

HONOURABLE SRI JUSTICE P.NAVEEN RAO

WRIT PETITION No.29946 of 2016

Date: 19.01.2017

Between:

T.M.Reddy Educational Society, rep.by its Correspondent,
T.Manohar Reddy, s/o. Krishna Reddy, Aged 50 years,
R/o.H.No.6-7-28/1, Agraharpet, Naidupet, SPSR Nellore
District, Andhra Pradesh and others.

.....Petitioners

and

State of Andhra Pradesh, rep.by its Principal Secretary to
Government, Higher Education Department, Secretariat
Buildings, Hyderabad and others.

.....Respondents



The Court made the following:

HONOURABLE SRI JUSTICE P.NAVEEN RAO

WRIT PETITION No.29946 of 2016

ORDER:

Heard learned counsel for petitioner Sri P.V.Krishnaiah, learned senior counsel Sri C.V.Mohan Reddy, holding for Sri V.Sudhakar Reddy, counsel on record for respondents 6 & 7, learned Government pleader for Education.

2. Petitioners filed Writ Appeal No.918 of 2016 aggrieved by the notice issued by the learned single Judge on 15.09.2016 without granting interim orders. The writ appeal was disposed of by order dated 29.09.2016 observing that learned single Judge may take up the writ petition for admission at an early date. Having regard to the said observation, and on mention being made by the learned counsel for petitioner, writ petition is taken up out of turn. With the consent of the learned counsels, writ petition is taken up for disposal at the admission stage.

3. Three writ petitioners in the writ petition have established Degree Colleges in Naidupet and they are operating the said Degree Colleges. Petitioners are aggrieved by the orders of the Government in G.O.Rt.No.201 Higher Education (CE.A2) Department, dated 30.08.2016 permitting 6th respondent society to shift the 7th respondent-college from Vekatagiri to Naidupet in Nellore district and to change the name of 7th respondent-college from Siddartha Degree College to S.S.Degree College.

4.1. Sri P.V.Krishnaiah contended that shifting of 7th respondent-college from Venkatagiri to Naidupet is contrary to the mandate of

Section 100 of the A.P.Education Act, 1982 (for short, 'Act, 1982') and A.P.Educational Institutions (Establishment, Recognition, Administration and Control of Institutions of Higher Education) Rules, 1987 (for short, 'Rules, 1987'). The same amounts to arbitrary exercise of power and is without jurisdiction and, therefore, *ex facie* illegal.

4.2. Without following due procedure and because of the extraordinary pressure extracted by 6th and 7th respondents, their request to shift the college is accepted. The college was not in operation in Venkatagiri and, therefore, accommodating such college for shifting to Naidupet is illegal. Objections filed by the petitioners and old students of the Degree College were not even considered while accepting the request of the 6th & 7th respondents.

4.3. Initially, when Government passed orders in G.O.Rt.No.151, Higher Education (CE.A2) Department, dated 29.06.2015 and G.O.Rt.No.171 Higher Education (CE.A2) Department, dated 15.07.2016, no reasons were assigned in support of their decision, and there was no notification as required, clearly violating the mandate of Section 100 of the Act, 1982. Having realized, abruptly they withdrew the GOs and issued impugned G.O. Even reasons assigned in the impugned G.O., do not satisfy the requirement of mandate of Section 100 of the Act, 1982. Power of relaxation of any provision of the Act or Rules has to be exercised sparingly in genuine cases. In the instant case, even when College is not established, the question of considering hardship of such college and shifting of the college does not arise. Further, as the college

was granted permission only in the academic year 2014-15, it is not qualified to seek such transfer.

4.4. He would further submit that reasons assigned in support of the decision is not germane to the decision taken. When G.O.Rt.No.151 dated 29.06.2016 was wholly illegal and when the same was withdrawn, question of saving the admissions made by the 7th respondent after the said G.O., was issued was again an illegal consideration and that cannot be a ground for granting relaxation in exercise of power under Section 100 of the Act, 1982.

4.5. The Rules, 1987 require assessment of the Educational needs of the locality. Already four educational institutions were established and operating in Naidupet. No further assessment was made by the A.P.State Council of Higher Education or the University or the Government with reference to the establishment of the additional Degree Colleges in Naidupet. Periodically, the higher education council makes assessment of the requirements of the Degree Colleges in various locations and issues notifications calling for interest of educational societies to establish new colleges or educational societies already operating. For the academic year 2015-16 such a notification was issued notifying four Mandals surrounding Naidupet. If the 7th respondent was not happy with the present location, it could have availed the facility provided in 2015-16 academic year. Consciously, the council has not notified Naidupet as there is no requirement of an additional college and no subsequent assessment of such requirement is made. He would therefore submit that shifting of 7th respondent-college is without

any basis or justification and order is made in illegal exercise of power.

