by the Judge, consisting of a Chartered Accountant of repute, a representative of Medical Council of India or All India Council for Technical Education, depending on the type of institution. Further observations of the Supreme Court in *Islamic Academy of Education* (supra) needs to be noticed, which read thus:

7. ... The Committee should be free to nominate/co-opt another independent person of repute, so that the total number of members of the Committee shall not exceed five. **Each educational institute must place before this Committee, well in advance of the academic year, its proposed fee structure.** Along with the proposed fee structure all relevant documents and books of accounts must also be produced before the Committee for their scrutiny. **The Committee shall then decide whether the fees proposed by that institute are justified and are not profiteering or charging capitation fee.** The Committee will be at liberty to approve the fee structure or to propose some other fee which can be charged by the institute. **The fee fixed by the Committee shall be binding for a period of three years, at the end of which period the institute would be at liberty to apply for revision. Once fees are fixed by the Committee, the institute cannot charge either directly or indirectly any other amount over and above the amount fixed as fees.** If any other amount is charged, under any other head or guise e.g. donations, the same would amount to charging of capitation fee. **The Governments/appropriate authorities should consider framing appropriate regulations,** if not already framed, whereunder if it is found that an institution is charging capitation fees or profiteering that institution can be appropriately penalised and also face the prospect of losing its recognition/affiliation.

(emphasis supplied)

10.1 In *P.A. Inamdar* (supra), the Supreme Court considered the question whether Islamic Academy could have issued guidelines in the

matter of regulating the fee payable by the students to the educational institutions. While dealing with this question, the Supreme Court reiterated that every institution is free to devise its own fee structure subject to the limitation that there can be no profiteering and capitation fee can be charged directly or indirectly or in any form, and negated the attack laid by the petitioners on that part of the Islamic Academy of Education judgment, which had directed constitution of two committees dealing with the Admission and Fee structure. In paragraph-144 of the report, the Supreme Court observed thus:

144. The two Committees for *monitoring admission procedure and determining fee structure* in the judgment of *Islamic Academy* are in our view, permissible as regulatory measures aimed at protecting the interest of the student community as a whole as also the minorities themselves, in maintaining required standards of professional education on non-exploitative terms in their institutions. Legal provisions made by the State Legislatures or the scheme evolved by the Court for monitoring admission procedure and fee fixation do not violate the right of minorities under Article 30(1) or the right of minorities and non-minorities under Article 19(1)(g). **They are reasonable restrictions in the interest of minority institutions permissible under Article 30(1) and in the interest of general public under Article 19(6) of the Constitution.**

(emphasis supplied)

10.2 In 1983, the then State of Andhra Pradesh had enacted the Andhra Pradesh Educational Institutions (Regulation of Admissions and Prohibition of Capitation Fee) Act, 1983 to curb the undesirable practice of collecting capitation fee at the time of admitting students into educational institutions causing frustration amongst meritorious students. Section 7 thereof is relevant for our purpose, which provides for regulation of fee. Sub-section (1) of Section 7 states that it shall be competent for the Government by notification, to regulate the tuition fee or any other fee that may be levied and collected by any educational institution in respect of each class of students. It further provides that no educational institution shall collect any fees in excess of the fee notified under sub-section (1) thereof. It mandates, under sub-section

(3) thereof, that every educational institution shall issue an official receipt for the fee collected by it.

10.3 The Government, in view of the directions issued by the Supreme Court in Islamic Academy of Education, and the provisions of the Act 1983, issued notification vide G.O.Ms.No.6, dated 8.1.2007, in exercise of the powers conferred by Section 15 read with Sections 3 and 7 of Act, 1983 and made Rules relating to constitution and functioning of Andhra Pradesh Admission and Fee Regulatory Committee, for professional courses in Private Un-aided Professional Institutions in the State. The Rules are called the Andhra Pradesh Admission and Fee Regulatory Committee (for Professional Courses offered in Private Un-aided Professional Institutions) Rules, 2006.

