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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

BEFORE

HON'BLE MR. JUSTICE PURUSHAINDR KUMAR KAURAV

+ **W.P.(C) 14677/2022 & CM APPLs. 44985/2022, 45790/2022, 45791/2022, 56595/2022, 56596/2022 & CM APPL. 4910/2023**

Between: -

VIVEKANANDA INSTITUTE OF PROFESSIONAL STUDIES- TECHNICAL CAMPUS

AU-BLOCK (OUTER RING ROAD),
PITAMPURA, NEW DELHI
THROUGH ITS DIRECTOR
PROF. (DR.) GOLDIE GABRANI

..... PETITIONER

(Through: Mr. Manoj Goel, Senior Advocate with Mr. Nishant Anand, Ms. Gunjan Bansal and Kumar Abhishek, Advocates)

AND

GOVT. OF NCT OF DELHI

(DEPARTMENT OF LAW, JUSTICE &
LEGISLATIVE AFFAIRS),
THROUGH ITS SECRETARY

8TH LEVEL, C-WING, DELHI SECRETARIAT,
NEW DELHI

... RESPONDENT NO.1

GOVT. OF NCT OF DELHI

THROUGH DIRECTORATE OF HIGHER EDUCATION
THROUGH ITS DIRECTOR

BTE BUILDING, MUNI MAYA RAM MARG,
PITAMPURA, DELHI-110034

...RESPONDENT NO.2

GURU GOBIND SINGH INDRAPRASTHA UNIVERSITY

THROUGH, ITS VICE-CHANCELLOR

SECTOR-16C, DWARKA, NEW DELHI-110078

.....RESPONDENT NO.3

(Through: Mr. Santosh Kumar Tripathi, Standing Counsel (Civil) alongwith Mr. Utkarsh Singh & Mr. Tapesh Raghav, Advocates for Respondent No. 1

Mr. Anuj Aggarwal, ASC, GNCTD with Ms. Ayushi Bansal, Ms. Arshya Singh and Mr. Aakash Dahiya, Advocates for Respondent No. 2

Ms. Anita Sahani, Advocate for Respondent No. 3)

W.P.(C) 14678/2022 & CM APPLs. 44987/2022, 45794/2022 & CM APPL. 45795/2022

Between: -

SURAJMAL MEMORIAL EDUCATION SOCIETY (REGD.)

C-4, JANAKPURI, NEW DELHI- 110058

THROUGH ITS SECRETARY

SH. AJIT SINGH CHAUDHARY PETITIONER NO.1

MAHARAJA SURAJMAL INSTITUTE OF TECHNOLOGY

C-4, C-4, JANAKPURI, NEW DELHI- 110058

THROUGH IT'S AIR

SH. AJIT SINGH CHAUDHARY

..... PETITIONER NO.2

(Through: Mr. Puneet Mittal, Senior Advocate with Mr. Utkarsh, Advocates.)

AND

GOVT. OF NCT OF DELHI

(DEPARTMENT OF LAW, JUSTICE & LEGISLATIVE AFFAIRS),

THROUGH ITS SECRETARY

8TH LEVEL, C-WING, DELHI SECRETARIAT,

....RESPONDENT NO.1

GOVT. OF NCT OF DELHI

THROUGH DIRECTORATE OF HIGHER EDUCATION

THROUGH ITS DIRECTOR

BTE BUILDING, MUNI MAYA RAM MARG,

PITAMPURA, DELHI-110034RESPONDENT NO.2

GURU GOBIND SINGH INDRAPRASTHA UNIVERSITY

THROUGH, ITS VICE-CHANCELLOR

SECTOR-16C, DWARKA, NEW DELHI-110078

.....RESPONDENT NO.3

(Through: Mr. Santosh Kumar Tripathi, Standing Counsel (Civil) alongwith Mr. Utkarsh Singh & Mr. Tapesh Raghav, Advocates for Respondent No. 1.

Mr. Anuj Aggarwal, ASC, GNCTD with Ms. Ayushi Bansal, Mr. Sanyam Suri and Ms. Arshya Singh, Advocates for Respondent No. 2

Ms. Anita Sahani, Advocate for Respondent No. 3.)

+ **W.P.(C) 14679/2022 & CM APPLs. 44989/2022, 45788/2022, 45789/2022, 56560/2022, 56561/2022 & 4860/2023**

Between:-

MAHARAJA AGRASEN TECHNICAL EDUCATIONAL SOCIETY

KESHAV KUNJ, 7/14, WEST PUNJABI BAGH
DELHI- 110026

THROUGH IT'S SECRETARY
SH. RAJNISH GUPTA

.....PETITIONER NO.1

MAHARAJA AGRASEN INSTITUTE OF TECHNOLOGY (MAIT)

MAIT CAMPUS, SECTOR- 22, ROHINI
DELHI- 110086

THROUGH IT'S SECRETARY
SH. RAJNISH GUPTA

.....PETITIONER NO.2

(Through: Mr. Manoj Goel, Senior Advocate with Mr. Nishant Anand, Ms. Gunjan Bansal and Kumar Abhishek, Advocates)

