

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on 02.09.2020

Delivered on 04.09.2020

CORAM

THE HONOURABLE MR. JUSTICE N.ANAND VENKATESH

WP.No.35174, 35250/2019 & 9601 & 9571/2020 & WMP.Nos.35960,
36050/2019 & WMP.Nos.11688, 3876, 11687, 11729, 11730, 4511 and
4513 of 2020

ARM College of Engineering and Technology
rep.by its Chairman
Sattamangalam,
Maraimalai Nagar,
Chengalpet Taluk,
Kancheepuram District.

.. Petitioner in

WP.No.35174/2019 &
W.P.No.9601 of 2020

ARS College of Engineering
rep.by its Chairman
No.4105, Sattamangalam,
Maraimalai Nagar,
Chengalpet Taluk,
Kancheepuram District.

.. Petitioner in
WP.Nos.35250/2019,
& W.P.No.9571/2020

Versus

1.All India Council for Technical Education
rep.by its Director [Approval]
Nelson Mandela Marg, Vansanth Kunj
New Delhi 110070.

2.The Regional Officer,
All India Council for Technical Education,
Sastri Bhavan, No.26, Haddows Road,
Chennai 600 006.

3.The Government of Tamil Nadu
rep.by its Principal Secretary to Government
Department of Higher Education,
Fort St George, Chennai 600 009.

4.The Director of Technical Education,
Guindy, Chennai 600025.

5.The Anna University
rep.by its Registrar,
Guindy, Chennai 600025. .. Respondents in WP.Nos.
9601 & 9571/2020

1.The State of Tamil Nadu
rep.by its Principal Secretary to Government
Department of Higher Education,
Fort St George, Chennai 600 009.

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

3.The Director
Centre for Affiliation of Institutions,
Anna University, Chennai 600 025.

4.The Controller of Examinations

Anna University, Chennai 600 025. .. Respondents
in WP.Nos.35174
& 35250/2019

Prayer in WP.No.35174/2019:- Writ petition filed under Article 226 of the Constitution of India praying for issuance of a writ of certiorarified mandamus calling for the records of the impugned order dated 09.11.2019 in Letter No.503/CAI/AU/2019 passed by the 2nd respondent and quash the same, consequently direct the respondents 2 to 4 to allow the petitioner college to continue as per the provisional affiliation for the academic year 2019-2020 dated 15.05.2019.

Prayer in WP.No.35250/2019:- Writ petition filed under Article 226 of the Constitution of India praying for issuance of a writ of certiorarified mandamus calling for the records of the impugned order dated 09.11.2019 in Letter No.504/CAI/AU/2019 passed by the 2nd respondent and quash the same, consequently direct the respondents 2 to 4 to allow the petitioner college to continue as per the provisional affiliation for the academic year 2019-2020 dated 15.05.2019.

Prayer in WP.No.9601/2020:- Writ petition filed under Article 226 of the Constitution of India praying for issuance of a writ of certiorarified mandamus calling for the records of impugned order ''No Admission'' for Academic Year 2020-2021 dated 30.06.2020 in F.No.AICTE/AB/SR/PID 1-9656461 passed by the 1st respondent and quash the same, consequently, direct the respondents to grant admission to the petitioner's college for the academic year 2020-2021.

Prayer in WP.No.9571/2020:- Writ petition filed under Article 226 of the Constitution of India praying for issuance of a writ of certiorarified mandamus calling for the records of impugned order ''No Admission'' for Academic Year 2020-2021 dated 30.06.2020 in F.No.AICTE/AB/SR/PID 1-457352971 passed by the 1st respondent and quash the same, consequently, direct the respondents to grant admission to the petitioner's college for the academic year 2020-2021.