10.4 Rule 3 thereof provides for constitution, composition, disqualification and functions of the Admission and Fee Regulatory Committee. Clause (ii) of Rule 3 provides that AFRC shall consist of a retired Judge of High Court as Chairman and six members including special invitee as decided by the Chairman. Principal Secretary/ Secretary to Government - Higher Education/ Medical and Health/ School Education (depending on type of professional education involved) is its Member Secretary. Vice Chancellor of one of the State Universities, nominated by the Committee, provided that the Vice Chancellor of JNTU/NTR University of Health Sciences to be nominated in case of Engineering/Medical education. Two members of the committee are supposed to be the persons having experience in the matters of Education administration in the concerned discipline and Finance nominated by the Committee. Chairman, Andhra Pradesh State Council of Higher Education is also a member of the Committee. One representative of AICTE/MCI/BCI/NCTE, as the case may be, is also a member of the Committee. Thus, it is clear that the AFRC has all experts as its members, in the field of Education and Finance. Clause

(iii) of Rule 3 provides that subject to pleasure of the Government the term of office of the AFRC shall be three years from the date of its constitution, and in case of any vacancy arising earlier, for any reason, the Government shall fill such vacancy for the remainder of the term. This provision clearly show that the Committee needs to be kept active/alive for a period of three years for carrying out its functions under the Rules, 2006.

10.5 Rule 4 provides the procedure for fee fixation, which reads thus:

4. Fee Fixation:

(i) The AFRC shall 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.

(ii) The AFRC shall decide whether the fees proposed by the Institution is justified and does not amount to profiteering or charging of capitation fee.

(iii) The AFRC shall be at liberty to approve or alter the proposed fee for each course to be charged by the Institution.

Provided that it shall give the Institution an opportunity of being heard before fixing any fee or fees.

(iv) The AFRC shall take into consideration the following factors while prescribing the fee:

- a. the location of the professional institution.
- b. the nature of the professional course,
- c. the cost of available infrastructure,
- d. the expenditure on administration and maintenance,
- e. a reasonable surplus required for growth and development of the professional Institution.
- f. the revenue forgone on account of waiver of fee, if any, in respect of students belonging to the Schedule Caste, Schedule Tribes and wherever applicable to the Socially and Educationally Backward Classes and other Economically Weaker Sections of the society, to such extent as shall be notified by the Government from time to time.
- g. Any other relevant factor.

Provided that, no such fees, as may be fixed by the AFRC, shall amount to profiteering or commercialization of education.

(v) The AFRC shall communicate the fee structure as determined by it, to the Government, for notification.

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

(vii) The fee so determined shall be applicable to a candidate who is admitted to an institution in that academic year and shall not be altered till the completion of his course in the institution in which he

was originally admitted. No Professional Educational Institution shall collect at a time a fee which is more than one year's fee from a candidate.

10.6 The fee or scale of fees determined by AFRC, under this Rule, is valid for a period of three years. In the present case, we are concerned with the years 2013-14, 2014-15 and 2015-16. Clause (iii) of Rule 4 provides that AFRC shall be at liberty to approve or alter the proposed fee for each course to be charged by the Institution provided that it shall give the Institution an opportunity of being heard before fixing any fee or fees. A plain reading of Rule 4 shows that AFRC, after considering the proposed fee structure submitted by each Institution, well in advance, before the date of issue of notification for admission for the academic year, has power to decide whether the fee proposed is justified and does not amount to profiteering or charging of capitation fee. The fee determined by AFRC is applicable to a candidate, who is admitted to an Institution in that academic year, and shall not be altered till the completion of his course in the Institution in which he was originally admitted.

10.7 The Government of Andhra Pradesh accordingly issued G.O.Ms.No.57, dated 6.7.2013; G.O.Ms.No.66, dated 30.7.2013 and G.O.Ms.No.75, dated 16.8.2013, on the basis of the recommendations made by AFRC relating to fixation of fee for Private Un-aided Professional Institutions in the State, fixing the fee structure for Undergraduate Engineering Courses, Post-Graduate M.Tech/M.E, M. Pharmacy, M. Architecture courses and Pharm-D(PB) and for MBA/MCA courses, in Private Unaided Professional Institutions for the block period 2013-2014 to 2015-16.

