

Before A. K. Sikri, Chief Justice & Rakesh Kumar Jain, J.J.

DR. R.D. ANAND—Petitioner

versus

**PUNJAB TECHNICAL UNIVERSITY
AND ANOTHER—Respondents**

CWP No. 18 of 2013

February 22, 2013

A. Constitution of India, 1950- Art. 226 - All India Council for Technical Education(AICTE) Act, 1987 - S. 23 - Public Interest Litigation -- Education - university sought to admit the students in 2nd semester directly in some courses - First semester to be completed along with regular batch - challenged on grounds that Permission for this not taken from Regulatory body, All India Council for Technical Education (AICTE) - Centralized Admission Process - Violation of academic calendar - Adherence to time schedule - Quality of education and optimum utilization of educational infrastructure - Balancing two shades of public interest - Contrary to public interest to let seats go waste - But quality of education should not suffer - Bold move by respondent-University may advance course of education - Courts not to substitute their own views as to what is wise, prudent and proper in relation to academic matters - Writ Petition dismissed.

Held, that From the aforesaid it would be clear that though on one hand AICTE is empowered to inspect any technical institution for the purpose of granting approval for starting new technical institutions and for introduction of new courses or programmes, at the same time, the position is different when it comes to the Universities. There the power of AICTE is confined and limited to ascertaining the financial needs or its standards of teaching, examination and research. 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 unit. The role of the AICTE vis-à-vis the Universities

is held to be only advisory, recommendatory and one of the 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 by itself.

(Para 18)

Further held, that another aspect which was discussed was strict adherence to the time schedule for grant of approval as well as admissions under Section 23 of the AICTE Act. The Court was of the opinion that non-adherence of the schedule can result in serious consequences and can jeopardize not only the interest of the college students but also the maintenance of proper standards of technical education. Thus it is imperative that the process of recognition by the AICTE should also be undertaken in a time bound manner. At the same time, noticing that the AICTE had been publishing different schedules, the Court was of the view that in order to maintain consistency and smoothness in the administrative process there should be a fixed and unaltered time schedule provided for admission to the college so that the students know with certainty and well in advance the admission schedule that is to be followed and on the basis of which they are also to have their choice of college or course exercised. The Court thus found the schedule and directed strict adherence thereto with clear mandate that no person or authority shall have the power or jurisdiction to vary the schedule. It is stated at the cost of repetition that in the present case we are not concerned with the recognition of any of the colleges by the AICTE. Here the action of the University in providing admission to the students in technical courses in January, 2013 is being adjudicated upon.

(Para 19)

Further held, that for the purposes of present case, the principles which can be culled out from this judgment are summarized below:-

- i) The role of AICTE vis-à-vis. Universities are different. The AICTE is to only ensure the maintenance of appropriate standards and qualitative norms by the Universities and its affiliated colleges. It is not a body to supervise the Universities nor it has any right to supervise or control the Universities.
- ii) The All India Council for Technical Education Act, 1987 (AICTE Act) does not require a University to obtain prior approval of AICTE for starting technical courses of its choice.

iii) The schedule of admission fixed in that judgment is to be strictly adhered to and not to be varied by any authority/Institution.

iv) When it comes to the judicial review of an action of an Expert Body, and more particularly Educationists, the Courts should be hesitant in dislodging the decision of the academic bodies.

(Para 20)

Further held, that we have also to keep in mind that the number of aspirants for such courses is much more than the seats available in the educational institutions/universities. Because of this reason, there is a tough competition among the students who struggle to make their mark. If the seats are allowed to go waste, not only it would be against the interest of these students, it would also be contrary to the public interest, as it is not conducive for the higher education milieu. It would even discourage the private players from making huge investments in education who are not even otherwise suppose to commercialize the education.

(Para 28)

Further held, that going by all these considerations, the move on the part of the respondents to give admission in the manner aforesaid appears to be well founded and actuated by bona fide consideration in the interest of the students' community, the colleges as well as in public interest.

(Para 30)

Further held, that we are, therefore, of the opinion that this bold move of the respondent-university which may advance the cause of education and does not appear to be regressive, needs to be given a trial. The matter obviously has been deliberated upon by the University and decision is taken after discussing all the pros and cons thereof. When it is found that it is not contrary to any law and objective is laudable, the Courts have to be reluctant to substitute their own views as to what is wise, prudent and proper in relation to academic matters.

