
(13) Reliance placed by the petitioner in the case of *Mandip Singh (supra)* is misconceived. Firstly, the facts of that case were different and the petitioner was not issued the Gradation Certificate because he had participated in the All India G.V. Mavlankar Shooting Championship 1996 of which association was recognised but the tournament was not recognised by the National Rifle Association of India and as such the Gradation Certificate was not countersigned by the Chandigarh Administration. We are unable to persuade ourselves to accept the view that the above judgment covers the case of the petitioner entirely on law and facts. With greatest respect, we are not in a position to persuade ourselves to concur to the view expressed by the learned Single Judge in *Mandip Singh's case (supra)*. Another factor which has weighed with this Court in declining the relief to the petitioner is that admittedly, the course had started in July, 2001 and nearly six months have already elapsed of this technical professional course. It will be too late in the day to consider the case of the petitioner even if the plea of the petitioner is accepted. Midstream admission to the professional course was not approved by the Apex Court in the case of *State of Uttar Pradesh and Ors. versus Dr. Anupam Gupta etc.* (5).

(14) For the reasons aforesaid, we find no merit in this petition and the same is dismissed. However, we leave the parties to bear their own costs.

R.N.R.

Before N.K. Sodhi and Jasbir Singh, JJ

MATA SUDARSHAN TILAK RAJ DHAWAN EDUCATIONAL
TRUST—*Petitioner*

versus

STATE OF HARYANA AND OTHERS—*Respondents*

C.W.P. No. 11923 of 2001

7th January, 2002

Constitution of India, 1950—Art.226—All India Council for Technical Education Act, 1987—All India Council for Technical Education (grant of approval for starting new technical institutions,

(5) JT 1992 (4) SC 422

introduction of courses or programmes and approval of intake capacity of seats for the courses or programmes) Regulations, 1994—Statutes framed by the MDU—Statute 38 Cl.4—AICTE granting approval to the Educational Institutions for the establishment of the new technical courses or increase in the intake capacity of students—Cl.4 of Statute 38 provides that all applications for introducing new subjects/courses of study or for starting a new college shall be accompanied by a NOC from the Government without which no request shall be entertained—Colleges/Institutions failing to produce ‘No Objection Certificate’ from the State Government—Universities declining affiliation—Challenge thereto—Cl.4 of Statute 38 is repugnant to the Central Act insofar as it relates to technical institutions and, thus, void—State Government has no power to refuse a NOC when approval is granted by the AICTE—Writs allowed directing the Universities to recognise/ grant affiliation to the new courses/increased intake capacity of the institutions as approved by the AICTE.

Held, that the State could not point out any statutory provision whereunder a technical institution was required to produce a ‘No Objection Certificate’ from the State before it could start running the college. As observed by their Lordships of the Supreme Court in *Jaya Gokul Educational Trust versus The Commissioner and Secretary to Government Higher Education Department, Thiruvananthapuram* and another, JT 2000(5) SC 118, even if there had been any such provision, the same would have been repugnant to the All India Council for Technical Education Act and would have been void to that extent. Thus, the University was wholly unjustified in asking the petitioner to produce a NOC from the State Government and it was equally in error in not granting affiliation on that ground.

(Para 11)

Further held, that Note to Clause 4 of Statute which lays down that for starting a new College/institution, or for introducing a new subject/course or courses of study, it shall be incumbent upon the applicant to obtain no objection certificate from the Director, Higher Education, without which no request for affiliation shall be entertained, insofar as it relates to technical institutions is repugnant to the All India Council for Technical Education Act and is void to that extent.

(Para 16)

M.L. Sarin, Sr. Advocate with C.M. Munjal, Advocate, *for the petitioner.*

Surya Kant, Advocate General, Haryana with Sanjay Vashisth, DAG Haryana *for respondents No. 1 and 2.*

V.K. Jain, Sr. Advocate with J.L. Malhotra, Advocate, *for respondent No. 3.*

R.K. Malik, Advocate, *for respondent No. 4*

JUDGMENT

N.K. Sodhi, J.

