



**IN THE HIGH COURT OF BOMBAY AT GOA  
CIVIL APPELLATE JURISDICTION  
WRIT PETITION NO. 755 OF 2024**

Dr. Vilasini Devi Nair .. Petitioner  
Versus  
Goa Institute of Management & Ors .. Respondents  
...

Mr. Ajay Menon, for the petitioner.

Mr. Gaurish Agni a/w Mr. Akshay Shirodkarm, Mr. Kishan Kavlekar, Mr. Yash Naik, Mr. Madhav S.S. Cuncolienkar, for respondent nos.1 and 2.

Mr. Shubham Priolkar, Additional Government Advocate for respondent no.3.

Mr. S. Karpe h/f Mr. Pravin Faldessai, Deputy Solicitor General of India for respondent no.4.

**CORAM: BHARATI DANGRE &  
ASHISH S. CHAVAN, JJ.**

**RESERVED ON : 4<sup>th</sup> OCTOBER, 2025  
PRONOUNCED ON : 13<sup>th</sup> NOVEMBER, 2025**

**JUDGMENT:- (PER BHARATI DANGRE J)**

1. Once again the issue of applicability of the AICTE regulations with reference to the age of retirement of an Assistant Professor of a Private Self Finance Standalone Institution, which has subjected itself to AICTE norms as the approval is confirmed by AICTE on year to year basis, has been raised before us.

We are conscious that, time and again, this very issue as to the age of retirement of the teaching/non-teaching staff working in a technical institution, which are governed by All Indian Council

Technical Education (hereinafter referred to as AICTE) has warranted attention of various Courts throughout the country, including the Apex Court, and with the series of pronouncements on the said subject, we are called upon to answer the question in the backdrop of the factual sequence of events placed before us.

2. We have heard learned counsel Mr. Ajay Menon for the petitioner, Mr. Gaurish Agni for respondent no.1 and 2, Mr. Shubham Priolkar Additional Government Advocate for respondent no .3 and Mr. Karpe holding for Mr. Pravin Faldessai, the Deputy Solicitor General of India for respondent no.4.

By consent of parties, on the pleadings being completed we issue 'Rule' by making it returnable forthwith.

3. The facts place before us reveal that the petitioner completed under graduation in Medicine from Kerala University in the year 1998 and also completed her post-graduation in Hospital Administration (MHA), faculty of Medicine from Mahatma Gandhi University, Kerala. She was recruited as a lecturer in School of Medical Education, Mahatma University, Kerala from the years 2002 to 2004 and from 2004, she was holding the post of Assistant Professor of 'Health, Economics, Management and Policy' in Jimma University, Ethiopia under the United Nations Development Program. She completed 18 months research fellowship in Health Economics of Non-Communicable Diseases at Monash University and also completed her PHD in Health System Studies in June, 2019.

With this academic background she appeared for an interview held by respondent no.1, Goa Institute of Management and on

13/08/2019, received an 'Offer of Appointment' as a full time faculty member holding the post of 'Assistant Professor'. Since, she was placed on probation, on its successful completion, on 26/08/2020, she received 'confirmation of an offer of employment' letter from the Goa Institute of Management declaring that she has successfully completed period of probation on 27/08/2020.

The petitioner was communicated with the subject performance review 2023 and she responded to the said communication on 2/06/2023 setting out the detail of the work undertaken by her.

It is the case of the petitioner that she was called to attend a meeting and orally informed that she shall retire in June, 2024 and she objected to the same, as according to her, her retirement would be in direct contravention and violation of AICTE norms and furthermore no communication in writing was issued in her favour. However, on 26/03/2024, the petitioner received notice/letter from the Director of the institute with the subject 'Superannuation' stating that she would be retired with effect from 30/06/2024.

The petitioner thereafter made every attempt to engage in discussion with the Dean, Academics and Registrar, but nothing could fructify to stop her retirement, and it is on 4/06/2024, the Director replied to the petitioner's email stating that the retirement age as per the Faculty Manual of Goa Institute of Management is 60 years and extension therefrom being at the discretion of the institute, on 24/06/2024, the petitioner was served with a 'Relieving Order' thereby declaring that she has completed her term as 'Assistant Professor' and shall superannuate from 30/06/2024. The petitioner received a email from the institute informing her that a total payment

of Rs. 12,24,103/- towards leave encashment, gratuity and net salary (June 24) was made on 5/07/2024.

4. The petition filed on 24 July 2024 raises a challenge to her superannuation with the following questions being set out for consideration before the Court:-

*“A. Whether the action of the Respondent-Goa Institute of Management in forcefully superannuating the Petitioner vide issuance of the Impugned Order is arbitrary, unjust and in blatant violation of the 2019 Regulations framed by the AICTE under the AICTE Act, 1987 and as such is liable to be quashed and set aside?*

*B. Whether the Institute, having received AICTE approval from the year 1994 onwards, and having renewed the same on a yearly basis, was bound to follow the 2019 Regulations, and at the most could frame rules/regulations/guidelines, only in strict accordance with the 2019 Regulations and as such the Faculty Manual of the Respondent No.1- Institute to the extent that it is de hors the 2019 Regulations is liable to be quashed and set aside?*

*C. Whether the Impugned order, and the Impugned Faculty Manual, inasmuch as it prescribed the age of superannuation in the Institute to be 60 years and not 65 years, is unsustainable, in wake of Regulation 2.12 of the 2019 Regulations?*

*D. Whether the Institute has failed to appreciate that the 2019 Regulations framed by AICTE, established under a Central Act, has the force of law, and as such it was not open to the Institute to substitute or take a divergent view than that of which was prescribed under the 2019 Regulations?”*

5. The petition seeks issuance of writ of mandamus directing the respondent no.1 Goa Institute of Management to reinstate the petitioner in service forthwith, and continue her services till she attain the age of 65 years, as prescribed by the All India Council for Technical Education, Pay-scales, Service Conditions and Minimum Qualifications for Appointment of Teachers and Other Academic

Staff such as Library, Physical Education and Training & Placement Personnel in Technical Institutions and Measures for the Maintenance of Standards in Technical Education, Regulations of 2019 (hereinafter referred to as Regulations of 2019).

6. The learned counsel Mr. Menon has invoked the Regulations framed by the AICTE in exercise of power conferred under sub-section (1) of Section 23 read with section 10(i) and (v) of AICTE Act, 1987, the regulations governing the pay scale, service conditions and qualifications for teachers and other academic staff in the technical institutions. He would specifically place reliance upon the Regulations framed in the year 2019 and it is his contention that AICTE is the Competent Authority to prescribe the pay scale, service conditions as well as minimum qualification for appointment of teachers and is empowered to formulate measures for maintenance of standards in technical educations.

Reflecting upon the status of respondent no.1, being in receipt of approval on year to year basis, it is his contention that Clause no. 2.12 of the 2019 Regulations which has prescribed the 'age of superannuation' is clearly applicable to the respondent no.1, which has also approved the intake capacity of seats for the programs conducted by it.

Mr. Menon would also place reliance upon the Approval Process Handbook 2023-24 issued by AICTE, which is a detailed document released under the AICTE Act and the relevant corresponding Regulation mandate extension of AICTE approval for existing institutions, and it is imperative to follow all the norms and regulations as set out by AICTE from time to time, and failure to do

so would attract penal action. Relying upon clause 7.16 of the handbook for the year 2023-24, with respect to age of superannuation, he would submit that it binds the respondent no.1, who cannot now deviate therefrom.