10.8 In all G.Os., we are concerned only with the clause similar to clause (c) of paragraph-3 of G.O.Ms.No.57, which reads thus:

(c) Rs.1500/- per annum per student during the course towards common

services rendered by the University to the college as mentioned below and such amount collected by the College shall be remitted to the concerned University.

Particulars of the amounts that can be collected towards common services rendered by the University to the College.

S.No.	Services	Amount Rs.
1	Examination related	500
2	Academic Audit	200
3	Curriculum Revision & Content	300
4	Development	200
5	Staff Training	50
6	Coordination Meeting	50
7	University Publications	200
	Website Maintenance	
	TOTAL	1,500

The fee chargeable under this clause is towards "common services" rendered by the University.

11. It is not in dispute that the appellant-colleges were before AFRC when the fee for the block period 2013-14 - 2015-16 was fixed. It is also not in dispute that appellant-colleges had not acquired autonomous status either on the date of hearing, as contemplated under Rule 4 (iii) of Rules, 2006, before AFRC or on the date of issue of G.Os. or till January, 2014. The appellant-colleges became autonomous in January, 2014. Therefore, they have not raised any dispute regarding the batch of students admitted for the academic year 2013-14, who paid fees as contemplated by G.O.57, including common services fee. It is also not in dispute that the students, who were admitted in 2013-14, would continue to pay fees as contemplated by the said G.O., including the fee towards common services till they complete the course. Dispute raised in these appeals pertains only in respect of the batch of students admitted in 2014-15 and 2015-16, by which time the appellant-colleges had acquired autonomous status. The dispute is mainly in respect of the 'common services' mentioned in clause (iii) of paragraph-3 of G.O.Ms.No.57, which, the appellant-colleges claim that

after they acquired autonomous status, those services are rendered by the appellant-colleges and, therefore, the University cannot insist for remittance of the common services fee collected by autonomous colleges, and that they (colleges) are entitled to retain the same.

12. In this connection, it would be relevant to have a glance at the “Guidelines for Autonomous Colleges” (for short, ‘guidelines’) issued by UGC, as modified upto 8.1.2013, to which our attention was invited by learned counsel for appellant-colleges. While introducing the scheme of autonomous colleges, the UGC, for the following reasons, proposed to increase the number of autonomous colleges to spread culture of autonomy:

Need for Autonomy

The affiliating system of colleges was originally designed when their number in a university was small. The university could then effectively oversee the working of the colleges, act as an examining body and award degrees on their behalf. The system has now become unwieldy and it is becoming increasingly difficult for a university to attend to the varied needs of individual colleges. The colleges do not have the freedom to modernize their curricula or make them locally relevant. The regulations of the university and its common system, governing all colleges alike, irrespective of their characteristic strengths, weaknesses and locations, have affected the academic development of individual colleges. Colleges that have the potential for offering programmes of a higher standard do not have the freedom to offer them. The 1964-66 Education Commission pointed out that the exercise of academic freedom by teachers is a crucial requirement for development of the intellectual climate of our country. Unless such a climate prevails, it is difficult to achieve excellence in our higher education system. With students, teachers and management being co-partners in raising the quality of higher education, it is imperative that they share a major responsibility. Hence, the Education Commission (1964-66) recommended college autonomy, which, in essence, is the instrument for promoting academic excellence.

12.1 In the guidelines/scheme, clause (b) in paragraph-2, which deals with the objectives, provides for the relationship with the parent university, the State Government and other educational institutions. It would be advantageous to reproduce the relevant portion of clause (b) to understand and appreciate the relationship between the University and affiliated colleges and the role of University in case of autonomous

colleges, which reads thus:

b. Relationship with the parent university, the State Government and other educational institutions:

Autonomous colleges are free to make use of the expertise of university departments and other institutions to frame their curricula, devise methods of teaching, examination and evaluation. They can recruit their teachers according to the existing procedures (for private and government colleges).

The parent university will accept the methodologies of teaching, examination, evaluation and the course curriculum of its autonomous colleges. It will also help the colleges to develop their academic programmes, improve the faculty and to provide necessary guidance by participating in the deliberations of the different bodies of the colleges.

