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IN THE HIGH COURT OF DELHI AT NEW DELHI

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Date of Decision: 17th August, 2023

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W.P.(C) 3612/2020 & CM APPL. 12863/2020, 17211/2020

INSTITUTE OF TOWN PLANNERS, INDIA Petitioner

Through: Mr. Rakesh Kumar Khanna,
Senior Advocate with Mr. Pramod Gupta,
Ms. Himanshi, Ms. Utkarsha Srivastava and
Ms. Nikita Patra, Advocates.

versus

ALL INDIA COUNCIL FOR

TECHNICAL EDUCATION & ORS.

..... Respondents

Through: Mr. Chetan Sharma, Additional
Solicitor General and Mr. Anil Soni,
Standing Counsel with Mr. Amit Gupta,
Mr. Rishav Dubey, Mr. Sahaj Garg and
Mr. Saurabh Tripathi, Advocates.

CORAM:

HON'BLE MS. JUSTICE JYOTI SINGH

JUDGEMENT

JYOTI SINGH, J.

1. Petitioner herein is an Institute of Town Planners, a body of qualified professional 'town and country planners' and as per the data in the writ petition has 6500 qualified town planners as its members. It is a non-profit making institution and a National Level Apex Body of all professionals in the field of Town and Country Planning.

2. By this petition, Petitioner assails a Notification dated 03.01.2020, whereby Respondent No.1/All India Council for Technical Education ('AICTE') has constituted the 'All India Board of Town and Country Planning' (hereinafter referred to as the



‘Board’) for a term of 3 years, in exercise of powers under Section 13(2) and 13(4) read with Section 23 of the All India Council for Technical Education Act, 1987 (hereinafter referred to as ‘AICTE Act’).

3. It is averred in the writ petition that Petitioner was established in the year 1951-52 as a Body of qualified professional Town and Country Planners. As per Article 3(d) of the Memorandum of Association, aim of the organization is to foster teaching of subjects related to Town and Country Planning. Petitioner has been evaluating and monitoring the course curriculum of Universities and Schools imparting education in Town and Country Planning in the country, according recognition to various institutions and working closely with the Government on matters of planning for the past several decades. In the past, Petitioner had prepared ‘Urban Development Plan, Formulation and Implementation Guidelines’ for the Ministry of Urban Development, Government of India in 1996 and has locus to file the present petition.

4. It is averred that after the impugned Notification dated 03.01.2020 was issued by AICTE, representation was made by the Petitioner on 24.02.2020 pointing out the shortcomings in the constitution of the Board and requested for re-constitution so as to appoint genuine accredited and professionally qualified people, who are Experts in the field of Town and Country Planning and can help the Board in discharging its statutory functions effectively. Getting no response, Petitioner was compelled to file the present petition.

5. Assailing the Notification, learned Senior Counsel for the Petitioner contends that AICTE Act was promulgated to provide for



establishment of AICTE with a view to proper planning and coordinated development of technical education system in the country, promotion of qualitative improvements of such education in relation to planned quantitative growth and regulation and proper maintenance of norms and standards in technical education.

6. Section 13 of AICTE Act provides for establishment of Boards of Studies. In exercise of power under Section 13(2) and 13(4) read with Section 23, AICTE established the 'Board' for 3 years. Board's constitution and functions are regulated by Regulations framed under Sections 13(4) and 23 of AICTE Act. Board of Studies perform several functions such as formulation of educational training and research programmes for consideration of the Executive Committee of AICTE, evolving overall educational plans for the future demands of the country, identifying courses in existing, emerging and other priority areas, considering and deliberating on proposals referred to Board of Studies and examining various recommendations to be made to the Executive Committee as well as designing and developing model curricula. In order to discharge these functions effectively and diligently, it is important that all members of the Board have in-depth and intricate knowledge of the subject of Town Planning so as to further the cause and not merely pay a lip service to it.

7. In this backdrop, it is contended by Mr. Khanna, learned Senior Counsel appearing for the Petitioner that the constitution of the Board by the impugned Notification is not in conformity with the provisions of the AICTE Act. Besides the Chairman, there are seven other members on the Board which are shown as 'Experts' in the field of Town Planning, but this is wholly incorrect, as 5 out of 8 do not even



possess professional qualifications in the field of Town Planning, which is a pre-requisite along with long standing experience in Town Planning. Elaborating on the argument it was urged that a bare look at the qualifications of the members appointed would show that Respondent No.2 is M.Tech. and Ph.D. in VLSI Design and is an Expert in creating circuit by combining millions of transistors into a single chip. He has extensive experience in teaching, research, industry and administration in technology in some of Karnataka's most reputed technology institutions, but is not even remotely connected to Town Planning. Similarly, Respondent No.3 has qualifications of Ph.D. M.Arch. and B.Arch. and specialises in Landscape Architecture and Sustainable Development having experience of 26 years in academics and industry but these qualifications are not sufficient for appointment as member of the Board. Likewise, Respondent No.4 and Respondent No.5 are disqualified, as Respondent No.4 is a B.E. (Civil) (Hons.), M.Tech. (Hons.) and Ph.D. working as Assistant Professor in College of Technology and Engineering with experience of 16 years in teaching and research. His field of interest is Concrete Technology and Analysis and Design of structures with no bearing on Town Planning. Respondent No.5 is D.P.L.G. Paris, Principal Architect with no qualification and experience in the field of Town Planning. It was further contended that from the counter affidavit, it was learnt that another member Dr. Yehuda is also an Architect specializing in Environmental Design, Practice and Education and unqualified to be appointed as a part of the Board. Therefore, since 5 out of 8 members either lack educational qualifications or required work experience, the



Notification deserves to be quashed.

8. Respondents have not brought to the notice of the Court the 'All India Council for Technical Education (Constitution and Functions of Boards of Studies) Regulations, 1995' (hereinafter referred to as the '1995 Regulations') issued vide Gazette Notification dated 18.02.1995 which govern the composition and functioning of the Board. Regulation 3(2) provides for constitution of the Board and the composition as provided under Regulation 3(3)(ii) is as follows:-

(ii) **All India Board of Town and Country Planning Education.**

1. *Chairman to be nominated by the chairman, All India Council for Technical Education.*

Members:

2-3. *Two representatives of Major employing agencies of Central and State Governments to be nominated by the chairman, All India Council for Technical Education.*

4-5. *Two representatives of Professional bodies to be nominated by the Chairman, All India Council for Technical Education.*

6-8. *Three experts in the field of country and Town Planning to be nominated by the Chairman, All India Council for Technical Education.*

9-10. *Two Principals Head of Department of recognised School of Planning (by rotation) to be nominated by the Chairman, All India Council for Technical Education.*

11-12. *Two representatives from Development authorities corporations such as DDA, HUDCO, Calcutta Metro, D.C., Maharashtra Housing Dev. Bd. to be nominated by the Chairman, All India Council for Technical Education.*

13. *One Member Secretary – Secretary General Institute of Town Planning India ex-officio.*

9. It was argued that the composition of the Board is not in conformity with Regulation 3(3)(ii). The contention of AICTE in the counter affidavit that Town and Country Planning being an inter-disciplinary field and not restricted to a specific area, requires Experts with vast experience in the areas of Architecture, Planning, Civil



Engineering etc. and therefore persons from other fields have been nominated in the Board, is contrary to their own understanding of composition of the Board, where the nominated members have been referred to as 'Experts-Town Planning'. Board has to advise the Executive Committee of AICTE on academic matters falling in the areas of norms, standards and model curricula and therefore, inclusion of unqualified members will be detrimental to Town and Country Planning discipline, due to conflict of interests.

10. It was also argued that it is common knowledge that a person can be considered an Expert only if he has pursued higher degree of education in a particular field and not if he has a basic degree in that field. Emphasis by AICTE on multi-disciplinary fields to argue that Town Planning requires Expert knowledge in Architecture, Engineering, Geography, Electronics and Communication Engineering etc. is only an attempt to divert the attention from the fact that constitution of the Board is illegal. Repeatedly, in the counter affidavits, AICTE has attempted to highlight that the project of smart cities requires Experts not just in Town Planning but in diverse fields including professionals from Universities and Technical Institutes and therefore, qualification/experience cannot be restricted to Town Planning is a fallacious stand. Projects of smart cities are undertaken by preparing master plans after obtaining information and assistance from concerned departments and line agencies, who implement the proposals of master plans. The scheme of smart cities has been initiated by Ministry of Housing and Urban Affairs along with several other schemes such as Swachh Bharat Mission, Pradhan Mantri Awas Yojna, Heritage City Development and Augmentation Yojna etc.



These schemes are implemented through various departments of Central/State Governments and it would be incorrect to even suggest that Town and Country Planning education can be based on any particular scheme, which are inherently temporary and keep changing. Therefore, including Experts from other disciplines outside the Town Planning subject is not justified since Town Planners are specially trained on this particular subject and their expertise cannot be substituted by an Expert in the field of Engineering and Architecture. Board of Town Planning operates for a different purpose and only those with educational qualification and experience in that subject will be in a position to understand the intricacies of the subject of Town and Country Planning education in terms of theory, practice, field experience and studio work. Importance of possessing educational qualifications and experience in Town Planning becomes pronounced when model curricula is to be framed for the technical institutes across the country.