(1) In this bunch of ten Civil Writ Petitions No. 11923 to 11925, 13674, 14153 to 14156, 15229 and 16198 of 2001 which are being disposed of together, common questions of law and fact arise for the determination of which facts are being taken from CWP 11923 of 2001. The petitioners in all these cases are running educational institutions in the State of Haryana and have obtained approval of the All India Council for Technical Education, New Delhi (hereinafter referred to as AICTE) either for setting up a new technical course or for increase in the intake capacity of students in the already running courses. Their common grievance is that the State of Haryana is not issuing a 'No Objection Certificate' to them as a result whereof the affiliating University is refusing to grant affiliation to the newly set up course or for the increased seats as approved by AICTE.

CWP 11923 of 2001.

(2) Petitioner is a Society registered under the Societies Registration Act, 1860 and is running amongst others a self-financed Engineering College at Jagadhri known as the Haryana Engineering College. This College is running since the year 1998-99. Petitioner applied for approval to AICTE for establishing a new technical institution under the name and style of Haryana Institute of Information Technology and Management, Jagadhri for starting a new course called the Masters in Computer Application (MCA) with effect from the academic year 2001-2002. By letter dated 28th June, 2001, AICTE conveyed its approval to the petitioner for the establishment of the new college for the MCA course with an intake capacity of 40

students. This course is a three years full time day programme at the degree level. The approval was granted subject to the condition that admissions would be made only through central counselling by the Government of Haryana and in accordance with the regulations notified by AICTE as laid down in the judgment of the Supreme Court in *Unni Krishanan J.P. and others versus State of Andhra Pradesh and others (1)*, and that the Management will not admit students directly in any circumstances. The approval was only for one academic session 2001-2002 and it was stipulated in the letter of approval that before the end of the academic session an expert committee would visit the institution to assess if the norms and standards as stipulated by AICTE were being fulfilled and it will be only then that the continuation or otherwise would be intimated. It was further stipulated that in the event of any infringement/contravention or non-compliance of the provisions of the regulations, guidelines or norms and standards as prescribed by AICTE, the approval would be withdrawn. A copy of the letter of approval was endorsed to the Director, Technical Education, Government of Haryana, Chandigarh for information and necessary action. A copy had also been endorsed to the Registrar, Kurukshetra University, Kurukshetra (for short the University) with a request that it should complete the process of affiliation in order to facilitate the admissions. It may be mentioned that before issuing the letter of approval, AICTE had issued on 20th April, 2001 a letter of viability to the petitioner informing the latter that its proposal for the establishment of a new technical institution had been found to be acceptable based on the details furnished in the application form and on the basis of the recommendations made by the concerned authorities. The petitioner was required to comply with certain procedural formalities which it did. Immediately on receipt of the letter of viability the petitioner addressed a letter dated 27th April, 2001 to the Director, Technical Education, Haryana requesting him to issue the necessary 'No Objection Certificate' of the State Government so that the institution could start functioning with effect from the academic session 2001-2002. Similarly, a letter was addressed to the Dean of Colleges of the University with a request that affiliation be granted to the new college set up by the petitioner. Since the petitioner did not get any response, it made a representation to the University on 6th August, 2001 stating therein that it has got approval from AICTE to start a new MCA course

under the name and style of Haryana Institute of Information Technology and Management with an intake capacity of 40 students and that a copy of the letter of approval had been sent to the State Government and to the University to complete the process of affiliation. It was also pointed out that counselling for admissions to the course for the academic session 2001-2002 was to start from 16th August, 2001 and, therefore, a request was made that students be selected for admission to the new college as well set up by the petitioner. It would be pertinent to mention here that admissions to the MCA course for the academic session 2001-2002 for all the institutions in the State of Haryana were made by the University which undertook counselling of students on the basis of a common entrance test as ordered to be held by the State of Haryana. In spite of the representation made by the petitioner, the University did not include the name of Haryana Institute for Information Technology and Management (the new college set up by the petitioner) for counselling and it was then that the present petition under Article 226 of the Constitution was filed challenging the action of the University and the State Government in not granting the affiliation and the 'no objection certificate', respectively. A prayer was made to direct the University to include the name of the petitioner institution as well for counselling so that students could be selected for admission to the course to be run by it (petitioner) for the academic session 2001-02.