He would also place before us the Approval Process Handbook 2024-25 to 2026-27 issued by AICTE, which mandate the extension of AICTE approval for existing institution which is duty bound to follow the norms and regulations by AICTE and since the respondent no.1 institute is approved by AICTE for its postgraduate diploma program and is a private self finance stand alone institution run by the society i.e. Goa Institute of Management, which is registered under the Societies Registration Act, 1860. It has also given its mandatory disclosure which is updated from time to time on the Institute's website, it having been established in August 1993 and accorded approval by AICTE from time to time, and the latest approval being granted for the year 2024-2025 by AICTE on 18/06/2024.

Copies of the extension approval granted from time to time right from the year 2010-11 till the year 2022-23 are placed on record by the petitioner.

It is also the contention of Mr. Menon that the Institute in its brochure for the year 2024, boost of its approval by AICTE under its 'Accreditation, Membership, Accolades' and has referred to the AICTE approval while advertising the post graduate diploma in management hybrid course. It is, therefore, the contention of the petitioner that when the institute is acting in accordance with the directions/guidelines of AICTE and which has prescribed the eligibility for admission of candidates as well as for the appointment

of the faculty, it is urged that with the petitioner's credentials, having been recruited by respondent no.1 in the year 2019, she is entitled to be governed by the AICTE Regulations 2019 as well as its Handbook, which has prescribed the age of superannuation at 65 and therefore, the decision taken by the respondent no.1 to superannuate her prematurely cannot be sustained.

7. Apart from the Regulations prescribing the age of superannuation, Mr. Menon would place reliance upon the decisions reflecting upon the role of AICTE and this includes the decision of this Court in *Lalit Rajendra Gajanan vs. Vidhyavardhini through its Secretary*<sup>1</sup>, where with reference to the decision of the Apex Court in case of *State of Tamil Nadu vs. T.N. Adhiyaman Educational & Research Institute*<sup>2</sup>, it is clarified that any inconsistency between the Maharashtra Employees of Private Schools (Conditions of Service) Regulations Act, 1977, a State enactment and the Rules framed under the Act and AICTE Regulations, the priority must be given to AICTE Regulations and despite having received assent of the president, it would be repugnant to the provision of age of superannuation, after the age of superannuation is fixed by the AICTE in exercise of its power.

In order to buttress his submission that the Rules and Regulations framed by AICTE has the force of law and have binding effect, the learned counsel has placed reliance upon the decision of the Apex Court in case of *Parshvanath Charitable Trust vs. AICTE*<sup>3</sup> and also the decision of this Court in case of *Pramod vs State of*

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1 (2021) SCC Online Bombay 3649

2 (1995) 4 SCC 104

3 (2013) 3 SCC 385

*Maharashtra and ors*<sup>4</sup> . It is his specific contention that since AICTE Rules/Regulations flow from a Central statute, in terms of the Constitutional Scheme, it would prevail over a State enactment.

Submitting that under Section 10 of the Act, AICTE is empowered to lay down the service conditions of staff including age of superannuation, he would rely upon the judgment of Madras High Court in case of *Dr. S. Kothandaraman v The Pro-Chancellor Puducherry Technological University & Ors. (WP Nos.17918 & 17929 of 2021)*, submitting that retirement is undoubtedly a service condition, and since the age of superannuation/retirement would fall within the purview of Section 10 and if not expressly under sub-section (i) to (u) than certainly in sub-section (v) of section 10 of the Act, thereby empowering council to make rules and regulations, which has resulted into making of the Regulations in the year 2010 to be followed by 2019 Regulations.

According to Mr. Menon, the age of superannuation in terms of UGC scheme applicable to the Universities is not mandatory but age of superannuation in terms of AICTE Regulations is mandatory and must be adhered to. According to him, adherence to the AICTE Regulations is therefore, mandatory and non-directory and particularly when the institutions are granted approval or extension/renewal of approval and in such a case, the service conditions of its employees and particularly the teaching staff would be clearly governed by the Regulations.

8. Mr. Agni representing respondent no.1 and 2 though do not dispute the factual aspect as to appointment of the petitioner, and

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4(2016) 14 SCC 505



though he do not dispute the factual aspect of the matter and also the submission about the status of respondent no.1 and that it has received approval from AICTE from time to time, he would place reliance upon the decision of the Apex Court in case of *P. J Dharamraj vs. Church of South India and ors*<sup>5</sup>, where the Apex Court in relation to a self financing minority education institution has noted, that it was neither run or funded by the Central Government and the Regulation governing age of superannuation throughout the State as well as the JNT University and its affiliated college was 60 years, and hence the appellant was held not entitled for special consideration as the CSI Institute of Technology cannot have their age of retirement more than the teachers of the affiliating university, as it would create a serious discrimination and inequality.

Further, according to Mr. Agni, the Apex Court also noted that once the appellant has accepted the appointment order which clearly prescribed his age of retirement to 60, the benefit of enhanced age of superannuation based on the AICTE Regulations cannot be made applicable.

Another aspect on which Mr. Agni would lay his emphasis is about MBA course not being a technical course and he would place reliance upon the decision of the Apex Court in case of *Association of Management of Private Colleges vs. All India Council for Technical Education and ors*<sup>6</sup> and in particular paragraph 65 thereof which has recorded thus:-

*“65. As per the definition of “technical education” under Section 2(g) of the AICTE Act and non-production of any*

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<sup>5</sup> (2024) SCC Online SC 3617

<sup>6</sup> (2013) 8 SCC 271

*material by AICTE to show that MBA course is a technical education, we hold that MBA course is not a technical course within the definition of the AICTE Act and insofar as reasons assigned for MCA course being “technical education” are concerned, the same does not hold for MBA course. Therefore, for the reasons assigned while answering the points which are framed insofar as the MCA course is concerned, the approval from AICTE is not required for obtaining permission and running MBA course by the appellant colleges.”*

9. Apart from this, Mr. Agni would also place reliance upon a decision of the High Court of Punjab and Haryana, Chandigarh *in case of S.C. Dhawan (deceased through his Lrs) vs. Union of India and Ors* decided on 22/12/2022 which has taken a view that AICTE or UGC has no powers to make Regulations prescribing the service conditions of the employees in the institutions established or controlled or financed by the State Government and any Regulation of AICTE or UGC prescribing service conditions of the employees of the technical institutes or the institute of higher education are not applicable to the employees of the State government established, Controlled, or financed institution, unless the State Government concerned had adopted the same.

Inviting our attention to the direction issued by the Punjab and Haryana High Court, to include a separate and specific clause in their Regulations, clarifying that Regulations are optional for the State Government qua the service conditions of the employees working in the State, it was directed that AICTE and UGC shall clarify that its Regulations shall not automatically be made applicable, unless adopted by the State government.

Mr. Agni would also invite our attention to a some how similar view taken by the learned Single Judge of this Court in the case of *Vidharbha Youth Welfare Society Thr. Its Secretary vs. Dr. Mir Sadique Ali* (WP No.5944 of 2022), decided on 30/06/2023, where it is held that AICTE is empowered to make regulations within a defined framework contained in Section 10 of the Act, and the subject of laying service conditions is outside its purview, which must be left for the decision of the respective State Government and therefore it is categorically concluded that the age of superannuation as prescribed by the AICTE cannot be made applicable to the employees of technical self finance institutions, which would be governed by the State legislation. Though Mr. Agni admit that the effect and operation of the judgment has been stayed by the Apex Court in Special leave to Appeal (c) No. 15958 of 2023.