(Para 33)

B. Constitution of India, 1950- Art. 226 - Public Interest Litigation — Education - Admission to second Semester directly not case of late admission - Well-recognized and prevalent practice in

various foreign Universities where admission process undertaken twice an year - Practice not unknown to India - Need to establish higher education system of international standards - Emulation of good practices abroad - Held, permissible

Held, that By admitting the students directly in 2nd semester, it does not become a case of late admission and thus the studies of these students are not going to be affected thereby for the simple reason that they will undertake full semester education in so far as the present semester is concerned along with other students who were given admission in 1st semester and have now come to 2nd semester. Likewise, in B.Tech., M.B.A., and M.C.A. courses where the students are admitted in 1st semester there are going to be separate classes for them and this would ensure full semester teaching of these students as well.

(Para 22)

Further held, that the other related aspect is as to whether such a mode of admission in 2nd semester should be allowed. Here we may point out that it is not that the respondent-university has taken this step for the first time in the history of education. It is a well recognized and prevalent practice in various foreign universities where the admission process is undertaken twice a year, popularly known as 'winter' and 'spring'. Thus students are admitted in 'winter' session and there are fresh admissions in 'spring' session as well in the one academic year. In the Universities in the United State and Europe, two 'academic years' are permissible which are split half yearly i.e. by six months and they are termed as summer and winter session or spring and autumn session. These sessions/academic years have got the sanction of the concerned statutory bodies and otherwise also the universities are autonomous bodies in United States of America and Europe as well.

(Para 23)

Further held, that there is no denying fact that the students of this nation have proved in past few decades that they have potential of doing excellence in learning. However, because of the reason that the educational institutions of higher learning have not been able to attain the standards which foreign universities have achieved, many of these students still preferred to

study abroad. Therefore, there is an imperative need for establishment of higher education system that meets international standards. Aspirations of higher education are quite high among the students' community of this country and rightly so. It is widely expected and recognized that higher education is the principal instrument in transforming a country from underdeveloped to a self-sustained developed nation. Thus to attain the objective, the higher education cannot remain nation centric and have to assume global dimensions. For this purpose, there is no harm in emulating good practices followed in other countries.

(Para 26)

R.D. Anand, Advocate, *for the petitioner.*

Puncct Sharma, Advocate, for respondent No. 1.

Harsh Aggarwal, Advocate, for respondent No. 2.

A.K. SIKRI, CHIEF JUSTICE

(1) The petitioner, who has vast teaching experience as an Educationist, as he served various educational institutions from 1964 to 2007, and is presently practicing as an Advocate of this Court after his retirement, has filed this petition in public interest.

(2) The petitioner claims that from 1964 to 2007, he was engaged in teaching, research, developmental, supervisory and administrative assignments in Educational Institutions and during this period he held different posts/offices, which include Director (Research) Association of Indian Universities, New Delhi; Professor of Chemistry, Fellow, Syndic and Dean, Faculty of Science, Panjab University, Chandigarh. He states that being an Educator for over 40 years, the cause of Education is close to his heart. This passion for education has provoked him to file the present petition questioning the legality, validity and rational of the decision taken by respondent No. 1 i.e. Punjab Technical University (PTU) to admit the students directly in the 2nd Semester of B.Tech., M.B.A., and M.C.A. courses from December-2012 to January, 2013. As per this decision taken by the Punjab Technical University, the students who admitted would undertake studies in 2nd Semester along with others who are admitted to this Course in 1st Semester which started in August, 2012, without doing 1st Semester course.

However, these students would cover the course of 1st Semester during summer break after the 2nd and 4th Semesters. The petitioner states that not only this runs counter to the educational system; it is also contrary to law.

(3) Recapitulating the facts in brief in this behalf, the Punjab Technical University was established in the year 1997 under the Punjab University Act, 1996 (Punjab Act No. 1 of 1997) to provide for the establishment and incorporation of a University for the advancement of technical education and development thereof in the State of Punjab. In pursuance of this Act, the University started its journey with 09 Engineering Colleges and few management colleges affiliated to it. Today, the University claims to have 7 Architecture Colleges, 49 Engineering Colleges, 27 integrated colleges, 186 Management Colleges, 38 Pharmacy colleges, in additional 21 Regional Centres and 2013 Learning Centres for providing professional education through Distance Learning all over the Country and abroad. Thus, PTU is, by and large, an examination conducting body, rather than having any teaching programmes to be conducted by its own faculty. The academic year in the PTU like all other Universities starts from August of a particular year and ends upto June or so of the subsequent year. The current academic year starts in August, 2012 and is upto June, 2013.