(3) This writ petition first came up for hearing on 13th August, 2001 when notice of motion was issued and the Deputy Advocate General was asked to put in appearance on behalf of the State of Haryana and the Director, Technical Education. The University and its Chairman, Computer Science and Applications Department were directed to select students for the petitioner institution as well at the time of counselling which was scheduled for 16th August, 2001. It was directed that the selected students would not be admitted till further orders.

(4) In response to the notice issued by this Court, the respondents put in appearance through their counsel. The University has chosen not to file any reply. The learned counsel representing it submitted before us that affiliation could be granted only after the petitioner had produced a 'no objection certificate' from the State Government. Since that was not forthcoming the affiliation had not been granted. The

Chairman of the Department of Computer Science and Applications has, however, filed a short reply stating therein that counselling was conducted only for these institutions whose names had been sent to him by the University for which students had to be selected. Since the name of the petitioner's institution was not mentioned in that list, students could not be selected for admission to that college but in pursuance to the interim directions issued by this court the name of the petitioner's institution was also included and students were selected for the petitioner's institution as well.

(5) Shri K.M. Nath, Joint Director, Directorate of Technical Education, Haryana filed reply on behalf of respondents No. 1 and 2 justifying the action of the State Government in not issuing the 'no objection certificate' as applied for by the petitioner. It is averred that AICTE has been given the power to approve new technical institutions and for introduction of new courses/programmes only in consultation with the concerned agencies and that it has framed its regulations called the All India Council for Technical Education (grant of approval for starting new technical institutions, introduction of courses or programmes and approval of intake capacity of seats for the courses or programmes) Regulations, 1994 (hereinafter referred to as the Regulations). Under these Regulations, AICTE has constituted an Expert Committee, State Level Committee and Central Task Force for processing of applications received from different institutions for introducing new courses. According to the respondents, the Expert Committee must consist of a representative of the State Government and a nominee of the University but the provisions of the Regulations in this regard were not complied with. It is averred that since AICTE did not comply with its own Regulations, the State Government was not bound to issue 'no objection certificate' to the new institutions approved by the former. It is also pleaded in the written statement that AICTE carries out a massive task of approving hundreds of new professional institutions every year throughout the country within the span of 4 to 5 months and it does not have sufficient resources to ensure micro level requirements in the self financing institutions. According to the State Government, AICTE has not developed any inspection mechanism to ensure compliance of All India Council for Technical Education norms and University norms in terms of machinery, equipment, library books, availability of trained teaching faculty and other supporting staff lack of which creates law and order problem

for the State Government. It is for this reason, according to the respondents, that a provision has been made in the Regulations that AICTE shall grant approval after consulting the State Government and the concerned affiliating University so that these agencies could ensure implementation of AICTE/University guidelines/norms. Another grievance made by the State Government is that it has a duty to ensure equitable distribution of professional institutions through out the State including the backward areas so that equal opportunities are provided to all the citizens and, therefore, it is necessary that the State Government is consulted by AICTE before any approval is granted. In short, the primary grievance of the State Government is that it was not consulted by AICTE when approval was granted to the petitioner's institution to set up a new college for the MCA course.

(6) We have heard counsel for the parties.

(7) When this petition came up for hearing on 4th September, 2001, the learned Deputy Advocate General strenuously urged before us that the State Government and the University which is the affiliating University in the present case, were not consulted by AICTE before granting approval to the petitioner for establishing a new college for the MCA course. He also contended that the petitioner's institution does not possess the requisite infrastructure and, therefore, AICTE was not justified in granting approval. It was argued that had the State Government or the affiliating University been consulted they would have pointed out the lack of facilities in the petitioner's institution. Shri M.L. Sarain, learned senior counsel appearing for the petitioner, vehemently refuted the contentions advanced by the State counsel and the learned counsel appearing for AICTE also supported Shri Sarin in this regard. They contended that the petitioner has the necessary infrastructure and that AICTE had sent its inspection team of experts on 1st June, 2001 which found that the petitioner possessed the requisite infrastructural facilities on the basis of which the approval was granted. Since there was a serious dispute between the parties as to whether the petitioner possessed the requisite infrastructure or not, we directed AICTE by our order dated 7th September, 2001 to constitute an Expert Committee associating with it the representatives of the State Government and those of the University. We further directed that Committee to make a joint inspection of the petitioner's institution to find out whether it has the necessary infrastructure to

start the first year of the three years MCA course for which approval had been granted by AICTE. The Committee was directed to submit its report at the earliest. We have received that report and the members of the Expert Committee have unanimously approved the starting of the MCA course with effect from the academic session 2001-02 for 40 seats subject to the fulfilment of the following two conditions:—

- (i) Principal must be appointed as per the AICTE/ University norms at the earliest.
- (ii) At least two journals and few more magazines must be added.