For Petitioners in
all WPs : Mr.N.L.Rajah, Senior Counsel
assisted by Mr.K.Balu

For RR1&2 in
WP.Nos.9601 &
9571 of 2020 : Mr.Rabu Manohar
Senior Central Govt. Standing
Counsel

For R3 in
WP.Nos.9601 &
9571 of 2020 and
R1 in WP.Nos.
35174 & 35250 of
2019 : Mr.E.Balamurugan, Spl.GP

For RR4&5 in
WP.Nos.9601 &
9571 of 2020 and
RR 2 to 4 in
WP.Nos.35174 &
35250/2019 : Mrs.Narmadha Sampath
Additional Advocate General
assisted by
Mr.L.P.Shanmugasundaram
Standing Counsel

COMMON ORDER

- (1) 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 in WP.Nos.9571 and 9601 of 2020 is more in the nature of a consequential order passed by the All India Council for Technical Education [hereinafter referred to as 'AICTE'] after taking into consideration, the Report submitted by the Anna University and the Order of Suspension of Affiliation for a period of three Academic years passed by the University, which is the subject matter of challenge in WP.Nos.35174 and 35250 of 2019. The issues are inter-connected and therefore, this Court deemed it fit to take up all the writ petitions together and pass this common order.
- (2) Both the petitioner - Institutions come under a common Educational Trust. ARS College of Engineering was started during the Academic Year 2008-09 and ARM College of Engineering was started during the Academic Year 2009-10. Both the Institutions are offering Engineering Courses on various branches at Under Graduate and Post Graduate level. Both the

Institutions/Colleges got approval from the AICTE and they are affiliated with the Anna University. It is stated in the affidavit that there are nearly 268 students studying in ARS College of Engineering at U.G. and P.G. Level in the second year, third year and fourth year respectively. Similarly, there are nearly 552 students who are studying in ARM College of Engineering at various stages in their respective Courses.

(3) Things were moving smoothly till the year 2019 and the Approval from the AICTE and affiliation from the Anna University was renewed from time to time. When the students belonging to both the petitioner - Institutions/Colleges paid their fees to take the examination and in turn, the respective Institutions/Colleges attempted to remit the same to the Anna University, the access was denied and thereby, the examination fees was not able to be remitted to the Anna University. Representations were made by the petitioner - Institutions/Colleges to the Anna University, requesting to open the examination web portal since the examination fees was payable on or before 03.10.2019.

(4) The petitioner - Institutions/Colleges approached this Court and filed WP.Nos.28732 and 28736 of 2019 for a direction to the Anna University to open the web portal and to accept the examination fees of the students who were preparing themselves to write the examination that was proposed to be held during November / December 2019. This Court, by an order dated 01.10.2019, directed the Anna University to unlock the web portal to enable the Institutions to upload the details of the candidates who are eligible to take their examination. This Court also directed that the Hall Ticket should be issued to students to enable them to write the examination. It is alleged that in spite of such directions issued by this Court, many candidates did not receive the Hall Ticket.

(5) The above led to some of the students approaching this Court by filing WP.Nos.21622 and 23183 of 2019 seeking for appropriate reliefs. The said writ petitions were disposed of by this Court by an order 04.10.2019. It is further alleged that the directions issued by this Court was not properly complied with and the same resulted in the filing of Cont.P.Nos.1857 and 1858 of 2019 before this Court. This Court directed the Registrar of Anna University to be personally present in Court with all the relevant records.

(6) The 2nd respondent, by the impugned letters dated 09.11.2019, suspended Affiliation for both the Institutions / Colleges for a period of three years for all courses conducted in the said Institutions / Colleges with effect from the Academic Year 2020-21. Aggrieved by the same, the petitioner -

Institutions/Colleges have challenged the impugned letters in WP.No.35174 and 35250 of 2019.

(7) During the pendency of these writ petitions, interim orders were passed by this Court on 09.01.2020 and the same is extracted hereunder:-

'Heard Mr. N.L. Rajah, Learned Senior Counsel assisted by Mr. K.Balu, Learned Counsel for the Petitioners, Mr. V. Kadhivelu, Learned Special Government Pleader for the First Respondent and Mr. L.P. Shanmugasundaram, Learned Special Government Pleader for the Second to Fourth Respondents and perused the materials placed on record, apart from the pleadings of the parties.

2. The Petitioners have challenged the suspension of their affiliation with the Second Respondent for a period of three academic years with effect from the academic year 2020-2021 by the impugned order Nos. 503/CA1/AU/2019 and 504/CA1/AU/2019 dated 09.11.2019 passed by the Second Respondent, in these Writ Petitions.

