

**HIGH COURT FOR THE STATE OF TELANGANA
AT HYDERABAD
(Special Original Jurisdiction)**

FRIDAY, THE SIXTH DAY OF SEPTEMBER
TWO THOUSAND AND TWENTY FOUR

PRESENT

**THE HON'BLE THE CHIEF JUSTICE ALOK ARADHE
AND
THE HON'BLE SRI JUSTICE J. SREENIVAS RAO**

WRIT PETITION NOS: 20542 AND 20547 OF 2010

WP NO.20542 OF 2010:

Between:

1. Chaitanya Bharathi Of Technology, a Society registered under A.P. Societies Registration Act No.35 of 2001, represented by its President Dr.B.N.Reddy S/o.B. Ramachandra Reddy, CBIT Campus, Kokapet Village, Rajendranagar (M), Ranga Reddy District, Hyderabad.
 2. Chaitanya Bharathi Institute of Technology,, represented by its Principal Dr.B.Chennakesava, CBIT Campus, Kokapet Village, Rajendranagar (M), Ranga Reddy District, Hyderabad.
 3. D.Kamalakar Reddy, S/o.D.Ram Reddy Industrialist R/o.H.No.8-2-293/82/J-III/243/G-1, Kulsum Residency, Filmnagar, Jubilee Hills, Hyderabad - 500 033.
- ...PETITIONERS**

AND

1. Union Of India, Represented by its Secretary, Ministry of Human Resources and Development, Government of India, Shastri Bhawan, New Delhi - 110 115.
2. All India Council for Technical Education,, represented by its Member Secretary, 4th Floor, East Tower, NBSC Place, Bhisham Pithama Marg, Pragati Vihar, Lodhi Road, New Delhi - 110003.
3. State of Andhra Pradesh, represented by its Principal, Secretary, Higher Education Department, Secretariat, Hyderabad - 500 004.
4. AP State Council of Higher Education, represented by its, Chairman, 1st Floor, JNTU Masab Tank Campus, Mahaveer Marg, Opp Mahaveer Hospital, Hyderabad - 500 028.
5. Admission and Fee Regulatory Committee, represented by its Member Secretary, 1st Floor (South Wing), Gagan Vihar MJ Road, Hyderabad - 500 007.
6. Osmania University, represented by its Registrar,, Osmania University, Hyderabad 500 007.
7. Dr.N.V. Koteswara Rao, Professor, Dept. of ECE, CBIT Post, CBIT, Gandipet, Hyderabad - 500 075.
8. Prof. P.Sreenivasa Sharma,, Professor, Dept. of Civil Engineering, CBIT Post, CBIT, Gandipet, Hyderabad - 500 075.
9. Sri.B. Suryanarayana, Associate Professor, Dept. of Mechanical Engineering, CBIT Post, CBIT, Gandipet, Hyderabad - 500 075.
10. Sri.R.Ravinder Reddy, Assistant Professor, Dept. of CSE CBIT Post, CBIT, Gandipet, Hyderabad - 500 075.
11. Mr.P.Nagender Reddy, Lab Assistant, Dept. of Mechanical Engg., CBIT Post, CBIT, Gandipet, Hyderabad - 500 075.

12. Mr.C.Nagi Reddy, Superintendent, Admn. Office, CBIT Post, CBIT, Gandipet, Hyderabad - 500 075.
13. Mr.Ch.Madhava Reddy, Junior Assistant, Academic and Examination Branch, CBIT Post, CBIT, Gandipet, Hyderabad - 500 075.
14. Mr.T.Sadasiva Rao, Record Assistant, Admn. Office, CBIT Post, CBIT, Gandipet, Hyderabad - 500 075.

...RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed therewith, the High Court may be pleased to issue an appropriate writ, order or direction, more particularly in the nature of Writ of declaration, declaring (i) that the All India Council for Technical Education (pay scales, service conditions and qualifications for teachers and other Academic Staff in Technical Institutions Degree) Regulations, 2010 are ultra vires the Constitution of India and the AICTE Act, 1987 and therefore void, in so far as the petitioner institution is concerned. that the said AICTE Regulations of 2010 are Ultra vires Art 19(1)(g) of the Constitution of India and therefore void, in so far as the petitioner institution is concerned

I.A. NO: 1 OF 2010(WPMP. NO: 26118 OF 2010)

