

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.14369 OF 2022

1. Administrative Council
Walchand College of Engineering
Having its office at A/P Vishrambag
Sangli, 416 415 through its Member
Mr. Ravindra Purohit
Having address at Hincan House, LBS Marg
Vikhroli (West) Mumbai - 400 083.
2. Walchand College of Engineering,
Sangli through its In-charge Director
Dr. P. G. Sonavane, having office at
Walchand College of Engineering
Sangli, A/P Vishrambag Sangli - 416 415.
3. Seth Walchand Hirachand Memorial Trust
A public charitable trust registered under the
provisions of the Maharashtra Public Trusts
Act, 1950 and having its office at Hincan
House, LBS Marg, Vikhroli,
Mumbai - 400 083.
4. Mr. Chakor N. Gandhi
Age: 63 Occupation: Business
of Mumbai Indian Inhabitant having his
Office at Pragandh Bungalow, 1205/3/3,
Jangli Maharaj Road, Opp. Ashok Lodge,
Pune – 411 004. ... Petitioners

Versus

1. State of Maharashtra
Through the Ministry of Higher and
Technical Education having its office at

- 4th floor, Mantralaya, Hutatma Chowk
Madam Cama Road, Mantralaya,
Mumbai 400 032.
2. Directorate of Technical Education
Maharashtra State, Mumbai,
Mahapalika Marg, Opposite Metro Cinema,
Mumbai - 400 001.
3. Joint Director, Technical Education
Regional Office, 412-E, Shivaji Nagar,
Bahirat Patil Chowk, Pune - 411 016.
4. Maharashtra Technical Education Society
A society cum trust registered under the
Societies Registration Act, 1960 having
its office at F. P. No.23, Off. Karve Road,
Pune – 411 004.
5. The Registrar, Shivaji University,
A University incorporated under the
Maharashtra Universities Act, 1994,
Vidyanagar Kolhapur - 416 004.
7. The Chairman,
All India Council for Technical Education
A statutory body of the Government of India
Parliament Act (52) 1987 having its office
At 7th Floor, Chandralok Building, Janpath,
New Delhi - 110 002.
8. Prithviraj Sayajirao Deshmukh,
Age- not known, Occupation: not known,
Having his office at Final Plot No. 23, Off
Karve Road, Erandwane, Pune - 411 004
And also at A/p, Kadegaon, Taluka Palus,
District Sangli, Maharashtra – 415304. ...Respondents

WITH
INTERIM APPLICATION (ST) NO.12830 OF 2023
IN
WRIT PETITION NO.14369 OF 2022

Governing Body

Maharashtra Technical Education Society's

Walchand College of Engineering,

Vishrambag, Sangli, Dist. Sangli

Through its authorized officer,

Shri. Jaydeep Hanmant Ghorpade

...Intervenor/Applicant

IN THE MATTER BETWEEN :-

1. Administrative Council
Walchand College of Engineering
Having its office at A/P Vishrambag
Sangli, 416 415 through its Member
Mr. Ravindra Purohit
Having address at Hincon House, LBS Marg
Vikhroli (West) Mumbai - 400 083.
2. Walchand College of Engineering,
Sangli through its In-charge Director
Dr. P. G. Sonavane, having office at
Walchand College of Engineering
Sangli, A/P Vishrambag Sangli - 416 415.
3. Seth Walchand Hirachand Memorial Trust
A public charitable trust registered under the
provisions of the Maharashtra Public Trusts
Act, 1950 and having its office at Hincon
House, LBS Marg, Vikhroli,
Mumbai - 400 083.
4. Mr. Chakor N. Gandhi
Age: 63 Occupation: Business
of Mumbai Indian Inhabitant having its
Office at Pragandh Bungalow, 1205/3/3,

Jangli Maharaj Road, Opp. Ashok Lodge,
Pune – 411 004.

... Petitioners

Versus

1. State of Maharashtra
Through the Ministry of Higher and
Technical Education, having its office at
4th floor, Mantralaya, Hutatma Chowk
Madam Cama Road, Mantralaya,
Mumbai 400 032.
2. Directorate of Technical Education
Maharashtra State, Mumbai,
Mahapalika Marg, Opposite Metro Cinema,
Mumbai - 400 001.
3. Joint Director, Technical Education
Regional Office, 412-E, Shivaji Nagar,
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A University incorporated under the
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All India Council for Technical Education
A statutory body of the Government of India
Parliament Act (52) 1987 having its office
At 7th Floor, Chandralok Building, Janpath,
New Delhi - 110 002.
8. Prithviraj Sayajirao Deshmukh,
Age- not known, Occupation: not known,

Having his office at Final Plot No. 23, Off
Karve Road, Erandwane, Pune - 411 004
And also at A/p, Kadegaon, Taluka Palus,
District Sangli, Maharashtra – 415304. ...Respondents

WITH
WRIT PETITION NO.13025 OF 2016
WITH
INTERIM APPLICATION NO.1057 OF 2020
IN
WRIT PETITION NO.13025 OF 2016

Maharashtra Technical Education Society
A society registered under the
Bombay Public Trust Act, 1950
Through its Secretary,
Prof. Shriram Gopal Kanitkar
Age 65, Occ. Retired,
Office Address F. P. No.23,
Off. Karve Road, Pune – 411 004. ...Petitioner

Versus

1. The Chairman,
All India Council for Technical Education
A statutory body of the Government of India
Parliament Act (52) 1987 having its office
At 7th Floor, Chandralok Building, Janpath,
New Delhi - 110 002.
2. The Secretary,
Higher and Technical Education,
The State of Maharashtra,
Mantralaya, Mumbai.
3. The Director
Directorate of Technical Education
3, Mahapalika Marg,
Mumbai.

4. The Registrar
Shivaji University, Vidyanagar,
Dist. Kolhapur,
5. The Chairman
University Grant Commission,
Bahadurshah Zafar Marg,
New Delhi – 110002.
6. Administrative Council
Walchand College of Engineering
Having its office at A/P Vishrambag
Sangli, 416 415 through its Member
Mr. Ravindra Purohit
Having address at Hincon House, LBS Marg
Vikhroli (West) Mumbai - 400 083.
7. Walchand College of Engineering,
Having its office at A/P Vishrambag
Sangli - 416 415
Through Administrative Council,
Member Mr.Ravindra Purohit.
8. Mr.Ravindra Purohit
Member Administrative Council
Having office at
Hincon House, LBS Marg,
Vikhroli (West) Mumbai - 400 083.
9. Maharashtra Technical Education Society
A Charitable Society, registered under the
Societies Act, 1869 having registration no
F-122, through its Chairman Shri Vijay B.
Pusalkar having office at F. P. No.23,
Off. Karve Road, Pune – 411 004. ...Respondents

Mr. Venkatesh Dhond, Senior Advocate a/w Mr. Shailesh Naidu, Ms.
Rashmi Raghavan, Mr. Prasad Shenoy, Ms. Viloma Shah and Mr.

Harshad Vyas, Mr. Ativ Patel, Mr. Darshit Jain & Mr. Pradeep Kumar i/by AVP Partners for Petitioners in WP/14369/22 and Respondent No.6 in WP/13025/16.

Mr. Ram Apte, Senior Advocate a/w Mr. Padmanabh D. Pise a/w Ms. Sejal A. Hariyan i/by P. Padmanabh & Associates for the Petitioner in WP/13025/16 & Applicant in IA/1057/2020 in WP/13025 of 2016 & for Respondent No.4 in WP/14369/22.

Mr. S. S. Patwardhan a/w Mr. Y. G. Thorat & Mr. H. M. Khupsare i/by Mr. Ashok Tajane for Applicant in IA(St)/12830/2023 in WP/14639/22.

Mr. Anil Sakhare, Senior Advocate a/w Mr. N.C. Walimbe, Addl. G.P. a/w Mr. N. K. Rajpurohit, AGP for Respondent (State).

Ms. Anjali Helekar for Respondent - AICTE.

Mr. Rajdeep Khadapkar for Respondent No.5.

Mr. Rui Rodrigues a/w Mr. Jainendra Sheth for Respondent No.7 in WP/14369/22 and Respondent No.5 in WP/13025/16 (for UGC).

Mr. Sadashiv Deshmukh for Respondent No.8 in WP/14369/22.

Mr. Shanay Shah i/b. Shubro Dey for Respondent No.9 in WP/13025/2016.

CORAM : **A. S. CHANDURKAR,
JITENDRA JAIN, J.J.**

Date on which the arguments concluded : **12th FEBRUARY 2024.**

Date on which the Judgment is pronounced : **21st FEBRUARY 2024.**

Judgment:- (Per Jitendra Jain, J.)

1. **Rule.** Rule made returnable forthwith. By consent of the parties, the writ petitions are taken up for final disposal.

2. This is one of those matters where the parties are wrestling to continue/regain control of a body that is in-charge of control and management of the one of the finest engineering college of the State.

3. In Writ Petition No.14369 of 2022, the Petitioners are challenging the communication dated 4th October 2022 issued by Respondent No.1-State to Respondent No.4-Society and communication dated 4th November 2022 issued by Respondent No.5-University to Respondent no.4-Society, whereby Respondent Nos.1 and 5 have nominated their representative on the governing body constituted by Respondent No.4 to control and manage the Petitioner No.2-College. The Petitioners have further sought a relief in the nature of declaration that they be declared as being in control and management of affairs of the Petitioner No.2-College.

4. **Narrative of events** :-

- (i) In the year 1947, Respondent No.4-Society started an Engineering College at Sangli, Maharashtra which was named as 'New Engineering College.' As the College started growing, it could not match the requirement of finance. The financial condition of the college was precarious and therefore Respondent No.4-Society requested Respondent No.1-State and the Central Government to support them by giving financial assistance.
- (ii) Respondent No.4-Society gave two alternatives to Respondent No.1-State, namely either to give financial grant so that Respondent No.4 can pay off the liabilities of the College or

Respondent No.1-State should take over the management and control and assets and liabilities of the College.

(iii) On the request made by the Respondent No.1-State and the Central Government, Petitioner No.3-Trust agreed to give financial assistance to stabilize the financial condition of the college with various conditions *inter alia* that the Petitioner No.3-Trust would be given due representation on the college Governing Board and the name of the college would be changed to “Walchand Hirachand College of Engineering.” After due consultation among Petitioner No.3-Trust, Respondent No.1-State, Respondent No.4-Society and the Central Government, Petitioner No.3 donated the amount agreed upon and an Ad hoc Committee was appointed by the Government which took charge of the affairs of the college, the said Ad hoc Committee was constituted by the Government in which Petitioner No.3-Trust had one representative on the said committee.

(iv) On 24th June 1955, the Ad hoc Committee was replaced by Petitioner No.1-Administrative Council and it was agreed more particularly by Petitioner No.3, Respondent No.4 and Respondent No.1 that Petitioner No.1 would have its own Rules and Regulations to manage and control the affairs of the College. It was also agreed that the management and control of the college would

be exercised by Petitioner No.1-Administrative Council which body would be distinct and separate from Respondent No.4-Society. The Rules and Regulations were formed and accepted by all the stakeholders. As per the said Rules and Regulations, the Petitioner No.1-Administrative Council would have 11 members consisting of representatives from Petitioner No.3-Trust and Respondent Nos.1, 3, 4, 5,6 etc. The idea appeared to be to disassociate the college from Respondent No.4-Society and the college be professionally run by an independent body.