10. Mr. Priolkar, the learned Government Advocate for respondent no.3, has placed before us an order issued by Government of Goa, published in its official gazette as the government approved the implementation of the All India Council for Technical Education, Pay-scales, Service Conditions and Minimum Qualifications for Appointment of Teachers and Other Academic Staff such as Library, Physical Education and Training & Placement Personnel in Technical Institutions and Measures for the Maintenance of Standards in Technical Education, (Degree) Regulations 2019 on 1/03/2019, to the teachers in government degree level technical institutions in Goa namely Goa Engineering College, Goa College of Pharmacy, Goa College of Architecture and Goa College of Arts subject to several conditions including the condition that the date of effect of pay-scale

and Dearness Allowance shall be effected from 1/1/2016 and also the following condition:-

*“Age of superannuation of all faculty members and principals of institutions has been restricted by State government at 62 years including implementation of 6<sup>th</sup> pay AICTE pay-scale, the same be retained continuous presently.”*

It is therefore his submission that if State Government has adopted the AICTE 2019 Regulations and assigned the date of retirement to the teachers in technical institutions in Goa including the Goa Engineering College as well as the Goa College of Architecture under the Administrative Control of Directorate of Technical Education, the petitioner cannot derive benefit of higher age of retirement being prescribed as against the teachers subject to Control of Directorate of Technical Education.

11. With the able assistance of the respective counsel, we have perused the pleadings in the Writ Petition as well as the affidavit in reply filed by the respondent no.1 and 2 through its Director, where an objection is raised about delay and laches by submitting that the petitioner attained the age of superannuation at 60 years of age as on 4/02/2022, and on 26/03/2024, she was informed that no further extension could be granted, but the petition is filed only on 30/07/2024.

The pleadings before us are necessarily to be appreciated in light of the statutory scheme and the effect of the Regulations framed by AICTE.

The All India Council for Technical Education Act, 1987 is an enactment for establishment of All India Council for Technical

Education (AICTE), with a view to ensure proper planing and coordinated development of the technical education system throughout the country and for promotion of qualitative improvement of education in relation to planned quantitative growth. The term ‘technical education’ in Section 2 (g) and the term ‘technical institution’ in section 2(h) read as below:-

*“2 (g) technical education means programmes of education, research and training in engineering technology, architecture, town planning, management, pharmacy and applied arts and crafts and such other programme or areas as the Central Government may, in consultation with the Council, by notification in the Official Gazette, declare;*

*2(h) technical institution means an institution, not being a University, which offers courses or programmes of technical education, and shall include such other institutions as the Central Government may, in consultation with the Council, by notification in the Official Gazette, declare as technical institutions;”*

12. AICTE is constituted as a body corporate with its powers and functions being set out in Section 10. It is the duty of the council to take such steps as it think fit for ensuring coordinated and integrated development of technical education and maintenance of standards and perform the functions enumerated therein, which include the following primary functions:-

*“(i) lay down norms and standards for courses, curricula, physical and instructional facilities, staff pattern, staff qualifications, quality instructions, assessment and examinations;*

*(k) grant approval for starting new technical institutions and for introduction of new courses or programmes in consultation with the agencies concerned;*

*(o) provide guidelines for admission of students to technical institutions and Universities imparting technical education;*

*(p) inspect or cause to inspect any technical institution;”*

13. Section 22 of the Act prescribe that the Central Government may, by notification in the Official Gazette, make rules to carry out the purpose of the Act on the matters specifically set out under sub-section 2.

Section 23 is the power of the Council to make Regulations not inconsistent with the provisions of the Act, and the rules, to carry out the purpose of the Act and sub-section (2) prescribe that the regulations may provide for various matters as set out therein, by publication in the Official Gazette.

AICTE thus received recognition as a specialized body constituted for bringing uniformity in technical education all over the country and to ensure that institutions recognized by it possess complete infrastructure, staff, facilities and is thus capable of maintaining educational standards for imparting technical education. The provisions of the Act of 1987 were directed at improving technical education system throughout the nation and AICTE has been conferred with the exclusive responsibility to coordinate and determine the standards of higher education, as there was a need of coordinated action in higher education, as maintaining proper standard in technical education is of paramount importance, for the nation's progress. AICTE is thus enjoined with the duty of promoting qualitative improvement in technical education system and it is empowered to provide guidelines for admission of students and also power extend or withhold or discontinue the grants, where norms and standards laid down by it from time to time are not adhered to.

By virtue of Section 10 of the Act, it is also the duty and obligation of the Council to grant approval to the starting of a new

Technical Institution and for introduction of new courses or programs, in consultation with the agencies concerned and in order to ascertain this aspect, AICTE is empowered to inspect or cause to inspect any technical institution. However when it comes to the question of University, the role of AICTE is confined and limited to ascertain the financial needs or evaluate its standard of teaching, examination and research, as under section 11 the council may cause an inspection of a department or departments of technical institution or University and is empowered to make recommendations in that regard.

In case of Parshvanath Charitable Trust (supra), the Apex Court with reference to Section 10 of the Act of 1987 observed thus:-

*“19. Section 10 of the AICTE Act enumerates various powers and functions of AICTE as also its duties and obligations to take steps towards fulfilment of the same. One such power as envisages in Section 10(k) is to “grant approval for starting new technical institutions and for introduction of new courses or programmes in consultation with the agencies concerned”, It is important to see that AICTE is empowered to inspect or cause to inspect any technical institution in clause (p) of Section 10 without any reservation whatsoever. However, when it comes to the question of universities, it is confirmed and limited to ascertaining the financial needs or its standards of teaching, examination and research. The inspection may be made or caused to be made of any department or departments only and that too, in such manner as may be prescribed, as envisaged in Section 11 of the AICTE Act.*

*20. All these vitally important aspects go to show that the Council (AICTE) created under the AICTE Act is not intended to be an authority either superior to or to supervise and control the universities and thereby superimpose itself upon such universities merely for the reason that they are imparting teaching in technical education or programmes in any of their departments or units. A careful scanning of the provisions of the AICTE Act and the provisions of the University Grants Commission Act, 1956 in juxtaposition, will show that the role*

*of AICTE vis-a-vis the universities is only advisory, recommendatory and one of providing guidance, thereby subserving the cause of maintaining appropriate standards and qualitative norms and not as an authority empowered to issue and enforce any sanctions Shiksha Mahavidyalaya v. Subhash Rahangdale, State of T.N. v. Adhiyaman Educational & Research Institute and Bhaarithidasan University v. All India Council for Technical Education.”*

14. In *State of Tamil Nadu and anr vs. T.N. Adhiyaman Educational & Research Institute (supra)*, the scope of the various provisions in AICTE Act, 1987, an enactment framed under Entry 66 of List I of the 7<sup>th</sup> Schedule of the Constitution was considered in great detail and the expression ‘coordination’ used in the Entry was held to be not only restricting to evaluation but received a wider interpretation, meaning harmonisation with a view to ensure a uniform pattern for a concerted action according to a certain design, scheme, plan, or development, and this was held to include the power to do all things, which are necessary to make ‘coordination’ possible. Holding that the Council established under the Central Act was established for coordinated and integrated development of technical education system at all levels in the country and is enjoined to promote qualitative improvement of education in relation to planned quantitative growth, it is noted that it is required to regulate and ensure proper maintenance of norms and standards in technical education system. Apart from providing guidelines for admission of students, and set out the norms and standards which would prevent a lopsided or an isolated development of technical education in the country, it is also held that the norms and standards to be prescribed for technical education have to be such as which shall ensure development of technical education system in all parts of the country



uniformly, so that there exist coordination in the technical education and the education imparted therein and all institutions in the country are in a position to properly maintain the norms and standards, that may be prescribed by the Council and since the standards are to be laid on national levels, they are necessarily to be uniform, without which the coordinated and integrated development of the technical education all over the country will not be possible.