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased grant stay of the operation of the aforesaid AICTE Regulations of 2010 in so far as the petitioner institution is concerned pending disposal of the writ petition

I.A. NO: 2 OF 2010(WFMP. NO: 26119 OF 2010)

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased permit the petitioners herein to prosecute the writ petition by impleading respondents 7 to 14 in a representative capacity of the staff of the petitioner institute under order I Rule 8 of CPC, without impleading all the teaching and non-teaching staff employed in the petitioner institution as respondents to this writ petition since the number is too large, in view of the judgment reported in 1984 (4) SCC Page 251 pending disposal of the Writ petition

Counsel for the Petitioners: SRI YELAMANCHILI SHIVA SANTOSH KUMAR

**Counsel for Respondent No. 1: Ms. L. PRANATHI REDDY, COUNSEL FOR
SRI GADI PRAVEEN KUMAR,
DEPUTY SOLICITOR GENERAL**

Counsel for Respondent No. 2: SRI MEHBOOB ALI, SC FOR AICTE

**Counsel for Respondent No. 3: Ms. MADHURI RAO KUCHADI, AGP FOR
ADDITIONAL ADVOCATE GENERAL**

**Counsel for Respondent Nos. 4 & 5: SRI MOHD. ABDUL QUDDUS,
SC FOR JNTU**

Counsel for Respondent No. 6: SRI DEEPAK BHATTACHARJEE

Counsel for Respondent Nos. 7 to 14: -----

WP NO: 20547 OF 2010

Between:

1. Chaitanya Bharati Educational Society, A Society Registered under A.P. (Telangana Area) Public Societies Registration Act, 1350 F, O/o. Premises No. 3-5-925/2B, Represented by its Secretary, D.Kamalakar Reddy, S/o. D. Ram Reddy O/o. Premises No.3-5-925/2B, Narayanguda, Hyderabad – 500029.
2. Mahatma Gandhi Institute of Technology, Reptd.by its Principal, Dr. G. Chandra Mohan Reddy Chaitanya Bharati, P.O., Gandipet, Hyderabad - 500 075.
3. Dr. B. N. Reddy, S/o. B. Rama Chandra Reddy Architect R/o. H.No. 6-85/17, 18, BNR Hills, Near Ashwini Layout, Road No. 51 Extn., Raidurg Village, Jubilee Hills,
...PETITIONERS

AND

1. Union Of India, Represented by its Secretary Ministry of Human Resources and Development, Government of India, Shastri Bhawan, New Delhi – 110115.
2. All India Council for Technical Education, Rep. by its Member Secretary 4th Floor, East Tower, NBSC Place, Bhisham Pithama Marg, Pragati Vihar, Lodhi Road,
3. The State of Andhra Pradesh, Rep. by its Principal Secretary Higher Education Department, Secretariat, Hyderabad - 500 004.
4. A.P. State Council of Higher Education, Rep. by its Chairman I Floor, JNTU Masab Tank Campus, Mahaveer Marg, Opp. Mahaveer Hospital, Hyderabad - 500 028.
5. Admission and Fee Regulatory Committee, Reptd. by its Member Secretary I Floor, (South Wing), Gagan Vihar, M.J. Road, Hyderabad - 500 007.
6. Jawaharlal Nehru Technology University, Rep. by its Registrar JNTU - Hyderabad, Kukatpally, Hyderabad - 500 072.
7. Dr. S.P. Singh, Professor Dept. of ECE., CBIT Post, MGIT., Gandipet,
8. Dr. K. Sudhakar Reddy, Professor and Head Dept. of Mecatronics, CBIT Post, MGIT., Gandipet, Hyderabad - 75
9. Mr. P. Venkata Ramana, Associate Professor Dept. of Mecatronics, CBIT Post, MGIT., Gandipet, Hyderabad - 75
10. Mr. R. Rama Krishna, Assistant Professor Dept. of MMT., CBIT Post, MGIT., Gandipet, Hyderabad - 75
11. Mr. Surender, Technician Dept. of Mecatronics, CBIT Post, MGIT., Gandipet, Hyderabad - 75
12. Mr. V.V. Ramana Reddy, Upper Division Clerk Admn. Office, CBIT Post, MGIT., Gandipet, Hyderabad - 75
13. Mr. K. Viswam, Upper Division Clerk Academic and Exam Branch, CBIT Post, MGIT., Gandipet, Hyderabad - 75
14. Mr. Karthikan, Attender Academic and Exam Branch, CBIT Post, MGIT., Gandipet, Hyderabad - 75
...RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed therewith, the High Court may be pleased to issue an appropriate writ, order or direction, more particularly in the nature of writ of

