

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION NO. 2532 OF 2014

Vasantdada Patil Pratishthan	}	
a Trust registered under the	}	
Bombay Registration Trust Act,	}	
1950, having its registered office	}	
at Vasantdada Patil Educational	}	
Complex, Eastern Express Highway,	}	
Sion-Chunabhatti,	}	
Mumbai - 400 022	}	Petitioner
versus		
1. All India Council for Technical	}	
Education, a body established under	}	
the provisions of All India Council	}	
for Technical Education Act, 1987	}	
and having its office at 7 th floor,	}	
Chandarlok Building, Janpath,	}	
New Delhi - 110 001	}	
	}	
2. The Director of Technical	}	
Education, Maharashtra State,	}	
Directorate of Technical Education,	}	
3, Mahapalika Marg,	}	
Mumbai - 400 001	}	
	}	
3. The State of Maharashtra,	}	
copy to be served on the learned	}	
Government Pleader, High Court	}	
(A.S.), (copies for respondent	}	
nos. 2 and 3 to be served in office	}	
of Asst. Government Pleader,	}	
High Court, Original Side, Mumbai)	}	Respondents

Mr.A.Y.Sakhare-Senior Advocate with
Mr.R.S.Ghadge for the petitioner.

Mr.Abhijeet Joshi for respondent no. 1.

Ms.Uma Palsuledesai-AGP for respondent
nos. 2 and 3.

**CORAM :- S. C. DHARMADHIKARI &
M. S. KARNIK, JJ.**

DATE :- FEBRUARY 5, 2019

ORAL JUDGMENT :- (Per S.C.Dharmadhikari, J.)

1. By this petition under Article 226 of the Constitution of India, the petitioner has sought a writ of certiorari or any other appropriate writ, order of direction calling for the records and proceedings regarding withdrawal of affiliation of the petitioner college known as “Padmabhushan Vasantdada Patil Pratishthan's College of Engineering”. After the records and proceedings are summoned from the first respondent's office/establishment, the request is to quash and set aside an order dated 2nd July, 2014, copy of which is at Exhibit 'AF' to this writ petition.

2. Before we proceed further, we deem it appropriate to reproduce this order. It reads as under:-

“ALL INDIA CONCIL FOR TECHNICAL EDUCATION

F. No.740-89-248(E)/RC/94

02.07.2014

To

The Principal,
Padmabhushan Vasantdada Patil Pratishthan's
College of Engineering,
Vasantdada Patil Educational Complex,
Eastern Express Highway,
Near Priyadarshini Building, Sion-Chunabhatti,
Mumbai - 400 022

Subject: Withdrawal of AICTE approval accorded to
**Padmabhushan Vasantdada Patil
Pratishthan's College of Engineering, Sion-
Chunabhatti, Mumbai, Maharashtra.**

Sir,

1. Whereas, the AICTE is a statutory body established by AICTE Act, 1987. The said Act provides for establishment of an All India Council for Technical Education with a view to the proper planning and co-ordinate development of the technical education system throughout the country, the promotion of qualitative improvement of such education in relation to planned quantitative growth and the regulation of proper maintenance of norms and standards in the technical education system and for matters connected therewith.

2. Whereas, Section 10 of the AICTE Act prescribes the function of the Council and mandates that it shall be the duty of the Council to take all necessary steps it may think fit for ensuring coordinated and integrated development of technical education and maintenance of standards.

3. Further, section 10(k) of the AICTE Act empowers the AICTE to grant approval for starting new Technical Institutions and for introduction of new courses or programmes in consultation with the agencies concerned.

4. Whereas, in order to discharge its duties in accordance with the provisions contained in the AICTE Act, the AICTE has framed the Regulations for grant of approval for starting new Technical institutions, introduction of courses or programmes of existing Technical Institutions. The AICTE has also evolved a Hand Book for approval process, which details out the procedure as well as minimum conditions which an institute must fulfill in order to seek approval for either starting new Technical Institutions or for introduction of courses/programmes as increase/variation of intake capacity of seat for courses/programmes as well as existing Technical Institute.

