



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 31.01.2020

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THE HONOURABLE MR.JUSTICE **S.S.SUNDAR**

W.P. (MD).No.24552 of 2019

and

W.M.P. (MD) Nos.21179 and 22350 of 2019

Sangamirdham Social Trust,
Represented by one of its Trustees,
S.V.Ingersoll,
No.33, Sakthi Vinayagar Kovil Street,
Crowford,
Trichy District - 12.

.. Petitioner

Vs.

1.Tamil Nadu Agricultural University,
Rep. by its Registrar,
Coimbatore.

2.The Dean (Agriculture) and Chairman Admissions,
Agricultural College and Research Institute,
Coimbatore - 641 003.

3.The Controller of Examinations,
Tamil Nadu Agricultural University,
Coimbatore - 641 003.

4.The Secretary to the Government,
Agricultural Department,
Fort St. George,
Chennai - 600 009.

.. Respondents

(Respondent 4 suo motu impleaded vide Court order dated 12.12.2019
in W.P. (MD)No.24552/2019 by SSSRJ)

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorarified Mandamus calling for the records pertaining to the impugned order made in Lr.No.Dy.R. (Affln.)/Excess Students Admission/2019, dated 25.09.2019 passed by the first respondent and quash the same insofar as the petitioner college is concerned and consequently direct the respondents to approve the admission of 8 students (Name List Annexed) admitted under lapsed seat category and thereby allot ID numbers so as to take the semester examination.



Annexure

List of the students admitted against the lapsed seats

Sl.No .	Students Name	TNAU Reg. No.
1	Yuvarani. R	107144225
2	Jeevanandhan. M	111680748
3	Chandru. M	112344433
4	I.Abinaya	108227488
5	Saranbero. E	113798473
6	Dhinakaran. S	112024112
7	Varunapriya. S	114684602
8	Vashini. R	103523991

For Petitioner : Mr.Isaac Mohanlal,
Senior Counsel
for M/s.D.Sadiq Raja

For Respondents : Mr.K.Chellapandian
1 to 3 Additional Advocate General
assisted by Mr.A.Thirumurthy

For Respondent 4 : Mr.A.Muthukaruppan
Additional Government Pleader

ORDER

The petitioner is a Trust which has established the institution "Nalanda College of Agriculture" at Vazhaiyur Village, Manachanallur Taluk, Trichy District. The Government of Tamil Nadu vide G.O.Ms.No.173, Agriculture (AU) Department, dated 23.06.2016 permitted the petitioner to establish the institution. The first respondent also by a proceedings dated 30.06.2016, accorded temporary affiliation. The institution started admitting students from the academic year 2016-2017. Originally, the petitioner was permitted to admit 60 students per year and thereafter, by proceedings dated 13.08.2018 the first respondent increased the admission strength from the academic year 2018-2019 to 75.

2.The petitioner's institution is an unaided private college. It is not disputed that the petitioner has provided the required infrastructure and other facilities for admitting 75 students per year as per the regulations. A Memorandum of Understanding was entered into between the petitioner and the first respondent on 09.08.2016 stipulating several conditions and for the grant of affiliation. As per the Memorandum of Understanding, the terms and conditions including the minimum educational qualification for



admission as prescribed in TNAU website has to be scrupulously followed and the petitioner institution should adhere to the admission schedule circulated by first respondent every year. As per clause No.5.10 of the Hand Book of Guidelines for Establishing Agricultural College (hereinafter referred to as 'Hand Book'), the seat sharing ratio between the first respondent and the petitioner college is 65% : 35%. Thus out of 75 sanctioned seats for B.Sc., (Agri) degree course, Government is entitled to fill up 49 seats and the petitioner management quota is 26 seats.

3.For the academic year 2019-2020, the first respondent uploaded the "Information Brochure Under Graduate Admissions 2019". As per the said brochure, online counselling system was adopted by the university for all the degree programmes. Ranking procedure was followed on the basis of the marks obtained by the students in the higher secondary examination. Candidates are called for counselling in the order of merit. Based on the merit and communal roster, allotment of degree and college chosen by the candidate was made to fill up the Government quota in every college.

