

IN THE HIGH COURT OF DELHI AT NEW DELHI

Judgment reserved on: January 30, 2017

Judgment delivered on: May 30, 2017

- + W.P.(C) 494/2013
- + W.P.(C) 616/2013
- + W.P.(C) 1174/2013 and CM Nos. 28932/2016 and 19213/2014

THE HINDU EDUCATIONAL TRUST
THE INDRAPRASTHA EDUCATIONAL TRUST
DAULAT RAM COLLEGE SOCIETY, DELHI AND ANR Petitioner(s)

Through: Mr. Manu Seshadri, Mr. Ishan Bisht and Ms. Sahiba Ahluwalia, Advs. (in W.P.(C) 494/2013 & 1174/2013)
Mr. G.K. Mishra, Adv. (in W.P.(C) 616/2013)

versus

UNIVERSITY OF DELHI AND ANR Respondents

Through: Mr. Sudhir Nandrajog, Sr. Adv. with Mr. Mohinder J.S. Rupal and Ms. Simran Jeet, Advs.

CORAM:
HON'BLE MR JUSTICE V. KAMESWAR RAO

J U D G M E N T

V. KAMESWAR RAO, J

1. As the reliefs prayed for in all these writ petitions being the same with more or less identical facts, the same are being disposed of by this common order / judgment. Suffice to state the primary prayer in these petitions is for quashing of Executive Council Resolution

No. 51 dated November 3, 2012. I may point out here that in Writ Petition (C) No. 1174/2013, the prayer also includes for quashing of Executive Council Resolution NO. 289 dated 21st August, 1975 and Resolution No. 138 dated 11th February, 2003.

Writ Petition (C) No. 494/2013

2. The facts as noted from the writ petition are, the Hindu College Society came to be registered under the provisions of the Societies Registration Act, 1860 on October 24, 1945. It is the case of the petitioner that the Society has framed its own Rules and Regulations. The society was to consist of 15 members, out of which 10 members were to be nominated by the Board of Trustees of the petitioner. The remaining 5 members were to comprise of the Principal of Hindu College, Delhi, 2 members of the teaching staff of the Hindu College and 2 members appointed by the respondent no.1, i.e., University of Delhi. All the members of the Society were the members of the Governing Body of Hindu College, Delhi and the members could hold office for not more than a year at a time, but were eligible for re-appointment without any limitation on the number of terms already served on the Governing Body of the Hindu College. It is the case of the petitioner that the Hindu College was initially affiliated to Punjab University. However with the creation of the University of Delhi, Hindu College came to be affiliated with the said University. It is the case of the petitioner that the Rules and Regulations of the petitioner as well as the Hindu College providing for appointment of members to the Governing Body amongst other things have been approved by the respondent no.1 under Statute 30 (1)(C). It has been

appointing the members of the Governing Body of Hindu College in accordance with and subject to the Rules and Regulations for a term of one year as stipulated by Ordinance XVIII. It is the case of the petitioner that the respondent no.1 in the past has always approved the appointment of members of the Governing Body of the Hindu College as made by the petitioner. It is stated that the Executive Council of the respondent no.1, University framed model Rules for composition and mode of appointment of the Governing Body of the various colleges vide Executive Council Resolution no. 66 dated April 27, 1963, Executive Council NO April, 23, 1966 and Resolution No. 320 (a) dated November 19, 1966. It is stated that model Rules were never given effect to. It also contemplated that the constitution, composition, term of office of members and Chairmanship of the Governing Body has to be in accordance with Statute 30 read with Ordinance XVIII of the Delhi University Act. Respondent no.1 vide Executive Council Resolution No. 289 dated August 21, 1975 laid down guidelines for appointment of members of Trust nominees on the Governing Body of a college. As per the guidelines amongst other things, the Trust was advised to forward a panel of names to the University consisting of not less than 50% more names than required numbers. It is the stand of of the petitioner that the guidelines of the year 1975 were not having any statutory force and were not binding on the respondent no.1, Hindu College, Delhi. Even otherwise, the said guidelines were contrary to Statute 30 (1)(C) which provides that Governing Body shall consist of not more than 20 members and that the Rules relating to composition of the Governing Body should conform to the Statute

and Ordinance of the University and the conditions of the Government grant to the College. The Statute nowhere stipulates that the Trust has to forward a panel of names containing not less than 50% more names than the required number. It is averred in the writ petition that on September 10, 1997, respondent no.1, University of Delhi informed the Hindu College, respondent no.2 herein that the Vice-Chancellor constituted a committee to recommend modalities/guidelines for nomination of Members on the Governing Body of the Colleges affiliated to the Delhi University including the proposal to have uniform policy of having 10 trust nominees on the Governing Body of all the colleges, out of which not less than 50% should be from the panel prepared by the Executive Council of the University. It is the case of the petitioner that the Board of the petitioner considered the aforesaid proposal of the respondent no.1 and decided that the system of nominating 10 members of the Governing Body by the Board of Trustees of the petitioner has been in practice for the last 40 years and has been functioning well in so far as the Trust Colleges were concerned. No development took place thereafter in the matter and the Board of Trustees of the petitioner continued to make nomination of 10 members to the Governing Body of the Hindu College. It was only vide Resolution No. 138 dated 11th February, 2003, respondent no.1 formulated guidelines for nominating members of the Governing Bodies of Trust Colleges wherein it was provided that no member shall serve on the Governing Body of a Trust College for more than 5 terms. It is the case of the petitioner that the said Resolution is contrary to Ordinance XVIII (3)(1) and has no statutory force inasmuch as the said Ordinance provides that the

member of the Governing Body shall hold office for a period of one year and shall be eligible for re-appointment or re-election. Thus, there is no restriction in Ordinance XVIII that a person cannot be re-appointed / re-nominated as a member of the Governing Body if he has earlier been appointed for 5 times. For the year 2008-2009, the petitioner had sent 10 names for appointment as members of the Governing Body to Hindu College, Delhi. Respondent no.1 in response thereto vide letter dated January 24, 2008 to the Principal of the Hindu College stated that the matter of appointment of the trust and nominees was being considered at appropriate level and the names sent by the College for nomination on the Governing Body is not in accordance with the guidelines of the Executive Council vide Resolution No. 289 dated August 21, 1975 and Resolution No. 138 dated February, 11, 2003. It was further requested that a panel of 50% more names along with the Bio-Data including those of at least 2 women, be sent for nomination as trust nominees on the Governing Body of the Hindu College, Delhi. The petitioner vide its letter dated February 2, 2008 conveyed its remarks on the stand taken by the respondent no.1 / University. It is the case of the petitioner that the Vice-Chancellor approved the names forwarded for appointment as Trust nominees to the Governing Body vide its letter dated August 12, 2009. In other words, the guidelines so referred to are only of a persuasive value and were in reality never implemented. On August 23, 2011, the petitioner forwarded to the Principal of Hindu College, Delhi the names of 10 members for appointment to the Governing Body of the College for the year 2011-12, which was further forwarded to the

respondent no.1 / University. It is the case of the petitioner that a representation dated November 4, 2011 was made to the respondent no.1 for approving 10 members nominated by the petitioner to the Governing Body for the year 2011-12. It is averred that the term of the last Governing Body expired on August 31, 2011. Due to failure of the respondent no.1 to appoint the nominees to the Governing Body of the Hindu College, Delhi, it is functioning with a truncated Governing Body that does not contain the persons nominated by the petitioner in accordance with the Rules and Regulations. It received a communication dated November 11, 2011 from the respondent no.1, wherein it was directed by the respondent no.1 that four members, namely Shri Desh Raj Gupta, Shri S.N.P. Punj, Shri Raj Kumar Gupta and Shri T.P. Gadodia have already availed more than 4 terms as trust nominees on the Governing Body. They should be replaced and proposal for nomination of trust nominees on the Governing Body of the Hindu College as per the guidelines approved by the Executive Council be sent by the Hindu College for consideration of the respondent no.1. Subsequently, yet another communication dated January 5, 2012 was received by Hindu College from the respondent no.1 wherein, the College has been called upon to send the panel of Trust nominees in accordance with the guidelines for consideration by the Executive Council. It is averred that communications dated November 11, 2011 as well as January 5, 2012 of the respondent no.1 were challenged in W.P.(C) No. 537/2012. During the pendency of the said writ petition, respondent no. 1 has approved the names of six persons to be members of the Governing

Body on January 24, 2012. During the hearing of the writ petition, the respondent no.1 framed norms vide the Executive Council Resolution No. 51 dated November 3, 2012 relating to the composition of the Governing Body. Accordingly, the present writ petition has been filed challenging the Executive Council Resolution No. 51 dated November 3, 2012.

Writ Petition (C) No. 616/2013

3. The petitioner is a registered Society under the Societies Registration Act, 1860. As required by the relevant provisions of the Delhi University Act, Statutes, the Ordinance and the Rules of the respondent no.1, the management and affairs of the respondent no.2 College is run by the Governing Body. The constitution of the Governing Body, the number of members in the Governing Body, the representation of the nominated members by the petitioner to the Governing Body and entitlement of the members of the Governing Body to seek re-election / re-nomination and the tenure of the Governing Body are laid down in the Rules of the respondent no.2, which is in conformity with the Ordinances of the respondent no.1 and the Resolution no. 211 of 1969 passed by the Executive Council of the respondent no.1. The relevant part of the Rules of respondent No.2 containing the constitution of the Governing Body; Tenure of the Governing Body and the entitlement to the members to seek re-election as Members of the Governing Body are as under:

“Rule 1

The Governing Body of the Society shall consist of fifteen members.