4.6. Rule 14 of the Rules, 1987 prohibits shifting of a college from a particular locality to another locality. Thus, ordinarily, no such permission can be granted. As admitted by the 7th respondent, 7th respondent-college was established in Venkatagiri during the academic year 2014-15 as a consequence to the notification issued by the State Council for Higher Education in that town.

4.7. Having consciously opted to establish Degree College in Venkatagiri, it is not permissible to seek shifting to another locality. Ordinarily, without notification, no educational institution could have been established in Naidupet and, therefore, when what could not be done directly cannot be done indirectly by means of transfer within two years after obtaining permission, more so when even according to the 7th respondent, for the previous two academic years, no admissions were made as there was no sufficient response.

5.1. Sri C.V.Mohan Reddy submitted that there are several junior colleges operating in and round Naidupet and churn out 1600 students, whereas the present intake capacity in Degree Colleges is limited and there is a need to establish more Degree Colleges. According to survey conducted by the 6th & 7th respondents, it was found that since quality education is not provided by the existing educational institutions in Naidupet, many of the students passing out from the Junior Colleges are actually moving over to Tirupati, Nellore and Gudur towns for admission to Degree Courses. With an

objective of providing quality education, 7th respondent has shifted to Naidupet.

5.2. He would submit that even according to the admission of the petitioners, they are well established having operating Degree Colleges for the last 16 years and they should not be threatened by establishment of a new institution, more so when according to them, they are providing quality education. According to assessment of respondents 6 & 7, there is requirement of more Degree Colleges in Naidupet. The statement of assessment of admission to various Degree Colleges would show that there is increase in admission to petitioner colleges for the academic year 2016-17 as compared to previous years and, therefore, the apprehension expressed by the petitioners is misconceived.

5.3. He would justify the order of the Government and contended that Government has validly exercised power of relaxation vested in it under Section 100 of the Act, 1982 having regard to the difficulties expressed by the 6th & 7th respondents.

5.4. He would submit that it is not necessary to have prior affiliation to admit the students. The students were admitted in pursuant to the orders issued by the Government in G.O.Rt.No.151. The G.O.Rt.No.151 was withdrawn for technical reasons and valid orders are passed vide G.O.Rt.No.201. By virtue of the orders in G.O.Rt.No.201, admissions already made are saved. He justifies the decision of the Government on the ground that admitted students would have to be dislocated and forced to join in some other institutions or have to face threat of lose one academic year. In no manner, rights of the petitioners are affected.

Merely because petitioners have established their institutions long ago in Naidupet does not mean that no other institution can come up in Naidupet.

6. Learned Government Pleader justifies the Government decision having regard to the peculiar facts of the case.

7. Before appreciating the contentions, it is to be noted that provision of educational facilities is the primary responsibility of the State. State shall endeavour to establish educational institutions to impart all spheres of education leaving it to individual student to pursue course of study of his choice. Due to scarce financial resources and inadequate manpower, State has conceded the requirement of imparting of education by private individuals, educational societies and institutions. However, imparting of education is not treated as economic activity. It is not profit oriented but service oriented. Choice of establishment of an institution imparting a particular course of study and place of establishment of an educational institution is based on the policy of the Government. The establishment of educational institutions is not to serve the purposes of the societies which establish the educational institutions, but is intended to serve the needs of the locality by providing quality education to the students intending to pursue course of study in that locality. Thus, the primary objective of establishment of educational institutions in the locality is to provide quality education for the people living in the locality and with all the educational facilities for them to aspire and excel.

8. A.P. State Council of Higher Education (the Council) is the agency of the State which is entrusted with the responsibility of prescribing standards in higher education, establishment of educational institutions and maintaining standards of higher education. It is the responsibility of the council to give effect to the objectives of the Act, 1982 and the Rules, 1987 and policy of the Government in the field of higher education.

