

**IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH**

CWP-22449-2019 (O&M)

Date of Decision: 5.08.2020

DAV Institute of Management, Chandigarh

...Petitioner

Versus

Panjab University, Chandigarh

... Respondent

(Arguments heard through Video Conferencing)

CORAM:- HON'BLE MR. JUSTICE ARUN MONGA

**Argued by: Dr. R.D. Anand, Advocate,
for the petitioner.**

**Mr. Subhash Ahuja, Advocate with
Mr. Karanveer Ahuja, Advocate
for the respondent University.**

ARUN MONGA, J.

1. “Education is the manifestation of the perfection already in a man.”
Said Swami Vivekananda. A healthy competition amongst the students definitely augments the manifestation of that innate perfection. Not only amongst the students but competition even in the institutions where they study is a supplication thereof. But manifestation in the present case seems to be that of institutional egos between Panjab University (for short, University) and DAV Institute of Management. Perhaps, individuals at the helm of affairs are responsible for it. Internal friction ought not to have any place amongst academic coparceners viz. University and its affiliated Colleges/Institutes. Together they are engaged in pursuit of knowledge must resonate jointly, in synchronization.
2. This petition was originally filed, *inter alia*, assailing a decision dated 10.04.2019 of University Syndicate conveyed vide letter dated

02.05.2019, Annexure P/15, asking the petitioner Institute to fulfill the deficiencies pointed out by Inspection Committee constituted by University and seeking further directions for grant of affiliation (temporary) to the petitioner-institute for its academic session 2018-19.

3. However, it would be seen that proceedings before this Court have more or less turned into a kind of continuous *mandamus*. It would be apposite to reproduce some of relevant extracts of the orders passed by this Court in course of the writ proceedings. On 18.10.2019 when the matter came up for hearing, my Learned Brother B.S. Walia, J. observed as under :-

“x-x-x-x During the pendency of the writ petition, a fresh inspection was got conducted by the Panjab University, in which, a number of deficiencies were noted on the basis of which recommendation was made by the Inspection Committee not to grant temporary extension of affiliation to the petitioner for the MBA course for the session 2019-20. Inspection report dated 24.09.2019, is taken on record and copy thereof handed over to learned counsel for the petitioner. Learned counsel for the petitioner states that although objections to the inspection report were filed by the petitioner on 26.09.2019, yet the matter was not placed before the competent authority i.e. Syndicate in its meeting held on 16.10.2019. Learned counsel prays for permission to file comprehensive objections to inspection report dated 24.09.2019 and for directions to the respondent to place the inspection report as well as objections/comprehensive supplementary objections before the competent authority i.e. the Syndicate for its decision at the earliest. Mr. Subhash Ahuja, Advocate learned counsel representing the University on instructions from Prof. Karamjit Singh, Registrar states that he has no objection to the plea of learned counsel for the petitioner. In the light of statement of learned counsel for the parties, liberty is granted to the petitioner to submit comprehensive supplementary objections to the inspection report dated 24.09.2019 by 22.10.2019. On receipt of comprehensive supplementary objections, the respondent would take steps to convene a meeting of the Syndicate at the earliest and

place the inspection report along with the objections in respect thereto on record for consideration and decision by the Syndicate in accordance with law. Adjourned to 15.11.2019.

Decision as is taken in the meeting of the Syndicate be placed on record on or before the date fixed.”

4. In compliance of above order, University Syndicate, in its meeting dated 09.11.2019, by majority decided against continuation of affiliation to the petitioner institute. Decision dated 09.11.2019 was placed on record of this Court by University as Annexure R/12. Later, a Civil Miscellaneous Application bearing No. 18805 of 2019 under Article 226 of Constitution of India was filed by petitioner impugning letter dated 25.11.2019, Annexure P/28, issued by University, formally conveying the decision dated 09.11.2019 (R/12). In its reply to the application, University while responding on merits, *inter alia*, has also taken an objection on its maintainability stating that proper course is to either amend the main petition or file a fresh writ petition and thus seeking its dismissal.

5. Subsequent to Syndicate decision dated 09.11.2019, my Learned Brother Sudhir Mittal, J. after hearing the parties, passed following order on 06.02.2020:-

“x-x-x-x The petitioner is directed to remove all the deficiencies regarding infrastructure and teaching staff pointed out vide the various inspection reports of the year 2018. For appointment of instructional staff, the respondent is directed to provide the necessary panel of experts for the purposes of recruitment. The petitioner shall approach the University in this regard latest by Monday i.e. 10.02.2020 and the University is directed to take action upon the request within next four days. The University is directed to carry out an inspection on 06.03.2020. Adjourned to 13.03.2020”

Thus initially, what was before the Court was simply a Syndicate resolution

asking for compliance of conditions precedent imposed by Inspection Committee, but later this Court in supersession thereof sought a fresh inspection.

6. Thereafter, due to nationwide lockdown on account of spread of Covid-19 pandemic, matter could not be taken up for physical hearing. Later, the Court resumed functioning through video conferencing, though restrictively, and this case too was taken up. Having partly heard, at some length on an earlier occasion, speaking for myself, vide an order dated 01.07.2020, the *lis* was crystalized as below :-

“Arguments have been heard at some length. To succinctly sum up, Dr. R.D. Anand, learned counsel for petitioner institute, while on one hand contends that it is All India Council for Technical Education alone (for brevity, AICTE), which is the governing body for imparting education qua grant of Degree of Master’s in Business Administration (MBA), whereas, on the other hand, Mr. Subhash Ahuja, learned counsel for respondent-Panjab University strongly controverts the said submission. He submits that both in fact and law, it is the University Grants Commission(UGC), which is the governing body. Per him, unless inspection report of parent University qua an institute is completely favorable, no institution can be accorded permission for imparting education in MBA course. Apropos, learned counsel for the petitioner submits that inspection is indeed required to be carried out by University, but it is done under aegis of AICTE. A final view is to be taken by the AICTE alone and inspection by University is mere formality as a step precursor. Learned counsel for petitioner also, inter alia, relies on case law enunciated by Apex Court, as has already been cited in the petitioner’s pleadings.

Be that as it may, neither soft copy of report, pursuant to the inspection carried out under the orders of this Court, is uploaded on website nor even hard copy thereof is available on court file. Since hearing is being conducted through video, relying on scanned record uploaded on website, let the entire record as per hard copy of paper-book be uploaded on website by the Registry. At this stage, both the learned counsel for parties submit that

pleadings in all respect are complete and, instead of hearing the matter in piecemeal on miscellaneous applications, the main petition itself can be heard, since at immediate stake is future of those students who, rightly or wrongly (to be determined by the court), have been admitted by the petitioner institute based on their all India merit in the entrance test. Adjourned to 03.07.2020 for further arguments.”