(ii) Ten, of whom at least two shall be women, shall be appointed by the Indraprastha Educational Trust, two by the University of Delhi, two shall be elected by the teaching staff of the College from among members of the staff of more and less than ten years service respectively, and the Principal of the College shall be a member ex officio.

(iii) Members appointed by the Indraprastha Educational Trust shall hold office for not more than three years at a time, members appointed by the University for such period as the University may determine, not being more than three years, and elected members for such period, not being less than one year, as the Governing Body may determine, but all members shall be eligible for re-appointment or re-election.

(iv).....

(v).....

Rule 2

(i) The Governing Body shall elect from among its own members a Chairman and Vice-Chairman, one of whom shall be a woman, each of whom shall hold office for a period not exceeding three years, if that does not extend beyond his current term as a member of the Governing Body but shall be eligible for re-election.

4. It is the case of the petitioner that the foresaid Rule, which is part of overall Rules of respondent no.2 is in conformity with Ordinance XVIII Clause 3 (1), which reads as under:

3.(1) The members of the Governing Body, other than the Principal, shall hold office for a period of one year and shall be eligible for re-appointment or re-election, provided that in respect of teacher's representatives provisions of Sub-Clause (2) of this Clause shall apply.

Provided that on the expiry of one year the Executive Council may, either on the request of the Trust / Delhi Administration or on its own, as the case may be, if it is satisfied that the

circumstances so warrant, extent the term of the existing nominees of the Trust / Delhi Administration on the Governing Body for a further period not exceeding six months but not more than three months, at a time.

Provided further that on the grant of approval by the Executive Council the existing office bearers of the Governing Body shall continue to function as such for the extended period.

(2).....

(3) The Governing Body shall elect from among its own members a Chairman to hold office for one year provided that this does not exceed his current term as member of the Governing Body and shall be eligible for re-election.”

5. The petitioner has referred to Resolution 211 of 1969 which aspect has already been referred to Writ Petition (C) 494/2013. It is the case of the petitioner that ever since the respondent no.2 Society has been affiliated with the respondent no.1, the petitioner has been nominating 10 members for appointment as members of the Governing Body of the respondent no.2 and the respondent no.1 every time has approved the said 10 nominees as members of the Governing Body of the respondent no.2. It is the case of the petitioner that where the Rules of the respondent no.2 provides for 3 years as tenure of the Governing Body and where the tenure as mentioned in the Ordinance is of one year, the respondent no.2 has been following the tenure of one year as provided in the aforesaid Ordinance. The petitioner has referred to Executive Council's Resolution no. 289 dated August 21, 1975, No. 234 of February 28, 1980 and Executive Council resolution No. 138 of February 11,

2003. It is the case of the petitioner that Resolution No. 138 of February 11, 2003, wherein it was decided that no member shall serve on the Governing Body of a Delhi Government College ordinarily for more than 2 consecutive terms and of a Governing Body of a Trust College for more than 5 terms, it was not made enforceable for the Governing Body for entire period between 2003-2011. In other words, during the aforesaid period, ongoing practice of nomination of 10 members by the petitioner and appointment of the said 10 members by the respondent no.1 to the Governing Body of respondent no.2 has been uninterruptedly followed. In the year 2011-2012, petitioner wrote a letter dated January 13, 2011 to the respondent no.2 which contained 10 names nominated by the petitioner for the Governing Body for the year 2011-2012 and requested the respondent no.2 that the said names be forwarded to the respondent no.1 for appointment as members of the Governing Body. Respondent no.1 vide its letter dated January 21, 2011 raised an issue that the nominations of 10 names as made by the petitioner and forwarded by the respondent no.2 to the respondent no.1 was not in accordance with the Executive Council Resolution No. 289 dated August 21, 1975 and Executive Council Resolution No. 138 dated February 11, 2003. The respondent no.1 vide its letter dated July 6, 2011 communicated to the respondent no.2 approval of only 8 names out of 10 names so nominated by the petitioner and forwarded by the respondent no.2 for appointment as members of the Governing Body for the year 2011-2012. Respondent no.1 did not consider the two remaining names on the alleged ground that the said two members had served the Governing Body for 5 terms and therefore they

were allegedly not eligible for reappointment to the Governing Body in accordance with the 2003 guidelines. The petitioner through respondent no.2 wrote letters dated August 19, 2011 and October 22, 2011 stating that the guidelines of 1975 and 2003 are against the relevant Statutes and the Rules of the respondent no.2. Respondent no.1 did not consider the request of the petitioner and the tenure of the Governing Body was not extended as sought by the petitioner. The petitioner filed a Writ Petition no. 3369 of 2012 seeking declaration of the guidelines bearing Executive Council resolution No. 138 of 2003 as arbitrary. The said writ petition was withdrawn on 29th May, 2012 to give a detailed representation to the University. The petitioner also filed another Writ Petition bearing no. W.P.(C) 3552/2012 seeking direction to the respondent no.1 to extend the term of the Governing Body for a further period of 3 months. In terms of order dated May 29, 2012 passed in W.P.(C) 3369/2012, the petitioner made a detailed representation dated 6th June, 2012 to the respondent no.1 whereby the petitioner categorically explained that the said Resolutions bearing Resolution No. 289 dated August 21, 1975 and Resolution No. 138 dated February 11, 2003 were against the Statutes and Ordinance and other provisions of the Delhi University Act. In June, 2012, the tenure of the Governing Body of the respondent no.2 expired and the respondent no.1 without considering the long term demand made by the petitioner for extension in the existing Governing Body arbitrarily formed a truncated Governing Body for the Management and running of respondent no.2 / College. On 9th June, 2012, the petitioner forwarded a list of 10 Trust Members to the respondent

no.1 for their approval for Governing Body for the period 2012-2013. It is the case of the petitioner that the respondent no.1 has been arbitrarily insisting upon the enforcement of the said disputed guidelines. It also adhering to the disputed guidelines of 1975 and 2003, only approved six names out of ten names as forwarded by the petitioner vide its letter dated 9th June, 2012. It is stated that despite the matter being subjudice, resolutions were sought to be implemented. It is stated that without deciding the representation of the petitioner dated 6th June, 2012, respondent no.1 has come up with another Executive Council Resolution no. 51 of November 3, 2012 which, instead of correcting the stand of the respondent no.1 on the issue of constitution of the Governing Body has sought to make it mandatory its stand on those issues as contained in Executive Council Resolution No. 289 dated August 21, 1975 and Executive Council No. 138 dated February 11, 2003. It is the case of the petitioner that the said Resolution is not only the reiteration of the earlier guidelines of 1975 and 2003, but further additions are contrary to the basic tenets of allowing Society to have its nominees on the Governing Body and work as a team. The Resolutions are challenged on the ground that they are in violation of 30 (1) (C) (i) of the Statute and further in contravention of second proviso to Section 29 of the Act and Ordinance XXVIII.

Writ Petition (C) No. 1174/2013

6. It is the case of the petitioner that it was established on March 3, 1960 as Daulat Ram Public Trust Education Society. In the year 1964, the name of the Society was changed to Daulat Ram College Society. It is a constituent College of the University of Delhi and the

Memorandum of Association of the Society is approved by the University. It is stated that the Memorandum of Association of the College inter alia provides that the affairs of the College shall be administered by the Governing Body which shall be constituted as mentioned in the Rules. It is also provided that Society shall have the power to frame Rules for the administration of the Society and the College which should conform to the provisions laid down in the Statutes and Ordinance of the University and the conditions of Government grant to the College.

7. On the aspect of members of the Governing Body it is stipulated in the Rules that the constitution of the Governing Body shall be those laid down by the provisions of the University Statute and Ordinance or such amendments that may be made from time to time. It is also stated that the College shall have a regularly constituted Governing Body consisting of not more than twenty persons approved by the Executive Council and including amongst others at least two representatives of the University and at least 3 representatives of the teaching staff of whom the Principal of the College shall be one. It is also stipulated that the number of representatives of the Daulat Ram Public Trust shall not exceed $\frac{2}{3}^{\text{rd}}$ of the total membership of the Governing Body. It is also provided that the members of the Governing Body other than the Principal and the teachers representatives shall hold the office for three years and be eligible for re-appointment or re-election. It is also stated that personnel of the Governing Body shall be approved by the Executive Council of the University of Delhi and the membership will become operative only after it

has been approved by the Executive Council. The petitioner has also referred to Resolutions dated November 19, 1966, August 21, 1975, Resolutions No. 689 of 1980 and Resolution dated February 11, 2003. It is also stated that every year the respondent University approved the Governing Body's list of 10 nominees. It is also averred that on March 5, 2002, a communication was sent by the petitioner Society to the Principal of the College re-nominating 9 Trust Nominees and nominating one new Trust Nominee to the Governing Body of the College. The list so sent to the Principal was forwarded by the Principal to the respondent University and in response thereto on April 11, 2002, respondents / University sent a communication to the Principal of the College for the first time requesting it to send 50% more names of Trust Nominees with their bio-data as per information required vide Executive Council Resolution NO. 289 of August 21, 1975. A response thereto was sent on April 22, 2002, stating that it is not possible for the Trust to send 50% more names as for the last 33 years the Trust has never sent more than 10 names as nominees which have been accepted by the University. It is stated that no self respecting person of any status will offer himself for nomination specially to his name being rejected. Again on April 16, 2003, the Principal of the College on behalf of the petitioner sent to the respondent University for approval, a list of 10 Trust Nominees of the petitioner / Society to be appointed on the Governing Body for that year. The said communication re-nominated eight members and nominated two new nominees. One of these Trust Nominees had been on the Governing Body since 1985 and two of the Trust Nominees had been on the