4.Every candidate has to register his name through online application for UG admission 2019-2020, it is stated that more than 36,000 candidates have applied for UG admission 2019-2020 by way of online application. The first respondent conducted counselling in three phases. The first phase of counselling was held from 12.07.2019 to 15.07.2019. The second phase of counselling was held from 26.08.2019 to 27.08.2019. The third phase of counselling was held on 31.08.2019. The final counselling was also held on 05.09.2019. It is stated that the last date for admission is 09.09.2019. Since adequate number of students were not called for counselling, it is stated further that out of 49 seats reserved for Government quota, only 42 students were filled from Government quota. Even out of 42 students, one of the students who were selected through Government quota discontinued by submitting a letter on 28.08.2019. This was also intimated by the petitioner to the first respondent. Therefore, the eight seats were lying vacant. It is admitted that the petitioner has no role to select the students under Government quota which is done by single window system. It is stated that as per communal reservation, two seats under BC category, two seats for MBC category and four seats for SC category was remaining vacant in Government quota. Though the petitioner requested the first respondent to fill up the eight students, it appears that the first respondent also helpless. As a result, eight seats fell as lapsed seats.

5.Since last date for closing the admission is on 09.09.2019, it is stated by the petitioner that the petitioner college after waiting for any communication regarding admission under Government quota till 5.30 p.m., on 09.09.2019, admitted eight students as against the Government quota within the prescribed sanctioned



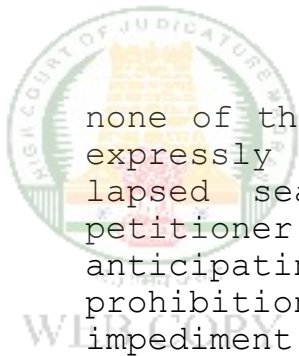
petitioner that the petitioner admitted eight students under the Government quota within the sanctioned strength, after following communal roster and other conditions put by the first respondent university including fee structure as applicable to students admitted under Government quota.

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6.The second respondent called for certain verification for the admitted candidate list. The original certificates pertaining to all the admitted candidates for 2019-2020, including the candidates admitted under lapsed seats were submitted in person for approval on 16.09.2019. However, the first respondent did not approve the admission of the eight students who were admitted under lapsed seats category. Hence, a representation was submitted by the petitioner to the first respondent on 19.09.2019 requesting the first respondent to approve the admission of eight students under lapsed seats.

7.The first respondent, by the impugned order, dated 25.09.2019, prohibited all the affiliated agriculture/horticulture colleges and diploma institutes from admitting students in the counselling quota of Tamil Nadu Agriculture University (Hereinafter referred to as TNAU or the first respondent). The petitioner was thus prevented from admitting students in the Government quota even under the guise of filling up the unfilled lapsed seats, by the impugned order. The first respondent directed all the affiliated agriculture/horticulture colleges and diploma institutes to relieve the students, who were admitted in lapsed seats, immediately by removing their names from the list of admitted students by the respective management themselves. It was informed to the institutions that no ID number will be allotted by the university in respect of the students admitted in the counselling quota of first respondent, by the management. It is seen from the impugned order that condition No.5.10 found in the Hand Book of first respondent, and clause No.8 of the Memorandum of Understanding entered into between the petitioner and the first respondent, was relied upon for preventing the institutions from admitting students in the Government quota. This order of the first respondent dated 25.09.2019 is challenged in this Writ Petition.

8.The consequential prayer in the writ petition is to direct the respondents to approve the admission of the eight students as per the list of names annexed and admitted under the lapsed seat category and to allot ID numbers so that the eight students can take their semester examination. The learned Senior Counsel appearing for the petitioner submitted that the impugned order passed by the first respondent is arbitrary, without an authority and application of mind ignoring the power and jurisdiction of the first respondent. By referring to clause No.5.10 of the Hand Book and other conditions in the Hand Book and condition No.8 in the Memorandum of Understanding between the petitioner and the first respondent, the