7. A conjoint reading of the orders, *ibid*, now leads us to following questions to be adjudicated :-

(a). *Whether AICTE or UGC/Affiliating University is the governing/regulating body qua MBA course?*

(b). *Whether the Inspection Committee and/or the inspection report thereof is in accordance with law vis a vis scope of the inspection for the purpose of temporary affiliation ?*

8. Before proceeding to render my opinion, facts first, though a succinct narrative.

8.1 Petitioner applied to the All India Council for Technical Education (for short- AICTE) for approval to start the course of MBA governed by AICTE Regulations. Being satisfied with eligibility, suitability and other pre requisites, AICTE granted its approval to the petitioner vide letter dated 30.04.2017 (Annexure P/1) to conduct the said course for academic year 2017-2018. AICTE approval was, however, subject to the petitioner/Institution obtaining necessary affiliation/permission from the concerned University as per the prescribed schedule of the University. Accordingly, petitioner then applied to the respondent-University for affiliation (temporary), which though was granted, but its continuation is now the very *lis* herein, owing to alleged non compliance of the contingent conditions/deficiencies pointed out by Inspection Committee.

8.2 Copy/extract of the minutes of Syndicate meeting dated 23.07.2017, Annexure P/3 (Colly), shows that a four member Inspection Committee headed by Prof. M.K.Sharma, Chairperson visited the Institute on 27.06.2017. By a majority of 3:1, Committee recommended to grant temporary affiliation to the petitioner for MBA course for the session 2017-18. Professor Anupama Bawa, a Member of the Inspection Committee, however, recorded her sole dissenting note. She did not recommend the University to grant affiliation for the MBA Programme. She attached her own separate five page report in support of her recommendation.

8.3. Later, a Survey Committee visited petitioner Institute again on 11.07.2007, which also unanimously recommended that the Institute fulfilled the requirements for running the Management course and may be permitted to start the same. The University thus granted temporary affiliation to the petitioner Institute for MBA course for the session 2017-18. The petitioner conducted admissions for the first semester of the MBA course and thereafter for next session 2018-19 on the basis of temporary affiliation.

8.4. For continuance of temporary affiliation, another 6 member Inspection Committee of the University visited the Institute on 08.05.2018 and 21.08.2018. Committee submitted its reports Annexure P/4 (colly). Once again, the same Inspection Committee visited the Institute on 30.10.2018 and submitted its report dated 30.10.2018 (Annexure P/6). Vide the report, *ibid* the Inspection Committee pointed out certain deficiencies.

8.5. Petitioner responded to the said inspection report vide its letter dated 14.02.2019, Annexure P/9 (colly), explaining the compliances on its part. As regards objection qua appointment of Director/Principal of the Institute, the petitioner requested the University to reconstitute a Selection Committee for the selection/appointment of Director/Principal of the Institute. Later, a Selection

Committee held the interview and selected Dr. Roshan Lal, qualified to be a professor, for the post of Director of the institute).

8.6. Without putting up petitioner's case before the competent authority (Syndicate) qua further continuance of affiliation, the Registrar of the University wrote letter dated 06.04.2019 to the petitioner, informing that no process for admission to MBA course for the session 2019-20 be undertaken till a decision was taken for affiliation of the MBA course for 2018-19. Later, the respondent vide impugned letter dated 02.05.2019, Annexure P/15, informed the petitioner that in its meeting dated 10.04.2019, the Syndicate had resolved that the petitioner be asked to comply with the conditions already imposed, in order to consider the case for extension of affiliation for the session 2018-19.

8.7. The petitioner submitted a point wise detailed compliance report vide its letter dated 15.06.2019, Annexure P/17, qua the observations made by the Inspection Committee in its reports dated 21.08.2018 and 30.10.2018. On submission of the compliance report by the petitioner, the case was required to be put up afresh before the Syndicate in its next meeting. However, no meeting of the Syndicate was held in June due to vacation as is evident from letter dated 16.08.2019, Annexure P/17A. Petitioner, meanwhile, made a request vide letter dated 05.07.2019, Annexure P/18, to the respondent for permission to admit students for session 2019-20 i.e. the batch of 2019-21. By depositing the requisite fee of Rs. 2,65,000/-, the petitioner also applied on 12.07.2019 to the Indian Institute of Management for the use of CAT 2019 score (Annexure P/19).

8.8. Syndicate agenda for the next meeting dated 30.07.2019 did not include the case of the petitioner and it was thus not taken up. In view of the fast approaching last date for admissions for the session 2019-21, as per AICTE admission handbook, Annexure P/21, the petitioner requested the respondent vide letter dated 02.08.2019 (Annexure P/20) for permitting admissions for the

session 2019-21. However, no action was taken by the respondent. Hence the writ petition.

8.9. In reply, University, *inter alia*, pleaded that the petitioner had failed to remove the deficiencies pointed out by the Inspection Committee for extension of affiliation. Syndicate in its meeting dated 10.04.2019 rightly resolved that the Institute be asked to comply with the conditions imposed on it for temporary extension of affiliation and that the students of MBA for the session 2018-19 be allowed to appear in the examination. The petitioner's compliance report dated 15.06.2019, Annexure P-17, was merely an eye wash. The deficiencies were not actually removed/complied with. The writ petition, therefore, merits dismissal.

8.10. It was in this background that vide order dated 06.02.2020, this Court, *inter alia* directed the respondent University to conduct fresh inspection as on 06.03.2020. Another Committee under the Chairmanship of Prof. Sanjeev Sharma was thus constituted but he recused himself to serve on the Committee, as he had been a Member of the Committee that had recommended the grant of affiliation for the year 2017-18. Subsequently, another Committee headed by Prof. Anupama Bawa inspected the college on 13.03.2020 and annexure Mark-B is the report by said Bawa Committee.

9. I have gone through the record with the able assistance of the learned counsel for the parties and have heard their respective submissions.

10. Learned counsel for the petitioner contended that AICTE is the regulating body in respect of M.B.A Course; that it is in the province of AICTE to grant approval for running and managing M.B.A Course; that after it was satisfied with the fulfillment of the relevant requirements and had granted the approval, the grant of affiliation by the University was/would be a mere formality as the degrees are awarded by the University and not the AICTE; that in any case, the mandate of the UGC (Affiliation of Colleges)

Regulations, 2009 had not been met while constituting the Inspection Committees, whose adverse reports have been made the basis of the respondent's refusal to grant extension of affiliation.