AND

GOVT. OF NCT OF DELHI

(DEPARTMENT OF LAW, JUSTICE &
LEGISLATIVE AFFAIRS),

THROUGH ITS SECRETARY

8TH LEVEL, C-WING, DELHI SECRETARIAT,
NEW DELHI

...RESPONDENT NO.1

GOVT. OF NCT OF DELHI

THROUGH DIRECTORATE OF HIGHER EDUCATION
THROUGH ITS DIRECTOR

BTE BUILDING, MUNI MAYA RAM MARG,

PITAMPURA, DELHI-110034RESPONDENT NO.2

**GURU GOBIND SINGH INDRAPRASTHA
UNIVERSITY**

THROUGH, ITS VICE-CHANCELLOR
SECTOR-16C, DWARKA, NEW DELHI-110078

.....RESPONDENT NO.3

*(Through: Mr. Santosh Kumar Tripathi, Standing Counsel
(Civil) along with Mr. Utkarsh Singh & Mr. Tapesh Raghav,
Advocates for Respondent No. 1.*

*Mr. Anuj Aggarwal, ASC, GNCTD with Ms. Ayushi Bansal, Mr.
Sanyam Suri and Ms. Arshya Singh, Advocates for Respondent
No. 2*

Ms. Anita Sahani, Advocate for Respondent No. 3.

Mr. Shashank, Advocate.)

+ **W.P.(C) 14680/2022 & CM APPLs. 44991/2022, CM APPL.
45852/2022, 45853/2022, 56550/2022, 56551/2022, 4911/2023**

Between: -

**BHARTI VIDYAPEETH COLLEGE OF ENGINEERING
THROUGH ITS PRINCIPAL**

DR. DHARMENDER SAINI

A-4, PASCHIM VIHAR, ROHTAK ROAD,

NEW DELHI- 110063

..... PETITIONER

*(Through: Mr. Mohit Mathur, Senior Advocate with Mr.
Nishant Anand and Ms. Gunjan Bansal, Advocates)*

AND

GOVT. OF NCT OF DELHI

(DEPARTMENT OF LAW, JUSTICE &

LEGISLATIVE AFFAIRS),

THROUGH ITS SECRETARY

8TH LEVEL, C-WING, DELHI SECRETARIAT,

NEW DELHI

....RESPONDENT NO.1

GOVT. OF NCT OF DELHI

THROUGH DIRECTORATE OF HIGHER EDUCATION

THROUGH ITS DIRECTOR

BTE BUILDING, MUNI MAYA RAM MARG,

PITAMPURA, DELHI-110034RESPONDENT NO.2

**GURU GOBIND SINGH INDRAPRASTHA
UNIVERSITY**

THROUGH, ITS VICE-CHANCELLOR
SECTOR-16C, DWARKA, NEW DELHI-110078

.....RESPONDENT NO.3

*(Through: Mr. Santosh Kumar Tripathi, Standing Counsel
(Civil) along with Mr. Utkarsh Singh & Mr. Tapesh Raghav,
Advocates for Respondent No. 1.*

*Mr. Anuj Aggarwal, ASC, GNCTD with Ms. Ayushi Bansal, Mr.
Sanyam Suri and Ms. Arshya Singh, Advocates for Respondent
No. 2*

Ms. Anita Sahani, Advocate for Respondent No. 3.)

+ **W.P.(C) 11906/2022 & CM APPLs. 35534/2022, 39332/2022,
47386/2022**

Between: -

SHUBHAM JHA
S/O KHAGESH B. JHA
G-10/7, SECTOR-15,
ROHINI, DELHI-110089

.....PETITIONER

*(Through: Mr. Khagesh B. Jha & Ms. Shikha Sharma Bagga,
Advocates)*

AND

**GURU GOBIND SINGH INDRAPRASTHA
UNIVERSITY**

THROUGH, THE REGISTRAR
SECTOR-16C, DWARKA, NEW DELHI-110078

.....RESPONDENT NO. 1

**MAHARAJA AGRASEN INSTITUTE OF
TECHNOLOGY**

THROUGH PRINCIPAL/DIRECTOR
SECTOR-22, ROHINI, DELHI-110085

.....RESPONDENT NO. 2

**BHAGWAN PARASURAM INSTITUTE OF
TECHNOLOGY**

THROUGH PRINCIPAL/DIRECTOR

K.N.KATJU MARG, SECTOR-17

ROHINI, DELHI-110089

.....RESPONDENT NO.3

**BAHARTI VIDYAPEETH'S COLLEGE OF
ENGINEERING**

THROUGH PRINCIPAL/DIRECTOR

A-BLOCK, ROHTAK ROAD,

PASCHIM VIHAR, DELHIRESPONDENT NO.4

**MAHARAJA SURAJ MAL INSTITUTE OF
TECHNOLOGY**

C-4 MARKET, FIRE STATION ROAD

JANAK PURI NEW DELHI-110058

.....RESPONDENT NO. 5

**VIVEKANANDAA INSTITUTE OF PROFESSIONAL
STUDIES- TECHNICAL CAMPUS**

THROUGH PRINCIPAL/DIRECTOR

AU BLOCK, OUTER RING ROAD

PITAMPURA, DELHI-110088

.....RESPONDENT NO. 6

GOVT. OF NCT OF DELHI

THROUGH DIRECTOR (HIGHER EDUCATION)

GOVT. OF NCT OF DELHI

OLD SECRETARIAT, NEW DELHI

.....RESPONDENT NO. 7

*(Through: Ms. Anita Sahani, Advocate for Respondent No. 1.
Mr. Manoj Goel, Senior Advocate with Mr. Nishant Anand, Mr.
Kumar Abhishek and Ms. Gunjan Bansal, Advocates for
Respondent Nos.2, 4 and 6*