- (v) On 17th June 1957, a Property Demarcation Committee gave its report with recommendations for division of assets and liabilities of the Respondent No.4 between the Petitioner No.2-College to be run by Petitioner No.1-Administrative Council and Respondent No.4. The recommendations included taking over of the properties, assets and liabilities of the college by Petitioner No.1 and Respondent No.4-Society to divest itself of all powers of disposal etc. The said Committee's recommendation was accepted by Respondent No.4-Society and Petitioner No.3-Trust by passing appropriate resolutions in this regard in their respective body meetings and communicating the same to each other. On 3rd October 1961, in a meeting of Respondent No.4-Society an irrevocable resolution was passed that Respondent No.4-Society

would not create any encumbrances on the assets of Petitioner No.2-College without prior approval of Petitioner No.1-Council. In the said meeting it was also agreed that 3 members out of 4 representing Respondent No.4-Society would be approved by the Petitioner No.3-Trust.

(vi) Pursuant to the above, on 26th May 1964 a resolution was passed by Respondent No.4-Society handing over land and building to Petitioner No.1.

(vii) In 2007, an autonomous status was granted to the College by Respondent No.7-University Grant Commission (UGC) and Respondent No.5-University.

(viii) As per the guidelines issued by Respondent No.7-UGC, autonomous college should be managed by a Governing Body and the composition of the said Body was mentioned in these guidelines.

(ix) on 17th November 2010, Respondent No.4 at its Annual General Meeting passed a resolution repealing the Administrative Council Rules, framed in 1956, by seeking to introduce amendments without any consent or approval from Petitioners. Thereafter, the Respondent No.8 addressed various letters to members of statutory bodies on Petitioner No.1 body calling upon them to nominate their representatives on the board of governors formed by

Respondent No.4. Pursuant thereto, on 1st March 2011, Respondent No.6-AICTE nominated its two members on the Board of Governors.

- (x) The aforesaid nomination by Respondent No.6-AICTE was withdrawn on 30th March 2011 on realising that they have nominated their members on a wrong board. This withdrawal was challenged before Delhi High Court by Respondent No.4 but the said petition was later withdrawn with liberty.
- (xi) On 13th August 2013, in response to an RTI query, Respondent No.1-State informed the Applicant of RTI that Petitioner No.1 is in compliance with the guidelines issued by Respondent No.6-AICTE and Respondent No.7-UGC. The RTI reply also narrates the history and the exchange of correspondence since 1956 and the formation of Petitioner No.1 on which the representatives of various statutory bodies are nominated.
- (xii) In 2016, Respondent No.4 filed a Writ Petition No.13025 of 2016 seeking directions against Respondent No.1-State, Respondent No.2-Directorate of Technical Education, Respondent No.5-University, Respondent No.6-AICTE and Respondent No.7-UGC for appropriate directions to appoint their representatives on the Board of Governors of Respondent No.4-Trust and not to send their representatives on the body of Petitioner No.1-Administrative

Council. No interim relief has been granted in the said Writ Petition. The Petitioner No.1 herein Administrative Council has made an application for intervention in the said Writ Petition.

(xiii) On 2nd July 2016, a Committee formed by Respondent No.1-State with regard to the management of Petitioner No.2-College submitted its report. In the said report, the Committee observed that Petitioner No.1 was established for management of Petitioner No.2-College as per the directions of Respondent No.1-State and Central Government. The said Committee confirmed that Petitioner No.1 has rights in the management of Petitioner No.2 and after the college was granted autonomous status, Administrative Council-Petitioner No.1 was accepted in accordance with the Government Resolution. The said report also states that Respondent No.4-Society is not connected with the affairs of Petitioner No.2. We are informed that the said report has not been challenged till date by anyone.

(xiv) The things did not rest here, but a representation was made to the Department of Law and Justice of Respondent No.1-State seeking its views for appointment of administrator on Petitioner No.2-College. On 11th January 2017, the said department gave opinion that Petitioner No.1-Council is a separate and independent entity managing the affairs of Petitioner No.2-College and the existence

of Petitioner No.1 was independent of Respondent No.4-Society. The said opinion has not been withdrawn till today by Respondent No.1-State.

(xv) On 7th July 2017, on a complaint by Respondent No.4, an Ad hoc Committee was appointed as administrator to run Petitioner No.2-College. The Petitioner No.1 challenged the said appointment of the administrator before this Court in Writ Petition No.7685 of 2017. The said communication has been stayed by this Court vide order dated 10th July 2017 and the said petition is also pending as on today.

(xvi) On 12th February 2018, UGC issued Regulations *inter alia* laying down the rules for management of autonomous colleges for maintenance of standards with respect to governance, etc. Rule 13 of the said Regulations prescribed the composition of the Governing Body to include 5 members from the Trust, 2 teachers nominated by the Principal, 1 Educationist/Industrialist and 1 nominee each from UGC, State and University. The Principal was to be treated as ex-officio member of the said governing body. The said notification was adopted by Respondent No.1-State.

(xvii) On 19th September 2019, the Petitioner Nos.1 and 2 addressed letters to Respondent Nos.1 to 3, 5 and 6 to nominate their representative on Petitioner No.1-Council for a term of 3 years.

Pursuant to this request, all the Respondents nominated their representatives on the body of Petitioner No.1-Administrative Council. This is very important, since the nomination of representatives of all the concern Respondents on the Petitioner No.1-Body is post 2018 UGC Regulations and thereby recognition was acceded to by the Respondents about the status of Petitioner No.1 being a body incharge of and in control of management and affairs of the Petitioner No.2-College.

(xviii) On 5th May 2022 and 12th May 2022, Respondent No.7-UGC and Respondent No.1-State nominated their representatives on Petitioner No.1 Administrative Council for the period of 5 years and 3 years respectively beginning from 2022.

(xix) On 12th May 2022, Respondent No.1 in its letter to the Principal of Petitioner No.2-College nominated Joint Director of Technical Education to the Petitioner No.1-Administrative Council as per letter dated 17th February 2022 of Respondent No.7-UGC.

(xx) On 4th October 2022, pursuant to the letter of Respondent No.4-Society, Respondent No.1-State informed Respondent No.4 that Respondent No.3 was nominated on the Governing Board constituted by Respondent No.4. This communication is under challenge in this petition.

(xxi) On 12th October 2022, Petitioner Nos.1 and 2 addressed a letter

to Respondent Nos.1, 2, 5 and 7 cautioning about the letters being sent by Respondent Nos.4 and 8 to concerned Authorities for nomination on the Board of Governors of Respondent No.4 which according to the Petitioner was illegally constituted by Respondent No.4.

(xxii) On 4th November 2022, Respondent No.5-University in response to a letter of Respondent No.4-Society nominated its member on the Governing Body constituted by Respondent No.4-Society. This communication is also under challenge in the present petition.

(xxiii) On 9th November 2022, Petitioner No.1-Council issued a notice to all its members informing about a meeting to be held on 23rd November 2022 of the newly constituted Governing Body and on 23rd November 2022, a new committee of Petitioner No.1-Administrative Council came into existence.

(xxiv) On 25th November 2022, Respondent No.7 UGC refused to nominate its members on the Governing Board formed by Respondent No.4.

5. It is on the above backdrop that the present Writ Petition came to be filed *inter alia* praying for quashing and setting aside of the communication dated 4th October 2022 addressed by Respondent No.1-State to Respondent No.4 Society and the communication dated 4th November 2022 addressed by Respondent No.5-University to

Respondent No.4-Society and further praying for a declaration to hold Petitioner No.1-Council has a body in-charge and in control of affairs of Petitioner No.2-College.

6. We have heard learned counsel for the Petitioners and the Respondents and have also perused the documents annexed to the petition, replies, rejoinders, compilation of the documents and brief submissions filed by the parties.

Submissions of the Petitioners :-

7. The learned Senior Advocate for the Petitioners submitted that an attempt is made by Respondent No.4 to take over control and management of Petitioner No.2-College by de-recognizing the body being Petitioner No.1-Council lawfully constituted since 1956. He took us through history of the College since 1947 and submitted that on account of financial problems of Petitioner No.2-College which was managed by Respondent No.4 upto 1956 and on a request made by the State Government, Central Government and Respondent No.4, Petitioner No.3-Trust bailed out the College by giving donation on the condition that the management and control of the affairs of the College would be by a Body which would be constituted at the behest of the Government and which is to be controlled by Petitioner No.3-Trust. The Petitioners submit that Petitioner No.1-Administrative Council body is

recognised by the statutory authorities including all the Respondents till the dispute arose between Respondent No.4 and the Petitioners. The Petitioners took us through various documents in support of its submissions. The Petitioners submitted that Respondent No.1 and Respondent No.5 are not justified in nominating its members on the Board of Governors constituted by Respondent No.4. The Petitioners submitted that on a perusal of various resolutions and documents, since 1956, Respondent No.4-Society agreed to give up control and management of the affairs of Petitioner No.2-College in favour of the Petitioner No.1-Administrative Council for all the times to come. Respondent No.4-Society agreed for division of its assets and liabilities between the College and the Society and in furtherance thereof, the assets of the College were handed over to the Petitioner No.1 along with liabilities. Petitioner No.1 submitted that their constitution is in accordance with all the Rules and Regulations including UGC Regulations and therefore, the impugned action of Respondent Nos.1, 2, 3, 4 and 5 is illegal and bad-in-law. The Petitioners therefore, submitted that the Writ Petition be allowed in terms of prayers made in the petition.

Submissions of Respondent No.4-Society :-

8. The learned Senior Advocate for the Respondent No.4

submitted that Petitioner No.1 is their own creation and therefore, they have a right to bring to an end such a body. It was submitted that Petitioner No.2-College belongs to Respondent No.4-Society and for the same, they have relied upon the accounts for various years including the year ending 31st March 1978. Respondent No.4 further submitted that the constitution of Petitioner No.1 is not in accordance with 2018 UGC Regulations and the Government Resolution of Respondent No.1 of 2012 and therefore, they as a parent body of Petitioner No.1-Council have the right to constitute Board of Governors for control and management of the affairs of the College. Respondent No.4-Society further submitted that they have passed resolutions superseding Petitioner No.1 in the year 2010. Respondent No.4 has also challenged the legal status of Petitioner No.1 to maintain the present petition. Respondent No.4-Society further submitted that various resolutions passed by them ousting Petitioner No.1 has not been challenged. Respondent No.4 therefore, contended that the Writ Petition deserves to be dismissed.

Submissions of Respondent No.1-State :-

9. The learned Senior Advocate for Respondent No.1 submitted that the constitution of Petitioner No.1 is not in accordance with the Government Resolution of the State dated 23rd October 2012 since the authorities specified in autonomous College are not in place as per the

said Government Resolution. Respondent No.1 relied upon paragraphs 5, 7, 9 and 11 of the said Government Resolution in support of its justification for sending their nomination on the Board of Governors of Respondent No.4-Society. Respondent No.4 further submitted that the constitution of Petitioner No.1 is also not in accordance with 2018 UGC Regulations and for the said propositions, he relied upon paragraph 13 of the 2018 UGC Regulations. Respondent No.1 also challenged the legal status of Petitioner No.1 in filing the present petition. Respondent No.1 therefore, submitted that they are justified in nominating their representatives on the Board of Governors of Respondent No.4.

Submissions of Respondent No.5-University :-

10. Respondent No.5-University has adopted the arguments canvassed by Respondent No.4 and Respondent No.1.

Submissions of Respondent No.7-UGC :-

11. Respondent No.7 submitted that insofar as the UGC is concerned, it is neither supporting or opposing the Petitioner or the Respondent No.4. It was mainly concerned with the excellence of academics for which it is constituted. Respondent No.7 has submitted that none of its action is under challenge in the Writ Petition. The learned counsel for the Respondent No.7 took us through the Regulations to explain the scheme of 2018 Regulations and further

submitted that 2018 UGC Regulations have been replaced now by 2023 UGC Regulations. Respondent No.7 also took us through certain list of dates and events filed by the Petitioners. Respondent No.7 relied upon its affidavit-in-reply filed in the present petition in support of its neutral stand taken. Respondent No.7 also submitted that the autonomous status of Petitioner No.2-College is not disturbed and is valid upto 2026-27. Respondent No.7 submitted that they have communicated with the Principal of the College and not with the Petitioner or Respondent No.4 and in support thereof took us through some of the letters which were addressed to the Principal of the College.