11. Learned Senior Counsel placed reliance on the judgement in *Union of India v. R. Gandhi, President, Madras Bar Association, (2010) 11 SCC 1*, where the Supreme Court has held that appointment of a technical member presupposes experience in the field in which he is expected to work in the specialized Tribunal, where he is appointed. Reliance was also placed on the judgement in *Ramesh Chandra Agrawal v. Regency Hospital Limited and others, (2009) 9 SCC 709*, wherein the Supreme Court observed that to bring the evidence of a witness as an expert, it has to be shown that he has made a special study of the subject or acquired a special experience therein or in other words that he is skilled and has adequate knowledge of the subject. In



another judgment in *Suvina B. Redkar v. Government of Goa and others, 1991 (4) Bom CR 695*, the Court has held that it is necessary to see the role and importance attached to Goa Town and Country Planning Board in achieving the object of Section 18(3) of Goa, Daman and Diu Town and Country Planning Act, 1974. In *Madras Bar Association v. Union of India and another, (2014) 10 SCC 1*, the Supreme Court observed that it is difficult to appreciate how an Accountant and Technical Member would handle complicated questions of law relating to tax matters and also questions of law on a variety of subjects, unconnected to tax, in exercise of jurisdiction vested with NTT. Since the Chairperson/Members of NTT will be required to determine substantial questions of law, arising out of decision of Appellate Tribunal, it is difficult to appreciate how an individual well-versed only in Accounts, would be able to discharge such functions. It was thus urged that in light of these judgments, it is utmost necessary that Experts appointed on the Board must necessarily possess educational and professional qualifications and experience exclusively in the field of Town and Country Planning.

12. It is not open to AICTE to question the *locus standi* of the Petitioner to file the present petition. Petitioner Institute is actively functioning in the field of Town and Country Planning for about 70 years and has also prepared the DPR and made presentation to the then Planning Commission to start four new schools of Planning and Architecture, pursuant to which, two schools have already started at Bhopal and Vijaywada, respectively. Petitioner has also assisted AICTE in preparing syllabus for B.Planning and M.Planning. Under a Memorandum of Understanding dated 25.09.1996 between the



Petitioner and AICTE, it was agreed that introduction of new courses in Town and Country Planning will be done under relevant Regulations in collaboration with the Petitioner. Therefore, the illegal constitution of the Board will deal with the entire education system and Petitioner not only has interest in the subject matter of the writ petition but is also an 'aggrieved body'.

13. Learned Additional Solicitor General arguing on behalf of the Respondents and strongly opposing the writ petition contended that a close look at the functions of the AICTE would show that it has been established by an Act of Parliament with a view to plan and coordinate development of technical education system throughout the country and to promote and improve quality of such education along with regulation of norms and standards in the system and matters connected therewith. Section 10 of the AICTE Act prescribes the functions of AICTE and mandates that it shall be the duty of the Council to take all necessary steps for ensuring coordinated and integrated development of technical education and maintenance of standards. In order to discharge its duties, AICTE has framed Regulations for grant of approval for starting new technical institutions and introduction of courses/programmes for existing institutions. Section 13 provides for establishment of various Boards of Studies which advise the Executive Committee on academic matters falling in their respective areas of concern. Section 23 enables the Council, by Notification in the Official Gazette to make Regulations not inconsistent with the AICTE Act to carry out the purposes of the Act. The Regulations may provide for regulating the meetings of the Executive Committee, terms and conditions of service of the employees of the Council etc. The



Executive Committee comprises of Chairman, AICTE, Vice-Chairman, AICTE and three Chairmen of the Board of Studies with other members including Chairman, UGC etc. The constitution of the Board is in consonance with the provisions of AICTE Act and there is no illegality in the nomination of the members of the Board.

14. Petitioner is a self-financed organization and has no *locus standi* to file the present petition as it cannot be termed as ‘aggrieved person’ in order to invoke the certiorari jurisdiction of this Court under Article 226 of the Constitution of India and the writ petition deserves to be dismissed on this ground alone. Moreover, it is not open to the Petitioner to question the expertise or wisdom of AICTE, a body in existence since 1945 as a National Level Apex Advisory Body with a statutory backing in nominating members of the Board for the purpose of advising the Executive Committee on matters falling in its area of concern. Petitioner cannot call upon the Court to examine the composition/constitution of the Board, which is an exclusive domain of the AICTE *albeit* there is no illegality in the nominations.

15. Without prejudice to the preliminary objection, it was argued that field of Town and Country Planning covers vast areas of subjects, namely, Civil/Electrical/Electronic/Communication Engineering, Architecture, Designing, Horticulture, Water Conservation etc. and therefore, involving people from different fields has become important and imperative, with the Government of India taking up several projects of Smart Cities etc. under the Ministry of Housing and Urban Affairs and thus members of the Board cannot be restricted to one area of specialization or expertise or subject. It is for this reason that eminent, experienced and well-qualified persons have



been taken from different fields of Engineering/Architecture/Town Planning etc. working in different Universities and Technical Institutes. The nominations have been duly approved and endorsed by the Executive Committee which comprises of Vice-Chancellor of University, Secretary/Joint Secretary level officers in-charge of Technical Education Departments of State Governments and Directors/Principals of Technical Institutes. Furthermore, the Board of Studies are not permanent Bodies and are re-constituted on completion of prescribed tenure by AICTE.

16. AICTE is a Regulatory Body of Technical Education in the country and in order to perform its functions and prepare the students to compete in different technical subjects, Board of Studies are constituted with great care and caution. For each Committee, there is a Chairman and some members are appointed to formulate educational, training and research programs for consideration of the Executive Committee of AICTE, keeping in view the qualitative and quantitative requirements to evolve overall educational plans to meet the future demands of the country, to identify courses in existence, to design and develop model curricula and to formulate appropriate guidelines for grants and funding of institutions etc. Keeping this goal in mind, Board of Studies include educationists/academicians from reputed institutions such as IITs/NITs/IIM/SPAs or Government Institutions of National importance.

17. Town and Country Planning is an inter-disciplinary field and not restricted to a specific area. Experts with vast experience in areas of Architecture, Planning, Civil Engineering, Electrical, Sanitation, Computer Science etc. are necessary as the Board Members are



required to take care of curricula updation, formulate programs for research and development and consultancy and industry-institute interactions. With the advancement in technology and requirement of modern town planning, if the contention of the Petitioner is accepted, it would curtail the growth because today town planning does not merely involve issues related to water, sewage, roads but also covers a wider ambit of internet connectivity, sensors, cameras, security and lots of work related to automation in the context of smart cities, green cities, industry belt, SEZs, education zones and other related activities.

18. Petitioner is wrong in arguing that the Board can only comprise of experts in town planning. The word ‘Experts’ is very generic in nature and nominations have to take colour from Section 13(3) of AICTE Act, which provides that *‘Every Board of Studies shall advise the Executive Committee on academic matters falling in its area of concern including norms, standards, model curricula, model facilities and structure of courses’*. The ‘area of concern’ in the statute cannot mean or connote that members of the Board have to be restricted to the subject of town and country planning and instead is of a wide amplitude to include all inter-disciplinary activities connected to the curricula of town and country planning in the context of the need of the day. Regulation 3(3)(ii) of 1995 Regulations have to be seen and read in the context of Section 13 of the AICTE Act and moreover, it nowhere provides that the required experts/ representatives have to be qualified only in a particular subject. Wherever only a ‘subject expert’, was required, the same was specifically stipulated, as in Regulation 9(v), which reads “ALL INDIA BOARD OF COMPUTER SCIENCES, ENGINEERING AND APPLICATIONS. MEMBERS



6-8. *Three Subject Experts are to be nominated by the Chairman, All India Council for Technical Education.*” The objection raised by the Petitioner with respect to Prof. Rohit Shinkre was duly examined and finding merit in the same, his name was removed from the Board Members with immediate effect and the communication addressed to him on 12.07.2022 has been filed in the Court.

19. I have heard the learned Senior Counsel for the Petitioner and learned Additional Solicitor General for the Respondents.

20. The challenge in the present petition is to a Notification dated 03.01.2020 issued by AICTE primarily on the ground that the constitution and composition of the Board is not in conformity with the AICTE Act and 1995 Regulations. Before embarking on the journey of considering this challenge, it would be important to understand the scope and ambit of the powers of judicial review of this Court under Article 226 of the Constitution of India to interfere in matters relating to selections, appointments and nominations. The fetters and restrictions on the powers of the Courts to review actions of appointment etc. made by the Government or other Statutory Bodies etc. are well defined and the settled law that a very narrow window is available for judicial review cannot be ignored or glossed over. The strict parameters within which powers of judicial review in matters relating to selections and appointments can be exercised have been laid down and affirmed and reaffirmed in various judicial pronouncements of the Supreme Court and various High Courts. In *All India Council for Technical Education v. Surinder Kumar Dhawan and Others*, (2009) 11 SCC 726, the Supreme Court observed that the Courts are neither equipped nor have the academic or technical



background to substitute themselves in place of statutory professional technical bodies and take decision in academic matters involving standards and quality of technical education. If the Courts start entertaining petitions from individual institutions or students to permit courses of their choice for whatever reasons, it will lead to chaos in education and deterioration in standards of education. The role of statutory expert bodies and the role of the Courts are well-defined by a simple rule. If a question of education policy or an issue involving academic matters arises, the Courts keep their hands off. If any provision of law has to be interpreted, applied or enforced, the Courts will step in. AICTE consists of professionals and technical experts in the field of education, duly qualified and equipped to decide issues pertaining to constitution of Boards, appointments, nominations, prescribe course content in the model curriculum, set norms and standards of minimum qualifications etc.