9. The Council assesses the educational needs of a locality and sets in motion process to establish public and/or private educational institutions to impart various courses of study at graduation level. The Council undertakes detailed exercise before identifying the locations. A detailed procedure is prescribed to scrutinize applications for establishment and shifting before granting such permission. The objective of the exercise envisaged is only to meet the educational needs of a locality. Once the educational needs are adequately fulfilled, no new institution shall be allowed. This is also intended to avoid unhealthy competition and to prevent managements from resorting to unethical means. In this process, having found that there is dearth of colleges imparting Degree Courses in identified Mandals in the 13 districts of the State of Andhra Pradesh during the academic year 2015-16, Council issued open notification calling for enlistment. In SPSR Nellore district, 15 Mandals were identified. This list did not contain Naidupeta. It appears, during the academic year 2014-15, similar notification was issued. One of the Mandals notified was Venkatagiri. The 6th respondent applied to establish a Degree College in Venkatagiri. Its proposal was approved and 7th respondent college was established. It appears that out of 15

Mandals in SPSR Nellore, four of them are surrounding Naidupeta, but 6th & 7th respondents did not apply to establish a college or to shift the existing college. It is not in dispute that no challenge was made against not including Naidupeta in the notification issued by the Council.

10. Keeping in view of this objective and factual background, it is necessary to assess the scope of relevant statutory provisions.

11.1. The relevant provisions concerning the issue are Sections 20 & 100 of the Act, 1982 and Rules 4 (2) and 14 (3) of the Rules, 1987. They read as under:

11.2. **Section 20: Permission for establishment of educational institutions:-** (1) The competent authority shall, from time to time, conduct a survey as to identify the educational needs of the locality under its jurisdiction, and notify in the prescribed manner through the local newspapers calling for applications from the educational agencies desirous of establishing educational institutions.

(2) In pursuance of the notification under subsection (1), any educational agency including local authority or registered body of persons intending to

(a) establish an institution imparting education;

(b) open higher classes in an institution imparting primary education; or

(c) upgrade any such institution into a high school;

(d) open new courses (certificate, diploma, degree, postgraduate degree courses, etc.) may make an application, within such period, in such manner and to such authority as may be notified for the grant of permission therefor.

(3) Any educational agency applying for permission under sub section (2) shall,

(a) before the permission is granted, satisfy the authority concerned,

(i) that there is need for providing educational facilities to the people in the locality;

(ii) that there is adequate financial provisions for continued and efficient maintenance of the institution as prescribed by the competent authority;

(iii) that the institution is proposed to be located in sanitary and healthy surroundings;

(b) enclose to the application

(i) title deeds relating to the site for building, playground and garden proposed to be provided;

(ii) plans approved by the local authority concerned which shall conform to the rules prescribed therefor; and

(iii) documents evidencing availability of the finances needed for constructing the proposed buildings; and

(c) within the period specified by the authority concerned in the order granting permission:

(i) appoint teaching staff qualified according to the rules made by the Government in this behalf;

(ii) satisfy the other requirements laid down by this Act and the rules and orders made thereunder failing which it shall be competent for the said authority to cancel the permission.

(4) On and from the commencement of the Andhra Pradesh Education (Amendment) Act, 1987 no educational institution shall be established except in accordance with the provisions of this Act and any person who contravenes the provisions of this section or who after the permission granted to him under this section having been cancelled continues to run such institution shall be punished with simple imprisonment which shall not be less than six months but which may be tend to three years and with fine which shall not be less than three thousand rupees but which may be tend to fifty thousand rupees:

Provided further that the court convicting a person under this section shall also order the closure of the institution with respect to which the offence is committed.]

Section 100. Exemption:- The Government may, by notification and for reasons to be specified therein, exempt any educational institution from the operation of all or any of the provisions of this Act or the rules made thereunder, subject to such conditions as they may deem fit to impose and may likewise vary or cancel such exemption.

11.3. Rule 4: Conditions for grant of permission:-

(1) xxxx

(2) No permission shall be granted, if the educational needs of the locality or adequately served already and in the opinion of the competent authority the opening of a new institution is likely to create unhealthy and undesirable competition with another institution of same class category in the area”.

11.4. Rule 14. General Instructions:-

(1) & (2) xxxx

(3) No institution for which permission to establish has been granted to meet the educational needs of a particular locality, shall be permitted to be shifted to another locality. However

shifting of the institution from one building to another within the same locality shall be permitted when the intention is to provide better accommodation or shifting into own buildings is proposed, with the prior permission of the Government. Any unauthorized shifting of the institution shall render lapse of the permission/ recognition/ affiliation granted to the institution automatically, without any further notice or orders.”