10.1 Learned counsel for the petitioner would also urge that copy of report of the inspection conducted on 13.03.2020 was given only on 22.06.2020, that too under the directions of this Court contained in order dated 19.06.2020 in present writ proceedings. The deliberate delay of over 3 months in supplying the inspection report in such a matter where the career of students is at stake, speaks volumes about the cavalier attitude of the respondent. The inspection report Mark-B, was submitted in the Court only by the petitioner whereas it was respondent who was directed to place it on judicial record. The inspection was held on the direction of this Court to consider the grant of extension of affiliation for the session 2019-20. However, Annexures P-33/A and Annexure P-34 show that the inspection was for the Session 2020-21. Therein, the Committee has not pointed out any deficiency. In the prescribed inspection proforma, the Committee has written that there is no deficiency with regard to (i) Library, (ii) Staff, Scales of Salary to the faculty and (iii) Infrastructure: classrooms, Laboratories & equipment. The Inspection Committee, in respect of Non-teaching staff found that the staff members are employed on contract basis and posts have been advertised. Though the Committee certified that all the characteristics of an academic institution in terms of Infrastructure, Faculty, Library, Laboratories as certified by the Inspection Committee are available, yet the Committee recommended that the extension of the affiliation for the session 2020-21 be not granted. Learned Counsel for the petitioner would argue that though the Committee's factual observation is positive (per statutory proforma) but its recommendation is negative (per report). The contradiction in arriving at the recommendation for

decision is obvious. The recommendation of the Inspection Committee does not resonate with the observations and the proforma duly filled in by the members of the committee. The composition of the Committee that inspected the college on 13.03.2020 is the same as the one that inspected the institute on 24.09.2019. The Committee has been harping on the building in which the Institution is housed citing it to be contiguous with D.A.V College, Chandigarh. It is pertinent to mention here that the Governing Body DAV College Managing Committee, New Delhi vide resolution dated 24.04.2010 had transferred the land/ building to the Petitioner Institute. Chandigarh Administration too had issued no objection certificate to this effect (Annexure P-26). The Committee has travelled beyond its jurisdiction of making unsubstantiated remarks in the inspection report, learned counsel contended.

10.2. Learned counsel for the petitioner further pointed out that Prof. Anupama Bawa, the very same dissenting member of the inspection team which earlier visited the Institute on 27.06.2017, was made the Chairperson of the Inspection Committee that visited the Institute subsequently on 24.09.2019 and 13.03.2020. It is contended that her report dated 03.07.2017, Annexure P-32, would not leave any manner of doubt that she had a pre-meditated notion not to decentralize the prestigious M.B.A. Course. She was/is even opposed to have this course at Panjab University Regional Centre, Ludhiana, a constituent unit of the University itself. An expert on such Committees must have an open mind. Clash of egos have no place in academic Institutions. He strenuously argued that Prof. Bawa ought not to have been made Chairperson of the Inspection Committee in view of her prejudicial view already conveyed. Illustratively, he cited proverb from Chemistry that “Every Experiment follows theory” likewise in life action follows thought.

10.3 He further argued that the motive of the respondent is clear that

they do not want Petitioner Institute to exist on the academic map of the University. The metaphor ‘Cat is out of the bag’ is literally correct, he would argue. He submitted that members of every Inspection Committee were drawn from the University Department. He relied upon Annexure P-34 to demonstrate that the Inspection Committees had not been following even the mandatory provisions of the University itself. The Inspection Committee was asked to supply a copy of the report to the Institute on 13.03.2020, i.e. immediately after the Inspection. Yet, they did not supply it till the Court so ordered on 19.06.2020. It appears that all is not well with the University administration, he would urge. According to him, the present scenario in University is a reminder of Shakespearean expression ‘*Something is rotten in the State of Denmark*’ qua the times when Denmark was festering with mismanagement.

11. Per contra, learned Counsel for respondent University submitted that both in fact and law, it is the UGC, which is the governing body for imparting education in management and grant of its affiliation to M.B.A. course; that its affiliation is governed by UGC/University Regulations and not by AICTE norms. Unless inspection report of University’s Inspection Committee qua the petitioner Institute is favorable, it cannot be granted extension of the University affiliation for the course. Learned counsel for respondent University in support of his contention, cited Supreme Court Judgment rendered in “*Association of Management of Private Colleges v. All India Council for Technical Education & Ors*” reported as (2013) 8 SCC 271 and contended that it has been clearly held therein that approval from AICTE is not required for running M.B.A Course.

12. In rejoinder, learned counsel for the petitioner referred to various orders passed by Apex Court viz. dated 02.04.2019 in CA No. 6938 of 2015, WP (C) 296 of 2015, SLP (c) 10543 of 2017, order dated 21.08.2019 in SLP No. 10547 of 2017 and submitted that the question whether the ACITE

or the UGC/University is the regulating authority qua MBA course, has been kept open. He further contended that, in any case, same issue has now been reopened by the Supreme Court vide a *sub judice* WP (Civil) No.23 of 2020, wherein specific interim orders have been passed that, as in past, AICTE shall continue to regulate MBA course.

13. I shall now proceed to render my views specifically qua the case in hand. Both the learned counsels are *ad idem* that, *inter alia*, role of All India Council for Technical Education (AICTE) vis a vis University Grants Commission (UGC) is required to be determined. But at the outset, I am inclined to observe that perusal of the provisions of the AICTE Act and UGC Act would reveal that both these statutes operate in different domains. There seems no such clash as has been projected by both the learned Counsels. AICTE is to ensure and provide access to quality with accountability in the technical education. Technical education *prima facie* includes management too, per definition clause (g) of Section 2 of AICTE Act. On the other hand, role of the UGC is to govern the affiliations of various colleges applying to the universities constituted under the UGC Act. UGC/University's role is thus to supplicate the role of AICTE and not act as an obstructionist. Provisions of both the statutes are mutually inclusive /harmonizing and are, therefore, not to operate in exclusion or derogation of each other but complementary to each other.

14. For every student, *alma mater* carries a certain sense of pride for rest of his life. In the present case, a peculiar situation has arisen owing to the institutional clash of country's two premier institutions, the alumnae of 2nd academic Sessions are facing the paradox of no *alma mater*. If the stated stand of the respondent University is to prevail, the management institution shall have to shut down. The students who have already graduated would naturally be awarded degrees but, for rest of their lives, will be product of a defunct institution. Here discontinuation/withdrawal of temporary affiliation of the

petitioner institute, *inter alia*, is stated to be on account of over-all loss of brand equity of the Master of Business Administration course (MBA course), apart from alleged non-compliance of the pre-requisite conditions for getting extension of affiliation. Illustratively, it has been pointed out that the Regional Management Centre of Panjab University at Ludhiana, imparting MBA course, has been a failure. Educational Institutes, to my mind, cannot and ought not to be treated as retail outlets of a licensed commodity. It is not a gas station/petrol retail outlet which can be commissioned or de-commissioned, in any manner, as the licensing authority so wishes, depending upon its business exigencies.

15. Adverting to the first question qua role of All India Council for Technical Education (AICTE) vis-a-vis University Grants Commission (UGC) to be determined in the present case, one argument is that it is the AICTE, which has to play the governing role in regulating the quality of the education as well as imparting of the degree in MBA. UGC's role is only to supplicate the said main role of AICTE. Counter argument is that it is the UGC which has the main role and that AICTE at best is to supplicate the same. Be that as it may, at the cost of repetition, it is reiterated, as already opined, that AICTE Act and UGC Act operate in different domains and, thus there is no clash between the two. As already observed, AICTE is to ensure and provide access to quality with accountability in the technical education, while role of the UGC is to govern the affiliations of various colleges applying to the universities constituted under the UGC Act.

