

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on 16.09.2020	Delivered on 21.09.2020
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THE HONOURABLE MR. JUSTICE N.ANAND VENKATESH

WP.No.10280, 10353 and 10935/2020 & WMP.Nos.12496, 12498, 12583,
12586, 13295 & 13297 of 2020

WP.No.10280 of 2020:-

Park College of Technology
Prema Ravi Nagar,
Karamathampatti,
Coimbatore
rep.by its Chairman
Dr.P.V.Ravi.

.. Petitioner

Versus

Anna University
rep.by its Registrar,
Chennai 600 025.

.. Respondent

Prayer in WP.No.10280/2020:- Writ petition filed under Article 226 of the Constitution of India praying for issuance of a writ of certiorari calling for the records relating to LR.No.511/CA1/Au/2019 dated 09.11.2019 issued by the respondent and quash the same.

For Petitioner : Mr.K.M.Vijayan, Senior
Counsel assisted by
Mr.E.Vijay Anand

For Respondent : Mrs.Narmadha Sampath
Additional Advocate General
assisted by
Mr.L.P.Shanmugasundaram

WP.No.10353 of 2020:-

Park College of Technology
Prema Ravi Nagar,
Karamathampatti,
Coimbatore 641 659.
rep.by its Chairman
Dr.P.V.Ravi.

... Petitioner

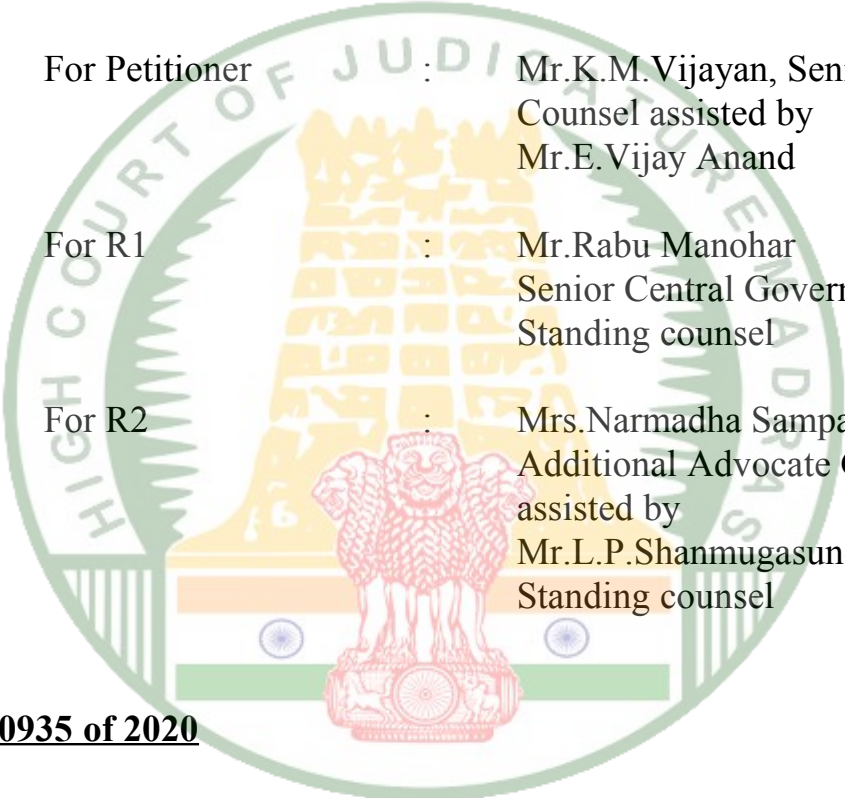
Versus

1.All India Council for Technical Education,
represented by its Director,
Nelson Mandela Marg, Vasanth Kunj,
New Delhi 110 070.

2.Anna University
rep.by its Registrar
Chennai 600 025.

.. Respondents

Prayer in WP.No.10353/2020:- Writ petition filed under Article 226 of the Constitution of India praying for issuance of a writ of certiorari calling for the records relating to F.No.AICTE/AB/SR/PID 1-2073181 dated 30.06.2020 issued by the 1st respondent and quash the same.



For Petitioner : Mr.K.M.Vijayan, Senior
Counsel assisted by
Mr.E.Vijay Anand

For R1 : Mr.Rabu Manohar
Senior Central Government
Standing counsel

For R2 : Mrs.Narmadha Sampath
Additional Advocate General
assisted by
Mr.L.P.Shanmugasundaram
Standing counsel

WP.No.10935 of 2020

Park College of Engineering & Technology

Avinashi Road, Kaniyur,

Coimbatore 641 659.

rep.by its Chairman Dr.P.V.Ravi

.. Petitioner

Versus

Anna University
rep.by its Registrar,
Guindy,
Chennai 600 025.

.. Respondent

Prayer in WP.No.10935/2020:- Writ petition filed under Article 226 of the Constitution of India praying for issuance of a writ of certiorari calling for the records relating to Lr.No.254/CAI/AU/2020 dated 20.03.2020 issued by the respondent and quash the same.

For Petitioner : Mr.K.M.Vijayan, Senior
Counsel assisted by
Mr.E.Vijay Anand

For Respondent : Mrs.Narmadha Sampath
Additional Advocate General
assisted by
Mr.L.P.Shanmugasundaram
Standing counsel

COMMON ORDER

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By consent on either side, all the writ petitions were taken up for final hearing. A common order is passed in these writ petitions since the issue

involved relates to the orders passed by the Anna University suspending Affiliation of the petitioner – Institutions / Colleges and the All India Council for Technical Education [hereinafter referred to as "the AICTE"] acting upon one such order and directing the petitioner – Institution/College in WP.No.10353 of 2020 to be placed under "No Admission" category for the Academic Year 2020-21.

2 The petitioner – Institution / College in WP.Nos.10280 and 10353 of 2020 was started in the year 2009 which conducts various professional Degree Courses with an intake of 420 students per year. The concerned College claims the credit of producing nearly 1850 students who had successfully completed their respective courses and have also got good placements.

3 The Anna University seems to have conducted a surprise inspection in the petitioner – Institution / College during August 2019 and found certain deficiencies in the Faculty Strength, which according to the Anna University, is not as per norms. Therefore, the Anna University

decided to suspend the Affiliation of the petitioner – Institution / College for a period of three years for Aeronautical Engineering and one Academic Year for the other Courses conducted in the petitioner – Institution / College, with effect from the Academic Year 2020-21. This order was passed on 09.11.2019 and the same is under challenge in WP.No.10280 of 2020.

4 The Anna University seems to have forwarded a Report to the AICTE through a Letter dated 18.03.2020 and the AICTE has acted upon the said Letter and issued the impugned Order dated 30.06.2020, whereby the petitioner – Institution / College was placed under "No Admission" category for the Academic Year 2020-21. This order passed by the AICTE has been challenged by the petitioner – Institution / College in WP.No.10353 of 2020.