*Mr. Adarsh Priyadarshi, Mr. Tarun K Bedi, Vikash Kumar and
Ms. Sweta Singh, Advocates for Respondent No.3*

*Mr. Puneet Mittal, Sr. Advocate, Kumar Utkarsh for
Respondent No.5*

*Mr. Santosh Kumar Tripathi, Standing Counsel (Civil)
alongwith Mr. Utkarsh Singh & Mr. Tapes Raghav,
Advocates for 7.)*

+ **W.P.(C) 14347/2022 & CM APPL 43806/2022**

Between: -

SHUBHAM JHA

S/O KHAGESH B. JHA

G-10/7, SECTOR-15,

ROHINI, DELHI-110089

..... PETITIONER

*(Through: Mr. Khagesh B. Jha & Ms. Shikha Sharma Bagga,
Advocates.)*

AND

GOVT. OF NCT OF DELHI

THROUGH DIRECTOR (HIGHER EDUCATION)

GOVT OF NCT OF DELHI

OLD SECRETARIAT, NEW DELHI

....RESPONDENT NO.1

**GURU GOBIND SINGH INDRAPRASTHA
UNIVERSITY**

THROUGH, THE REGISTRAR

SECTOR-16C, DWARKA, NEW DELHI-110078

.....RESPONDENT NO.2

**MAHARAJA AGRASEN INSTITUTE OF
TECHNOLOGY**

THROUGH PRINCIPAL/DIRECTOR

SECTOR-22, ROHINI, DELHI-110085

.....RESPONDENT NO. 3

**MAHARAJA SURAJ MAL INSTITUTE OF
TECHNOLOGY**

THROUGH PRINCIPAL/DIRECTOR

C-4 MARKET, FIRE STATION ROAD

JANAK PURI NEW DELHI-110058

.....RESPONDENT NO. 4

**BHAGWAN PARASURAM INSTITUTE OF
TECHNOLOGY**

THROUGH PRINCIPAL/DIRECTOR

K.N.KATJU MARG, SECTOR-17

ROHINI, DELHI-110089

.....RESPONDENT NO.5

**BAHARTI VIDYAPEETH'S COLLEGE OF
ENGINEERING**

THROUGH PRINCIPAL/DIRECTOR
A-BLOCK, ROHTAK ROAD,
PASCHIM VIHAR, DELHI

.....RESPONDENT NO.6

**VIVEKANANDA INSTITUTE OF PROFESSIONAL
STUDIES- TECHNICAL CAMPUS**

THROUGH PRINCIPAL/DIRECTOR
AU BLOCK, OUTER RING ROAD
PITAMPURA, DELHI-110088

.....RESPONDENT NO. 7

*(Through: Mr. Santosh Kumar Tripathi, Standing Counsel
(Civil) alongwith Mr. Utkarsh Singh & Mr. Tapesh Raghav,
Advocates for Respondent No. 1.*

Ms. Anita Sahani, Advocate for Respondent No.2.

*Mr. Manoj Goel, Senior Advocate with Mr. Nishant Anand, Mr.
Kumar Abhishek and Ms. Gunjan Bansal, Advocates for
Respondent No.3, 6 and 7*

*Mr. Tarun K Bedi with Vikash Kumar, Advocates for
Respondent No.5)*

+ **W.P.(C) 2368/2023 & CM APPL 9063/2023**

Between: -

ISHIKA DESWAL, (CSE 1ST SHIFT),

D/O MR. GORAV DESHWAL,

P-3017, ASHIANA PALM COURT,

RAJ NAGAR, EXTENSION, GHAZIABAD, U.P. - 201017

.....PETITIONER NO.1

MANJEET, (CSE 1ST SHIFT),

S/o MR. YOGESH KUMAR,

VILLAGE-HALOLI, POST SISAULI,

DISTT. MUZAFFARNAGAR-251319

.....PETITIONER NO.2

JANVI SINGH, (CSE 1ST SHIFT),

D/O MR. RAMENDRA SINGH,

H.NO. 339, SECTOR -14, VASUNDHARA,

GAZIABAD, U.P -201012

.....PETITIONER NO.3

ADITI, (CSE 1ST SHIFT),
D/O MR. AVINDRA KUMAR,
A-5, SUGAR MILL COLONY,
KARNAL ROAD, KAITHAL, HARYANA -136027

.....PETITIONER NO.4

CHIRAG MALIK, (CSE 1ST SHIFT),
S/O MR. NARESH MALIK
324, DDA SFS FLATS, POCKET-1,
SECTOR-1, DWARKA, NEW DELHI-110075

.....PETITIONER NO.5

AYAAN DAGAR, (CSE 1ST SHIFT),
S/O MR. YOGENDER DAGAR
A-8/47, FIRST FLOOR, SECTOR-16,
ROHINI, DELHI-110089

.....PETITIONER NO.6

AYUSH KUMAR SATMUKHIYA, (CSE 1ST SHIFT),
S/O MR. KALARAM,
SALFARASUL PUR, GUJRAN,
SHAMLI, U.P.-247775

.....PETITIONER NO.7

DIYA DHANKHAR, (CSE 1ST SHIFT)
D/O MR. PAWAN KUMAR,
H.NO. 701/29, CHAUDHARY LANE,
GALI NO. 3, TILAK NAGAR,
ROHTAK, HARYANA -124001