16. If, as contended, the AICTE, a statutory body set up by Central Act, has no role to play, then it is rather intriguing that why would it be publishing Approval Process Handbook (Annexure P-2) every year for regulating the conduct of Technical Courses including those in Management by existing and new affiliated colleges. Handbook specifically provides for Faculty,

Infrastructure, Land Requirement, Built Up Area, etc. which are pre- requisites to be satisfied for having approval for M.B.A Course. Under Clause 1.3 thereof, due approval of the Council was sought by the petitioner. Clause 1.3.5(c) deals with non-technical institutions seeking approval for M.C.A/M.B.A. Clause 1.5.1 deals with the requirements of eligibility. Clauses 7.3, 7.4, 7.5 and 7.7 deal with contingency arising on account of (i) non fulfillment of requirement of Principal/Director, (ii) non fulfillment of Faculty, Student ratio, not adhering to the pay scales and/ or qualifications prescribed for the faculty, (iii) non fulfillment of Computer, Software, Internet, Printers, Laboratory Equipment, Books, Journals, Library facilities requirements etc. and (iv) non fulfillment of Location/ Built-up area/ Land at the time of year of establishment or current Academic Year, respectively. Clause 8.1 thereof puts a bar on the institution against offering Technical Programme(s)/Courses(s) without approval of the council. As per Clause 4.1 Land Requirement for Urban Technical Institutions (M.C.A/M.B.A.) Urban is 0.5 Acre. Grant of approval by AICTE in this case is a pointer that the Petitioner Institute had the required Infrastructure, Faculty, Land Requirement, and Built up Area etc. to start M.B.A Course. Moreover, had there been any shortcoming on the part of petitioner, the above provisions make it abundantly clear that AICTE can take even punitive action for non-fulfillments of any conditions or deficiency noted even after granting its approval. Vide letter dated 15.06.2020 (Mark-A) approval for MBA Course for years 2020-21 was accorded by the AICTE, in continuation of its earlier approval dated 30.04.2017. If AICTE approval is/was not required to run M.B.A Course, then the Council in all fairness would not have extended the approval for the academic year 2020-21 vide letter dated 15.06.2020 (Mark A).

17. On the other hand, Section 22 of the University Grants Commission Act, 1956, specifies that right of granting of degrees shall be exercised only by a

University established in accordance with law. Therefore, just like Medical Council of India, regulating authority of medical education; Bar Council of India, regulating authority of legal education and so forth such like many other councils, AICTE too has no power to confer degrees other than being a regulating authority of technical education. Therefore, affiliation of a technical education institute to a University is imperative, even though regulating authority may be AICTE. For ready reference Section 22, *ibid* is reproduced here in below:-

“Section 22-Right to confer degrees:

(1) The right of conferring or granting degrees shall be exercised only by a University established or incorporated by or under a Central Act, a Provincial Act or a State Act or an institution deemed to be a University under section 3 of an institution specially empowered by an Act of Parliament to confer or grant degrees.

(2) Save as provided in sub-section (1), no person or authority shall confer, or grant, or hold himself or itself out as entitled to confer or grant, any degree.

(3) For the purposes of this section, “degree” means any such degree as may, with the previous approval of the Central Government, be specified in this behalf by the Commission by notification in the official gazette.”

18. It would be pertinent to refer to Gazette Notification of India, F.5-1/2013 (CPP-II) dated 05.07.2017 issued by the UGC under the Act *ibid*. Vide said notification, UGC has mandated that no University shall confer a degree in violation provision of said notification. Clause 8 of the aforesaid notification reads as under:-

“All the universities (including affiliated college thereto) shall observe the minimum standards of instruction and prescribed norms for the grant of a degree which shall be imparted by the duly qualified teaching staff and appropriate academic physical

*infrastructure facilities as prescribed by the concerned statutory/regulating bodies, such as University Grants Commission (UGC), **All India Council for technical education (AICTE)**, Medical Council of India (MCI), Pharmacy Council of India (PCI), Council for Architecture (COA), Bar Council of India (BCI), National Council of Teachers Education (NCTE), Dental Council of India (DCI), Indian Nursing Council (INC) etc. in their respective notifications/regulations.”*

19. Let us see the import of the notification supra. Speaking illustratively, say if a college affiliated to any University contemplates starting LL.B Course, approval of Bar Council of India would be the first requisite. The grant of affiliation by the University should ordinarily be a mere formality, as the degrees are awarded by the University and not the Bar Council of India. The affiliating University, therefore, should not ordinarily then act in typical manner of red tape to pretend that the left hand does not know what the right hand is doing. A filibustering attitude of an affiliating University would then frustrate the very spirit and mandate of the law of land viz AICTE Act, 1987 herein. What is expected of an affiliating University, where approving/regulating/governing authority is AICTE, is that, it ought to act to compliment and supplicate the former and not sit in appeal over the decision of approval granted by the regulating authority.

20. Coming to the grey area of AICTE being the regulating authority qua MBA course, there is some substance in the contention of learned counsel for respondent University that no approval from AICTE is required, as the same is governed by UGC Regulations alone to the exclusion of AICTE. In ***Association of Management of Private Colleges v. All India Council for Technical Education &Ors***, (2013) 8 SCC 271, para 43 thereof, Apex Court held as below:-

“As per definition of 'technical education' under Section 2(g) of the AICTE Act and non- production of any material by the AICTE to show that MBA course is a technical education, we hold that MBA course is not a technical course within the definition of the AICTE Act and in so far as reasons assigned for MCA course being 'technical education', the same does not hold for MBA course. Therefore, for the reasons assigned while answering the points which are framed in so far as the MCA course is concerned, the approval from the AICTE is not required for obtaining permission and running MBA course by the appellant colleges.”

Thus, post Apex Court pronouncement, *ibid*, it would appear that AICTE lost its power to compel the affiliated colleges to seek its prior approval to run an M.B.A course.

21. However, Apex Court, subsequent to its judgment in Association of Management of Private Colleges, *ibid*, passed another order dated 06.01.2016 in Civil Appeal No.6938 of 2015, which reads as under:

“We accordingly allow this application and direct that AICTE shall be free to publish for the Session 2016- 2017 and the academic sessions following thereafter the requisite AICTE Approval Process Handbook as in the past and regulate the subject matter relating to technical institution as mentioned above including MBA/ management courses in accordance with the said hand-book.”