(4) Punjab Technical University started admission to the aforesaid courses, namely, B.Tech., M.B.A., and M.C.A. which we are concerned in this petition and the session started in August, 2012. The admission date which was initially 15.08.2012 extended by few days. This is the last date fixed by the AICTE for admission to students in the academic year. There could not be admissions to these courses thereafter.

(5) After undertaking centralized admission process, the students were allocated to various colleges affiliated to P.T.U. It appears that many seats remained vacant in these colleges because of the reason that many students who qualified All India Engineering Entrance Examination (AIEEE) but they failed to meet the eligibility criteria by the cut off date of admission. It could be because of the reason that some students had undertaken supplementary examination in the Board but the result had not been declared or the results were not declared at all of the board examinations. The Punjab Technical University in order to give chance to these students allowed them to seek admission in the calendar session which started from January, 2013.

(6) However, the respondents took a decision to allow the fresh admission in the 2nd Semester. In this behalf, the respondents addressed letter dated 19.12.2012 (Annexure R-1/1) allowing admission during January session i.e. direct admission in 2nd Semester, stipulating as under:-

1. The students can be admitted during January session against the vacant seats of the sanctioned intake of that academic year only by the affiliated colleges at their own level following the eligibility criteria. The last date of admission will be 22 January, 2013 (i.e. 15 days after the start of second semester).
2. Being introduced first time, the admission will be made to B.Tech., B.Arch., MBA, MCA only which may be extended to all other courses from subsequent years.
3. The students have to complete the syllabus of subjects of 1st Semester as decided by the University.
4. The institute will upload the details regarding the students on the website www.ptu.ac.in.
5. At the time of admission the student will deposit the 2nd semester fee and other charges. However, fee of first semester as applicable, subject wise shall be deposited by the student at the allocated college."

(7) It would be pertinent to point out that Punjab Technical University has addressed another communication dated 21.01.2013 clarifying as to how the students admitted in these courses would undergo the studies. Different norms are fixed for B.Tech. on one hand and B.Architect, M.B.A. and M.C.A. on the other hand which are as follows:-

1. **B.Tech.:** The students admitted in second semester during January session may complete second semester first as the syllabi do not have prerequisite. These students may be allowed to complete their first semester along with 2013-14 batch.

A separate batch will start for the students admitted during January from 3rd semester onwards to complete their degree in the minimum prescribed time duration i.e. four years by AICTE.

2. **B.Arch. MBA and MCA:** The students will be admitted directly in second semester from January, 2013 against the vacant seats of the sanctioned intake of Academic year 2012-13. However, these students will initially complete first semester. Separate batch for these students will start from January, 2013 onward and will continue upto completion of degree in the minimum prescribed time.”

(8) In so far as B.Tech. course is concerned, as per P.T.U., for completion of 2nd semester, syllabi of 1st Semester do not have pre-requisite and 2nd semester can be taught independently, even if the students have not studied the courses of 1st Semester. They are allowed to complete the 1st semester *along with* 2013-14 batch. Thus those students who were given admission in B.Tech. course in August/September, 2012 and after completing the 1st semester they are now in 2nd Semester. These new entrants in the 2nd Semester will study along with them and will be permitted to complete their 1st Semester later on along with 2013-14 batch.

(9) As far as B.Architect. M.B.A. and M.C.A. courses are concerned, no doubt, the students are admitted in 2nd Semester in January, 2013. However, initially they have to complete their 1st Semester. They would, therefore, be taught 1st Semester from January, 2013 whereas those who were admitted in August- September, 2012 would be studying in 2nd Semester of these courses. Thus, these students admitted in January, 2013 are not going to study along with those admitted in August-September, 2012. Two parallel batches would run accordingly. In this manner those students admitted to B.Architect. M.B.A./M.C.A. courses, their 1st Semester would start from January, 2013 and would end six months after those students who are admitted in August-September, 2012.

(10) According to the petitioner, this is a mockery of education and worst kind of academic planning. His allegation is that all this is done under the pressure of the colleges to allow them to admit the students directly as their seats are lying vacant. However, it runs counter even to the principle of learning hierarchy and there is no justification worth the name for adopting such a course of action. It is the submission of the petitioner that no provisions of law allow Punjab Technical University to admit the students in mid-stream. Further, without permission of AICTE, which is a Regulatory Body, it could not have been done.