.....PETITIONER NO.8

DEV MALIK (CSE 1ST SHIFT)
S/O MR. RAJESH MALIK,
B-30, NANDA ROAD, SARAI EXTN.,
ADARSH NAGAR, DELHI-110033

.....PETITIONER NO.9

ANUBHAV CHAUDHARY, (CSE 1ST SHIFT),
S/O MR. SATYA VIRSINGH,
96-D, DDA LIG FLATS, SATYAM ENCLAVE,
JHILMIL, DELHI-110095

.....PETITIONER NO.10

VANSH PAWAR, (CSE 1ST SHIFT)

S/O MR. ANIL PAWAR,
H.NO.9, OPP. JNU, BER SARAI,
NEW DELHI -110016

.....PETITIONER NO.11

MADHUR DAGAR, (CSE 1ST SHIFT),

S/O MR. SANJEET DAGAR,
H.NO. 75, BISWA MOHALLA,
MAIDAN GARHI, DELHI-110068

.....PETITIONER NO.12

ARYAN KUNDU, (CSE 1ST SHIFT),

S/O MR. ASHOK KUNDU,
1171, SECTOR-3 ROTHAK,
HARYANA-124001

.....PETITIONER NO.13

ADITYA CHOUDHARY, (CSE 1ST SHIFT),

S/O MR. PRATAP SINGH,
VILLAGE-TAJPUR SIMBHALKA,
NEAR SHIV MANDIR, DISTT. SHAMLI,
U.P. 247776

.....PETITIONER NO.14

VANSH TOMAR,(CSE 1ST SHIFT),

S/O MR. AWESH TOMAR,
GZ-237, GROUND FLOOR, GREEN PARADISE,
A2Z, BUILDERS AND DEVELOPERS,
MODIPURAM, MEERUT, U.P.

.....PETITIONER NO.15

ARJUN JAIPAL, (CSE 2ND SHIFT),

S/O MR. NEERAJ KUMAR CHAUHAN,
G-171, GHAZIPUR VILLAGE,
GHAZIPUR, DELHI -110096

.....PETITIONER NO.16

YASH GUPTA (CSE 2ND SHIFT)

S/O MR.SANJAY GUPTA
H.NO. 117/C, POCKET-F,
MAYUR VIHAR,PHASE-II
DELHI-110091

.....PETITIONER NO.17

HARSHIT GAHLAWAT, (CSE 2ND SHIFT)

S/O Mr. KULDEEP SINGH
H.NO. 135, VPO-MITRAON, NAJAFGARH,
SOUTH WEST DELHI- 110043

.....PETITIONER NO.18

AYUSH DEV, (CSE 2ND SHIFT)

S/O MR. RAJA RAM, BLOCK-C-35B,
ANAND VIHAR, UTTAM NAGAR WEST
NEW DELHI-110059

.....PETITIONER NO.19

VAIBHAV ARORA, (CSE 2ND SHIFT)

S/O Mr. PANKAJ KUMAR
26, OLD GEETA COLONY, DELHI-110031

.....PETITIONER NO.20

ANOUSHKA GUPTA, (ECE 2ND SHIFT)

D/O Mr. ATUL GUPTA
H.NO. 9, ROAD NO.33
EAST PUNJABI BAGH, NEW DELHI-110026

.....PETITIONER NO.21

SANDHYA (CSE 1ST SHIFT)

D/O MR. SURENDER
NEAR BUS STAND, KANUGO MOHALLA
BAWAL, REWARI, HARYANA-123501

.....PETITIONER NO.22

DEEPASH RUHIL (CSE 2ND SHIFT)

S/O MR. SUKHVIR SINGH RUHIL
RZ-118/84, STREET NO.05
EAST SAGAR PUR, NEW DELHI-110046

.....PETITIONER NO.23

HARSHITA SAHIRAWAT, (IT 1ST SHIFT)

D/O MR. NARENDER SINGH
RZ-E-9, GALI NO.6, RAGHU NAGAR
SOUTH WEST DELHI-110045

.....PETITIONER NO.24

HARSHIKA DRALI, (ECE 1ST SHIFT)

D/O MR. ANIL DRALI
H.No. 406, NEELWAL VILLAGE

NEW DELHI-110041

.....PETITIONER NO.25

HARSH SAXENA (ECE 1ST SHIFT)

S/o RITESH SAXENA, PLOT NO.127-128

POCKET B-9, SECTOR-5, ROHINI

DELHI-110085

.....PETITIONER NO.26

PARIDHI GUSAIN (ECE 1ST SHIFT)

D/O Mr HARI MOHAN SINGH

D-603, UNIQUE APARTMENTS PLOT NO. 38

SECTOR-6, DWARKA

NEW DELHI-110075

.....PETITIONER NO.27

HARSHIT (ECE 1ST SHIFT)

D/O MR DILBAGH SINGH

154/B-1, 2ND FLOOR

SAVITRI NAGAR, NEW DELHI-110017

.....PETITIONER NO.28

SAKSHI (IT 2ND SHIFT)

D/O MR SHASHIPAL

PLOT NO.22, FIRST FLOOR,

SHIV PARK OLD PALAM ROAD

GALI NO. 1, KAKROLA

NEW DELHI-110078

.....PETITIONER NO.29

APSARIKA (IT 2ND SHIFT)

D/O MR ANIL KUMAR

FIAT No. 45, KAUTILA APARTMENTS

SECTOR-14B, DDA MIG FLATS

DWARKA NEW DELHI- 110078

.....PETITIONER NO.30

JAYANT (ECE 1ST SHIFT)