declaration, declaring iii) that the All India Council for Technical Education (pay scales, service conditions and qualifications for teachers and other Academic Staff in Technical Institutions Degree) Regulations, 2010, are Ultra vires the Constitution of India and the AICTE Act, 1987 and therefore void, in so far as the petitioner institution is concerned. (iv) that the said AICTE Regulations of 2010 are Ultra vires Art.19 (1) (g) of the Constitution of India and therefore void, in so far as the petitioner institution is concerned.

I.A. NO: 1 OF 2010(WFMP. NO: 26128 OF 2010)

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased to permit the petitioners herein to prosecute the writ petition by impleading respondents 7 to 14 in a representative capacity of the staff of the petitioner institute under order I Rule 8 of CPC., without impleading all the teaching and non-teaching staff employed in the petitioner Institution as respondents to this writ petition since their number is too large, in view of the judgment reported in 1984 (4) SCC Page 251 pending disposal of the Writ Petition.

I.A. NO: 2 OF 2010(WPMP. NO: 26129 OF 2010)

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased to grant stay of the operation of the aforesaid AICTE Regulations of 2010 in so far as the petitioner institution is concerned, pending disposal of the Writ Petition.

Counsel for the Petitioners: SRI YELAMANCHILI SHIVA SANTOSH KUMAR

**Counsel for Respondent No. 1: Ms. L. PRANATHI REDDY, COUNSEL FOR
SRI GADI PRAVEEN KUMAR,
DEPUTY SOLICITOR GENERAL**

Counsel for Respondent No. 2: SRI MEHBOOB ALI, SC FOR AICTE

**Counsel for Respondent No. 3: Ms. MADHURI RAO KUCHADI, AGP FOR
ADDITIONAL ADVOCATE GENERAL**

**Counsel for Respondent Nos. 4 to 6: SRI MOHD. ABDUL QUDDUS,
SC FOR JNTU**

Counsel for Respondent Nos. 7 to 14: ----

The Court made the following: COMMON ORDER

THE HON'BLE THE CHIEF JUSTICE ALOK ARADHE

AND

THE HON'BLE SRI JUSTICE J.SREENIVAS RAO

WRIT PETITION Nos.20542 and 20547 of 2010

COMMON ORDER: *(Per the Hon'ble the Chief Justice Alok Aradhe)*

Mr. Y.Shiva Santosh Kumar, learned counsel for the petitioners.

Ms. L.Pranathi Reddy, learned counsel representing Mr. Gadi Praveen Kumar, learned Deputy Solicitor General of India for the Union of India.

Mr. M.Mehboob Ali, learned counsel for the All India Council for Technical Education.

Ms. Madhuri Rao Kuchadi, learned Assistant Government Pleader attached to the office of learned Additional Advocate General for the State.

Mr. Abdul Quddus Mohd., learned counsel for the Jawaharlal Nehru Technological University.

2. In these writ petitions, the petitioners, *inter alia*, have assailed the validity of the All India Council for Technical Education (Pay Scales, Service Conditions and

Qualifications for the Teachers and other Academic Staff in Technical Institutions (Degree) Regulations, 2010 (hereinafter referred to as, "the 2010 Regulations"), as *ultra vires* the Constitution and the All India Council for Technical Education Act, 1987.

3. For the facility of reference, the facts in W.P.No.20542 of 2010 are being referred to.

4. One Chaitanya Bharathi Educational Society (hereinafter referred to as, "the Society") is a society registered under the Andhra Pradesh (Telangana Area) Public Societies Registration Act, 1350 Fasli. Sometime in the year 1979 and 1997 the Society established two institutions, namely Chaitanya Bharati Institute of Technology (CBIT) and Mahatma Gandhi Institute of Technology (MGIT), for imparting technical education in the field of engineering in various disciplines after obtaining necessary permission from the Government of Andhra Pradesh.