21. In *Dr. J.P. Kulshrestha (Dr.) and Others v. Chancellor, Allahabad University and Others*, (1980) 3 SCC 418, the Supreme Court held that Judges must not rush in where even educationists fear to tread and while there is no absolute ban, it is a rule of prudence that Courts should hesitate to dislodge decisions of academic bodies. In 1984, the Supreme Court in *Maharashtra State Board of Secondary and Higher Secondary Education and Another v. Paritosh Bhupeshkumar Sheth and Others*, (1984) 4 SCC 27, observed that Court should be extremely reluctant to substitute its own views as to what is wise, prudent and proper in relation to academic matters in preference to those formulated by professional men possessing technical expertise and rich experience of actual day-to-day



working of educational institutions and the departments controlling them.

22. Significantly and relevant to this case are the observations of the Supreme Court in ***State of T.N. and Another v. Adhiyaman Educational & Research Institute and Others, (1995) 4 SCC 104***, where the Supreme Court while dealing with AICTE Act explained the scope of duties and responsibilities of AICTE and held as follows:-

“22. The aforesaid provisions of the Act including its preamble make it abundantly clear that the Council has been established under the Act for coordinated and integrated development of the technical education system at all levels throughout the country and is enjoined to promote qualitative improvement of such education in relation to planned quantitative growth. The Council is also required to regulate and ensure proper maintenance of norms and standards in the technical education system. The Council is further to evolve suitable performance appraisal system incorporating such norms and mechanisms in enforcing their accountability. It is also required to provide guidelines for admission of students and has power to withhold or discontinue grants and to de-recognise the institutions where norms and standards laid down by it and directions given by it from time to time are not followed. This duty and responsibility cast on the Council implies that the norms and standards to be set should be such as would prevent a lopsided or an isolated development of technical education in the country. For this purpose, the norms and standards to be prescribed for the technical education have to be such as would on the one hand ensure development of technical educational system in all parts of the country uniformly; that there will be a coordination in the technical education and the education imparted in various parts of the country and will be capable of being integrated in one system; that there will be sufficient number of technically educated individuals and that their growth would be in a planned manner; and that all institutions in the country are in a position to properly maintain the norms and standards that may be prescribed by the Council. The norms and standards have, therefore, to be reasonable and ideal and at the same time, adaptable, attainable and maintainable by institutions throughout the country to ensure both quantitative and qualitative growth of the technically qualified personnel to meet the needs of the country. Since the standards have to be laid down on a national level, they have necessarily to be uniform throughout the country without which the coordinated



and integrated development of the technical education all over the country will not be possible which will defeat one of the main objects of the statute. ”

23. Relying on the judgment of the Supreme Court in ***Directorate of Film Festivals and Others v. Gaurav Ashwin Jain and Others, (2007) 4 SCC 737***, wherein the Supreme Court had held that Courts do not and cannot act as appellate authorities examining the correctness and appropriateness of policies nor are Courts advisors to the Executive on such matters and the scope of judicial review is to check whether it violates Fundamental Rights of citizens or is opposed to provisions of the Constitution or statutory provisions or manifestly arbitrary, the Supreme Court in ***Surinder Kumar Dhawan and Others (supra)***, held that these observations will apply with added vigour to the field of education. The Supreme Court also held that matters relating to technical educational is the domain of AICTE and cannot be interfered with, merely because the Court thinks that a decision should have been otherwise.

24. It is trite that where a decision under challenge has been taken by a Committee of Experts, normally, Courts should be slow to interfere with the opinion expressed by the Experts, unless there are allegations of *malafide* against any member of the Expert Committee. In ***University of Mysore v. C.D. Govinda Rao and Another, (1964) 4 SCR 575*** the Supreme Court observed ‘....it would normally be wise and safe for the Courts to leave the decision of academic matters to experts who are more familiar with the problem they face than Courts’. Similar view was taken by the Supreme Court in ***State of Bihar and Others v. Asis Kumar Mukherjee (Dr) and Others, (1975) 3 SCC 602*** and ***Dr. Uma Kant v. Dr. BhikaLal Jain, (1992) 1***



25. In ***Basavaiah (Dr.) v. Dr. H.L. Ramesh and Others, (2010) 8 SCC 372***, the Supreme Court observed that it is settled legal position that Courts have to show deference and consideration to the recommendations of Expert Committees consisting of distinguished experts in the field. Where the experts have evaluated the qualifications, experience etc. and recommended appointments, Courts ought not to sit as appellate bodies on recommendations made by the experts. In ***Jose Meleth v. Union of India and Others, 2013 SCC OnLine Del 5168***, the Division Bench of this Court held as under:-

*“36. The question, thus, is whether Dr. Sivakumar satisfied the basic minimum requirements specified under Clause 1.3.1. If the documentary proof provided by the petitioner is to be believed, Dr. Sivakumar did not have the cumulative ten years' teaching or research experience required under the 2000 Regulations, whilst if Dr. Sivakumar's documentary proof is considered, that requirement is clearly satisfied. Specifically, as in this case, when questions of fact come before the Court, and contradicting versions of fact are presented, the Court must tread with caution. This was considered by the Supreme Court in *Shri Sitaram Sugar Co. Ltd. v. Union of India, (1990) 3 SCC 223*:*

“47. Where a question of law is at issue, the Court may determine the tightness of the impugned decision on its own independent judgment. If the decision of the authority does not agree with that which the Court considers to be the right one, the finding of law by the authority is liable to be upset. Where it is a finding of fact, the Court examines only the reasonableness of the finding. When that finding is found to be rational and reasonably based on evidence, in the sense that all relevant material has been taken into account and no irrelevant material has influenced the decision, and the decision is one which any reasonably minded person acting on such evidence, would have come to, then judicial review is exhausted even though the finding may not necessarily be what the Court would have come to as a trier of fact.”

26. In ***Jai Singh Chauhan v. Union of India and Others, 2019 SCC OnLine Del 8677***, another Division Bench of this Court held as

follows:-



“22. From the aforesaid, it is clear that the legal position affirmed by the Supreme Court is that in such matters, Courts have a very limited role to play, particularly when no mala fides have been alleged against the experts constituting the Search-cum-Selection Committee. The Hon'ble Supreme Court holds that it would normally be prudent and safe for the Courts to leave the decision to academician and experts. As a matter of principle, it is held that Courts should not make an endeavour to sit in appeal over the decision of experts. The Courts must realize and appreciate their constraints and limitations in academic and such like other matters. In this case, the respondents do admit that to some extent respondent No. 4 may not in the strict sense be fulfilling the experience requirements but looking into his overall performance in the field, a high level committee consisting of experts in the field has approved his appointment, therefore this Court should not make any indulgence in the matter. In our considered view, the aforesaid submissions of the senior counsel appearing for the respondents deserve to be accepted.

23. In the absence of any mala fides alleged against the Committee members, they are deemed to have conducted the proceedings in the manner which is proper and legal and in accordance with the requirement of law and even if there was some shortcomings in the experience requirements, the same was taken note of and approved because of the eminence, expertise and other considerations which weighed in favour of respondent No. 4. These are matters decided by experts and this Court is not required to sit in appeal over such a decision.

24. As far as respondent No. 4 not submitting the application in pursuance to the advertisement before the cut off date is concerned, the Search-cum-Selection Committee, as canvassed by the learned Senior Counsel, is not an ordinary Selection Committee. They are experts in the field, have knowledge not only of the subject matter but also of who are the persons of proven eminence working in the field and who substantively fulfil the requirements of the job to which selection is to be made; and if they nominate a person who may not have applied, looking to his eminence, expertise and knowledge of the subject, in the absence of any mala fides in this regard alleged or proved, the wisdom of the experts is not to be taken lightly or interfered with by this Court by reason of some irrelevant technicality, that too at the instance of a person whose locus to file this petition is doubtful and who prima facie seems to be put-up by somebody else for assailing the selection process.”

27. It is thus clear that in the absence of allegations of *malafides*, it is not for this Court to interfere in the wisdom of the experts and I

Would only echo the observations of the Division Bench in **Jai Singh**



Chauhan (supra,) that Courts have a limited role to play while examining the recommendations of expert bodies and it is prudent and safe to leave the decisions to academicians and experts in the field.