S/O MR. SANJAY CHAUDHARY,

H.NO. 155/20, OPPOSITE SUBASH CINEMA

SUBHASH ROAD, ROHTAK-124001

.....PETITIONER NO.31

LAKSHAY (ECE 1ST SHIFT)

S/O MR. VINOD DAHIYA,

H.NO. O-57, VANI VIHAR,

UTTAM NAGAR, NEW DELHI-110059

.....PETITIONER NO.32

PARTH HOODA, (EEE)

S/O MR. AJAY HOODA, 17/1744,
DHARAMPURA,
BAHADURGARH, HARYANA-124507

.....PETITIONER NO.33

HIMANSHU DESWAL (IT 1ST SHIFT)

S/O MR. BALRAJ SINGH, NETAJI NAGAR,
STREET NO.-1, LINEPAR,
BAHADURGARH-124507

.....PETITIONER NO.34

SARTHAK MALIK (EEE)

S/O MR. PRATAP SINGH,
A-38, VISHWAS PARK, UTTAM NAGAR,
NEW DELHI-110059

.....PETITIONER NO.35

OJAS SAROHA (ECE 1ST SHIFT)

S/O MR. SANJEEV SAROHA, BD-14F,
DDA FLATS, MUNIRKA, NEW DELHI-67

.....PETITIONER NO.36

VINSHU RATHI (ECE 2ND SHIFT)

S/O MR. SANJEET KUMAR,
OTR. NO.-718, FIRST FLOOR,
NEW TIHAR JAIL COMPLEX, NEW DELHI-64

.....PETITIONER NO.37

AKSHAT BAHL (ECE 2ND SHIFT)

S/O MR. RAJESH BAHL,
D-1B/13C, JANAK PURI,
NEW DELHI-58

.....PETITIONER NO.38

PRURVEER SINGH, (EEE)

S/O MR. VIDURDHANKHAR,
FLAT NO.-292, PLOT NO.21
SANT SUNDAR DAS APARTMENTS,
DWARKA SECTOR-12, NEW DELHI-77

.....PETITIONER NO.39

SOURAV PHOGAAT (ECE 2ND SHIFT)

S/O MR. NARENDER SINGH,
167-A HUMAYUN PUR,
SAFDARJUNG ENCLAVE, NEW DELHI-29

.....PETITIONER NO.40

VAIBHAV SANGWAN, (IT-2ND SHIFT)

S/O MR. OMBIR SANGWAN,
109-A G.F. LANE NO.-5 KRISHNA NAGAR,
SAFDARJUNG ENCLAVE, NEW DELHI-29

.....PETITIONER NO.41

ARCHIT SURI, (EEE)

S/O MR. ANIL SURI,
B-1A/30B, JANAK PURI, NEW DELHI-58

.....PETITIONER NO.42

AKSHITA ANTIL, (ECE 1ST SHIFT)

D/O MR. MUKESH ANTIL,
BRIJ VIHAR APARTMENTS,
A-10, OPPOSITE- GUJARAT APARTMENTS,
PITAM PURA, NEW DELHI-34

.....PETITIONER NO.43

SUDARSHAN, (EEE)

S/O MR. JAGVIR SINGH,
SHOP. NO.-150, NEW GRAIN MARKET,
GOHANA, SONIPAT, HARYANA-131301

.....PETITIONER NO.44

ANUSHKA CHOUDHARY, (ECE 1ST SHIFT)

D/O MR. KIRAN KUMAR JAT, RZ-42A,
GALI NO.-2 KAILASH PURI EXTN., NEW DELHI-45

.....PETITIONER NO.45

TRIPTI KARAN, (IT 1ST SHIFT),

D/O MR. BIPIN KUMAR KARAN,
A-35/38, BHAGWAT GARDEN EXTN.
GALI NO.—17, JAIN ROAD, UTTAM NAGAR,
NEW DELHI- 110059

.....PETITIONER NO.46

AVNI GAHLAUT (IT 1ST SHIFT)

D/O MR. YOGESH GAHLAUT,
24, VASUNDHARA APARTMENT
SECTOR-9, ROHINI, DELHI-110085

.....PETITIONER NO.47

ADITYA, (ECE 2ND SHIFT)

S/O MR. JITENDER KUMAR
D-702, INDIRA GALI, GALI NO. 7D,
ASHOK NAGAR, SHAHDARA

NEW DELHI-110093PETITIONER NO.48

GAUTAM DAHIYA, (IT 2ND SHIFT)

S/O MR. VINOD KUMAR DAHIYA
E-24, MILAP NAGAR, UTTAM NAGAR

NEW DELHI-110059PETITIONER NO.49

MEHUL GUPTA (IT 2ND SHIFT)

S/O MR. PRAVEEN GUPTA
436-C/4, JACOB PURA,

GURUGRAM-122001 (HR)PETITIONER NO.50

SARTHAK DHANKAR (IT 1ST SHIFT)

S/O MR. NARENDRA KUMAR,
C-207, IRCONCGHS,
PLOT NO. 14, SECTOR -18A,
DWARAKA, NEW DELHI- 110078

.....PETITIONER NO.51

VANIJ SINGH (IT 1ST SHIFT)

S/O MR. VIJAY PAL SINGH
P2/72, DLF PHASE-2,
GURUGAON 122002

.....PETITIONER NO.52

PIYUSH DALAL (IT 1ST SHIFT)