none of the provisions relied upon by the first respondent does not expressly prohibit the private affiliated colleges to fill up the lapsed seats. The learned Senior Counsel appearing for the petitioner submitted that there is no provision or agreement anticipating lapsed seats and that in the absence of express prohibition to fill up the lapsed seats, there is no legal impediment to the petitioner to fill up the seats. It is contended that the petitioner college waited till 5.30 p.m. on 09.09.2019 (last date for admission), and was forced to admit eight students in order to avoid any seat sanctioned to the petitioner's college going waste. The learned Senior Counsel appearing for the petitioner submitted that the impugned order is in violation of the principles of natural justice inasmuch as no show cause notice was issued to the petitioner or any other institution before passing the impugned order. Citing the consequential problems of the institution by allowing the lapsed seats to go unfilled, the learned Senior Counsel appearing for the petitioner submitted that the petitioner apart from saving the huge loss of income for the petitioner for the whole academic year, has saved the seats by accommodating other eight students from the general category which would be in public interest. One of the legal submission of the learned Senior Counsel appearing for the petitioner is that the petitioner being a private unaided institution has the right and privilege in the matter of admission and the same cannot be curtailed by the first respondent who is not the authority under any enactment to bother about seat sharing. Since the right to admit students within the sanctioned strength is a fundamental right guaranteed to every private unaided institution, it is submitted that the first respondent university cannot take away such right in an arbitrary fashion without even issuing a show cause notice. Finally, the learned Senior Counsel appearing for the petitioner submitted that the students who were admitted under the lapsed seats has no reason to believe from the Memorandum of Understanding and the Hand Book to get any information or clue about any irregularity in getting admission under lapsed seats. The learned Senior Counsel appearing for the petitioner relied upon several precedents to support his arguments.

9.The first respondent filed a detailed counter referring to several conditions in the Memorandum of Understanding and the Hand Book, particularly, the condition No.16 under Part II of the Hand Book and condition No.5.10 under Part III regarding seat sharing. It is contended by the first respondent that no rule or condition found in the Memorandum of Understanding or in the Hand Book permits the petitioner to *suo motu* fill up the vacancy under Government quota and therefore, the admission of candidates by the petitioner in Government seats is in violation of the conditions prescribed by the Government/University. Relying upon the Regulation 4(1) of the Tamil Nadu Professional Educational Institutions (Regulations of Admission and Determination of Fee) Act, 2006, it is contended by the first respondent that the management seats should be filled only

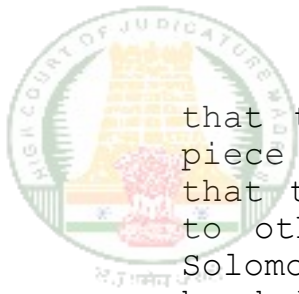


the merit ranking cannot be admitted by the petitioner quiet contrary to the legislative intent. It is also stated in the counter that the petitioner is not supposed to admit students de hors merit and no such statutory protection is available to the petitioner to admit candidates under the Government seats. The first respondent further contend that the first respondent did not receive any letter as alleged on 14.09.2019 or on 19.09.2019 as found in the petitioner's typed set and that the petitioner has taken a false stand and made an illegal attempt to mislead this Court. Citing the Memorandum of Understanding and the Hand Book, it is contended by the first respondent that the first respondent has every authority or jurisdiction to pass the impugned order which is only to prevent illegal admission and to ensure strict adherence of the norms and regulations.

10.The learned Senior Counsel appearing for the petitioner relied upon a judgment of a learned Single Judge of this Court in the case of **Chairman, Sree Mookambika Institute of Medical Sciences Velayutham Pillai Memorial Hospital Complex, Padanilam, Kulasekharam, run by Padanilam Welfare Trust, Kulasekharam, Kanyakumari District v. Union of India** reported in (2010) 1 MLJ 923. This is a case where the management of a medical college filled up the lapsed seats for the previous academic year. For the next academic year, the medical college was directed to reduce the admission in the management quota because the petitioner had admitted students in excess of the management quota under lapsed seats. After considering elaborate arguments by the Counsel appearing for the Medical Council of India and the petitioner, the learned Single Judge has allowed the Writ Petition filed by the institution and held that admission for previous year under the lapsed government quota which was filled up by the petitioner college should be treated as filled under Government quota and that there was no need for the petitioner to reduce their quota during next academic year. Paragraphs 42 to 46 of the judgment are relevant and hence extracted below:

"42. Mr. V.P. Raman, the learned counsel appearing for the 2nd respondent submitted that the management should not have filled those seven seats and they must allow seven seats to lapse and having filled those seven seats, they are bound to reduce their intake correspondingly in the next academic year.

