

HONOURABLE SRI JUSTICE M.S.RAMACHANDRA RAO

W.P.No.7744 of 2017

ORDER:

In this Writ Petition, petitioners challenge the action of the Telangana Admission and Fee Regulatory Committee (2nd respondent) in recommending Rs.97,000/- per annum as tuition fee for the Sreenidhi College of Engineering (2nd petitioner), which is run by the 1st petitioner-society, for the block period 2016-17 to 2018-19 for the B.E./B.Tech., courses in its meeting held on 06-01-2017 and the consequential G.O.Ms.No.3 Higher Education (TE/A2) Department dt.04-02-2017, instead of Rs.1,54,000/- sought by the petitioners.

2. The 1st petitioner is a Society registered under the A.P. (Telangana Area) Public Societies Registration Act, 1350 F, the 2nd petitioner is an educational institution imparting education in B.E./B.Tech., courses run by the 1st petitioner, and the 3rd petitioner is a Member of the 1st petitioner society.

3. The 1st respondent is the State of Telangana represented by its Principal Secretary, the 2nd respondent is the Telangana Admissions and Fee Regulatory Committee(for short, 'the TAFRC'), the 3rd respondent is the Telangana State Council of Higher Education and the 4th respondent is the Convenor, Telangana Engineering, Agriculture and Medical Common Entrance Test, Jawaharlal Nehru Technological University, Hyderabad.

4. The subject matter of this Writ Petition is the recommendation by the TAFRC of Rs.97,000/- as tuition fee for the B.E./B.Tech., courses in the 2nd petitioner institution for the block period 2016-17 to 2018-19 and the consequential G.O.Ms.No.3 dt.04-02-2017 issued by the 1st respondent under Section 9 of the Telangana State Unaided Non-minority/Minority Professional Institution (Regulation of Admissions into Undergraduate and Doctor of Pharmacy Professional Courses through Common Entrance Test) Rules, 2011 as adopted by the State of Telangana notifying the said tuition fee.

THE EARLIER WRIT PETITION AND REMAND TO THE TAFRC

5. The TAFRC made the said recommendation pursuant to an order dt.14-11-2016 in W.P.No.22186 of 2016 whereunder this Court had set aside an earlier recommendation of Rs.91,000/- towards tuition fee for the block period 2016-17 to 2018-19 made by it, and which was notified vide G.O.Ms.No.21 Higher Education Department dt.04-07-2016 of the 1st respondent, instead of Rs.1,54,000/- sought by the petitioners and remitted the matter back to the TAFRC for reconsideration.

6. In the said order, this Court considered the correctness of the reasons furnished by the TAFRC for the above fixation of Rs.91,000/- contained in its order dt.22-10-2016 (which was furnished after the said W.P. was filed).

7. This Court had considered and followed the judgments of the Supreme Court and this Court in **Cochin University of Science and Technology and another Vs. Thomas P.John¹, Consortium of Engineering Colleges Managements Association (CECMA) and others Vs. Government of Andhra Pradesh², Fee Regulatory Committee Vs. Kalol Institute of Management and others³, P.A.Inamdar Vs. State of Maharashtra⁴ and Islamic Academy of Education Vs. State of Karnataka⁵.**

8. This Court held that the AFRC can analyse the fee proposals submitted by 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 and that if such element does not exist, the AFRC should accept the fee proposal submitted by the institution; if the Chartered Accountant firm or the AFRC entertained any lingering doubt or had noticed deficiencies in the data and documents furnished, it shall call upon the educational institution through a written communication to furnish specified material, or to explain any specific discrepancy noticed or any inadequate data or material required; and that an educational institution must be left to its own devices in the matter of fixation of fee though profiteering or

¹ (2008) 8 S.C.C. 82

² 2012 (3) ALT 686 (DB)

³ (2011)10 S.C.C. 592

⁴ (2005) 6 S.C.C. 537

⁵ (2003) 6 S.C.C. 697

imposition or capitation fee is to be ruled out and that some amount towards surplus funds available to an institution must be visualized and permitted. It also held that an educational institution cannot be called upon to explain the receipts and the expenses as before a Chartered Accountant or Income Tax Officer.

9. *Inter alia* this Court noted that the decision of the AFRC is a quasi judicial decision as held in **P.A.Inamdar** (4 supra) and that if the AFRC is found to have exceeded its powers by unduly interfering in the administrative and financial matters of unaided private professional institutions, its decision would be subject to judicial review.

DIRECTIONS ISSUED IN THE EARLIER W.P.NO.22186 OF 2016

10. In para-93 of its order dt.14.11.2016 in W.P.22186 of 2016, this court gave the following directions:

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

recommendation and also communicate the same to the 2nd petitioner;

- c) Within two weeks of receipt of the recommendation from the TAFRC, the 1st respondent shall notify the same in accordance sub-Rule (v) of Rule 4 of the A.P. Admission and Fee Regulatory Committee (for Professional Courses offered in Private Un-Aided Professional Institutions) Rules, 2006 adopted by the 1st respondent vide G.O.Ms.No.26 Higher Education (TE/A2) Department dt.22-07-2015;*
- d) The petitioners shall inform the students admitted to the 2nd petitioner college in the academic year 2016-17 for the B.E/B.Tech courses that they shall obtain a Demand Draft/Bankers cheque for a sum of Rs.63,000/- (representing the difference between Rs.1,54,000/- claimed by the petitioners and Rs.91,000/- for the B.E./B.Tech course recommended by the TAFRC which was notified by the 1st respondent vide G.O.Ms.No.21 dt.04-07-2016) in the name of “the Registrar (Judicial), High Court of Judicature at Hyderabad for the State of Telangana and the State of Andhra Pradesh” and handover the same under proper acknowledgment to the Principal of the 2nd petitioner college within two (02) weeks from the date of receipt of a copy of this order;*
- e) within one week of the receipt by him of Demand Drafts/Bankers cheques, the Principal of the 2nd petitioner college shall hand them over to the Registrar (Judicial), High Court of Judicature at Hyderabad for the State of Telangana and the State of Andhra Pradesh along with a list of students, their addresses and in which course of which year they are studying;*
- f) the Registrar (Judicial), High Court of Judicature at Hyderabad for the State of Telangana and the State of Andhra Pradesh shall open a Savings Bank account in the State Bank of Hyderabad, High Court Branch, Hyderabad and deposit the Demand Drafts/Bankers cheques handed over to him by the Principal of the 2nd petitioner college or his representative to the credit of the said account and intimate the same to the 2nd petitioner college;*