S/o- MR. KRISHAN DALAL, 403,
GANPATI APARTMENTS,
PLOT NO. 06, SECTOR-9 DWARAKA,
NEW DELHI 110077

.....PETITIONER NO.53

NILIN (IT 1ST SHIFT)

S/O- MR. NARENDER,
VPO- PALRIKALAN DISTT. SONIPAT, HARYANA 131021

.....PETITIONER NO.54

DIG VIGJY SINGH TOMAR (IT 1ST SHIFT)

S/O- MR. RAJEEV CHAUDHARY, 1199,
SECTOR-11, PANCHKULA, HARYANA 134112

.....PETITIONER NO.55

UDAY DAHIYA (IT 1ST SHIFT)

S/O MR. VIKAS DAHIYA
H.NO. 2, SUKHRALI SECTOR-17,
GURGAON, HARYANA-122001

.....PETITIONER NO.56

ARYAN SINGH (IT 1ST SHIFT)
S/O MR. KRIPAL SINGH
H.NO. D-4, B-1/12, VASANT KUNJ ENCLAVE,
NEW DELHI-110070

.....PETITIONER NO.57

(Through: Mr. Manish Vashisht, Senior Advocate with Ms. Shikha Sharma Bagga and Mr. Vanshay Kaul, Advocates.)

AND

MAHARAJA SURAJMAL INSTITUTE OF TECHNOLOGY

THROUGH, DIRECTOR (MSIT)
C-4 JANAKPURI, FIRE STATION ROAD
NEW DELHI-110058

.....RESPONDENT NO.1

SURAJMAL MEMORIAL EDUCATION SOCIETY (REGD.)

THROUGH, SECRETARY
C-4 JANAKPURI, FIRE STATION ROAD
NEW DELHI-110058

.....RESPONDENT NO.2

GOVT. OF NCT OF DELHI
THROUGH SECRETARY (HIGHER EDUCATION)
OLD SECRETARIAT, CIVIL LINES
NEW DELHI-110054

.....RESPONDENT NO.3

DIRECTOR HIGHER EDUCATION (AUTHORIZED OFFICER)

GOVT. OF NCT OF DELHI
MUNI MAYA RAM JAIN MARG
PITAMPURA NEW DELHI-110088

.....RESPONDENT NO.4

GGSIPI (DESIGNATED AGENCY)
THROUGH THE VICE-CHANCELLOR
GURU GOBIND SINGH INDRAPRASTHA UNIVERSITY
SECTOR-16C, DWARKA, NEW DELHI- 110078

.....RESPONDENT NO.5

**GURU GOBIND SINGH INDRAPRASTHA UNIVERSITY
THROUGH THE REGISTRAR
SECTOR-16 C, DWARKA
NEW DELHI-110078**RESPONDENT NO.6

*(Through: Mr. Santosh Kumar Tripathi, Standing Counsel
(Civil) along with Mr. Utkarsh Singh & Mr. Tapesh Raghav,
Advocates.*

*Mr. Puneet Mittal, Senior Advocate with Mr. Kumar Utkarsh
and Mr. Snehsish Mukherjee, Advocates for Respondent No. 1
and 2.)*

+ **W.P.(C) 16709/2022 & CM APPLs. 52732/2022, 55301/2022**

Between: -

**NOORAKSHI DAHIYA
D/O SHRI YASHPAL DAHIYA
R/O- D 1/61, THE GOLD CROFT SOCIETY
PLOT NO. 4, SECTOR 11,
DWARKA, DELHI;** PETITIONER

*(Through: Mr. Rajshekhar Rao, Sr. Advocate with Mr.
Saurav Agarwal, Mr. Ashish Tiwari, Mr. Ajay Sharma, Mr.
Sahib Patel, Advocates)*

AND

**GURU GOBIND SINGH INDRAPRASTHA UNIVERSITY,
THROUGH, THE REGISTRAR
SECTOR-16C, DWARKA, NEW DELHI-110078**
.....RESPONDENT NO.1

**MAHARAJA SURAJMAL INSTITUTE OF
TECHNOLOGY
C-4 MARKET, FIRE STATION ROAD
JANAK PURI NEW DELHI-110058**RESPONDENT NO.2

**GOVT.OF NCT OF DELHI
THROUGH DIRECTOR (HIGHER EDUCATION)
GOVT OF NCT OF DELHI
OLD SECRETARIAT, NEW DELHI**
.....RESPONDENT NO.3

ISHIKA DESHWAL, (CSE 1ST SHIFT)

D/O MR. GORAV DESHWAL,
P-3017, ASHIANA PALM COURT, RAJ NAGAR,
EXTENSION,
GHAZIABAD, U.P.- 201017RESPONDENT NO.4

SHIVANSHI SINGH, (CSE 1ST SHIFT)

D/O MR. VIVEK TOMAR,
18/269, RAMPAL SINGH BARWALA,
SUBHASH NAGAR, NEAR MGI COLLEGE,
BARAUT, BAGHPAT. U.P.-250611RESPONDENT NO.5

MANJEET, (CSE 1ST SHIFT)

S/O MR. YOGESH KUMAR,
VILLAGE-HALOLI, POST SISAULI, DISTT.
MUZAFFARNAGAR-251319RESPONDENT NO.6

JANVI SINGH, (CSE 1ST SHIFT)

D/O MR. RAMENDRA SINGH,
H.NO. 339, SECTOR-14, VASUNDHARA,
GHAZIABAD, U.P.-201012RESPONDENT NO.7

ADITI, (CSE 1ST SHIFT)