5 The petitioner – Institution / College in WP.No.10935 of 2020 was started in the year 1997 and it is conducting various professional courses. This Institution / College had the benefit of Affiliation from the

Anna University till the Academic Year 2019-20. A surprise inspection is said to have been conducted by the Anna University on 20.12.2019 and found certain deficiencies in the Faculty strength which according to the Anna University, is not as per the norms. Therefore, the Anna University decided to suspend the Affiliation of the petitioner – Institution / College for a period of one year for B.E.-Robotics and Automation and M.B.A., courses with effect from the Academic Year 2020-21. This order was passed on 20.03.2020 and the same is the subject matter of challenge in the present writ petition.

6 The Anna University has filed counter affidavits in all the writ petitions and the relevant portions are extracted hereunder:-

Common counter affidavit in WP.Nos.10280 and 10353 of 2020:-

"4 I respectfully submit that the levels of deficiency in the Faculty were high, and hence a show cause notice was sent to the College on 12.04.2019 as per the University norms. In the show cause notice, the deficiencies reported by the Inspection Team were communicated and two weeks' time duration was given to the College to rectify the deficiencies and to submit a

detailed compliance report with supporting evidences. The College was also issued the Guidelines and General Instructions for submission of the Compliance Report. The College was clearly instructed to submit the details of Faculty Members online and also submit the documentary evidences to the University towards rectification of deficiencies. As per the instructions given for submitting Compliance report, the University has clearly mentioned in the instructions [Point No.1] – that for deficiency in Faculty. The college was also informed that there will be only one opportunity to submit the Compliance Report and they should submit on or before 26.04.2019.

5 I submit that the College submitted the compliance report dated 24.04.2019. The Compliance report was scrutinized by Scrutiny Committee. For Faculty deficiency, it was continue to exist in B.E. Aeronautical Engineering Course, the sanctioned intake values were reduced to 50% for B.E.Aeronautical Engineering course in accordance with the norms of Anna University and the College was informed through the Letter No.282/CAI/AU/CR_F/2019 dated 11.05.2019. Although the Chairman of the College has submitted an

Undertaking Dated 11.06.2019 stating that the Faculty strength will be maintained as per norms, even then the College had not maintained the required faculty strength in the College and then University granted the affiliation for the academic year 2019-20.

6 I submit that a complaint was received from one, Mr.Krishnamurthy representing parents and students association against the College stating that there is no infrastructure, no faculty member working in the College, due to non-payment of salary and no classes are conducted in the College. Also the respondent University received lot of complaints from the Chief Minister Cell reporting non-payment of salary to the staff members. Based on the complaints, Anna University conducted Re-inspection on 30.08.2019 by three subject experts [3Professor from Anna University – Chennai] and they have reported deficiency in the Faculty in respect of all the departments. The levels of deficiency in the Faculty were high. In view of the acute shortage of faculty members in the College, the College has conducted in a manner which is prejudicial to the interests of University Education and students. There were no faculty members available for Aeronautical Engineering. In other departments, there

were only 21 faculty members who were suppose to handle about 157 Theory courses and 78 Laboratory courses in the petitioner College in a year or all the courses. It is also confirmed by the respondent University that many classes are not conducted by the petitioner College which is a prejudicial to the interests of our educational system. An acute shortage of faculty has been observed by the respondent University as follows:-

SI No	DEGREE	COURSE	DEFICIENCY NOTICED
01	B.E.	Civil Engineering	68% Deficiency in Faculty
02	B.E.	Computer Engineering Science	51% Deficiency in Faculty
03	B.E.	Electronics & Communication Engineering	51% Deficiency in Faculty
04	B.E.	Environmental Engineering	68% Deficiency in Faculty
05	B.E.	Mechanical Engineering	72% Deficiency in Faculty

7 I submit that based on the inspection reports, the Syndicate of the University has decided to issue suspension of affiliation order through Lr.No.511/CA1/AU/2019 dated 09.11.2019 for a period of three academic years for Aeronautical Engineering Course and one academic year for the other courses conducted in the College with effect from the academic

year 2020-21 as per Regulations R25 vide section 7.9 of the Statutes, based on the recommendations of 88th SCA approved by the Syndicate of the University which is the impugned order of the WP.No.10280 of 2020.

"R-25 - Vide Section 7.9

PROCEDURE FOR SUSPENSION OF AFFILIATION OF AN ACADEMIC PROGRAMME:-

"The University may suspend the affiliation of any academic programme [provisional / permanent] in a college, provided the University is satisfied that there are prima-facie evidences after preliminary investigations by an University authorised inquiring Committee to verify the authenticity of the complaints received and/or non compliance of statutory provisions pending final decisions regarding withdrawal of affiliation. During the period of suspension of any such academic programme the college shall not admit fresh students to the said programme."

8 *I submit that the respondent University had communicated the above facts of suspension of affiliation that was imposed on Petitioner college to AICTE through our Lt.No.248/CAI/AU/2020 dated 18.03.2020. Based on which, the AICTE also issued*

order, placing the petitioner College under 'No Admission' for Academic Year 2020-21 vide order F.No.AICTE/AB/SR/PIS 1-2073181 dated 30.06.2020 which is the impugned order in WP.No.10353/ 2020."

Counter Affidavit in WP.No.10935 of 2020:-

"4 I respectfully submit that the levels of deficiency in the Laboratory were high, and hence a show cause notice was sent to the college on 05.04.2019 as per the University norms. In the show cause notice, the deficiencies reported by the Inspection Team were informed and two weeks' time duration was given to the College to rectify the deficiencies and to submit a detailed compliance report with supporting evidences. The College was also issued the Guidelines and General Instructions for submission of the Compliance Report. The College was clearly instructed to submit the details of Laboratory equipments online and also submit the documentary evidences to the University towards rectification of deficiencies. As per the instructions given for submitting Compliance Report, the University has clearly mentioned in the instructions that for deficiency in Labortory. The college was also informed that there will be only one opportunity to

submit the Compliance Report and they should submit their rectification on or before 20.04.2019.

5 I submit that the College submitted that their compliance report dated 24.04.2019. The Compliance report was scrutinized by Scrutiny Committee. It is seen that in respect of Laboratory deficiency it was continue to exist in B.E. Bio Medical Engineering and B.E. Geo Informatics Engineering courses, Hence the sanctioned intake values were reduced to 25% for B.E. Bio Medical Engineering and 50% for B.E. Geo Informatics Engineering Courses in accordance with the norms of Anna University and the College was informed through the Letter No.282/CAI/AU/CR_F/2019 dated 11.05.2019. Although the Chairman of the College has submitted an Undertaking dated 11.06.2019 stating that faculty strength, laboratory equipments will be maintained as per norms for the grant of affiliation for the academic year 2019-20. But College has not maintained the required faculty strength in the college.

6 I submit that there were many complaints about the functioning of petitioner's College. The District Collector of Coimbatore has sent a letter to the DOTE and to the University regarding non-payment of salary

to the faculty members. Excess fee collection from the students, delay in remittance of fee paid to the Controller of Examinations, by the students and classes are not conducted properly in Park College of Engineering and Technology. In addition to the above, 31 CM Cell petitions were received at the University for non-payment of salary to the faculty members of the College during the last academic year 2019-20. Other than CM Cell petitions, 14 other individual petitions were also received at the University. I submit that the College paid salary to their faculty members after 6 months time, only after the intervention of the University.