43. In other words, the management has to suffer for filling those seven seats, which would have otherwise lapsed or would have gone waste without any use to any body. It reminds me, the famous case that came up before King Solomon, where two women claimed right over a child contending that they are the natural mother of the child. When King Solomon wanted to settle that issue and to find out the real natural mother he devised a plan and ordered



that the child be cut into two pieces and hand over one piece to each of the woman. The real mother did not permit that to happen and pleaded with the King to give the baby to other woman though she is not the real mother. King Solomon then was able to find out the natural mother and handed over the child to the natural mother. In this case, the stand of the 2nd respondent is that the seats can be allowed to go waste or lapse but the management should not be permitted to fill those seats and the stand of the 2nd respondent is just similar to the case of the woman who was not the natural mother of that child. The management instead of allowing those seats to go waste or lapse gave opportunity to seven deserving candidates and collected only the fee prescribed by the Government and hence, it cannot be construed that the management has filled more than its quota prescribed to the management, by filling those 7 seats.

44. According to me, as per the Supreme Court, the Mridul Dhar (Minor) case only when the management grants admission in its management quota then only they will have to surrender those seats. When the management has not granted admission in its management quota and only filled those seats, which would have otherwise lapsed, those seats cannot be taken as management quota and therefore, there is no need for the management to surrender the seven seats for the academic year 2009-2010.

45. As a matter of fact the stand of the management is also accepted by the State Government and they have only claimed two seats, for the academic year from the management quota and so far as the 5 seats are concerned, the State Government did not object to the management, filling those seats in the previous year. In so far as two seats are concerned, it is only claimed by the State Government on the basis that management has not followed the procedures. Therefore, in other words, the State Government has accepted that the management has not filled up seven seats in its management quota and the State Government has only appreciated the act of the management in filling those seats, which would otherwise have gone waste.

46. Further, under the Indian Medical Council Act, 1956, the second respondent has no role in the matter of admission in the medical colleges. The various provisions of the Indian Medical Council Act, 1956 makes it clear that the 2nd respondent can have no say in the matter of admission. Therefore, it is surprising how direction can be issued by the 2nd respondent in the matter of admission. Further, it is seen from the impugned order that the 2nd respondent has only requested the State Government to



direct the petitioner institution to reduce the admission in the management quota in respect of the petitioner college for the academic year 2009-2010 and increase allocation of free seats in the Government quota for the academic year 2009-2010. Admittedly, the 3rd and 4th respondent did not pass any orders directing the petitioner to reduce the admission in the management quota by seven seats for the academic year 2009-2010 and correspondingly increase the admission for the Government quota by seven seats. In my view, unless, orders are passed by the 3rd and 4th respondent to that effect following the order of the 2nd respondent, dated 23.07.2009 there is no need for the petitioner to reduce their quota in the matter of admission for the academic year 2009-2010. Therefore, there is no need for the petitioner to reduce their quota in the matter of admission for the academic year 2009-2010."

11.The view of the learned Single Judge was also approved by a Division Bench of this Court and the appeal filed by the Medical Council of India challenging the judgment reported in 2010 1 MLJ 953 was dismissed by a Division Bench of this Court in **Medical Council of India v. The Chairman, Sree Mookambika Institute of Medical Sciences Velayutham Pillai Memorial Hospital Complex, Padanilam, Kulasekharam, run by Padanilam Welfare Trust, Kulasekharam, Kanyakumari District** reported in **2011 (1) CTC 41**. Paragraphs 13 and 14 of the said judgment of the Hon'ble Division Bench is relevant and hence, extracted below:

"13. Going by the above provisions, the Medical Council would certainly have the power to regulate the admissions of students in the medical colleges within the sanctioned intake capacity and if the admission is made over and above the sanctioned strength, it would certainly have the power to take appropriate action against the concerned. In our opinion, these regulations would be available to the Medical Council only in the event the admission is made over and above the sanctioned strength. For example, if an institute had admitted more than 100 candidates, namely the sanctioned strength, it would certainly refuse to recognise the admissions made over and above the sanctioned intake. The power to take such action is not available if the seats are filled within the sanctioned strength.