(11) A.I.C.T.E. has filed its counter-affidavit wherein it is stated that in its Regulation dated 10.12.2012, for grant of approvals to technical institutions for 2011, A.I.C.T.E. has clearly notified under Sections 4.25, 4.26 and 4.27 laying down the procedure of admission. These provisions are as follow:-

4.25. Competent Authorities for admissions shall not allow admission of students in those technical institutions, which do not have requisite prior approval of the Council.

4.26 Affiliating Universities shall not enroll students admitted in such technical institution, which do not have requisite prior approval of the Council. Further, all Technical Institutions conducting PG Diploma courses shall not initiate admission process before 31st March of the admission year.

4.27 Central/State Government/U.T. Administration concerned shall not permit any technical institution without requisite prior approval of the Council to admit students.

It is emphasized that since the admission are made every year across the country, therefore, in order to maintain uniformity, an academic calendar has been made for all the steps to be taken by the AICTE, State Government, University and the Institutes for the purpose of admissions. Apex Court in case **Parshavanath Charitable Trust Vs. AICTE** Civil Appeal No. 9048 of 2012, decided on 13.12.2012, has crystallized the schedule and held that the admissions to various technical courses cannot go beyond July 31st of that year, in any case.

(12) On that basis, the A.I.C.T.E. maintains that there cannot be any admission after the cut off date fixed by the A.I.C.T.E. As per the law laid down by the Apex Court and since A.I.C.T.E. has not granted any permission to the Punjab Technical University, the entire exercise of starting 2nd semester first and thereafter to complete the first semester after 2nd and 4th semesters amounts to move anticlockwise and is not permissible.

(13) We have given our utmost consideration to the submission made by learned counsel for the parties as we are fully conscious of the

fact that it is an issue of vital public importance and therefore, the entire focus has to be on the quality of education. The pertinent aspects which need to be deliberated upon are as under:-

i) Whether such a course of action of the respondent university to admit the students in 2nd semester directly in some courses and 1st semester in other courses in January, 2013, when the 2nd Semester has already started, would be permissible in law?

ii) If so, whether giving admissions in this manner is going to affect the quality of education?

(14) Both the aspects are inter-linked. On the one hand we have to keep in mind that the seats which are now filled were lying vacant in various colleges affiliated with the University and the attempt of the University is that the infrastructure be utilized and also the unfilled seats do not lapse and the students who are given admission become the beneficiary in the process. On the other hand, it is also to be kept in mind that the quality of education by adopting such methodology is not put on back burner and is not sacrificed in the process. It is a balance of two shades of public interest which needs to be achieved.

(15) In so far as the legal issue allowing the University to admit the students after the cut off date is concerned, we would like to start our discussion with the judgment of the Apex Court in **Parshavanath Charitable Trust's case** (supra). In that case, though 'No objection Certificate' had been given by the AICTE to the college for running the required courses, which was running in District Thane, the College shifted its location to a new premises which was barely at a distance of 300 meters from the old site and made application to the AICTE seeking its permission to shift the college to the new premises and also submitted all the requisite documents. When the Expert Body appointed by the AICTE went to the new site to verify the infrastructure available there, it noted that the No Objection Certificate of the affiliated University for change of the location had not been produced though they were informed that the same was in process. A show cause notice was issued by the AICTE to the Trust on the ground that the college had been shifted to another location without obtaining prior approval of the AICTE. The Trust submitted its reply. The matter remained in

controversy but because of the pendency of proceedings pursuant to show cause notice, the college of the trust was not included in Centralized Admission Process (CAP) by the State Government. The effect of non-inclusion in the CAP was that no students were to be sent to this college in the new academic year after undertaking the centralized admission. This action of the State Government was challenged by the Trust by filing writ petition which was allowed by a Division Bench of Bombay High Court directing the respondents to permit the college to participate in the CAP when the second round of counseling had commenced. However, at that time, when the judgment was rendered by the Division Bench giving aforesaid directions, it could not be brought to the notice of the Division Bench that the Municipal Corporation of Thane had not granted Occupancy Certificate. Further, subsequent to the passing of the aforesaid order, the AICTE also passed orders dated 07.01.2011 withdrawing approval granted to the appellant college in terms of Clause 2.11 of the Approval Process Handbook and the guidelines for the academic year 2008-09. The basis for withdrawing the approval was shifting of the college to the new location without obtaining Occupancy Certificate, without informing the State Government and also without obtaining the requisite permission from AICTE as per Regulations. This cancellation of approval was challenged by the Trust by filing Writ Petition No. 460 of 2011 which was dismissed by the High Court on 24.05.2008 and the Trust/College had approached the Supreme Court challenging the aforesaid decision.