7 I submit that based on the complaints, Anna University conducted re-inspection on 20.12.2019 by three subject experts [4 Professor from Anna University, Chennai] and they have reported deficiency in the Faculty for B.E. Robotics and Automation and M.B.A Master of Business Administration courses. The levels of deficiency in the Faculty were high. In view of the acute shortage of faculty members in the College, the College has conducted in a manner which is prejudicial to the interests of University Education and students.

An acute shortage of faculty has been observed by the Respondent University as follows:-

SI No	DEGREE	COURSE	DEFICIENCY NOTICED
01	B.E.	Bio Medical Engineering	7% Deficiency in Faculty
02	B.E.	Geo Informatics Engineering	32% Deficiency in Faculty
03	B.E.	Mechatronics Engineering	15% Deficiency in Faculty
04	B.E.	Robotics & Automation Engineering	57% Deficiency in Faculty
05	B.E.	Textile Technology	26% Deficiency in Faculty
06	MBA	Master of Business Administration	50% Deficiency in Faculty

8 I submit that pursuant to the inspection reports, the Syndicate of the University has decided to issue suspension of affiliation order through Lr.No.254/CAI/AU/2020 dated 20.03.2020 for a period of One academic year for B.E. Robotics and Automation Degree course and MBA, Master of Business Administration course conducted in the College with effect from the academic year 2020-21 as per Regulations R.25 vide section 7.9 of the Statutes, based on the recommendations of 90th SCA approved by the Syndicate of the University, which is the impugned order of this writ petition. The above facts

were also communicated to AICTE by this respondent University.

"R-25 - Vide Section 7.9

PROCEDURE FOR SUSPENSION OF AFFILIATION OF AN ACADEMIC PROGRAMME:-

"The University may suspend the affiliation of any academic programme [provisional / permanent] in a college, provided the University is satisfied that there are prima-facie evidences after preliminary investigations by an University authorised inquiring Committee to verify the authenticity of the complaints received and/or non compliance of statutory provisions pending final decisions regarding withdrawal of affiliation. During the period of suspension of any such academic programme the college shall not admit fresh students to the said programme."

9 *In respect of averments made by the petitioner at para 4 of the affidavit, I submit that the respondent Anna University issued Show Cause notice to the College on 05.04.2019 much before the*

start of the academic year after the regular periodic inspection. Show Cause Notice was not issued after the 2nd surprise Inspection. There was no communication made by the College dated 24.04.2020. The College has given false claims that deficiencies were rectified. Many of the faculty members were left the College due to delay in payment of salary and also non payment of salary as per the norms of AICTE.

10 In view of the above deficiencies, the respondent university as per the approved procedure, imposed suspension of affiliation for a period of one academic year for B.E. Robotics and Automation Engineering and MBA Master of Business Administration with effect from the academic year 2020-21 as per the regulations of respondent University Lr.No.254/CAI/AU/2020 dated 20.03.2020 was in order and it is sustainable as per law."

7 Mr.K.M.Vijayan, learned Senior counsel assisted by Mr.E.Vijay Anand, learned counsel appearing on behalf of the petitioner – Institutions / Colleges submitted that both the Anna University as well as

the AICTE have proceeded to pass orders of Suspension of Affiliation and bringing the petitioner – Institution / College in **WP.No.10280 & 10353 of 2020** under "No Admission" category, without affording any opportunity to the petitioner – Institution / College. The learned Senior counsel further submitted that the AICTE, while bringing the petitioner – Institution / College in WP.No.10353/2020 under "No Admission" category, has merely acted upon the communication sent by the Anna University and the AICTE did not independently satisfy themselves as to whether there are any deficiencies, by conducting any inspection. He would submit that insofar as Faculty strength is concerned, it falls exclusively within the domain of the AICTE as per the Approval Process Hand Book and the Anna University does not have the jurisdiction to withdraw the Affiliation on the ground of deficiency in Faculty strength. Learned Senior counsel also submitted that the AICTE had conducted inspection for the continuation of Approval for the Academic Year 2020-21 and satisfied itself that there was not a single deficiency in any area and in spite of the same, the AICTE chose to act upon the Letter given by the Anna University and placed the petitioner – Institution / College under "No Admission" category, which is the subject

matter of challenge in WP.No.10353 of 2020.

8 *Per contra*, Mrs.Narmadha Sampath, learned Additional Advocate General assisted by Mr.L.P.Shanmugasundaram, learned Standing counsel appearing on behalf of the Anna University made the following submissions:-

- The petitioner – Institutions/Colleges had given a very specific undertaking at the time of seeking for Affiliation from the Anna University to the effect that all the facilities are available and the faculty strength will be maintained as per norms and the University can conduct surprise inspection to verify the fulfillment of the requirements as per the norms and standards of the Anna University for the continuation of Affiliation. The petitioner – Institutions / Colleges also recognised the right of the Anna University to review the affiliation and withdraw the same if the facilities are found to be inadequate or for the non-compliance of the norms.
- When the re-inspection was conducted by the Anna University on 30.08.2019 and 20.12.2019 respectively, it was found that there were

serious deficiencies in terms of facilities, shortage of faculty members and also violation of norms and therefore, the Anna University, in exercise of its powers under Rule 25 of the Regulations vide Section 7.9 of the Statutes, took a decision to suspend the Affiliation for three Academic Years. The decision taken by the Syndicate was well within its powers and continuation of Affiliation would result in serious impact on the students and their future.

- Unless the petitioner – Institutions / Colleges fulfill the norms and repair the deficiencies, the University cannot continue to grant Affiliation.

9 The AICTE has filed a counter affidavit in WP.NO.10280 of 2020. The relevant portions in the counter affidavit are extracted hereunder:-

"5 It is respectfully submitted that the 2nd respondent herein vide letter dated 18.03.2020 bearing No.248/CAI/AU/2020 had informed that the University issued suspension of affiliation for a period of three academic years for Aeronautical Engineering and one

Academic year for the other courses. The University has further informed that the petitioner College has not maintained the faculty strength as per norms during academic year 2019-20 as revealed by the re-inspection in September 2019. Hence the University issued suspension of affiliation for a period of three academic years for Aeronautical Engineering and One academic year for the other courses conducted in the petitioner college with effect from the academic year 2020-21 as per Regulations R.25 vide section 7.9 of the statutes, based on the recommendation of 88th SCA, approved by the Syndicate of the University.

6 It is respectfully submitted that after receiving the above intimation from the 2nd respondent herein, the answering respondent herein sent an email dated 04.06.2020 to the petitioner College and directed them to inform the action taken by them for revoking the suspension, for which, the petitioner College had informed that they have written a letter to the 2nd respondent herein for revoking the harsh punishment.