Governing Body since 1994. The entire list of Trust Nominees of the Governing Body was approved by the respondents / University without demur on May 6, 2003. Similar is the position with respect to approval of list of 10 Trust Nominees of the petitioner Society to the Governing Body of the College for the years 2004-05 and 2005-06. It was against the communication dated March 27, 2006 of the Principal of the College sent to the respondent No.1 / University for approval, the list of 10 Trust Nominees of the petitioner Society to be appointed on the Governing Body for the next term that the University vide its communication dated May 9, 2006 requested the Trust to nominate 50% more names as Trust Nominees and also include the names of two women as Trust Nominees to be appointed on the Governing Body along with their bio-data for consideration of the University. In response to the above communication on May 17, 2006, the Daulat Ram College Society wrote to the Dean of the Colleges stating that the names forwarded to the University have been forwarded after obtaining the consent of each nominee and to suggest more names would cause embarrassment to the College as all nominees are highly qualified and experienced persons fulfilling the requirements prescribed by the University in that regard and in case a person has consented to be a Trust Nominee and is not appointed, no one would consent to be nominated and subject himself being rejected. It is the case of the petitioner that it has never sent more than ten names as its nominees on the Governing Body for the last 37 years and the same has always been acceptable to the University. In respect of the proposal regarding nomination of two women members, it is stated that the Trust

would fulfil the said requirement in the next years panel as they had already sent the names of ten members. On May 23, 2006, the respondents / University replied stating that the Vice-Chancellor has approved the names of the Trust Nominees on the Governing Body of the College for the stipulated period of 1 year. It is averred by the petitioner that in the year 2007-2008 the petitioner Society had sent the names of 10 Trust Nominees for being appointed to the Governing Body of the College. Similarly, a communication as referred above was sent by the University for sending 50% more names of Trust Nominees including the names of two women to be appointed to the Governing Body, for which response was sent by the petitioner. But the fact remains that the Vice-Chancellor has approved the names of all the Trust Nominees to the Governing Body of College for a term of one year. For the year 2008-2009, the Trust had forwarded the names of ten nominees and a similar communication was sent by the respondents to the Trust to send 50% more names of Trust Nominees including the names of two women members to be appointed to the Governing Body, by relying on the Resolution Nos. 289 dated August 21, 1975 and 138 dated February 11, 2003. In response thereto, the Chairperson of the petitioner Society sent a letter dated July 7, 2008 stating that all persons nominated are highly qualified individuals who fulfilled the requirements of the University in that regard and suggesting more names would cause a great deal of embarrassment as if the persons who have consented to be Trust Nominees are rejected by the University, it would lead to no one ever consenting to be nominated. Respondents / University vide their communication dated 14th August, 2008

yet again requested the petitioner to send at least 50% more names as per Executive Council Resolution dated August 21, 1975 and Resolution 138 dated February 11, 2003 for nomination to the Governing Body of the College. Similarly it is averred that on February 6, 2009, the Principal of the College sent to the respondents for approval a list of ten Trust Nominees of the petitioner Society to be appointed on the Governing Body for the year. The said communication re-nominated seven persons and nominated three new nominees. One of the Trust Nominees has been on the Governing Body since 1985 and two Trust Nominees have been on the Governing Body since 1994. On February 9, 2009, the respondent approved the same without demur. On November 26, 2009, the Principal of the College wrote to the respondent No.1 / University requesting it to grant approval to the extension of the tenure of the Trust Nominees on the Governing Body approved by the respondent vide letter date February 9, 2009 by three months. The approval sought was granted without any demur. On July 5, 2010, the petitioner sent to the respondent University for approval of list of nine Trust Nominees to be appointed on the Governing Body for the year and stated that tenth nominees shall be communicated shortly. The nine Trust Nominees were re-nominated. One of the Trust Nominees has been in Governing Body since 1985 and two Trust Nominees had been on the Governing Body since 1994. In the month of July, 2010, the respondent No.1 vide its letter dated 21/26th July, 2010 for the first time since 2003 arbitrarily raised an objection in respect of the list of Trust Nominees to the Governing Body on the ground that the proposal was not as per the guidelines of

Executive Council Resolution NO. 138 dated February 11, 2003, despite the fact that the proposal was not different from every year since 2003 and was in conformity with the guidelines of Executive Council dated February 11, 2003. On August 5, 2010, the petitioner wrote to the respondents expressing its willingness to change one of the Trust Nominees. It was further stated that except the trustees themselves and the office bearers, no member has served on the Governing Body for a long period as stipulated. In respect of treasurer, it was clarified that he is not only an office bearer, but being the treasurer on the Governing Body, he is specially connected with OBC, Hostel construction, in the Common Wealth Games Project and all related accounts as also college accounts. It is also stated that as the College is celebrating its Golden Jubilee, thus continuity of Governing Body members is essential. Accordingly on August 30, 2010, respondent No.1 sent a communication approving the Governing Body. It was also stated that the petitioner should ensure that while sending the proposal for nomination / re-nomination of the Trust Nominees on the Governing Body of the College, the College should send a panel of persons in accordance with the Executive Council guidelines and also the persons to be nominated on the Governing Body should fulfil the requisite qualifications as contained in the guidelines for appointment of persons as Trust Nominees. It is also stated that as the Principal was to retire on September 30, 2010, the College advertised the post of the Principal in National Dailies. Respondents arbitrarily sent a communication dated September 28, 2010 to the petitioner stating that UGC has notified new qualification for the

post of the Principal and the Executive Council is yet to amend the relevant Ordinance of the University with regard to five years term post, directed the petitioner to keep the matter of appointment of a new Principal in abeyance. Consequently, the petitioner College has been functioning without a Principal since September 30, 2010 and in every six months a senior most teacher has to be appointed as an acting Principal in accordance with applicable Statute. It is also averred that different posts of Assistant Professor / Lecturer are lying vacant. On June 16, 2011 petitioner sent a list of ten Trust Nominees to the acting Principal, who in turn send the communication to the respondent no.1 on June 16, 2011. Of these 8 were re-nominated and two were new nominees. On July 13/14, 2011, respondents wrote to the petitioner stating that the panel of Trust Nominees sent by the College for nomination / re-nomination on the Governing Body is not in accordance with the Executive Council guidelines and requested the College to provide the names and Bio-Data of the nominees as per the guidelines.

8. It is averred that on August 9, 2011 upon receiving no confirmation of the Governing Body, the Chairperson of the petitioner Society wrote to the respondents in continuation to the letter dated July 22, 2011 and further through a telephonic conversation on August 7, 2011 stating that the guidelines are not compulsory and therefore need not be followed in sense/spirit. It is further stated that since the guidelines stated that no Member shall serve more than five terms, ordinarily this is directory and not mandatory provision and in practice applied only to Members, who are trust nominees but not applicable to the trustees

themselves nor the office bearers. It is averred that certain persons are Members of the parent trust, which nominates other Members/nominees, they are indispensable Members of the Governing Body and there is no tenure of the sponsor Members. The petitioner referred to the communication dated August 10, 2011 and August 30, 2011 made to the Vice Chancellor calling upon him to look into the matter approving the Governing Body. A reference is made to the communication dated September 7/8, 2011 to the petitioner requesting for a panel of 50% more names of the trust nominees along with bio-data to be provided in terms of Resolution No. 289 of August 21, 1975 and Resolution No.138 of February 11, 2003. The Acting Principal of the College vide his communication dated September 13, 2011, sought the attention of the University with respect to its earlier communication and the fact that the University has not approved the list of the nominees on the Governing Body and called upon the University to grant approval to the trust nominees urgently.

9. In the writ petition, it is averred that a communication dated September 14, 2011 was sent by the Acting Principal of the College stating that the Executive Council Resolution No. 138 dated February 11, 2003 has superseded the Resolution No. 289 dated August 21, 1975 and thus, the requirement to send 50% additional names of trust nominees has not been operative since 2003 and the demand of the University is in contravention of the Resolution dated February 11, 2003. A reference is also made to communications dated September 14, 2011 and September 29, 2011 seeking approval of trust nominees on the

Governing Body, already sent by the petitioner. A reference is also made to communication dated October 4/7, 2011 of the University wherein the University has stated that the Resolution No. 138 dated February 11, 2003 is only in addition to the Resolution No. 289 dated August 21, 1975 and therefore, requested the College to forward panel of names containing not less than 50% more names than required numbers as per the University's guidelines. A reference is also made to the communication dated October 10, 2011 of Mrs. Sunita Sudershan wherein, she has objected to her being referred as Ex-Chairperson. That apart, it is stated that the trust is not willing to provide any additional names for the Universities to pick and choose from the trust on the ground that the trust has appointed highly placed well educated individuals, who are voluntary nominees and not employees and no such person would expect to be nominated subject to rejection by the University. A reference is made to the communication dated October 11, 2011 of the Chairperson of the petitioner Society; to the letter dated October 27/28, 2011 of the respondent University calling upon it to send the list of the nominees as per the Executive Council Resolutions approved from time to time. A reference is also made to the letter dated November 3, 2011 of the Chairperson of the petitioner; letter dated November 3, 2011 of the Acting Principal of the College; letter dated November 4, 2011 of the Chairperson to the Vice Chancellor of the respondent University; letter dated November 16, 2011 of the Chairperson to the Vice Chancellor of the University; letter dated November 18, 2011 of the Chairperson to the Vice Chancellor of the University; letter dated November 23, 2011 of the Chairperson to the Vice