22. Above Civil Appeal No.6938 of 2015 was though later dismissed in default but, Apex Court has reopened the issue and currently is in seizen thereof, as borne out from its later order dated 31.01.2020 passed in Writ Petition (Civil) No.23 of 2020) titled ***Education Promotion Society for India & ORS. Vs Union of India &Anr***, to the following effect:-

*“Having heard learned Senior Counsel appearing for the parties, there shall be an **interim arrangement** in terms of the order dated 06.01.2016 passed by this Court in Civil Appeal No.6938 of 2015.”*

23. Accordingly, I am of the opinion that petitioner institute is entitled to the benefit of similar interim arrangement as directed by Hon'ble the Supreme Court in a pending Writ Petition before it, bearing WP (Civil)No.23 of 2020) in ***Education Promotion Society for India & ORS. Vs Union of India & Anr .*** It is thus ordered that subject to the out come of WP(Civil) No.23 of 2020 pending adjudication before Supreme Court, there shall be an interim arrangement in the present case also in terms of the order dated 06.01.2016 passed by Apex Court in Civil Appeal No.6938 of 2015 and AICTE Approval Process Handbook as in the past shall, therefore, regulate the subject matter relating to MBA course in petitioner Institute in accordance with the said hand-book.

24. Pertinently, even the UGC Regulations cited and relied upon by the respondent University, Annexure R-2, rather seem to support aforesaid arrangement. Clause 2.7 of UGC (Approval of Colleges offering Technical and Professional Education by Universities) Regulations, 2013 defines “Statutory/Regulatory body” which means a body so constituted by a Central/State Government Act for setting and maintaining standards in the relevant areas of higher education. As per Clause 3.1, the proposed college seeking affiliation, at the time of inspection by the University, shall satisfy the requirements envisaged therein, or the requirements in respect of any of them prescribed by the Statutory/ regulatory body concerned in case of technical/ professional courses only.

25. Hence answer to Question (a) framed in para 7 above is kept in abeyance awaiting the decision of Apex Court in the *sub-judice* matter, *ibid* with interim arrangements in the same terms in present case.

26. Adverting now to Question (b) in para 7, supra, it is noteworthy here that petitioner Institute is run by the D.A.V College Managing Committee, Delhi that has a distinction of having a large number of Schools/Colleges/Institutes at different places running under its umbrella in India

and abroad. Amongst them, D.A.V College, Sector-10, Chandigarh is one of leading institutions. DAV Managing Committee established this College in year 1958 i.e. 62 years ago and ever since, it is imparting education in different streams. Being located in the territorial jurisdiction of Panjab University, the college is affiliated to said University. DAV Managing Committee after doing survey of the feasibility of MBA course, sometime in 2017, decided to establish DAV Institute of Management. There is though no prohibition to start a new MBA course in the pre-existing educational establishment, but the DAV Management decided to set up a new Management Institute. Point here is that had the MBA course been started in the pre existing DAV College, with all the infrastructure at its disposal, perhaps it would have been better, rather than setting up a new Institute, by carving out a dedicated separate building on an independent 0.75 acres of plot.

27. Qua the land of petitioner Institute, as against AICTE requirement of 0.50 acres, an area of 0.75 Acre (which was under possession of DAV College, Sector-10, Chandigarh) was allotted to petitioner Institute by a specific resolution dated 24.04.2010 (Annexure P-26) by its governing body. Chandigarh Administration also granted its approval to it for starting M.B.A Course from the session 2017-18 as per Memo dated 07.07.2017 (Annexure P-26).

28. As per University Regulations [P.U. Calendar Vol. I,], the last date by which applications for affiliation should reach the Registrar is November 1 of the year preceding the date on which it is proposed to start the classes. The petitioner Institute, accordingly, applied for extension for the academic year 2018-19. The University did not decide the case for extension of affiliation for the academic session 2018-19 even till the beginning of next academic session 2019-20. It is pertinent to mention that even semester examinations are held in the month of April / May, every year. Perusal of record shows that the Syndicate

could not take any decision about extension of affiliation for the academic session 2018-19 earlier than 10.04.2019, as informed to the petitioner vide Annexure P-15 dated 02.05.2019. The competent authority to grant affiliation being the Syndicate / Senate could not decide about the grant of extension of affiliation for 2018-19 till April/May, 2019 (Annexure P-14 & P-15). The students pursuing the course in the Institute were kept on tenterhooks and dark clouds of uncertainty remained hovering over their heads. On 14.11.2018 (Annexure P-7) the University just allowed the institute to submit “registration return” for the session 2018-19 to enable the students to appear in the first semester examination of M.B.A Course, without formally granting extension of affiliation.

29. Vide letter dated 05.07.2019, Annexure P-18, the petitioner reminded the University that the compliance qua the inspection report had been submitted by it to the office of Dean College Development Council of University on 17.06.2019. The petitioner requested the University to permit the Institute to admit students for M.B.A. Course for 2019-21 batch i.e. for the session beginning 2019-20. But the University maintained a stoic silence knowing that the academic session begins in July. Forced by circumstances, and perhaps mindful that the University would take its own time to take any decision in the matter, the petitioner was compelled to approach this Court.

30. Letter dated 21.08.2019, Annexure P-33, reflects that University had admitted that no inspection for extension of affiliation for the session 2019-20 had been conducted. Yet the Syndicate at the meeting held on 19.11.2019, granted extension of affiliation only for the session 2018-19 and resolved that the Institute be not granted affiliation for the session 2019-20.

31. As per schedule formulated by the Apex Court in **Parshavnath Charitable Trust and Ors v. All India Council for Technical Education**

&Ors 2013(3) SCC 385, the last date for grant or refusal by University / State Government is 15th May and academic session must start by 1st August of the relevant year. Whereas, as per letter dated 21.08.2019 (Annexure P-33), it is apparent that in this case even inspection was not held by the University till that date. The academic session had started in July 2019; the Institute had admitted the students in first year for the academic session 2019-20 as the retrospective grant of affiliation had been a common pattern.

32. It appears that though petitioner had applied for the extension of affiliation for the session 2019-20 as per University regulations by 01.11.2018, but the University slept over the matter till a wakeup call was given by way filing of instant petition. The completion of entire process for grant or refusal by 15.05.2019 (per Parshavnath judgment) was, therefore a must. More so, when the classes start in July/ August every year. Here, till 02.05.2019, as reflected from Annexure P-15, the University was still considering the grant of extension of affiliation for the session 2018-19, when the session had already started in July/August, 2018. The University did not bother to adhere to the schedule laid down by the Supreme Court. The University though merely allowed the students to take the examination vide Annexure P-15 dated 02.05.2019, but it amounts to implied grant of extension for 2018-19. It was mandatory for the University to grant or refuse the extension of affiliation by 15.05.2018 for the ensuing session 2018-19. This entire lackadaisical approach/demeanor of the University in such nonchalant manner does not inspire confidence, to say the least. University ought to be mindful of the students whose future life and career is at stake and who have taken admission on the implicit assurance that retrospective temporary extension of affiliation would be granted by university like in the past. Why can the university not adhere to the strict timelines as laid down by the Supreme court ?