7 It is respectfully submitted that thereafter, the 2nd respondent herein was requested by the 1st respondent herein to provide the present status of the petitioner college for which the 2nd respondent herein has

informed that there is no change in the status of the petitioner institute.

8 It is respectfully submitted that 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 necessary steps as it may think fit for ensuring coordinated and integrated development of technical education and maintenance of standards, further to say Section 10 [q] empowers the 1st respondent herein to withhold or discontinue grants in respect of courses, programmes to such technical institutions which fails to comply with the directions given by the Council within the stipulated period of time and take such other steps as may be necessary before ensuring compliance of the directions of the Council.

9 It is further submitted that the Handbook of AICTE 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 / Institutions.

10 It is submitted that therefore, after examining

the entire matter in the facts and circumstances of the case of the petitioner College and in terms of the Approval Hand Book 2020-21 and also the terms and conditions mentioned in the Letters of Approval, it has been decided that the petitioner College be placed under "No Admission" category for the A/Y 2020-21.

11 It is further submitted that the last date to grant of approval to Technical Institutions by the 1st respondent as per Approval Process Handbook was 30.04.2020. However the time for granting approval of technical institution was extended further till 30.06.2020 by order dated 06.07.2020 in MA.No.1154 of 2020 in Civil Appeal No.9048 of 2012 by the Hon'ble Supreme Court of India. [Copy enclosed]."

10 Mr.Rabu Manohar, learned Senior Central Government Standing counsel appearing on behalf of the AICTE, made the following submissions:-

- ➔ The AICTE was informed by the Anna University that the petitioner – Institutions / Colleges have not maintained the faculty strength as per the norms during the Academic year 2019-20 and

the Affiliation has also been suspended for a period of three academic years in respect of Aeronautical Engineering and for a period of one year for the other courses in WP.Nos.10280 and 10353 of 2020 and in respect of WP.No.10935 of 2020, the Affiliation has been suspended for a period of one year in respect of B.E. - Robotics and Automation and M.B.A. Courses and therefore, the petitioner – Institution/College in WP.Nos.10280 & 10353 of 2020 was brought under the category of "No Admission" for the Academic Year 2020-21.

- ➔ When the Affiliation has been suspended by the Anna University, there is no question of permitting the petitioner – Institution / College in WP.Nos.10280 & 10353 of 2020 to admit the students in the relevant courses for the Academic Year 2020-21.
- ➔ The AICTE will have to ensure that the Institutions maintain norms as provided under the Regulations, failing which, the AICTE is entitled to withhold or discontinue the Approval and its power is directly traceable to Section 10 of the AICTE Act.
- ➔ The AICTE has acted strictly in accordance with the Approval

Handbook 2020-21 and has placed the petitioner – Institution / College in WP.Nos.10280 & 10353 of 2020 under the "No Admission" category for the Academic Year 2020-21.

11 This Court has carefully considered submissions made on either side and the materials available on record.

12 The issues involved in the present writ petitions were considered in detail by this Court in a batch of writ petitions, viz., ***WP.Nos.35174 & 35250/2019 & 9601 & 9571/2020 [ARM College of Engineering rep.by its Chairman, Sattamangalam, Maraimalai Nagar, Chengalpet Taluk, Kancheepuram District and Another V. All India Council for Technical Education rep.by its Director [Approval], Nelson Mandela Marg, Vansanth Kunj, New Delhi 110070 and 4 others]***, which were disposed of vide common order dated **04.09.2020**.

13 The relevant portions in the above referred common order dated 04.09.2020, are extracted hereunder:-

"15.The main issues that are involved in these writ petitions are:-

- A) Whether Anna University was right in issuing the impugned Letters dated 09.11.2019, suspending Affiliation of the petitioner – Institutions / Colleges for a period of three Academic Years for all the Courses conducted in the Colleges with effect from the Academic Year 2020-21? ;*
- B) Whether the AICTE which had satisfied itself while conducting Approval Process for the Academic Year 2020-21 that there was no deficiency on the part of the petitioner – Institutions / Colleges on any front, can thereafter act upon the Letter sent by the Anna University and withdraw the Approval for the Academic Year 2020-21 and bring the petitioner – Institutions / Colleges under the "No Admission" category, without independently satisfying itself all the deficiencies pointed out by the*

University? ;

C) Whether the petitioner – Institutions / Colleges had the right to be heard before the Anna University suspended the affiliation and the AICTE brought the petitioner – Institutions / Colleges under the "No Admission" Category ? ; and

D) Whether the norms within the exclusive domain of the AICTE can be gone into by the Anna University and can be made as a ground for suspension of affiliation and can be consequently acted upon by the AICTE to bring the petitioner – Institutions / Colleges under the "No Admission" category?

16. *This Court will first deal with **Issue [D]**. The authority for granting approval to run Engineering Courses is within exclusive domain of the AICTE. The same is very clear from the Scheme of the AICTE Act, 1987. The law on this issue is well settled and it does not require any further elaboration. The Anna University is the Affiliating Body for both the petitioner*

– *Institutions / Colleges. The Anna University being the Affiliating Body, will act within its own sphere and it cannot trench upon areas which are exclusively within the domain of AICTE. The interplay of the powers of the AICTE and the Affiliating University has been dealt with by the Hon'ble Supreme Court of India in **Rungta Engineering College case**, [referred supra]. The Hon'ble Apex Court took note of the law settled in **State of Tamil Nadu Vs. Adhiyaman Educational and Research Institute** reported in 1995 [4] SCC 104. The relevant portions in the judgment are extracted hereunder:-*

*"25. This Court in **State of T.N.v. Adhiyaman Educational & Research Institute** [State of T.N. v. Adhiyaman Educational & Research Institute, (1995) 4 SCC 104 : 1 SCEC 682] , after considering the constitutional scheme of various Entries of List I and List III of the Seventh Schedule and the language of the 1987 Act and the Madras University Act concluded that the 1987 Act is referable to Entry 66 of List I. The field of "determination of standards in institutions for higher education or research and scientific and technical institutions" is exclusive to Parliament and any law made by Parliament referable to the said field is paramount. The 1987 Act empowers AICTE, a body constituted under the said Act "to evolve suitable performance appraisal systems incorporating norms and mechanisms for maintaining accountability of the technical institutions" and lay down "norms and*

standards for courses, curricula, staff pattern, staff qualifications, assessment and examinations, fixing norms and guidelines for charging tuition fee and other fees, granting approval for starting new technical institutions or introducing new courses or programmes". (SCC p. 126, para 30).

This Court categorically held: (SCC pp. 126-27, para 30)

"30. ... Thus, so far as these matters are concerned, in the case of the institutes imparting technical education, it is not the University Act and the University but it is the Central Act and the Council created under it which will have the jurisdiction."

Consequently, this Court held "after coming into operation of the Central Act" the provisions of any other State law overlapping on the area covered by the Central Act "will be deemed to have become unenforceable...". The argument that the State Legislature can stipulate norms of higher standards even in those areas which are covered by AICTE is clearly rejected by this Court.