After the receipt of this report, the petitioner has filed an additional affidavit stating that these two conditions have also been complied with. A perusal of the report would show that the petitioner does possess the requisite infrastructure for running the MCA course.

(8) Shri Sarin, learned senior counsel appearing for the petitioner, contended that the power to grant permission to start a new technical institution vests exclusively with AICTE and that the State Government has no power to refuse a 'no objection certificate' when AICTE has granted approval for starting a new course. He argued that there is no statutory requirement for obtaining the approval of the State Government and, therefore, the University should be directed to grant affiliation to the petitioner's institution for starting the new MCA course. He also impugned the action of the University in not granting affiliation for the new course for which the approval had been granted by AICTE. Reliance in this regard was placed on the judgments of the Apex Court in *State of Tamil Nadu and another versus Adhiyaman Educational and Research Institute and others* (2) and in *Jaya Gokul Educational Trust versus The Commissioner and Secretary to Government Higher Education Department, Thiruvananthapuram and another* (3) and also on a recent Division Bench judgment of this Court in *R.N. Gupta Technical Education Society, Gurgaon versus State of Haryana and others* (4). We have carefully gone through these judgments and are of the view that they

(2) JT 1995 (3) SC 136

(3) JT 2000 (5) SC 118

(4) 2000 (4) RSJ 322

fully support the contention advanced by the learned senior counsel for the petitioner. In *Adhiyaman Educational and Research Institute's* case (supra), the State Government in the year 1984 permitted private management to start new engineering colleges under the self-financing scheme in pursuance to which the respondent therein was granted permission by order dated 9th June, 1987 to start a new engineering college beginning with the academic year 1987-88. On the basis of this permission the respondent therein applied to the concerned University for granting affiliation to the college. Temporary affiliation was granted for the academic year 1987-88 and the college started functioning from July, 1987. The affiliation was extended for the academic year 1988-89. A high power committee set up by the State Government visited the private engineering colleges in the State and found that the respondent therein had not fulfilled the conditions imposed by the Government at the time of grant of permission. On receipt of this report, the Director of Technical Education issued a notice to the respondent to show cause why the permission granted be not withdrawn. The University also accepted the report and resolved to reject the request of the respondent for provisional affiliation for the academic year 1989-90 and issued a notice to show cause why the affiliation granted for the earlier two years be not cancelled. It was then that the management filed two writ petitions in the High Court; one for restraining the Director of Technical Education from proceeding further with his show cause notice and the other to quash the resolution of the University Syndicate cancelling the affiliation and for a direction to grant the same. By the time the impugned orders therein were passed the All India Council for Technical Education Act, 1987 (for short the Central Act) had come into force. A learned single Judge of the High Court allowed the writ petition against the State Government holding that after the passing of the Central Act the State Government had no power to cancel the permission granted to the Trust which power was exclusively with AICTE. The other writ petition directed against the University was dismissed holding that the latter could take action under its Statutes framed under the Madras University Act, 1923. All the parties preferred appeals against the judgment of the learned single Judge. The Division Bench allowed the writ appeal of the respondent and quashed the resolution of the University Syndicate holding that even the University could not refuse

extension of affiliation. The other findings of the learned single Judge were affirmed. The matter was then taken in appeal before the Supreme Court and their Lordships affirmed the judgment of the Division Bench holding that AICTE was the only authority which could cancel the permission granted to a college after the coming into force of the Central Act and the provisions of the State Act which were repugnant to the Central Act were void to that extent. It was also held that the Madras University Act which gave power to the University to disaffiliate engineering institutions imparting technical education was in conflict with the Central Act and was void to that extent.