In these circumstances, on the ground that the college had shifted to the new site without necessary permission of the Municipal Corporation and it also did not have the ownership of the land in question at the relevant time and there was no Occupancy Certificate issued by the Municipal Corporation, the High Court dismissed the writ petition vide order dated 22.08.2012 and also passed a direction with regard to adjustment of students in other colleges keeping their welfare in mind. Challenging that order, the trust/college had filed the appeal which came to be decided by the said judgment.

(16) On the facts of that case, the Court found that since it was for the AICTE to consider as to whether the trust/appellant college fulfilled all the norms or not for obtaining No Objection Certificate and when it was found that the college had shifted to the new premises without requisite

permission/approval and at that time it was not even the owner of the premises where it was shifted, the No Objection Certificate was rightly refused and the decision of the Government not to include the appellant college in CAP was justified.

(17) It is clear from the above that the entire issue in that case pertained to the recognition by the AICTE which is not the controversy in the present petition. However, we find that while deciding the lis before it, the Supreme Court also took note of its earlier decisions and discussed the ambit and scope of the powers given to AICTE under the All India Council for Technical Education Act, 1987 (AICTE Act). It is this discussion which is relevant for our purposes which needs to be mentioned hereinafter. The Supreme Court has explained the scheme of the AICTE Act in paras No. 22 and 23 which read as follow:-

“22. The provisions of the AICTE Act, including its preamble, make it abundantly clear that the AICTE has been established under the Act for coordinated and integrated development of the technical education system at all levels throughout the country and is enjoined to promote qualitative improvement of such education in relation to planned quantitative growth. The AICTE is required to regulate and ensure proper maintenance of norms and standards in technical education system. The AICTE is to further evolve suitable performance appraisal system for technical institutions and universities incorporating norms and mechanisms in enforcing their accountability. It is required to provide guidelines for admission of students and has the power to withhold or discontinue grants to such technical institutions where norms and standards laid down by it and directions given by it from time to time are not followed. The duty and responsibility cast on the AICTE implies that the norms and standards to be set should be such as would prevent isolated development of education in the country.

23. 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 envisaged in Section 10(1)(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 the AICTE is empowered to inspect or cause to inspect any technical institution in Clause (p) of Sub-section (1) of Section 10 without any reservation whatsoever. However, when it comes to the question of universities, it is confined 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."

(18) From the aforesaid it would be clear that though on one hand AICTE is empowered to inspect any technical institution for the purpose of granting approval for starting new technical institutions and for introduction of new courses or programmes, at the same time, the position is different when it comes to the Universities. There the power of AICTE is confined and limited to ascertaining the financial needs or its standards of teaching, examination and research. 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 unit. The role of the AICTE vis-à-vis the Universities is held to be only advisory, recommendatory and one of the 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 by itself. For this proposition, the Supreme Court referred to earlier decisions in the cases of *Adarsh Shiksha Mahavidyalaya versus Subhash Rahangdale (1)*, *State of Tamil Nadu versus Adhiyaman Educational & Research Institute (2)* and *Bharathidasan University versus All India Council for Technical Education (3)*.

(19) Another aspect which was discussed was strict adherence to the time schedule for grant of approval as well as admissions under Section 23 of the AICTE Act. The Court was of the opinion that non-adherence of the schedule can result in serious consequences and can jeopardize not only the interest of the college students but also the maintenance of proper

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- (1) 2012(2) SCC 425
 - (2) 1995(4) SCC 104
 - (3) 2001(8) SCC 676

standards of technical education. Thus it is imperative that the process of recognition by the AICTE should also be undertaken in a time bound manner. At the same time, noticing that the AICTE had been publishing different schedules, the Court was of the view that in order to maintain consistency and smoothness in the administrative process there should be a fixed and unaltered time schedule provided for admission to the college so that the students know with certainty and well in advance the admission schedule that is to be followed and on the basis of which they are also to have their choice of college or course exercised. The Court thus found the schedule and directed strict adherence thereto with clear mandate that no person or authority shall have the power or jurisdiction to vary the schedule. It is stated at the cost of repetition that in the present case we are not concerned with the recognition of any of the colleges by the AICTE. Here the action of the University in providing admission to the students in technical courses in January, 2013 is being adjudicated upon.