12. Rules, 1987 comprehensively deal with establishment, administration and control of institutions of higher education in Government and Private Sectors. Rules envisage detailed procedure for grant of permissions to establish educational institutions. Vide power is vested in the Commissioner of Higher Education with reference to establishment of Degree Colleges and to withdraw the recognitions/affiliations granted. Rules 4 and 14 give effect to the scheme of Section 20 of the Act, 1982. It is clear from the reading of Rule 4 (2) of the Rules that no permission would be granted if the educational needs of the locality are adequately served already and in the opinion of the competent authority the opening of a new institution is likely to create unhealthy and undesirable competition in the area. Rule 14(3) of Rules, 1987 prohibits shifting of an institution established in a particular locality having regard to the educational needs of that locality to another locality.

13. The primary requirement to establish an educational institution in a particular locality is, the existing institutions are not adequately serving the educational needs of that locality and it requires more educational institutions. As discussed above, the Council undertakes the exercise of identifying the educational needs of a locality and issues notification calling for applications; after following detailed procedure as envisaged in the memorandum of instructions notified by the Council and in

accordance with Section 20 and the Rules, 1987, the permission to establish educational institution is granted. Once such permission is granted and an institution is established, that institution will not be allowed to shift to any other locality.

14. The object behind this prohibition is two fold. Firstly, an institution is established in a locality based on the educational needs of that locality and if that institution is allowed to be shifted to any other locality, it would result in inadequate service of educational needs of that locality. Secondly, on a review of educational needs of a locality, if it is found that present educational institutions do not adequately meet the educational needs of that locality, detailed procedure is envisaged before identifying a person to establish new college. If a transfer is allowed based on an individual request to a locality without an assessment of educational needs, it may have two fold adverse impact, (1) It would result in location of more colleges than required leading to creation of unhealthy and undesirable competition vis-à-vis the existing institutions in that locality whereas the object of the scheme of the Act and the Rules is to prevent unhealthy and undesirable competition, compromising on quality of education; and (2) it would be depriving other societies/ institutions/ persons to establish/ relocate at the place, assuming the locality has the capacity to absorb one or more such institutions and can lead to more such requests. This is not the intendment of the scheme of the Act and the Rules.

15. Section 20 and the Rules, 1987, more particularly Rules 4(2) and 14 (3) of the Rules, 1987, also serve larger public interest. The

systematic assessment can give proper guidance to the competent authority to identify the localities where the educational needs are not adequately fulfilled or/and localities where there is no requirement of number of institutions and can be considered for location where there is a need. After undertaking the exercise, wherever there is a requirement, that locality is identified and notified calling for expression of interest implying thereby that the educational needs are inadequately served. Systematic assessment of requirements of a locality and calling for expression of interest to establish/ transfer only ensures transparency and serves larger public good. It would avoid personal prejudices and preferences, unhealthy and undesirable competition. Without proper assessment, accepting an individual request may result in conferring undue favour on an institution, already established elsewhere and denying the benefit to another institution/society, which may also intend to establish such institution at the place where transfer is accepted.

16. Hypothetically, if what is contended by the senior counsel is accepted as true, and that the existing educational institutions are not adequately meeting the educational needs of Naidupet, in the notification issued during the academic year 2015-16, this locality ought to have been added and if that be so, more such institutions could have responded to establish degree colleges in Naidupet.

17. Coming back to the facts of this case, for the academic year 2014-15, notification was issued showing the inadequate needs of Venkatagiri. The 6th respondent on his own offered to establish Degree College in Venkatagiri. Once it is established in

Venkatagiri, having regard to the educational needs of Venkatagiri, if 7th respondent is shifted to Naidupet, it would result in inadequate service of educational needs of Venkatagiri as assessed in the year 2014-15.

18. As noted above, for the years 2014-15 and 2015-16, though various other Mandals are notified by the Council, the Council did not include Naidupet. It would mean that Council was of the opinion that educational needs of the Naidupet are adequately served. It is also pertinent to note, for the academic year 2016-17 no notification was issued calling for expression of interest. It is appropriate to note, at this stage, that respondents 6 & 7 did not assail the decision of the Council not to notify Naidupet for the years 2014-15, 2015-16 and 2016-17. The entire premise of justification of 6th & 7th respondents is that as per their assessment, Naidupet needs more Degree Colleges since large number of students are passing out from Intermediate Courses from various colleges in Naidupet. It was further asserted that many students are migrating to other towns since the standard of education provided by the existing colleges in Naidupet is not of good quality and that the petitioner intend to provide good quality education. This is again a self assessment. If private educational societies/institutions are allowed to make such assessment and determine on their own the requirements of a locality, then the entire mechanism created by Act, 1982 and Rules, 1987 would be redundant and can create a situation where every private institution/society can make assessment on its own and apply for establishment/ shifting to the place of their choice and at their convenience.