15. With the scheme and purpose of the Act of 1987 having clearly emerging through the various provisions of the statute, when an inconsistency arose in the operation of the State enactment in form of Tamil Nadu Private College (Regulation) Act, 1976 where the University was given power to prescribe terms and conditions for affiliation even of the technical colleges and also the power to disaffiliate such colleges for non-fulfillment of said conditions including a power to recommend to the appropriate authorities empowered to sanction, withhold or refuse the teaching and other grants, to suspend the provisional affiliation or approval granted to the college in course or courses of study, when a conflict appeared between and overlapping of the functions of the Council and the University, with specific reference to Section 10 of the Central Act, as it conferred a wide power on the Council, the Act having been enacted by the parliament by invoking Entry 66 of List-I it was held that the conditions prescribed by the University for grant and continuation of affiliation will have to be in conformity with the norms and guidelines prescribed by the Council, in respect of the matters entrusted to it under Section 10 of the Central Act. The contention advanced that while it may be open for the Council to lay

down minimum standards and requirements, to achieve the objects as mentioned in Entry 66, and it do not debar the State from prescribing higher standards and requirements by virtue of Entry 25 of List III was found not acceptable as it was categorically held that as far as technical institutions are concerned, the norms and standards and the requirements for their recognition and affiliation prescribed by the State Government cannot be higher than or be in conflict or inconsistent with those laid down by the AICTE under the Central Act.

Holding that to the extent that the State legislation is in conflict with the Central legislation and it encroach upon the legislation including subordinate legislation made by the Centre, it was held to be void and inoperative.

16. It is in exercise of the power conferred under Section 23 of the AICTE Act, 1984 the Council has framed regulations by invoking sub-section (1) of Section 23 and also Section 10 (i) and (v), the regulations being known as All India Council for Technical Education, Regulations 2010, which were made applicable to technical institutions and universities including deemed universities imparting technical education and such other courses/programs and areas as notified by the Council from time to time. Since the power invoked in framing the said Regulations was traced to the function of the Council to (i) lay down norms and standards for courses, curricula, physical and instructional facilities, staff pattern, staff qualifications, quality instructions, assessment and examinations, the Regulations prescribed revised payscale, service conditions, and career advancement scheme for teachers and equivalent positions,

which included Assistant Professor, Associate Professor, Professors in technical institutions and also Assistant Librarian / College Librarian, physical education personnel etc. The Regulations also included the pay fixation formula recommended by 6<sup>th</sup> Central Pay Commission as accepted by the Central Government and declared that the same shall be adopted for technical teachers and equivalent positions in library grades etc.

17. The Regulation of 2010 also contained a clause prescribing a age of superannuation which read thus:-

***“Age of Superannuation:***

(i) *In order to meet the situation arising out of shortage of teachers in Technical Institutions and the consequent vacant positions therein, the age of superannuation for teachers in Technical Institutions has been enhanced to sixty five years, vide the Department of Higher Education Letter No.F.No.1-19/2006-U.II dated 23.3.2007, for those involved in class room teaching in order to attract eligible persons to the teaching career and to retain teachers in service for a longer period.*

(ii) *Subject to availability of vacant positions and fitness, teachers shall also be reemployed on contract appointment beyond the age of sixty five years upto the age of seventy years. Re-employment beyond age of superannuation shall, however, be done selectively, for a limited period of 3 years i.e. the first instance and then for another further period of 2 years purely on the basis of merit, experience, area of specialization and peer group review and only against available vacant positions without affecting selection or promotion prospects of eligible teachers.*

(iii) *Whereas the enhancement of the age of superannuation for teachers engaged in class room teaching is intended to attract eligible persons to a career in teaching and to meet the shortage of teachers by retaining teachers in service for a longer period, and whereas there is no shortage in the categories of Librarians, the increase in the age of superannuation from the present sixty two years shall not be available to the categories of Librarians.”*

In addition, the Regulation also contain a provision for pension and grant for professional development.

18. The aforesaid Regulation was revised by formulation of the 2019 Regulations on 1/03/2019 to be referred as All India Council for Technical Education, Pay-scales, Service Conditions and Minimum Qualifications for Appointment of Teachers and Other Academic Staff such as Library, Physical Education and Training & Placement Personnel in Technical Institutions and Measures for the Maintenance of Standards in Technical Education- (Degree) Regulation, 2019.

The Regulation clarified that it shall apply to degree level technical institution and universities, including deemed universities imparting technical education and such other courses/programs approved by AICTE and areas notified by the council from time to time. The Regulation declared the effective date of application of the service condition as 1/1/2016. It prescribed the new pay structure with the levels and scales as well as pay matrix and fixation of revised pay, along with incentives for PhD and other higher qualifications etc.

The Regulations also prescribed the minimum qualification for recruitment including the experience, research contribution at various levels. The relevant clause regarding Age of Superannuation read thus:-

***“2.12 Age of Superannuation***

*The age of superannuation of all faculty members and Principals / Directors of institutions shall be 65 years. An extension of 5 years (till the attainment of 70 years of age) may be given to those faculty members who are physically fit, have written technical*

*books, published papers and has average 360° feedback of more than 8 out of 10 indicating them being active during last 3 preceding years of service.”*

19. Apart from the above, AICTE also formulated All India Council for Technical Education (Grant of approval for starting new technical institutions, from introduction of courses or programs and approval of intake capacity of seats for the courses or programmes) Regulations, 1994.

The Regulations are applicable to the proposals relating to grant of approval of the council for establishment of new technical education including Universities or Universities Department and deemed Universities and for technical institutions functioning on the date of commencement of the regulations. It also made applicable for introduction of any course program in technical institutions and technical departments of universities or deemed universities.

The above Regulations prohibit any technical institutions or universities, technical departments to be started without approval of the AICTE and the it prescribe the manner of consideration of such an application for grant of approval by any Government Institutions, aided institutions, deemed universities and university departments or colleges apart from the registered Societies/Trusts in respect of professional colleges. The Regulations also prescribe time schedule and sequence of processing of application for approval and the process to be followed.

20. In continuation of the said Regulations, AICTE published the Approval Process Handbook, which is described as a legal document as AICTE notified various Regulations including the All India

Council of Technical Education (Categorization of Standalone Institutions (SIs) for Grant of Graded Autonomy) Guidelines, 2019 as well as AICTE (Grant of Approvals for Technical Institutions) Regulations, 2020.

The handbook defined Approved Institution to mean an institution offering Technical Programmes approved by the Council. It also defined Extension of Approval (EOA) to mean extension granted by AICTE for conduct of technical program(s) /course(s) to an institute for that academic year. Standalone Institutions is defined in clause 2 (52) as below:-

*“ ‘Standalone Institutions’ means those Institutions which are not affiliated to any of the University/Board, but are imparting education by means of conducting regular Courses leading to Diploma/Post Diploma Certificate/Post Graduate Certificate/Post Graduate Diploma Levels in Management, Travel and Tourism, Innovation and Entrepreneurship, Computer Applications and Design.”*

21. The hand book provided a detail procedure for seeking approval from AICTE with the necessary formalities to be adhered to with the power being conferred on the council to evaluate the application by the expert visit committee and verification of compliances through standing committee resulting into grant of approval with the approved intake by the approval bureau being placed before the executive committee/council for grant of extension of approval as applicable for technical institutions to conduct technical program(s) and course(s).