5. Whereas, the **Padmabhushan Vasantdada Patil Pratishthan's College of Engineering**, Sion-Chunabhatti, Mumbai, Maharashtra was granted approval by AICTE vide letter F. No. 740-89-2489(E)/RC/94, dated 28.06.1999 and the subsequent extension of approvals for conduct of courses subject to certain conditions including the following:

- That the admission shall be made only after adequate infrastructure and all other facilities are provided as per norms and guidelines of the AICTE.
- That the Director/Principal and the teaching and other staff shall be selected according to procedures, qualifications and experience prescribed by the Council

from time to time and pay scales are as per the norms prescribed by the Council from time to time.

- That all the laboratories, workshops etc. shall be equipped as per the syllabi of the concerned affiliated University and shall be in operational condition before making admissions.
- That AICTE may carry out random inspection round the year any time for verifying the status of the Institution to ensure maintenance of norms and standards.
- That AICTE may also conduct inspections with or without notifying the dates to verify specific complaints of mis-representation, violation of norms and standards, mal-practices etc.
- The Institute shall take appropriate measures for prevention of ragging in any form, in the light of directions of Hon'ble Supreme Court of India in Writ Petition No.656/1998. In case of failure to prevent the instances of ragging by the Institutions, the Council shall take appropriate action as per the notified regulations.
- The Institution shall provide barrier free environment and toilets for physically challenged person.
- That if Technical Institution fails to disclose the information or suppress and/or misrepresent the information, appropriate action could be initiated including withdrawal of AICTE approval.
- In the event of non-compliance by the **Padmabhushan Vasantdada Patil Pratishthan's College of Engineering, Sion-Chunabhatti, Mumbai, Maharashtra** with regard to guidelines, norms and conditions prescribed from time to time the Council shall be free to take measures for withdrawal of its approval or recognition, without consideration of any related issue and that all liabilities arising out of such withdrawal would solely be that of **Padmabhushan Vasantdada patil Pratishthan's College of Engineering, Sion-Chunabhatti, Mumbai, Maharashtra.**

6. Whereas, complaint was received by the Council from the **Citizen Forum for Sanctity in Educational System, Thane**, that the **Padmabhushan Vasantdada patil Pratishthan's College of Engineering, Sion-Chunabhatti, Mumbai, Maharashtra** was not functioning as per norms and regulations laid down by the AICTE, Accordingly, an EVC dated 26.06.2014 was conducted to the institution to verify the allegations made in the complaint.

7. Whereas, based on the deficiencies noted by the Expert Committee below, the case was put up before the Standing Appellate Committee of the AICTE at its meeting held on 01.07.2014. You had appeared before the Committee and presented your case. In this connection the deficiencies noted by EVC dated 26.06.2014 and observations / recommendations of the SAC dated 01.07.2014 are mentioned below:

Sr. No.	Deficiencies noted in EVC Report dated 26.06.2014	Observation of Standing Appellate Committee meeting dated 01.07.2014
1	Building shared with Polytechnic.	No documents presented.
2	Total land area – 3.19 acres out of which Part 0.69 earmarked for Polytechnic	
3	Land shared by Manohar Phalke Polytechnic	
4	H. T. Line passing through including H. T. towers	No documents presented.
5	Faculty shortage.	
6	A certificate by an Architect giving details of sewage disposal system (Physical verification of the same is to be done) – No provision for P. C. Toilet as per norms	
7	Barrier free environment and toilets created for physically challenged. (Ramp or Working Lift etc.) – Environment free ramp provided. P. C. toilet not accepted.	No documents produced.

8	Details and proof about medical facility and counseling arrangements - shared with Polytechnic	
9	Language Laboratory - <u>Not filled/ticked.</u>	
10	Reading Room capacity - <u>Not filed/ticked.</u>	
11	Placement Office, Office All Inclusive, Boys Common Room, Girls Common Room - <u>Not ready / Not accepted</u> (Area less than norms as on site)	
12	Class Rooms (UG) - <u>Not ready / Not accepted</u> (Required-29 / Available-15)	
13	Tutorial Rooms (UG) - <u>Not ready / Not accepted</u> (Required-29 / Available-15)	
14	Laboratories (UG) - <u>Not ready / Not accepted</u> (Required-8 / Available-5)	
15	Seminar Hall - <u>Not ready Not accepted</u> (Required-7 / Available-2)	
16	The letter of grant and lease of the said property to the PVPP Trust was made by the Government vide its letter 17/06/1983.	
17	From the subject of the said letter and the contents of the same it is clearly found that part of Survey Number 356, to the extent of 12886 sq.m. is given to the PVPP Trust by way of Grant for construction of College building.	
18	Next, an area of 17838.25 sq.m. from the same survey number is given to the PVPP Trust for a play ground.	
19	The grant and the lease are made subject to certain conditions, one of such conditions being that the	