- g) *after making such deposit, he shall invest the same in an interest bearing Fixed Deposit/ Term deposit for at least one year;*
- h) *and after the TAFRC had re-determined the fee structure for the B.E/B.Tech courses for the Block period 2016-17 to 2018-19 in respect of the 2nd petitioner college and it is notified by the 1st respondent , the amount representing the fee refixed in excess the sum of Rs.91,000/- already paid by the students, shall be transferred by the Registrar (Judicial), High Court of Judicature at Hyderabad for the State of Telangana and the State of Andhra Pradesh to the 2nd petitioner college along with the interest accrued thereon ;*
- i) *the balance, if any, left after such transfer together with interest shall be handed over to the Principal of the 2nd petitioner college or his representative, who shall refund the same proportionately to each of the students who had made the payment of the sum of Rs.63,000/- referred to above with accrued interest within four (04) weeks of receipt by the 2nd petitioner college of the amount from the Registrar (Judicial), High Court of Judicature at Hyderabad for the State of Telangana and the State of Andhra Pradesh.*

11. This order in the W.P.No.22186 of 2016 was questioned by the TAFRC in W.A.No.224 of 2017 and in W.A.M.P.No.478 of 2017, suspension of the order dt.14-11-2016 was sought by it. The Division Bench admitted the Writ Appeal but dismissed W.A.M.P.No.478 of 2017. It held that compliance with the order in the Writ Petition by the TAFRC would be subject to the result of the Writ Appeal.

THE DECISION OF THE TAFRC IN IT'S MEETING HELD ON 6.1.2017

12. In the meantime, the TAFRC in its meeting held on 06-01-2017 determined that the tuition fee for the B.E./B.Tech.,

courses in the 2nd petitioner institution as Rs.97,000/- per student per annum and G.O.Ms.No.3 dt.04-02-2017 was issued by the 1st respondent notifying the same.

13. A letter Lr.TAFRC/Vasavi/Fee Fixation/2017 dt.17-01-2017 (for short 'letter dt.17-01-2017') was addressed by the Consultant of the TAFRC Prof. V.Rama Rao to the 2nd petitioner institution enclosing a proceeding containing some reasons for its above recommendation.

THE PRESENT WRIT PETITION ASSAILS THE DECISION OF THE TAFRC DT.6.1.2017

14. Assailing the recommendation of Rs.97,000/- made by the TAFRC and the consequent G.O.Ms.No.3 dt.04-02-2017 issued by 1st respondent, the present Writ Petition is filed.

15. I have heard Sri M. Ravindranath Reddy, learned counsel for the petitioners and the learned Additional Advocate General, State of Telangana on behalf of respondent Nos.1 and 2 as well as Sri A.Sanjeev Kumar, Special Government Pleader and Sri A. Abhishek Reddy, learned counsel for respondent Nos.2 to 4.

CONTENTIONS OF THE WRIT PETITIONERS

16. The learned counsel for the petitioners contended that the determination by the TAFRC of the above amount is contrary to the directions in the earlier judgment, that it is contrary to law, arbitrary and violative of Article 14. He contended that :

(a) that the decision, which was quasi-judicial, was taken by only some of the members of the TAFRC and not the entire ten member TAFRC and this vitiates its order;

(b) that the calculation sheet on the basis of which the TAFRC determined the average expenditure of Rs.70,993/- for each student was not furnished by it along with the proceeding enclosed to the letter dt.17-01-2017 and this amounts to disobedience of the order dt.14-11-2016 in W.P.No.22186 of 2016 which mandated giving of reasons;

(c) the consultant of the TAFRC/ TAFRC advised the students indirectly not to comply with the direction of this Court in clause (d) of para-93 of the order dt.14-11-2016 in W.P.No.22186 of 2016 and this indicates that the TAFRC acted with prejudiced mind and like an adversary towards the petitioners;

(d) disallowance towards salaries paid to 58 eligible teaching staff on the ground that they are in excess of the norms; and

(e) adoption of a wrong methodology, different from the earlier methodology, by the TAFRC for determining the expenditure incurred by the 2nd petitioner without putting the petitioners on notice, solely with a view to fix a very low tuition fee..

THE REPLY OF RESPONDENTS

17. Several contentions as well as the defence of the TAFRC to them are contained in the counter affidavit filed by the consultant of

the TAFRC on behalf of all respondents. The said contentions and those of the Additional Advocate General, State of Telangana will be referred to in detail and discussed below, while dealing with each of the contentions of the petitioners.

(A) CONTENTION THAT THE DECISION WAS TAKEN ONLY BY SOME OF THE MEMBERS OF THE TAFRC AND NOT THE ENTIRE MEMBERS OF TAFRC.

18. As per G.O.Rt.No.307 Higher Education (TE/A2) Department dt.28-11-2015, the State Government appointed 11 persons including the Chairman and Member Secretary of the TAFRC. If the Academic Expert on Medical Education is excluded, there ought to be 10 members of the TAFRC dealing with fee fixation for the B.E./B.Tech., courses.

19. In the counter affidavit filed by the Consultant of the TAFRC, in para 21 it is stated that *'as no quorum was prescribed, most hearings were made by the Chairman and mostly in the presence of the Accounts member; sometimes in presence of other members present, but final decision with regard to the fee fixation has taken place on 6.1.2017 by the relevant Committee constituted to deal with the fee fixation of engineering Courses.'*

20. However it is admitted by the Additional Advocate General appearing for the respondents that only 6 members, i.e., (i) the Chairman Justice P.Swaroop Reddy (retd.), (ii) Professor N.Yadaiah, Registrar, JNTU, Hyderabad (Academic Expert on

Technical Education),(iii) Sri G.V.Laxman Rao, Chartered Accountant, Hyderabad (Finance Expert), (iv) Vice Chancellor, JNTU, Hyderabad, (v) D.Ravi Kumar (a representative from Government's Finance Department) and (vi) Professor T.Papi Reddy, the Chairman, Telangana State Council of Higher Education participated in various hearings and in the final meeting on 06-01-2017 in which the TAFRC recommended Rs.97,000/- per annum as the tuition fee for the 2nd petitioner-institution.

21. Therefore it is an admitted fact that 4 members, namely, (i) Sri K.Ravinder Reddy, Legal Expert, (ii) Professor Vishnukanth S. Chatpalli, Department of Management and Business Administration (representative of AICTE), (iii) Dr.N.Srinivasa Rao, Secretary, Telangana State Council for Higher Education (Special Invitee) and (iv) Smt. Ranjeev Acharya, Member Secretary of the TAFRC (Principal Secretary, Higher Education), who were members of the TAFRC, did not participate in the various meetings and the meeting held on 06-01-2017 in which the decision was taken to fix the tuition fee for the BE/B.tech courses in 2nd petitioner @ Rs.97,000/- per student for the Block period 2016-19.

22. In the order dt.14-11-2016 in W.P.No.22186 of 2016, this Court had directed the TAFRC to pass fresh orders *de novo* in the light of directions contained therein.