Chancellor; letter dated December 14, 2011 of the Chairperson to the Vice Chancellor; letter dated December 14, 2011 of the Chairperson to the Dean of the Colleges; letter dated December 16, 2011 of the Chairperson to the Vice Chancellor; communications dated December 16, 2011, December 20, 2011 reiterating their earlier stand. A reference is made to the communication dated January 2, 2012 wherein it is stated that arbitrarily and unreasonably an inspection was carried out 45 minutes before the official opening time of the College and it was alleged that the Teachers were absent and classes were not being held. The said letter was in the nature of a show cause notice why Delhi University should not take disciplinary action. The said show cause notice was replied on January 6, 2012 denying the allegations made in the said show cause notice. On January 18, 2012, the Deputy Registrar of the respondent sent a communication to the Acting Principal of the petitioner College requesting her to put up an application for voluntary retirement before the Governing Body and forward the recommendation to the respondent for approval of the Competent Authority. A reference is made to a telephonic conversation on January 19, 2012 calling upon the Acting Principal to convene a meeting of truncated Governing Body comprising of five persons minus(-) the ten trust nominees on January 24, 2012. The recommendation of the respondents was communicated to the petitioner Society, which vide its letter dated January 20, 2012 addressed to the Acting Principal advised the Principal not to convene any meeting as suggested by the respondents in view of the fact there is no regular Governing Body in the College. It is averred that the conduct of the University had

created confusion and chaos. A reference is also made to a Writ Petition No. 542/2012 filed by the petitioners against the respondents' refusal to approve trust nominees of the petitioner Society to the Governing Body and the enforcement of Executive Council Resolution No. 289 dated August 21, 1975 and Resolution No. 138 dated February 11, 2003. During the midst of the final hearing of the W.P. No. 542/2012, the respondent passed Executive Council Resolution No. 51 on November 3, 2012 superseding the previous two resolutions impugned in Writ Petition No. 542/2012.

10. The respondents have filed their counter-affidavit. I need not refer to the contents of the counter affidavit as I intend to refer to the stand of the respondent University while referring to the submissions made by Mr.Sudhir Nandrajog, learned Senior Counsel appearing for the University.

SUBMISSIONS

11. Mr. Manu Seshadri, learned counsel appearing in W.P.(C) Nos. 494/2013 and 1174/2013 apart from reiterating the facts as referred to above, would state that the Delhi University had earlier framed Executive Council Resolution No. 289 dated August 21, 1975 vide which the trust was advised to forward a panel of names containing not less than 50% more names than required numbers and Resolution No. 138 dated February 11, 2003 providing that no Member shall serve on the Governing Body for more than five terms. However, they were admittedly for guidance and were directory in nature and were never given effect to. It was only in the year 1997, for the first time, the University asserted the

applicability of Executive Council Resolution No. 289 dated August 21, 1975 but upon the petitioners' objection, it was withdrawn and the names of the Members of the Governing Body were approved with observation that "*the present system of nominating 10 Members has been functioning well.*" Thereafter, till 2011, the same practice was followed and the nominees of the petitioners were approved without demur. As such, it is apparent that the University itself treated the said guidelines of 1975 and 2003 as directory and not mandatory. In this context, he would rely upon the phrases like "*the trust be advised*" and "*the Council desire*", which is sufficient to show that the impugned guidelines were merely recommendatory and not mandatory. He states, that the guidelines are not mandatory is also clarified by Executive Council resolution No. 687 dated February 15, 1980, which reads as under:-

"The Council resolved that a copy of Executive Council Resolution NO. 289 dated August 21, 1975 laying down the guidelines for appointment of persons as trust nominees on the Governing Body be circulated to the Colleges from time to time for their guidance."

12. He would also refer to Abid Hussain Committee vide Resolution No. 251 dated October 14, 1996 recommending deletion of this guideline. He states that the impugned Resolution seeking to interfere in the constitution of the petitioners' Governing Body, is in breach of the petitioners' fundamental right to establish and administer an educational institution and carry on an occupation guaranteed by Article 19(1)(g) of the Constitution.

Moreover, while the College is required to comply with the prescribed prerequisites as a condition of recognition, the said conditions would be valid only if they pertain to the academic and educational character of the Institution; but not if they lead to governmental control of administration or interference in the constitution of Governing Bodies. He would state, in any event, no conditions can be imposed unless such conditions are imposed by law within the meaning of Article 19(6). According to him, Executive Council Resolutions are not “Law” within the meaning of Article 19(6) but are admittedly Departmental Instructions that do not have the force of law. He would state, the provisions of Section 29 provide for amending, repealing and making new statutes. However, the second proviso restricts the power of the Executive Council expressly in interfering with the extent of the autonomy, which a College may have and the matters in relation to which such autonomy may be exercised. He states, from a combined reading of the above provisions, it is apparent that the restrictions on the autonomy of the college are subject to the provisions of Section 29. He would further state, the powers and functions of Executive Council are defined under Statute 6 and does not comprise the power to issue the said Notification, or take any action that would have a direct impact on the autonomy vested in the petitioner to govern the College. He states, the said notification would therefore be contrary to the Act, Statutes and Ordinance. He would state, a conjoint reading of Section 29 of the Act with Statute 6 makes it clear that the Notification issued by the Executive Council and its imposition on the Colleges is in the species of excessive legislation and colorable exercise of power to

usurp the control in the internal management of the Colleges. He would state, even otherwise, the Executive Council does not have the power to make and adopt resolutions prescribing any guidelines for nomination to the Governing Body. The power to make resolutions must be statutorily delegated to the Executive Council. He would state that such power has been given only in instances arising under Statute 6 sub clause (2) (ii). No general power to make resolutions has been delegated to the Executive Council. The resolutions are thus ultra vires.

13. He would state, Statute 30 provides that the college shall have a regularly constituted Governing Body, consisting of not more than twenty persons approved by the Executive Council and the rules relating to the composition and personnel of the Governing Body, shall conform to the Statutes and the Ordinances as well as require approval of the University. It is clear from the language of Statute 30, that the University has no power to make rules (or resolutions) or amend them insofar as the management of petitioners is concerned but only possesses the power to approve any such rules made in pursuance of Statute 30(1)(C) during affiliation of the College with the University, and that the legitimate authority and right to make rules lies with the college itself which is to be governed by such rules. It is his submission that the University's involvement is restricted to ensuring that such rules are in conformity with the Statutes, Ordinances and Regulations of the Act and to thereafter approve the same at the time of giving affiliation to the College. He would state that the Rules of the petitioners relating to the composition of the Governing Body have

been approved by the respondents while granting affiliation to the University under the Statute. He would state that the Memorandum of Association of the petitioner College has been revalidated again on May 2, 1996. He would state, the respondents only have the power to approve the personnel of the Governing Body so long as they are appointed in compliance with the Ordinance, Statute, Act and Rules and do not have the power of selection. They do not have the power of selection, which is plainly unsupported by the language of the statute. Thus, they do not have the power to pick and choose and select (which they are seeking to contend is power to approve/disapprove). Moreover, the source of this alleged power is plainly not traceable to any of the provisions of the Act, Statute or Ordinance and the University has not been able to pin point the source of this power which they have conferred upon themselves. He states, Statute 30 provides the Executive Council only the power of “approval” and not the power of “selection” of the personnel of the Governing Body. The University, whose power has clearly been demarcated to the realm of approval only, by requiring that the list of nominees forwarded contain 50% more names than the required number seeks to confer discretion upon the Executive Council in deciding which of the ten nominees to select out of 15. He would state, in conferring such power upon itself, the University oversteps the precincts of the power prescribed by the Act. The distinction between the power of approval and power of appointment has been recognized by the courts and no authority is permitted to vest itself with one while it has expressly been granted the other. He states, the University, via the impugned Notification seeks to

supersede Statute 30(1)(C) by clothing itself with the power of appointing the members of the Governing Body of the college whereas it remains the prerogative of the college and it exercises its prerogative as such by selecting its nominees for the Governing Body and sending such list to the respondent for its approval. He would state, with respect to the Governing Body, Ordinance XVIII clause (3)(1) provides that “*The members of the Governing Body, other than the Principal, shall hold office for a period of one year and shall be eligible for reappointment or re-election*”. The language of the ordinance is clear. It provides no limitation on the number of terms a person may serve as the member of a Governing Body. On the contrary it specifically provides that the member of the Governing Body shall be eligible for reappointment every one year. Anything that makes such person ineligible for reappointment is thus contrary to the Ordinance. The University’s argument that providing a limit on the number of terms is only to “*fill in a gap*” in the statute is therefore, on the face of it, incorrect, and obviously goes beyond the Statute and has the effect of amending the Statute. Conscious exclusion of the Principal of the college and the Teachers representatives reflects the fact that the legislature considered the aspect of which members of the Governing Body should have limited terms and which should not. Hence the omission of the legislature in providing for a specified number of terms that the members may serve on the Governing Body, subject to re-election/re-appointment and after approval by the Executive Council, is in fact a calculated one and not a gap or silence on part of the law, open to be supplemented by executive instructions.