14. The question of 50% of seats to be considered as Government quota is only by virtue of the agreement between the institute and the State Government. That seat sharing is entirely between the institute and the Government and for that purpose the Medical Council has no role to say that as to whether such seat sharing could be made or not and if such seat sharing could be made what is the percentage of seat sharing, etc. The power that will be



available to the Medical Council is not to find out as to whether the institute admits students according to the seat sharing agreement entered with the State Government but only to the extent as to whether the institute has admitted more than the sanctioned strength. To this extent, the Medical Council has power and not otherwise."

12.The learned Senior Counsel appearing for the petitioner also relied upon yet another judgment of a Division Bench in W.A.No.2007 of 2012 dated 14.09.2016 wherein the judgment of Division Bench in ***Medical Council of India v. The Chairman, Sree Mookambika Institute of Medical Sciences Velayutham Pillai Memorial Hospital Complex, Padanilam, Kulasekharam, run by Padanilam Welfare Trust, Kulasekharam, Kanyakumari District*** reported in **2011 (1) CTC 41** was followed and it has been held as follows:

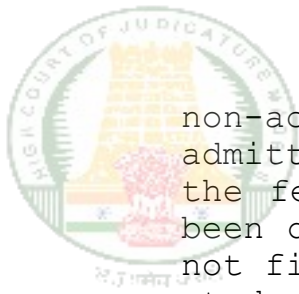
"9. From a close reading of the observations made by the Division Bench of this Court, it is easily discernible that as per Indian Medical Council Act, 1956 (102/1956), the Indian Medical Council has power to interfere in a matter where admission has been made in excess of allowed limit. But at the same time, with regard to Government quota and Management quota, it is a matter between the concerned Government and Management and if there is any infraction, only the concerned Government is the competent authority to make interference.

11.As adverted to earlier, there is no specific provision in the Medical Council Act, 1956 which enables the Indian Medical Council to make interference in a matter like this and at the most, the Indian Medical Council can make its interference if there is any excess admission"

13.Yet another judgment was relied upon by the Senior Counsel in the case of ***The Chairman, Sree Mookambika Institute of Medical Sciences Velayutham Pillai Memorial Hospital Complex, Padanilam, Kulasekharam, run by Padanilam Welfare Trust, Kulasekharam, Kanyakumari District v. The State of Tamil Nadu*** dated 19.11.2018 in W.P.(MD)No.7516 and 13135 of 2018. Paragraphs 35, 37 and 38 of the judgments are relevant and they are extracted as under:

"35. Once the seat sharing arrangement is consensual in nature

depending upon the arrangement made from time to time, the question of exceeding the quota and for which compensating the same does not arise, particularly in the instant case, where the Government has failed to sponsor enough number of candidates for fulfilling its quota. Only when the Government failed to fulfil its full obligation, the petitioner - Institution felt that in the interest of meritorious students, the seat must be thrown open for admission as allowing the seats to go lapsed would be a



non-academic waste. Moreover, the students, who were admitted against the Government quota, were charged only the fees prescribed by the Government, which fact has not been disputed. In such view of the matter, this Court does not find anything amiss or wrong in the quota admitting the students in excess to the Management quota. But, admission of students within the total quota is concerned, once the seat sharing arrangement is not mandatory, this Court is unable to appreciate as to how either the University or the Medical Council of India can insist on making up the loss of seats for the future academic years and direct the Institution to admit less number of students corresponding to the number of students admitted to the Institution in the earlier academic years. Having failed to sponsor sufficient number of candidates, it is certainly not open to the University or Government to insist and direct that the Institute should admit less number of students.