19. Section 100 of the Act, 1982 vests residuary and sweeping power in the Government to grant relaxation of all or some of the provisions of the Act and Rules made there under. Such an extra-ordinary reserve power can be invoked only in the special/ extraordinary circumstances. The reasons assigned in support of the decision would fall foul of the very scheme of Act, 1982 and Rules, 1987. If this is the intendment of exercising such power, then the entire scheme gets nullified and anybody can call upon the Government to resort to invoke such power. The scheme of establishment of educational institutions, having regard to the educational needs of the locality can be nullified. It cannot be said that the Government is vested with absolute power and can nullify the object of Act, 1982 and the scheme of Rules, 1987. Section 100 is silent as to when such power can be exercised. In the absence of guidelines in the Section, it can safely be inferred that and guidance can be drawn from Section 20 and the Rules, 1987, dealing with establishment of Degree Colleges as to when such power can be exercised. Exercise of this extraordinary power, in my considered opinion, is subject to fulfillment of parameters for establishment of educational institutions i.e., serving the educational needs of the locality and observing due procedural norms. Only within these parameters, power of relaxation can be exercised to mitigate the hardship caused to a person by a rule in the larger public interest and to serve the educational needs of a locality.

20. To arrive at such a conclusion, guidance can be taken from the opinion expressed by Supreme Court in **Premium Granites**

and another v. State of Tamil Nadu and others¹ and Ramana Dayaram Shetty v. International Airport Authority of India².

In **Premium Granites**, while upholding statutory provision dealing with power of relaxation, Supreme Court observed,

“55. In various statutes, the provision of relaxation or exemption finds place and it has been indicated that such provisions of relaxation and exemption have been noticed and upheld by this Court in some of the statutes. In the MMRD Act itself, there is such provision for relaxation, being Section 31. Such provision of relaxation in Karnataka Minor Mineral Concession Rules, 1969 is contained in Rule 66. It has been rightly contended that where in respect of prohibited categories, the law carves out restriction or relaxation, the purpose is to take out certain exceptions from the prohibited area and keeping certain categories outside the purview of restrictions imposed under other provisions in the statute. In such circumstances, it will not be appropriate to hold that the exception militates with other provisions and hence should not be permitted. ***In our view, in interpreting the validity of a provision containing relaxation or exemption of another provision of a statute, the purpose of such relaxation and the scope and the effect of the same in the context of the purpose of the statute should be taken into consideration and if it appears that such exemption or relaxation basically and intrinsically does not violate the purpose of the statute rendering it unworkable but it is consistent with the purpose of the statute, there will be no occasion to hold that such provision of relaxation or exemption is illegal or the same ultra vires other provisions of the statute.*** The question of exemption or relaxation ex hypothesi indicates the existence of some provisions in the statute in respect of which exemption or relaxation is intended for some obvious purpose.

56. There is no manner of doubt that for bringing harmonious construction, reading down a provision in the statute, is an accepted principle and such exercise has been made by this Court in a number of decisions, reference to which has already been made. ” (emphasis supplied)

¹ (1994) 2 SCC 691

² AIR 1979 SC 1628

21. In **Ramana Dayaram Shetty**, Supreme Court delineated the scope of discretionary power exercisable by Government. Supreme Court held,

“12. We agree with the observations of Mathew, J., in *V. Punnan Thomas v. State of Kerala* [AIR 1969 Ker 81] that:

“The Government, is not and should not be as free as an individual in selecting the recipients for its largesse. Whatever its activity, the Government is still the Government and will be subject to restraints, inherent in its position in a democratic society. A democratic Government cannot lay down arbitrary and capricious standards for the choice of persons with whom alone it will deal.”