Great emphasis has been laid upon this handbook by Mr. Menon the learned counsel for the petitioner by submitting that any violation of the handbook is made liable for the penal action by

chapter VIII of the handbook, as it prescribe that if any technical institutions contravenes any of the provisions of relevant Regulations, the Council, after making appropriate inquiry through standing herein committee shall withdraw the approval granted, and in such a case the technical institution/trust/society shall apply fresh for approval after completion of two academic year with a different name and the students of the said institution shall be re-distributed to other AICTE approved institutions. Similarly, the handbook also contemplate mandatory disclosures to be made by the Institute highlighting its features of governance, student feedback mechanism as well as grievance redressal committee as well as interal committee being constituted, along with list of its faculty members as well as the research project carried under its aegis with an intention to showcase the institute.

22. As far as respondent no.1 is concerned, as early as on 31 March 1994, the AICTE conferred its approval to conduct Post Graduate Diploma in Business Administration, the approval being granted subject to fulfillment of the conditions set out. It is worth to note that the respondent no.1 is securing extension of approval, for each year pursuant to an application being preferred seeking such an extension and the extension being granted by taking recourse to the All India Council for Technical Education (grant of approvals for technical education) Regulations framed by invoking powers delegated by AICTE, Act, 1987 – Chapter 2 under Section 2(g), to regulate technical education. Declaring the respondent no.1 to be a private self financed institution, being established as a Trust in the year 1994, it received approval to conduct the course with the

specific intake capacity being set out for every year. As the approvals granted make it mandatory to comply with the essential requirements set out by AICTE, the respondent no.1 have received these approvals right from the academic year 2010-11, till the year 2023-2024.

In the brochure published by the Goa Institute of Management while referring to its accreditation, membership and accolades, it makes a proud reference to approval from AICTE and accreditation to the National Board of accreditation and South Asian Quality Assurance System. The brochure clearly hold out to the students that the institute is approved by AICTE and focuses on diversity pedagogy and curriculum.

23. It is in the aforesaid frame work of the respondent no.1, that the petitioner was given an offer of appointment as 'Assistant Professor' by the Director of respondent no.1 on 13/08/2019 setting out the terms and conditions of the employment including salary and other benefits but without any reference to the age of retirement.

On her appointment having been confirmed on 26/08/2020, her job responsibility was specifically carved out which included research publication; sponsor research and networking, mentoring students, etc. The work of the petitioner was appraised every academic year and though we may not get into the dispute as to whether it was satisfactory or not, it is only relevant to note that on 26/03/2024, the petitioner was communicated that her date of retirement shall be 30 June 2024.

It is this condition of her service which is sought to be contested by the petitioner by stating that she is entitled to be retained



in service till she attain age of superannuation and for this purpose reliance is placed upon the AICTE Regulation 2019.

24. When the petitioner was recruited by respondent no.1, the Regulations of 2019 was in force being notified on 1/03/2019. As per the nomenclature it is a Regulation governing pay-scale, service conditions and prescribing minimum qualifications for the appointment of teachers and other academic staff in technical institutions in form of measures for maintenance of standards in technical education. The Regulations clarified as to which categories of institution shall be governed by the regulation and clause 1.4 in specific declare thus:-

***“ 1.4 Effective date of application of Service Conditions***

*a. All other service conditions including Qualifications, Experience, Recruitment, Promotions publications, training and course requirements etc shall come into force with effect from the date of Gazette Notification.*

*b. The Qualifications, Experience, Recruitment and Promotions etc. during 01-01-2016 till the issue of this Gazette Notification shall be governed by All India Council for Technical Education Pay Scales, Service Conditions and Qualifications for the Teachers and other Academic Staff in Technical Institutions (Degree) Regulation, 2010 dated 5<sup>th</sup> March 2010 and subsequent notifications issued from time to time.*

*c. Those who are eligible for promotions after the date of publication of this gazette, shall have to meet the necessary conditions such as additional qualification, undergoing industrial training, pedagogical training, faculty induction program, publishing research papers etc. However, these requirements shall be permitted to be fulfilled till 31<sup>st</sup> July, 2022 so as to enable faculty members in equipping them for requisite mandatory requirements for this gazette to avail the benefit of promotion retrospectively from date of eligibility.*

*d. for incumbent faculty members, the date of eligibility up to 31<sup>st</sup> July, 2022 shall be allowed to be according to the 6<sup>th</sup> CPC Gazette notification published on 8<sup>th</sup> November, 2012. All the benefit of promotion to such candidates be permitted retrospectively on the date when he/she became eligible.*

*e. It may be noted that, no further extension would be given beyond 31<sup>st</sup> July, 2022 and those who do not meet the essential criteria despite the above grace period, shall lose an opportunity for getting promotion retrospectively. However, they will be eligible for promotion from the date they meet these criteria thereafter.*

*f. In case, wherein interviews are already conducted either for direct recruitment or for promotions but candidates did not join, such candidates may be allowed to join. Their further up-gradation will be governed by this notification.*

*g. In cases, where advertisement was published, applications invited but interviews have not been conducted till publication of this notification, the institutes/employers are required to publish corrigendum and processing of applications must be done in accordance with the provisions given in this notification.”*

25. The Regulation also prescribe the mode of appointments to the post Assistant/Associate Professor and Professor and it has also set out the pay structure, levels, pay matrix and fixation of revised pay with the pay bands with AGP and IOR (Index of Rationalization). The Regulation fixes the entry pay and also provide a pay fixation in case of direct recruitment/promotees, by making a provision for date of increment as well as annual process of promotion.

In addition, the Regulation of 2019 also contain a provision for Financial Assistance from the Government of India for implementation of 7<sup>th</sup> CPC scale as it provide that the Central Government shall by way of financial assistance, provide for 50% of the additional expenditure (arrears from 1/01/2016 till 31/03/2019) on implementing the revised scales of pay for faculty and other staff in State Government/ Government Aided, State Government Autonomous institution/ State University Departments.

Not only this, the Regulation of 2019 also prescribe the Cadre Ratio for various posts and the manner in which the inter-se seniority

between the directly recruited teachers and promoted teachers would be determined. The Regulations also prescribe the minimum qualifications for direct recruits which are specifically set out in clause 5 for different streams and also the minimum qualification for promotees from stage II to Stage VI by exhaustively setting out the requirement of educational qualifications as well as the additional requirement of research publications etc. The manner of selection, by constituting selection committees and for adoption of specified selection procedure for direct recruitment and promotions for teachers in Universities and Colleges is also provided in Regulation 2019. On reading of the aforesaid Regulations, one thing emerges with clarity that keeping in mind the purpose of establishment of a special body, the AICTE, which is aimed at proper planning and coordinate development of technical education system throughout the country and to promote qualitative improvement of such education and for proper maintenance of norms and standards in technical education system, and it having framed the Regulations initially in the year 2010 and thereafter in the year 2019 thereby setting out the necessary stipulations as regards the minimum qualification to be possessed for appointment of the teaching and other academic staff along with the manner of their selection, the ratio in which they would be appointed, prescription of their pay scales commensurating the qualifications acquired by them and also determining their service condition, which definitely include the age at which they would superannuate and with the specific clause of superannuation being included in the Regulation of 2019 in the form of clause no.2.12, it necessarily governed the service conditions of the teaching non-

teaching staff and definitely that of the Assistant Professor, the post on which the petitioner was recruited by respondent no.1.