Submissions of Respondent No.8- P. S. Deshmukh :-

12. The learned counsel for the Respondent No.8 submitted that he ought not to have been made a party in-person *moreso* because no relief is claimed against him. He took us through a note showing the matters pending before various other Courts where he was a party in the disputes between the Petitioner and Respondent No.4.

Submissions of the Intervenor- Governing Board constituted by Respondent No.4-Society to manage Petitioner No.2-College :-

13. The learned counsel for the Intervenor submitted that the Petitioner No.1 owes its existence to executive instructions of 1956 and Petitioner No.1 is neither a Society nor a Trust. It was submitted that

Petitioner No.1 ceased to be in power and control post the 2018 UGC Regulation. It is not the contention of the Petitioner that they are Governing Body as per 2018 UGC Regulations. It is the Intervenor's submission that 2018 UGC Regulations override executive instructions of 1956 Administrative Council Rules. The Intervenor has taken us through 2018 UGC Regulations and 2023 UGC Regulations and more particularly definition of Governing Board, Parent University, Statutory body, etc. and submitted that there is no definition in these Regulations in which the Petitioner No.1 would fall. The Intervenor prayed for dismissal since they are the governing body of Petitioner No.2-College.

Rejoinder of the Petitioners :-

14. The Petitioners in Rejoinder submitted that nobody is disputing the setting up of Petitioner No.2-College by Respondent No.4 nor it is the case of the Petitioners that they are owners of the college, but what is being contested in the present petition is the control and management as to who is in-charge of Petitioner No.2-College. The Petitioner has taken us through compilation of documents to show that it is they who were collecting fees, incurring various expenditure, filing the tax returns etc. Petitioner No.1 further submitted that their constitution is in accordance with 2012 Government Resolution upto 2018 UGC Regulation. He further submitted that the Intervenor have not explained as to if they were constituted in 2012 why the first

meeting was held in the year 2022 after a period of 10 year and after a period of 4 years from 2018 UGC Regulation. Minutes of the first Governing Body of Respondent No.4 dated 28th November 2022 does not have any principal or representative of Respondent Nos.6 and 7 and therefore the formation of Governing Body who are intervenors is itself bad in law. The Petitioner further submitted that if the intervenor was constituted in 2012 then there is no reason given by Respondent No.1 to have sent their nominee for the first time in the year 2022. The learned Senior Advocate for the Petitioners took us through the minutes of the first meeting of the intervenor and contended that upto 2022 they were not in existence. With respect to submission of Respondent No.1-State, the Petitioners submitted that they are in compliance with the said 2012 Government Resolution and they have vested right to manage and control Petitioner No.2. The Petitioners further submitted that spirit of 2012 Resolution and 2018 UGC Regulations is to separate the ownership from the management and the constitution of Petitioner No.1 is in consonance with the said Government Resolution and Regulation. The Petitioners again took us through the relevant dates and events in support of their submissions that on going through various events from 1956, the management rights of Petitioner No.2-College vests with Petitioner No.1. The Petitioner further submitted that from 1956 till 2022, the Respondents nominated their representatives

on its Administrative Council which justifies the existence and recognition of Petitioner No.1 being in-charge of the control and management of the affairs of the college. The Petitioner also brought to our notice the composition of Administrative Council (Governing Body) for the period 2019 to 2022, wherein the members consisted of representatives from Petitioner No.3, Respondent No.4 Government of India, Respondent Nos.5, 6, 7 etc. The said composition is in accordance with the Resolution of Respondent No.4 dated 3rd October 1961 which states that 4 out of 3 representative of Respondent No.4-Society would be approved by Petitioner No.3.

Sur-Rejoinder of Respondent No.4-Society :-

15. Respondent No.4 submitted that it is they who have created the Petitioner No.1 and therefore they are justified in putting an end to such a body. Respondent No.4 challenged the legal existence of Petitioner No.1 by relying upon UGC Regulation. It is the contention of Respondent No.4 that upto 2018 UGC Regulation they were running the college and post 2018 it is the intervenor who is running the college. Respondent No.4-Society therefore submitted that the Petition be dismissed.

Analysis and Conclusions:-

16. At the outset, we wish to state that we have reproduced the

submissions of the parties in brief and have dealt with exhaustively in our reasoning therefore, we do not find it necessary to reproduce the submissions in detail as argued before us and we have considered the relevant submissions of the parties in our reasoning.

17. Although in the present Writ Petition the challenge is to the communication dated 4th October 2022 by Respondent No.1-State to Respondent No.4-Society and of 4th November 2022, by Respondent No.5-University to Respondent No.4-Society, in effect the crux of the matter is that this Court is called upon to adjudicate the correct body to which the representatives of the respondents are required to nominate their representatives and it is this body that the Petitioner no.2-College would be controlled and managed. The issue really appears to be a fight between the Petitioner No.3-Trust and Respondent No.4-Society. Although this would have been private dispute between private parties but since representatives of the Government and statutory bodies are to be nominated on the body which is required to control and manage the College, the issue seeks determination in the Writ Petition. None of the parties before us have raised the issue of maintainability and furthermore since it is concerning the nomination to be made by the Government and the Statutory Authorities. We accordingly take upon ourselves the adjudication of the Writ Petition.

18. The communication impugned in the present petition is of the

year 2022 and the contesting respondents submissions relate to non-compliance of 2012 Government Resolution and 2018 UGC Regulations but it has a long past history which needs examination. Past will show us the light in present to traverse into future. The current and present dispute cannot be resolved without ignoring the past and it is the past which will guide us to arrive at the resolution of the dispute which we have been called upon to decide. Therefore, our analysis begins from the year 1955 so as to arrive at a conclusion on the intention of the parties as to which is the body in-charge of and in control of the management and affairs of the Petitioner no.2-College.

19. The issue raised for our consideration revolves around control and management of ‘Walchand College of Engineering, Sangli’ (for short “College”). The Petitioner No.1’s control is sought to be disturbed by the action of the contesting Respondents and more particularly action of Respondent No.1-State and Respondent No.5-University. In our view, based on the analysis made hereinafter, the control and management of the College would continue to be with the Petitioners and more particularly, Petitioner No.1 since the intention and acts of Respondent No.4-Society was to give up the control and management of the college. We may clarify that we are not adjudicating the ownership rights of the College and its assets, but what we are called upon to decide is only the issue of control and management through the

body and with whom does it lie, whether it is the Petitioner No.1 or the Intervenor body constituted by Respondent No.4 ?

20. Prior to 1954, the College was run by Respondent No.4-Society. However, as evident from 3rd June 1954 letter written by Respondent No.4-Society to Respondent No.1-State (as it then was), the College was staring at precarious financial problems and, therefore, the Respondent No.4-Society proposed two alternatives to Respondent No.1. The 1st alternative being Respondent No.1-State would give special financial grant to help Respondent No.4-Society to pay off liabilities of the College once for all so that the College could stand on a stable footing and start with a clean slate. The 2nd alternative proposed by Respondent No.4-Society was that the Respondent No.1-State would take over the College with all its assets for future management. The Respondent No.4 in the said letter admitted that it has nurtured the College, but is willing to sacrifice the same for the larger public interest. The Respondent No.4-Society in the said letter also suggested Respondent No.1-State that they are opened for any other alternative to save the College. This shows that Respondent No.4-Society had made up its mind to give up the management and control of the College since the College was facing severe financial difficulties and they lacked financial resources to fund the running of the college and further they were open to any suggestion by the State to save the college.

21. Pursuant to the above request, Respondent No.1-State requested Petitioner No.3-Trust to intervene and bail out the College by giving donation. The Petitioner No.3-Trust agreed to the said proposal and vide letter dated 22nd March 1955 addressed to Respondent No.4-Society with a copy marked to Respondent No.1-State agreed to donate a sum of Rs.5,00,000/- on the conditions specified therein one of them being that due representation shall be given to Petitioner No.3-Trust on the Governing Body of the College, so as to give them a share in the control and management of the College and further every year, 5 students will be nominated by Petitioner No.3-Trust for admission to the College. In addition to this condition, the Petitioner No.3 also imposed a condition that the name of the College be changed from 'New Engineering College' to 'Seth Walchand Hirachand College of Engineering'. The aforesaid proposal of Petitioner No.3-Trust was principally accepted by Respondent No.1-State and Respondent No.4-Society which is evident from letter of 28th March 1955 addressed by Respondent No.1-State to Petitioner No.3-Trust and also letter of the same date addressed by Respondent No.4-Society to the Petitioner No.3-Trust. On the very same day, Petitioner No.3-Trust addressed a letter to Respondent No.4-Society enclosing a donation of Rs.3,00,000/- being part payment of the donation of Rs.5,00,000/-. This letter of Petitioner

No.3 also records that the amount donated should not be utilised without the approval of the committee to be appointed by the Government. This appears to be because, Petitioner No.3-Trust wanted to ensure that the amount donated is utilised for improving the financial health of the College. In our view, reliance placed by Respondent No.4-Society on this condition does not take the case of the Respondent No.4 any further, but on the contrary, it supports the case of the Petitioners inasmuch as, it indicates the background in which the Petitioner No.3-Trust was called upon to save the College from financial problems coupled with Respondent No.4-Society's intention to give up the management of Petitioner No.2-College. This letter has to be read along with the previous letters of 3rd June 1954, 22nd March 1955 and exchange of letters of 28th March 1955 between the parties which are referred to hereinabove and if read so there cannot be any doubt that Respondent No.4-Society wanted to handover the control and management of the College to Petitioner No.3-Trust.

22. Pursuant to the above, on 16th May 1955, a meeting of ad-hoc committee took place in which Mr. Gulabchand Hirachand, representative of the Petitioner No.3-Trust was present. Various issues were discussed including the renaming of the College and a resolution was passed by the committee to rename the College as "Walchand College of Engineering" instead of "Seth Walchand Hirachand College

of Engineering” as requested by Petitioner No.3-Trust in letter dated 22nd March 1955. In the said meeting, it was also resolved that the constitution of committee be informed to Respondent No.1-State. The minutes of the said meeting was confirmed on 24th June 1955 on which day, the 2nd meeting of the Ad hoc Committee was held and request Petitioner No.3-Trust for 2 seats on the Council was also recorded. In the said meeting, it was also resolved that the Rules and Regulations of the Administrative Council were to be send to Respondent No.1-State by Respondent No.4-Society. Pursuant to these 2 meetings, the name of the College came to be changed to “Walchand Engineering College” as per the condition and request of Petitioner No.3-Trust. This was a step for transfer of control and management of the College from Respondent No.4 to Petitioner No.3 through Administrative Council.