28. With these principles in the backdrop as a guiding light, I may now advert to the facts of the present case. It is undisputed that the impugned Notification has been issued by AICTE in exercise of powers conferred by Section 13(2) and 13(4) read with Section 23 of AICTE Act. Petitioner questions the qualifications of the members of the Board on the ground that they lack the educational qualifications or work experience in the field of Town and Country Planning and are incompetent to be appointed as Experts. The concern expressed by the Petitioner in the writ petition is that the Board is required to advise the Executive Committee on academic matters falling in its area of concern and with the constitution under the impugned Notification it will be unable to discharge the functions effectively, which would be detrimental to the field of Town and Country Planning, since the curriculum of Town and Country Planning for the entire country is framed on the recommendations of the Board. Emphasis was laid on 1995 Regulations to bring home the point that the composition has been laid in the 1995 Regulations and nominations cannot be made by AICTE in contravention of the laid down composition.

29. Section 2(b) of AICTE Act defines ‘Council’ to mean the All India Council for Technical Education established under Section 3. Section 12(1) provides for constitution of Executive Committee by the Council for discharging such functions as may be assigned to it by the Council. Section 13(1) empowers the Council to establish various Board of Studies and Section 13(2) enables the Council, if it considers



necessary, to establish such other Board of Studies as it may think fit. Sub-section (3) of Section 13 provides that every Board of Studies shall advise the Executive Committee on academic matters falling in its 'area of concern' including norms, standards, model curricula, model facilities and structure of courses. Section 23 of AICTE Act deals with power to make Regulations and provides that the Council may, by Notification in the official Gazette make Regulations not inconsistent with the provisions of the Act to carry out the purposes of the Act. Section 13(1) to (4) of AICTE Act is extracted hereunder, for ready reference:-

"13. (1) The Council shall establish the following Boards of Studies, namely:

- (i) All India Board of Vocational Education;*
- (ii) All India Board of Technician Education;*
- (iii) All India Board of Under-graduate Studies in Engineering and Technology;*
- (iv) All India Board of Post-graduate Education and Research in Engineering and Technology;*
- (v) All India Board of Management Studies.*

(2) The Council may, if it considers necessary, establish such other Boards of Studies as it may think fit.

*(3) Every Board of Studies shall advise the Executive Committee on academic matters falling in its **area of concern** including norms, standards, model curricula, model facilities and structure of courses.*

(4) The area of concern, powers, the constitution and functions of the Boards of Studies shall be such as the Council may provide by regulations."

30. It is clear from a reading of Section 13 of AICTE Act that the Boards of Studies are established by the Council and are required to advise the Executive Committee on academic matters 'falling in its area of concern'. This includes setting norms, standards etc. and the expression 'area of concern' cannot be given a restricted meaning or



interpretation to mean that the role of the Board is restricted to any particular subject and therefore, its members must hold qualifications only in that subject. AICTE is an expert body which has been in existence since November, 1945 as a National level Apex Advisory Body with the objective of developing and promoting quality technical education in the country. All India Board of Town and Country Planning is constituted by the Council which in turn comprises of the following, under Section 3(4) of AICTE Act:-

“3. Establishment of the Council.—

.....

(4) The Council shall consist of the following members, namely:

- (a) a Chairman to be appointed by the Central Government;*
- (b) a Vice-Chairman to be appointed by the Central Government;*
- (c) the Secretary to the Government of India in the Ministry of the Central Government dealing with education, ex officio;*
- (d) the Educational Adviser (General) to the Government of India, ex officio;*
- (e) the Chairmen of the four Regional Committees, ex officio;*
- (f) the Chairmen of,*
 - (i) the All India Board of Vocational Education, ex officio;*
 - (ii) the All India Board of Technician Education, ex officio;*
 - (iii) the All India Board of Under-graduate Studies in Engineering and Technology, ex officio;*
 - (iv) the All India Board of Post-graduate Education and Research in Engineering and Technology, ex officio;*
 - (v) the All India Board of Management Studies, ex officio;*
- (g) one member to be appointed by the Central Government to represent the Ministry of Finance of the Central Government;*
- (h) one member to be appointed by the Central Government to represent the Ministry of Science and Technology of the Central Government;*
- (i) four members to be appointed by the Centra Government*



by rotation to represent the Ministries and the Departments of the Central Government, other than those specified in clauses (g) and (h);

(j) two members of Parliament of whom one shall be elected by the House of the People and one by the Council of States.

(k) eight members to be appointed by the Central Government by rotation in the alphabetical order to represent the States and the Union territories:

Provided that an appointment under this clause shall be made on the recommendation of the Government of the State, or as the case may be, the Union territory concerned;

(l) four members to be appointed by the Central Government to represent the organisations in the field of industry and commerce;

(m) seven members to be appointed by the Central Government to represent:-

- (i) the Central Advisory Board of Education;*
- (ii) the Association of Indian Universities;*
- (iii) the Indian Society for Technical Education;*
- (iv) the Council of the Indian Institutes of Technology;*
- (v) the Pharmacy Council of India;*
- (vi) The Council of Architecture;*
- (vii) the National Productivity Council;*

(n) four members to be appointed by the Central Government to represent the professional bodies in the field of technical and management education;

(o) not more than two members to be appointed by the Central Government to represent such interests not covered by the foregoing clauses as the Central Government may deem fit;

(p) the Chairman, University Grants Commission, ex officio;

(q) the Director, Institute of Applied Manpower Research, New Delhi, ex officio;

(r) the Director-General, Indian Council of Agricultural Research, ex officio;

(s) the Director-General, Council of Scientific and Industrial Research, ex officio;

(t) Member-Secretary to be appointed by the Central Government."



31. The composition of AICTE shows that it comprises of experts from diverse fields and is an expert body of long standing. The rich experience and expertise of the members of the Council goes into making the conscious decisions of nominating members of the Board of Studies, taking into consideration all relevant factors including qualifications, experience and expertise of the persons to be nominated as members. In the present case also the Council has nominated the members of the Board after due deliberations, looking into their qualifications, field of expertise and vast experience and it goes without saying that the Council with its experienced and expert members was not oblivious of the 1995 Regulations. In the counter affidavit, AICTE has explained that Town and Country Planning covers vast areas of subjects namely civil/electric/ electronic/ communication engineering, architecture, designing, horticulture, water conservation etc. It is also explained that in today's times, Town Planning is no longer understood in the conservative or traditional sense as understood by the Petitioner. With the advancement of technology in all fields and modern day's challenges of environment pollution, traffic monitoring etc., it has become essential and imperative to involve experts from inter-disciplinary fields. Keeping in view the Government policy for establishing Smart Cities/Smart Villages, the members of the Board cannot be restricted to those who possess qualifications only in the subject of Town and Country Planning. Therefore, looking at the need of the hour, the Council took a conscious decision to appoint members having expertise in different fields and working in different Universities and Technical Institutes. It was also pointed out by the learned Additional Solicitor General and



rightly so, that the New National Education Policy advocates flexibility in all disciplines and AICTE has to evolve a holistic and integrated approach in the technical education system consistently endeavouring to update and revise the model curriculum keeping in pace with time and the requirements of the urban areas and smart cities' projects etc.

32. Learned ASG highlighted that the nominations have been duly approved and endorsed by the Executive Committee which comprises of Vice-Chancellor of University, Secretary/Joint Secretary level officers in-charge of Technical Education Departments of State Governments and Directors/Principals of Technical Institutes. Furthermore, the Board of Studies are not permanent Bodies and are re-constituted on completion of prescribed tenure by AICTE.

33. It is also pertinent to point out that the members of the Board in respect of which objections have been raised by the Petitioner are highly qualified and experienced persons in their respective fields. Respondent No. 2 holds the qualification of M.Tech. and Ph.D. in VLSI Design and is an expert in the process of creating integrated circuit by combining millions of transistors into Single Chip. He has extensive experience in teaching, research, industry and administration in the field of Technology in some of Karnataka's most reputed high technology institutions. Respondent No. 3 holds the qualification of Ph.D., M.Arch. and B.Arch. She specialises in Landscape Architecture and Sustainable Development having an experience of almost 26 years in both Academics and Industry. Respondent No. 4 is a person holding qualifications of BE Civil (Hons.), M. Tech. (Hons.) and Ph.D. He has an experience of almost 16 years in teaching, research etc., his field of



interest being Concrete Technology and Analysis and Design of Structures. Respondent No. 6 holds the qualification of Ph.D., M.Arch. and B.Arch. and specialises in Environmental Design, Energy, ECBC and Education. Wherever AICTE found substance in the objection of the Petitioner, it has taken remedial action as in the case of Respondent No. 5 who has been removed from the membership of the Board. Therefore, looking at the nature of the activities the Board is required to carry out and undertake as also keeping in mind that the decision to nominate Board members has been taken by an expert body such as AICTE constituted by senior, well qualified professionals, Government officials and senior officials from the field of education, it is not for this Court to substitute its wisdom to hold that the Board has not been properly constituted, *sans* allegations of *malafides*. This would be clearly beyond the scope and ambit of judicial review under Article 226 of Constitution of India.

34. Learned ASG also raised an objection to the *locus standi* of the Petitioner to challenge the impugned Notification. Present petition has been filed by the Petitioner invoking the jurisdiction of this Court to issue a writ of certiorari under Article 226 of the Constitution, which empowers the High Court to issue to any person or authority, including the Government, within its territorial jurisdiction, directions, orders or writs including writs of habeas corpus, mandamus, prohibition, quo warranto and certiorari for enforcement of fundamental rights and for any other purpose.