The role of the parent university will be:

- To bring more autonomous colleges under its fold;
- To promote academic freedom in autonomous colleges by encouraging introduction of innovative academic programmes;
- To facilitate new courses of study, subject to the required minimum number of hours of instruction, content and standards;
- To permit them to issue their own provisional, migration and other certificates;
- To do everything possible to foster the spirit of autonomy;
- To ensure that degrees/diplomas/certificates issued indicate the name of the college;
- To depute various nominees of the university to serve in various committees of the autonomous colleges and get the feedback on their functioning; and
- To create separate wings wherever necessary to facilitate the smooth working of the autonomous colleges.

(emphasis supplied)

12.2 From plain reading of the above portion of guidelines, it is clear, as crystal that the University has a significant role to play in case of autonomous colleges also. Once autonomy is granted, the University is obligated to accept the students of autonomous colleges for award of such degrees as are recommended by them.

13. We are informed, and it is also not in dispute that when AFRC granted hearing to all colleges for fixing the fee structure for the block period 2013-14 to 2015-16, some other autonomous colleges were before it. Therefore, it cannot be stated that the case of autonomous colleges was not before AFRC or they did not consider the role of autonomous

colleges, merely because the word 'autonomous' does not find place in the G.Os. Insofar as the appellant-colleges are concerned, it is true that they did not have any reason or occasion to seek waiver of remittance of common services fee to the University since till then they had not acquired autonomous status. Our attention was also invited to several clauses/paragraphs in the guidelines by learned counsel for the colleges to demonstrate that none of the common services mentioned in clause (c) of paragraph-3 of G.O.Ms.No.57, are in fact being rendered by the University after the appellant-colleges acquired autonomous status. It was submitted, the different committees, which autonomous colleges are supposed to constitute, as stated in the guidelines, ensure proper management of Academic / Finance and administrative affairs, such as Governing Body, Academic Council, Board of Studies and Finance Committee, etc. The Guidelines stipulate functions of these committees, which, according to the appellant-colleges, are the same functions which the University renders as common services to them and their students before they acquired autonomous status and, therefore, AFRC at that stage was justified in recommending common services fee. Therefore, it was contended that since these services are now rendered by the autonomous colleges themselves, the University has no right to collect the fee (towards common services) from colleges, and that the colleges have every right to retain that amount.

14. In this backdrop, the appellants, in W.P. No.7378 of 2015, made the following prayer:

“Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed therewith, the High Court may be pleased to issue a writ, order or direction, more particularly one in the nature of a Writ of Mandamus declaring the action of the first respondent in seeking to collect common services fees/infrastructure fees from petitioner colleges in relation to the students pursuing B.Tech., M.Tech., and M.B.A. courses for the academic year 2014-15 and the further action of second respondent in not excluding private autonomous colleges like petitioner colleges from payment of common services fee/infrastructure fees to first respondent towards the aforesaid common fees/infrastructure fees as fixed under various GOs issued by second respondent as arbitrary, illegal, unjust,

violative of the principles of natural justice and violative of the fundamental rights guaranteed under the Constitution of India and for issuance of consequential directions to first respondent not to collect common services fees/infrastructure fees from petitioner colleges for the academic years 2014-2015 after the grant of the autonomous status by the first respondent.”

This prayer, however, has been rejected by learned Single Judge on the ground that none of the students has come forward to challenge collection of the said amount. Though G.Os. were issued in 2013, the writ petitions were filed in 2015 and that the colleges cannot be stated to be aggrieved because when they collected fee from the students in the name of University they were supposed to remit it to the University as provided for in G.Os. Learned Judge, while dismissing the batch of writ petitions, also noticed that the University collected these amounts as provided for in G.Os. and have not remitted same to the University. It was also noticed that initially the institutions paid these amounts by way of cheques but the cheques were bounced. Learned Judge further noticed that G.Os. were issued pursuant to recommendations made by AFRC headed by a retired Judge of the High Court which fixed the fee in order to bring uniformity among all Institutions imparting technical education.