	play ground shall be available for its use to general public also.	
20	Thus it transpires that the grant has been made for construction of building of only one college.	
21	It is important to note that college means only one college.	
22	Polytechnic does not fall within the definition of a college, although it is surely an educational institution.	
23	Even if it is presumed to be a college, its construction on the premises granted to the PVPP Trust after the construction of Engineering / Deere college building it would amount to constructing one more college in violation of the terms of the grant.	
24	Thus the area under the grant measuring 3.19 Acres does not meet the requirements of these two institutions.	
25	The grant is for only one institute that too for the construction of College Building, when its area is shared by the polytechnic, the engineering college fails to satisfy the norm in that regard. The net result is that only one institute can comply this norm at a time, that too, to the exclusion of the other. It is needless to say that the engineering college alone can enjoy this privilege. If any precedence is given to the polytechnic, it would amount to giving premium to an illegality.	No documents are presented before this committee.
26	Thus the existence of the polytechnic on the land granted to the trust for the construction of the college building is void and illegal from its very inception.	
27	Not only that, the polytechnic has been established in the year 2001	

	by an altogether different trust, namely, Manohar Phalke Trust, which surely has never been a grantee of the Government.	
28	Although, it was submitted by the PVPP that Manohar Phalke Trust has been dissolved in the year 2008 and its properties are handed over to the PVPP it cannot legalize the polytechnic in its construction, continuation and existence.	
29	It ought to be noted that what is void ab initio is perpetually illegal and can never be legalized or regularized.	
30	It is settled principle of law that what is illegal on the face of record or per se illegal, it cannot be legalized by the mutual acts of the parties, their consent and or compromise.	
31	It is noticeable that even if the polytechnic had been constructed and run by the PVPP Trust itself anytime after the grant, it would have been equally illegal for all the time at its stand today.	

Recommendations of Standing Appellate Committee:

Not a Single deficiency complied with. Hence, “Status Quo to be maintained” for A. Y. 2014-15.

8. Whereas, the above recommendation of the Standing Appellate committee has been considered and accepted by the Council. Accordingly, it has been decided with the approval of the Competent Authority to maintain status quo for the academic year 2014-15 to **Padmabhushan Vasantdada patil Pratishthan’s College of Engineering, Sion-Chunabhatti, Mumbai, Maharashtra** i.e. the Institute shall remain under the category of “approval withdrawn” for the academic year 2014-15 also.

9. This has the approval of Competent Authority dated 02.07.2014 vide Note on page 45/N of file F. No. 740-89-248(E)/RC/94.

Yours faithfully

(Advisor-1 (Approval))”

3. Thus, it is a detailed order, which, after the facts and circumstances peculiar to this institution are noted, proceeds to maintain the status quo for the academic year 2014-15. That would mean the institution remains under the category “approval withdrawn” for this academic year. On such a writ petition being filed in this court on 7th July, 2014, it was listed before a Division Bench of this court on 8th July, 2014.

4. On hearing Mr.A.Y.Sakhare learned senior counsel appearing for the petitioner, the learned counsel appearing for the first respondent and the learned AGP for respondent nos. 2 and 3, this court granted an ad-interim protection and the order to that effect and the relevant part of that order reads as under:-

“4 Therefore, at this stage, in the interest of justice and in the interest of students and institution, we are inclined to grant prayer clauses (b) and (c-ii) which read as under:-

b. That pending the hearing and final disposal of this petition, the execution and/or implementation of the impugned order dated 01.07.2014 passed by Respondent No.1 withdrawing affiliation of Petitioner's college namely **“Padmabhushan Vasantdada Patil Pratishthan's College of Engineering”** which is at **Exhibit “AF”** be stayed.

c. That pending the hearing and final disposal of this petition, the Respondent Nos. 1 and 2 be directed to:

(i) ...