5. In the writ petition, CBIT is petitioner No.2, which is affiliated to the Osmania University. The aforesaid institution is, admittedly, a private unaided institution and does not receive any grant or aid from the State Government. The CBIT was accredited by the National Board of Accreditation and the All India Council for Technical Education during the years 1998, 2004 and 2008. The CBIT has employed 219 teaching staff and 223 non-teaching staff. The Society decided to take steps for obtaining the status of Deemed University under Section 3 of the University Grants Commission Act, 1956. The said Society therefore passed a resolution on 05.06.2009, which was duly approved by the General Body. It is the case of the petitioners that the unaided private educational institution has a right to manage and administer the institution.

6. An eleven-Judge Bench of the Supreme Court in **T.M.A.Pai Foundation v. State of Karnataka**¹, *inter alia*, has held as under:

¹ (2002) 8 SCC 481

- i) The right to establish and administer educational institution is guaranteed under Article 19(1)(g) of the Constitution of India and is subject to reasonable restriction under Article 19(6) of the Constitution of India.
- ii) So far as the statutory provisions regulating the facets of administration are concerned, in case of an unaided minority educational institution, the regulatory measure of control should be minimal and the conditions of recognition as well as the conditions of affiliation to a university or board have to be complied with, but in the matter of day-to-day management, like the appointment of staff, teaching and non-teaching, and administrative control over them, the management should have the freedom and there should not be any external controlling agency. However, a rational procedure for the selection of teaching staff and for taking disciplinary action has to be evolved by the management itself.

7. Thus, in view of the aforesaid decision of the Supreme Court, it is evident that the private unaided educational institutions have the right to appoint teaching

staff, subject to adoption of rational procedure for the selection and the right to appoint includes right to prescribe the service conditions, including salaries, because the unaided institutions are required to generate their own funds and they do not take any aid from the State. It is further evident that the relationship between the management and the employees is contractual in nature.

8. In exercise of powers under Section 23(1) read with Section 10(i) and (v) of the All India Council for Technical Education Act, 1987, the All India Council for Technical Education (Pay Scales, Service Conditions and Qualifications for the Teachers and other Academic Staff in Technical Institutions (Degree)) Regulations, 2010, have been framed. The petitioners, therefore, have assailed the validity of the aforesaid Regulations in this writ petition, *inter alia*, on the grounds urged in the writ petition.

9. We have heard learned counsel for the parties at length.

10. Regulation 1 of the 2010 Regulations reads as under:

“1.1 These Regulations may be called the All India Council for Technical Education (Pay Scales, Service Conditions and Qualifications for the Teachers and other Academic Staff In Technical Institutions (Degree) Regulations, 2010.


1.2 They shall apply 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.”

11. There is no material on record to show that the CBIT is notified by the All India Council for Technical Education to be either a University or a technical institution which is governed by the provisions of the 2010 Regulations. Therefore, the provisions of the 2010 Regulations do not apply to the petitioner No.2. In any case, the petitioners being private unaided educational institutions, have a right to appoint teachers/staff and to prescribe the service conditions, including the salaries. Thus, it is evident that the provisions of the 2010 Regulations do not apply to the petitioner No.2. It is, therefore, not necessary for us to

examine the grounds on which the petitioners have sought the relief of seeking the declaration of the 2010 Regulations to be *ultra vires*, as the aforesaid 2010 Regulations do not apply to the case of the petitioners.

12. Accordingly, the writ petitions are disposed of.

Miscellaneous applications pending, if any, shall stand closed. However, there shall be no order as to costs.

SD/-MOHD. ISMAIL
ASSISTANT REGISTRAR

SECTION OFFICER

//TRUE COPY//

To,

1. One CC to Sri Yelamanchili Shiva Santosh Kumar Advocate [OPUC]
2. One CC to Sri Mehboob Ali, SC for AICTE (OPUC)
3. Two CCs to the Advocate General, High Court for the State of Telangana. [OUT]
4. One CC to Sri Gadi Praveen Kumar, Deputy Solicitor General of India [OPUC]
5. One CC to Sri Mohd. Abdul Quddus, SC for JNTU (OPUC)
6. One CC to Sri Deepak Bhattacharjee, Advocate(OPUC)
7. Two CD Copies

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HIGH COURT

DATED: 06/09/2024



COMMON ORDER

WP NOS: 20542 AND 20547 OF 2010

*(10) Copies
Sms
19/9/24*

DISPOSING OF WRIT PETITIONS

WITHOUT COSTS