15. Though the appellant-colleges in the writ petition did not challenge G.Os., one of the petitioners in the writ petition (W.P.No.9799 of 2015) had challenged G.O.Ms.No.57, dated 6.7.2013 as illegal, arbitrary, unconstitutional and contrary to the University Statute and Regulations. Learned Single Judge, dismissed all the writ petitions. The petitioners therein (W.P. No.9799 of 2015) have not carried the order in writ appeal. The Advocate General, therefore, submitted that it amounts to rejection of the prayer for declaring G.Os. as illegal, arbitrary and unconstitutional. In any case, we need not enter into this controversy since from the prayer in the writ petition filed by the appellants it is clear that they did not challenge G.Os., though an attempt

was made by one of learned counsel appearing for the appellants to state that the writ challenges G.O.Ms.No.57 also, which, for the reasons recorded in the following paragraph, we are unable to accept.

16. It is pertinent to note that in paragraph-6 of the reply affidavit (i.e., reply to the counter-affidavit filed by the University in Review WPMP No.5539 of 2016) the appellant-colleges state that "G.O.Ms.No.57, dated 6.7.2013 applies to only Private Un-aided Professional Colleges but not Colleges which have been granted autonomous status". Thus, on one hand, the colleges state that G.O.57 does not apply to their colleges at all, and on the other hand, across the bar, learned counsel for the parties state that it applies to them also except clause (c) of paragraph-3 thereof. It appears to us that the colleges are not clear whether they want to challenge G.O.Ms.No.57. It was also submitted that the University cannot collect common services fee and, therefore, they sought direction to the 2nd respondent to exclude Private Autonomous Colleges, like the appellant-colleges, from payment of common services fee to the University. It is further worth noticing that Mr. S. Niranjan Reddy, submitted that G.Os. need not be challenged and in the alternative submitted, that they have been effectually challenged to the extent of the appellant-colleges case. He further submitted that in the writ petition, they sought direction against both, the University and the Government, in not excluding the autonomous colleges from payment of common services fee to the University. In this backdrop, in our opinion, it cannot be stated that the colleges challenged G.O.57 in the writ petition or clause (c) in paragraph-3 thereof in particular. Admittedly the appellant colleges were not autonomous on the date on which G.Os. were issued and, therefore, the question of excluding the appellant- colleges from G.O.Ms.No.57 at their request did not arise or fell for consideration of AFRC. The Advocate General, therefore, submitted that after acquiring autonomous status, the

appellant-colleges in January, 2014, ought to have approached the Government or atleast this Court for the relief as sought in the writ petition, or for seeking modification of G.Os. or for appropriate relief. We are not entering into this controversy since we are not called upon to decide the question whether, in such situation, it is open to an institution to seek modification or revision of the fees fixed by AFRC before completing the period of three years as provided for in Rules, 2006.

17. As stated earlier, the appellant-colleges were before AFRC for hearing as contemplated by the rules for prescribing fee structure for the block period 2013-14 to 2015-16 and they, after having accepted the fees prescribed under G.O.57 including common services fee, remitted it to the University for one year (2013-14) and had also issued cheques for the subsequent two years, though not realised. Therefore, in our opinion, now it is not open to turn around, and claim that they can retain the common services fee collected from students for 2014-15 and 2015-16 in the name of University.

18. Scheme of the Rules, in particular, Rule 4 thereof, if read carefully in the light of the observations made by the Supreme Court in ***Islamic Academy of Education*** (supra), it is clear that the fee structure prescribed by the Committee cannot be changed for a period of three years. It is binding for a period of three years and it is only at the end of the period of three years the appellant colleges would be at liberty to apply for revision. As observed by the Supreme Court once the fee/fees are fixed, the colleges cannot charge either directly or indirectly any other amount over and above the amount fixed as fee and if any such amount is charged under any other head or guise it would amount charging of capitation fee. As observed in paragraph-16, we are not expressing any opinion on the right of autonomous colleges, such as the appellant-colleges, to seek revision or modification of the fee structure, before completion of three years block period. We affirm the view taken

by learned Single Judge in the orders under challenge in the appeals that once having collected fee in the name of University, it is not open to the appellant-colleges to turn around and claim that they are entitled to retain the amounts collected by them towards “common services” rendered by the University.