(20) For the purposes of present case, the principles which can be culled out from this judgment are summarized below:-

- i) The role of AICTE vis.a.vis. Universities are different. The AICTE is to only ensure the maintenance of appropriate standards and qualitative norms by the Universities and its affiliated colleges. It is not a body to supervise the Universities nor it has any right to supervise or control the Universities.
- ii) The All India Council for Technical Education Act, 1987 (AICTE Act) does not require a University to obtain prior approval of AICTE for starting technical courses of its choice.
- iii) The schedule of admission fixed in that judgment is to be strictly adhered to and not to be varied by any authority/Institution.
- iv) When it comes to the judicial review of an action of an Expert Body, and more particularly Educationists, the Courts should be hesitant in dislodging the decision of the academic bodies.

(21) When we look into the facts of the present case, it is clear that the schedule of admission as fixed in **Parshavanath Charitable Trust's** case (supra) was adhered to by the University. The students who

are admitted in the first year in the courses of B.Tech., and M.B.A., were admitted by the stipulated date. The AICTE, therefore, may not be right in contending that the admission of students in MCA directly in 2nd Semester without there undergoing 1st semester or other students in other courses i.e. B.Tech., M.B.A., and M.C.A. in 1st semester in 2013 may not be correct. We reiterate the purpose of adhering to this schedule as has been highlighted by the Apex Court from time to time and was stated in **Parshavanath Charitable Trust's** case (supra), in the following manner:-

“40. Non-adherence of this Schedule can result in serious consequences and can jeopardize not only the interest of the college students but also the maintenance of proper standards of technical **education**. The authorities concerned, particularly the AICTE, should ensure proper and timely action upon the applications submitted to it. It must respond to the applicant within a reasonable time period and should not let the matter drag till the final date giving rise to avoidable speculations by **all** stakeholders. Thus, it would be appropriate **for** these authorities to bring to the knowledge of the parties concerned, the deficiencies, if any, and the defects pointed out by the Expert Committee during the inspection within three weeks from the date of such inspection or pointing out of defects, as the case may be. **For** better administration, the AICTE should also state the time within which such deficiencies/defects should be removed by the applicant. This will help in building of a coherent and disciplined method of working to ensure the proper implementation of the entire formulated scheme of technical **education**. The AICTE will not have any jurisdiction or authority to issue approval **for** commencement of a new course or **for** additional intake of students beyond 30th April of the year immediately preceding the commencement of an academic year.”

(22) By admitting the students directly in 2nd semester, it does not become a case of late admission and thus the studies of these students are not going to be affected thereby for the simple reason that they will undertake full semester education in so far as the present semester is concerned along with other students who were given admission in 1st semester and have now come to 2nd semester. Likewise, in B.Tech., M.B.A., and M.C.A. courses

where the students are admitted in 1st semester there are going to be separate classes for them and this would ensure full semester teaching of these students as well.

(23) The other related aspect is as to whether such a mode of admission in 2nd semester should be allowed. Here we may point out that it is not that the respondent-university has taken this step for the first time in the history of education. It is a well recognized and prevalent practice in various foreign universities where the admission process is undertaken twice a year, popularly known as 'winter' and 'spring'. Thus students are admitted in 'winter' session and there are fresh admissions in 'spring' session as well in the one academic year. In the Universities in the United State and Europe, two 'academic years' are permissible which are split half yearly i.e. by six months and they are termed as summer and winter session or spring and autumn session. These sessions/academic years have got the sanction of the concerned statutory bodies and otherwise also the universities are autonomous bodies in United States of America and Europe as well.