(9) In *Jaya Gokul Educational Trust's case* (supra) the questions which directly arose before their Lordships of the Supreme Court were as under:—

- “(1) Whether in view of the judgment of this Court in *State of Tamil Nadu and another versus Adhiyaman Educational & Research Institute & Others*, the provisions of the AICTE Act, 1987 occupied the field and it was not necessary to obtain the further approval of the Government or other authority? Whether any statute in the State of Kerala if it required such approval, would be void?
- (2) Whether the orders of rejection passed by the State Government were valid on merits and whether the University should have granted further orders to continue the affiliation solely on the basis of the AICTE permission?”

But these questions were answered as under:—

Point 1 :

“Thus, we hold, in the present case that there was no statutory requirement for obtaining the approval of the State Government and even if there was one, it would have been repugnant to the AICTE Act. The University statute 9(7) merely required that the views of the State Government be obtained before granting affiliation and this did not amount to obtaining approval. If the

University statute required approval, it would have been repugnant to the AICTE Act. Point 1 is decided accordingly.”

Point 2 :

“Thus, the University ought to have considered the grant of final or further affiliation without waiting for any approval from the State Government and should have acted on the basis of the permission granted by AICTE and other relevant factors in the University Act or statutes, which are not inconsistent with the AICTE Act or its Regulations.”

It will be seen that the question that has arisen before us has been answered directly by the Supreme Court in favour of the petitioner.

(10) In *R.N. Gupta's* case (supra), the decision of the University in declining affiliation to a technical institution on the ground of non production of ‘no objection certificate’ from the State Government was quashed following the aforesaid judgments of the Supreme Court.

(11) The learned Advocate General appearing on behalf of the State could not point out any statutory provision whereunder a technical institution was required to produce a ‘no objection certificate’ from the State before it could start running the college. As observed by their Lordships of the Supreme Court in *Jaya Gokul Educational Trust's* case (supra), even if there had been any such provision, the same would have been repugnant to the All India Council for Technical Education Act and would have been void to that extent. In this view of the matter, we have no hesitation in holding that the University was wholly unjustified in asking the petitioner to produce a ‘no objection certificate’ from the State Government and it was equally in error in not granting affiliation on that ground. As already observed, when the matter was heard on 4th September, 2001 we were informed that the petitioner’s institution did not have the requisite infrastructural facilities to run the course and we, therefore, directed the AICTE to have the institution inspected after associating with it the representatives of the State Government and the University. That committee, as already observed, has sent its report stating that the infrastructural facilities

are available with the petitioner's institution. We have, therefore, no hesitation in allowing the writ petition and directing the University to grant affiliation to the institution on the basis of the approval granted by AICTE.

(12) Before concluding we may take note of the objection raised by the learned Advocate General. It was strenuously contended before us that the State Government was never associated by AICTE before granting approval to the petitioner's institution. This fact is seriously disputed before us both by the petitioner as well as by AICTE. The impugned order clearly states that AICTE on the basis of consultation with the concerned State Government and the affiliating University and on the recommendations of the Expert Committee constituted by it had granted approval to the Mata Sudershan Tilak Raj Dhawan Educational Trust for establishing a new MCA college. The question whether the State Government was consulted or not is not in issue before us because the State has not challenged the action of AICTE. The petitioner who has approached this court is only wanting a direction to the University to grant affiliation to the course on the basis of the approval granted by AICTE. It is, therefore, not necessary for us to decide whether the State Government had been consulted or not. If and when the State raises such an issue in a petition the same would be decided in accordance with law.

(13) In the result, the writ petition is allowed and the University directed to grant affiliation to the petitioner's institution. The students who were selected for admission have already been admitted under the orders of this court and the course has commenced. The University will now grant affiliation to the new MCA college so that the students admitted can take the examination according to the rules governing the same.

CWPs 11924 & 11925 of 2001

(14) In these case also the petitioner were granted approval by AICTE for establishing new MCA college for the academic year 2001-02 and the Maharshi Dayanand University, Rohtak (MDU) declined affiliation to those colleges because the State Government had not issued a 'no objection certificate'.

(15) For the reasons already stated while dealing with CWP 11923 of 2001, the action of the University cannot be sustained. Consequently, the writ petitions are allowed and MDU is directed to grant affiliation to the new courses set up by the petitioners.