23. Therefore the fresh orders/recommendations of the TAFRC should be of the full body of the TAFRC and not of only some of its members. It was not open to six members of the TAFRC to make any recommendation to the State Government of the tuition fee without the other four members participating in the meeting held on 06-01-2017.

24. The decision of the TAFRC has been held to be a quasi judicial decision in the judgment of the Supreme Court in **P.A.Inamdar** (4 supra). So the TAFRC is a quasi judicial body. The decision must be a collective decision of all members who also heard submissions of the Counsel for petitioners. Unless all the ten members of the TAFRC apply their mind to the claims of the petitioner, its recommendation in the meeting of 06-01-2017 cannot be treated as the recommendation of the TAFRC on the basis of which the State Government could issue G.O.Ms.No.3 Higher Education (TE/A2) Department dt.04-02-2017. If only some of them participated in the various hearings conducted by the Chairman and others join in some meetings, it infringes the rule of 'collective decision of all as a single body' and does not amount in law to a decision of the Committee.

25. A question similar to the one arising here, came to be considered in **U.C.Bank v. Their Workemen**⁶ by the Supreme Court. There, under Sec.7 of the Industrial Disputes Act, 1947, the Central Government constituted an Industrial Tribunal for adjudication of

⁶ AIR 1951 SC 230

industrial disputes in Banking Companies consisting of a Chairman and 2 members. Later one member's services ceased to be available and so in his place, it appointed another person 'NC'. Sittings of the Tribunal were held at different places in the country thereafter. In some sittings one or the other member was not present. Later the services of NC became unavailable as they were placed at the disposal of the Ministry of External Affairs. After this, the Chairman and the other member sat and gave certain awards. After some time, NC again rejoined as Member and sat on the hearings of the Tribunal and awards were passed.

It was contended that when NC's services ceased to be available, the remaining two members had to be re-appointed to constitute a Tribunal and when he again began to sit with the other 2 members, it was imperative for the Government to issue a fresh notification constituting the Tribunal. These pleas were upheld.

The Court held that the Tribunal as a body should sit together and the award has to be the result of the joint deliberations of all the members of the tribunal acting in a joint capacity; that the Government must notify its decision whether it intended to fill up the vacancy or not and thereupon notify what members were going to constitute the Tribunal; that a Tribunal of three is different from one consisting of two members; and that it is not within the competence of the Government to direct that a few members only of such tribunal can proceed with the adjudication for however short or long time it be. It held:

“8. It was argued that although no provision is made in Section 8(1) about what is to happen if the Government did not fill up the vacancy, it is implied that in that event the remaining members can continue the work. We are unable to accept that argument.

In the first place, as pointed out above, the object of Section 8 is to provide in what cases vacancies must be filled up and how the proceedings should continue on the vacancy being filled up. It does not deal at all with the situation arising from the not filling up of the vacancy by the Government. In this connection the provisions of Sections 5(4) and 6(3) have been already noted.

When the legislature wanted to provide that in spite of the temporary absence or permanent vacancy the remaining members should be authorised to proceed with the work they have made express provision to that effect.

If in the case of a Board or Court of Inquiry, neither of which is adjudicating any disputes, such a provision was considered necessary to enable the remaining members to act as a body, we think that the absence of such provision in respect of the Tribunal, which adjudicates on the disputes and whose quasi-judicial work is admittedly of a joint character and responsibility leads to the irresistible conclusion that in the absence of one or more members the rest are not competent to act as a Tribunal at all.”(emphasis supplied)

It held that when the services of NC ceased to be available and the Government decided that another independent person was not to be appointed to fill the vacancy, there arose the situation when only two members constituted the Tribunal, and for the constitution of such Tribunal no notification under Section 7 of the Act was issued; to enable such a Tribunal of two persons to function, under the provisions of the Act, a notification under Section 7 of the Act, was

absolutely essential; and the work of the two members, in the absence of such a notification, cannot be treated as the work of a Tribunal established under the Act; and all their actions were without jurisdiction and all awards made by 2 members after the services of NC ceased to be available, were null and void.

It further held that the act of NC in again resuming work is not an 'appointment' by the Government in the vacancy created after his services ceased to be available, and he could not resume duties without a fresh constitution of a tribunal of three members.

It also held that consent cannot confer jurisdiction if a condition which goes to the root of jurisdiction is not fulfilled or performed.

Though the instant case is not one where any vacancy arose, still here too only some members participated in the hearings conducted by the TAFRC and in its meeting held on 6.1.2017 while others did not admittedly participate. So the ratio of this decision squarely applies in the instant case and it has to be held that unless all 10 members of the TAFRC hear and decide the claims of petitioners, its decision is one without jurisdiction, null and void.

26. The stand in the counter that no quorum is prescribed and so it is not necessary for the entire 10 member Committee to hear and decide, cannot be accepted. In fact the very absence of a prescription of quorum in the Rules makes it clear that entire 10 member Committee should decide, and not just a few of them.

27. The Additional Advocate General, State of Telangana, sought to contend that as per clause (iv) of rule 3 of the Andhra Pradesh Admission and Fee Regulatory Committee (for professional courses offered in private unaided professional institutions) Rules, 2006 issued vide G.O.Ms.No.6 Higher Education (EC.2) Department dt.08-01-2017, adopted by the State of Telangana *“no act or proceeding of the AFRC shall be deemed to be invalid by reason merely of any vacancy in or any defect in the constitution of the committee.”*; and that the said provision will apply and save the recommendation of the TAFRC made in its meeting of 06-01-2017.

28. I am unable to agree with the said submission. This is because absence of members at a meeting of the TAFRC is a totally different situation from one where there is a ‘vacancy’. When the State had not appointed any person to a category of member (be it the Finance expert/academic expert on technical education/legal expert etc.) of the TAFRC as mentioned in the G.O, then there would be a ‘vacancy’. When members are appointed to each category of the 10 categories, but some of them do not attend a meeting of the TAFRC, it cannot be said that there is a ‘vacancy’. It cannot also be said that there is any defect in the original constitution of the committee if some of the members of the TAFRC choose not to attend its later meetings, though appointed. Therefore argument of the respondents placing reliance on the above rule cannot be accepted.

29. I therefore hold that the non-participation of four members of the TAFRC in the final meeting held on 06-01-2017 and admitted non-participation of several members in the other meetings where the petitioners presented their case, is a fatal infirmity rendering its recommendation for tuition fee fixation, as one without jurisdiction and null and void.

(B) CONTENTION THAT CALCULATION SHEET FOR DETERMINING THE AVERAGE EXPENDITURE PER STUDENT @ Rs.70,993/- BY THE TAFRC WAS NOT FURNISHED ALONG WITH THE PROCEEDING OF THE CONSULTANT OF THE TAFRC DT.17-01-2017.

30. It is not disputed that arriving at the average expenditure per student is the starting point of the exercise for deciding the tuition fee payable.

