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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION (ST) NO. 20071 OF 2017

1. Ms. Akshada Nitin Khatavkar

Age 24 yrs., R/at. 514, B-1, Mangalwar
Peth, Satara.

2. Ms. Pranali Shivaji Dhamal

Age 24 Yrs., R/at. Old State Bank Colony,
Laxmi Nagar, Phaltan.

3. Ms. Aishwarya Tukaram Shendage

Age 23 Yrs., R/at. Golibar Maidan, Anu
Niwas, In front of Bhosale Heritage,
Phaltan.

4. Mr. Akshay Balgolda Patil

Age 24 Yrs., R/at. Vasanti Niwas, Plot No.
3909 / 14, Shanti Nagar Colony,
Jaysingpur

5. Mr. Pratik Suresh Chougale

Age 24 Yrs., R/at. Behind DSP Office,
Powar Mala, Kasaba Bawada, Kolhapur

6. Mr. Ashya Anil Jadhav

Age 24 Yrs., R/at. Flat No. F-6, "A" Wing,
Gajwadan Garden Apartment Parasnins
Colony, Sadar Bazar, Satara.

...Petitioners

Versus

1. State of Maharashtra

Through its Department of Higher
Technical Education, Mantralaya, Mumbai.

2. Directorate of Technical Education

3, Mahapalika Marg, Opp. Metro Cinema,
Dhobi Talao, Chhatrapati Shivaji Terminus
Area, Mumbai, Maharashtra 400 001.

3. College of Engineering Pune
Shivaji Nagar, Pune 411 005.

...Respondents

Mr. V.M. Thorat, Adv with P.V. Thorat, Adv. for the Petitioners.
Mr. L.M. Acharya, Special Counsel with Mr. C.P. Yadav, AGP
for Respondents Nos.1 & 2.

CORAM: B.R. GAVAI AND
RIYAZ I. CHAGLA, JJ.
DATED: 18th July 2017

J U D G M E N T :- (Per Riyaz I. Chagla J.)

1. Rule. Rule made returnable forthwith. Heard by consent.

2. The Petitioners have filed the present Petition seeking directions from this Court, directing the Respondent No.2 to declare the Petitioners as eligible for appointment to M. Tech Course in Town and Country Planning and for issuing appropriate writs and / or orders.

3. The Petitioner No.1 has passed B. Arch Course degree in April 2015 and Petitioners Nos. 2 to 5 have passed B. Arch

Course degree in April 2016 and are desirous of pursuing Post Graduate Course in M. Tech in Town and Country Planning. The Respondent No.3 College is a renowned institute established since 1966 and is on complete Government aid since then and in the year 2003 it has been declared as Government Aided autonomous institution. Respondent No.3 College is recognised by the All India Council for Technical Education (“**AICTE**”). The AICTE recognises B. Arch course as a valid and eligible qualifying degree for the purpose of admission to Post Graduation Degree of M. Tech in Town and Country Planning. Respondent No.3 college is bound by the minimum standards of education described by AICTE. Respondent No.3 college also recognised the B. Arch degree and was considering the same as eligible and / or equivalent and / or qualifying degree for the M. Tech in Town and Country Planning. It was for the first time in the academic year 2016-2017 that Respondent No.2 have made candidates having the B. Arch degree ineligible for the purpose of admission in the M. Tech Course in Town and Country Planning. A few aggrieved students approached this Court challenging the action of Respondents