*26. The question whether the State Government as a matter of policy, can decline to grant approval/permission for the establishment of a new engineering college in view of the perception of the State Government that the opening of new colleges will not be in the interest of the students and employment, fell for consideration of this Court in *Jaya Gokul Educational Trust v. Commr. & Secy. to Govt., Higher Education Deptt.* [*Jaya Gokul Educational Trust v. Commr. & Secy. to Govt., Higher Education Deptt.*,*

*(2000) 5 SCC 231 : 1 SCEC 869] This Court held that:
(SCC p. 246, para 27)*

“27. ... the State could not have any ‘policy’ outside the AICTE Act and indeed if it had a policy, it should have placed the same before AICTE that too before the latter granted permission.”

*27. The question of the authority of a university to grant or decline affiliation squarely fell for consideration before this Court in **Bhartia Education Society v. State of H.P.** [**Bhartia Education Society v. State of H.P.**, (2011) 4 SCC 527 : 4 SCEC 85] The case arose under the National Council for Teacher Education Act, 1993 (hereinafter referred to as “the NCTE Act”) the scheme of which is also identical to the AICTE. This Court held as follows: (SCC p. 534, para 19):-*

“19. ... On the other hand, ‘recognition’ is the licence to the institution to offer a course or training in teacher education. Prior to the NCTE Act, in the absence of an apex body to plan and coordinate maintenance of the norms and standards in the teacher education system, including grant of ‘recognition’ were largely exercised by the State Government and universities/boards. After the enactment of the NCTE Act, the functions of NCTE as ‘recognising authority’ and the examining bodies as ‘affiliating authorities’ became crystallised, though their functions overlap on several issues. The NCTE Act recognises the

role of examining bodies in their sphere of activity.”

28. This Court in Bhartia Education Society case [Bhartia Education Society v. State of H.P., (2011) 4 SCC 527 : 4 SCEC 85] examined the scope of Section 16 of the NCTE Act which prohibited the grant of affiliation by any “examining body”, (a university) to any institution conducting a course for training people for the occupation of teaching unless such institution obtained recognition from the competent authority under the NCTE Act. Though, this Court made it clear that the “examining body” (university) does not have any discretion to refuse affiliation with reference to any of the factors which ought to be considered by NCTE while granting recognition, it recognised that the “examining body” has the authority to demand compliance with its norms in a limited area regarding the “eligibility of the candidates” and “manner of admission” of students, etc. It was further held: (Bhartia Education Society case [Bhartia Education Society v. State of H.P., (2011) 4 SCC 527 : 4 SCEC 85], SCC pp. 534-35, para 22)

“22. ... For example, NCTE is required to satisfy itself about the adequate financial resources, accommodation, library, qualified staff, and laboratory required for proper functioning of an institution for a course or training in teacher education. Therefore, when recognition is granted by NCTE, it is implied that NCTE has satisfied itself on those aspects. Consequently, the examining body may not refuse affiliation on the ground that the institution does not have adequate financial resources, accommodation, library, qualified

staff, or laboratory required for proper functioning of the institution. But this does not mean that the examining body cannot require compliance with its own requirements in regard to eligibility of candidates for admissions to courses or manner of admission of students or other areas falling within the sphere of the State Government and/or the examining body.”

At para 24, this Court indicated the areas where the “examining body” can stipulate norms, the non-compliance with which norms authorise the examining body to cancel the affiliation: (SCC p. 535)

“24. The examining body can therefore impose its own requirements in regard to eligibility of students for admission to a course in addition to those prescribed by NCTE. The State Government and the examining body may also regulate the manner of admissions. As a consequence, if there is any irregularity in admissions or violation of the eligibility criteria prescribed by the examining body or any irregularity with reference to any of the matters regulated and governed by the examining body, the examining body may cancel the affiliation irrespective of the fact that the institution continues to enjoy the recognition of NCTE. Sub-section (6) of Section 14 cannot be interpreted in a manner so as to make the process of affiliation, an automatic rubber-stamping consequent upon recognition, without any kind of discretion in the examining body to examine whether the institution deserves affiliation or not, independent of the recognition.”

29. Similarly, under the Scheme of the 1987 Act, as noticed by this Court in para 30 of Adhiyaman Educational & Research Institute case [State of T.N. v. Adhiyaman Educational & Research Institute, (1995) 4 SCC 104 : 1 SCEC 682], under Section 10 of the Central Act, "the Council is entrusted with the power to lay down norms and standards for courses, curricula, staff pattern, staff qualification, assessment and examination, fixing norms and guidelines for charging tuition fees, etc. and further held that in these matters the University will have no authority."

30. The respondents heavily relied upon the last sentence of para 24 of the decision in Bhartia Education Society [Bhartia Education Society v. State of H.P., (2011) 4 SCC 527 : 4 SCEC 85] (extracted earlier) to assert that the respondents still have the necessary authority to grant or decline affiliation. We are of the opinion that the respondents are reading that sentence out of context. The judgment was very clear as to the areas which are exclusively within the jurisdiction of NCTE whose satisfaction regarding the compliance with the standards prescribed by it in those areas is final and the areas where the "examining body" has authority to lay down its own norms (such as eligibility of the students for admission to a course and the manner of admission).

31. We apply the principles of law mentioned above to the facts of the present case. The various objections which (according to the respondent) formed the basis for declining affiliation to the first petitioner institution are contained in the communication dated 26-4-2013 which was extracted in detail at para 21 (supra).

32. An examination of all the objections mentioned in the said communication would reveal that each one of those objections squarely fall within the sweep of one or the other areas which only AICTE has the exclusive jurisdiction to deal with. None of them are demonstrated before us to be matters falling within the ar AICTE, on inspection of the first petitioner College reported that the first petitioner College fulfils all the conditions prescribed by the norms and standards laid down by AICTE. The respondents did not make any specific assertion that such a report of AICTE is factually incorrect. Assuming for the sake of argument that, in the opinion of the respondents, the petitioner College has not in fact fulfilled any one of the conditions required under the norms specified by AICTE, the only course of action available for the respondents is to bring the shortcomings noticed by them to the notice of AICTE and seek appropriate action against the petitioner College. [Jaya Gokul Educational Trust v. Commr. & Secy. to Govt., Higher Education Deptt., (2000) 5 SCC 231, p. 246, para 27: "27. ... Once that procedure laid down in the AICTE and Regulations had been followed under Regulation 8(4), and the Central Task Force had also given its favourable recommendations, there was no scope for any further objection or approval by the State. We may however add that if thereafter, any fresh facts came to light after an approval was granted by AICTE the State felt that some conditions attached to the permission and required by AICTE be complied with, were not complied with, then the State Government could always write to AICTE, to enable the latter to take appropriate action."]