33. Vide order dated 06.02.2020, this Court, *inter alia* directed the respondent University to conduct inspection as on 06.03.2020. A Committee under the Chairmanship of Prof. Sanjeev Sharma was constituted. Prof. Sharma recused himself to serve on the Committee as he had been a member of the Committee that had recommended the grant of initial affiliation for the year 2017-18. Subsequently, another Committee headed by Prof. Anupama Bawa inspected the college on 13.03.2020, the report of which was not given to the Institute, even though mandate of the University calendar is otherwise.

34. It is relevant to mention here that procedure for grant of affiliation to a college is described in Section 27 of The Panjab University Act, 1947 and Regulations made thereunder as provided in Chapter VIII (A), P.U Calendar Volume I. For ready reference said section 27 of the Act *ibid* is reproduced here under:-

“27. Affiliation. - (1) A college applying for affiliation to the University shall send a letter of application to the Registrar and shall satisfy the Syndicate -

(a) that the college is to be under the management of a regularly constituted governing body;

(b) that the qualifications of the teaching staff, their grades of pay and the conditions governing their tenure of office are such as to make due provision for the courses of instruction to be undertaken by the College;

(c) that the buildings in which the college is to be located are suitable and that provision will be made in conformity with the regulations, for the residence, in the College, or in lodgings approved by the College, of students not residing with their parents or guardians, and for the supervision and physical welfare of students;

(d) that due provision has been or will be made for a library;

- (e) where affiliation is sought in any branch of experimental science, that arrangements have been or will be made in conformity with the regulations for imparting instructions in that branch of science in a properly equipped laboratory of museum;*
- (f) that due provision will so far as circumstances may permit, be made for the residence of the Head of the College and some members of the teaching staff in or near the College or the place provided for the residence of the students;*
- (g) that the financial resources of the College are such as to make due provision for its continued maintenance;*
- (h) that the affiliation of the College having regard to the educational facilities provided by other colleges in the same neighbourhood will not be injurious to the interests of education; and*
- (i) that the college rules fixing the fees (if any) to be paid by the students have been so framed as to involve such competition with any existing college in the same neighbourhood as would be injurious to the interests of education.*

The application shall further contain an assurance that after the College is affiliated, any transference of management and all changes in the teaching staff shall be forthwith reported to the Syndicate.

(2) On receipt of a letter of application under Sub-section (1), the Syndicate shall -

- (a) direct a local inquiry to be made by a competent person authorised by the Syndicate in this behalf;*
- (b) make such further inquiry as may appear to them to be necessary; and*
- (c) report to the Senate on the question whether the application should be granted or refused, either in whole or in part, embodying in such report the results of any inquiry under clauses (a) and (b).*

And the Senate shall, after such further inquiry (if any) as may appear to them to be necessary record their opinion on the matter.

- (3) The Registrar shall submit the application and all proceedings of the Syndicate and Senate relating thereto to the Government, who, after such further inquiry as may appear to them to be necessary, shall grant or refuse the application or any part thereof.*
- (4) Where the application or any part thereof is granted, the order of the Government shall specify the courses of instruction in respect of which the College is affiliated; and, where the application or any part thereof is refused, the grounds of such refusal shall be stated.*
- (5) An Application under Sub-Section (1) may be withdrawn at any time before an order is made under Sub-Section (3)”*

A perusal of the above, makes it abundantly clear that an application for grant of affiliation has to be made by the College to the Registrar of the University. Registrar will then place it before Syndicate for enquiry. After satisfying the Syndicate about Management of the College, Staff, residence, Library, Laboratory, Fee structure etc., the application has to be forwarded to Senate for decision on the grant or refusal of affiliation. Senate has been empowered to conduct further enquiry on the question of grant or refusal of affiliation. After resorting to above procedure, it has been made incumbent upon the Registrar to place the proceedings of Syndicate and Senate before the Government for arriving at a final decision on the grant or refusal of affiliation. In other words, it is the Government who has to take final decision on the issue of grant of affiliation. Also, nothing on record has been brought to the notice of the Court to show that the application submitted by the petitioner for affiliation was materially lacking in any of the applicable requirements under Section 27, *ibid*. Conversely, it would mean that the petitioner's application was in accordance with the prescribed requirements.

35. It would be seen that section 27 of The Panjab University Act, 1947 is silent about any distinction between affiliation simpliciter and temporary affiliation. Provision for temporary affiliation has been specifically

made in the University Regulations. Even assuming, without holding that the UGC is the governing body for imparting education qua grant of affiliation to M.B.A. Course, the question arises whether or not the relevant provisions of UGC Regulations have been complied with in the instant case.

36. Regulation 4 of the UGC (Affiliation of Colleges by Universities) Regulations 2009 prescribes the statutory procedure to be followed by the Universities for the grant of temporary affiliation. For ready reference, Regulations 4.6 and 4.7 thereof are reproduced below:

“4.6 The Institute shall be subjected to an inspection by the University through a committee of experts nominated by the Vice Chancellor, consisting of :

4.6.1 One expert for each of the subject area proposed.

4.6.2 Dean, Institute Development Council/an equivalent academician of the University.

4.6.3 a representative of the higher education department of the Government not below the rank of Deputy Director, and

4.6.4 an engineer from the PWD/CPWD or the University not below the rank of Executive Engineer.

One of the subject experts at the level of Professor, as nominated by the Vice Chancellor, shall be the chairperson of the Committee.

4.7 The report of the inspection committee shall be submitted by the chairperson to the University duly filled in and signed by all the members. The University shall process the report through its appropriate bodies and decide to grant, or not to grant temporary affiliation to the College, recording the reasons in writing for its decision within three months of inspection.”

37. In absence of any separate provisions for extension of temporary affiliation, it is but logical and safe to assume that the aforesaid regulation 4.6 for the grant of initial temporary affiliation would also apply for extension of temporary affiliation subsequently.

38. In my opinion, the University was bound to follow the aforesaid UGC regulations while constituting its Inspection Committees. However, the reports of Inspection Committees who visited the Institute on various dates in connection with the extension of affiliation, show to the contrary. Their constitution was not in accordance with the Regulations *ibid*. For ready reference, their composition as shown in the respective inspection reports was as under:

(a). The first Inspection Committee was consisting of 4 members viz. Chairman, University Business Studies Department, two Professors from the University Business Department and Vice-Chairman of Confederation of Indian industry (CII). While 3 members opined that the University should give the necessary affiliation to the Management Institute, the 4th member i.e. Professor Dr. Anupama Bawa dissented.