26. The issue about the applicability of the AICTE norms in form of the Regulations being applicable to the teachers in the technical institutions which are governed by AICTE was time and again raised and answered by various courts, on various occasions.

The importance of the AICTE Regulations was also highlighted on more than one occasion and in case of Parshvanath Charitable Trust (supra), it was recorded thus:-

*“AICTE is the Authority constituted under the Central Act with the responsibility of maintaining operational standards and judging the infrastructure and facilities available for imparting professional education and it shall precedents over the opinion of a State as well as that of the University. The department concerned of the State and the affiliating university have a role to play, but it is limited in its application, and they cannot lay down any guidelines or policies in conflict with the Central Statute or the standards laid down by the Central Body. The State can frame its policies, but such policy again has to be in conformity with the directions issued by the Central Government.*

*It is also a settled principle that the Regulations framed by Central Authority such as AICTE have the force of law and are binding on all concerned. Once approval is granted or declined by such expert body, the courts would not normally substitute their view in this regard”.*

It is in the wake of the aforesaid premise, the Apex Court held that if it is the requirement of law that there should be strict adherence to the time schedule for grant of approval as well as for admissions without exception and when AICTE under subsection (1) of section 23 of the Act has made Regulations namely All India Council for Technical Education (Grant of approval for starting new

technical institutions, from introduction of courses or programs and approval of intake capacity of seats for the courses or programmes) Regulations, 1994, the schedule prescribed therein has statutory backing and its adherence is mandatory and not directory.

Non-adherence of the schedule was held to be violative of the statutory mandate and it was directed that the authorities concerned particularly AICTE should ensure proper and timely action on the application submitted to it and in no uncertain terms it was declared that ‘No person or authority shall have the power or jurisdiction to vary the schedule prescribe by AICTE’.

27. The Punjab and Haryana High Court, in the case of *Dr. Jogender Pal Singh and ors vs. Union of India & Ors* (CWP-20047 of 2020), faced with an identical question of applicability of the age of superannuation as prescribed in AICTE Regulations 2019 being juxtaposed against the conditions of service of Union territory of Chandigarh Employees Rules 1992, where the age of superannuation was prescribed as 58 years.

With an argument being advanced that the rules framed under Article 309 of the Constitution shall cease to operate with coming to force with AICTE regulations 2010 followed by AICTE regulations 2019 and therefore the age of superannuation of the petitioner would be 65 years, with a further provision of extension in light of the Regulation and not 58 years as was pressed into service by the respondent, the question that arose for consideration before the High Court was formulated in the following words:-

*“Whether the notification dated 13/01/1992 issued under proviso to Article 309 of the Constitution that are the Conditions of*

*Service of Union Territory of Chandigarh Employees Rules, 1992 would still hold the field even when it is in conflict with the provisions of AICTE Regulations 2010 and 2019 which are promulgated under the powers conferred under sub-section (1) of Section 23 r/w section 10 (g)(h)(i) of the AICTE Act, 1987 and in case of petitioner no.2, UGC Regulations, 2010 and Council of Architecture Regulations, 2017 framed under Architecture Act, 1972.”*

The aforesaid question is answered with reference to the specific provisions of the AICTE Act, 1987 and in specific section 10, the functions of the Council to be read with Section 23 conferring the power upon the Council to frame Regulations, resulting into AICTE Regulations, 2010 and 2019. By referring to clause 2.19 of regulations of 2019 prescribing the age of retirement, the conclusion derived is recorded in the following words:-

*“28. In view of the above, we are of the considered view that the services of the petitioners are governed by the AICTE Regulations, 2010/2019, according to which, the age of superannuation of the petitioners would be 65 years with provision for extension of 5 years subject to the requirements of the Regulations, and, therefore, the action of the respondents in declining the representations / claim of the petitioners for continuing them in service till the age of 65 years as per the AICTE Regulations/Architecture Regulations is unsustainable.*

*29. As held above, the Conditions of Service of Union Territory of Chandigarh Employees Rules, 1992 issued vide Notification dated 13.01.1992 (Annexure A-3) would not be applicable to the petitioners so far as they are inconsistent with the Architecture Regulations, 2017 qua petitioner no.2 and AICTE Regulations qua other petitioners as they cease to operate from the date the above Regulations came into effect respectively. The action of respondents No.4 to 7 retiring the petitioner at the age of 60 years i.e. 58 years with 2 years extension by applying the Conditions of Service of Urban Territory of Chandigarh Employees Rules, 1992 as notified on 13.01.1992 (Annexure A-3) is illegal and thus set aside.”*

The aforesaid decision being challenged by the Chandigarh Administration (Union Territory) before the Apex Court, the Special

Leave Petition was withdrawn, thus, affirming the finding rendered by the High Court.

28. Another decision on the similar question, is from the Karnataka High Court in case of *Dr. G.R. Bharat Sai Kumar v. State of Karnataka & Ors.* (WP No. 1542/2020) decided on 24/05/2021, when the petitioner approached the Court, as he was sought to be retired on attaining the age of superannuation by Siddaganga Institute of Technology, contrary to the Regulations of AICTE, and he claimed to be entitled to continue in service upto the age of 65 years, in terms of the AICTE Regulations. The learned Single Judge of the Karnataka High Court formulated the following question for consideration:-

*“Whether the petitioner is entitled to claim that his age of retirement should be 65 years in terms of the Regulation AICTE.”*

29. On a detailed analysis of AICTE Regulations 2019, and with reference to its specific clauses like 2.12- Age of Superannuation; 2.14- Pension, Gratuity, Family Pension, GPF, Leave Encashment and Other Pensionary Benefits along with the clause about applicability of the Regulation, benefit was drawn from the observation of the Apex Court in the case of Parshvanath Charitable Trust (supra) to the effect that the Regulations came from Central Authority such as AICTE has the force of law and are binding on all concerned.

Recording that the faculty of the respondent Siddaganga Institute of Technology are appointed in terms of norms of AICTE from time to time and are in receipt of every benefit that is regulated

in terms of Regulations with regard to pay, allowances, facilities and other service conditions, the pertinent observation in this regard which deserve reproduction reads thus:

*“Therefore, having accepted everything of the AICTE Regulations, insofar as it pertains to norms and standards, it is inexorable for the 4<sup>th</sup> respondent/Institute to adhere to Regulation 2.12 which deals with age of retirement.”*

Holding that retirement is undoubtedly a service condition, it is further concluded that every service condition that is in the Regulations is binding on the 4<sup>th</sup> respondent and the institute cannot pick and choose what the Regulations mandate, as a conclusion, the Karnataka High Court holds thus:

*“The Apex Court clearly holds that there is no compulsion to accept or adopt the UGC scheme which enhanced the age of superannuation from 62 to 65 years. The Regulations of the AICTE applicable to the case at hand are mandatory in nature and do not leave any discretion to the degree level institutions to implement it or otherwise, as it is couched in such language that following mandate of the Regulations would be in consonance with the maintenance of minimum standards of teaching and appointment of faculties in all the degree level technical institutions. Therefore, the judgment in the case of Jagdish Prasad Sharma, in my considered view, would be inapplicable to the facts obtaining in the case at hand.”*

30. In case of Lalit Rajendra Gajanan (supra) the Division Bench of this Court dealt with the case of the petitioner who sought a declaration that his age of retirement as a polytechnic lecturer is 60 years and not 58 years as he sought quashing of the communication informing him that he stood retired on attaining age of 58 years. The arguments placed before the Division Bench brought forth the inconsistencies in the MEPS Rules, which prescribed that an employee other than class IV employee shall retire from service when



he attain age of 58 years and under no circumstances shall be granted extension, whereas under the AICTE Regulations of 2010, the age of superannuation is 65 years and it was urged that there being an inconsistency, in so far as the age of superannuation is concerned, AICTE regulations would prevail and not the MEPS Act enacted by the State Legislature in relation to subject mentioned in Entry 25 of List III. The aforesaid argument was strongly contested by the respondents and one of the argument advanced was, Section 10 of the Act do not empower the AICTE to lay-down service conditions of staff but it can only provide qualification.