33. We are, therefore, of the opinion that the decision of the respondent not to grant the affiliation to the first petitioner College is wholly untenable and is required to be set aside. The same is accordingly set aside. Since the respondent did not decline the affiliation to the first petitioner College either on the ground that the petitioner College is admitting wholly ineligible students as per the norms stipulated by the respondent University or that the admission procedure prescribed by the respondents is not being complied with by the petitioners or on any other ground that the petitioners violated any one of the stipulations made by the University which the University is legally competent to make, we have no option but to direct the respondents to grant affiliation to the petitioner College. The operative portion of the judgment of this Court has already been pronounced on 1-9-2014 [Rungta Engg. College v. Chhattisgarh Swami Vivekanand Technical University WP (C) No. 653 of 2014, order dated 1-9-2014 (SC), wherein it was directed: "The dispute essentially is about the grant of affiliation to the petitioner by Chhattisgarh Swami Vivekanand Technical University. Affiliation was granted by the Vice-Chancellor in the purported exercise of the emergency powers under Section 14(4) of the CSUTU Act subject to ratification by the Executive Council. However, the decision of the Vice-Chancellor has been ratified. Without affiliation, the petitioner College would not be entitled to have students allotted to it in the counselling to be undertaken by the State pursuant to the Common Entrance Examination. The last date for allotment of the students, it appears is 5-9-2014 pursuant to an order of this Court dated 29-8-2014 passed in

Parshavanath Charitable Trust v. All India Council for Technical Education, (2014) 16 SCC 357. We have heard the learned counsel for the parties at length. In view of the limited time available, we are passing this order that the petitioner College is entitled for affiliation for the Academic Years 2013-2014 and 2014-2015. Consequently, the respondent authorities are directed to allot students for the current Academic Year after conducting the counselling. The full reasons for the above order would be pronounced in due course. The petitioner College would take all the necessary steps to comply with the requirement of the minimum number of teaching hours for the semester."]. Therefore, we are not reiterating the same."

17.It is clear from the above judgment that the requirements such as adequate financial resources, qualified staff, facilities available etc., are areas which fall within the exclusive domain of the AICTE. Under Section 10 of the AICTE Act, it is the AICTE which has been entrusted to lay down norms and standards for courses, curricula, staff pattern, fixing norms etc., and the Affiliating University will have no authority in all these matters.

*18.It will also be useful to rely upon the Division Bench judgment of this Court in **Infant Jesus Engineering College case** [referred supra] and the relevant portions of the judgment are extracted hereunder:-*

10. We have considered the submissions raised and in view of the provisions Constitutional and the judgments of the Apex Court in the case of **Parshvanath Charitable Trust (supra)** and **Rungta Engineering College (supra)**, we find it difficult to accept the argument raised on behalf of the University on the strength of the Division Bench judgment of this Court rendered in the case of **Trichy Engineering College (supra)**, that the University itself has the exclusive power to reduce the intake capacity for the reason that in the judgment in the case of **Parshvanath Charitable Trust (supra)**, even though the role of the University had been commented upon and observations made in paragraph 20 of the said judgment, yet while concluding in paragraph 24, the Apex Court clarified that the grant of approval either by the State or an affiliation by the University for an increased intake of seats or commencement of new college should not be repugnant to the conditions of approval/recommendation granted by the AICTE. For ready reference, we extract herein paragraph 20 and 24 of the said judgment:

20. All these vitally important aspects go to show that the Council (AICTE) created under the AICTE Act is not intended to be an authority either superior to or to supervise and control the universities and thereby superimpose itself upon such universities merely for the reason that they are imparting teaching in technical education or programmes in any of their departments or units. A careful scanning of the provisions of the University Grants Commission Act, 1956 in juxtaposition, will show that the role of

*AICTE vis-à-vis the universities is only advisory, recommendatory and one of providing guidance, thereby subserving the cause of maintaining appropriate standards and qualitative norms and not as an authority empowered to issue and enforce any sanctions by itself. Reference can be made to the judgments of this Court in the case of **Adarsh Shiksha Mahavidyalaya v. Subhash Rahangdale [(2012) 2 SCC 425]**, **State of Tamil Nadu v. Adhiyaman Educational & Research Institute [(1995) 4 SCC 104]** and **Bharathidasan University v. All India Council for Technical Education [(2001) 8 SCC 676]**.*

24. The consistent view of this Court has been that where both Parliament and State Legislature have the power to legislate, the Central Act shall take precedence in the matters which are covered by such legislation and the State enactments shall pave way for such legislations to the extent they are in conflict or repugnant. As per the established canons of law, primacy of the Central Act is undisputable which necessarily implies primacy of AICTE in the field of technical education. Statutes like the present one as well as the National Council for Teachers Education Act, 1993, the Medical Council of India Act, 1956, etc. fall within the ambit of this canon of law. The AICTE is the authority constituted under the Central Act with the responsibility of maintaining operational standards and judging the infrastructure and facilities available for imparting professional

education. It shall take precedence over the opinion of the State as well as that of the University. The concerned department of the State and the affiliating university have a role to play, but it is limited in its application. They cannot lay down any guidelines or policies in conflict with the Central statute or the standards laid down by the Central body. The State can frame its policies, but such policy again has to be in conformity with the direction issued by the Central body. Though there is no such apparent conflict in the present case, yet it needs to be clarified that grant of approval by the State and affiliation by the University for increased intake of seats or commencement of new college should not be repugnant to the conditions of approval/recommendation granted by the AICTE. These authorities have to work in tandem as all of them have the common object to ensure maintenance of proper standards of education, examination and proper infrastructure for betterment of technical educational system.?

11. Learned counsel for the respondent University has vehemently urged that the said judgment would bind only in relation to the increased intake of seats and not in relation to the decrease or reduction of seats, which falls within the domain of the University. We are unable to accept this submission inasmuch as the power to increase the intake also includes the power to decrease the intake capacity. The power to do on general principles also includes the power to undo, whatever power is being exercised under the 1987 Act. We, therefore, find it

difficult to read a parallel exercise of power in the hands of the University in the matter of reduction, which is only available to the extent of pointing out deficiencies to the AICTE for taking appropriate action in terms of the judgment in the case of Parshvanath Charitable Trust (supra), that too even in respect of the courses in question upto the time line as provided therein. In the instant case, even if the deficiencies have been located and have been reported during the pendency of this proceeding, the same would be relevant for the purpose of coming year and therefore, any action which the University would desire to take in the light of the deficiencies pointed out would be available as relevant information to the AICTE for the session 2020-21. Accordingly, in the background of the facts of the present case, we find that this information which has been tendered by the University, according to the AICTE, was after the cut-off date as prescribed in the judgment and therefore, the same would be relevant for taking any action in future.

*12. Not only this, we find that the subsequent judgment in the case of **Rungta Engineering College (supra)** has further consolidated this position of law in paragraph 32 and 33 of the said judgment that are extracted hereinunder:*

32. An examination of all the objections mentioned in the said communication would reveal that each one of those objections squarely fall within the sweep of one or the other areas which only the AICTE has the exclusive jurisdiction to deal with. None of them are demonstrated before us to be matters falling within the area legally falling within the domain of the respondents.