23. The setting up of “Administrative Council” in place of “Ad hoc Committee was approved by Government of India on 4th September 1956 and same was communicated to Respondent No.1-State, a copy of which was also marked to Respondent No.4-Society. Government of India also stated in the letter dated 4th September 1956 that composition, powers and functions of the Administrative Council may be decided and the rules and regulations may be framed by the said Council and send for approval of the Central Government and the State Government. In the Committee, 50% of the members were to be

nominated by the Society founding the Institution and the balance 50% were nominees from various other institutions like Central Government, State Government, etc. The functions of the managing committee were also recommended in the said letter by the Government of India. The Central Government expressed their desire that Administrative Council of Walchand College should be in conformity with the said recommendation and suggested that Administrative Council should consist of 11 members of whom the Principal will be ex-officio member and the Secretary. Out of 11 members, 4 persons were to be nominated by Respondent No.4-Society, one by Petitioner No.3-Trust and others by Central Government, State Government, University, etc. The Central Government also suggested to Respondent No.4-Society that the Chairman of the Council may be elected by the Council from among its member. All appointments including that of the principal shall be made by the Administrative Council on the recommendation of the Selection Committee. One of the important suggestion made by the Central Government in the said letter was to Rule 7(g) which stated that the budget of the College should be framed by the Administrative Council and should not be subject to the control of Respondent No.4-Society and the views of Respondent No.4-Society can be presented through its representative while framing the budget. This shows that divesting of control of Respondent No.4-Society on the finances of Petitioner No.2-

College in favour of Petitioner No.1-Council. In this letter, comments made with respect to Rule 19 is also important, which states that Respondent No.4-Society shall not be entitled to charge rent for the College building and all references to the Board of Control of Respondent No.4-Society should be deleted and the Administrative Council shall not be subordinate to the Board of Control. The Respondent No.4-Society was directed to set up Administrative Council in accordance with the suggestion made by the Government of India in the letter dated 4th September 1956. Two important things come out from this direction; firstly, that the finance of the College was to be managed by the Administrative Council and the Respondent No.4-Society would have no say in it except expressing its views through its representative on the Council. The functions of the Administrative Council were to manage the affairs of the institute, which is the running of the College and thirdly, it was a clear understanding that the Board of Control of Respondent No.4-Society would be replaced with the “Administrative Council” insofar as the control and management of the College is concerned. This indicates that even the Government of India and Respondent No.4-Society agreed to handover the control and management of the College to Administrative Council and in whose functions, no interference was sought to be made by Respondent No.4-Society. The reason we have analysed this letter is to come to a

conclusion that right from 1955, the correspondence and the actions clearly indicates that Respondent No.4-Society for all time to come had agreed to give up the control and management of the College in favour of Petitioner No.1-Council.

24. Merely because, the Administrative Council had 4 persons nominated by Respondent No.4-Society, it would not mean that Respondent No.4 was in control and management of the College. The control and management was to be given to an independent body called “Administrative Council.” Therefore, the reliance placed on the constitution of Administrative Council in this letter by Respondent No.4-Society does not go on to show that the management and control of the College was always intended to be with Respondent No.4-Society, but on the contrary Rule 7(g) and 19 clearly indicates otherwise i.e. Respondent No.4-Society would not have any say in the management and control of the College, except to express its views through its representative in framing the budget. The intention of the parties appears to divest the powers of control and management of the college from Respondent No.4 to an independent body “Administrative Council.” The setting up of “Administrative Council” was directed by Respondent No.1 to Respondent No.4-Society and therefore today they cannot be heard to contend otherwise.

25. On 20th November 1956, in the General Body Meeting of

Respondent no.4-Society, Administrative Council (Constitution and Power), Rules came to be passed. It is important to note that these Rules were passed pursuant to the directions given by Government of India and Respondent No.1-State to Respondent No.4-Society for divorcing the management and control of the College from Respondent No.4-Society to an independent body "Administrative Council". The Respondent No.4-Society in this General Body Meeting superseded its earlier rules for administration of the College and it was agreed that the administration of the affairs of the College shall vest from 22nd November 1956 in an Administrative Council. The constitution of the Administrative Council was also specified which consisted of 11 members which included Principal of the College, one nominee each from Petitioner No.3-Trust, Respondent No.1-State, Respondent No.2-Technical Education, Respondent No.5, etc. and 4 nominees from Respondent No.4. The said Rules stated that Board of Control of Respondent No.4 will not have any control on the Administrative Council. The powers of the Council were agreed upon which included the management of the affairs of the College and its expenditure in addition to other powers relating to running of the College, namely, appointment of staff, regulating the service conditions of the Staff, appointment of auditors, fixing College fees, etc. and more particularly framing Bye-laws for the efficient working of the Council and the

College. The Bye-laws governing Administrative Council were named as Administrative Council (Constitution and Powers) Rules 1956. The said rules provided for all the aspects of running the College and the body to run the College was with the Administrative Council. Rule 2 of the said Rules defined 'council', 'society', 'college', 'member', etc. The constitution of the Council and filling up of the vacancy was also provided in these Rules. Number of times the council would meet and the business to be discussed was also provided in the said Rules. Rule 8 of these Rules provided for maintaining the accounts of the College by the Council and its audit at the close of each year by the auditor to be appointed by the Council. The Secretary was made responsible for preparing statement of receipts and expenditure and presenting the same before the Council at every meeting. The Rules also provided for considering audited accounts of the College by the Council and sending the copy of the auditor's report and the accounts to Respondent No.1-State, Government of India and Respondent No.4 for information. The Rules also provided for assignment of the buildings, structures, etc. of the College by the Council and it was specifically provided that neither the Council nor the Respondent No.4-Society would create any encumbrance on the building on which the College is situated. The said Rules also provided for receipt of grants and utilization of the said grants for the purposes of the College and a report of the same would

be send to Respondent No.4.

26. On a reading of the said Rules in entirety, it clearly shows that the management and control of the running of the College was vested in the Administrative Council de-hors Respondent No.4-Society. We do not agree with the contention of Respondent No.4-Society that merely because the statement of grants and its expenditure is to be given to the Respondent No.4, the Society can be said to be in the control and management of the affairs of the College. Rule 10 very specifically states that the auditor's report and statement of grant and its utilization would be given to Respondent No.4 only for its "information." From that, it cannot be said that Respondent No.4-Society was in control of the affairs of the College but the Rules clearly show that it was the Administrative Council which had the powers and duty to run the College and manage the affairs, maintain accounts, get the accounts audited, etc. The fees, appointment of staff, service condition of the staff working in the College, budget, etc. all aspects of running the College were vested with the Administrative Council. Therefore, in our view, we do not agree with the contentions of Respondent No.4, based on these Rules that as certain reports were to be given to Respondent No.4-Society, it had a control and management of the College, which reports were only for the purpose of "information" of Respondent No.4.

27. On 17th June 1957, a report of sub-committee formed by the

Administrative Council of the College made a report titled as Property (Demarcation) Committee Report. The said committee was formed at the behest of the Administrative Council which consisted of 4 members from Respondent No.4-Society. In the said report, the Committee has observed that they had a prolonged discussion with the Chairman of the Respondent No.4-Society. The Committee was formed to consider and suggest bifurcation of the properties, assets and liabilities of Respondent No.4-Society between the Administrative Council of the College and Respondent No.4-Society. The objective was to earmark the properties and liabilities for purpose of Administration, Management and Control of the College, so that the Council should have effective control over the properties of the College. The Respondent No.4-Society has relied upon the said report in support of its submission that the management and control of the College continues to be with Respondent No.4. We, however, do not agree with the contention of Respondent No.4-Society, inasmuch as we are not concerned with the ownership of the properties in the present proceedings before us, but what we are concerned with is to ascertain based on this report as to who is in-charge and control of the management and affairs of the College. The said report confirms that the Administrative Council was established for the efficient management of the College and of the properties and assets of the College. It further reiterates that the Council was formed for taking

over not only the management of the College but also the management of all the properties connected with the running of the College including taking over of the liabilities. The said committee report also records that the Society would not take over the liabilities related to the assets of the College when the property and the assets are to be managed by the Council. The report records that on taking over of the properties and assets of the College by the Council, the Society would reciprocally divest itself in favour of the Administrative Council of all powers of disposal over the properties and assets so taken over by the Council. We do not dispute the contention of the Respondent No.4-Society that Administrative Council was set up in accordance with the wishes and directions of the Government of India and Respondent No.1-State, but the very same clause also records that the Administrative Council was set up for efficient management of the College and the properties and assets connected therewith. It also records taking over of the management by the Council from Respondent No.4-Society including all the movable and immovable assets connected to the College and its affairs. The committee also records that an amount of Rs.750/- would be paid to Respondent No.4-Society for the use of two hostels by the Administrative Council. It also records that on the properties being assigned to the Council, Respondent No.4 would cease to have any liability in respect thereof including their maintenance, repairs,

payment of taxes, etc. It expressly records that the Council shall not be liable to pay any rent and fee in respect of the properties taken over by the Council. The report also records taking over of the liabilities pertaining to these assets by the Council.

28. The reading of this report as a whole would clearly indicate that Respondent No.4-Society agreed to give up the control and management of the College and the assets connected therewith including disowning of the liabilities in running the College and attached to the College. It also records that Respondent No.4 could not fund and develop the College after a point which resulted into burden of outstanding liabilities. The report records and appreciates the intervention of Petitioner No.3-Trust for saving the College from being closed down and further saving the society from dragging down. In our view, this report relied upon by Respondent No.4-Society in support of its submissions goes against itself inasmuch as this report records that the management and control of the College was for all purpose intended and in fact handed over to the Administrative Council including the intention to handover the assets and liabilities of the College to the Council. The said report of Property Committee was duly accepted by Petitioner No.1 and Respondent No.4-Society in their respective meetings held on 13th July 1957 and 27th July 1957. The copy of these resolutions were also forwarded to Respondent Nos.1 to

3-State by Petitioner No.1. Respondent No.4-Society in the said resolution on 27th July 1957 confirms the division of the properties and assets and passes a resolution that the arrangement in the nature of Trust would subsist in future for the effective control and management of the said properties by the Petitioner No.1. In our view, although no conveyance was executed between Petitioner No.1 and Respondent No.4 but in effect name of Respondent No.4-Society appeared for the benefit of Petitioner No.1-Council. The reason for referring to this resolution is to come to a conclusion that Respondent No.4-Society agreed to divest itself from the management and control of the college and Respondent Nos.1 to 3-State were kept in loop by the Petitioner No.1 and Respondent No.4 of this arrangement. Pursuant to the above agreement between the Petitioner Nos.1 and 3 and Respondent No.4, Respondent No.4-Society on 27th May 1964 handed over possession of land and building of the college to Petitioner No.1 for the use of the college and its activities. It further indicates that Respondent No.4 had divested itself from the management and control of the college so that the Petitioner No.1 can effectively run the college.

29. The Government of India agreed to have two nominations of Petitioner No.3-Trust on the Administrative Council of the College. This was in pursuance to a further donation of Rs.3 lakhs by Petitioner No.3-Trust for the purpose of college. This indicates the intention of the

Government of India to give control of the college to Petitioner No.3. This arrangement has been accepted by Respondent No.4-Society in its resolution of 3rd October 1961. The said resolution of Respondent No.4-Society acknowledges that the donation of Petitioner No.3-Trust is for the benefit of the college and it further states that Respondent No.4 shall not incur any borrowing debts or other liabilities on the properties of the college in future without the prior approval and consent of the Petitioner No.1 since the properties belong to the college. Respondent No.4-Society further resolved that the said resolution is irrevocable and same would not be altered, amended or modified without the consent of the Petitioner No.1. Respondent No.4 further agreed in the said meetings that 3 out of 4 of its representative on the Council would be persons approved by Petitioner No.3-Trust. The said resolution has been relied upon by Respondent No.4 in opposing the petition, but the said resolution on the contrary goes against Respondent No.4 inasmuch as this resolution read with the previous correspondence between the parties clearly shows that for all times to come Respondent No.4 ceded its contrary over the management of the college in favour of Petitioner Nos.1 and 3. Therefore, in our view, Respondent No.4 is not justified in relying upon this resolution but on the contrary it strengthens the case of the Petitioner Nos.1 and 3 when read with the earlier correspondence and events.

30. The College continued to run smoothly by Petitioner No.1-Council based on above agreement/understanding between the Petitioners and the Respondents for almost 2 decades.