D/O MR. AVNINDRA KUMAR,
A-5, SUGAR MILL COLONY, KARNAL ROAD,
KAITHAL, HARYANA-136027RESPONDENT NO.8

CHIRAG MALIK, (CSE 1ST SHIFT)

S/O MR. NARESH MALIK
324, DDA SFS FLATS, POCKET-1,
SECTOR-1, DWARKA, NEW DELHI-110075
.....RESPONDENT NO.9

SHUBHAM JHA, (CSE 1ST SHIFT)

S/O MR. KHAGESH BIHARI JHA
G-10/7, ROHINI SECTOR-15, NEW DELH- 110089
.....RESPONDENT NO.10

SANDHYA, (CSE 1ST SHIFT)

D/O MR. SURENDER
NEAR BUS STAND, KANUGO MOHALLA,
BAWAL, REWARI, HARYANA-123501
.....RESPONDENT NO.11

AYAAN DAGAR, (CSE 1ST SHIFT)
S/O MR. YOGENDER DAGAR
A-8/47, FIRST FLOOR, SECTOR-16,
ROHINI, DELHI-110089RESPONDENT NO.12

AYUSH KUMAR SATMUKHIYA, (CSE 1ST SHIFT)
S/O MR. KALA RAM,
SALFA RASULPUR, GUJRAN, SHAMLI, U.P- 247775
.....RESPONDENT NO.13

DIYA DHANKHAR, (CSE 1ST SHIFT)
D/O MR. PAWAN KUMAR,
H. NO. 701/29, CHAUDHARY LANE, GALI NO. 3,
TILAK NAGAR, ROHTAK, HARYANA-124001
.....RESPONDENT NO.14

DEV MALIK (CSE 1ST SHIFT)
S/O MR. RAJESH MALIK,
B-30, NANDA ROAD, SARAI EXTN.,
ADARSH NAGAR, DELHI-110033
.....RESPONDENT NO.15

ANUBHAV CHAUDHARY, (CSE 1ST SHIFT)
S/O MR. SATYAVIR SINGH,
96-D, DDA LIG FLATS, SATYAM ENCLAVE,
JHILMIL, DELHI-110095
.....RESPONDENT NO.16

VANSH PAWAR, (CSE 1ST SHIFT)
S/O MR. ANIL PAWAR,
H.NO. 9, OPP. JNU, BER SARAI,
NEW DELHI-110016RESPONDENT NO.17

MADHUR DAGAR, (CSE 1ST SHIFT)
S/O MR. SANJEET DAGAR,
H. NO. 75, BISWA MOHALLA, MAIDAN GARHI,
DELHI-110068RESPONDENT NO.18

ARYAN KUNDU, (CSE 1ST SHIFT)
S/O MR. ASHOK KUNDU,
1171, SECTOR-3, ROHTAK, HARYANA-124001
.....RESPONDENT NO.19

ADITYA CHOUDHARY, (CSE 1ST SHIFT)
S/O MR. PRATAP SINGH,
VILLAGE-TAJPUR SIMBHALKA,
NEAR SHIV MANDIR, DISTT. SHAMLI,
UTTAR.PRADESH.-247776RESPONDENT NO.20

VANSH TOMAR, (CSE 1ST SHIFT)
S/O MR. AWESH TOMAR,
G+Z-237, GROUND FLOOR, GREEN PARADISE,
A2Z, BUILDERS AND DEVELOPERS,
MODIPURAM, MEERUT, U.P.RESPONDENT NO.21

ARJUN JAIPAL, (CSE 2ND SHIFT)
S/O MR. NEERAJ KUMAR CHAUHAN,
G-171, GHAZI PUR VILLAGE, GHAZIPUR,
DELHI- 110096RESPONDENT NO.22

YASH GUPTA, (CSE 2ND SHIFT)
S/O MR. SANJAY GUPTA,
H. NO. 117C, POCKET-F, MAYUR VIHAR,
PHASE-II, DELHI- 110091
.....RESPONDENT NO.23

HARSHIT GAHLAWAT, (CSE 2ND SHIFT)
S/O MR. KULDEEP SINGH,
H. NO. 135, VPO-MITRAON, NAJAFGARH,
SOUTH WEST DELHI-110043
.....RESPONDENT NO.24

AYUSH DEV, (CSE 2ND SHIFT)
S/O MR. RAJA RAM,
BLOCK-C-35B, ANAND VIHAR,
UTTAM NAGAR WEST, NEW DELHI-110059
.....RESPONDENT NO.25

VAIBHAV ARORA, (CSE 2ND SHIFT)
S/O MR. PANKAJ KUMAR,
26, OLD GEETA COLONY, DELHI-110031
.....RESPONDENT NO.26

DEEPASH RUHIL, (IT 1ST SHIFT)
S/O MR. SUKHVIR SINGH RUHIL,
RZ-118/84, STREET NO. 05, EAST SAGARPUR,
NEW DELHI-110046

.....RESPONDENT NO.27

HARSH SAXENA, (ECE 1ST SHIFT)

S/O MR. RITESH SAXENA,
PLOT NO. 127-128, POCKET B-9,
SECTOR-5, ROHINI, DELHI-110085

.....RESPONDENT NO.28

SHUBHAM, (ECE 1ST SHIFT)