31. In the proceeding annexed to the letter dt.17-01-2017 by the consultant of the TAFRC conveying certain reasons for its recommendation that the tuition fee payable is fixed @ Rs.97,000/- per student, in para-10, it is mentioned that TAFRC determined the average expenditure per student for the block period as Rs.70,993/-. On the basis of this figure, it arrived at the tuition fee of Rs.97,000/-. It has not explained in its proceeding how it arrived at the figure of Rs.70,993/-.

32. In the order dt.14-11-2016 in W.P.No.22186 of 2016, this Court had specifically directed the TAFRC to pass a **reasoned order**. Thus it was obligatory on the part of the TAFRC to furnish the very basis, i.e., calculation sheet for arriving at the figure of Rs.70,993/-.

No reason is assigned by the respondents as to why this calculation sheet was not supplied to the petitioners along with the proceeding annexed to the letter dt.17-01-2017 of the consultant of the TAFRC.

33. As stated above, the recommendation of the TAFRC about the tuition fee has been held in **P.A.Inamdar** (1 supra) a quasi judicial decision. It is settled law that every quasi judicial decision should be supported by reasons.

34. In **S.N. Mukherjee v. Union of India**⁷, the Supreme Court emphasized the importance of giving reasons by quasi judicial authorities. It explained:

“36. Reasons, when recorded by an administrative authority in an order passed by it while exercising quasi-judicial functions, would no doubt facilitate the exercise of its jurisdiction by the appellate or supervisory authority. But the other considerations, referred to above, which have also weighed with this Court in holding that an administrative authority must record reasons for its decision, are of no less significance. These considerations show that the recording of reasons by an administrative authority serves a salutary purpose, namely, it excludes chances of arbitrariness and ensures a degree of fairness in the process of decision-making. The said purpose would apply equally to all decisions and its application cannot be confined to decisions which are subject to appeal, revision or judicial review. In our opinion, therefore, the requirement that reasons be recorded should govern the decisions of an administrative authority exercising quasi-judicial functions irrespective of the fact whether the decision is subject to appeal, revision or judicial review. It may, however, be added that it is not required that the reasons should be as elaborate as in the

⁷ (1990) 4 S.C.C. 594

decision of a court of law. The extent and nature of the reasons would depend on particular facts and circumstances. What is necessary is that the reasons are clear and explicit so as to indicate that the authority has given due consideration to the points in controversy. The need for recording of reasons is greater in a case where the order is passed at the original stage. The appellate or revisional authority, if it affirms such an order, need not give separate reasons if the appellate or revisional authority agrees with the reasons contained in the order under challenge.”

35. It is important to note that even on the earlier occasion when this Court considered in W.P.No.22186 of 2016, the TAFRC's recommendation fixing tuition fee of Rs.91,000/-, the reasons for the fee fixation were furnished on 22-10-2016 by it *after the said Writ Petition was filed* and the Court considered the correctness of the said reasons while deciding the said W.P.

36. In para-11 of the proceeding annexed to the letter dt.17-01-2017 of the Consultant of the TAFRC addressed to the petitioner, it is stated *“the learned counsel during the course of argument raised certain technical aspects like sheet of calculation submitted by the Chartered Accountant being furnished to the institution. As all the claims raised in the order are being allowed, there is no necessity for following this procedure.”*

37. From this above passage, it appears that the TAFRC does not believe in transparency and objectivity though it is a quasi judicial body and though it has been directed by the order dt.14-11-2016 in W.P.No.22186 of 2016 to give reasons. The

requirement of furnishing calculation memo, which contains the actual basis for it's determination of average expenditure and tuition fee, cannot be termed as a mere 'technical aspect'.

38. After this present Writ Petition was listed before me on 20-03-2017, I gave a chance to the office of the Additional Advocate General to furnish the calculation sheet on the basis of which the TAFRC had arrived at the figure of Rs.70,993/- as the average expenditure per student for the 2nd petitioner institution and posted the matter to 24-03-2017. Only on that day, the calculation sheet was furnished to the Court as well as to the counsel for the petitioners.

39. Non-furnishing of the calculation sheet along with the proceeding annexed to the letter dt.17-01-2017 of the consultant of the TAFRC is a violation of this court's earlier order and vitiates the recommendation of the TAFRC.

(C) CONTENTION THAT THE CONSULTANT OF THE TAFRC/TAFRC ADVISED STUDENTS INDIRECTLY NOT TO COMPLY WITH THE DIRECTION CONTAINED IN CLAUSE (d) IN PARA 91 OF THE ORDER DT.14-11-2016 IN W.P.No22037 of 2016

40. Clause (d) of Para-93 of the order dt.14-11-2016 in W.P.No.22186 of 2016 states as under:

"The petitioners shall inform the students admitted to the 2nd petitioner college in the academic year 2016-17 for the B.E/B.Tech courses that they shall obtain a Demand Draft/Bankers cheque for a sum of Rs.63,000/- (representing the difference between Rs.1,54,000/- claimed by the petitioners and Rs.91,000/- for the B.E./B.Tech course recommended by

the TAFRC which was notified by the 1st respondent vide G.O.Ms.No.21 dt.04-07-2016) in the name of “the Registrar (Judicial), High Court of Judicature at Hyderabad for the State of Telangana and the State of Andhra Pradesh” and handover the same under proper acknowledgment to the Principal of the 2nd petitioner college within two (02) weeks from the date of receipt of a copy of this order;”

41. A counter affidavit has been filed by the Consultant of the TAFRC in C.C.No.437 of 2017 (filed by the petitioners alleging disobedience of the order dt.14-11-2016 in W.P.No.22186 of 2016) that the parent of a student, one S.S.Murthy, addressed an *e mail* dt.28-11-2016 to the TAFRC stating:

“My daughter studying engineering in one of the colleges in Hyderabad; while admitting we paid the fees. Now the college is insisting to pay the additional amount of fees on interim Court order.. Please suggest that shall we pay fee or authority is going further. The college is insisting to pay the fees.”

42. The Consultant of the TAFRC admitted that he replied to the said mail stating: *“Dear Sir, TAFRC is going in appeal against the judgment, please wait.”*

43. It is also admitted by the Consultant to the TAFRC in his above counter that several other emails were received by the TAFRC on the same lines as the one from S.S.Murthy and that the committee replied to them as under: *“Committee is going to file appeal. You need not worry.”*

44. In view of these communications by the consultant of the TAFRC/TAFRC, very few students complied with the above Court order. This is not denied by the respondents.