31. The Administrative Council Rules were amended in the year 1971 and 1977 and as per the amended rules, the Administrative Council consisted of 12 members excluding the Principal of the College. Out of the said 12 members two were nominees of Petitioner No.3-Trust, 3 out of 4 representative of Respondent No.4-Society were to be approved by Petitioner No.3 and the balance were representatives from Government of India, Respondent No.1-State, Respondent Nos.5-University and 6-AICTE. The Rules further reinforce that Petitioner No.1-Council would not be subject to the control of Respondent No.4-Society, but shall exercise the powers and perform functions in confirmation with the Council's Rules, and it further reiterates vesting of administration of the college with Petitioner No.1. The powers of the Council related to all the aspects of running the college and managing the affairs of the said college. These Rules were amended in the presence of representative of Respondent No.4-Society and therefore today Respondent No.4 cannot contend that they can take the control and administration of the college by forming a new governing body. The said Rules also provided for powers and duties of the Principal,

Constitution of Finance Committee, Building Committee and Equipment Committee. In our view, therefore, the attempt on the part of the Respondent No.4-Society to challenge the constitution of Petitioner No.1 would be contrary to the Petitioner No.1 Rules to which the Respondent No.4-Society was a party.

32. The Petitioner No.1-Council has shown us minutes of the meeting of the Petitioner No.1 which is dated **20th March 2003** wherein the representatives of the Petitioner No.3, Respondent Nos.1 to 6 were present and discussion on working of college, application for autonomy, financial status, new appointment etc. was discussed to buttress their contention on the aspect of control.

33. The Respondent No.1-State on 21st March 2005 issued guidelines with respect to approval for implementing TEQIP in Non Government partially aided technical education in the State. It is stated that upon the Board of Governor being lawfully constituted and upon obtaining educational autonomy from the Universities, these Institution shall function as only autonomous body and the administration and management of the affairs would be with Board of Governors. The Constitution of Board of Governor was also specified in the said guidelines which included two members from reputed Institute appointed through Government, three members appointed at institutional level, one member ex-officio appointed by Respondent

No.2, one member from Institution senate, two member from IIT Mumbai or similarly reputed institution, one member from Technical Education Department and Respondent No.1-State etc. The Petitioners rightly submitted that the Administrative Council had the requisite members which were required by these guidelines and the role of Administrative Council is identical to the Board of Governor, and therefore even if nomenclature the Administrative Council is not 'Board of Governor' but the ingredients required to constitute of 'Board of Governor' are present in the Constitution of 'Administrative Council'. The Petitioner has taken us through the Constitution of the "Administrative Council" in support thereof and we are agree that although the nomenclature is not of 'Board of Governors', the constitution of Administrative Council is *pari-materia* with that of Board of Governors. Therefore, it cannot be said that the constitution of Petitioner No.1 is in violation of the said guidelines and in any case no action is taken by any authority on this issue which reinforces the case of the Petitioners of their being in compliance therewith.

34. In the year 2011, Respondent No.6-AICTE nominated two members on the so called governing body of the College on the premise that it belongs to Respondent No.4. However, on realizing that there is a dispute with respect to control of the College, the nomination were withdrawn. This indicates that the control and management of the

college was never with Respondent No.4-Society post 1956. Respondent No.4 challenged the action of Respondent No.6 in withdrawing nominations of its representative on the Board of Governors for the period of 2013 to 2016 and illegal formation of Petitioner No.1 before the Delhi High Court in Writ Petition No.5883 of 2012. However, the said Writ Petition came to be withdrawn by Respondent No.4-Society. Although liberty was granted, Respondent No.4 did not take any action thereafter which indicates that Respondent No.4 had recognized Petitioner No.1 as controller and manager of the college. The proceeding before Delhi High Court also recognizes that Respondent No.6 by nominating its representative on Petitioner No.1-Administrative Council, gives recognition to the fact that Respondent No.6 recognizes Petitioner No.1-AICTE to be in-charge of and in control and management of and in the affairs of the College.

35. It is also important to note that in the RTI reply dated 13th August 2013 by Respondent Nos.1-State to 3 pursuant to various queries raised by one Mr. Vivek Bodas, Respondent Nos.1 to 3-State stated that representative of the Government is being appointed on Petitioner No.1-Council which Council is formulated by Petitioner No.3-Trust and Rules of Petitioner No.1 are consistent with guidelines of Respondent Nos.6-AICTE and 7-University. The said reply also records the events starting from 1955 to 1961 by which the Petitioner No.1 was

constituted. Respondent Nos.1 to 3 also accepted in the reply that the ownership of the college is with Administrative Board of the Society. This RTI query confirms the fact that the rules of Petitioner No.1 are consistent with the Rules and Regulations of Respondent Nos.6-AICTE and 7-UGC and the affairs of the college is being managed by Administrative Council-Petitioner No.1 and further there is separation of ownership and management. The stand of Respondent No.1-State in this reply is in consonance with the view which we have taken above that although the nomenclature of the “Administrative Council” is not “Board of Governors” but the constitution and its powers and duties are same as that of Board of Governors. We make it clear that we are not commenting upon the ownership issue in this Writ Petition. Therefore, today Respondent Nos.1-State, 6-AICTE and 7-UGC cannot refuse to recognize Petitioner No.1-Administrative Council as a body who is in-charge of management and control of affairs of the college. This is also the stand taken by Respondent No.6 which is also contrary to its own action of 2nd December 2015, whereby they themselves have appointed their member on the Administrative Council-Petitioner No.1 which they themselves have termed as ‘Governing Body of the College’. Therefore, in our view, today Respondent Nos.6-All India Technical Education and 7-UGC cannot contend that the body ‘Administrative Council’ cannot be construed as ‘Governing body’ nor Respondent No.1-State can argue

contrary thereto.

36. We are surprised on the stand taken by Respondent No.1-State for derecognizing Petitioner No.1 as a body who is in-charge and control of the affairs of the college. This stand of Respondent No.1 is contrary to the enquiry report of Respondent Nos.2 and 3 dated 2nd July 2016 which are part of its own Department of Technical Education. Dr. P. M. Khodke report was prepared by a Committee of 3 eminent persons to enquire about the authority that had the right in respect of administration, disciplinary action, financial matters etc. of the college. The Committee after giving opportunity of hearing to Petitioner No.1, Respondent Nos.4, 8 etc. and after detailed deliberation came to a conclusion that Petitioner No.1-Administrative Council has rights on the matters of management and administration, financial, educational etc. of the college. It further states that status of Petitioner No.1-Administrative Council is accepted and same is in accordance with Government Resolution. The said Committee comes to a conclusion that Respondent No.4-Society and its Board of Control are not in anyway connected with the matters of administration, financials, governance, etc. of the college. We are not shown any document which indicates that this report was challenged by any party. Therefore, in our view, today it does not lie in the mouth of contesting Respondents to contend that the control and management of the affairs of the college rests with

Respondent No.4-Society and more particularly Respondent No.1-State and not with Petitioner No.1-Administrative Council. Any arguments contrary to the Dr. P. M. Khodke report by the Respondents are to be rejected.

37. The things having not stopped here, on a complaint made by Respondent Nos.8-Shri. P. S. Deshmukh and Respondent No.4-Society, Respondent No.2-Directorate of Technical Education sought a legal opinion from Law and Judiciary Department of Respondent No.1 on the appointment of Administrator on the college and whether Petitioner No.1-Administrative Council of the college can be directed to convert the Administrative Council into the Trust, the Law and Judiciary Department examined the history from 1955 and after perusing all the documents which are also considered by us above opined that the Petitioner No.1-Administrative Council of the college is a separate and independent entity other than Respondent No.4-Society and Petitioner No.3-Trust. The said opinion also recognizes that the constitution of Petitioner No.1 is as per Administrative Council Rules, 1956 as amended from time to time and the said Council consists of nomination from various bodies including Central and State Government, Respondent No.4, Petitioner No.3 etc. The said opinion also accepts that Administrative Council-Petitioner No.1 is in-charge of running and management of the college. It also records the submission of

Respondent Nos.4 and 8 with respect to the body controlling the affairs of management of the college. The said opinion comes to a conclusion that Petitioner No.1-Administrative Council has not been negligent to perform the duties imposed on it under the instrument which regulates its administration or the college is being managed in a manner detrimental to public interest. The opinion recognizes the constitution of Petitioner No.1 as per rules and bye-laws and after detailed deliberation the proposal for appointment of Administrator on the college was rejected. The said report is dated 11th January 2017 and the same has not been challenged by anyone till today in any proceedings. Therefore, in our view today, the issue of who is in control of management and affairs of the college is no more *res-integra* at least insofar as Respondent Nos.1, 2, 3, 4 and 8 is concerned. In our view, the submissions made by the Respondent No.1-State is contrary to their own opinion and will have to be rejected.

38. It is important to note that Respondent No.4 in Writ Petition No.14369 of 2022 had filed a Writ Petition in 2016 being Writ Petition No.13025 of 2016 praying for direction against the statutory, Government and other Authorities to send their representative on the board for management of the College. This petition could have been only on the basis that till 2016, Respondent No.4 had no control and management of the affairs of the College. The interim relief was not

granted by the Court in Writ Petition No.13025 of 2016 and the said petition is pending till 2022, when we took up this matter along with Writ Petition No.14369 of 2022. This itself shows that Respondent No.4-Society was never in control and management of the affairs of the College till today. It is also important to note that in Writ Petition No.13025 of 2016 filed by Respondent No.4, there is another Respondent No.9 by the same name as that of Respondent No.4. We are informed that there is a dispute between the Respondent No.4, who is Petitioner in Writ Petition No.13025 of 2016 and Respondent No.9 therein, both claiming to be controlled the Society. In the light of these facts, we are of the view that Respondent No.4 cannot be said to be in control and management of the affairs of the College either post 2012 Government Resolution or post 2018 UGC Regulation and, therefore, the impugned letters issued by Respondent No.1-State to Respondent No.4-Society and Respondent No.5-University to Respondent No.4-Society sending their nomination on the governing board is illegal.

39. The Respondent No.4 having failed in its attempt to get the control of the college back made an application to Respondent Nos.1 to 3 for appointment of Administrator on the college vide letter dated 5th July 2017 and Respondent No.1 (inspite of earlier opinion of law department which was only 6 months old) acted with lightening speed by appointing an Ad-hoc Committee to run the college on 7th July

2017. The said communication dated 7th July 2017 was challenged by Petitioner No.1-Administrative Council in its said capacity in Writ Petition No.7685 of 2017. The Co-ordinate Bench of this Court on 10th July 2017 stayed the impugned order of 7th July 2017. The said petition is pending as of today but the action of Respondents could not succeed in the appointment of Administrator on account of the stay order passed by this Court. This also indicates that time and again attempts made by the Respondents failed to regain control over the college which as history points out they themselves had given up long ago.

40. Coming to the UGC guidelines notified on 12th February 2018 (2018 Regulations) for autonomous colleges, it is the contention of all the Respondents except Respondent No.7-UGC that the college is not managed and administered in accordance with the said Regulations and therefore, Respondent No.4 is justified in Constituting Governing Body and Respondent No.1 and other the Respondents are justified in nominating their representative on the said body constituted by Respondent No.4. At the outset, on a perusal of 2018 Regulations of UGC, we are of the view that the said Regulations are a self-contained Code in itself for regulating the standards of autonomous colleges. These 2018 Regulations are now replaced by 2023 Regulations. Insofar as, clause 14 of 2018 Regulations is concerned it states that all UGC directives shall be strictly followed, failing which UGC may take

appropriate action as it deems fit against the defaulting college. The power to take action against autonomous college if UGC Regulations are not adhered to is conferred only on UGC-Respondent No.7. We have not been shown any document which will indicate that Respondent No.7-UGC has taken any action against the college. In our view, if there is any violation of 2018 UGC Regulations the appropriate authority to take action would be Respondent No.7-UGC and on a pretext and assumption and presumption of any violation the other Respondents cannot come to a conclusion of any UGC Regulations violation for setting up governing body to gain control and management of the college moreso when the authority conferred to exercise the power has not taken any action assuming there are any violations of these Regulations. Therefore on this count itself, the action of Respondent No.4 to constitute a parallel governing body and action of Respondent Nos.1 and 5 to appoint their nominees on such a body on this pretext is illegal and bad. If this course of action is permitted then it would lead to a chaotic situation inasmuch as any person forming a view of violation of any Rules and Regulations, without the concerned authority taking action, would make an attempt to destabilize the management and affairs of the smooth functioning of the college. Respondent No.1-State can certainly should not take upon itself the powers and duties and role of UGC regulatory authority. We cannot permit any such an

interpretation moreso, in the facts of this case.