CWP 13674 of 2001

(16) Petitioner in this case is the JVMGRR Institute of Computer Application, Charkhi Dardri. It started MCA Diploma course and approval for the same was granted by AICTE with an intake capacity of 30 students. The petitioner applied for the increase in the intake capacity from 30 students to 45 students which was allowed by AICTE by its letter dated 23rd July, 2001 for the academic year 2001-2002. This institution is affiliated to MDU which refused to recognise the additional seats as approved by AICTE on the ground that the petitioner did not produce along with its request for affiliation to the increased seats 'no objection certificate' from the State Government. Reliance in this regard is placed on Statute 38 of the Statutes framed by this University. Note to Clause 4 of Statute 38 reads as under:—

“Note : For starting a new college/institution, or for introducing a new subject/course or courses of study, it shall be incumbent upon the applicant/applicants to obtain 'no objection certificate' from the Director, Higher Education, without which no request for affiliation shall be entertained.”

The argument of the learned counsel for the petitioners is that the aforesaid requirement of Statute 38 is repugnant to the provisions of the Central Act and the Regulations framed thereunder and is, therefore, void. There is merit in this contention. It is not necessary to deal with this issue on first principles because their Lordships of the Supreme Court struck down an identical provision in *Jaya Gokul Educational Trust's case (supra)*. We, therefore, hold that the aforesaid requirement of Note to Clause 4 of Statute 38 in so far as it relates to technical institutions is repugnant to the Central Act and is void to that extent.

(17) Consequently, this writ petition is allowed and a direction issued to MDU to recognise/grant affiliation to the increased intake capacity of the petitioner institution as approved by AICTE by its letter

dated 23rd July, 2001.

CWP 14153 of 2001

(18) Petitioner herein is running a college under the name and style of BRCM College of Engineering and Technology since the year 1999 and is imparting education amongst others in the discipline of Mechanical Engineering and Information Technology. It is affiliated to MDU. AICTE had approved these courses with an intake capacity of 30 students in the discipline of Information Technology and 40 students in Mechanical Engineering. The petitioner applied to AICTE for increase in the intake capacity from 30 students to 60 students in the discipline of Information Technology and from 40 students to 60 students in Mechanical Engineering. By letter dated 14th June, 2001 AICTE accorded its approval to the College for increase in the intake capacity from 30 students to 40 students in the discipline of Information Technology but did not permit any increase in Mechanical Engineering. However, by a subsequent letter dated 3rd August, 2001 AICTE communicated to the State Government that intake capacity of the College had been increased from 40 students to 60 students in both the disciplines of Mechanical Engineering and Information Technology. The MDU did not recognise the increased seats because the College did not produce a 'no objection certificate' from the State Government. The recognition was refused in view of Statute 38 of its Statutes which provides that all applications for introducing new subjects/courses of study or for starting a new college shall be accompanied by a 'no objection certificate from the Director, Higher Education without which no request shall be entertained. The State Government did not grant the 'no objection certificate' and, therefore MDU refused to recognise the increased seats approved by AICTE. As already held above, this clause of the Statute insofar as it relates to technical institutions is repugnant to the Central Act and is, therefore, void to that extent. We, therefore, allow this writ petition and direct MDU to recognise/grant affiliation to the College in regard to the increased seats as approved by AICTE.

CWP 14154 of 2001

(19) Petitioner herein started a new college under the name and style of Swami Devi Dayal Institute of Engineering and Technology at Barwala, panchkula and sought approval from AICTE for starting

a degree level course in Electrical Engineering. By letter dated 28th June, 2001, AICTE accorded approval to the college to start the classes with an intake capacity of 60 students. On the basis of this approval, the University granted provisional affiliation to the college subject to the condition that it (college) obtained a 'no objection certificate' from the State Government. The State Government declined to issue the said certificate. Hence, this writ petition.

(20) For the reasons recorded in CWP 11923 of 2001 we hold that the State Government has no power to refuse to issue a 'no objection certificate' and in any case there is no statutory provision requiring the petitioner to obtain such a certificate. In the result, the writ petition is allowed and the University directed to grant affiliation to the college in accordance with the approval granted by AICTE.