37. From the above, it is very clear that the seat sharing arrangement is entirely within the domain of the Institution concerned and Government and neither the Medical Council of India nor the University has any say in the matter. In regard to such a seat sharing arrangement, the University and the Medical Council of India are considered to be aliens as their primary and principal role is only to regulate the academic programmes and functioning of the Institution and not seat sharing arrangement. In any event, the Government is not complaining about the filling-up of seats in excess of the Management quota by the Institution. If at all any person is aggrieved by such an Act on the part of the Institution, it is only the Government. But, the affidavit filed on behalf of the Government in the present proceedings admits the factual position as averred in the affidavit filed in support of the writ petitions.

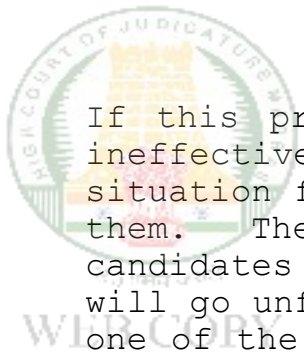
38. The case of the petitioner - Institution, in the above circumstances, is clearly covered by various decisions relied on their behalf and the impugned orders passed in both the writ petitions are, therefore, liable to be quashed on the ground that neither the Medical Council of India nor the University has any authority or power to insist on particular seat sharing arrangement, which is only a consensual arrangement between the petitioner - Institution and the Government as well as on the ground that there cannot be any mandatory provision that 50% of the seats to be allotted to the Government under any provision of law."

14. The learned Senior Counsel appearing for the petitioner
seized upon a judgment of the Division Bench of this Court in **Madha**



Engineering College v. State of Tamil Nadu reported in **2007 (4) CTC 13**, declaring Section 2(c) (iii), 4 and 5(4) of the Tamil Nadu Admission in Professional Educational Institutions Act, 2006, as unconstitutional. After referring to the judgment of the Hon'ble Supreme Court in **T.M.A. Pai Foundation** case and **P.A. Inamdar case**, the Division Bench ruled that the State cannot fix any quota or percentage for admission to any professional colleges to itself and that the State cannot seek to perpetuate the expired arrangement by enacting the legislation even in the absence of any consensus. It is also to be noted that the Hon'ble Division Bench relied upon the judgement of the Hon'ble Supreme Court in **T.M.A. Pai Foundation** case and **P.A. Inamdar** case to hold that the impugned provision depriving the right of the unaided educational institutions to select students of their choice subject to following the procedure satisfying the triple test is unconstitutional and violative of Article 19(1)(g) of the Constitution. Referring to the above judgments, the learned Senior Counsel for the petitioner argued that the Government itself has no right to fix quota for itself and the university which has a limited right in regulating admission to maintain standard and conducting examination on the academic side has no jurisdiction to render the admission of students under the lapsed seats by the petitioner invalid. The contention of the petitioner has merit. The first respondent is the authority established by a statute with certain statutory obligation to regulate admission and conduct examination for the students to confer degrees and to oversee the institutions on matters relating to the academic side. The Memorandum of Understanding and the Hand Book should be understood only to further the objectives and effectuate the functions of the university to fulfill its functions under the statute by which it was established.

15. As it has been observed in the case of **Medical Council of India** by the Division Bench in the judgement reported in **2011 (1) CTC 41**, the power available to the first respondent is not to monitor whether the students according to the seat sharing arrangement entered with the State Government is adhered to. It is only the duty of the university to ensure that the institution admit students within sanctioned strength. What was the understanding between the Government and the individual professional colleges was of course incorporated in the Memorandum of Understanding and the Hand Book as the individual institution have agreed to admit students adhering to the seat sharing. When the State Government or the university cannot compel to agree for certain percentage, the seat sharing arrangement as contemplated under the Memorandum of Understanding or in the Hand Book should be understood and incorporated only to enable the first respondent to admit students under the Government quota by single window by following the counselling. The university cannot exercise a power to prevent the petitioner to admit students under Government quota when the Government is unable to fill the seats within the prescribed date.