41. 2018 UGC Regulations defines “academic council” to mean the academic council of the autonomous college. The composition of academic council is specified in clause 13.4 consisting of principal, heads of department in the college, teachers of the college, experts/academicians from outside the college, nominees of the university etc. The constitution of the Petitioner No.1 confirms to the constitution of the Academic Council mentioned in Clause 13.4 inasmuch as it has principal, representatives from various government department, nominated professor, outside experts etc. Merely because the nomenclature is of ‘Administrative Council’ and not ‘Academic Council’ one cannot say that the college doesn’t have Academic Council. What is important is the constitution of the body and not the nomenclature given to such a body. Therefore, in our view, since constitution of Administrative Council is similar to that of Academic Council, one cannot say that the college does not have Academic Council and therefore, there is a violation of 2018 UGC Regulations. In the annual report of college, there is also mention of Finance Committee and therefore clause 13.6 of 2018 UGC Regulations is also complied. Clause 13.6 provides for functions of the governing body and the function specified in the 2018 Regulations are also the function which appears in Administrative Council Rules of Petitioner No.1. The

annual report of the Petitioner shows constitution of Board of Studies also. In our view, as per clause 13 of 2018 UGC Regulations which provides that a autonomous college should have the governing body, academic council, board of studies and finance committee are in existence in the college. The 2018 UGC Regulations provides that the governing body is different from trust board / board of management, executive committee, management committee. This was with the view to separate the professional management of the college with the ownership. The constitution of Petitioner No.1-Administrative Council is in line with said provision inasmuch as the college is run by Administrative Council which is separate and different from Respondent No.4-Society and this has been accepted by Respondent No.1 in its enquiry report as well as the opinion of Law and Judiciary Department which we have discussed in earlier paragraphs. As per clause 5 of 2018 Regulations, the State Government has to nominate an expert on the body of the College which the State Government in the instant case has done by sending its nominee on the Administrative Council-Petitioner No.1. We do not agree with the contention of Respondent No.4 that the college is in any violation of 2018 UGC Regulations for the reason that no action is taken by UGC authorities for any violation and secondly as observed by us herein-above, the college complies with all the Regulations. Merely because the nomenclature of a particular body is

not the same as that specified in the Regulations, one cannot say that 2018 Regulations are violated. In any case, the appropriate authority to allege any such violation would be the authority under 2018 UGC Regulations and certainly not Respondent Nos.1 to 4, 6 and 8.

42. Clause 2.7 of 2018 UGC Regulations defines “Governing Body” to mean the Governing Body of the Autonomous College which is different from the Trust Board or the Board of Management or the Executive Committee or the Management Committee. Rule 3 prescribes the role of Autonomous College and Clause 3.8 of the said Rule provides that the Autonomous College would constitute their own Governing Body, Academic Council, Board of Studies and Finance Committee. We have already observed that the Governing Body in the context of the facts before us would be Administrative Council. The role of the State Government is provided in Rule 5 of the 2018 UGC Regulations which is that the State Government would provide nominee on the statutory bodies of the college within 30 days and will continue to provide the same funds to the aided college as they were providing before the conferment of autonomous status. The State Government should further ensure that all sanctioned faculty positions are filled on regular and ongoing basis. Rule 9 of the 2018 UGC Regulations provides for monitoring of Autonomous Colleges by IQAC cell. In our view, on the analysis of 2018 UGC Regulations, role of the

State Government is limited to providing nominee on the statutory bodies and to provide funds and to ensure that faculty positions are filled. The said regulation does not provide for any other role for the State Government to come to a conclusion that there is violation of any Rules of 2018 UGC Regulations.

43. We may observe that we have not been called upon to adjudicate on 2023 UGC Regulations and therefore, we are not expressing any opinion on the same.

44. Vide letter dated 19th September 2019, Petitioner Nos.1 and 2 requested Respondent Nos.2, 5 and 6 to appoint their nominee for the period 2019 to 2022 on the Administrative Council Body of the College. Pursuant thereto, Respondent No.5-University appointed its nominee Mr. Pise. However, Respondent No.2 raised some queries which were duly replied by the Petitioner Nos.1 and 2 and thereafter the Administrative Council was constituted for the period 2019 to 2022. The composition of the Administrative Council (Governing Body for the said period) was as under :-

S.N.	Name of the Member	Highest Qualification	Position	Category
1	Shri. Ajit Gulabchand	B.Com.	Chairman	WHM Trust
2	Shri.Sanjayakaka Patil	H.S.C.	Member	WHM Trust
3	Shri.Vijay Pusalkar	B.Tech (Mech)	Member	MTE Society
4	Shri. V.N. Gupchup	Ph.D. (Civil Engg.)	Member	MTES/WHM Trust*
5	Shri. R.P. Purohit	MA.(Economics)	Member	MTES/WHM Trust*

6	Shri. C.N. Gandhi	Dip.(Mech), MBA	Member	MTES/WHM Trust*
7	Dr. C.S.Verma	Ph.D.(Composite Materials)	Member	Govt. of India_AICT_WRO (EX-Officio)
8	Shri. Shrirang Kelkar	Diploma (Automobile)	Member	AICTE-1
9	Dr. Shivajirao Kadam	Ph.D. (Che), MBA, LLB	Member	AICTE_II (UGC nominee)
10	Dr. Abhay Wagh	Ph.D. (Eln & Instr)	Member	Govt. of Maharashtra-Offical (DTE-Ex-Officio)
11	Dr. Ashok T. Pise	Ph.D. (Mech)	Member	Shivaji University, Kolhapur
12	Dr. P G. Sonavane	Ph.D. (Civil)	I/C Director& Secretary	Ex-officio
13	Dr. D. B. Kulkarni	Ph.D. (Electronics)	Invitee	Faculty Representative

(As per the resolution of the Board of Control of MTE Society dated 3.10.1961)

45. The above Constitution of Petitioner No.1 for the period 2019-2022 is in accordance with 13.3(A) of 2018 UGC Regulations in as much as members at Sr. Nos.1 to 6 are from Management Category and also from category of educationist or industrialist. Sr. No.7 would also fall within the category of educationist, Sr. Nos.8 to 10 are State representatives, Sr. No.11 is representative of University, Sr. No.12 is an ex-officio member and Sr. No.13 is a faculty representative.

46. In our view, the compliance of UGC Regulations have to been examined in the context of the history since 1955 and if so examined the argument that post 2018, Petitioner No.1 constituted by executive

instructions ceases to exist is to be rejected. In our view, the compliance of UGC Regulations and the pre-2018 arrangement/understanding/agreement/set-up between the Petitioners and the contesting Respondents can co-exist in as much as the members of Administrative Council can also be on the body of Governing Body and any additional requirement of members as per clause 13.3A of 2018 can very well and in fact has been accommodated in PI-Council body and, therefore, the Governing Body as per 13.3A is nominated as 'Administrative Council' as per 2018 UGC Regulations.

47. We may draw support from the decision of the Supreme Court in the case of **Dr. Premchandran Keezhoth & Anr. Vs. Chancellor Kannur University**¹ to observe that if any decision is taken under any Act/Regulation by a particular authority under the said Act/Regulation then no other person or any superior authority can interfere with the functioning of such statutory authority and if any decision is taken by a person other than authorised person/authority then it would vitiate the decision-making process for this Court to exercise its power of judicial review. In the instant case, the Respondent No.1-State and Respondent No.4-Society has sought to justify their action on the basis of violation of 2018 UGC Regulations but the UGC authority has not found any irregularity/violation of said Regulations, therefore the

1 2023 SCC Online SC 1592

impugned communication by Respondent No.1-State and Respondent No.5-University is required to be set aside.

48. It is important to note that Respondent No.4's appointed its nominee as approval by Petitioner No.3-Trust on the said Council which is in accordance with the Resolution of Respondent No.4-Society dated 3rd October 1961. The constitution has representatives of Respondent Nos.1 to 7 and the tenure of this body was upto 2022 and also in accordance with 2018 UGC Regulations. In our view, the Respondents having nominated their representatives on the Administrative Council body for the period 2019 to 2022 now cannot contend that the said body is not the governing body in accordance with 2018 Regulations, and therefore, UGC Regulations are violated. The arguments of the Respondents on this count is self contradictory and therefore it is nothing short but would amount to approbate and reprobate at the same time. The said constitution dated 5th December 2019 has not been challenged by any party and therefore today they cannot argue otherwise. The Respondent No.7-UGC has nominated its representative on the Petitioner No.1-Administrative Council of the College for the period 2022-2023 to 2026-2027 by appointing professor Mr. Arvind Baalan. The UGC recognizes the Petitioner No.1-Administrative Council as a governing body for 2018 and 2023 Regulations as evident from the letter of Respondent No.7 dated 5th May 2022. Respondent No.2 has

also appointed its nominee Mr. D. V. Jadhav on Administrative Council of the College vide letter dated 12th May 2022 and this Administrative Council is also understood by Respondent No.2 as appropriate governing body of the College. It is important to note that after having appointed Mr. Jadhav on the Petitioner No.1-Administrative Council, the Respondent on 4th October 2022 addressed a letter to Respondent No.4 nominating Joint Director on the Board of Governors of the College in accordance with clause 13.3 (A) of UGC 2018 Regulations. This was done in pursuant to a letter of Respondent No.4 dated 22nd September 2022. This letter is under challenge in the present Petition. In our view, Respondent No.1 was not justified in nominating Joint Director on the Board of Governor of the College by addressing a letter to Respondent No.4-Society since Respondent No.4-Society was not in-charge of the Governance of the College which was the fact admitted by Respondent No.1 itself in the enquiry report and in its own judicial opinion and furthermore as observed by us above, Respondent No.4-Society was never in-charge of control and management of the college post 1956 and the governing body has to be of the college Petitioner No.2 and not of the Society-Respondent No.4. There is no such body called Board of Governors of the College and therefore, even on this count, no cognizance of this letter dated 4th October 2022 should be taken. It is not in dispute that the Respondents have been sending their nominees

on the Administrative Council-Petitioner No.1 of the college upto 5th September 2019 and even thereafter by some of the Respondents. The dispute with regard to the nomination on Administrative Council-Petitioner No.1 body and the body set-up by Respondent No.4-Board of Governors was at the behest of various letters addressed by Respondent No.4 to various other authorities which are impleaded as Respondents in the present Petition. The Petitioner Nos.1 and 2 have brought to the notice of all the authorities the correct facts by letters dated 12th/13th October 2022 to the notice of the Respondents. In the light of above, the nomination of Respondent No.5-University of Dr. Bhagshree Jadhav on the Governing Body of the College vide letter dated 4th November 2022 addressed to Respondent No.4-Society is also held to be illegal since Respondent No.4 as observed by us herein-above has no control or management rights over the college.

49. Respondent Nos.1 and 4 have challenged the locus of Petitioner No.1-Administrative Council to file the present Petition. In our view, the State themselves have recognized in the enquiry report and Department of Law and Judiciary that Petitioner No.1 is a separate entity/body formed for management and control of the college and the said new committee has been reconstituted in November-2022 and is functional and therefore the said submission of the Respondents is to be rejected. The Writ Petition is filed by 4 Petitioners. Petitioner No.1 is the

Administrative Council claiming to be in control of Petitioner No.2-College and which Petitioner No.4 is a member. Petitioner No.3 is a Trust who has its nominee in the Petitioner No.2-Body. In our view, certainly the locus of the Petitioners can not be doubted in filing unit. We also do not accept the contention of Respondent No.4 that they are entitled to set-up a Board of Governors for controlling and managing affairs of the college as observed by us above from various correspondence since 1955. Respondent No.4 has divested itself for all times to come from the management and control of the affairs of the college. By constituting a separate body namely Administrative Council, which has also been accepted by the State Government and the Union Government and various other arms of the Government in their enquiry report, in the opinion of Law and Judiciary Department and by sending their nominee on the said body. Therefore, in our view, the contention of Respondent No.4 on this count also fails.