35. In order to invoke the certiorari jurisdiction of a High Court under Article 226 of the Constitution of India, Petitioner should be an 'aggrieved person'. This clearly flows from most of the English



decision and to avoid prolixity, I may only refer to *In Re Sidebotham Ex p. Sidebotham*, [L.R.] 14 Ch. 458 (CA), wherein it was held “A ‘person aggrieved’ must be a man who had suffered a legal grievance, a man against whom a decision has been pronounced which had wrongfully deprived him of something; or wrongfully refused him of something, or wrongfully affected his title to something.” The Supreme Court in the decision in *Jasbhai Motibhai Desai v. Roshan Kumar, Haji Bashir Ahmed*, (1976) 1 SCC 671, elaborately dealt with the expression ‘aggrieved person’ and held as follows:

“13. This takes us to the further question: Who is an “aggrieved person” and what are the qualifications requisite for such a status? The expression “aggrieved person” denotes an elastic, and to an extent, an elusive concept. It cannot be confined within the bounds of a rigid, exact and comprehensive definition. At best, its features can be described in a broad tentative manner. Its scope and meaning depends on diverse, variable factors such as the content and intent of the statute of which contravention is alleged, the specific circumstances of the case, the nature and extent of the petitioner's interest, and the nature and extent of the prejudice or injury suffered by him. English courts have sometimes put a restricted and sometimes a wide construction on the expression “aggrieved person”. However, some general tests have been devised to ascertain whether an applicant is eligible for this category so as to have the necessary locus standi or “standing” to invoke certiorari jurisdiction.”

36. In the aforesaid judgments, the Supreme Court observed that to invoke the extraordinary jurisdiction under Article 226, an applicant should ordinarily be one who has a personal or individual right in the subject matter, though in writs of habeas corpus and quo warranto, the rule is relaxed. The expression ‘ordinarily’ was also explained by the Supreme Court, as follows :

“34. This Court has laid down in a number of decisions that in order to have the locus standi to invoke the extraordinary jurisdiction under Article 226, an applicant should ordinarily be one who has a personal or individual right in the subject-matter of the



application, though in the case of some of the writs like habeas corpus or quo warranto this rule is relaxed or modified. In other words, as a general rule, infringement of some legal right or prejudice to some legal interest inhering in the petitioner is necessary to give him a locus standi in the matter, (see *State of Orissa v. Madan Gopal Rungta* [1951 SCC 1024 : AIR 1952 SC 12 : 1952 SCR 28] ; *Calcutta Gas Co. v. State of W.B.* [AIR 1962 SC 1044 : 1962 Supp (3) SCR 1] ; *Ram Umeshwari Suthoo v. Member, Board of Revenue, Orissa* [(1967) 1 SCA 413] ; *Gadde Venkateswara Rao v. Government of A.P.* [AIR 1966 SC 828 : (1966) 2 SCR 172] ; *State of Orissa v. Rajasaheb Chandanmall* [(1973) 3 SCC 739]; *Satyanarayana Sinha Dr v. S. Lal & Co.* [(1973) 2 SCC 696 : (1973) SCC (Cri) 1002]).

35. The expression “ordinarily” indicates that this is not a cast-iron rule. It is flexible enough to take in those cases where the applicant has been prejudicially affected by an act or omission of an authority, even though he has no proprietary or even a fiduciary interest in the subject-matter. That apart, in exceptional cases even a stranger or a person who was not a party to the proceedings before the authority, but has a substantial and genuine interest in the subject-matter of the proceedings will be covered by this rule. The principles enunciated in the English cases noticed above, are not inconsistent with it.”

37. In the said judgment, the Supreme Court laid down the principles to determine the *locus standi* of an applicant to file a writ of certiorari and in that light examined the *locus* of the Appellant therein and held that the Appellant was not deprived of a legal right and had sustained no legal injury to be entitled to a legal protection of his interest. Appellant had suffered no legal grievance and was not a person ‘aggrieved’. Relevant paragraphs are as follows:

“37. It will be seen that in the context of locus standi to apply for a writ of certiorari, an applicant may ordinarily fall in any of these categories: (i) “person aggrieved”; (ii) “stranger”; (iii) busybody or meddlesome interloper. Persons in the last category are easily distinguishable from those coming under the first two categories. Such persons interfere in things which do not concern them. They masquerade as crusaders for justice. They pretend to act in the name of pro bono publico, though they have no interest of the public or even of their own to protect. They indulge in the pastime of meddling with the judicial process either by force of habit or from improper motives. Often, they are actuated by a desire to win notoriety or



cheap popularity; while the ulterior intent of some applicants in this category, may be no more than spoking the wheels of administration. The High Court should do well to reject the applications of such busybodies at the threshold.

38. The distinction between the first and second categories of applicants, though real, is not always well-demarcated. The first category has, as it were, two concentric zones; a solid central zone of certainty, and a grey outer circle of lessening certainty in a sliding centrifugal scale, with an outermost nebulous fringe of uncertainty. Applicants falling within the central zone are those whose legal rights have been infringed. Such applicants undoubtedly stand in the category of “persons aggrieved”. In the grey outer circle the bounds which separate the first category from the second, intermix, interfuse and overlap increasingly in a centrifugal direction. All persons in this outer zone may not be “persons aggrieved”.

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48. In the light of the above discussion, it is demonstrably clear that the appellant has not been denied or deprived of a legal right. He has not sustained injury to any legally protected interest. In fact, the impugned order does not operate as a decision against him, much less does it wrongfully affect his title to something. He has not been subjected to a legal wrong. He has suffered no legal grievance. He has no legal peg for a justiciable claim to hang on. Therefore he is not a “person aggrieved” and has no locus standi to challenge the grant of the no-objection certificate.

49. It is true that in the ultimate analysis, the jurisdiction under Article 226 in general, and certiorari in particular is discretionary. But in a country like India where writ petitions are instituted in the High Courts by the thousand, many of them frivolous, a strict ascertainment, at the outset, of the standing of the petitioner to invoke this extraordinary jurisdiction, must be insisted upon. The broad guidelines indicated by us, coupled with other well-established self-devised rules of practice, such as the availability of an alternative remedy, the conduct of the petitioner etc. can go a long way to help the courts in weeding out a large number of writ petitions at the initial stage with consequent saving of public time and money.”

38. In *Tirupati Buildings and Offices Pvt. Ltd. v. Reserve Bank of India, 2019 SCC OnLine Del 8990*, this Court had the occasion to examine the *locus standi* of the petitioner as also delve on the



expression ‘person aggrieved’ and I may allude to a few passages from the judgement, which are extracted hereunder:-

“53. Admittedly, no petition has been filed by the respondent No. 3 Edelweiss Asset Reconstruction Company Limited; who had submitted the bid which was held to be highest. If the stand of the petition is that the said bid of the respondent No. 3 has not been decided, then it shall be grievance of the respondent No. 3 to raise an issue. Merely because the bid is for taking over of the loan given by the Dena Bank to the petitioner even though would suggest some interest of the petitioner but that would not show locus of the petitioner to maintain the writ petition for a prayer as noted above, as it is settled law to maintain a writ under Article 226 of the Constitution of India it should be shown by the petitioner that its right has been infringed by the inaction on the part of the respondent No. 2 to decide the bid submitted by the respondent No. 3 Edelweiss Asset Reconstruction Company Limited, which according to Mr. Aggarwal it has failed. Further it is not the case of the petitioner that the present petition has been filed in public interest. Surely such cases are exception to the locus standi rule as held by the Supreme Court in various judgments including Bandhua Mukti Morcha v. Union of India, (1984) 3 SCC 161 : AIR 1984 SC 802. Further, the submission of Mr. Tripathi that the Edelweiss and the petitioner have been writing to the Dena Bank for consummation of sale is concerned; the same can be a ground for Edelweiss but not the petitioner, who is not the bidder to approach the Court with relief as prayed for. So, the relief to the respondent No. 3 cannot be given at the asking of the petitioner. In other words, the cause of action is the submission of bid which has not been decided. It is surely a cause for the respondent No. 3 to approach the Court against Dena Bank and not the petitioner. So, it follows the judicial review of the inaction on the part of the Dena Bank to decide the bid on any ground at the behest of any party other than Edelweiss is impermissible. Hence, this plea of Mr. Aggarwal needs to be accepted and it must be held that the petitioner has no locus standi to seek prayer(s) as stated above in this writ petition. In support of my aforesaid conclusion, I may refer to the following judgments of the Supreme Court on the issue of maintainability of the writ petition by a person who has no locus standi to file a petition:

54. In Calcutta Gas Company (Proprietary) Ltd. v. State of West Bengal, AIR 1962 SC 1044, in para 5 the Supreme Court has held as under:

“...Article 226 confers a very wide power on the High Court to issue directions and writs of the nature mentioned therein for the enforcement of any of the rights conferred by Part III or for any other purpose. It is, therefore, clear that persons other than



those claiming fundamental rights can also approach the court seeking a relief thereunder. The Article in terms does not describe the classes of persons entitled to apply thereunder; but it is implicit in the exercise of the extraordinary jurisdiction that the relief asked for must be one to enforce a legal right. In State of Orissa v. Madan Gopal, 1952 SCR 28 : (1951 SCC 1024 : AIR 1952 SC 12) this Court has ruled that the existence of the right is the foundation of the exercise of jurisdiction of the Court under Art. 226 of the Constitution. In Charanjit Lal Chowdhuri v. Union of India, 1950 SCR 869 : (1950 SCC 833 : AIR 1951 SC 41), it has been held by this Court that the legal right that can be enforced under Art. 32 must ordinarily be the right of the petitioner himself who complains of infraction of such right and approaches the Court for relief. We do not see any reason why a different principle should apply in the case of a petitioner under Art. 226 of the Constitution. The right that can be enforced under Art. 226 also shall ordinarily be the personal or individual right of the petitioner himself, though in the case of some of the writs like habeas corpus or quo warranto this rule may have to be relaxed or modified... ”

(emphasis supplied)

55. In *Mani Subrat Jain v. State of Haryana*, (1977) 1 SCC 486 : AIR 1977 SC 276, in para 9 the Supreme Court has held as under:

“..It is elementary though it is to be restated that no one can ask for a mandamus without a legal right. There must be a judicially enforceable right as well as a legally protected right before one suffering a legal grievance can ask for a mandamus. A person can be said to be aggrieved only when a person is denied a legal right by some one who has a legal duty to do something or to abstain from doing something. (See Halsbury's Laws of England 4th Ed. Vol. I, paragraph 122); State of Haryana v. Subash Chander, (1974) 1 SCR 165 = ((1974) 3 SCC 220 : AIR 1973 SC 2216); Jasbhai Motibhai Desai v. Roshan Kumar Haji Bashir Ahmed, (1976) 3 SCR 58 = ((1976) 1 SCC 671 : AIR 1976 SC 578) and Ferris Extraordinary Legal Remedies paragraph 198.”

(emphasis supplied)

56. In *Ghulam Qadir v. Special Tribunal*, (2002) 1 SCC 33, in para 38 the Supreme Court has held as under:

“38. There is no dispute regarding the legal proposition that the rights under Article 226 of the Constitution of India can be enforced only by an aggrieved person except in the case where the writ prayed for is for habeas corpus or quo warranto. Another exception in the general rule is the filing of a writ



petition in public interest. The existence of the legal right of the petitioner which is alleged to have been violated is the foundation for invoking the jurisdiction of the High Court under the aforesaid Article. The orthodox rule of interpretation regarding the locus standi of a person to reach the court has undergone a sea change with the development of constitutional law in our country and the constitutional courts have been adopting a liberal approach in dealing with the cases or dislodging the claim of a litigant merely on hypertechnical grounds. If a person approaching the court can satisfy that the impugned action is likely to adversely affect his right which is shown to be having source in some statutory provision, the petition filed by such a person cannot be rejected on the ground of his having not the locus standi. In other words, if the person is found to be not merely a stranger having no right whatsoever to any post or property, he cannot be non-suited on the ground of his not having the locus standi."

(emphasis supplied)

57. Further the expression "aggrieved person" has come up for consideration before the Supreme Court on many occasions wherein the Supreme Court has held, aggrieved person would mean who has suffered legal injury. In this regard reference can be made to its opinion in *Babua Ram v. State of U.P.*, (1995) 2 SCC 689 wherein, in paragraph 17, it observed as under:

"17. In Collins English Dictionary, the word 'aggrieved' has been defined to mean "to ensure unjustly especially by infringing a person's legal rights". In Webster Comprehensive Dictionary, International Edition at page 28, aggrieved person is defined to mean "subjected to ill-treatment, feeling an injury or injustice. Injured, as by legal decision adversely infringing upon one's rights". In Strouds Judicial Dictionary, Fifth Edn., Vol. 1, pages 83-84, person aggrieved means "person injured or damaged in a legal sense". In Black's Law Dictionary, Sixth Edn. at page 65, aggrieved has been defined to mean "having suffered loss or injury; damnified; injured" and aggrieved person has been defined to mean:

"One whose legal right is invaded by an act complained of, or whose pecuniary interest is directly and adversely affected by a decree or judgment. One whose right of property may be established or divested. The word 'aggrieved' refers to a substantial grievance, a denial of some personal, pecuniary or property right, or the imposition upon a party of a burden or obligation."

58. The person aggrieved, therefore, must be one who has suffered a legal injury.



59. Further the Supreme Court in *Jasbhai Motibhai Desai v. Roshan Kumar Haji Bashir Ahmed*, (1976) 1 SCC 671 : AIR 1976 SC 578, while dealing with the expression “aggrieved person”, has in paragraphs 12, 25, 29 and 38 observed as under:

“12. According to most English decisions, in order to have the locus standi to invoke certiorari jurisdiction, the petitioner should be an “aggrieved person” and in a case of defect of jurisdiction, such a petitioner will be entitled to a writ of certiorari as a matter of course, but if he does not fulfill that character, and is a “stranger”, the Court will, in its discretion, deny him this extraordinary remedy, save in very special circumstances. This takes us to the further question : Who is an “aggrieved person”? And what are the qualifications requisite for such a status? The expression “aggrieved person” denotes an elastic, and, to an extent, an elusive concept. It cannot be confined within the bounds of a rigid, exact and comprehensive definition. At best, its features can be described in a broad tentative manner. Its scope and meaning depends on diverse variable factors such as the content and intent of the statute of which contravention is alleged, the specific circumstances of the case, the nature and extent of the petitioner's interest, and the nature and extent of the prejudice or injury suffered by him. English Courts have sometimes put a restricted and sometimes a wide construction on the expression “aggrieved person”. However, some general tests have been devised to ascertain whether an applicant is eligible for this category so as to have the necessary locus standi or ‘standing’ to invoke certiorari jurisdiction.

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25. Emphasising the ‘very special circumstances’ of the case, the court read into the statute, a duty to act fairly in accordance with the principles of natural justice. Thus, a corresponding right to be treated fairly was also imported, by implication, in favour of the applicants. Viewed from this standpoint, the applicants had an interest recognised in law, which was adversely affected by the impugned action. They had suffered a wrong as a result of the unfair treatment on the part of the corporation.

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29. ...Salmon J. quoted with approval these observations of James LJ in *James LJ in Sidebotham* [L.R.] 14 Ch.D. 458 at p. 465 The words ‘person aggrieved’ do not really mean a man who is disappointed of a benefit which he might have received if some other order had been made. A ‘person aggrieved’ must be a man who has suffered a legal grievance, a man against whom a decision has been pronounced which has wrongfully deprived



him of something or wrongfully refused him something, or wrongfully affected his title to something.

(emphasis supplied)

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38. To distinguish such applicants from 'strangers', among them, some broad tests may be deduced from the conspectus made above. These tests are not absolute and ultimate. Their efficacy varies according to the circumstances of the case, including the statutory context in which the matter falls to be considered. These are : Whether the applicant is a person whose legal right has been infringed? Has he suffered a legal wrong or injury, in the sense that his interest, recognised by law, has been prejudicially and directly affected by the act or omission of the authority, complained of? Is he a person who has suffered a legal grievance, a person 'against whom a decision has been pronounced which has wrongfully deprived him of something or wrongfully refused him something, or wrongfully affected his title to something? Has he a special and substantial grievance of his own beyond some grievance or inconvenience suffered by him in common with the rest of the public? Was he entitled to object and be heard by the authority before it took the impugned action? If so, was he prejudicially affected in the exercise of that right by the act of usurpation of jurisdiction on the part of the authority? Is the statute, in the context of which the scope of the words 'person aggrieved' is being considered, a social welfare measure designed to lay down ethical or professional standards of conduct for the community? Or is it a statute dealing with private rights of particular individuals?"

(emphasis supplied)

60. *In a recent pronouncement the Supreme Court in Ayaubkhan Noorkhan Pathan v. State of Maharashtra, (2013) 4 SCC 465, while dealing with the expression "person aggrieved" in paragraph 9 observed thus:*

"9. It is a settled legal proposition that a stranger cannot be permitted to meddle in any proceeding, unless he satisfies the authority/court, that he falls within the category of aggrieved persons. Only a person who has suffered, or suffers from legal injury can challenge the act/action/order etc. in a court of law. A writ petition under Article 226 of the Constitution is maintainable either for the purpose of enforcing a statutory or legal right, or when there is a complaint by the appellant that there has been a breach of statutory duty on the part of the authorities. Therefore, there must be a judicially enforceable right available for enforcement, on the basis of which writ jurisdiction is resorted to. The Court can, of course, enforce the



performance of a statutory duty by a public body, using its writ jurisdiction at the behest of a person, provided that such person satisfies the Court that he has a legal right to insist on such performance. The existence of such right is a condition precedent for invoking the writ jurisdiction of the courts. It is implicit in the exercise of such extraordinary jurisdiction that the relief prayed for must be one to enforce a legal right. In fact, the existence of such right, is the foundation of the exercise of the said jurisdiction by the Court. The legal right that can be enforced must ordinarily be the right of the appellant himself, who complains of infraction of such right and approaches the Court for relief as regards the same. [Vide State of Orissa v. Madan Gopal Rungta, 1951 SCC 1024 : AIR 1952 SC 12, Saghir Ahmad v. State of U.P., AIR 1954 SC 728, Calcutta Gas Co. (Proprietary) Ltd. v. State of W.B., AIR 1962 SC 1044, Rajendra Singh v. State of M.P., (1996) 5 SCC 460 and Tamilnad Mercantile Bank Shareholders Welfare Assn. (2) v. S.C. Sekar, (2009) 2 SCC 784.]”