AICTE, on inspection of the Ist petitioner college reported that the Ist petitioner college fulfils all the conditions prescribed by the norms and standards laid down by AICTE. The respondents did not make any specific assertion that such a report of the AICTE is factually incorrect. Assuming for the sake of argument that, in the opinion of the respondents, the petitioner college has not in fact fulfilled any one of the conditions required under the norms specified by the AICTE, the only course of action available for the respondents is to bring the shortcomings noticed by them to the notice of the AICTE and seek appropriate action against the petitioner college.

33. We are, therefore, of the opinion that the decision of the respondent not to grant the affiliation to the first petitioner college is wholly untenable and is required to be set aside. The same is accordingly set aside. Since the respondent did not decline the affiliation to the first petitioner college either on the ground that the petitioner college is admitting wholly ineligible students as per the norms stipulated by the respondent University or that the admission procedure prescribed by the respondents is not being complied with by the petitioners or on any other ground that the petitioners violated any one of the stipulations made by the University which the University is legally competent to make, we have no option but to direct the respondents to grant affiliation to the petitioner college. The operative portion of the judgment of this Court has already

been pronounced on 01.9.2014. Therefore, we are not reiterating the same.?

13.This would further fortify the conclusions drawn by us hereinabove and therefore, it will not be possible for us now to be persuaded by the observations made by the Division Bench in the case of Trichy Engineering College (supra), in paragraph 34 to 38 thereof. A careful reading of paragraph 20 in the judgment in the case of Parshvanath Charitable Trust (supra) would also indicate that the Apex Court has observed that the role of AICTE vis-a-vis the Universities is only advisory, recommendatory and one of providing guidance, thereby subserving the cause of maintaining appropriate standards and qualitative norms and not as an authority empowered to issue and enforce any sanctions by itself. We find these observations to be weighing enough to grant sufficient authority to the University to take appropriate action in the event any such deficiency is found, but the route and the process of taking such action has to be through the AICTE itself by tendering appropriate information timely and for taking action by the AICTE. We may, therefore, also observe that the AICTE, upon receiving such information, shall be bound to consider and pass appropriate orders and not shelve the issue by avoiding to take action on a report submitted by the University, as it would directly affect the affiliation of the University, the running of the courses and also importantly the fate of the students, who are to be admitted against such courses. We hope and trust that the University and the AICTE will act in coalition and coordination in future in order to ensure that timely action is taken for the purpose of deciding the running of the courses with their intake capacity in accordance

with the 1987 Act as well as the terms of affiliation of the University."

19.The Division Bench has taken note of the settled position of law and has categorically held that the Affiliating University cannot parallelly exercise its powers in areas which are exclusively within the domain of the AICTE. The Division Bench has further held that the role of AICTE vis-a-viz the University, is only advisory, recommendatory and one of providing guidance, thereby subserving the cause of maintaining appropriate standards and qualitative norms and not as an authority empowered to issue and enforce any sanctions by itself.

20.The learned Senior counsel appearing on behalf of the petitioner – Institutions / Colleges heavily relied upon the above judgments and submitted that the Anna University ventured into an area within the exclusive domain of the AICTE and has proceeded to suspend the affiliations and such an act of the Anna University is without any authority or jurisdiction.

21.It is seen from the Reports that was generated on 09.03.2020 and 10.03.2020 respectively in the web portal of AICTE that an exhaustive inspection has been conducted by the AICTE, both with regard to the facilities as well as the faculty members and not a

single deficiency has been pointed out in the Report.

22.The Re-inspection Report of the Anna University, pursuant to the inspection conducted on 16.09.2019, shows that the Report has trenched upon areas like availability of faculty members, facilities like classrooms, laboratories etc., and this has formed the basis for the Order of Suspension of Affiliation passed by the Anna University.

23.It is one thing to conduct an inspection by the Anna University and forward the Report to the AICTE to enable the AICTE to act upon it. It is entirely another thing to conduct the inspection and also act upon it and this is where the authority and jurisdiction of the University becomes questionable. The judgments extracted supra makes it very clear that the Anna University must act more in coalition and coordination with the AICTE and it cannot take upon itself the authority to make decisions on areas which are exclusively within the domain of the AICTE. The main grievance of the petitioner – Institutions / Colleges is that the Anna University has over-reached its authority and has assumed the powers over the areas which are in the exclusive domain of the AICTE.

24.The Anna University relies upon Regulation

25 vide Section 7.9 of the Statutes. For proper understanding, the same is extracted hereunder:-

"R-25 PROCEDURE FOR SUSPENSION OF AFFILIATION OF AN ACADEMIC PROGRAMME:- [Vide Section 7.9 of the Statutes]

"The University may suspend the affiliation of any academic programme [provisional / permanent] in a college, provided the University is satisfied that there are prima-facie evidences after preliminary investigations by an University authorised inquiring Committee to verify the authenticity of the complaints received and/or non compliance of statutory provisions pending final decisions regarding withdrawal of affiliation. During the period of suspension of any such academic programme the college shall not admit fresh students to the said programme."

25.The above Regulation of the Anna University is subservient to the authority of the AICTE. By placing reliance upon the above Regulation, the Anna University cannot take a decision on areas which falls within the exclusive domain of AICTE."

14 In the present case, the Anna University has proceeded to issue the Impugned Letters withdrawing Affiliation only on the ground that the petitioner – Institutions / Colleges were found deficient in Faculty strength. Insofar as the Faculty strength is concerned, it is exclusively within the

domain of the AICTE and at the best, the Anna University should have forwarded the Report to the AICTE in order enable the AICTE to conduct an independent inspection and satisfy themselves with regard to the Faculty strength available in the petitioner – Institutions / Colleges. Instead, the Anna University has proceeded to withdraw the Affiliation on the ground of deficiency in Faculty members. It is clear from the above order that the Anna University cannot take any decision in areas which falls within the exclusive domain of the AICTE and the Regulation relied upon by the Anna University is subservient to the authority of the AICTE.

15 A careful reading of the impugned Letters issued by the Anna University withdrawing the Affiliation, clearly reveals the fact that these Letters have been issued without putting the petitioner – Institutions / Colleges on notice and calling for their explanation. The impugned Letters had serious civil consequences and the Anna University ought not to have straight away proceeded to issue the impugned Letters without affording an opportunity to the petitioner – Institutions / Colleges. Apart from the lack of authority for Anna University to tinker upon the area which is exclusively

within the jurisdiction of the AICTE, the impugned Letters of Anna University is also bad since it violates principles of natural justice.

16 The AICTE after receiving the communication from the Anna University ought to have independently conducted an inspection. The AICTE cannot piggy back on the Report of the Anna University and take a decision to bring the petitioner – Institution / College in WP.Nos.10280 & 10353 of 2020 under "No Admission" category. This is more so due to the fact that the AICTE did not find any deficiency on any front while considering the continuation of the approval for the petitioner – Institutions / Colleges during the Academic Year 2020-21. The AICTE ought to have put the petitioner – Institution / College in WP.Nos.10280 & 10353 of 2020 on notice and conducted an independent inspection before coming to a conclusion as to whether the petitioner – Institution / College should be placed under "No Admission" category. Therefore, the order passed by the AICTE which is the subject matter of challenge in WP.No.10353 of 2020 also suffers from illegality since it was passed without following the principles of natural justice.