14. He would state, the Resolution dated November 03, 2012 inter alia providing that no member shall serve on the Governing Body of a Trust College for more than five terms overreaches and seeks to provide a stipulation not contemplated by the provisions of Section 29, or Statute 30 or for that matter Ordinance XVIII. As such the limitation of five terms in the Notification has no meaning in law and is liable to be set aside. He would state, even otherwise the University is not entitled to interfere with the autonomy of the colleges protected under the provisions of Section 29(2)(vii) of the Act read with the applicable provisions by seeking to impose limitation of five years on the term of Governing Body members. The imposition of the said Notification and action taken in terms thereof is a colorable exercise of power and is in bad faith and liable to be struck down. He would rely upon the following judgments in support of his contention:-

- (i) ***(2002) 8 SCC 481 T.M.A. Pai Foundation v. State of Karnataka;***
- (ii) ***(2004) 6 SCC 224 Brahmo Samaj Educational Society v. State of W.B;***
- (iii) ***(1986) 3 SCC 615 Bijoe Emmanuel v. State of Kerala;***
- (iv) ***AIR 1988 Ori 130 Sukdev Singh and Ors v. State of Orissa;***
- (v) ***(1964) 1 SCR 332 Kharak Singh v. State of UP;***
- (vi) ***AIR 1967 SC 1170 State of Madhya Pradesh v. Thakur Bharat Singh.***
- (vii) ***ILR 2010 (4) Kerala 541 Parakkad Sree Bhagavath Devaswom v. Malabaw Devaswom Board;***
- (viii) ***2006(5) SCC 517 State of Tamilnadu and Anr. v. P. Krishnamurthy and others;***

(ix) W.P.(C) 202/2014, Forum for Promotion of Quality Education for All v. The Lt. Governor of Delhi and Ors decided on November 28, 2014.

15. Mr. G.K. Mishra, learned counsel appearing for the petitioner in Writ Petition (Civil) No. 616/2013 would reiterate and adopt the submissions as made by Mr. Manu Seshadri. He has also filed short synopsis.

16. On the other hand, Mr. Sudhir Nandrajog, learned Senior Counsel for the Delhi University would state that the petitioners being a Societies and not being a citizens of India cannot allege infringement of Article 19(1)(g) of the Constitution. Rather, the University is a statutory body and amongst other activities it is empowered to grant affiliation to colleges, which may be admitted to such privileges as the University seeks to grant. No college has a right, legal or fundamental, to affiliation or admission to the privileges of the University. He would state, the grant of affiliation to a college and the admission to the privileges of the University is subject to such conditions as may be prescribed by the University. One of such conditions is the constitution of the Governing Body of the College in accordance with the guidelines of the University. He would state, the petitioners have not impleaded the College, the affiliation of which has been regulated by the resolution of the Executive Council. The Society cannot have a grievance in that regard and cannot espouse the cause for any other institution particularly when there is no interference with the right of management of the Society. The governance and administration of a college is distinct from the management of the society which may have set up the College. The impugned

resolutions of the University do not in any manner interfere with the management of the societies i.e the petitioners but only prescribe for the conditions to be fulfilled for the Constitution of the Governing Body of the College. The Society and the College are distinct and separate bodies and cannot be equated as alter egos of one another. Though the citizen of the country have a fundamental right to form a society, the said fundamental right does not extend to the attainment of the object for which the society has been formed. The right to form and manage the parent society may be the fundamental right of its Members. The society has also the right to pursue any activities that it may so desire, including the setting up of an educational institution. However, there is no right whatsoever that the College/educational institution set up by the society be granted affiliation to the University. Establishing an educational institution is distinct from affiliation to the University.

17. He would state, the law of land is that the associations or unions of citizens cannot further claim as a fundamental right that it must also be able to achieve the purpose for which it has come into existence so that any interference with such achievement by law shall be unconstitutional. A right to form association guaranteed under Article 19(1)(c) does not imply the fulfillment of every object of an association as it would be contradictory to the scheme underlying the text and the frame of the several fundamental rights guaranteed by Part III of the Constitution. It is further his submission, since the College has no fundamental right to be granted affiliation to the University, the College must comply with the requirements of the University to be granted continued affiliation. In case the

College has any grievance with the Rules, Regulations and Guidelines of the University, nothing prevents the College from seeking affiliation from any other University and in case the College seeks to do so, it will have to comply with the provisions of affiliation as may be prescribed by any other University. He would state that the entire basis of the arguments addressed by the petitioners primarily based on the plea that the impugned resolution interferes in the autonomy of the Society and thus of the College is misplaced. He states, Statute 30 of the University of Delhi Act more particularly Clause (C) reflects the supreme power of the Executive Council which provides that “*Colleges and other institutions within the limits of State of Delhi, may be admitted to such privileges of the University as the Executive Council may decide....*”. (Emphasis supplied). He states that Statute 30 (1)(C) provides that the Governing Body of the college shall be approved by the Executive Council. Further it is provided in the said Statute 30 (1)(C) that the Rule relating to composition and personal of the Governing Body and those relating to other matters affecting the management of the College will require the approval of the Executive Council. Since admittedly there are no rules framed in this regard, therefore the need for the resolution passed by the Executive Council which is impugned herein. He would state that the impugned resolution of the Executive Council only supplements the Statutes and the Ordinances. He would state, it is well laid down principle of law that even administrative instructions are valid to fill up gaps and supplement the Statutory rules. Therefore, the impugned Executive Council resolution cannot be held to be bad in the facts and

circumstances of the present case. The Executive Council is well within its power to pass impugned resolution and there is no infirmity in passing such resolution by the Executive Council in the light of said Statute 30 of the University of Delhi Act.

18. It is his submission that the present writ petition suffers from inherent inconsistencies. He would state, admittedly the petitioners have been complying with the major part of the impugned resolution dated November 3, 2012 passed by the Executive Council of the respondent University. The petitioner has grievance only with respect to Clause B 2(a) and Clause B 4(e) only. All other clauses have been duly accepted except for the above two part of the clause 2 & 4. That in one case, the petitioner Society on one hand has averred that earlier two resolutions dated August 21, 1975 (Executive Council resolution No.239) and February 11, 2003 (Executive Council resolution No.138) have been superseded by the resolution passed by the Executive Council on November 3, 2012 (Executive Council Resolution No.51) but at the same time the petitioner society is seeking quashing of only one of earlier resolutions dated August 21, 1975 and the impugned resolution dated November 3, 2012. The said impugned resolution is applicable to 20 colleges affiliated to the University of Delhi and only the Trust/Societies of the three colleges have only impugned the said resolutions. In these circumstances the relief as sought by the petitioners cannot be granted. The petitioners cannot accept a part of the resolution and claim benefits under it and at the same time repudiate the remaining part of the resolution and refuse to comply with the same. He would state, the petitioners admit

categorically that the University has the power to approve the names of the nominees forwarded by the petitioners for appointment as Members of the Governing Body, total 10 in number. The power to approve inhere the power to disapprove any of the names of the nominees forwarded by the petitioner Society. He would state, if the petitioner Society sends only 10 names then it does not leave any power to approve, choose or select the names by the University. Hence, the resolution of the Executive Council seeking 50% more names than the required number i.e 15 names of nominees out of which the University shall select 10 names to be Members of the Governing Body of the College concerned is valid and proper. Moreover, admittedly the term of trust Members of Governing Body is only one year w.e.f the date of appointment of such trust Member. If only 10 names are forwarded by the petitioners and out of which few are not approved by the University then fresh names shall be required to be submitted by the petitioner leading to undue delay and laches which shall be detrimental to the affairs of the College and students. Hence calling for 50% more names is therefore just and proper. He states, the Supreme Court in the matter reported as ***AIR 1996 SC 149 State of Himachal Pradesh v. Ganesh Wood Products*** has held, “..now, it cannot be denied that the power to approve includes the power to decline approval and the power to disapprove..”.

19. He would deny that the University has converted, vide the impugned Executive Council resolution, the power to approve into a power to appoint. It is admitted fact that the University does not select the names of the nominees. This power vests only with the

petitioner Society. Hence, the names of the nominees proposed to be Members of the Governing Body of the College concerned are all selected by the petitioner Society. None of the names is provided by the University. The Ordinance XVIII has to be read harmoniously along with Statute 30 and other provisions of the University of Delhi Act. The petitioner Society is free to bring any new person of its choice in the Governing Body of the College. The choice of forwarding the names as nominees wrests entirely in the hands of the petitioner Society. He would state the University is only having the power to approve such names forwarded by the petitioner Society then such provision has to be given full effect. By impugning the subject Executive Council resolution, the petitioner Society *malafidely* and mischievously is seeking abridgment of this power vesting in the University of approval rather than to merely act as rubber stamp which is not the legal position at all. Thus there is no alleged violation of fundamental right or colourable exercise of power by the University. He would state, Section 17 of the University of Delhi Act lists the authorities of University. The Executive Council is one such authority. Section 21 of the said Act provides that, “*the Executive Council shall be the executive body of the University....*”. He would state, from the reading of Section 29 of the University of Delhi Act, it is clear that the University is also empowered to deal even with the issue concerning the extent of the autonomy of the College and the matters in relation to which such autonomy may be exercised. The petitioners by filing the present writ petition in fact wants to achieve fiefdom, which shall be detrimental to the interest of the educational institution