(ii) uphold (sic upload) the Petitioner's college name i.e. "Padmabhushan Vasantdada Patil Pratishthan's College of Engineering", Vasantdada Patil Educational Complex, Eastern Express Highway, Near Everard Nagar, Sion Chunabhatti, Mumbai-400 022 for the Centralize admission process (CAP) and be allowed to participate in CAP round for academic year 2014-2015 for the Engineering Courses conducted by them."

5 However, this will be subject to the further orders of this Court. The Petitioners will not claim any equity on the basis of this order. The Respondents to file reply affidavit on or before the next date.

6. It is also clarified that non-listing of the Petitioners institute/name on the AICTE Website will not affect the admission process and implementation of prayer clause (c-ii)

7 The parties to act on an authenticated copy of this order.

8 It is also made clear that the Officer of Respondent Nos. 2 and 3 i.e. Dr.Rajeev V.Shetkar, Assistant Director (Tech.), Directorate of Technical Education, M.S.Mumbai, is present in the Court and therefore, non-availability of the present order should not be the reason not to implement the order passed by this Court today."

5. After this writ petition was listed on 14th July, 2014, this court, while admitting the writ petition, passed a detailed interim order. That detailed interim order made reference to Writ Petition (L) No. 1563 of 2013. There, the All India Council for Technical Education (AICTE), the first respondent herein had, for two separate colleges, namely, Engineering Degree College and Polytechnic, placed the institution under "Approval Withdrawn" category. Hence, two writ petitions, namely, Writ Petition (L) No.1530 of 2013 and Writ Petition (L) No. 1563 of 2013 came to

be filed. In that, on 28th June, 2013, this court made certain order. This order is referred to in the order dated 14th July, 2014 passed in this writ petition. The operative order dated 14th July, 2014 reads as under:-

“ORDER

(a) The Respondents, including Director of Technical Education (DTE) to allow the admission of the students as per the intake capacity of the previous year/last LOA/EOA, based on the respective Applications of the Petitioners.

(b) The admission of the students would be provisional. The concerned students shall be intimated accordingly and the admissions would be subject to further orders and/or outcome of the Writ Petitions.

(c) The Petitioners and/or students shall not claim any equity on the basis of this order.

(d) The Petitioners are directed to file additional affidavits dealing with the deficiencies, if any, and the objections so raised about the deficiencies and in what manner the alleged deficiencies can be cured and what steps they propose to take to remove those deficiencies and the time frame therefor.

(e) Additional affidavits referred to above shall be filed by the Petitioners within four weeks, failing which it may entail vacation of interim orders. The Additional affidavit-in-reply be filed by the Respondent – AICTE also.

(f) The impugned order of AICTE shall not affect the admissions of existing students and the classes and the courses.

(g) It is made clear that the ad-interim order continues to operate notwithstanding this interim order and the protection granted by these orders shall not extend in any case to the next academic year. The approvals for the next academic year shall be decided on its own merits.

(h) The parties are at liberty to apply for appropriate clarification, if any.”

6. A perusal of this operative order would indicate that this court directed not only the AICTE, but also the Directorate of Technical Education, Government of Maharashtra to allow admission of the students as per the intake capacity of previous years or based on the approval and extension thereof granted prior to the subject academic year. Though the admissions were termed as provisional and subject to final orders of this court in this petition by clarifying that none of the parties can claim equity, still, clause (d) of the operative order permits filing of additional affidavits by the petitioner. They would be, while inviting the attention of this court to the deficiencies in the above organisation, at liberty to indicate in what manner the alleged deficiencies can be cured and what steps they propose to take to remove those deficiencies and the time frame therefor. The court granted four weeks to file such affidavit and with all this, it is clarified that the AICTE's order will not affect the admissions of the existing students, their attending classes and the courses undertaken. The court granted this liberty, but once again, did not fail to clarify that the interim order shall operate for the academic year in question and not for the next academic year. The approvals for the next academic year shall be decided on their own merits.

7. In this writ petition, there is an affidavit in reply filed by the first respondent-council. This affidavit in reply was affirmed by the council on 10th July, 2014. Naturally, the contents thereof have been noted and duly considered while passing this interim order.