CWP 14155 of 2001

(21) Petitioner Trust has been running a college under the name and style of Dronacharya College of Engineering since the year 1998 and is imparting education amongst others in the discipline of Information Technology. AICTE had initially approved the intake capacity of 30 students in the discipline of Information Technology but by its letter dated 14th June, 2001 the intake capacity was allowed to be increased from 30 students to 60 students. MDU refused to recognise the increased seats because the college did not produce a 'no objection certificate' from the State Government. Note to Clause 4 Statute 38 on the basis of which the University refused to grant affiliation in regard to the increased seats has already been held to be void being repugnant to the Central Act. In this view of the matter, the writ petition has to be allowed which we hereby do and direct MDU to recognise/grant affiliation to the college in regard to the increased seats in the discipline of Information Technology as approved by AICTE.

CWP 14156 of 2001

(22) Petitioner Trust has been running NC College of Engineering, Israna, District Panipal in the State of Haryana since the year 1998. Amongst others it is imparting education in the discipline of Computer Science and Endigneering. AICTE had granted approval to the college for the intake capacity of 90 students. The college applied for increase in the intake capacity from 90 students to 120 students.

By letter dated 14th June, 2001 AICTE accorded approval to the college for increase in the intake capacity. The University to which the college is affiliated refused to recognise the increased seats on the plea that the college had not obtained a 'no objection certificate' from the State Government. Hence, this writ petition.

(23) For the reasons stated above while dealing with CWP 11923 of 2001, it is held that State Government had no power to refuse the grant of 'no objection certificate' and the University was in error in not granting the affiliation. Consequently, this writ petition is allowed and the University directed to recognise/grant affiliation to the increased seats in the discipline of Computer Science and Engineering as approved by AICTE.

CWP 15229 of 2001

(24) Petitioner Society is running a college under the name and style of Apeejay Engineering College, Sohana, District Gurgaon in the State of Haryana. It is imparting technical education amongst others in the discipline of Information Technology. AICTE had granted its approval for this course with an intake capacity of 30 students. The college later applied to AICTE for increase in the intake capacity from 30 students to 40 students for the academic year **2001-02**. By letter dated 14th June, 2001 AICTE **accorded** its approval to the increased **seats**. The college is affiliated to MDU. This University did not recognise/grant affiliation to the college in regard to the increased seats because the latter failed to produce 'no objection certificate' from the State Government. Hence, this writ petition.

(25) Note to Clause 4 of Statute 38 of the Statutes framed by MDU on which reliance has been placed by the respondents, has been held to be void being repugnant to the Central Act. In this view of the matter, the writ petition is allowed and MDU directed to recognise/grant affiliation to the college for the increased seats in the discipline of Information Technology.

CWP 16198 of 2001

(26) The petitioner Society in this case is running a college under the name and style of Technological Institute of Textile and Sciences, Bhiwani in the State of Haryana and imparting education

in various technical disciplines. AICTE by its letter dated 14th June, 2001 accorded approval to the college to start a new course in the discipline of Information Technology for the academic year 2001-02 with an intake capacity of 30 students. MDU refused to grant affiliation to the college in regard to the discipline of Information Technology on the ground that the petitioner did not produce a 'no objection certificate' from the State Government. Reference in this regard has been made to Note to Clause 4 of Statute 38 of the Statutes framed by MDU. This provision in Statute 38 has already been held in CWP 13674 of 2001 to be repugnant to the Central Act in so far as it relates to technical institutions. In this view of the matter, the writ petition is allowed and MDU directed to grant affiliation to the college in regard to the new course in the discipline of Information Technology as approved by AICTE.

(27) All the writ petitions stand allowed as above leaving the parties to bear their own costs in each case.

R.N.R.

Before M.L. Singhal, J.

THE CENTRAL BUREAU OF INVESTIGATION—*Petitioner*

versus

BIBI JAGIR KAUR—*Respondent*

Cr. M. No. 13254/M of 2001

28th January, 2002

Code of Criminal Procedure, 1973—Ss. 439 & 439(2)—Anticipatory Bail—No time limit fixed by the High Court while granting anticipatory bail—Whether such order of the High Court came to an end as soon as challan is put in Court—Held, no—Neither the Magistrate nor the Court of Session has jurisdiction to cancel anticipatory bail granted by the High Court—The Magistrate can only ask for furnishing of necessary bonds so that the presence of the accused at the trial is ensured—Orders of the Magistrate directing the accused to seek regular bail from the trial court within a specified period are misconceived and unwarranted by the provisions of the Cr. P.C. and recalling of such orders is legal.