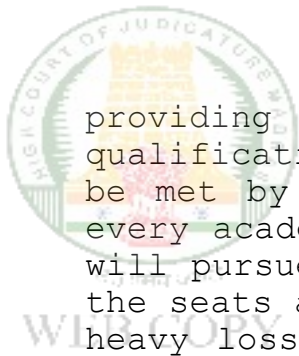
If this privilege is not given to the individual institution, by ineffective mechanism the first respondent may create an unwanted situation for every institution and make them suffer for no fault of them. The first respondent ought to have called more number of candidates so that none of the seats reserved as Government quota will go unfilled. It is not the case of the first respondent or any one of the candidate who have participated in the selection process that the petitioner denied admission to any eligible candidate who would have obtained a seat under Government quota. In such circumstances, this Court is unable to find fault with the petitioner to admit students on their own in Government quota to save the seats.

16.The learned Senior Counsel appearing for the petitioner relied upon the Minutes of the 130th Meeting of the Academic Council of the first respondent held on 25.02.2019. One of the agenda was to consider and approve the recommendations of the Special Committee for improving quality of education in affiliated colleges of the first respondent. One of the recommendations by the Special Committee is as follows:

"10.Every year the schedule of activities pertaining to UG admission is published in electronic media as well as in the TNAU website. The current admission process involving Integrated University Management System (IUMS) was developed taking into consideration of lapsed seats also, A series of "On-line Counselling" followed by 'Upward Sliding System' is being followed during admission until all seats of affiliated colleges are filled up. If any vacancy arises after the college opens for the first year students, the lapsed seats may be filled up by the concerned affiliated colleges only from the TNAU rank list within 10 days after college opening. However, the entire admission process shall not extend beyond the stipulated time frame by the Honourable Supreme Court of India."

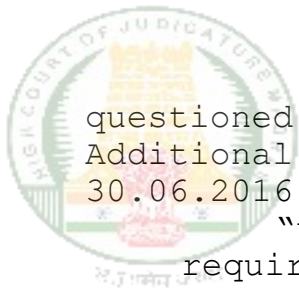
17.In the meeting of the Academic Council held on 25.02.2019, the Academic Council approved the recommendations of the Special Committee for improving the quality of education in affiliated colleges. Therefore, the first respondent cannot contend that the lapsed seats cannot be filled up by the concerned colleges. It is admitted that the petitioner has admitted students before the cut off date and hence, the impugned order is without jurisdiction, arbitrary and suffering from several infirmities and liable to be quashed.

18.Yet another aspect that need to be focussed is the prejudice that is likely to be caused to the petitioner institution on account of the unfilled seats. The petitioner is entitled to collect only tuition fees as recommended under Government quota. The institution



providing all infrastructure and faculties having prescribed qualifications. The excess expenses incurred by institutions has to be met by collecting fees from the students who are admitted for every academic year. The students admitted for every academic year will pursue their course till they complete the course. If some of the seats are allowed to go waste, the petitioner is likely to incur heavy loss by depriving itself the fees they may collect from the students of such lapsed seats. This is a serious problem of every institution which will certainly affect the institution which is expected to maintain the minimum standard irrespective of its students strength for a particular academic year. The right and privilege of university cannot be understood unmindful of the civil consequences that may flow out of an action that may be taken to affect the colleges. In the present case, without even issuing a show cause notice, a decision has been taken unmindful of the civil consequences not only to the petitioner but also to the students. Though the judgment relied upon by the Senior Counsel appearing for the petitioner were in relation to admission to medical institutions, the position relating to lapsed seats is similar even in the present case.

19. The learned Additional Advocate General who appeared for the respondents 1 to 3 has not advanced any arguments to suggest that the judgments relied upon by the learned Senior Counsel appearing for the petitioner cannot have any precedential value nor point any distinguishing features to ignore the judgments in the present context. The learned Additional Advocate General, of course, relied upon a judgment of a learned Single Judge of this Court in ***Dr.M.Hemalatha vs. State of Tamil Nadu*** reported in **2017 3 CTC 225**. The learned Single Judge of this Court expressed his anguish pointing out the failure of the State Agencies in not enforcing regulations, benefitting private institutions to sell medical seats for exorbitant prices. It was pointed out by the learned Single Judge of this Court that the State Government failed to get 50% seats from the institutions only to benefit such private institutions. This cannot be a precedent in favour of the State in the present case to oppose the arguments of the learned Senior Counsel appearing for the petitioner. The petitioner himself has stated in the affidavit filed in support of this petition that the first respondent by their improper way of conducting counselling failed to fill up the Government quota. It is only on account of the failure of the first respondent to follow a rationale method and logical approach, the first respondent could not fill the seats under Government quota. It is only to mitigate the loss that is likely to be caused to the institution, the petitioner was forced to admit students under lapsed seats. This cannot be treated as illegality. Having regard to the overall circumstances the prejudice that is likely to be caused to the students who had undergone the course also is relevant in the present context as the students by no means by the existing regulations and the Hand Book of the university would believe that their admissions will be