8. Then, the second respondent to this writ petition, namely, the Assistant Director (Technical), filed an affidavit on behalf of the State and the Director of Technical Education and categorically stated that during the academic year 2012-13, the Directorate received complaints against the petitioner and particularly that they are not running the two colleges in accordance with the norms/ regulations framed by the AICTE. It is pointed out that these two colleges have committed breaches of the provisions of the All India Council for Technical Education Act, 1987 (for short “the AICTE Act”). Then, there is a reference made to the report of the inspection carried out by the Expert Committee dated 26th March, 2013.

9. We are now only concerned with the Vasantdada Patil Pratishthan's College of Engineering. This affidavit of the Directorate has been also filed on 10th July, 2014. Pertinently,

there is a detailed rejoinder affidavit, which has been filed by the institution, namely, the petitioner and that is on 14th July, 2014. We have, therefore, no doubt in our mind that all these affidavits were duly considered and despite the opposition of the AICTE, this court firstly granted an ad-interim order and later on, confirmed it.

10. We had placed this petition together with other writ petition being Writ Petition No. 1733 of 2013, which we proceeded to dismiss today for want of prosecution. We had posted these petitions for passing final orders.

11. On the earlier occasion, Mr.Ghadge and today Mr. Sakhare invited our attention to the fact that the petitioner, in the light of this interim order, not only admitted the students, but imparted education to them. These admissions were for academic year 2014-15. After admitting students to this course, these students have already undertaken studies, appeared for examination and by now may have succeeded also. The argument is that in the light of the favourable subsequent developments, this court, as an exception, should not disturb the admissions granted pursuant to the interim order of this court. More so, because that interim order was not varied or modified nor did the concerned respondents take any steps to challenge it in the higher court.

Mr.Sakhare was at pains to point out that whenever such orders are passed at interim stage, they have been challenged before the higher court and the higher court, namely, the Hon'ble Supreme Court has interfered therewith, the admissions stood cancelled and all the steps taken by the institute would be set at naught. Thereupon, there was no advantage which can be derived from the interim order which is eventually set aside by the Hon'ble Supreme Court. Since the Hon'ble Supreme Court orders are valid, legal and binding, they have not been later on recalled by the Hon'ble Supreme Court itself, the students were informed accordingly. The admitted students thereupon withdrew their admissions and they were accommodated in some other colleges so that their studies were not affected. This was done with due intimation to the AICTE and other authorities. In the instant case, according to Mr.Sakhare, the interim order has taken full effect and now it will be too harsh to go back and find out whether the deficiencies noted by the AICTE go and touch the root of the matter or are incurable. In other words, whether there was a breach of mandatory conditions and there could not have been any waiver thereof by anybody, including this court.

12. Mr.Abhijeet Joshi appearing for the first respondent would urge that though Mr.Sakhare has tendered the additional affidavit, but this court should not proceed to rely on the contents

thereof. Firstly because this court is concerned with the legality and validity of an order passed on 2nd July, 2014. Once that order of the AICTE is under challenge, then, a scrutiny has to be done with reference to the facts and circumstances noted in that order. Any favourable subsequent development will not enure to the benefit of the petitioner. For all these reasons, he would submit that the writ petition be dismissed. It should be dismissed, secondly and importantly, for there was a lack of “occupation certificate”. Unless and until there is a certificate granted by the municipal authorities to go and occupy a structure or building, to occupy it and put somebody in possession thereof, is an illegality. Absent such occupation certificate, the construction cannot be termed as legal and authorised. Therefore, the AICTE took an informed decision not to allow any admissions to the institution for the academic year in question. Such a decision taken by an academic body so as to protect the interest of students and parents, therefore, calls for no interference.

13. Even the learned AGP has highlighted the affidavit filed earlier to oppose any relief being granted in this writ petition and the stand is on the same lines as Mr.Joshi.

14. In the additional affidavit filed today, copy of which has been handed over, it is stated that the college proceeded, after the

interim order, to enroll students in the year 2014-15. These students were enrolled to the knowledge of the authorities.