17 The earlier order passed by this Court dated 04.09.2020 in WP.Nos.35174, 35250/2019 and 9601 & 9571/2020 [referred supra], will squarely apply to the facts of the present cases also and the petitioner – Institutions / Colleges will be entitled for the very same reliefs granted by this Court in the said batch of writ petitions.

18 In the result, the **THE WRIT PETITIONS ARE ALLOWED** and **THE IMPUGNED LETTERS ISSUED BY THE ANNA UNIVERSITY DATED 09.11.2019 AND 20.03.2020** respectively [in WP.Nos.10280 and 10935 of 2020] **AS WELL AS THE IMPUGNED ORDER PASSED BY THE AICTE DATED 30.06.2020** [in WP.No.10353 OF 2020] are hereby **QUASHED**.

19 The Anna University and the AICTE are directed to issue a fresh Show Cause Notice to the petitioner – Institutions / Colleges, by pointing out the deficiencies and if necessary, after conducting personal inspection and the petitioner – Institutions / Colleges shall be given an

opportunity to give their explanation and thereafter, a decision can be taken strictly in accordance with law.

20 The AICTE is directed to extend the approval for the petitioner – Institution / College in WP.Nos.10280 & 10353 of 2020 for the Academic year 2020-21 and the Anna University is also directed to continue the affiliation for both the petitioner – Institutions / Colleges for the Academic year 2020-21. This approval will be subject to the liberty granted to the Anna University and the AICTE at paragraph No.19 of this order. No costs. Consequently, the connected miscellaneous petitions are closed.

21.09.2020

AP

Internet : Yes

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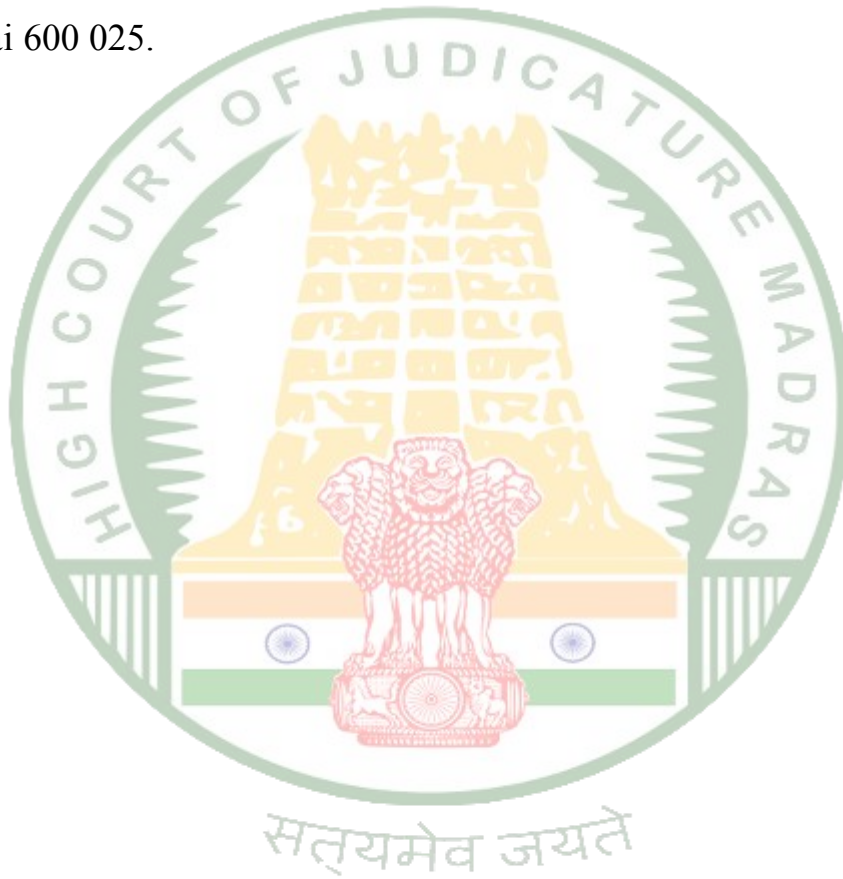
To

1.The Director,

All India Council for Technical Education,
Nelson Mandela Marg, Vasanth Kunj,
New Delhi 110 070.

2.The Registrar

Anna University
Chennai 600 025.

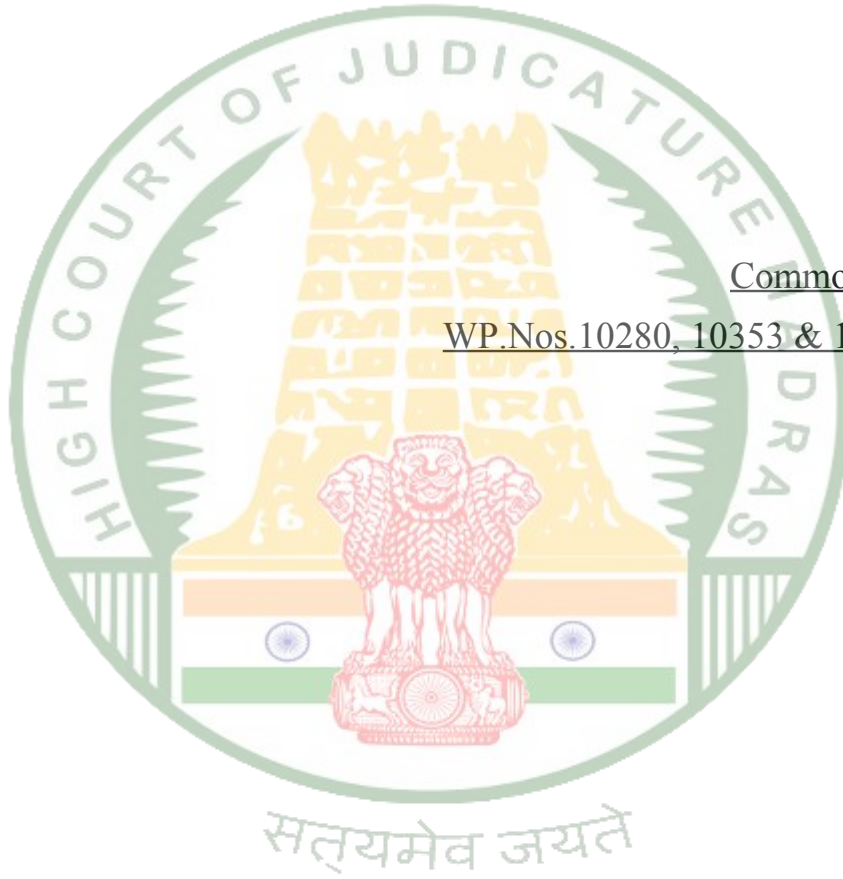


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WP.No.10280, 10353 and 10935/2020

N.ANAND VENKATESH, J.,

AP



Common Order in
WP.Nos.10280, 10353 & 10935/2020

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