and students as a whole. Thus the cap of tenure of maximum five terms is not arbitrary or illegal. However, to strike a balance, the Executive Council resolution dated November 3, 2012 does provide for appointment of two Members even after completion of five terms so as not to deprive the petitioners to exceptional individuals to be on the Governing Body of the College for more than five terms. He would state, that the College receives 95% grants from the Government through UGC, primarily due to the fact that the College is affiliated to University of Delhi. He would state, the Executive Council being the highest authority in the University has a well-marked role in the working of the college and the resolution passed by the Executive Council more particularly the impugned resolution is required to be given full play and there is no illegality in the same. He would state, Statute 30 read with Ordinance XVIII of the University of Delhi Act cannot be used by the petitioner Societies to fulfil their mischievous object of creating a fiefdom for its 10 nominees on the Governing Body of the College by pressing for the mechanical approval by the University of names of the same 10 nominees every year infinitum. Such a reading militates against the very object of bringing fresh talent from diverse fields and hence the need to put a cap of five terms on a particular nominee of the petitioner's Society to be on the Governing Body of the College. Though an exception has been carved out in the impugned resolution itself for two nominees of the petitioner's Society. Such a provision in the impugned resolution supplements Ordinance XVIII and does not contravene the same. He would state that this Court in the case of *Narinder Batra v. Union of India (supra)* considered the validity of an

administrative guidelines and in para 239 has held that, “*by the guidelines the Government has not prohibited formation of an association, society or federation with regard to any sport. It has only mandated that in order to be entitled to financial assistance or recognition as a national level body by the Union Government, it would require to be a society or an association or federation which enforces democracy by fixing the tenure of the office bearers....*”. In para 241 of the said judgment, the Court also noted that, “*..if such a tenure clause was not enforced, the office bearers could be repeatedly elected from the particular region and continue to dominate the affairs of the association/federation after having created a monopoly over the sport.*”. In para 242 of the said judgment, it has been held that, “*..a limited office tenure, certainly would have the impact of minimizing, if not eliminating allegations, criticism and elements of nepotism, favouritism and bias of any kind. In a country having a federal structure of the nature that India possesses, the office bearers being in circulation and there being change in the representation on the executive of a national level body would go a long way in promoting the diversity and expertise in the sport*”. He would state, that the same ethos shall be applicable in the constitution and composition of Governing Body of a College.

20. He would state, the petitioner Society has relied upon the judgment of the Constitution Bench in ***T.M.A. Pai Foundation (supra)***, more particularly paras 50, 53 and 72. A bare perusal of these paras will show that in the present case these have no application. In ***Brahmo Samaj Education Society (supra)***, the main question for

consideration was “whether the appointment of teachers through the selection of the College Service Commission is permissible or not. In other words to decipher the role of the State in the matter of appointment of teachers”, which is not the case herein. The last judgment cited by the petitioners is in the matter of **Forum for Promotion of Quality Education for All (supra)**. The para 1 of the said judgment itself shows that the same was concerned “private **unaided** schools”. The same is also apparent from the bare reading of paras 114, 115 and 124 of the said judgment and hence has no application.

21. He states, the College is funded by the University Grants Commission to the extent of 95% of its expenditure. Even the remaining contribution of 5% is not entirely forthcoming from the Society. Thus, the college in question cannot be equated with an unaided educational institution. He state, 95% grant from the University Grants Commission is primarily based upon the affiliation of the College to a recognized University, which affiliation, as stated above, is subject to compliance with the requisite provisions as stipulated by the University. He seeks the dismissal of the writ petitions. He would rely upon the following judgments in support of his contentions:-

- (i) **(2004) 1 SCC 712, Dharam Dutt v. Union of India;**
- (ii) **212 (2014) DLT 389 (DB) Indian Olympics Association v. Union of India;**
- (iii) **AIR 1967 SC 1910 Sant Ram Sharma v. State of Rajasthan;**
- (iv) **ILR (2009) IV Delhi 280 Narinder Batra v. Union of India.**

22. Having heard the learned counsel for the parties and considered the written

submissions/synopsis filed by them insofar as the submissions made by Mr. Seshadri and Mr. Mishra are concerned, they are the following:-

- (i) The resolution No.51 dated November 3, 2012 stipulating (a) the trust will forward a panel of names to the University containing not less than 50% more names than required and (b) no Member shall serve on the Governing Body of trust College for more than five terms, are in violation of fundamental right of the petitioners under Article 19(1)(g) of the Constitution of India to establish, administer educational institution and carry occupation.
- (ii) That no such conditions could be imposed unless such conditions are imposed by *law* within the meaning of Article 19(6) of the Constitution of India.
- (iii) That both the stipulations are in violation of second proviso to Section 29 of the Act of 1922, as it restricts(second proviso) the power of the Executive Council expressly interfering with the extent of autonomy which a College may have and the matters in relation to which such autonomy may be exercised and further under Statute 6, the power and functions enumerated does not comprise the power to issue the said notification or take any action that would have a direct impact on the autonomy vested in the petitioners to govern the College.
- (iv) The Executive Council has the power of approval and not power of selection of the personnel of the Governing Body. The impugned stipulations are *ultra-vires* to Statute 30 and Ordinance XVIII.

23. Insofar as the first submission of Mr. Seshadri and Mr. Mishra that the stipulations in

the impugned resolution are in violation of Article 19(1)(g) is concerned, first I shall deal with the objection of Mr. Sudhir Nandrajog that Society being not a “Citizen” of India, cannot allege infringement of Article 19(1)(g) of the Constitution of India. No doubt, the Supreme Court, as far back as in 1963, in the case reported as ***AIR 1963 SC 811 State Trading Corporation of India Ltd. and ors v. The Commercial Tax Officer Vishakapatnam and ors***, has held the freedoms contained under Article 19(1)(a) to 19(1)(g) are available to the Citizens only and not to artificial persons, like a corporation. On the same analogy, a Society being a separate legal entity, being not a Citizen cannot plead violation of Article 19(1)(g) of the Constitution of India and the aforesaid position has been reiterated by the Supreme Court in the case reported as ***2011 (3) SCC 193 Shree Sidhbali Steels Ltd and ors v. State of U.P. and ors***, wherein the Court held, that a company cannot maintain a writ petition under Article 32 of the Constitution of India for the enforcement of the fundamental rights guaranteed under Article 19 of the Constitution, being not a Citizen but this cannot be a ground to dismiss these petitions as the petitioners would be entitled to claim right under Article 14 of the Constitution, that the stipulations in the impugned resolution are arbitrary. Be that as it may, this Court is also of the view, the petitioners cannot plead the stipulations in the impugned resolution violate Article 19(1)(g) of the Constitution in view of the dicta of the Supreme Court in the case reported as ***AIR 1962 SC 171 All India Bank Employees Association v. National Tribunal***. In the said judgment, the question before the Court was the regulations of Union to go on strike. The petitioners

had urged that such regulations were impermissible, given the limited nature of restrictions which could be imposed under Article 19(4). It was contended that the right to protest or strike was one such concomitant right intrinsically protected under Article 19(1)(c). The Constitution Bench of the Supreme Court rejected the contention by observing as under:-

“the argument of the learned Counsel, viz., that the right guaranteed to form "an union" carries with it a concomitant right that the achievement of the object for which the union is formed shall not be restricted by legislation unless such restriction were imposed in the interest of public order or morality, that calls for critical examination. We shall be referring a little later to the authorities on which learned Counsel rested his arguments under this head, but before doing so we consider it would be proper to discuss the matter on principle and on the construction of the constitutional provision and then examine how far the authorities support or contradict the conclusion reached. The point for discussion could be formulated thus : When sub-clause (c) of cl.(1) of Art.19 guarantees the right to form associations, is a guarantee also implied that the fulfilment of every object of an association so formed is also a protected right with the result that there is a constitutional guarantee that every association shall effectively achieve the purpose for which it was formed without interference by law except on grounds relevant to the preservation of public order or morality set out in clause (4) of Article.19? Putting aside for the moment the case of Labour Unions to which we shall refer later, if an association were formed, let us say for carrying on a lawful business such as a joint stock company or a partnership, does the guarantee by sub-cl.(c) of the freedom to form the association, carry with it a further guaranteed right to the company or the partnership to pursue its trade and

achieve its profit-making object and that the only limitations which the law could impose on the activity of the association or in the way of regulating its business activity would be those based on public order and morality under clauses (4) of Article 19? We are clearly of the opinion that this has to be answered in the negative. An affirmative answer would be contradictory of the scheme underlying the text and the frame of the several fundamental rights which are guaranteed by Part III and particularly by the scheme of the seven freedoms or groups of freedoms guaranteed by sub-clauses (a) to (g) of clause (1) of Art. 19. The acceptance of any such argument would mean that while in the case of an individual citizen to whom a right to carry on a trade or business or pursue an occupation is guaranteed by sub-clause (g) of clause (1) of Article 19, the validity of a law which imposes any restriction on this guaranteed right would have to be tested by the, criteria laid down by clause (6) of Article 19. if however he associated with another and carried on the same activity-say as a partnership, or as a company etc., he obtains larger rights of a different content and with different characteristics which include the right to have the validity of legislation restricting his activities tested by different standards, viz., those laid down in clause (4) of Art. 19. This would itself be sufficient to demonstrate that the construction which the learned Counsel for the appellant contends is incorrect, but this position is rendered clearer by the fact that Art. 19-as contrasted with certain other Articles like Articles 26, 29 and 30-grants rights to the citizen as such, and associations can lay claim to the fundamental rights guaranteed by that Article solely on the basis of their being an aggregation of citizens, i.e., in right of the citizens composing the body. As the stream can rise no higher than the source, associations of citizens cannot lay claim to rights not open to citizens,

or claim freedom from restrictions to which the citizens: composing it are subject.