15. For the academic year 2015-16, the petitioner applied for extension of approval (EOA). This was for the academic year 2015-16. However, the first respondent refused to grant such extension by order dated 30th April, 2015. The first respondent, by its order dated 1st May, 2015, restored the intake capacity of the petitioner prevailing prior to the academic year 2015-16. Once this subsequent development came to the notice of the petitioner and having found that the EOA is refused because the building had no occupation certificate, the petitioner was left with no alternative, but to challenge this order of 30th April, 2015/1st May, 2015 by filing a petition, being Writ Petition (L) No. 1365 of 2015. On that petition being moved, this court granted an ad-interim order on 23rd June, 2015. After that, this court finally disposed of this petition by its order dated 14th August, 2015. A copy of this order and judgment is annexed to this additional affidavit at page 539 onwards. In the final judgment in Writ Petition (L) No. 1365 of 2015, the operative order of this court at pages 555 and 556 reads as under:-

“ORDER

- a) Writ Petition is allowed in terms of prayer clause (a).

- b) Interim order passed by this Court on 23 June 2015, is confirmed.
- c) The Respondents are directed to consider the representation/case of the Petitioners, specifically on the issue of cadre and faculty ratio and related aspects by giving opportunity of hearing to Petitioner and pass the reasoned order, at the earliest.
- d) The Respondent-University is directed that in order to avoid the delay in appointments of teaching faculty in the institution like the Petitioners, the proposals received for approval of draft advertisement, roaster, nomination of the subject experts, nomination of nominee of the Vice Chancellor and approval of the candidates selected through duly constituted Selection Committee, such proposals be decided in expeditious and time bound manner so as to avoid deficiencies in respect of the same being shown by AICTE in the proposals of such institution for extension of approval.
- e) The Petitioner is directed to take necessary steps to remove the deficiencies, even if any, as early as possible.
- f) Writ Petition is accordingly allowed.
- g) Rule made absolute accordingly.
- h) There shall be no order as to costs."

16. It is common ground that the first respondent-AICTE approached the Hon'ble Supreme Court being aggrieved and dissatisfied by another order dated 10th April, 2016 for the subsequent academic year 2016-17. Though this court was pleased to grant similar interim relief staying the effect of an identical order of refusing EOA passed by the AICTE on 10th April, 2016 in Writ Petition No. 1481 of 2016, by virtue of the interference of the Hon'ble Supreme Court with this court's interim order and granting a stay to it or keeping it in abeyance,

the Director of Technical of Education, Government of Maharashtra, transferred the students admitted for academic year 2016-17 to some other colleges. In the light of these developments, Writ Petition No. 1481 of 2016 came to be withdrawn and disposed of as such. Thus, barring academic year 2016-17, the institution (the petitioner above) has been managing and administering the college and the students were admitted and to the knowledge of all concerned.

17. In para 8 of this affidavit, it is specifically stated by the petitioner that the occupation certificate has been granted. The occupation certificate/building completion certificate issued by the Brihanmumbai Municipal Corporation is dated 21st March, 2017. Thus, the petitioner maintains that all deficiencies are removed. Hence, it applied for extension of approval and the council has granted such extension for the academic year 2017-18 on 10th April, 2017. For academic year 2018-19, similar such extension was sought and the AICTE granted it on 29th April, 2018. This affidavit highlights the fact that the AICTE noted no deficiencies. Thus, all deficiencies are removed.

18. After this affidavit has been perused by us, we have carefully considered the rival contentions. We are aware of the fact that in such matters, decisions of academic bodies have to be

accepted and they should not be interfered with by the court merely because it holds another view. This court's opinion cannot substitute that of the academic bodies and when these decisions are taken on the advice of the experts. With the assistance of experts, inspections are carried out, infrastructure is examined and thereafter, an informed decision is taken either to permit students to be admitted or earlier approval granted to admit students should be extended or withdrawn or kept in abeyance. Such decisions are taken by the AICTE. However, it is equally true that the decisions of this body are subject to the supervisory and extraordinary so also equitable and discretionary jurisdiction of this court under Articles 226 and 227 of the Constitution of India. Such decisions of academic bodies can also be scrutinised by this court. When such a power is invoked, it is incumbent upon the authorities to then satisfy the court that the parameters for interference with these orders are existing and therefore, the decision for academic years in succession calls for no interference. When such arguments of the AICTE are not accepted and yet interim orders are passed, then, they bind the authorities. It may be that this court is of the view that it can still scrutinise the validity of the order previously made, but it is always open for this court to say that on account of subsequent developments and the facts peculiar to the case, this court will

not undertake such a scrutiny. It is equally necessary for this court to clarify as to why it is not exercising its extraordinary, equitable and discretionary jurisdiction under Article 226 of the Constitution of India.