50. This Court on 2nd May 2023 had taken on record a compilation of documents filed on behalf of the Petitioners as recorded in the order of the Court. In the course of the hearing of this Petition before this Bench, a query was raised by the Court who is collecting the fees, filing the tax records accounting for the expenses etc. and the Petitioners have brought to our notice the documents filed on 2nd May 2023 in response thereto. Respondent No.4 has also filed the balance-

sheets in support of its contention that they are accounting the fees of the college. The documents filed by the Petitioner and taken on record on 2nd May 2023 has not been objected to by any of the parties except intervenor in IA (St) No.12830 of 2023 being Governing body constituted by Respondent No.4. The Intervenor has objected to this compilation of documents on the ground that this would amount to the Court entering and adjudicating upon the factual aspects which cannot be undertaken by a Writ Court and further the Intervenor has been served with the compilation of documents only in the course of the hearing and therefore did not get chance to rebut the same. At the outset, we may observe that the said Intervenor is a body constituted by Respondent No.4. On 2nd May 2023, none for the Respondents including Respondent No.4 had objected to this documents being taken on record and relied upon by the Petitioner. Even today there is no objection to this documents by any of the Respondents nor the same has been rebutted by any of the Respondents. The Intervenor being a body constituted by Respondent No.4-Society and Respondent No.4 not objecting to the same at any point of time since May 2023, we do not see any force in the contention of the Intervenor on the documents being considered by the Court. It is also not the case of the Intervenor that they are different from Respondent No.4-Society.

51. The Petitioners have relied upon the documents filed in the

compilation of documents and brought to our notice various documents in support of its contention that it is the Petitioner No.1 who is in-charge of and in control of the college. The documents in the compilation are also relied upon to rebut what has been stated by Respondent No.1 in their affidavit-in-reply dated 30th November 2022 with regard to the constitution of Petitioner No.1 not being in accordance with clause 13.3 (A) of the 2018 UGC Regulations. We have perused these documents and on a perusal of the same, we have no manner of doubt that till recently, it is the Petitioner No.1 who is in-charge of and in control of the management and affairs of the college. We now propose to examine these documents:

52. Briefly the documents which are annexed and its relevance on the issue under consideration are as under :-

- (a) Documents as recent as March-2023 addressed by the Petitioner No.1 to its bankers for informing them about the signatories of the bank account of the college. These letters are addressed by the Petitioner Nos.1 and 2 along with Resolution of the Petitioner No.1. The bank account is in the name of the college. The extracts of the minutes of the Petitioner No.1 with respect to signatories to the operation of the bank account also shows that the bank account of the college is operated by the authorized signatories of Petitioner No.1.

- (b) The Petitioners have filed audited accounts of the college for the financial years 2019-20, 2020-21, 2021-22. These accounts are signed by the Chairman and other members of the Administrative Council-Petitioner No.1. The accounts shows the fees collected from students and expenses in running the college. The accounts are also signed by the Accounts Officer and Director of Respondent No.1. The balance-sheet of Petitioner No.2-college is also prepared and audited and signed by the Chairman of Petitioner No.1. The capital grants receipts are accounted for in these accounts and various assets and liabilities of the college is recorded therein. The statutory auditor of the college has given a certificate certifying the PAN number, TAN number and GSTIN number under the Income Tax Act and GST Act of the college. It further certifies that the college has filed its return of income under the said PAN in the status of Association of Persons (AOP being Petitioner No.1) and the Petitioner is regularly filing its TDS return. We have perused the income tax return acknowledgment form for the assessment year 2016-17 to 2022-23 and same are digitally signed by the authorized signatory of Petitioner No.1. The registration certificate under the GST Act is also filed in the compilation of documents. In our view, the accounts, balance-sheets, income tax return etc. filed by Petitioner No.1 clearly demonstrates that the finances on

account of fees expenses, grants are managed and controlled by Petitioner No.1 and same is also accepted by the Central Revenue Authorities under the Income Tax Act and GST Act and Respondent No.1 is also part of said State GST Act.

- (c) The Respondent No.4 has produced a report and statement of account for the year 2002-03 and 2003-04 income and expenditure account for the year ended 31st March 2003 but there is no income from “fee” or any “expenses” for running the college in the balance-sheet of Respondent No.4 and as on 31st March 2004. A loan is shown to Petitioner No.2-college. This itself indicates that Respondent No.4 has accepted the separate entity status of the college. In the said balance-sheet there is also a contra entry recorded under the head of “W.C. of Engineering” amounting to Rs.4,22,22,765/-. If the contention of Respondent No.4 that they are collecting the “fees” is to be accepted then we fail to understand that how the fees are not shown in the Income and Expenditure account and why the need for passing contra entry. Respondent No.4 themselves in the letter to the Income Tax Department dated 21st March 2014 have accepted that since they have not received the accounts of the college and, therefore, same are not incorporated in the society’s account. If that be so then we fail to understand how Respondent No.4 can contend that fees are

received and accounted by them. We, therefore, have no doubt that the fees received from the students and the expenses incurred in running the college are accounted by a separate body being Petitioner No.1 in its status of AOP and this indicates that the Petitioner No.1 is running and is in-charge of the college and not Respondent No.4-Society.

- (c) The Petitioner has also enclosed correspondence between Petitioner No.1 and Respondent No.2 for the period 2013 to 2023 to show that the Director of the college is appointed by a Selection Committee of which the representatives of the Respondents are members. The appointment letters of the teaching staff is also issued by Petitioner Nos.1 and 2. The appointment of the staff by Petitioner No.1 are approved by Respondent No.5-University and also by Respondent No.2-Directorate of Technical Education. All these correspondences between the Petitioner and Respondents shows that the appointment of the staff of the college is done by Petitioner No.1 and also that the teachers and non-teaching staff are appointed by the Council and therefore the objection raised by Respondent No.1 in its affidavit-in-reply as to the constitution of the Petitioner No.1 not being in accordance with UGC Regulations is also incorrect.

- (d) Various documents are filed to show that the staff is appointed by Petitioner No.1 and same has been approved by Respondent No.2. The performance appraisal form are addressed by Petitioner No.1 to Respondent No.2 and specimen performance appraisal report from 2006-2007 to 2019-2020 are enclosed.
- (e) Respondent No.5-University has approved vide letter dated 29th November 2022 roster for various teaching staff and the encloser to that is signed by the Petitioner No.1. The correspondences between the Petitioner No.1 and Respondent No.5-University from 2003 to 2023 indicates that Respondent No.5 have approved and recognized Petitioner No.1 as a body in-charge of the control and management of the college and therefore the action of Respondent No.5-University in nominating its representative on body constituted by Respondent No.4-Society is bad.
- (f) Minutes of the meeting of the Petitioner No.1 are also filed in the compilation of documents which clearly demonstrates that it is the Petitioner No.1 who is running the college.
- (g) The correspondences between Respondent No.4-Society and Petitioner Nos.1 and 2 whereby Respondent No.4 have sought the annual report and audit report of the college itself shows that the college is run by Petitioner Nos.1 and 2 and not Respondent No.4-Society.

(h) Various documents including annual report of the college clearly demonstrates that the Respondents have recognized Petitioner No.1 has a body who is in-charge of and in control of the college.

53. The compilation of documents running into more than 400 pages clearly supports the case of the Petitioner that it is the Petitioner No.1 who is in-charge of and in control of the college and same has accepted by the Respondents in various correspondences. It is however clarified that our conclusions are not drawn only on the basis of the aforesaid documents but are based on what has been discussed in the foregoing paragraphs.

54. We have not been shown any document by Intervenor or Respondent No.4 that even post 2012 till today they are running the College so as to stake their claim to form the governing body by alleging that Petitioner No.1-Council is in Violation of 2012 State Government Resolution or 2018 UGC Regulations.

55. It is the contention of Respondent Nos.1 and 4 that Petitioner's existence has come to an end on issue of Government Resolution dated 23rd October 2012, whereby, Respondent No.1-State in supersession of its earlier G.R.s of 2002-2004 had prescribed rules for governing autonomous colleges. In our view, this may not be correct, in as much as Respondent Nos.1 and 4 themselves have post 2012

nominated their representatives on Petitioner No.1-Administrative Council Body cannot contend now after having already appointed their representatives post 2012 on Administrative Council Body that such a body did not exist post 23rd October 2012 G.R. Secondly, the G.R. of 23rd October 2012 supersedes earlier G.R.s of 19th July 2002 and 31st March 2004. However, this has to be read in the context of the present facts by tracing the same to the history of birth of Petitioner No.1 since 1955, which we have already analysed above and, therefore, the Government resolutions issued are to be read in the context of the background leading to the formation of Petitioner No.1 to which Respondent Nos.1, 2 and 4 were parties. Even otherwise, we do not find any ground to hold that the Government Resolution dated 23rd October 2012 has not been complied with by the Petitioner No.1. Firstly, Respondent No.1 has never in the past taken any action against the Petitioner No.1 for not following the G.R. of 23rd October 2012. The G.R. of 2012 states in paragraph 5B that autonomous colleges should have the authorities specified from Serial Nos.1 to 12. In our view, Petitioner No.2 had all these authorities which are specified in paragraph 5B, namely; trust, board of management, academic council, board of studies, finance committee, grievance appeal committee, examination committee library committee, student committee, etc. This is evident from the annual reports of the Petitioner No.2-College which

is to be found in the compilation of documents, wherein there is a reference to all these committees and trusts required as per paragraph 5B.

56. The Respondent No.4 has submitted that the authority Board of Society as per paragraph 7 of 2012 G.R. shall take decision in consultation with State Government on the matters specified therein. There is no dispute on paragraph 7 of the said G.R. that Board of Society shall take decision in consultation with State Government, but neither Respondent No.1 nor Respondent No.4 have specified as to which of the decision by Petitioner No.1 has been taken which is in violation of the paragraph 7 of the said G.R. As per paragraph 5B, one of the authority of autonomous college should be board of society or trust. If Respondent No.4 is treated as a trust for the purpose of paragraph 5.B.1 of 2012 G.R., then the Respondent No.4 itself is to be hold responsible, if there is any violation of paragraph 7 of 2012 G.R.

57. Be that as it may, in our view, the contention of Respondent Nos.1 and 4 by relying on paragraph 7 of 2012 G.R. does not survive in view of our above findings and on account of subsequent UGC Regulations. As per paragraph 9 of 2012 G.R., in the board of management, Joint Secretary, Deputy Secretary of Technical Education and Director of Technical Education shall attend all meetings of Board of Management of these institutes as special invitees. The Respondent

Nos.1, 2 and 3, who are State Government and Director of Technical Education have sent their representatives on Administrative Council- Petitioner No.1 from time to time and, therefore, even on this count, the contention of Respondent No.1 is to be rejected, insofar as 2012 G.R. is concerned. The Petitioner Nos.1 and 2 are justified in relying on paragraph 12 of 2012 G.R. which states that governing structure of partially aided institute shall be in accordance with UGC guidelines. The Petitioner has been granted autonomous status for the the period 2011-12 and this could be only on the basis that the governing structure of the Petitioner Nos.1 and 2 is in accordance with the UGC guidelines. The counsel for Respondent No.7 has not pointed out that the governing structure of Petitioner No.2 is not in accordance with UGC guidelines. It is relevant to note that 2012 Government Resolution does not give any power to nominate its representative on the body of Respondent No.4-Society since said Government Resolution has already been superseded by UGC Regulations. Therefore, on this count also, the contentions of Respondent Nos.1 and 4, insofar as with regard to 2012 G.R. is concerned is to be rejected.