3. It is contended that on account of the impugned order, the Petitioner is not able to register the faculty strength for the academic year 2020-2021 in the web portal of the Second Respondent by 10.01.2020 and seeks an interim direction to open the web portal for the same as otherwise the Petitioners would be deprived their entitlement to admit students for the academic year 2020-2021 in case they eventually succeed in these Writ Petitions.

4. Learned Special Government Pleader appearing for the Second to Fourth Respondents contends that when the affiliation of the Petitioners have been suspended and the same has not been revoked in the manner recognized by law, the question of permitting the Petitioners to register the faculty strength for the academic year 2020-2021 does not arise.

5. Having regard to the aforesaid rival submissions made and in order to balance equities between the parties, the Petitioners are permitted to manually submit the faculty strength with necessary particulars for the academic year 2020-2021 to the concerned authority under written acknowledgment, which

shall be merely received without prejudice to contentions of the Respondents in the Writ Petitions and subject to their outcome.

6. These Miscellaneous Petitions are ordered on the aforesaid terms.''

(8) It seems that the Anna University has sent a Letter dated 18.03.2020 to the AICTE and informed that an inspection and re-inspection was conducted and various deficiencies were noted and therefore, the Affiliation has been suspended for both the Institutions / Colleges for a period of three years for all the Courses conducted by the said Institutions / Colleges with effect from the Academic Year 2020-21. On receipt of this Letter, the AICTE has proceeded to issue the impugned Proceedings dated 30.06.2020 and placed both the petitioner - Institutions / Colleges under ''No Admission'' category for the Academic Year 2020-21. Aggrieved by the same, the petitioner - Institutions / Colleges have filed WP.Nos.9571 and 9601 of 2020 challenging the Proceedings of the AICTE.

(9) Mr.N.L.Rajah, learned Senior counsel assisted by Mr.K.Balu, learned counsel appearing on behalf of the petitioner - Institutions / Colleges, made the following submissions:-

- ◆ Both the Anna University as well as the AICTE have proceeded to pass Orders of Suspension of Affiliation and bringing the petitioner - Institutions / Colleges under ''No Admission'' category, without affording any opportunity to the petitioner - Institutions / Colleges.
- ◆ The Anna University proceeded to issue the impugned Letters of Suspension of Affiliation with ulterior motives since they took the directions issued by this Court, directing the Registrar of the Anna University to be present in person, very personally and the impugned Letters are actuated with malice.
- ◆ The AICTE, while bringing the petitioner - Institutions / Colleges 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.
- ◆ The Approval Process Handbook of AICTE specifically provides that insofar as Faculty strength is concerned, it falls within the domain of the AICTE and the AICTE will have to be personally satisfied as to whether the petitioner - Institutions / Colleges fulfill this requirement. However, the Anna University, without any authority or jurisdiction, has assumed this power and therefore, the very basis on which the Anna University has suspended the affiliation and the AICTE mechanically followed suit, is illegal and an error apparent on the

face of the records. To substantiate this submission, the learned Senior counsel relied on the following judgments:-

- (a) Shivagangagiri Vidyabiruddi Samste Vs State of Karnataka reported in 2011 [15] SCC 543 ;
- (b) Rungta Engineering College, Bhilai and Another Vs. Chhatisgarh Swami Vivekanand Technical University and Another reported in 2015 [11] SCC 291 ; and
- (c) WA.No.2077 of 2019 dated 20.12.2019 [Infant Jesus College of Engineering Vs. The Registrar, Anna University and Others].

- ◆ The AICTE had conducted the 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. To substantiate this submission, the Reports generated from the web portal of the AICTE dated 09.03.2020 and 10.03.2020 respectively were brought to the notice of this Court. After having satisfied itself that the petitioner - Institutions / Colleges do not suffer from any deficiencies, the AICTE ought not to have relied upon the Report of the Anna University and brought the petitioner - Institutions / Colleges under the category 'No Admission' for the Academic Year 2020-21.
 - ◆ The AICTE had in fact, granted the extension of Approval for both the Institutions / Colleges for the Academic Year 2020-21 and it was published in the web portal on 19.06.2020. However, all of a sudden, thereafter, the Institutions / Colleges were brought under the 'No Admission' category based on the Report of the Anna University and it was also published in the official site.
- (10) The Registrar, Anna University, has filed a counter affidavit in all the writ petitions. For the sake of convenience, it will be beneficial to extract the relevant portions of the counter affidavit in WP.No.9601 of 2020 since it covers all the issues and the common defence taken by the Anna University:-

'15. It is submitted that after having a further enquiry the enquiry Committee has recommended the following inter-alia in respect of both colleges.