In light of the rival contention advanced, the Division Bench referred to the decision of the Apex Court in case of State of Tamil Nadu vs. Adhiyaman Education & Research Institute (supra) and Parshvanath Charitable Trust (supra) and concluded thus:-

*“74. In our view, the MEPS Act has to the extent that it provides for the age of superannuation has become void as soon as the AICTE Act creating the repugnancy was enacted. Such repugnancy arises since both law operates in the same field and cannot stand together.*

*75. A perusal of the Government Resolution dated 18 February, 1999 issued by the State Government indicates that the said resolution deals with the revision of pay-scales of teachers, librarian and instructors or physical education in Government/non-Government Engineering Colleges and others degree level technical institutions including architectural and pharmacy colleges. Under the said Government Resolution, it was provided that the age of superannuation of all teachers in technical institutions shall be 60 years except in Government Engineering Colleges and other equivalent Government technical institutions, Government technical institutions of degree level, where the age of superannuation of teachers will continue to be 58 years.”*

The aforesaid judgment being taken to the Apex Court by the respondent resulted into dismissal of the Special Leave to Appeal by recording that there was no reason to interfere.

31. The recent decision is from Madras High Court in case of Dr. S. Kothandaraman vs The Pro-Chancellor Puducherry Technological University & Ors (supra) and connected writ petitions, where the petitioners sought reinstatement into service including monetary benefits and permission to continue in service till the age of 65 years, where an identical argument canvassed before us received consideration by the learned Single Judge in the wake of the Clause 2.12 of the AICTE Regulations, 2019 with effect from 1/03/2019 and the question of the inconsistency in the age of retirement prescribed by the Regulation of the Apex body and the one prescribed by the Puducherry Technological University was duly considered. The Single Judge once again invoked the principle of law laid down in case of Adhiyaman Education & Research Institute (supra) as well as the decision of the Punjab and Haryana High Court in case of Dr. Jogender Pal Singh (supra) as well as the decision of the Karnataka High Court in case of G.R. Bharat Sai Kumar (supra).

The contention advanced on behalf of the university that unless AICTE Regulations are specifically adopted by the university, the same cannot be automatically made applicable received due consideration as strong reliance was placed in case of *Jagdish Prasad Sharma v State of Bihar* (Civil Appeal No.5527 to 5543 of 2013) and in this regard the observation is to be taken note of as the said contention was repelled by the following observations:-

*“In that case, the Hon’ble Supreme Court was dealing with the fact situation that UGC has introduced a scheme for its implementation by the Universities coming under the States’ control. Primarily, UGC regulations were applicable to the Centrally funded educational institutions and in the regulations, an option was provided, in adoption of the scheme of UGC, on fulfillment of certain conditions by the States. In that context, the Hon’ble Supreme Court has held that their being no compulsion, to accept or adopt the scheme, the States are free to decide as to whether the scheme would be adopted by them or not. The Hon’ble Supreme Court went on to hold that there cannot be an automatic application of the recommendations made by the Commission, without any conscious decision being taken by the States in this regard.”*

32. The conclusion by the learned Single Judge is to be found in the following paragraphs of the law report:

*“27. In the teeth of the mandatory nature of AICTE regulation and also the decision of the Courts which have clearly and categorically clarified the legal position as to the mandatory nature of the AICTE regulations, yet the stand adopted by the third respondent University that unless the regulations are specifically adopted by the University, the same cannot have automatic application is nothing but advancing a specious case on behalf of the university. In the opinion of this Court, the university appears to be blissfully oblivious to the constitutional scheme and also various case laws which have consistently held that the AICTE regulations are mandatory in nature. The warped interpretation of regulation 2.11 b y the University to wriggle out of its legal obligation in regard to the prescription of age of superannuation, is to be discountenanced as being downright vexatious.*

*28. for all the above stated reasons, this Court is of the considered view that the age of superannuation as prescribed under regulation 2.12 is binding on the third respondent University and any other prescription of age of superannuation repugnant to the AICTE regulation is to be held void and inoperative and it cannot be enforced in law.*

*29. The trajectory of the above judicial discourse would only lead to an inexorable conclusion that these petitioners have made out a peremptory case for grant of relief as prayed for by them.*

*30. In the said circumstances, there will be a direction to the third respondent University to reinstate the petitioners in service forthwith and continue them in service till they attain the age of 65 years, as prescribed by AICTE regulations, 2019.”*

33. In case, of *Nagendra Krishna Patil vs. State of Maharashtra* (WP No. 16125 of 2023) decided on 30/01/2024, when the petitioner sought a declaration for being entitled to continue in service of the management till age of 65 years and raised a challenge to the communication directing his retirement on completion of 60 years, the Division Bench relying upon the decision of Jagdish Prasad Sharma (supra) which held that it is the prerogative of the State Government to fix the age of retirement of the employee and since the Government had already issued resolution on 5/03/2011 and 25/11/2011, which decided the retirement age of the faculty and the principles in unaided institutions the Court held that age of retirement could be 60 years for the petitioners and in absence of any conclusive pronouncement in favour of the petitioners holding the field that the petitioners can be directed to continue in service beyond 60 years, it was directed that they shall retire on attaining age of 60 years.

An identical view has been adopted by the High Court for the State of Telangana in WP No. 8552 of 2022, in case of *Mr. T.V. Ramana Rao v. The State of Telangana & ors*, when the petition was allowed and respondents were directed to continue the petitioner in service till he attain the age of superannuation, as it was found that the petitioner was appointed as a lecturer in Mechanical department in the Polytechnic Institution after following due procedure, qualification and experience prescribed by the AICTE. Clause 2.9 of the Regulations 2019 was held applicable to the institution in which the petitioner was appointed and when all his service conditions were held to be governed by the AICTE Regulations, he was held entitled

for continuing in service upto 65 years of age.

34. In case of S.C. Dhawan (supra) in Punjab and Haryana High Court on 22/12/2022 was of the similar view as it held that neither the AICTE nor the UGC has power to make regulations prescribed in service conditions for employees of the institutions established to control a finance by the State Government and any regulation prescribed in service condition of the Technical Institute or the institute of higher education are not applicable to the employees of the State Government unless the State Government has opted to accept the same and therefore, it was directed that AICTE and UGC shall include a separate clause in the regulations clarifying that it is optional for the State Government qua the service conditions of employees working in the State established, state control, or state finance universities/colleges or autonomous institutions and the same shall not be applicable unless it is specifically adopted by the State. When we inquired with Mr. Faldessai whether this direction has been implemented, he has answered in the negative.