45. Admittedly the W.A.No.224 of 2017 filed by the TAFRC came to be listed on 06-03-2017 (2 months after these communications were addressed by the consultant/TAFRC) before the Division Bench, when the suspension petition W.A.M.P.No.478 of 2017 in W.A.No.224 of 2017 was dismissed. The Division Bench even noted in it's order in the WAMP, that in the Writ Petition No.22186 of 2016, the Court had adequately safeguarded the interest of the appellant in directing that the amount be deposited in the High Court till a fresh exercise is undertaken. But by that date, the disobedience by most students of the direction in clause (d) of para-93 was ensured by the TAFRC and it's Consultant, by their emails and gratuitous legal advise. It is clear that, but for the communication from the consultant and the TAFRC referred to above, this Court's order would have been complied with by the students.

46. No student had filed any Writ Appeal or questioned by way of review any direction in the order in W.P.No.22186 of 2016. In what capacity, the TAFRC or its Consultant gave advice to students about not complying with the Court order is not known.

47. While the Consultant in his counter filed in the CC stated that his email contained only his personal opinion, it is not in dispute

that vide proceedings. TAFRC/AO/2017 dt.02-01-2017, the Chairman of the TAFRC had appointed the Consultant of the TAFRC as full additional charge of the post of Administrative Officer, TAFRC and directed him to supervise the office administration/*correspondence*, routing files and also authorized him to sign all the correspondence with all the departments/colleges and affidavits to be filed before Courts and Tribunals on behalf of the TAFRC.

48. In fact, the counter affidavit in the Writ Petition has been filed by the Consultant on behalf of the TAFRC and curiously also on behalf of the 1st respondent (which is State of Telangana represented by its Principal Secretary, Higher Education Department). The consultant of the TAFRC could not have filed a Counter affidavit on behalf of 1st respondent, the State.

49. Also it was the Consultant Prof. V.Rama Rao, and not the Member Secretary of the TAFRC, who was addressing petitioners as can be seen from letters dt.26-11-2016, 03-12-2016, 16-12-2016, 22-12-2016, 29-12-2016 and 02-01-2017. Thus even prior to the proceedings of the Chairman dt.02-01-2017, the Consultant assumed the role of the TAFRC. He is also the one who gave the proceeding enclosed to the letter dt.17-01-2017 to the petitioners.

50. All these statements of the Consultant suggest that he appears to be acting as the *de-facto* TAFRC including taking of decisions in advance of the meetings of the TAFRC.

51. The various G.Os. constituting the TAFRC contemplate only administrative assistance to be given to it by the State Council of Higher Education (clause 5 (iv) of G.O.Ms.No.6 dt.08-01-2007)). How Professor V.Rama Rao came to be employed as a consultant for the TAFRC and how the Chairman could appoint him as Full Additional Charge of the post of Administrative Officer, TAFRC on 02-01-2017 even though he is not an employee of the State Council of Higher Education, is not explained. It is not known whether the other members of the TAFRC were consulted by the Chairman and they also concurred with the consultant's appointment as Full Additional charge of post of Administrative Officer of the TAFRC.

52. How the Member Secretary of the TAFRC (who is also the Principal Secretary, Higher Education Department of State of Telangana) came to be excluded from any role in the decision of the TAFRC, is equally baffling. In fact one would expect the Member Secretary of the TAFRC to correspond with the petitioners and also file counter affidavit on its behalf, but it is the Consultant who filed the Counter affidavit for the TAFRC.

53. In my considered opinion, the Consultant had acted on behalf of the TAFRC and as per his counter in the C.C.No.437 of 2017, both he, as well as TAFRC, impliedly assured the students, probably even before the Writ Appeal was filed, that '*they need not worry*' since they were going to file an appeal against the order in W.P.No.22186 of 2016.

54. This conduct on behalf of both the Consultant and the TAFRC in advising students not to comply with the orders of this Court is not bonafide, and indicates that the TAFRC is acting as an adversary to the petitioners instead of acting as an impartial quasi judicial body.

(D) NON CONSIDERATION OF ISSUE OF DISALLOWANCE TOWARDS SALARIES OF RS.1,39,20,000/- RAISED BY THE PETITIONERS BEFORE THE TAFRC

55. Along with Memorandum dt.22-11-2016 given by the petitioners to the TAFRC, a claim regarding disallowance towards salaries paid to eligible teaching staff on the ground that they are excess of the norms, was raised in annexure-III thereof.

56. It was the contention of the petitioners that as per the fee fixation table filed with the counter affidavit filed by the TAFRC on 28-07-2016 in W.P.No.22186 of 2016, it had disallowed Rs.1,39,20,000/- towards salaries paid to 58 teaching staff on the ground that as per norms, teaching staff should be only 356 and that the 2nd petitioner had 414 teaching staff, making the 58 teaching staff excess of the requirement; that this was not dealt with by the TAFRC in the order dt.22-10-2016 communicated to the petitioners; this contention was not raised earlier in W.P.No.22186 of 2016; and that in view of para-93 (a) of the order in the said Writ Petition, the petitioner is entitled to raise *any other aspects* before the TAFRC after

the remand by this Court directing it to *re do* the exercise of determining the tuition fee payable.

57. Thus this claim regarding disallowance of salaries of the 58 teaching staff raised before the TAFRC was not subject matter of the order dt.22-10-2016 passed by the TAFRC which was set aside in W.P.No.22037 of 2016.

58. It is stated in the affidavit filed in support of the Writ Petition, that the TAFRC did not ask for any material or information with regard to this claim.

59. The TAFRC declined to entertain this claim in para-10 of the proceeding annexed to its letter dt.17-10-2007 on the ground that its determination of average expenditure per student @ Rs.70,993/- would “*definitely take care of any other expenditure of the institution. Granting any amount more than what is fixed above would amount to allowing the institution of profiteering and charging of capitation fee. Further, as almost all the amounts claimed are being allowed, there cannot be any complaint of disallowance.*” However, its counter affidavit is silent on this issue.

60. Now there is no dispute that this Court directed in its order dt.14-11-2016 in W.P.No.22186 of 2016, to *re-do* the exercise of determination of tuition fee. So the TAFRC is expected to do a *de novo* determination of tuition fee. This is clear from paras 85 and 86 of the said order where this Court set aside the recommendation

dt.02-07-2016 as well as G.O.Ms.No.21 dt.04-07-2016 of the 1st respondent and directed the TAFRC to *re do* the exercise keeping in view the said order.

61. Also in para-75 of the said order, the Court stated that it was only dealing with *some* of the items mentioned in a table in the order dt.22-10-2016 of the TAFRC which was subject matter of the said Writ Petition. This Court also criticized the rejection of certain claims mentioned in para-82 of the order on the ground that the TAFRC was acting like a Chartered Accountant by asking the petitioners to explain the receipts and expenses with mathematical precision, and that this was impermissible.