In the light of the facts and figures presented above, the Committee recommended the following:

- A) The students of both the colleges admitted for the under graduate programmes immediately after their +2 either through counseling or under management quota were considered genuine and they all shall be permitted to appear for the examinations and also allowed to continue the rest of the |Semesters except a few identified as non genuine.
- B) The Under Graduate students of both the colleges who joined through the lateral entry mode either through counseling or management quota, immediately after diploma or within a period of two academic years from the year of diploma, are considered genuine and they shall be permitted to write the examinations and also to complete the rest of the programme, except all those who either themselves have confessed that they are irregular, working elsewhere and also were identified as irregular based on the depositions of the students and hence, are not genuine.
- C) The lateral entry students who joined after two years of their diploma who appear to be not regular and their genuineness, need to be ascertained by competent authority and until then they may be permitted to write the examination of the November / December 2019 examinations alone after obtaining undertaking.
- D) The names of the direct and lateral entry students who were accepted to be irregular due to various reasons and the non genuine students who were identified by this Committee shall be removed from the rolls of the college.
- E) The genuineness of all post graduate students need to be ascertained by competent authority and until then they can be permitted to write November / December 2019 examinations alone after obtaining an undertaking. Further, the names of all those direct and lateral entry PG students who were accepted to be irregular due to various reasons and the

non genuine students who were identified by this Committee shall be removed from the rolls of the College.

- F) It is most probable that the College has utilized the scholarship facility of the Government awarded to the students by claiming scholarship of candidates in spite of many of them being employed on full time elsewhere and or irregular to the classes. Usurping of public money for the benefit of the institutions need further probing by representing this subject to the appropriate investigation agencies/bodies of the Government in order to find the financial loss to Government of Tamil Nadu by analysing the actual number of genuine students who studied either four years in the case of UG and two years in the case of PG courses.
- G) In this connection, it is submitted that the Commissionerate of Adi Dravidar Welfare [ADW] Department, Chepauk, Chennai-5, has addressed a letter to this University stating that the Audit officials of Kanchipuram District of their department found that there had been some serious irregularities in the payment of scholarship to the students during the academic year 2015-2016 to 2018-2019 in ARM Colleges of Engineering and Technology and ARS College of Engineering.
- H) In this connection that ADW department has requested this University to furnish some information pertaining to the Regulations and the results of the students University in its letter dated 14345/COE/C-70/MP/2020 dated 08.07.2020 furnished a detailed report to that department. The investigation is going on in that department. It clearly proves that the college has made irregularities in the payment of scholarship to the students by creating fake attendance of the students.
- I) The Colleges 4103-ARM College of Engineering and Technology and 4105-ARS

College of Engineering have been unethically involved in admitting students who were working elsewhere on full time for both UG and PG Programmes, providing false data to the University with regard to attendance and assessment details ; directing students not to reveals the fact to this Committee through WHATSAPP, not providing the required documents as requested by the University through several reminders, uploading attendance and assessment marks of students who were not officially studying in 4105-ARS College of Engineering and allowed them to write the end-Semester examinations and submitted the attendance particulars with names and signatures of the faculty who had not handled the courses. In view of all these serious deviations and violations of the Regulations of the University, the Committee recommended suitable action against the colleges.

16.It is submitted that 4103-ARM College of Engineering and Technology have violated the Regulations of the University [i]in the maintenance of attendance, [ii] conduct of the assessment examinations and [iii] uploading false data in the web portal.

17.It is submitted that the 4103-ARM College of Engineering and Technology have been unethically involved in admitting students who were working elsewhere on fulltime for both UG and PG Programmes, providing false data to the University.

18.It is submitted that University yearly affiliation Inspection was conducted on 21.03.2019. Although the Chairman of the College has submitted an Undertaking dated 22.05.2019 stating that faculty strength will be maintained as per norms, but the college has not maintained the required faculty strength after granting affiliation for the academic year 2019-2020.