(emphasis supplied)

61. *The Supreme Court in M.S. Jayaraj v. Commissioner of Excise, Kerala, (2000) 7 SCC 552, examined the issue of “locus standi” and held that the person should be asked to disclose the legal injury suffered by him and if he cannot, then, obviously, the person has no locus standi to file a writ petition under Article 226 of the Constitution of India.”*

39. Reference to a recent judgment of the High Court of Karnataka deciding a batch of writ appeals being W.A. No.2872/2013 and others on 26.02.2021 titled ***Syndicate Bank v. M/s Manyatha Residents Association, represented by its Secretary and others***, would be relevant and useful. One of the writ petitions was filed before the learned Single Judge by an Association registered under the Karnataka Societies Registration Act, 1961, comprising of owners of houses or sites in the residential layout, formed by the promoters in about 82 acres of land and the other writ petitions were by individual Petitioners. Objection was taken by the Respondent with respect to the *locus standi* of the Petitioner to challenge the allotment made in favour of the Respondent, which was decided in favour of the writ



Petitioners. This judgment was challenged before the Division Bench. The stand of the State can be captured in paragraph 37, which is as follows:

“37. Learned Additional Government Advocate appearing for the State submitted that the allotments in the instant cases, particularly to GAIL as well as M/s. Bennett Coleman Company are in accordance with Section 65 of the BDA Act. The State can exercise its power under the said provisions and issued directions to the BDA to carry out the orders of the State. Further, Syndicate Bank is a civic amenity within the meaning of Section 2(bb) of the BDA Act and hence, the allotments made to these three entities could not have been assailed by the writ petitioners. This is because the writ petitioners had no cause of action to assail the same. They are not aggrieved persons and therefore, on that score, the writ petitions ought to have been dismissed.”

40. Dealing with the objection of *locus standi*, the Karnataka High Court observed that the writ petition was not in the nature of Public Interest Litigation and it was not the case of the Association that members of the said Association were site owners. Dealing with Article 226 of the Constitution, the Karnataka High Court observed as under:

“43. In the context of filing a writ petition under Article 226 of the Constitution, it is well settled by several decisions of the Hon'ble Supreme Court that only persons aggrieved can file writ petition in their personal / private capacity. In other words, there must exist some legal or constitutional right which has been violated or infringed and in such a case, a person can file a writ petition.

44. The term "locus standi" or "standing to sue" denotes the existence of a right of an individual or group of individuals to have a Court enter upon adjudication on an issue brought before that Court by proceedings instituted by the individual or the group of persons. The question of locus standi assumes importance when petitions are filed by incompetent persons. Ordinarily, a writ petition can be filed by a person aggrieved and not by a stranger except in public interest litigation and in the case of a writ of quo warranto.

45. Article 226 of the Constitution does not lay down as to who are the persons entitled to invoke the jurisdiction of the High Court under that Article. The question of locus standi has been decided from time to time in a large number of cases. Generally, individual person or a group of persons aggrieved by any action or inaction on



the part of the State or its Authorities can institute a writ petition under Article 226 of the Constitution on the premise that, there is an infringement of their right or they have been prejudicially affected by any order. Thus, the right which is the foundation for exercising the jurisdiction under Article 226 of the Constitution is the personal or individual right of the petitioner himself, though in the case of writs like, habeas corpus or quo-warranto, this rule stands modified.

46. *But, in the case of issuance of a writ of mandamus, so as to compel the Authorities to do something, it must be shown that the statute imposes a legal duty and the aggrieved party has a legal right under the statute to enforce its performance. But, where no right of the petitioner is affected, such a person has no locus standi to file the writ petition. Thus, no person can ask for a mandamus without a legal right. There must be a judicially protected right before one suffering a legal grievance can ask for a mandamus. A person can be said to be aggrieved only when a person is denied a legal right by someone who has a legal duty to do something or abstain from doing something. Existence of the right is implicit for the exercise of the extraordinary jurisdiction by the High Court under Article 226. For instance, a rival in a trade has no locus standi to challenge the grant of licence to other trader on the ground that the licence was granted illegally or suffers from defect of jurisdiction, vide **J.M.Desai vs. Roshan Kumar**, [AIR 1976 SC 578], (J.M.Desai); **Nagpur Rice and Flour Mills vs. Teekappa Gowda and Brothers**, [AIR 1971 SC 246] (**Nagpur Rice and Flour Mills**). In **J.M.Desai**, provisions of Bombay Cinemas Registration Act, 1953 and the Bombay Cinema Rules, 1954 came up for consideration and paragraphs 36 to 41 of the said judgment read as under:*

“36. It will be seen that in the context of locus standi to apply for a writ of certiorari, an applicant may ordinarily fall in any of these categories: (i) ‘person aggrieved’; (ii) ‘stranger’; (iii) busybody of meddlesome interloper. Persons in the last category are easily distinguishable from those coming under the first two categories. Such persons interfere in things which do not concern them. They masquerade as crusaders for justice. They pretend to act in the name of Pro Bono Publico, though they have no interest of the public or even of their own to protect. They indulge in the past-time of meddling with the judicial process either by force of habit or from improper motives. Often, they are actuated by a desire to win notoriety or cheap popularity; while the ulterior intent of some applicants in this category may be no more than spoking the wheels of administration. The High Court should do well to reject the applications of such busy bodies at the threshold.

37. The distinction between the first and second categories of applicants, though real, is not always well-demarcated. The first



category has, as it were, two concentric zones; a solid central zone of certainty, and a grey outer circle of lessening certainty in a sliding centrifugal scale, with an outermost nebulous fringe of uncertainty. Applicants falling within the central zone are those whose legal rights have been infringed. Such applicants undoubtedly stand in the category of 'persons aggrieved'. In the grey outercircle the bounds which separate the first category from the second, intermix, interfuse and overlap increasingly in a centrifugal direction. All persons in this outer-zone may not be "persons aggrieved".

38. To distinguish such applicants from 'strangers', among them, some board tests may be deduced from the conspectus made above. These tests are not absolute and ultimate. Their efficacy varies according to the circumstances of the case, including the statutory context in which the matter falls to be considered. These are: Whether the applicant is a person whose legal right has been infringed? Has he suffered a legal wrong or injury, in the sense, that his interest, recognized by law, has been prejudicially and directly affected by the act or omission of the authority, complained of? Is he a person who has suffered a legal grievance, a person "against whom a decision has been pronounced which has wrongfully deprived him of something or wrongfully refused him something or wrongfully affected his title to something? Has he a special and substantial grievance of his own beyond some grievance or inconvenience suffered by him in common with the rest of the public? Was he entitled to object and be heard by the authority before it took the impugned action? If so, was he prejudicially affected in the exercise of that right by the act of usurpation of jurisdiction on the part of the authority? Is the statute, in the context of which the scope of the words "person aggrieved" is being considered, a social welfare measure designed to lay down ethical or professional standards of conduct for the community? Or is it a statute dealing with private rights of particular individuals?

39. Now let us apply these tests to the case in hand. The Act and the Rules to which we are concerned, are not designed to set norms of moral or professional conduct for the community at large or even a section thereof. They only regulate the exercise of private rights of an individual to carry on a particular business on his property. In this context, "person aggrieved" must receive a strict construction.

40. Did the appellant have a legal right under the statutory provisions or under the general law which has been subjected to or threatened with injury? The answer in the circumstances of the case must necessarily be in the negative. 41. The Act and the Rules do not confer any substantive justiciable right on a rival in cinema trade, apart from the option, in common with the rest



of the public, to lodge an objection in response to the notice published under Rule 4. The appellants did not avail of this option. He did not lodge any objection in response to the notice, the due publication of which was not denied. No explanation has been given as to why he did not prefer any objection to the grant of the No-Objection-Certificate before the District Magistrate or the Government. Even if he had objected before the District Magistrate, and failed, the Act would not give him a right of appeal. Section 8A of the Act confers a right of appeal to the State Government, only on any person aggrieved by an order of a licensing authority refusing to grant a license, or revoking or suspending any license under Section 8. Obviously, the appellant was not a "person aggrieved" within the contemplation of Section 8A."

(underlining by us)

Thus, a person who is not aggrieved by any discrimination complained of, cannot maintain a writ petition. [D.Nagaraja vs. State of Karnataka, AIR 1977 SC 876] (D.Nagaraja).