19. The instant petition presents such peculiar facts and circumstances. The interim order passed by this court in this petition was allowed to gain finality. Though this court clarified that the order will not create equities, but by sheer passage of time, that order having been acted upon equally by the academic bodies, now, it will not lie in their mouth in every case of this nature to urge that this court should go by the position prevailing in the year 2014 and take away all the benefits which are derived by the students. In this case, the AICTE, like Writ Petition No. 1481 of 2016, may have challenged the interim order. Equally, the State Government has challenged it. However, the appeals in the Hon'ble Supreme Court of both, the AICTE and State are pending with no favourable interim orders. Both allowed the ad-interim order to be confirmed by a detailed interim order. That order was never sought to be modified, but based on that, the students and their parents made their own arrangements. The other academic bodies and existence of which cannot be ignored, namely, University of Mumbai, to which the institution is

affiliated, allowed these students to attend classes and take examinations. The students have thus completed their studies. Some of them have been declared successful and have now obtained their degree certificates. It will be highly unfair and unjust now to unsettle this position and upset their career. By now, some of them may have been well placed in life, meaning thereby, they may have secured jobs or may have arranged their business affairs on the basis of their educational qualifications. In the facts and circumstances of the present case, we are not inclined to disturb the admissions for the academic year 2014-15. More so, when we have noticed that for the year 2015-16, the petitioner applied for extension of approval, but that was refused on 30th April, 2015/ 1st May, 2015. Such refusal was also challenged in Writ Petition No. 1365 of 2015. Identical ad-interim order was granted staying the effect of the refusal. That ad-interim order dated 23rd April, 2015 came to be confirmed, as the writ petition was allowed. The refusal to grant the extension and approval on the ground that there is no occupation certificate of the building of the petitioner was thus set aside. That order of 14th August, 2015 was allowed to gain finality and once again, the AICTE and the State Government did not challenge it.

20. To be fair to Mr.Joshi, he urges that there is a Special Leave Petition (SLP), which has been filed challenging the final order passed in Writ Petition No. 1365 of 2015. He gives the SLP number as well, but we find that the SLP has not yet been disposed of. Meaning thereby, the order of this court is not set aside.

21. When similar such refusal for academic year 2016-17 was refused, that order was challenged in Writ Petition No. 1481 of 2016, but, this time, acting swiftly, the AICTE insisted, on the students being withdrawn from the petitioner's institution. Even the Directorate of Technical Education, armed with such order, withdrew the students from the petitioner's college. They were accommodated in some other institutions. Such swiftness and sense of urgency was never shown by the AICTE on the earlier occasion. Though it maintained that the building was unauthorised and illegal, in such unauthorised construction allegedly made by the petitioner, classes were allowed to be conducted and the students remained enrolled. No action was taken, save and except refusing the extension of approval. Now, the position is that the occupation certificate has been granted on 21st March, 2017 and acting upon such certificate, the EOA is granted for two academic years in succession, namely, 2017-18 and 2018-19. Apart from the above, no other deficiency, which is

serious or other lacuna or defect going to the root of the permission or approval, has been pointed out.

22. In the circumstances aforementioned, we dispose of this writ petition in terms of the interim order. We proceed to quash and set aside the AICTE's order of 2nd July, 2014. We regularise the admissions already granted. We regularise the attendance at classes and appearances at examinations of the concerned students. We also hold that the degree certificates awarded to them are valid and authorised. However, this order is passed in the peculiar facts and circumstances of this case. Such an order passed relying upon the facts and circumstances peculiar to the petitioner's case shall not be treated as precedent nor it will have a binding effect either on the AICTE or the State in the case of other institutions or this very institution for further academic years. In the event there are other deficiencies noted and which are equally serious or going to the root of the matter, our order passed in the present petition shall not preclude the authorities from taking the necessary decision strictly in accordance with law, including withdrawal of approval.

23. With this clarification, the Rule in this writ petition is made absolute. There would be no order as to costs.

(M.S.KARNIK, J.)

(S.C.DHARMADHIKARI, J.)