Nos. 1 and 2 by filing Writ Petition No. 4647 of 2016 before Nagpur Bench of this Court. The Court by order dated 31st August 2016 declared the Petitioner who had passed the B. Arch degree eligible to take admission to the post graduate degree in M. Tech in Town and Country Planning course at Respondent No.3 College. The State of Maharashtra filed a Review challenging said order dated 31st August 2016 before the same Bench, comprising one of us as member. By order dated 21st September 2016, this Court did not disturb the said order which granted eligibility to the Petitioner for taking admission to the M. Tech in Town and Country Planning Course. This Court whilst rejecting the Review Petition held that the B. Arch qualification is sufficient qualification for admission to the M. Tech in Town and Country Planning course. The Petitioners are similarly aggrieved by the decision of Respondent No.3 of not having considered them eligible for admission to the M. Tech course in Town and Country Planning course, despite their possessing B. Arch degree and despite the said order passed by the Nagpur Bench of this Court. Respondent No.3 has in taking this decision framed its own eligibility criteria for admission to

the said M. Tech course and as per criteria a candidate with B. Arch degree is ineligible to pursue the said M. Tech Course. The Petitioners whilst filing up their online form for B. Tech course, noticed that the online form had been rejected and upon inquiry, the Petitioners were told that B. Arch degree is not a qualification and / or eligibility criteria for admission to the said M. Tech Course. The Petitioners have therefore, filed the present Petition.

4. Shri Thorat, learned counsel for the Petitioners has contended that this Petition is squarely covered by the order dated 31st August 2016 passed by the Nagpur Bench of this Court. Shri Thorat has submitted that by the said order, similarly placed college students having cleared their B. Arch degree were declared eligible to the M. Tech degree in Town and Country Planning course. This order was not vacated by the subsequent order dated 21st September 2016 passed by the same Bench of this Court in Review Petition and by the said order it has been held that the B. Arch degree is a sufficient qualification for admission to the M. Tech Course. Shri Thorat has further relied upon the eligibility criteria laid

down by the AICTE which also provides that the B. Arch degree is equivalent to B. Tech (Civil) degree and hence eligible for admission to M. Tech Course in Town and Country Planning. Shri Thorat relies upon letter dated 21st November 2016 addressed by AICTE to the Respondents Nos. 1 and 2, which has clarified this position and has referred to the proceedings which were instituted by the college students before the Nagpur Bench of this Court which had passed the above orders.

5. Shri Thorat has contended that Respondent No.3 college is bound by the standards laid down by the AICTE for technical courses. Shri Thorat has accordingly contended that the present Petition ought to be allowed and the Petitioners be declared eligible for admission to the M. Tech in Town and Country Planning course.

6. Mr. Acharya, learned Special counsel appearing for the Respondents Nos. 1 and 2 has accepted that this Petition would be covered by the order passed by this Court Nagpur Bench (Supra). Shri Acharya has, however, contended that

admission to the B. Tech course would be granted provided the Petitioners meet with the eligibility on merit.

7. We are of the considered view that the order dated 31st August 2016 as well as the subsequent order dated 21st September 2016 passed by this Court at Nagpur Bench squarely cover the present Petition. By the said orders, the Nagpur Bench had decided this issue viz. the Petitioners having passed the B. Arch degree would be eligible for getting admission to the M. Tech in Town and Country Planning course. We are of the view that the AICTE has also taken a view that B. Arch degree is equivalent to the B. Tech (Civil) degree and hence eligible for admission to the M. Tech in Town and Planning Course. The Respondent No.3 college would accordingly be bound by the view taken by the AICTE. This has been well settled in the judgment of Apex Court in the case of ***State of T.N. & Anr., Vs. Adhiyaman Educational & Research Institute & Ors.***¹ which has held that AICTE will have primacy in such matters, being an expert body.

1 (1995) 4 SCC 104.

8. We accordingly pass the following order:-

- (a) It is held and declared that the Petitioners who possesses a B. Arch Degree are eligible for admission for M. Tech Course in Town and Country Planning.
- (b) The Respondent No.3 is directed to forthwith admit the Petitioners to the M. Tech course in Town and Country Planning, if the Petitioners are otherwise eligible in accordance with their merit.
- (c) Hence the Writ Petition is allowed.

(RIYAZ I. CHAGLA J.)

(B.R. GAVAI J.)