The resulting position may be illustrated thus. If an association were formed 'for' the purpose of arriving on business, the right to form it would be guaranteed by sub-clause (c) of clause (1) of Article 19 subject to any law restricting that right conforming to clause (4) of Article 19. As regards its business activities, however, and the achievement of the objects for which it was brought into existence, its rights would be those guaranteed by sub-clause (g) of clause (1) of Article 19 subject to any relevant law on the matter conforming to clause (6) of Article 19; while the property which the association acquires or possesses would be protected by sub-el. (f) of cl. (1) of Art. 19 subject to legislation within the limits laid down by cl. (5) of Art. 19. We consider it unnecessary to multiply examples to further illustrate the point. Applying what we have stated earlier to the case of a labour union the position would be this: while the right to form an union is guaranteed by sub-clause (c), the right of the members of the association to meet would be guaranteed by sub-el. (b), their right to move from place to place within India by sub-cl.(d), their right to discuss their problems and to propagate their views by sub- cl. (a), their right to hold property would be that guaranteed by sub-clause (f) and so on each of these freedoms being subject to such restrictions as might properly be imposed by clauses (2) to (6) of Article 19 as might be appropriate in the context. It is one thing to interpret each of the freedoms guaranteed by the several Articles in Part III a fair and liberal sense, it is quite another to read which guaranteed right as involving or including 'Concomitant rights necessary to achieve the object which might be supposed to under lie the grant of each of those rights, for that construction

would, by a series of ever expanding concentric circles in the shape of rights. concomitant to concomitant rights and so on, lead to an almost grotesque result.”

24. The Supreme Court in the case reported as ***AIR 1988 SC 1136 L.N. Mishra Institute of Economic Development and Social Change v. State of Bihar***, wherein the challenge was to Ordinance XV promulgated by the State Government of Bihar whereby the possession of the Institute started by the Society was taken over by the State Government, the Supreme Court in para 29 of the judgment has inter-alia held that no doubt the institute has been taken over in terms of Ordinance and the Act and it is true with the taking over of the Institute the Society has lost its right of management and control of the Institute but that is the consequence of all acquisitions. When a property is acquired, the owner loses all control, interest and ownership of the property. The Supreme Court also held that it may be equally true that the Institute was the only activity of the Society but observed that it was only concerned with the right of the Society to form association. So long as there is no interference with the Society, its constitution or composition it is difficult to say that because of the taking over or acquisition of the Institute, which was only the property or activity of the Society the fundamental right of the Society to form association has been infringed. This Court also in ***Indian Olympic Association (supra)***, dealing with stipulations in the sports code spelling out tenure restrictions for various office bearers and concurrent operation held they do not violate the petitioner’s right under Article 19(1)(c) of the

Constitution. It was also observed by this Court by referring to the judgment of the Supreme Court in *All India Bank Employees Association (supra)* that it is an authority for the proposition that the right to form an association does not entitle the Citizen or individual or group forming the association a concomitant right to claim that the objects for which the association is formed too is part of the larger fundamental right to form association.

25. In the present case, the said stipulations do not relate to/have a bearing/effect the petitioners' existence as Societies or their right to carry any profession or carry on any occupation, trade or business, rather they relate to the procedure for nomination to the Governing Body and the tenure of the Membership of the Governing Body of the Institutions run by the petitioners. The stipulations in the impugned resolution are relatable to the conditions to be fulfilled by the affiliating Colleges. It is not the case of the petitioners that in terms of the stipulations in the impugned resolution, the petitioners have lost the right of management and control of the Colleges. Be that as it may, the stipulations which are in the nature of conditions to be fulfilled by the affiliating Colleges owe their origin to Act of 1929/Statute/Ordinances. So, the plea, that the right of the petitioners to practise any profession or to carry on any occupation, trade or business has been violated under Article 19(1)(g) is not sustainable.

26. The plea of Mr. Nandrajog that if the privileges are not to the liking of the College or Institution, such College/Institution is within its right to seek affiliation elsewhere, is appealing. In fact, it is noted, one of the petitioners in this batch of petitions was earlier

affiliated to Punjab University. In other words, the right to establish and administer an educational institution and carry occupation is not affected by the stipulations, as referred above, of the impugned resolution.

27. In view of the above conclusion, the second plea that such conditions could be imposed by law and not through resolution, which are in the nature of guidelines is also unsustainable. The reliance placed by Mr. Seshadri on the judgments of the Supreme Court in the cases of *Bijoe Emmanuel (supra)*, *Sukdev Singh and others (supra)*, *Kharak Singh (supra)* and *State of Madhya Pradesh v. Thakur Bharat Singh (supra)*, wherein the Courts have held that executive orders and fiats cannot restrict fundamental rights and that such measures would require enactment of a valid law by the competent legislature, have no applicability.

28. The third submission of Mr. Seshadri and Mr. Mishra that both the stipulations are violative of second proviso to Section 29 as it restricts the power of Executive Council expressly interfering with the extent of autonomy, which a College may have and the matters in relation to which such autonomy may be exercised and further under Statute 6, the power and functions enumerated does not comprise the power to issue the said notification or take any action that would have a direct impact on the autonomy vested in the petitioners to govern the College, is concerned such a plea is also not sustainable at the behest of a Society. To appreciate the submission, it is necessary to reproduce, clause (vii) of second proviso to Section 29 and clause (xiii) of Statute 6(2). They read as under:-

Act of 1929

“29(1) On the commencement of the Delhi University (Amendment) Act, 1943, Statutes of the University shall be those set out in the Schedule.*

(2) The Executive Council may, from time to time, make new or additional Statutes or may amend or repeal the Statutes:

Provided that the Executive Council shall not make, amend or repeal any Statute affecting the status, powers or constitution of any authority of the University until such authority has been given an opportunity of expressing an opinion in writing on the proposed changes, and any opinion so expressed shall be considered by the Executive Council.

Provided further that except with the prior concurrence of the Academic Council, the Executive Council shall not make, amend or repeal any Statute affecting all or any of the following matters, namely:

XXXXX

XXXXX

XXXXX

(vii) the extent of the autonomy which a College may have and the matters in relation to which such autonomy may be exercised.”

STATUTES

6(1) The Executive Council shall, subject to the control of the Court, have the management and administration of the revenue and property of the University and the conduct of all administrative affairs of the University not otherwise provided for.

(2) Subject to the provisions of the Act, the Statutes and the Ordinances, the Executive Council shall in addition to all other powers vested in it, have the following powers, namely:

XXXXX

XXXXX

XXXXX

(xiii) to exercise such other powers and to perform such other duties as may be conferred or imposed on it by the Act or the Statutes.”

29. The aforesaid would reveal Clause (vii) of the Second proviso to Section 29 inter-alia stipulates with the prior concurrence of the Academic Council, the Executive Council shall make, amend or repeal any Statute effecting all or any of the matters stipulated therein, which includes the extent of the autonomy which a College may have and the matters in relation to which such autonomy may be exercised reveals that it relates to the autonomy of the College and not of a Society. The issue of a Society nominating Members on the Governing Body of the College is different from the issue of autonomy of a College founded by such a Society. In these petitions, the issue is the former. Even otherwise, the Societies (the petitioners) cannot urge such an issue without colleges as petitioners in these proceedings.

30. Even otherwise, it needs to be seen whether the stipulations as referred above in the impugned resolution affects the autonomy/rights of the petitioners. The plea of Mr. Seshadri and Mr. Mishra, is that the conditions could be valid if they pertain to academic and educational character of the Institution but not if they lead to Government control of Administration or interference in the Constitution of Governing Bodies, by relying upon the judgment in *T.M.A. Pai (supra)* and *Brahmo Samaj (supra)*.

31. On the stipulation prescribing 50% additional names is concerned, there is nothing in the provisions of the Act/Statute/Ordinances that a Member of a Governing Body of a

College or Institution has to be a Member of a Society which is running the College. All that Statute 30 (1)(C)(i) stipulates is that the Governing Body shall consist of not more than 20 persons approved by the Executive Council among others at least two representatives of the University and three representatives of teaching staff. The Memorandum of Association of the three petitioner Colleges stipulates, the College shall have a regularly constituted Governing Body consisting not more than 20 approved by the Executive Council including two representatives of the University and at least three representatives of the teaching staff. Clause A II(1) of the impugned resolution limits the total number of nominees by the Trust to ten only. Even otherwise, the practice has been to send ten names. The same were approved by the Executive Council. The plea that the resolution prescribing sending 50% additional names result in selection by the Executive Council, which is impermissible, is not appealing for more than one reason, firstly the additional names shall also be proposed by the Society itself. It is from amongst the names proposed by the Society, the names shall be approved by the Executive Council. No prejudice is caused to the Society. Secondly, it is not a case where the name(s) not proposed is sought to be thrust on the Society. There is nothing in the stipulation, which suggest any attempt of the University to wrest the control of the Governing Bodies of the petitioners by putting its own nominees. Further, it is conceded position that the names of the nominees need to be approved by the Executive Council. The presence of the words '*approval by the Executive Council*' in the provision is for a purpose, which includes the satisfaction of the Executive Council, that the nominee's

presence in the Governing Body is in the interest of University/College/Students/Teachers/Standards of Education. In other words, administration shall be efficient and shall serve the academic needs of the Institution. If it is otherwise, the nomination can be disapproved. So the power of approval shall include the power to decline approval.

32. The power of disapproval being there in Statute 30(1)(c)(i), even before the issuance of the impugned resolution dated November 3, 2012, it must be held the stipulation that the Society shall forward additional 50% names, is in conformity with Statute 30 (1)(C)(i). The object behind the decision as stated/canvassed by the University being if only ten names are forwarded by the Society and out of which few are not approved by the Executive Council then fresh names shall be required to be submitted by the petitioner leading to undue delay and laches, which shall be detrimental to the College and Students, is appealing.