19.It is submitted that based on the complaints received by the Controller of Examinations of Anna University against the College stating that there is no infrastructure, Laboratory facilities and classes not conducted properly in the College, the Vice Chancellor has ordered for an inspection by the University.

20.In this regard, re-inspection was conducted in ARM College of Engineering and Technology, Kanchipuram on 16.09.2019 based on the directions of the Vice-Chancellor. The Inspection Committee has observed and noted the following comments:-

- The entire College is in severe shortage of faculty members, classrooms and computers.
- Librarian, Physical Director, Placement Officer Posts are lying vacant.
- There are no computers inside the library and library cards are not issued to students. 5 ledgers are being maintained but there are no entries against S.No.15596-36174.
- Most of the equipment/kits and measuring instruments are lying one above the other and they have to be properly arranged.
- Rooms in hostels, all laboratories, all class rooms require massive cleaning.
- Most of the windows in classrooms, laboratories have been damaged and they have to be repaired to avoid entry of animals especially rats inside laboratories etc.

21.The Inspection committee found out a number of serious irregularities and deficiencies in the conduct of the programmes such as B.E.Civil Engineering, B.E. Computer Science and Engineering, B.E. Electrical and Electronics Engineering, B.E.Electronics and Communication Engineering, B.E.Mechanical Engineering, B.Tech Information and Technology, Master of Business Applications, M.E.Computer Science and Engineering, M.E.Engineering Design

and M.E.VLSI Design.

22.It is submitted that the college is functioning without the required number of faculty members, classrooms and computers as stipulated in the norms. There are only 26 class rooms as against 38 classrooms required for the sanctioned intake. There are no computers inside the library and only 90 computers are available against 367 computers required for the sanctioned intake.,

23.Based on the inspection reports, the Syndicate of the University has decided to issue suspension of affiliation order through Lr.No.511/CAI/AU/2019 dated 09.11.2019 for a period of three academic years for all courses 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 88th SCA approved by the 255th Syndicate of the University. Same was communicated to AICTE through Lt.No.248/CAI/AU/2020 dated 18.03.2020.

.....29.It is submitted that the grounds under which the suspension of affiliation has been effected are summarised and given below:-

[a]Allowing students [admitted in Regular mode] to work as a full-time employee in a Government / Private Organization against the Regulations.

[b]Awarding of 100% fake attendance and 100% fake assessment marks for the students who were working as full-time employee.

[c]The College has reported that there are 276 non-genuine students due to long absence, discontinued, dropped out, etc. For these students also the college has awarded 100% fake attendance and 100% fake assessment marks up to April/May 2019. Further, it is noticed that the college has awarded 100% fake attendance and 100% fake assessment marks for the first two assessment periods during July, 2019 and November 2019. For the non-genuine students reported by the college, the college has helped in obtaining scholarships from the Backward Welfare, Most Backward Welfare and Adi Dravidar Welfare of Government of Tamil Nadu.

[d]Acute shortage of faculty members against the AICTE Regulations are noticed during

inspection which clearly confirms that many classes have not been conducted by the college.

[e]Further, the adequate facilities which are required to be provided as per AICTE Regulations and the Regulations of Anna University were not available.'

(11)The AICTE has also filed a counter affidavit and the relevant portions are extracted hereunder:-

'5.It is respectfully submitted that the 5th respondent vide letter dated 18.03.2020 bearing No.250/CAI/AU/2020 had informed that the University issued suspension of affiliation for a period of three academic years for all the 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 all courses conducted in the petitioner college with effect from the academic year 2020-21 as per Regulations R25 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 5th respondent, the answering respondents sent an email dated 04.06.2020 and 09.06.2020 to the petitioner College and directed to inform the action taken by them for revoking the suspension, for which the petitioner College had informed that they have filed WP.No.35250 of 2019 before the Hon'ble Madras High Court.

7.It is respectfully submitted that thereafter Regional Officer, Southern Regional Office was requested by the 1st respondent to obtain the present status of the petitioner College from the Anna University. Accordingly, the 2nd respondent ascertained the position from the 5th respondent, Centre for Affiliation, Anna University, and had confirmed vide email dated 15.06.2020 that there is no change in the status of the petitioner College.

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 AICTE to withhold or discontinue grants in respect of courses, programmes to such technical institutions which fail to comply with the directions given by the Council within the stipulated period of time and take such other steps as may necessary before ensuring compliance of the directions of the Council.