(24) Even in India this practice is followed by the Indian Institute of Technology (I.I.T.) The respondent University has placed on record Information Brochure (2nd semester 2012-13) for admission to Doctor of Philosophy (Ph.D.) as well as Master of Science (Research) (M.S.(R)), issued by the Indian Institute of Technology, Delhi demonstrating this. The extract of the admission schedule of M.S. Research Programmes within the same British Calender in vogue in IITs is reproduced as hereunder:-

“Admission schedule: Normally, MS(R) programmes are advertised in the month of March each year in the Employment news as well as in leading newspapers and admissions are carried out in the month of May. MS(R) programmes are also advertised in the month of October followed by admissions in December. Further, just like Ph.D, admission to MS(R) programmes is possible **any time in the year** through DRC/CRC/PFC. They can be allowed to join any time though the course registration in such cases will be possible only at the beginning of the next semester. Candidates seeking admission under this clause must fulfill the required academic qualification/experience at the time of interview. They must also join within 4 weeks after the issue of admission offer unless specifically permitted to do so. Admission is subject to vacancy being available in the relevant specializations.”

(25) We would like to emphasize here that for the last few years there is a thrust upon moving the standard of higher education in this country and various measures are taken by the Government in this behalf. One such significant step is permitting the establishment of private technical colleges with affiliation to the statutory universities and even allowing the private bodies to establish their own universities. The challenge is to meet the quantity needs of the society and at the same time to ensure high standards of quality of education.

(26) There is no denying fact that the students of this nation have proved in past few decades that they have potential of doing excellence in learning. However, because of the reason that the educational institutions of higher learning have not been able to attain the standards which foreign universities have achieved, many of these students still preferred to study abroad. Therefore, there is an imperative need for establishment of higher education system that meets international standards. Aspirations of higher education are quite high among the students' community of this country and rightly so. It is widely expected and recognized that higher education is the principal instrument in transforming a country from underdeveloped to a self-sustained developed nation. Thus to attain the objective, the higher education cannot remain nation centric and have to assume global dimensions. For this purpose, there is no harm in emulating good practices followed in other countries.

(27) Once the Government allows the private institutions to come forward in the aid of higher education, encouraging them to invest large sums of money, in order to see this experiment successful, it also becomes necessary to ensure that the infrastructure created and the teaching/non-teaching staff engaged by such institution is not allowed to be wasted. A particular private college is given recognition by AICTE after satisfying that it fulfills all the required norms laid down by it which include the students-teacher ratio, necessary infrastructure in the form of building, laboratory, class rooms, library, play grounds, computerization system etc. Depending upon the extent of this infrastructure, the maximum number of students in each course which can be admitted by these colleges is also fixed. Above all there is a centralized system of admission which means that these colleges

are not allowed to admit the students of their own but it is the Admission Board or the University which allocates the students after undertaking centralized admission process.

(28) We have also to keep in mind that the number of aspirants for such courses is much more than the seats available in the educational institutions/universities. Because of this reason, there is a tough competition among the students who struggle to make their mark. If the seats are allowed to go waste, not only it would be against the interest of these students, it would also be contrary to the public interest, as it is not conducive for the higher education milieu. It would even discourage the private players from making huge investments in education who are not even otherwise supposed to commercialize the education.

(29) In an Article published in leading newspaper 'The Hindu' dated 12.02.2013 titled as '**Scoring Higher on Education**' contributed by two authors, namely, Philip G. Altbach and Pawan Aggarwal, it was emphasized that although Indian higher education suffers from many dysfunctionalities and the system overall is characterised by "pinnacles of excellence in a sea of mediocrity", it does reasonably well by some international comparisons. There are few examples which read as under:-

" India is a global leader in terms of GDP spent by public and private sources on higher education. India devotes a very high proportion of its national wealth on higher education. At 3 per cent of the GDP (1.2 per cent from public and 1.8 per cent from private sources), India spends more than what the United States (1 per cent public and 1.6 per cent private) or Korea (0.7 per cent public and 1.9 per cent private) spends on higher education. This suggests a limited scope for further increase, though more is required since in absolute figures, investment in higher education does not measure up to international terms. Further, there is an urgent need for effective and efficient use of funds to promote both equity and excellence.

- The gross enrolment rate -- the proportion of the age group accessing higher education -- of 18 per cent is among the highest for countries at India's level of development. This is particularly

impressive given India's size and complexity. The recently approved 12th Five-Year Plan aims at raising the gross enrolment rate to 25 per cent by 2017, which is both desirable and achievable.

-- Finally, academic salaries, by accurate purchasing power parity comparisons, are quite good. Among 28 countries in a recent study, India ranked fourth in entry salaries for academics---better than the other BRIC (Brazil, Russia, India, and China) nations. China scored near the bottom for average salaries. This good showing is the result of the major pay increase implemented in 2006."