35. We have therefore taken note of the authoritative pronouncements from various Courts, delivered from time to time, on being confronted with the issue about applicability of the AICTE Regulations governing the service conditions of the employees in technical institutions including the age of retirement, which has given primacy to the said Regulation by holding that if for the purposes of recruitment, the qualifications prescribed by the AICTE are applicable and even their pay-scales are governed by AICTE norms as AICTE is entrusted with the responsibility of proper planning and coordinated development of technical education system throughout

the country by applying the standards in a uniform manner, and with AICTE being declared as an Apex body entrusted with the aforesaid task and when it has framed Regulations in that regard, a consistent view adopted is that the Regulations shall govern the age of retirement of the teaching staff and particularly Assistant/Associate Professor working in technical institutions.

Mr. Agni the counsel appearing for respondent no.1 and 2 do not raise any dispute about the fact that the respondent no.1 falls within the sweep of AICTE Act, 1987. He also do not dispute that every year the Institute has resorted to the process of seeking extension of approval for the academic years and it was accordingly granted.

He has also invited our attention to the Statutes of the university under Section 23 (1) of the Goa University Act, 1984 applicable to the universities and colleges, which has prescribed age of retirement for teachers including principals to be 60 years with an embargo that no further extension shall be granted. However, according to him with effect from 18/02/2010, the statute has prescribed the age of retirement of the teachers including principals to be 62 days.

In our view, the said argument that the university has already prescribed the age of superannuation by invoking the power under Goa University Act and on it being inconsistent with the AICTE Regulation should not detain us as the issue is answered on more than one occasion and specifically in case of Adhiyaman Educational & Research Institute (supra), when it is held that when there is any inconsistency in the applicability of norms, it necessarily must give

way to the conditions stipulated by the Regulations/norms framed by the Apex body in exercise of its power to make Regulations for effecting governance of the technical institutions in the country.

36. One more aspect to which our attention is invited is the view taken by learned Single Judge of this Court in case of Vidharbha Youth Welfare Society through its Secretary vs. Dr. Mir Sadique Ali (Supra) on 20/06/2023, where it is held that the AICTE have no power to frame regulations governing the service conditions, though the power of AICTE to make regulations in terms of sub-section (1) of section 23 was not disputed but it is held that the dispute is about the subjects govern by the regulation and since Court was not satisfied as to how the subject of service condition would fall under either of the clauses (a) to (u) of Section 10 of the AICTE Act, and definitely it cannot be done by invoking the residuary clause. The learned Single Judge, (Justice Vinay Joshi as his Lordship then was) concluded by observing that since the subject of prescribing service condition is outside the purview of the Regulations with reference to Section 10 of the Act, it must be left to the decision of the respective State Government and beside making recommendation about the qualification for standard of technical education, the remaining service conditions of teaching and non-teaching employees of technical self finance institution would be left to be governed by the State legislation.

However, we must also note that operation of the impugned judgment is stayed by Apex Court in Special Leave to Appeal (c) No(s). 1595 of 2023 on 31/07/2023 and the stay continue till date and therefore, we do not deem it appropriate to delve into this issue, as

the matter is subjudice before the Apex Court.

37. The decision relied upon by Mr. Agni in case of P. J Dharamraj (Supra), though has held that the benefit of the UCG and AICTE Regulations enhancing the age of superannuation shall not be made applicable to the appellant working as director in CIS Institute of Technology automatically but the observations in paragraph no.9 and 10 are based on facts involved as it is worth to note that the Government of Andhra Pradesh (now Telangana) had decided to not adopt the amendment increasing the age of superannuation to 65, in their Universities and Colleges by passing an office order. The second distinguishing factor being the respondent no.2 is a self financing minority education institution, and it is neither run nor funded by the Central Government and the regulations governing the age of superannuation throughout the State, the JNT University in its affiliated colleges is 60 years and definitely CSI which is an affiliated institute of JNT University cannot have an advantage and if teachers cannot have age of retirement more than the teachers of the affiliating university as it would create serious disparity. In any case, the relief was also refused to the appellant since the appellant was not held to be a 'teacher' and was only involved in administrative work with CSI and AICTE regulations were held only applicable to those who qualified as teachers and discharging classroom teaching duties.

38. The observations recorded by their lordships is with reference to the facts involved, as there was a specific decision of the Government not to adopt the amendment in the age of retirement as regards its employees are concerned, but in absence of any such adoption by the State of Goa, we see no reason that when respondent



no.1 subjected itself to AICTE Regulations as well as the Handbook and followed the procedure for seeking extension of approval every year, thereby undertaking that it shall abide by the AICTE Regulations as well as the handbook, it shall not extend the benefit only as regards age of superannuation but follow all other prescribed norms in said regulations as well as the hand book.

The respondent no.1 is a private self finance standalone institution and has received approval of AICTE from 1994 and has continued to obtained its approval on yearly basis which is granted subject to the condition of mandatory compliance of essential requirements in the guidelines/regulations/directions issued by AICTE and the relevant approval process handbook. In this situation, when the petitioner joined the institute in the year 2019, in terms of the approval granted by AICTE and the institute was granted approval from five management programs including the post-graduation diploma in management (health care) the stream in which the petitioner was engaged as Assistant Professor and since it is noticed by us that the approval process handbook 23-24 ('APH') is complied by the institute as it published the mandatory disclosure constituting anti ragging committee, grievance redressal committee, internal complaint committee etc. The steps taken by respondent no.1 are clearly in furtherance of the directives contained in the handbook published by the AICTE and very proudly the Institute in its brochure has declared that it has AICTE approval and with a clear expectation that it shall follow the norms prescribed AICTE qua the students as well as the faculty.

39. In the wake of the aforesaid discussion, we do not find justification in denying the benefit of clause 2.12 of Regulation 2019, to the Petitioner as the petitioner was recruited as Assistant Professor while the Regulation of 2019 is in force and the impugned communication dated 26/03/2024, directing her to superannuate with effect from 30/06/2024, cannot be sustained and is liable to be quashed and set aside.

40. From the affidavit placed by the respondent no.1 and 2, an attempt is made to justify that the petitioner is not fit to be continued in service based on her appraisal report. We are not ready to accept the said stand, as we find that if the petitioner is not fit to be retained in service, considering that she has to retire on attaining the age of superannuation, it is open for the Management to initiate appropriate action against her but that by itself cannot deprive her of being continued in service till she attain the age of 65 years.

We therefore, direct the respondent nos.1 and 2 to reinstate the petitioner on the post of Assistant Professor and permit her to render services till she attain the age of superannuation i.e. 65 years, subject to her services being found to be satisfactory. The steps to reinstate the petitioner in service shall be taken within a period of two weeks from today, and her services shall be treated as continuous from the date of her appointment.

Since the petitioner was wrongfully denied the benefit of continuation of service till she attains 65 years of age, and for no fault of her, she was made to retire prematurely, the respondent nos.1 and 2 are directed to release the salary due and payable to her from the date on which she was made to retire, till her services are restored as

Assistant Professor, and upon the restoration of her services, she shall be paid her regular salary along with the allowances admissible. The salary which she is entitled to, as directed above, on restoration of her services shall be deposited in her account within a period of eight weeks.

41. The petition is made absolute in the aforesaid terms.

**(ASHISH S. CHAVAN, J)**

**(BHARATI DANGRE, J.)**

*Ashish*