9.It is respectfully submitted that the Handbook of AICTE 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 increase/variation of intake capacity of seat for courses/programmes as well as existing Technical / institutions.

10.It is therefore submitted that 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 A/Y 2020-21. It is further submitted that as mentioned above when enquired the University whether the faculty strength was enhanced as per the norms, the University confirmed that the status is the same and on further perusing the documents it was found out that the faculty strength was not enhanced and further to say the petitioner College did not prove the same as well.''

(12)Mrs.Narmadha Sampath, learned Additional Advocate General appearing on behalf of the Anna University made the following submissions:-

A) 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.

- B) When the re-inspection was conducted by the Anna University on 16.09.2019, 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.
 - C) Unless the petitioner - Institutions / Colleges fulfill the norms and repair the deficiencies, the University cannot continue to grant Affiliation.
- (13) Mr. Rabu Manohar, learned Senior Central Government Standing counsel appearing on behalf of the AICTE, made the following submissions:-
- A) 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 and therefore, the petitioner - Institutions/Colleges were brought under the category of 'No Admission' for the Academic Year 2020-21.
 - B) When the Affiliation has been suspended by the Anna University, there is no question of permitting the petitioner - Institutions / Colleges to admit students for the Academic Year 2020-21.
 - D) 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.
 - E) The AICTE has acted strictly in accordance with the Approval Handbook 2020-21 and has placed the petitioner - Institutions / Colleges under the 'No Admission' category for the Academic Year 2020-21.
- (14) This Court has carefully considered submissions made on either side and the materials available on record.
- (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 purview of 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.

(26) This Court will now proceed to decide Issue [A].

(27) A careful reading of the impugned Letters issued by the Anna University dated 09.11.2019 reveals the fact that these Letters have been issued without putting the petitioner - Institutions / Colleges on notice and calling for their explanation. The Anna University has proceeded straight away to act upon the Re-inspection Report and has taken a decision

to suspend the Affiliation of both the petitioner - Institutions / Colleges for a period of three Academic years. This Court is not able to fathom as to why the Anna University acted with such haste. The timing of these letters assumes significance. Contempt proceedings were initiated and this Court had directed the Registrar of the Anna University to be present in Court in person with all the relevant records. This order was passed on 04.10.2019 and the Registrar was directed to be present on 06.11.2019 and the impugned Letters came to be issued on 09.11.2019. The learned Senior counsel appearing on behalf of the petitioner - Institutions / Colleges placed heavy reliance upon these sequence of events and submitted that the impugned Letters issued by the Anna University is actuated with malice.

(28) The Registrar of the Anna University must realise the fact that these Institutions / Colleges are running for almost ten years and there are several students who are studying at various stages in the respective courses. A sudden withdrawal of affiliation will derail the entire functioning of the Institutions / Colleges and make the future of the students very uncertain. The decision taken by the Anna University has serious civil consequences and the minimum requirement that was expected from the Anna University was to have issued a Show Cause Notice to the petitioner - Institutions / Colleges and called for their explanation before taking a final decision. By doing so, the petitioner - Institutions / Colleges would have put forth their defence and may have also questioned the authority of the Anna University to take decision on areas which are exclusively within the domain of the AICTE. This opportunity was completely lost and the petitioner - Institutions / Colleges never had a chance to respond to the various deficiencies pointed out in the Re-inspection Report and in the impugned Letters. It is true that the petitioner - Institutions / Colleges had undertaken to abide by the norms and also recognize the rights of the Affiliating University. That by itself will not authorise the Anna University to take a final decision even without putting the petitioner - Institutions / Colleges on notice. The decision making process adopted by the Anna University has become questionable due to failure on the part of the University in not complying with the principles of natural justice. To that extent, the impugned Letters issued by the Anna University has to be interfered with by this Court. This Court is not consciously going into the merits of the deficiencies pointed out by the Anna University since this Court finds that the impugned Letters are vitiated on the ground of violation of principles of natural justice.