62. Also in clause (a) in para-93 of the order dt.14-11-2016 in W.P.No.22186 of 2016, this Court directed petitioners to furnish to the Committee supporting material in respect of items mentioned in paras 78 to 82 and *also in regard to any other aspect they feel is necessary to the TAFRC.*

63. Thus there is no doubt that the petitioners were entitled to not only urge claims already made earlier but also *any new claims which they wished to make*, since the entire exercise was being *re-done* by the TAFRC and they were permitted to raise other issues necessary.

64. However the Additional Advocate General, State of Telangana, contended that in clause (b) of para-93, this Court had

directed consideration of claims *discussed in the order*; therefore *only* those claims which were discussed in the order were considered again and fresh claims such as that mentioned in annexure-III to the Memorandum dt.22-11-2016 submitted by the petitioners i.e. disallowance of the expenditure of Rs.1,39,20,000/- towards salaries paid to 58 teaching staff and allowing of inflation and furtherance on the gross expenditure instead of net expenditure etc., were not considered.

65. I am unable to agree with the said submission. The order passed by this Court on 14-11-2016 in W.P.No.22186 of 2016 has to be read as a whole. It has to be read along with para 93(a) and the direction to *re-do* the enquiry.

66. Even clause (b) of para-93 has *not* stated that claims discussed in the order *only* were to be considered and nothing else. In the absence of any such restriction in clause (b) of para-93 and in the light of the later part of clause (a) of para-93 which permitted petitioners to furnish material even with regard to *any other aspect*, it was incumbent on the part of the TAFRC to also consider claims not covered by the order in WP.No.22186 of 2016. If the TAFRC entertained any doubt in this regard, it could have sought a clarification from this Court, but it did not do so before making recommendation for Rs.97,000/- as tuition fee in its meeting of 06-01-2017.

67. On this ground also, its recommendation cannot be sustained.

68. It cannot brush aside the claim for expenditure for salaries of these 58 teaching staff of Rs.1,39,20,000/- on the ground that such claim would be *taken care of* by its determination of the average expenditure per student as Rs.70,993/-; or that considering such claim would amount to allowing the petitioners to profiteer and charge capitation fee. Without determining the question whether claim for allowance of such expenditure is justified or not, such a conclusion of profiteering or charging of capitation fee, could not have been drawn. This indicates the closed mind of the TAFRC to the above claim made by the petitioners.

69. It may be that as per norms prescribed by AICTE, the 2nd petitioner institution could have employed 358 teaching staff. But the said norms are not shown to prohibit employment of more teaching staff. In any event, this is a matter between the AICTE and the 2nd petitioner institution. The Additional Advocate General was unable 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 engagement of a particular number of teaching staff by the 2nd petitioner institution. It cannot, in the absence of a mandate under the Rule or any judicial precedent, transgress its jurisdiction and go into matters beyond its jurisdiction.

70. Therefore I am of the opinion that the TAFRC had wrongly disallowed the claim for salaries of the 58 teaching staff to the tune of Rs.1,39,20,000/- without assigning any valid reason for the same.

(E) NEW METHODOLOGY ADOPTED BY THE TAFRC - AFTER REMAND- MOTIVE

71. It is not in dispute that while dealing with claims for expenditure of the petitioners in the earlier round (i.e., when the tuition fee was fixed at Rs.91,000/- and which was subject matter of in W.P.No.22186 of 2016), a calculation sheet was filed along with the counter on 28-07-2016 in W.P.No.22186 of 2016 (this is again filed at page-359 in this Writ Petition (part of annexure P-39)).

72. If this is looked into, the TAFRC deducted from the total expenditure of Rs.52,54,69,255/-, the disallowed expenditure of Rs.9,62,68,639/-, and on the balance expenditure of Rs.42,92,00,616/- per year, it gave furtherance of 15% and inflation of 10% (though only for one year instead of 10% for each year of the 3 year block period) and arrived at the figure of Rs.54,90,00,770/-. *Thereafter* income received in the form of tuition fee from old students was deducted from this figure for each of the 3 block years (Rs.54,90,00,770/- minus Rs.39,23,56,000/-; Rs.54,90,00,770/- minus Rs.27,63,60,000/- and Rs.54,90,00,770 minus Rs.14,10,00,000/-). The petitioners had no grievance about this methodology and accepted it.

73. However a departure has been made by it in its recommendation made on 6.1.2017. This is clear from the work sheet provided by it fixing the average expenditure per student as Rs.70,933/-.

74. In that worksheet, from the total expenditure claimed by petitioners of Rs.52,54,69,255/-, disallowed expenditure of Rs.4,25,85,342/- was deducted to arrive at net expenditure of Rs.48,28,83,913/- per year. Then, for each year of the 3 block years, the income in the nature of fee from old students was *first* deducted. (Rs. 48,28,83,913/- minus Rs.39,23,56,000/-; Rs. 48,28,83,913/- minus Rs.27,63,60,000/-; and Rs.48,28,83,913/- - minus Rs.14,10,00,000/-.) Only thereafter, furtherance and inflation were calculated (this part is indicated in paras 8 and 9 of the proceeding annexed to the letter dt.17.1.2017) .

75. Thus from the expenditure of Rs.1,44,86,51,739 (Rs.48,28,83,913/- x 3) for total 3 block years , the TAFRC deducted Rs.809,716,000/- (Rs.39,23,56,000/- + Rs.27,63,60,000/- + Rs.14,10,00,000/-) to arrive at a net expenditure of Rs.63,89,35,739/-. This is divided by 9000 students to arrive at the average expenditure per student as Rs.70,993/-. On the figure of Rs.70,993/-, inflation and furtherance are calculated to arrive at Rs.97,000/- as tuition fee per student.

76. According to the petitioners, by this method, the TAFRC ensured that inflation at 10% and furtherance at 15% get calculated only *on part* of the expenditure to be incurred by the 2nd petitioner-institution and not on the total expenditure. According to them, the TAFRAC managed to reduce 56% of the total expenditure of Rs.1,44,86,51,739 to Rs.63,89,35,739/- to ensure that the average expenditure per student is kept at a very low figure of Rs.70,933/-.

77. This contention of the petitioners is correct and is borne out by the work sheet furnished by the respondents. It is proved that the expenditure of Rs.144.86 crores was deliberately reduced to Rs.63.89 crores by setting it off against the income of Rs.80.97 crores so as to arrive at a very low figure of average expenditure per student and consequently, the tuition fee.

78. It is the contention of the petitioners that for all other engineering colleges also, the earlier method of calculation as mentioned in para-72 was followed.

79. Petitioners allege that the 2nd respondent from the very inception has been following one method of calculation, which they have been furnishing to all the institutions including the 2nd petitioner institution in various similar exercises done by the 2nd respondent with respect to various Block periods earlier; and that the 2nd respondent followed the same method of calculation in the earlier round which

was filed along with its counter dt.28-07-2016 in W.P.No.22186 of 2016.