19. We would also like to examine the contentions urged on behalf of the appellant-colleges that the common services mentioned in clause (c) of paragraph-3 of G.O.Ms.No.57 are in fact, after the colleges acquired autonomous status, are being rendered by them and not by the university. It was specifically contended that after the colleges acquired autonomous status, the University stopped rendering the common services for which AFRC prescribed Rs.1,500/- fee to be collected from each student per year and stated the colleges render all those services to its students. Further, it was contended that role of the University is very limited and it cannot interfere with running of autonomous colleges and prescription of common services fee to be paid to the University is wholly impermissible and illegal.

20. AFRC was constituted to prescribe fee structure for the block period 2013-14 to 2015-16, which made its recommendations after following the due procedure contemplated by the Rules, 2006. At that stage, though the appellant-colleges had not acquired the autonomous status, admittedly few other autonomous colleges were before AFRC. It is not in dispute that all other autonomous colleges paid the common services fee prescribed under G.O.Ms.No.57 for all three years. Each educational institute including the appellant-colleges had placed before AFRC, their proposed fee structure along with all relevant documents and books of accounts for fresh scrutiny. It is not in dispute that the Committee then decided whether the fee proposed by the appellant-colleges was justified and that would not amount to profiteering or charging capitation fee. The Committee, while undertaking this exercise,

was at liberty to approve the fee structure or to propose some other which could be charged by the Institute. The fee structure for the relevant block period was accordingly fixed by AFRC. It is not in dispute that and it cannot be disputed, in view of the judgment of the Supreme Court in ***Islamic Academy of Education*** (supra), that the fee fixed by AFRC is binding for a period of three years, and only at the end of three years, the institutes/colleges would be at liberty to apply for the revision. It is also not in dispute that once the fees are fixed by the Committee, the colleges cannot charge or are entitled, either directly or indirectly, any amount over and above the amount of fee as fixed. If any other amount is charged, under any other head or disguise the same would amount to charging of capitation fee. In the present case, there is no dispute that AFRC while recommending the fee structure followed the due procedure and Rs.1,500/- was fixed towards “common services” to be collected from each student per annum for remitting the same to the University. As a matter of fact, as stated earlier, the appellant-colleges also, after collecting the common services fee for 2014-15 and 2015-16, remitted the same, by cheques, but the cheques did not realise. No satisfactory explanation was offered by learned counsel for the colleges for bouncing of their cheques.

21. In this backdrop, we perused the counter-affidavit filed by the University, in particular, the break-up given by the University in tabular form (See paragraph-7 of this judgment), showing different heads under which they are entitled to collect common services fee collected by the autonomous colleges also. Learned counsel appearing for the petitioners took us through the scheme/guidelines for autonomous colleges issued by UGC to demonstrate how all the services are, after they acquired the autonomous status, being rendered by them, and the University has no role to play except awarding degrees to the students for which they charge separate fee. Based on the guidelines/scheme of autonomous

colleges, it was contended that once the colleges are conferred autonomous status, the University hardly plays any role in their functioning. All the functions are performed by their Governing Body, Academic Council, Board of Studies and Finance Committee. In short, it was submitted that Private Autonomous Colleges and Private Unaided Colleges stand on completely different footing with regard to their regulatory and operational mechanism; that the common services which are rendered by the parent University to Private Un-aided Colleges, are not at all provided to Private Autonomous colleges. The Colleges, therefore, are entitled to claim/retain common services fee of Rs.1,500/- collected from their students and they are not obliged to remit the said amount to the university.