(29) Insofar as Issue [B] is concerned, the AICTE ought to have independently conducted an inspection after receiving the Report from the Anna University. The AICTE cannot piggy back on the Report of the Anna University and take a decision to bring the petitioner - Institutions / Colleges under the 'No Admission' category. This is more so due to the fact that the AICTE did not find any deficiency on any front and the same is clear from the Reports generated on 09.03.2020 and 10.03.2020 respectively from the web portal of the AICTE. These Reports were generated at the time when the AICTE was in the process of extending the approval of the petitioner - Institutions / Colleges for the Academic year 2020-21. The AICTE also committed the mistake of relying upon the Report of the Anna University even without putting the petitioner - Institutions / Colleges on notice. The AICTE ought to have at least sent a Show Cause Notice to the petitioner - Institutions / Colleges by furnishing a copy of the Report given by the Anna University and that would have enabled the petitioner - Institutions / Colleges to give their explanation and thereafter, the AICTE could have taken a decision and informed the petitioner - Institutions / Colleges. Since this was not done, the impugned Proceedings of the AICTE dated 30.06.2020, bringing the petitioner - Institutions / Colleges under the 'No Admission' category, is also liable to be interfered with.

(30) The answer to Issue [C] will be more a consequence of the findings of this Court in Issues [A] and [B]. This Court has already held that both the Anna University and the AICTE ought to have put the petitioner - Institutions / Colleges on notice before taking a decision and since the same was not done, this Court has held the same to be bad and liable to be interfered with. Therefore, it is obvious that the petitioner - Institutions / Colleges were entitled to receive a notice from the Anna University and the AICTE by providing them with all the information and the petitioner - Institutions / Colleges should have been given an opportunity to give their explanation before the final decision was taken. The decision of the Anna University and the AICTE had civil consequences which adversely affected the interest of the petitioner - Institutions / Colleges and the students and therefore, following the principles of natural justice is mandatory before a final decision was taken.

(31) In view of the above discussion and the findings rendered by this Court on Issues [A] to [D], this Court has no hesitation to interfere with the impugned Letters issued by the Anna University dated 09.11.2019 and the consequential impugned Proceedings issued by the AICTE dated 30.06.2020 and

consequently, the same are QUASHED.

(32)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.

(33)The above discussion and findings, ultimately ends with a question as to whether the petitioner - Institutions / Colleges can be permitted to continue with their functioning during this Academic Year 2020-21?

(34)Mr.Rabu Manohar, learned Senior Central Government Standing counsel appearing on behalf of the AICTE brought to the notice of this Court, the orders passed by the Hon'ble Supreme Court of India dated 06.07.2020 in IA.No.57493 of 2020 in Civil Appeal No.9848 of 2012. By pointing out to the said order, the learned Senior Central Government Standing Counsel submitted that the Hon'ble Apex Court has extended time for granting approval to Technical Educational Institutions only upto 30.06.2020 and therefore, the extension of approval cannot be granted to the petitioner - Institutions / Colleges for this Academic Year 2020-21 and if at all, the same can be considered only for the Academic Year 2021-22.

(35)In reply to this, the learned Senior counsel appearing for the petitioner - Institutions / Colleges submitted that the order passed by the Apex Court will not have any application in the present case. He would further submit that the AICTE after satisfying themselves that the petitioner - Institutions / Colleges have fulfilled all the requirements, had actually granted extension of approval for the Academic Year 2020-21 and it was also notified in the website of the AICTE on 19.06.2020. The learned Senior counsel further submitted that the petitioner - Institutions / Colleges made the necessary payment for the extension of approval and it was also duly received and acknowledged by the AICTE. To substantiate this submission, an additional affidavit has been filed in both the writ petitions and necessary averments to that effect has also been made in paragraph No.2 of the affidavit. The learned Senior counsel also brought to the notice of this Court, the acknowledgment for the payment made by both the petitioner - Institutions / Colleges which is reflected in the Deficiency Reports itself. The learned Senior counsel also brought to the notice of this Court, a screen shot that was taken on 19.06.2020 from the website of the AICTE wherein, the extension of approval was

granted for ARS College of Engineering. The learned Senior counsel submitted that a similar extension of approval was also given to ARM College of Engineering. But, however, it was immediately removed from the site.