80. In the counter affidavit, the plea of the respondent in para-26 is *“As the institution wanted a different way of calculation for giving yearly inflation, calculation was made differently and it is submitted that there was no direction from the Hon’ble Court to follow any particular method of calculation...”*.

81. This defence is untenable because no notice or opportunity was afforded to the petitioners as to the new method of calculation adopted by the TAFRC, giving a go-by to the method followed for all institutions earlier. Also no material is placed by the TAFRC that the methodology adopted on 6.1.2017 was applied to other engineering colleges also by it. The question of the petitioners insisting on different way of calculation does not arise since the petitioners’ request was only to comply with the order dt.14-11-2016 in W.P.No.22186 of 2016 in letter and spirit. Thus no valid reason has been furnished by the TAFRC justifying its change of calculation methodology after remand by this Court *only* for the petitioners.

82. It is contended that by the Additional Advocate General that the method of calculation was not subject matter of W.P.No.22186 of 2016. This is correct. No contention had been raised by petitioners in W.P.No.22186 of 2016 in this regard

obviously because they were satisfied with the methodology adopted in para 72.

83. If the TAFRC intended to change the methodology, it was incumbent on it to put the petitioners on notice of its intentions and explain reasons why it wanted to change the methodology.

84. What then can be the reasonable inference? It appears that the change in methodology was adopted by the TAFRC only to reduce tuition fee payable to the bare minimum because old methodology would otherwise benefit the petitioners.

85. Having regard to my findings on points No.(A) to (E) above, I am of the opinion that the TAFRC has not acted as a quasi judicial body, but has acted as an adversary, arbitrarily, without *bona fides* and with a prejudiced mind towards the petitioners and has also violated the orders passed by this Court in W.P.No22186 of 2016. It is also one made without jurisdiction. It has practically rendered the functioning of the 2nd petitioner institution impossible by fixing abysmally low tuition fee and acted insensitively to realities. Therefore, it's decision falls within the parameters for judicial review

THE FINDING OF THE COURT

86. Therefore the recommendation of the TAFRC that the tuition fee per annum for B.E./B.Tech. students in 2nd petitioner-institution for the block period 2016-17 to 2018-19 @ Rs.97,000/- per annum in its meeting held on 06-01-2017 as well as the consequential

G.O.Ms.No.3 Higher Education (TE/A2) Department dt.04-02-2017 is declared as without jurisdiction and void for not acting as a body. Even otherwise, the decision is liable to be set aside as being contrary to law and the directions issued in the order dt.14-11-2016 in W.P.No.22186 of 2016 as well as on the ground that it is arbitrary, made with prejudiced mind and not *bona fide* and is accordingly set aside.

FURTHER DIRECTION TO BE NOW ISSUED

87. In this scenario, what should be course of action to be adopted by the Court, is to be considered. Should the Court again remand the matter back to the TAFRC or should it itself arrive at the tuition fee payable by new students?

88. In situations of this nature the Supreme Court has taken the view that where a public authority has failed to exercise or has wrongly exercised the discretion conferred upon it, or has exercised such discretion *mala fide* or on irrelevant considerations or by ignoring relevant considerations and materials or in such a manner as to frustrate the object of conferring such discretion, it can issue not only a Writ of Mandamus or a Writ in the nature of Mandamus or pass orders and give directions to compel the performance in a proper and lawful manner of the discretion conferred upon the public authority, *it may also in a proper case*, in order to prevent injustice resulting to the concerned parties, *itself pass an order or give directions which the public authority should have passed or given had it properly and*

lawfully exercised its discretion. (see **Comptroller and Auditor General of India Vs. K.S.Jagannathan⁸, Badrinath Vs. Government of T.N.⁹ and RBF Rig Corporation Vs. Commissioner of Customs (Imports)¹⁰.**)

89. Earlier challenges made for the block period 2006-07 to 2008-09, 2009-10 were dismissed as infructuous as the matters dragged on and petitioners never got relief for those years.

90. For the block period 2010-11 to 2012-13, while the petitioners sought tuition fixation of Rs.1,08,700/-, the respondents notified only Rs.73,600/-; this was questioned in W.P.No.16457 of 2010 and batch through the Consortium of Engineering Colleges Management Association and others; it was allowed on 29-10-2011 and is reported in 2012 (3) ALT 686 (DB); but in the SLPs, the Supreme Court directed reconsideration only for one year 2012-13; thereafter only Rs.3,700/- was enhanced by the TAFRC which is challenged in W.P.No.27185 of 2012 and batch; though the Writ Petition is pending, it is practically infructuous since the students of that batch have passed out and no recovery is possible at this stage.

91. For the block period 2013-14 to 2015-16, while the petitioners sought Rs.1,51,000/- as the tuition fee, the respondents notified only Rs.79,900/-. By virtue of order dt.26-04-2014 in W.P.No.21246 of 2013, some disallowed claims were reconsidered

⁸ (1986) 2 S.C.C. 679

⁹ (2000) 8 S.C.C. 395

¹⁰ (2011) 3 S.C.C. 573

and a meager enhancement of Rs.11,100/- was given by the AFRC through proceedings dt.12-09-2014. However notification was not given and this is being collected pursuant to interim orders dt.18-06-2015 in W.P.No.41229 of 2014. W.P.No.21246 of 2013 was allowed on 10-03-2016 but it is not yet implemented by the TAFRC.

92. Though normally, this Court would not itself embark on the exercise to fix tuition fee, it is compelled to do so, for the following reasons:

- (i) One year of the block period is already over;
- (ii) the TAFRC's earlier determination for this block period vide order dt.22-10-2016 and G.O.Ms.No.21 dt.04-07-2016 were once set aside by order dt.14-11-2016 in W.P.No.22186 of 2016; when the matter was directed to be reconsidered *de novo* by the TAFRC in the light of the directions contained in the said order, it has not done so; and it has exhibited an adversarial, prejudiced, arbitrary and non-transparent attitude which cannot be adopted by a quasi judicial body;
- (iii) the fate of the 6 earlier exercises under taken by the petitioners for tuition fee fixation for various block periods, and
- (iv) a further remand is most likely to lead to another round of litigation before the Courts which could even make tuition fee recovery for this period to be lost.

So this Court has come to the conclusion that leaving the matter again to the TAFRC to decide it would cause great injustice to the petitioners and it has decided to do the exercise of fixation of tuition fee payable by the students studying B.E./B.Tech., courses in the 2nd petitioner institution for the block period 2016-17 to 2018-19 itself based on the judgments of the Supreme Court referred to above.

THE TUITION FEE DETERMINATION FOR THE BLOCK PERIOD 2016-17 TO 2018-19.

93. I have already held that the TAFRC had no justification to disallow Rs.1,39,20,000/- towards salaries paid to 58 teaching staff by 2nd petitioner.