47. *It is further observed that in India, there are four categories of persons for locus standi: first category is individual standing; second category is statutory standing or in other words, when statute has provided standing to a person or a class of persons and on the strength of the standing conferred by the statute, one may move the Court; third category is public interest litigation; fourth category of locus standi is representative action or class action.*

48. *The principle of standing or locus standi in all public interest litigation if applied to individual standing, it would result in destroying the time-tested concept of "standing" which has authority in India from the Anglo Saxon Jurisprudence as well as American Law Jurisprudence. This means that, the requirement of injury is a test to be applied for having locus standi to file a petition under Article 226 of Constitution unless it is a public interest litigation. Thus, there is a need to regulate in the context of individual standing and a careful consideration of the case must be made in order to examine and appreciate as to whether the person is aggrieved. Such an examination is required in order to avoid frivolous litigation being flooded to the High Court, thereby driving away genuine litigations.*

49. *However, over a period of time, there may have been a lowering of the barrier imposed by the standing requirement or taking a liberal approach in the matter. But, it is necessary to follow certain principles having regard to the law. Thus, the doors of the court could be made open at the instance of the persons or authorities under certain categories and every other person cannot move a writ petition challenging actions of the State Government or its authorities when not individually or personally aggrieved, unless*



it is in the nature of public interest litigation. Otherwise, the doctrine of locus standi or a standing requirement would be rendered meaningless and thereby introduce a procedure which is not judicially recognised.

50. However, the above must be contrasted to public interest litigation. In case of a public interest litigation, the person or an authority concerned who move such a petition is not enforcing his/its personal or legal right. Such a litigation is filed by public spirited persons to espouse the cause of large number of people who are suffering under some legal wrong or injury or such person or determinate class of persons is by reason of poverty, helplessness or disability, or social, economical, disadvantaged position, unable to approach the Court for relief and in such case, any number of the public can file a writ petition for securing justice to them. In this context also, it has been observed that the Court should not be indirectly used as an instrumentality by anyone to attain or obtain any beneficial achievement, which one cannot get through normal legal process. If anyone approaches the Court with ulterior motive, design to wrench some personal benefit by putting another within the clutches of law and using the Court as a device only for that end, but not to get any legal remedy, then in such a situation the Court should heavily come upon such a person and see that the authority of Court is not misused. [**Sampat Singh vs. State of Haryana, (1993) 1 SCC 561, (Sampat Singh)**]. Thus, only a person acting bona fide and having sufficient interest in the proceeding of public interest litigation alone have locus standi and can approach the Court for the poor and needy. But, a person for personal gain or private profit or political motive or in oblique consideration has no locus standi. Similarly, a vexatious petition in the guise of a public interest litigation brought before the Court for vindicating any personal grievance deserves rejection on the threshold. The Court should not allow its process to be abused by mere busy bodies, meddlesome interlopers, wayfarers or officious interveners having absolutely no public interest except for personal gain or private profit either for themselves or as proxy of others or for any other extraneous motivations or for glare of publicity. [**Janata Dal vs. H.S.Chowdhary (1992) 4 SCC 305, (Janata Dal)**].

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53. But, in India, such statutory provision is absent. In fact, the "person aggrieved" concept is the foundation for a writ petition being filed in a personal or individual capacity. That means a person who has suffered legal grievance who has right under a statute and he would thus be a person aggrieved.

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69. In paragraph 35, per Sahai, J., it was further observed that locus standi to approach by way of writ petition and refusal to grant



relief in equity jurisdiction are two different aspects, may be with same result. One, relates to maintainability of the petition and the other, to exercise of discretion. The restricted meaning of aggrieved person and narrow outlook of specific injury had yielded in favour of broad and wide construction in the wake of public interest litigation. Even in a private challenge to executive or administrative action having extensive fall out, the dividing line between personal injury or loss and injury of a public nature is fast vanishing. According to Sahai J., it was too late in the day, therefore, to claim that petition filed by inhabitants of a locality whose park was converted into a nursing home had no cause to invoke the equity jurisdiction of the High Court. The residents of locality seeking protection and maintenance of environment of their locality cannot be said to be busybodies or interlopers. That when there was cause of action either for the individual or community in general to approach by way of writ petition, the authorities cannot be permitted to seek shelter under cover of technicalities of locus standi nor can they be heard to plead for restraint in exercise of discretion, as grave issues of public concern would outweigh such considerations. Discussing on the importance of public parks and playgrounds in a locality and holding that exercise of power by the State Government was vitiated and ultra vires as the Government could not convert the site reserved for public parks to a civic amenity site and to allot it for private nursing home i.e., to the Medical Trust and the Resolution of the BDA in compliance of it, being null and void and without jurisdiction, the appeal of the Medical Trust was dismissed.”

41. Examining the facts of the present case, in light of the ratio of aforementioned judgments, the only conclusion that can be drawn is that Petitioner has no *locus standi* to file the present petition seeking a writ of certiorari as Petitioner had been unable to demonstrate that any legal right of the Petitioner has been violated and/or it has suffered a legal injury. In Black’s Law Dictionary, Sixth Edn. ‘aggrieved’ has been defined to mean “*having suffered loss or injury; damnified; injured*”. ‘Aggrieved person’ has been defined to mean: “*one whose legal right is invaded by an act complained of or whose pecuniary interest is directly and adversely affected by a decree or judgment..... The word ‘aggrieved’ refers to a substantial grievance, a denial of some personal, pecuniary or property right or the*



imposition upon a party of a burden or obligation”. Quite clearly none of these parameters are met by the Petitioner in the present petition.

42. It is the case of the Petitioner in response to the objection of *locus standi* that Petitioner is a premiere institute actively functioning in the field of town and country planning for 70 years and has made contribution in starting four schools of Planning and Architecture in country. Reliance is also placed on a Memorandum of Understanding entered into between the Petitioner and AICTE in 1996. Insofar as the MoU is concerned, a bare perusal of the same, which is filed on record would indicate that it had a life span of three years and expired in 1999 and it is not the case of the Petitioner that it was renewed and/or any fresh MoU was entered into between the parties. The mere fact that Petitioner is actively functioning in the field of town and planning is not the same thing as saying that it has suffered any legal injury on account of the composition of the Board, quashing of which is sought in the present writ petition. No right of the institute is alleged to have been violated or infringed entitling the Petitioner to issuance of a writ of certiorari. Therefore, in view of the judgments referred to above, this Court cannot agree with the Petitioner that it has *locus standi* to seek a certiorari quashing the impugned Notification dated 03.01.2020 issued by AICTE.

43. Reliance on ***R. Gandhi, President, Madras Bar Association (supra)***, by the Petitioner is misplaced as the Supreme Court in the said judgment was considering dilution of expertise of Administrative/ Technical Members of the Tribunals which were deciding disputes between or amongst parties whose rights or liabilities were to be decided by the Tribunals which had all the trappings of Court of law.



In the present case, the Board is rather a transient entity, the role of which is not at all adjudicatory. Therefore, the ratio in ***R. Gandhi, President, Madras Bar Association (supra)*** cannot be applied in the present case. The reliance on ***Ramesh Chandra Agrawal (supra)***, is of no help to the Petitioner since the issue therein was about the expert opinion for the purpose of adjudicating a *lis* by a judicial body. The judgment would also not inure to the benefit of the Petitioner as the same is in context of a particular fact situation and the Board's role in the present case is entirely different from that of an adjudicating body. Reliance on the judgment on ***Suvina B. Redkar (supra)*** also does not aid the Petitioner as the two Boards referred in the judgment and the present case need to be seen in their own perspective. The difference in role of the Board in the said judgment is evident from paragraph 67 of the judgment which is being reproduced below for ready reference:-

“67. However, although consultation with the Planning and Development Authority is not attached to and/or the provision for inviting objections and Suggestions from the residents of the planning areas in question is not made under section 18(3) of the Act, the legislature has still borne in mind the said aspect and has provided for a safeguard and the control over the exercise of discretion by the Government under section 18(3) of the Act by providing for prior consultation with the Board which as we shall subsequently show, is not only the comprehensive body of representatives of all interests and experts in Town Planning, but is intimately connected with the work of preparation of development plans and schemes in the Planning Areas and the day to day working of the Planning and Development Authority also as is clear from the provisions of the Act hereinbefore referred to, for which reason it appears that the legislature has in its wisdom chosen to dispense with the requirement of consultation with the Planning and Development Authority and/or the requirement of inviting objections and suggestions from the people in the concerned Planning Areas, apart from the fact that the Planning and Development Authority or the people in the Planning areas are not directly concerned with the question of amalgamation of planning areas or sub-division of a planning area.”



44. A perusal of the paragraph quoted above shows that the Board constituted therein had a permanent character which had a direct role in shaping the town, cities and their development. On the other hand, the functions of the Board in the present context are advisory in nature, as mentioned in Regulation 6 of 1995 Regulations. Importantly, the Board in the Scheme of Town Planning and Development is a transient Board, the currency of which is three years and is constituted periodically, keeping in view its functions to take care of emerging areas and keeping in pace with time and advancement in technology as well as ever changing needs of urban areas. AICTE in its own wisdom with its expertise has nominated the members of the Board and this Court finds no reason to interfere.

45. For all the aforesaid reasons, the writ petition along with pending applications, is hereby dismissed.

JYOTI SINGH, J

AUGUST 17, 2023/ka/ck/shivam