(36)The learned Senior counsel, therefore submitted that the order of the Hon'ble Supreme Court of India that was relied upon by the AICTE will not apply to the petitioner - Institutions / Colleges since the extension of approval was granted much before the last date fixed by the Apex Court and it was immediately revoked and the impugned orders dated 30.06.2020 came to be passed by bringing the petitioner - Institutions / Colleges under ''No Admission'' category. In view of the same, the learned Senior counsel concluded his argument by submitting that the petitioner - Institutions / Colleges are entitled for continuation of approval for the Academic year 2020-21 if this Court finds that the impugned orders passed by the Anna University and the AICTE are bad.

(37)The learned Senior Central Government Standing counsel appearing on behalf of the AICTE, on instructions, submitted that the extension of approval was not granted to the petitioner - Institutions / Colleges. Therefore, the learned Standing counsel submitted that the petitioner - Institutions / Colleges are not entitled for the extension of approval for the Academic year 2020-21, at this stage and if at all it has to be considered, it can only be considered for the academic year 2021-22.

(38)A careful reading of the Additional Affidavits filed by the petitioner - Institutions / Colleges and the Application Deficiency Reports dated 09.03.2020 and 10.03.2020 respectively, shows that the AICTE undertook the process of inspection for the purpose of considering the extension of affiliation. One of the screen shots taken from the AICTE website shows that the extension of approval was granted for the Academic Year 2020-21 for ARS College of Engineering. The Application number found in the screen shot coincides with the application number found in the Application Deficiency Report. Therefore, it cannot be easily disregarded as contended by the AICTE. It is true that a similar screen shot is not available for ARM College of Engineering and Technology. However, for both the Institutions / Colleges, the necessary fees has been paid and the Application Deficiency Reports clearly show that payment has been received by the AICTE towards the approval process. A cumulative reading of these documents goes on to show that the AICTE was positively moving towards granting extension of approval for the Academic year 2020-21 for both

the petitioner - Institutions / Colleges since the Application Deficiency Reports that has been generated on 09.03.2020 and 10.03.2020 respectively, clearly reveal the fact no deficiency was found in any area whatsoever, by the AICTE. The entire scenario changed only after the AICTE acted upon the withdrawal of the affiliation by the Anna University.

(39) This Court has already come to a conclusion that the impugned orders passed by the Anna University and the AICTE are bad in law. Therefore, the benefit of the consequence of such a finding must be given to the petitioner - Institutions / Colleges. If the same is not given and the petitioner - Institutions / Colleges are not allowed to continue its functioning for the Academic year 2020-21, the interest of the students will be greatly affected and it will jeopardise their progress in the courses undertaken by them at various stages. By not giving such a relief to the petitioner - Institutions / Colleges, it will be like a case of 'operation was successful, but the patient died'.

(40) It is also seen that the counseling dates have been postponed and the counseling itself is going to take place only during the months of September and October, 2020. Therefore, no prejudice would be caused if the approval is extended by the AICTE for the Academic year 2020-21.

(41) In the result, THE WRIT PETITIONS ARE ALLOWED and the IMPUGNED ORDERS PASSED BY THE AICTE DATED 30.06.2020 AND THE IMPUGNED ORDERS PASSED BY THE ANNA UNIVERSITY DATED 09.11.2019 are hereby QUASHED.

(42) The AICTE is directed to extend the approval for both the petitioner - Institutions / Colleges 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.32 of this order. No costs. Consequently, the connected miscellaneous petitions are closed.

Sd/-

Asst.Registrar (CS III)

/true copy/

Sub Asst. Registrar

To

1.The Director [Approval]

All India Council for Technical Education
Nelson Mandela Marg, Vansanth Kunj, New Delhi 110070.

2.The Regional Officer,

All India Council for Technical Education,
Sastri Bhavan, No.26, Haddows Road, Chennai 600 006.

3.The Principal Secretary to Government

Government of Tamil Nadu
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4.The Director of Technical Education,

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5.The Registrar,

Anna University, Guindy, Chennai 600025.

6.The Director

Centre for Affiliation of Institutions, Anna University,
Chennai 600 025.

7.The Controller of Examinations

Anna University, Chennai 600 025.

+1 cc to M/s.L.P.Shanmugasundaram Advocate sr29057

Pre-Delivery Common Order in
WP.Nos.35174, 35250/2019 &
9601 & 9571/2020

aa19/10/2020