94. I have also held that the TAFRC had been calculating the inflation and furtherance on the expenditure arrived at first without deducting the tuition fee being collected from the old students, that it had done so previously in the worksheet submitted along with its counter affidavit filed in July 2016 in W.P.No.22186 of 2016 and also for other institutions. For the first time, it deviated from this procedure in its recommendation made on 6.1.2017 without assigning any valid reason and without putting the petitioners on notice and this conduct of the TAFRC is clearly arbitrary.

95. In the work sheet furnished by the TAFRC, from the total expenditure claimed by petitioners of Rs.52,54,69,255/-, disallowed expenditure of Rs.4,25,85,342/- was deducted to arrive at net expenditure of Rs.48,28,83,913/- per year. *Then* for each year of the 3

block years, the income in the nature of fee from old students was *first* deducted. (Rs. 48,28,83,913/- minus Rs.39,23,56,000/-; Rs. 48,28,83,913/- minus Rs.27,63,60,000/-; and Rs.48,28,83,913/- (-) minus Rs.14,10,00,000/-.) Only thereafter, furtherance and inflation were calculated (this part is indicated in paras 8 and 9 of the proceeding annexed to the letter dt.17.1.2017).

96. Thus from the expenditure of Rs. 1,44,86,51,739 (Rs.48,28,83,913/- x 3) for total 3 block years, the TAFRC deducted Rs.809,716,000/- (Rs.39,23,56,000/- + Rs.27,63,60,000/- + Rs.14,10,00,000/-) to arrive at a net expenditure of Rs.63,89,35,739/-. This is divided by 9000 students to arrive at the average expenditure per student as Rs.70,993/-. On the figure of Rs.70,993/-, inflation and furtherance are calculated to arrive at Rs.97,000/- as tuition fee per student.

97. So it is proved that the expenditure of Rs.144.86 crores was deliberately reduced by 56% to Rs.63.89 crores by setting it off against the income of Rs.80.97 crores so as to arrive at a very low figure of average expenditure per student and consequently, the tuition fee.

98. The object of giving inflation and furtherance is thus defeated by this new method of calculation and it does not reflect the true picture/status of the expenditure to be incurred by the institution.

99. In my view, the TAFRC has failed to give any valid justification for the change in methodology and its action has resulted in grave prejudice to the petitioners since it appears to have been done only to arrive at a very low tuition fee.

100. Keeping in mind the above findings, the tuition fees for the block period 2016-17 to 2018-19 for the students in the 2nd petitioner institution can be fixed as follows:

WORK SHEET FOR EVALUATION OF TUITION FEE FOR THE BLOCK PERIOD 2016-17 TO 2018-19 FOR THE SREENIDHI COLLEGE OF ENGINEERING.

2015-16

Expenditure of the Institution incurred for
2015-16 : Rs.52,54,69,255/-

Less: Disallowed expenses

Interest on vehicle loans : Rs.17,17,225/-

Vehicle repairs : Rs.1,15,12,636/-

Vehicle insurance : Rs.10,56,061/-

Donations : Rs.10,91,124/-

Exam branch expenses : Rs.61,73,801/-

JNTU Registration and
Common services Fee : Rs.29,90,299/-

Depreciation on student
Vehicles : Rs.72,20,213/-

Rs.3,17,61,359/- : Rs.3,17,61,359/-

Net expenditure : Rs.49,37,07,896/-

2016-17

Net expenditure for 2015-16 : Rs.49,37,07,896/-

Add: Furtherance 15% : Rs.7,40,56,184/-

Add: Inflation 10% : Rs.4,93,70,790/-

Expenditure for 2016-17 : Rs.61,71,34,869/-

Intake for 2016-17 ... 5674

Intake for II, III, IV years... 4174

Deduct : Expected income from II, III, IV
Years students : Rs.39,23,56,000/-

Balance to be collected from I year students : Rs.22,47,78,869/-

Intake for I year1500 students

2017-18

Expenditure for 2015-16 : Rs.49,37,07,896/-

Add: Inflation @ 10% : Rs.4,93,70,789/-
For 2016-17

Add: Inflation @ 10% for 2017-18 : Rs.5,43,07,869/-

Furtherance @ 15% for 2017-18 : Rs.8,14,61,803/-

Total expenditure for 2017-18 : Rs.67,88,48,356/-

Total students ...5940

Intake of institution
of III and IV years ...2940

Expected income for IV and III year
Students : Rs.27,63,60,000/-

Balance to be collected from
II and I year students : Rs.40,24,88,356/-

No. of students for II and I year students ...3000

2018-19

Expenditure for 2017-18 : Rs.54,30,78,685/-

Add: Inflation @ 10% for 2017-18 : Rs.5,43,07,869/-

Total : Rs.59,73,86,554/-

Add: Inflation @ 10% for 2018-19 : Rs.5,97,38,655/-

Add: Furtherance @ 15% : Rs.8,96,07,983/-

Total expenditure for 2018-19 : Rs.74,67,33,192/-

Total students...6000

Intake of institution of IV year...1500

Expected income from IV year
Students

: Rs.14,10,00,000/-

Balance to be collected from
III, II and I year students

: Rs.60,57,33,192/-

No. of students for
III, II and I years...4500

Average fee for students of 2016-17

Total expenditure for three years

: Rs.22,47,78,869/-

+ Rs.40,24,88,356/-

+ Rs.60,57,33,192/-

Rs.1,23,30,00,418/-

Total no. of students for three years: 1500+3000+4500 = 9000

Average tuition fee for students of 2016-17 = **Rs.1,37,000/-**
(Rs.1,23,30,00,418/- (/) 9000)

Tuition fee requested by the petitioners
Per student for the three block years

... **Rs.1,54,000/-**

101. Therefore I hold that the tuition fee of Rs.1,37,000/- per student per year for the Block period 2016-19 would be just and

proper for the B.E/B.Tech students in the 2nd petitioner institution and not Rs.1,54,000/- claimed by it.

102. In the result, the Writ Petition is allowed with costs of Rs.10,000/- (Rupees Ten Thousand only) to be paid by the 2nd respondent; the action of the 2nd respondent in recommending Rs.97,000/- per annum as tuition fee for the 2nd petitioner institution for the block period 2016-17 to 2018-19 for the B.E., course in its meeting held on 06-01-2017 and the consequential G.O.Ms.No.3 Higher Education (TE/A2) Department dt.04-02-2017 is declared without jurisdiction, void, illegal, arbitrary and violative of Article 14 as well as the order dt.14-12-2016 in W.P.No.22037 of 2016; and the tuition fee is fixed at Rs.1,37,000/- per student for the above block period for the 2nd petitioner institution; and the 1st respondent is directed to notify the same within two weeks from the date of receipt of a copy of this order.

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

JUSTICE M.S.RAMACHANDRA RAO

Date: 01-06-2017
Kvr/*