The same point was made by this Court in *Erusian Equipment and Chemicals Ltd. v. State of West Bengal* [(1975) 1 SCC 70 : (1975) 2 SCR 674] where the question was whether blacklisting of a person without giving him an opportunity to be heard was bad? Ray, C.J., speaking on behalf of himself and his colleagues on the Bench pointed out that blacklisting of a person not only affects his reputation which is, in Poundian terms, an interest both of personality and substance, but also denies him equality in the matter of entering into contract with the Government and it cannot, therefore, be supported without fair hearing. It was argued for the Government that no person has a right to enter into contractual relationship with the Government and the Government, like any other private individual, has the absolute right to enter into contract with any one it pleases. But the Court, speaking through the learned Chief Justice, responded that the Government is not like a private individual who can pick and choose the person with whom it will deal, but the Government is still a Government when it enters into contract or when it is administering largesse and it cannot, without adequate reason, exclude any person from dealing with it or take away largesse arbitrarily. The learned Chief Justice said that when the government is trading with the public, “the democratic form of Government demands equality and absence of arbitrariness and discrimination in such transactions. . . The activities of the Government have a public element and, therefore, there should be fairness and equality. The State need not enter into any contract with anyone, but if it does so, it must do so fairly without discrimination and without unfair procedure”. This proposition would hold good in all cases of dealing by the Government with the public, where the interest sought to be protected is a privilege. ***It must, therefore, be taken to be the law that where the Government is dealing with the public, whether by way of giving jobs or entering into contracts or issuing quotas or licences or granting other forms of largesse, the Government cannot act arbitrarily at its sweet will and, like a private individual,***

deal with any person it pleases, but its action must be in conformity with standard or norms which is not arbitrary, irrational or irrelevant. The power or discretion of the Government in the matter of grant of largesse including award of jobs, contracts, quotas, licences, etc. must be confined and structured by rational, relevant and non-discriminatory standard or norm and if the Government departs from such standard or norm in any particular case or cases, the action of the Government would be liable to be struck down, unless it can be shown by the Government that the departure was not arbitrary, but was based on some valid principle which in itself was not irrational, unreasonable or discriminatory.” (emphasis supplied)

22. The two reasons assigned in the order impugned are not germane to valid decision making process in exercise of such an extraordinary power. Firstly, it is not known why 7th respondent could not secure adequate admissions in Venkatagiri and merely because the college could not secure admission in a particular locality cannot be a ground to shift the college to another locality; and secondly, merely because the society shifted the college to Naidupet and made admissions cannot be a ground to exercise power under Section 100 and grant relaxation holding that inconvenience would be caused to the students already admitted.

23. Original record leading to issuance of earlier Government Orders and the impugned Government Order is produced by the learned Government Pleader. On perusal of the record, it is seen that only reason for seeking permission to shift the 7th respondent-college was that the college was unable to secure admissions in Venkatagiri in two academic years and having invested huge money, it would suffer if such permission is not granted. The issue was considered at length by the Council. The Council in their letter bearing Rc.No.APSCHE/Acad Cell/shifting/VSU/2016 dated 07.06.2016 advised the government not to accept such request. The Council apprised the Government that the request by the 7th

respondent is from an identified Mandal to unidentified mandal and same is not permissible. This report of the Council was ignored and as the acceptance of the request of the 7th respondent required relaxation of Rule 14(3), power under Section 100 was exercised. However, note file is silent as to the reasons for exercise of such power. There is no discussion on the merits of the request made and in over-ruling the advice of Council and on over-all impact of the policy of ensuring serving of educational needs adequately in Venkatagiri and Naidupet. The Government record does not disclose that the assessment was made on the requirement of another Degree College in Naidupet and that there are more number of degree colleges established in Venkatagiri than required and, therefore, even after 7th respondent college is shifted, the existing colleges more than adequately serve the requirements of educational needs of Venkatagiri. The decision to grant relaxation of the relevant provisions must be supported by detailed discussion on the justification for such request and assessment of the requirements of educational needs. Without this primary exercise being undertaken by the Government, no such decision could have been taken. On perusal of original record, it can safely be concluded that the orders of the Government are not supported by reasons/justification. It is made in arbitrary exercise of power. Thus, the order under challenge cannot be sustained.

24. The writ petition is allowed and the Government order impugned is set aside. However, the Commissioner of Higher Education is directed to ensure that the students admitted in the 7th respondent-college should not lose their academic year and all

measures should be taken to protect their academic interests.

There shall be no order as to costs.

Miscellaneous petitions, if any, pending in this writ petition shall stand closed.

JUSTICE P.NAVEEN RAO

Date: 19.01.2017
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