questioned by the first respondent in future. The learned Additional Advocate General, relied upon the proceedings dated 30.06.2016 particularly Clause (viii) which reads as follows:

"viii) The Trust should fulfill the creation of required infrastructure, other facilities and requirements as per the norms specified by the Tamil Nadu Agricultural University for affiliation of the Institute of Tamil Nadu Agricultural University for offering B.Sc., (Agri.) course and as pointed out by the Standing Committee in its report submitted to the Tamil Nadu Agricultural University, and communicated to the Trust."

20.The learned Additional Advocate General also relied upon Clause 5.10 of the Hand Book which reads as follows:

"Condition No.III(5.10) of the 'Hand Boook of Guidelines fo Establishing Agricultural College'

To admit candidates (65% of the sanctioned strength) under single window counseling system in accordance with the directions issued by the State Government and TNAU from time to time. The remaining of the sanctioned strength (35%) shall be admitted by the management from the eligible candidates already applied through ONLINE to TNAU for the management quota also.

Condidtion No. Annexure-IV (VII) of the 'Hand Book of Guidelines for Establishing Agricultural College'

No candidate shall be allotted to attend classes without admission and allotment of Students ID Number by the University.

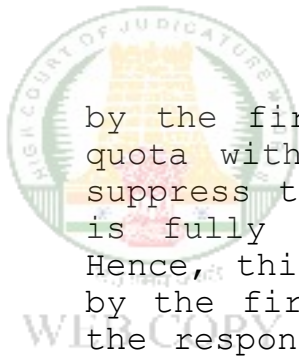
No student shall be allowed to attend classes without Course Registration.

Condidtion No.8 under 'Online Admission Procedure' of the Memorandum of Understanding' executed between the TNAU and petitioner trust.

No student should be allowed to attend classes without online course registration and ID No. allotted by TNAU. (Self Financing Colleges affiliated to TNAU)"

21.Mr.A.Muthukaruppan, learned Additional Government Pleader appearing for the fourth respondent has submitted that the arguments of the learned Additional Advocate General may also be taken as the arguments advanced by the State.

22.From the above clauses in the Memorandum of Understanding and the conditions in the Hand Book, this Court is unable to see any specific provision dealing with lapsed seats. When there is no express provision enabling the institution to fill up lapsed seats, this Court, cannot ignore the fact that such a situation was created



by the first respondent by its failure to fill up the Government quota within the prescribed time. Interpretation of a statute to suppress the mischief is well recognised and therefore, this Court is fully convinced that the petitioner is entitled to succeed. Hence, this Writ Petition is allowed and the impugned order passed by the first respondent dated 25.09.2019 is quashed. Accordingly, the respondents are directed to approve the admission of the eight students as per the annexure to the petition, forthwith and to allot ID numbers to enable the students to take their semester examination commencing from 3rd February, 2020. No costs. Consequently, the connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (Records)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

SRM

To

1.The Registrar,
Tamil Nadu Agricultural University,
Coimbatore.

2.The Dean (Agriculture) and Chairman Admissions,
Agricultural College and Research Institute,
Coimbatore - 641 003.

3.The Controller of Examinations,
Tamil Nadu Agricultural University,
Coimbatore - 641 003.

4.The Secretary to the Government,
Agricultural Department,
Fort St. George, Chennai - 600 009.

+1 CC to M/s.D.SADIQ RAJA, Advocate (SR-4351[F] dated 31/01/2020)

+1 CC to M/s.A.THIRUMURTHY, Advocate (SR-3173[F] dated 27/01/2020)

ORDER MADE IN
W.P. (MD) .No.24552 of 2019
31.01.2020

JMN(31.01.2020) 15P : 7C