Giving their own analysis as to why the educational institutions in this country established privately are not able to give 'Value for money' (which need not to be gone into) the Authors in the said article have at the same time pointed out a significant fact, namely, even when gross enrolment rates are not bad by relevant international standards, India is still four decades behind most advanced nations in enrolments.

(30) Going by all these considerations, the move on the part of the respondents to give admission in the manner aforesaid appears to be well founded and actuated by bonafide consideration in the interest of the students' community, the colleges as well as in public interest.

(31) The only thing which is to be ensured is that the quality of education does not suffer thereby. It has been categorically stated by the University in its affidavit that teachers-students ratio would be maintained. It is also stated that the standards of a curriculum etc. as fixed by the AICTE will not be compromised. The University has come on record to further clarify that in case the students admitted during December-January, 2013 Sessions along with the students admitted in July-August, 2012 exceed the permission intake of a particular institute or the respondent/university then either the institute/university would apply for extension of the intake capacity in order to accommodate the enhanced number of students or would restrict the admissions to the intake capacity already approved by the AICTE. However, it is mentioned that the admission trend of the last number of years (at least five) shows that the admissions have been dropping every year and hardly touches the intake capacity. The tabular format of the intake capacity

and the actual during previous sessions/academic years vis.a.vis. the vacant seats is given in the statement annexure as Annexure R-1/4 which reads as follow:-

Sr. No.	Discipline	2009-10			2010-11		
		1st total Available	1st Filled seats	Vacancies Seats	1st total Available	1st Filled seats	Vacancies seats
1.	B. Engineering	27106	21354	5752	33525	23565	9960
2.	B. Architecture	270	243	27	350	310	40
3.	B. Pharmacy	2010	785	1225	1520	1226	294
4.	B.HMCT	510	230	280	840	473	367
5.	B.Management (BBA)	5710	2041	3669	4890	2649	2241
6.	Bachelor (Non-AICTE)	5290	1085	4205	2820	1194	1626
7.	MCA	3167	1359	1808	3195	1619	1576
8.	M-Tech Engineering	1845	1262	583	2719	2002	717
9.	M.Pharmacy	279	270	9	506	412	94
10.	MBA	8370	4091	4279	8610	4347	4263
11.	M.Sc.	2020	274	1746	2390	503	1887
	Grand Total	56577	32994	23583	61365	38300	23065

Sr. No.	Discipline	2011-12			2012-13		
		1st total seats Available	1st Filled seats	Vacancies	1st total Seats Available	1st Filled seats	Vacancies
1.	B. Engineering	40050-	20795	19255	43784	20548	23236
2.	B. Architecture	360	232	128	440	232	208
3.	B. Pharmacy	2130	859	1271	2310	1175	1135
4.	B.HMCT	555	139	416	525	239	286
5.	B.Management (BBA)	4970	2548	2422	4320	2631	1689
6.	Bachelor (Non-AICTE)	12480	5414	7066	13740	6757	6983
7.	MCA	3775	1971	1804	4195	2060	2135
8.	M-Tech Engineering	3836	2267	1569	4807	3052	1755
9.	M.Pharmacy	789	473	316	1106	428	678
10.	MBA	10158	3907	6251	10938	4234	6704
11.	M.Sc.	2050	567	1483	2040	747	1293
	Grand Total	81153	39172	41981	88205	42103	46102

(32) The University has also elaborated/explained that the faculty members as per the AICTE Regulations has to be in accordance with the requisite student teacher ratio which is 1:15 and the same faculty is sufficient for the permissible intake capacity whether for teaching of first semester or second semester students. Thus, the curriculum of both the semesters i.e. 1st and 2nd or correspondingly 3rd and 4th etc. can be taught at the same time by adjusting the timings of the lectures given by faculty members but the student faculty ratio as prescribed by the AICTE would remain 1:15.

(33) We are, therefore, of the opinion that this bold move of the respondent-university which may advance the cause of education and does not appear to be regressive, needs to be given a trial. The matter obviously has been deliberated upon by the University and decision is taken after discussing all the pros and cons thereof. When it is found that it is not contrary to any law and objective is laudable, the Courts have to be reluctant to substitute their own views as to what is wise, prudent and proper in relation to academic matters.

Going by all these considerations, we do not find any merit in this petition which is accordingly dismissed. No costs.

S. Gupta