33. Mr.Sudhir Nandrajog is justified in relying upon the judgment of the Supreme Court in the case of *State of Himachal Pradesh and others v. Ganesh Wood Products and others (supra)*, wherein the Supreme Court in para 24, has held that the power to approve includes the power to decline approval and the power to disapprove. In the said case, the Supreme Court negated the submissions made on behalf of respondents that every application for establishment of new Industry must be necessarily approved by the Government and the Government has no power to refuse approval nor it can disapprove any provisional approval granted earlier. The judgment of the Kerala High Court in the case of *Parakkad Sree*

Bhagavath Devaswom (supra), on which Mr. Seshadri has relied upon in support of his contention that there is a distinction between the power of approval and power of appointment is concerned, the same has no applicability in the facts of this case, inasmuch as in the said case the Court was concerned with facts related to the administration of the petitioner Devaswom , an autonomous body administered in terms of a Scheme framed by the District Court. One T.P. Murukan was the Manager of the Devaswom. When he attained the age of superannuation, he did not hand over charge to any person but continued to hold office. Ultimately, the Assistant Commissioner of the administration issued an order on November 20, 2007 acting on a letter of the Commissioner and also of the Manager's application for annual increment ordering that Shri Murukan shall forthwith surrender charge and custody of all affairs and movable and immovable properties of the temple and the charge to be taken over by Shri V. Ramanathan. Thereafter, the Devaswom proceeded to make appointment of a Manager against a vacancy that arose on superannuation of Shri Murukan. Their request for permission to do so was to be considered by the Competent Authority. An order was issued by Devaswom Commissioner refusing permission on the premise that Shri Ramanathan is a competent officer and that he will be well versed in managing temples and his management can continue for Devaswom. It was held that the Devaswom is an autonomous body, and is governed by the Scheme approved by the District Court. The Scheme provides for appointment of officers and staff including Manager for the temple. The power of appointment is with Devaswom. The

Competent Authority under the Act is only to supervise the affairs of the temple. The power to supervise does not include the power to appoint. The Court held even assuming that the appointment has to be approved, the power to approve or the power to refuse approval does not confer the power to appoint. Suffice to state, it has been held by the Kerala High Court that the power to approve includes the power to refuse approval. It may be a different issue, the power to approve may not include power to appoint, which is not the issue in the case in hand. It is reiterated the judgment has no applicability.

34. Further, Mr. Nandrajog's submission that the resolution of the Executive Council only supplements the Statute, is also appealing as the power to make Statute exists with the and Executive Council is within its right to pass resolution to fill gaps in the provisions of Statute in exercise of its executive power. The reliance placed by Mr. Nadrajog on the judgment of the Supreme Court *Sant Ram Sharma (supra)* and this Court in *Narendra Batra*, in support of his contention that if the statutory rules are silent, the University can fill up gaps and supplement the rules and issue instructions not inconsistent with the rules already framed is justified. So, it must be held, that the stipulation, that the Trust will forward a panel of names to the University containing less than 50% more names than the required number, does not effect the autonomy of the petitioners and is valid.

35. Now insofar as that provision of impugned resolution, which prescribes no Member shall serve on the Governing Body of Trust/College for more than five terms is concerned, the reasoning given by the University to incorporate such a stipulation is, inter-alia that

permitting Members on the Governing Body beyond a period of five years would lead to the Societies (the petitioners herein) achieving fiefdom, which shall be detrimental to the interest of educational institutions and the students. That apart, the further justification given by the respondent University is, that, to strike a balance the impugned resolution does provide for appointment of two Members, even after completion of five years, so as not to deprive the Trust/College to exceptional individual to be on the Governing Body of the College for more than five years. But before I consider the justification given by the University for putting up a stipulation as referred above, it needs to be considered whether such a stipulation could have been put by the University vide a resolution moreso, in view of Clause 3(1) of the Ordinance XVIII. The Clause 3(1) reads as under:-

“3(1) The Members of the Governing Body, other than the Principal, shall hold office for a period of one year and shall be eligible for re-appointment or re-election, provided that in respect of teachers’ representatives provisions of Sub-Clause (2) of this Clause shall apply.”

36. A reading of the aforesaid provision reveals that a Member of the Governing Body other than Principal shall hold office for one year and shall be eligible for re-appointment. Whereas the stipulation in impugned resolution limits the appointment to five terms. It is clear that the impugned stipulation is at variance with Clause 3(1) of Ordinance XVIII, inasmuch as, the said Clause, as reproduced above, even though states, that the term shall be for one year, but does not restrict, the renomination of a Member(s) in subsequent years, which suggest, such Member(s) can be renominated for any number of years, without

restriction, whereas, the impugned stipulation restricts the period to five years. If that be so, till such time a necessary amendment is effected in the Clause 3(1) of Ordinance XVIII, the stipulation in the impugned resolution could not have been issued by way of an instruction/guideline through a resolution. The procedure for amendment to the Ordinance has been stipulated in the Act, which concedingly not followed. The amendment can be effected by the Executive Council (Section 31(4) of the Act). Mere issuance of resolution, without amending the Ordinance, would not suffice the requirement. It is noted under Section 31(4), all Ordinances made by the Council, shall be submitted to the Visitor and the Court, and the Court shall have the power with two third majority of Members voting to cancel any Ordinance made by the Executive Council and such Ordinance shall from the date of such resolution cease to have effect. Further, Sections 31(5) and 31(6) of the Act, stipulates the power of the Visitor with regard to an Ordinance made by the Executive Council. On the issue, whether, the stipulation, effects the autonomy of the Society (the petitioners) is concerned, I refrain from saying anything, for the reason, it is for the authorities i.e Executive Council, Visitor and Court to consider appropriateness/relevance of incorporating such a stipulation in the Ordinance, as per the procedure laid down in the Act/Statute. Further, this Court cannot restrain an Authority/Authorities, from exercising power so vested by the Act/Statute.

37. As I have on a different ground held, that for restricting the nomination/appointment to the Governing Body to five years, Clause 3(1) of Ordinance XVIII has to be amended, I

reiterate, this stipulation of impugned resolution is invalid. The plea of Mr. Nandrajog that the stipulation is supplementary to the Ordinance and could have been prescribed would not hold good, insofar as this stipulation of the resolution is concerned, in view of my discussion above.

38. As the petitioner in W.P.(C) No. 1174/2013 has challenged the resolution No.289 dated August 21, 1975 and resolution No.138 dated February 11, 2003, the aforesaid conclusion of mine, shall govern similar stipulations in the said resolutions. The writ petitions are disposed of on the aforesaid terms. No costs.

CM No. 19213/2014 in W.P.(C) No. 1174/2013

Insofar as this application is concerned, the same has been filed by the respondent No.1 University for substitution of Principal and two teacher's representatives on the Governing Body of Daulat Ram College and for modification of the order dated February 05, 2014 in consequence thereof. The order dated February 05, 2014 was passed in CM No. 1676/2014, which was an application filed by the petitioners seeking direction to the respondents to grant approval without delay in the extension of the term of eight nominees on the Governing Body, already approved by the respondent University for three months with effect from January 24, 2014. The operative portion of the order dated February 05, 2014 reads as under:-

“As no reasons have been provided for not extending the term of Governing Body and respondents had previously approved the names of the nominees without insisting upon the compliance of the impugned Executive Council

Resolution, the Governing Body of the petitioner College, as existing, is directed to continue to function till the next date of hearing.”

Suffice to state, on January 30, 2017, the learned counsel for the petitioner has withdrawn CM No. 1676/2014. In view of the withdrawal of the application No. 1676/2014, this application being CM No. 19213/2014 has become infructuous and the same is dismissed.

CM No. 28932/2016 in W.P.(C) No. 1174/2013

This application has been filed by the respondent No.1 University under Section 151 CPC seeking recall of order dated May 6, 2016. The order dated May 6, 2016 has been passed by this Court on an application being CM No. 11463/2016 filed by the petitioners whereby this Court has directed the University to approve the names of two nominees i.e Mr. Ashok Pratap Singh and Mr. T.P. Gadodia to fill the vacancies amongst the trust nominees. It is stated that subsequently on Jun 1, 2016 on an CM No. 21297/2016 filed by the petitioner alleging that no action has been taken by the respondent in pursuance of the order dated May 6, 2016, the Court clarified that order dated May 6, 2016 shall be implemented by the respondent University within two weeks.

Aggrieved by the orders dated May 6, 2016 and June 1, 2016, the respondent University filed an Intra-Court appeal before the Division Bench. The said LPA was listed on July 25, 2016 when after some hearing, the University was allowed to withdraw the said LPA with liberty to file an application. It is pursuant to the order in LPA, the present

application has been filed.

It is the case of the University in the application that the order dated May 6, 2016 is unwarranted as the matter was ripe for final hearing. Further the order dated May 6, 2016 is not in consonance with the impugned resolution No.51 dated November 3, 2012. It is also stated that the petitioner Society has misrepresented and mislead this Court by alleging in the CM No.11463/2016 that vacancies have arisen due to death of Professor R.C. Malhan and alleged refusal of extension of term to Mr. Abhiram Seth. It is stated that the said two persons were not even serving in the Governing Body of the College when the order of status quo was passed on February 5, 2014.

In reply to the said application, it is averred by the petitioner that the order dated May 6, 2016 has not been implemented, which is affecting the working of the Governing Body.

As this Court has decided the issue, which arose for consideration in the writ petitions, the application filed by the respondent No.1 University for recall of order dated May 6, 2016 has become infructuous. The application is dismissed as such.

V. KAMESWAR RAO, J

MAY 30, 2017/ak