(b). Later, for extension of affiliation, another Inspection Committee (2nd) was constituted. This time it had 6 members viz. 5 Professors from the University and the 6th, a Principal of College nominated by the Chandigarh Administration, per annexure P/4 (colly) dated 08.05.2018, as below:-

- (i) Prof. S.K.Chadha
- (ii) Prof. ManojK.Sharma
- (iii) Prof. Deepak Kapur
- (iv) Prof. Sanjay Kaushik
- (v) Prof. Karamjeet Singh
- (vi) Principal Manjeet Kaur Brar, nominee of Chandigarh Administration.

Subsequently, other Committees were constituted comprising of following members:

(c) As per Annexure P/4 (colly) dated 21.08.2018 :-

- (i) Prof. S.K.Chadha
- (ii) Prof. Manoj K.Sharma

- (iii) Prof. Deepak Kapur
- (iv) Prof. Sanjay Kaushik
- (v) Prof. Karamjeet Singh
- (vi) Principal Manjeet Kaur Brar, nominee of Chandigarh Administration.

(d) As per annexure P/6 dated 30.10.2018:-

- (i) Prof. S.K.Chadha
- (ii) Prof. Manoj K. Sharma
- (iii) Prof. Deepak Kapur
- (iv) Prof. Sanjay Kaushik
- (v) Prof. Karamjeet Singh
- (vi) Principal Manjeet Kaur Brar, nominee of Chandigarh Administration.

(e). As per Annexure P/30 dated 24.09.2019:-

- (i) Prof. Anupama Bawa
- (ii) Prof. Deepak Kapur
- (iii) Prof. Suveera Gill.

39. It would be seen that none of the Inspection Committees at (a), (b), (c), (d) and (e) included any “Engineer” at all, let alone an “Engineer” from the PWD/CPWD or the University not below the rank of Executive Engineer as mandated by the Regulation *ibid*. Further, record does not show if at the relevant time, Principal Manjeet Kaur Brar held a rank not below the rank of Deputy Director of the Higher Education department of the Government. Even assuming that she held such a rank, still the fact remains that any of the Inspection Committees at (a) to (e) above did not at all include any “Engineer”. Further, the Inspection Committee who last inspected the College and submitted report Annexure P/30 dated 24.09.2019 did not even include any representative at all of the Higher Education Department of the Government. This being the position, the constitution/composition of any

of these Inspection Committees cannot be said to be in accordance with the statutory requirements of Regulation 4.6 of the UGC (Affiliation of Colleges by Universities) Regulations 2009.

40. Speaking of inspection reports, though in the passing reference, what seems to be bothering the University inspection team is not whether or not the infrastructure as required has been provided by the Institute or not, but rather the sourcing of the said infrastructure. The objections raised do not mention that, what is required, has not been provided. Rather on the contrary, it admits, that yes, it is available, but the corresponding bills are in some other name etc. In other words, it is not the investment, which is lacking, but the source of investment that seems to be bothering the University.

41. It is also noteworthy here that Dr. (Mrs.)Anupama Bawa, Professor, UBS, Panjab University, who was member of the Inspecting Committee and inspected the Institute/Institute on 27.06.2017 alone had dissented with other members about grant of initial affiliation to the petitioner institute. In her aforesaid dissenting/ minority report, she opined inter alia, as under:

“xxxx

4. General viability of MBA Programmes.

The growth phase of the MBA degree is over. Gone are the days when an MBA programme run by almost any institute was viable and nearly all MBA degree holders got handsome salaries. The increase in MBA seats by prestigious institutes and the opening of more IIM has affected the market standing of MBA Programmes of Universities like Panjab University, among others. This can be seen in the trend in the number of applications received, the CAT score of the applicants, the merit of the last admitted candidates, number of unfilled seats etc

In addition, the MBA Programme of Panjab University already betrays signs having over extended its brand equity.

The MBA programme at UBS Ludhiana is the case in point. The brand equity of Panjab University MBA has not been adequate to ensure the success at UBS, Ludhiana.

Thus, I have concerns about the viability of the MBA Programme at the new proposed Institute of Management and the effect of that on the existing programmes of Panjab University.

Recommendations:

In the light of the above, I do not recommend that Panjab University grant affiliation for the MBA programme to the Institute of Management c/o DAV Institute , Sector 10, Chandigarh for the session 2017-18.

xxxxxx”

42. Perusal of Prof. Bawa’s dissenting note, Annexure P-32, would reveal that the reasons contained therein do not pertain to lack of infrastructure or office staff or faculty or any other such thing, but rather a personal outlook of said professor. She felt that over the years, the MBA degree of Punjab University had lost its brand equity. It was, therefore, not desirable to further add to the said loss of brand equity by affiliating the petitioner institute, especially when the University’s own Ludhiana Business Studies Centre set up directly under the aegis of University had, according to her, failed to meet the expectations of the University.

43. It would be seen that Dr. Anupama Bawa had already expressed her strong concerns about the viability of the MBA programme at the new institute and its effect on the existing MBA Programmes of Panjab University, while opposing the grant of even the initial affiliation for MBA to the petitioner for the session 2017-18. Yet again, she was not only included in the Inspection Committee, which visited Institute on 24.09.2019 in connection with extension of affiliation, but she was elevated as its Chairperson. While constituting this Committee, the

University authorities fully knew that she had already expressed her strong concerns about the viability of the MBA programme at the new institute and its effect on the existing MBA Programmes of Panjab University and had opposed the grant of even the initial affiliation for MBA to the petitioner for the session 2017-18. Her inclusion in and elevation as Chairman of the Inspection Committee which inspected the Institute on 21.09.2019 in connection with extension of affiliation was improper and unfair on the part of the University, to say the least.

44. A specific query was put by the Court to the learned counsel for the respondent how, in these circumstances, various Inspection Committees constituted in the case in connection with the extension of affiliation could be said as satisfying the statutory requirements of Regulation 4.6 of UGC (Affiliation of Institutes by Universities) Regulations 2009 and validly constituted and how, an adverse decision against the petitioner based on the inspection reports of such Committees could be sustained in law. The Court's query did not fetch any straight and satisfactory answer.

45. During arguments, the learned counsel for the respondent suggested that, to remove the defect pointed out qua the constitution of previous inspection committees, he could seek fresh instructions from the University whether or not it was willing to constitute a fresh Inspection Committee in accordance with the provision *ibid* and on receipt/consideration of its inspection report, to decide *de-novo* the case for extension of the petitioner's affiliation.

46. Till then, what would be the fate of already admitted students? Protection of interests of those students pending the University's fresh decision about extension of affiliation is also responsibility of the university, owing to its laid-back/cavalier attitude and delay, as already discussed above.