22. In the course of arguments, we asked few pointed questions to learned counsel for the appellants based on the break-up given by the University in tabular form in the counter-affidavit and the guidelines. The first item in the break-up is "examination related fee". Under this head, University has mentioned five services/responsibilities which they have to render/perform even to autonomous colleges. Though learned counsel for the colleges stated that none of the services mentioned in clauses (i) to (v) in the table under the head 'Examination related', in fact, are rendered by the University, we asked them whether the University conducts convocation or not?; whether they are supposed to maintain students data for lifetime?; whether it keeps improving security features of the certificates and software development for the benefit of the students getting degree? and whether University is obliged to preserve and provide data and record whenever verification is sought by Government or private sector in and outside India?, learned counsel for the appellant-colleges could not and did not give any satisfactory reply. It is true that they made an attempt to contend that the University charge separate fee for awarding degree in the convocation function, but that by

itself is not sufficient to cover the expenditure the University incur for maintaining separate wing/department for awarding degrees to the students. It is not in dispute that whole year the University supposed to have such department/wing not only for conducting convocation functions but to maintain the entire record and to see that every student gets degree certificate irrespective of the fact whether he attends graduation function. The fee of Rs.600/- collected from each student is for actual issuing original certificate and may be to cover the expenditure for conducting convocation function. It may be true that autonomous-colleges conduct examination and may be rendering some other examination related services but that by itself is not sufficient to hold that the University has no role to play or does not render any examination related services to the autonomous colleges. Even the other services mentioned in the table, in our opinion, the University continues to render to the autonomous colleges in some or the other form, directly or indirectly, such as imparting training to teachers, holding meetings, access to publications, maintaining website etc.

23. Even if it is assumed, the argument based on the scheme/guidelines for autonomous colleges that after acquiring autonomous status, they are not entitled to collect common services fee, the colleges will have to seek revision as contemplated by the Rules, 2006, of common services fee either under examination related services or any other heads only after the relevant block period gets over. Even from bare perusal of the guidelines for autonomous colleges, we find that the University continues or suppose to render services like making use of expertise of the University Departments to frame their curricula, devise methods of teaching, examination and evaluation, etc. The parent University, under the guidelines, is obligated to accept the methodologies of teaching, examination, evaluation and the course curriculum of autonomous colleges also. The Universities are also expected to help all

institutions and colleges, within its jurisdictional limits to develop their academic programmes, improve the faculty and to provide necessary guidance by participating in the deliberations of the different bodies of colleges. The university plays its role in permitting the colleges to issue their own provisional, migration and other certificates; to do everything possible to foster the spirit of autonomy; to ensure that degrees/diplomas/certificates issued indicate the name of the college; to depute various nominees of the University to serve in various committees of the autonomous colleges and to get feedback on their functioning and to create separate wings wherever necessary to facilitate smooth working of the autonomous colleges. Every service that the University is supposed to render even under the guidelines is either 'examination related' or 'academic audit related' or 'curriculum related' or 'development related' or 'staff training related'. It cannot be stated that the University does not render any services to the autonomous colleges. The appellant-colleges are not right in contending that they are entitled to retain the fees collected by them from the students towards common services.

24. In our opinion, once having collected the fees towards common services from the students, for remitting the same to the University, it is not open to the colleges to retain the same. The students have paid it for the University, and, as rightly observed by learned single Judge in the impugned order, none of the students has made any grievance in respect of this fees. That apart, the College, cannot, under any circumstances, decide whether the University renders any services and that they are entitled to retain the said amount collected towards common services to be rendered by the University. As rightly observed by the learned single Judge, it was open to the Colleges to seek revision of the fee structure contemplated by the Rules and as observed by the Supreme Court in ***Islamic Academy of Education*** (supra).

25. In this connection, we would like to look into the judgment of the Supreme Court in ***Vijayalakshmi Rice Mill*** (supra). Paragraph-18 is relevant which reads thus:

18. Subsequently also, the same view has been reiterated that there has been a sea change in the concept of a fee and now it is no longer regarded necessary that (i) some specific service must be rendered to the particular individual or individuals from whom the fee is being realised, **and what has to be seen is whether there is a broad and general correlationship between the totality of the fee on the one hand, and the totality of the expenses of the services on the other**, vide *State of H.P. v. Shivalik Agro Poly Products* (2004) 8 SCC 556; (ii) **there need not be an exact or mathematical correlation between the amount realised as a fee and the value of the services rendered. A broad correlation between the two is sufficient to sustain the levy.** (emphasis supplied)