58. The Respondent No.4 relied upon its minutes of Annual General Meeting dated 17th November 2010 and contended that Petitioner No.1 has been superseded by this resolution of Respondent No.4 and, therefore, even on this count, the Petitioner No.1 ceases to

exist. We do not agree with this contention inasmuch as in this very meeting, Respondent No.4 nominated its 4 representatives on Petitioner No.1-Body for the period 2010 to 2013 and this can be only on the premise that Petitioner No.1 existed and, therefore Respondent No.4 nominated its members thereon. The said resolution further states that they are disapproving the names of persons illegally nominated by other unauthorised institute on Petitioner No.1-Body in the quota provided for Respondent No.4-Society. This resolution further resolves that it supersedes all resolutions made earlier by Board of Control including resolution dated 3rd October 1961 in this regard and also what is contrary to the interest of Respondent No.4-Society. In our view, Respondent No.4 cannot take this decision unilaterally, since by resolution dated 3rd October 1961, they themselves have stated that the resolution is irrevocable and same shall not be altered, amended or modified without the prior approval and consent of Petitioner No.1. This resolution of 3rd October 1961 also records that representative of Respondent No.4 would be approved by Petitioner No.3 and the Respondent No.4 nominees were sitting on Petitioner No.1-Council for the period 2019 to 2022. In our view, after examining the history of Petitioner No.1 which was the joint decision of Respondent No.1, Respondent No.4, Petitioner No.3, Government of India and other statutory authorities even after this resolution of 2010, Respondent

No.4 did nominate their representative on Petitioner No.1's body and, therefore, one cannot contend that by virtue of this resolution, the existence of Petitioner No.1 has come to an end.

59. The only ground taken by Respondent No.1 in opposing the Writ Petition as per their affidavit-in-reply dated 30th November 2022 is that since Clause 13.3 (A) of 2018 UGC Regulations were not complied with by Petitioner Nos.1 and 2, they had issued the impugned communication appointing their nominees on the Governing Body of Respondent No.4. We have already given our findings on 2018 UGC Regulations above wherein we have observed that the Authority under 2018 UGC Regulations has not found any violation of the said Regulations nor Respondent No.7 UGC have stated so in the affidavit-in-reply filed in the present petition. Therefore, Respondent No.1 cannot take upon itself a task of coming to a conclusion that there is any violation of 2018 UGC Regulations to justify their action in issuing the impugned communication appointing their nominees on the Governing Body of Respondent No.4. In any view of the matter, we have already observed that there is no violation of any 2018 UGC Regulations by Petitioner No.1 and therefore, on this count also the objection raised by Respondent No.1 in their affidavit-in-reply does not survive. Respondent No.1 has annexed a letter dated 22nd September 2022 issued by Respondent No.4 to Respondent No.2 in which Respondent

No.4-Society has stated the constitution of Governing Board. The said constitution referred to in the said letter does not have any representatives of teachers, UGC, State Government, University and therefore, even on this count, the Governing Body referred to in the said communication on the basis of which Respondent No.1 has issued the impugned communication nominating their representatives on the Governing Board formed by Respondent No.4 is not in accordance with the UGC Regulations. We may observe that the primary challenge in the present Writ Petition is the action of Respondent No.1 in issuing communication appointing its nominees on the Governing Board of Respondent No.4. Therefore, it was expected that Respondent No.1 would justify the same but only justification which is given in the affidavit-in-reply is non compliance of 2018 UGC Regulations and nothing further. The affidavit-in-reply does not consider any of past history which we have analyzed and to which Respondent No.1 was always a party. In the absence of any reply on the acts and stand of Respondent No.1 since 1955, today Respondent No.1 cannot take contrary stand in the garb of entering 2018 UGC Regulations to justify its impugned action.

60. Respondent No.7 UGC has filed their reply. Respondent No.7 has admitted that the autonomous status of Petitioner No.2-College is valid even today. The reply only reproduced certain Rules and

Regulations of 2018 which are general in nature without any statement that Petitioner No.2 is not in compliance thereof. Admittedly nothing has been shown to us that the Authority under UGC Regulations has taken any action against Petitioner No.2 for any violation of the said Regulations. Therefore, in the absence of the same and Respondent No.7-UGC nominating its representatives on Petitioner No.1-Body, there cannot be any challenge to the constitution of Petitioner No.1 on the ground that the same is in violation of 2018 UGC Regulations. Respondent No.7-UGC has relied on the decisions of the Supreme Court in case of *Annamalai University Vs. Secretary to Government, Information and Tourism Department and Ors.*² and in case of *Professor (Dr.) Sreejith P.S. Vs. Dr. Rajasree M.S. & Ors.*³ However, these decisions are not applicable to the facts of the present case before us and therefore, the same are not discussed.

61. Respondent No.7-UGC has taken a fair stand that it neither supports the Petitioners nor the Respondents but its concerns is academic excellence for which it is constituted.

62. It is also important to note that Respondent No.7-UGC vide its letter dated 7th February 2022 addressed to Respondent No.5-University has stated that the autonomous status of “Walchand College of

2 (2009) 4 SCC 590

3 (2022) SCC OnLine SC 1473

Engineering” has been extended upto 2026-2027 including ex-post facto approval for the period 2019-2020 to 2021-2022 as per the provisions of Clause 3.13 and Clause 6.3 of the UGC Regulations dated 12th February 2018. This letter clearly shows that Petitioner No.2 is in compliance with 2018 UGC Regulations and therefore, the submission of Respondent Nos.1 and 4 alleging that on account of violation of 2018 UGC Regulations, the Governing Body is formed by Respondent No.4 and, therefore, the action of Respondent No.1 in issuing the impugned communication is justified is to be rejected.

63. Respondent No.5-University in its reply has stated that vide letter dated 27th November 2015 and 19th June 2019, they had nominated their nominees on Petitioner No.1-Body for a period of 3 years i.e. upto 2022. Therefore, Respondent No.5 also accepts that constitution of Petitioner No.1 is in accordance with all the relevant Rules and Regulations governing Petitioner No.2 and therefore, no such objection in constitution of Petitioner No.1 was taken. Thereafter, in September 2022, the Respondent No.5-University appointed its nominees on the Governing Board of Respondent No.4-Society vide letter dated 4th November 2022. Respondent No.5 in the reply has stated that it has appointed its nominees on the Governing Board of the College and the same was intimated to the President of Respondent No.4. Respondent No.5 has not responded to the letter of the Petitioner

dated 12th October 2022 which cautioned about various letters written by Respondent Nos.4 and 8 to various authorities since the matter was pending before this Court. In our view, Respondent No.5-University having recognised Petitioner No.1-Council upto 2022 was not justified in issuing letter dated 4th November 2022 without giving any jurisdiction nor anything is pleaded before us.

64. We have already observed above that Petitioner No.1 is in-charge and control of Management and Administration of Petitioner No.2-College and there being no violation of 2018 UGC Regulations, Respondent No.5 ought to have nominated its nominees on Petitioner No.1.

65. The counsel for the Respondent No.8 has submitted that no reliefs have been claimed against him and the Petitioners are not justified in making him a party in his personal capacity. The Petitioners have submitted that Respondent No.8 is making attempt to gain control over the Petitioner No.2-College and there are personal allegations against him and therefore he has been made a party. We may observe that we are not adjudicating any issue between the Petitioners and Respondent No.8 and therefore we refrain from making any comments on this issue.

66. The Petitioners have annexed letters from Respondent Nos.1, 2, 5, 6 and 7 for the periods 2001 to 2022, as sample copies to demonstrate that these Respondents have nominated their representative on Petitioner No.1-Administrative Council of Petitioner No.2. These letters have not been disputed by the Respondents, which further shows that the impugned action of Respondent No.1 in nominating its representatives on Governing Board of Respondent No.4 is not justified. There is no rebuttal to the statement on affidavit made by the Petitioner that for the years 2010, 2013, 2016, 2019, 2022 the teachers have been represented on Administrative Council Body-Petitioner No.1. Therefore, the argument of contesting Respondent Nos.1 and 4 that the teachers are not represented as per the UGC Regulations is also without any basis. The Resolution appointing the teachers on Administrative Council-Petitioner No.1 is also filed along with this petition. The Petitioner in para 6 of the Rejoinder have stated its composition and the expertise which these representative in their capacity have been nominated. On a perusal of the same, the Petitioner No.1 is stated to be constituted of Educationist, Expert Structural Engineering, Industrialist, Teachers etc. and therefore there does not appear to be any defect in the constitution of Petitioner No.1 as alleged by Respondent Nos.1 and 4 in their submissions before us.

67. In view of our detailed discussion and reasoning above, we pass the following order :-

O R D E R

- (i) The impugned communication dated 4th October 2022 addressed by Respondent No.1-State to Respondent No.4-Society is quashed and set aside.
- (ii) The impugned communication dated 4th November 2022 addressed by Respondent No.5-University to Respondent No.4-Society is quashed and set aside.
- (iii) The Petitioner No.1 is held to be in-charge and control of the management of the Petitioner No.2-College.
- (iv) Writ Petition is allowed in above terms with no order as to costs. Rule is made absolute.
- (v) In view of disposal of the Writ Petition, the Interim Application does not survive and is accordingly disposed of.

Writ Petition No.13025 of 2016

67. The issue raised in Writ Petition No.13025 of 2016 is similar to that raised in Writ Petition No.14369 of 2022. The only difference being that the Petitioner in Writ Petition No.13025 of 2016 is contesting Respondent No.4 in Writ Petition No.14369 of 2022 and the Petitioner in Writ Petition No.14369 of 2022 is the intervenor in Writ Petition

No.13025 of 2016. The prayers in both the petitions are similar inasmuch as the Petitioner's in each Writ Petition seek to contend that they are in control and management of the affairs of "Walchand College of Engineering" and therefore, statutory and government bodies should send their nominees the bodies respectively formed by the Petitioner in each of these petitions.

68. The learned counsel for the Petitioners in Writ Petition No.13025 of 2016 submitted that the decision in Writ Petition No.14369 of 2022 would also govern Writ Petition No.13025 of 2016 and therefore, there is no need for further hearing of Writ Petition No.13025 of 2016 or to give independent reasoning. The intervenor in Writ Petition No.13025 of 2016 who are the Petitioners in Writ Petition No.14369 of 2022 and all other parties are agreeable to this suggestion.

69. However, Respondent No.9 in Writ Petition No.13025 of 2016 submitted that they support the Petitioners in Writ Petition No.14369 of 2022 but they have disputes with the Petitioners in Writ Petition No.13025 of 2016 and therefore, this Court should not express any opinion on the dispute between the Petitioners in Writ Petition No.13025 of 2016 and Respondent No.9 in the said petition. We accept the said submission of Respondent No.9.

70. In view of the above statements of the parties and in the light of our reasoning in Writ Petition No.14369 of 2022, the Writ Petition No.13025 of 2016 is dismissed and therefore Interim Application No.1057 of 2020 does not survive and the same is disposed of. Rule stands discharged in Writ Petition No.13025 of 2016. No order as to costs.

[JITENDRA JAIN, J.]

[A. S. CHANDURKAR, J.]

71. At this stage, Respondent No.4 in Writ Petition No.14369 of 2022 and Petitioner in Writ Petition No.13025 of 2016 prayed for stay of operation of this judgment for a period of four weeks.

72. We are not inclined to accept the said request since there was no interim order in favour of Respondent No.4 in Writ Petition No.14369 of 2022. Furthermore, in Writ Petition No.13025 of 2016, the interim prayer sought for by Respondent No.4 herein (Petitioner therein) was refused. Therefore no case is made out for stay of the judgment and request is rejected.

[JITENDRA JAIN, J.]

[A. S. CHANDURKAR, J.]