Learned counsel for the respondent suggested that they can be transferred to the MBA Programme of Panjab University at the University Business School (U.B.S) or University Institute of Applied Management Sciences (U.I.A.M.S), where they would continue their MBA course. Doing so, in my opinion, would be seriously detrimental to interests of the students studying in MBA Programme of the petitioner institute and also those already studying in MBA Programme at the Panjab University. Even on merits, students of U.B.S or U.I.A.M.S in all likelihood would have been at much higher rank in the CAT merit list than those of DAV Institute/Petitioner and therefore, it would be an unfair advantage for lesser ranking students to shift at U.B.S or U.I.A.M.S. Also, the existing faculty and infrastructure for the MBA programme at Panjab University would have been designed and provided to match the requirements of the number of students already studying there. Mid-course mass transfer of students of MBA Programme from the petitioner institute to the MBA Programme of Panjab University would mean their large scale amalgamation with and addition to the number of the students already studying for the same Programme at these institutions of the Panjab University. Such mass mid-term transfer, amalgamation and addition of students would create lot of logistic problems, cause stress and strain on the available faculty and infrastructure for MBA Programme at the Panjab University, adjustment problems all around and create chaos for all concerned. Thus, it would be seriously detrimental to the interests of both the existing students of MBA programme at the above institutions of Panjab University and the interests of the students of MBA programme transferred en-mass from the petitioner institute to the Panjab University. That apart, in the absence of extension of affiliation and transfer of existing students of the petitioner Institute to the MBA Programme at the above institutions of Panjab University would, for now, mean complete closure

of the petitioner Institute. What would be the scenario if ultimately University itself grants extension of affiliation or its decision of the discontinuance of the affiliation is held to be illegal? Obviously, by then the petitioner's reputation and credibility would have been seriously damaged. It would be extremely difficult, if at all possible/ practicable and would take a very long time for the petitioner to regain its lost/ damaged reputation and credibility. In any case, for restarting the same programme, the petitioner would have again to start every thing from the scratch. Further, it will also adversely affect the future and career prospects of the students- past and present- of the petitioner institute.

47. Inspection reports dated 03.07.2017 Annexure P/3 and dated 08.05.2018/21.08.2018 Annexure P/4 had been annexed to the writ petition when it was filed in August, 2019. These were the only inspections reports which were the subject matter for consideration by the Court at the time of filing of the writ petition. It would be pertinent to refer to the relevant parts of the orders dated 11.09.2019, 18.09.2019 and 18.10.2019 passed by my Learned Brother B.S. Walia, J, and orders dated 19.06.2020 and 24.06.2020 passed by my Learned Brother Sudhir Mittal J and Learned Sister Manjari Nehru Kaul, J respectively, which are as under:

(i) Order dated 11.09.2019

“xx Learned counsel for the respondent/University request for time to seek instructions as well as to get fresh inspection carried out for considering the grant of affiliation for the MBA course for the session 2019-20.Adjourned to 18.09.2019”

(ii) Order dated 18.09.2019:

“ Learned counsel appearing on behalf of the respondent requests for some more time in order to get the inspection carried out. Adjourned to 26.09.2019”

(iii) Order dated 18.10.2019:

“xxxx During the pendency of the writ petition, a fresh inspection was got conducted by the Panjab University, in which, a number of deficiencies were noted on the basis of which recommendation was made by the inspection committee not to grant temporary extension of affiliation to the petitioner for MBA course for the session 2019-20. Inspection report dated 24.09.2019 is taken on record.Xxx”

(iv) Order dated 19.06.2020

“xxx Learned counsel for the applicant-petitioner submits that inspection was carried out on 13.03.2020 and all the deficiencies pointed out earlier stand removed. The Panjab University is directed to place on record a copy of the said inspection report along with its recommendations with a copy in advance to counsel for the applicant-petitioner. xxx”

(v) Order dated 24.06.2020.

“xxx Learned counsel for the petitioner prays for time to go through the inspection report filed by the respondent. On request adjourned to 01.07.2020”.

48. It was thus in the presence of the earlier inspection reports, forming the basis of the impugned refusal to grant extension of affiliation, that fresh inspections were got conducted by the University and the reports qua those fresh inspections were taken on record by this Court.

49. As already stated, Civil Miscellaneous Application bearing No. 18805 of 2019 under Article 226 of Constitution of India was filed by petitioner impugning letter dated 25.11.2019, Annexure P/28, issued by University, formally conveying the decision dated 09.11.2019 refusing to grant extension of affiliation.

50. Relevant events which took place after the filing and during the pendency of *lis* and their effect are required to be taken into consideration by the Court and the ultimate relief has to be accordingly moulded.

51. In the premise, it has to be and is held that the Inspection Committees constituted in the present case and/or their inspection reports forming the basis for refusal of temporary extension of petitioner's affiliation are not in accordance with law. Question (b) framed in para 7 above is answered accordingly.

52. Considering the totality of the facts and circumstances of the case, particularly, the career and future of the concerned students, I am of the opinion that the interest of justice would be met if the impugned orders dated 10.04.2019 conveyed vide letter dated 02.05.2019 Annexure P/15 and dated 25.11.2019, Annexure P/28 refusing extension of affiliation are set aside with a direction to the respondent University to constitute a fresh Inspection Committee strictly in accordance with the provisions of Regulation 4.6 of the UGC (Affiliation of Institutes by Universities) Regulations 2009 and on receipt/consideration of its inspection report, to decide *de-novo* the case for extension of the petitioner's affiliation and that till then to extend the petitioner's affiliation for MBA Programme. It would also be only just and fair to direct that the new Inspection Committee to be constituted by the respondent should not include any person who might have already expressed opinion against the grant of initial affiliation or extension of affiliation for the petitioner's MBA Programme.

53. Accordingly, it is ordered that :

- (a) the impugned orders dated 10.04.2019 conveyed vide letter dated 02.05.2019 Annexure P/15 and dated 25.11.2019, Annexure P/28 refusing extension of affiliation are set aside;
- (b) the competent authority of the respondent University shall constitute a fresh Inspection Committee strictly in accordance with the provisions of Regulation 4.7 of the UGC (Affiliation of Colleges by Universities)

Regulations 2009, which should not include any person who has already expressed adverse opinion against the grant of initial affiliation or extension of affiliation for the petitioner’s MBA Programme;

- (c) On receipt/consideration of inspection report of the newly constituted Inspection Committee, the competent authority shall take a fresh decision on extension of the petitioner’s affiliation;
- (d) Till a fresh decision as at (c) is taken by the competent authority of the University on extension of the petitioner’s affiliation, the petitioner’s affiliation for MBA Programme shall stand extended;
- (e) University is consequently directed to let the petitioner submit ‘student return’ and complete all the requirements required for their registration with the University for academic session till its fresh decision on extension of the petitioner’s affiliation; .
- (f) Needful as at (b & c) above be done within two months from the receipt of certified copy of this order.

54. Needless to say, the petitioner, if aggrieved by the fresh decision taken by the University on extension of its affiliation, would be at liberty to challenge the same.

55. Writ petition is disposed of accordingly. Pending applications also stand disposed of.

05.08.2020
Jiten

(ARUN MONGA)
JUDGE

Whether speaking/reasoned	Yes
Whether Reportable	Yes