25.1 In ***Amar Nath Om Prakash*** (supra), the Supreme Court, after considering somewhat similar situation, in paragraph-7 observed thus:

“7. It is thus well settled by numerous recent decisions of this Court that **the traditional concept in a fee of quid pro quo is undergoing a transformation and that though the fee must have relation to the services rendered, or the advantages conferred, such relation need not be direct, a mere casual relation may be enough. It is not necessary to establish that those who pay the fee must receive direct benefit of the services rendered for which the fee is being paid.** If one who is liable to pay receives general benefit from the authority levying the fee the element of service required for collecting fee is satisfied. It is not necessary that the person liable to pay must receive some special benefit or advantage for payment of the fee.” (emphasis supplied)

26. Even if it is assumed that some of the services, which University was rendering before the colleges acquired autonomous status, which now they need not render that by itself, in our opinion, is not justiciable for the colleges to retain common services fee. In any case, it cannot be stated that the University does not render any service to autonomous colleges. Whether there is a broad and general correlationship between the totality of the fee on the one hand, and the totality of the expenses of the services on the other hand will have to be seen and there need not be an exact or mathematical correlation

between the amount realized as a fee and the value of the services rendered. As it is settled by the Supreme Court, it is not necessary to establish that those who pay the fee must receive direct benefit of the services rendered for which the fee is being paid. It is not necessary that the person liable to pay must receive some special benefit or advantage for payment of the fee. The students in all colleges including affiliated to the University, receive several direct or indirect benefits of the services rendered by the University. In this view of the matter, in our opinion, the judgments relied upon by Mr. S. Niranjan Reddy are of no avail to the appellant-colleges.

27. Mr. C.V. Mohan Reddy, learned senior counsel, submitted that allowing the University to collect fees received by the colleges from students for the academic year 2014-15 and 2015-16, towards common services after the colleges acquired autonomous status would amount to 'unjust enrichment'. In short, he submitted that in any case University is not entitled to receive the said amount since all the services including common services, which University was rendering earlier, are being rendered by the colleges, and therefore, they are entitled to retain this amount and if the amount is remitted to the University that would amount to unjust enrichment. For the reasons recorded in the foregoing paragraphs, this submission deserves to be rejected outright. That apart, it is now well-settled and accepted proposition of law that the University is entitled to generate reasonable surplus for development of education and its expansion. As observed by the Supreme Court in ***Islamic Academy of Education*** (supra) that while fixing the fee structure it should be taken into consideration, *inter alia*, the salary or remuneration paid to the members of the faculty, other staff, investments made by the University, infrastructure provided and plan for future development of the University as also its expansion. Future planning or improvement of facilities, the Supreme Court stated,

may be provided for. These factors undoubtedly are required to be taken care of by the University while fixing and demanding fees from the students through their colleges or the examination authority. It is true that the University cannot charge anything unreasonable under the guise of surplus, indirectly or systematically and then claim that they are established for educational purpose and not for the purposes of profits. From the facts of the present case, the amount to be remitted to the University towards common services, in our opinion, by no stretch of imagination, could be termed as 'unreasonable' and even if it is assumed that the entire amount of Rs.1,500/- cannot be accounted by University that by itself would not amount to unreasonable enrichment. This submission also in our opinion deserves to be rejected outright.

28. In the circumstances, we find no merit in the writ appeals. The writ appeals are dismissed. No order as to costs.

Miscellaneous petitions pending, if any, shall stand closed.

DILIP B. BHOSALE, ACJ

P. NAVEEN RAO, J

Date: 28.07.2016
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[\[1\]](#) (2016) 4 SCC 696

[\[2\]](#) (2003) 6 SCC 69

[\[3\]](#) (2005) 6 SCC 537

[\[4\]](#) (1978) 2 SCC 367

[\[5\]](#) (1971) 2 SCC 236 (FB)

[\[6\]](#) (2015) 13 SCC 748

[\[7\]](#) (1975) 1 SCC 509

[\[8\]](#) (2006) 6 SCC 763

[\[9\]](#) (1985) 1 SCC 345

[\[10\]](#) (2002) 8 SCC 481