S/O MR. RAJESH KUMAR,
H. NO. 1931, TCP-3, BEHIND TATA MG MOTOR,
HISSAR CANTT., HISSAR, HARYANA

.....RESPONDENT NO.29

JAYANT, (ECE 1ST SHIFT)

S/O MR. SANJAY CHAUDHARY,
H. NO. 155/20, OPPOSITE SUBASH CINEMA,
SUBHASH ROAD, ROHTAK-124001

.....RESPONDENT NO.30

KRISH GUPTA, (ECE 1ST SHIFT)

S/O MR. ATUL GUPTA,
402, PHARAOHS OMAXE THE NILE SOHNA ROAD,
SECTOR-49, GURGAON, HARYANA- 122018

.....RESPONDENT NO. 31

HARSHIKA DRALL, (ECE 1ST SHIFT)

D/O MR. ANIL DRALL,
H. NO. 406, NEELWAL VILLAGE,
NEW DELHI- 110041

.....RESPONDENT NO.32

HARSHITA, (ECE 1ST SHIFT)

D/O MR. DILBAG SINGH,
154/B-I, 2ND FLOOR,
SAVITRI NAGAR, NEW DELHI-110017

.....RESPONDENT NO.33

ANUSHKA CHOUDHARY, (ECE 1ST SHIFT)

D/O MR. KIRAN KUMAR JAT, RZ-42A,
GALI NO.2, KAILASHPURI EXTN., NEW DELHI-110045

.....RESPONDENT NO.34

AKSHITA ANTIL, (ECE 1ST SHIFT)

D/O MR. MUKESH ANTIL,
BRIJ VIHAR APARTMENTS,

A-10, OPPOSITE-GUJARAT APARTMENTS,
PITAMPURA, NEW DELHI-110034

.....RESPONDENT NO.35

OJAS SAROHA, (ECE 1ST SHIFT)
S/O MR. SANJEEV SAROHA,
BD-14F, DDA FLATS,
MUNIRKA, NEW DELHI- 110067

.....RESPONDENT NO.36

PARIDHI GUSAIN, (ECE 1ST SHIFT)
D/O MR. HARI MOHAN SINGH,
D-603, UNIQUE APARTMENTS PLOT NO. 38,
SECTOR-6, DWARKA, NEW DELHI 110075

.....RESPONDENT NO.37

LAKSHAY, (ECE 1ST SHIFT)
S/O MR. VINOD DAHIYA,
H. NO. O-57, VANI VIHAR,
UTTAM NAGAR, NEW DELHI-110059

.....RESPONDENT NO.38

AARYAN MISHRA, (ECE 1ST SHIFT)
S/O MR. SANTOSH S MISHRA
A-9, OMQ AIR FORCE STATION,
KOLSHET NEXT TO KV AIR FORCE SCHOOL
THANE WEST, MAHARASHTRA

.....RESPONDENT NO.39

SOURAV PHOGAAT, (ECE 2ND SHIFT)
S/O MR. NARENDER SINGH,
167-A, HUMAYUN PUR,
SAFDARJUNG ENCLAVE, NEW DELHI-110029

.....RESPONDENT NO.40

ADITYA, (ECE 2ND SHIFT)
S/O MR. JITENDER KUMAR,
D-702, INDIRA GALI, GALI NO. 7D,
ASHOK NAGAR, SHAHDARA, DELHI 110093

.....RESPONDENT NO.41

AKSHAT BAHL, (ECE 2ND SHIFT)
S/O MR. RAJESH BAHL,

D-1B/13C, JANAKPURI, NEW DELHI 110058

.....RESPONDENT NO.42

ANOUSHKA GUPTA, (ECE 2ND SHIFT)

D/O MR. ATUL GUPTA,

H. NO. 9, ROAD NO. 33,

EAST PUNJABI BAGH, NEW DELHI-110026

.....RESPONDENT NO.43

BHAVISH SAROHA, (ECE 2ND SHIFT)

S/O MR. HARVEER SINGH SAROHA,

RZ-2, GANPATI ENCLAVE,

NEW ROSHAN PURA EXTN.,

NAJAFGARH, NEW DELHI 110043

.....RESPONDENT NO.44

VINSHU RATHI, (ECE 2ND SHIFT)

D/O MR. SANJEET KUMAR,

QTR. NO. 718, FIRST FLOOR,

NEW TIHARJAIL COMPLEX,

NEW DELHI 110064

.....RESPONDENT NO.45

AVNI GAHLAUT, (IT 1ST SHIFT)

D/O MR. YOGESH GAHLAUT,

24, VASUNDHARA APARTMENT,

SECTOR-9, ROHINI, DELHI-110085

.....RESPONDENT NO.46

DIGVIJAY SINGH TOMAR, (IT 1ST SHIFT)

S/O MR. RAJEEV CHAUDHARY, 1199,

SECTOR-11, PANCHKULA, HARYANA 134112

.....RESPONDENT NO.47

ARYAN SINGH, (IT 1ST SHIFT)

S/O MR. KIRPAL SINGH,

H. NO. D-4, B-1/12, VASANT KUNJ ENCLAVE,

NEW DELHI-110070

.....RESPONDENT NO.48

NILIN, (IT 1ST SHIFT)

S/O MR. NARENDER,

VPO-PALRI KALAN,

DISTT.-SONIPAT, HARYANA 131021

.....RESPONDENT NO.49

SIMRAN CHAUDHARY, (IT 1ST SHIFT)

D/O MR. SUDHIR KUMAR,
RZH-791, GALI NO. 13,
RAJ NAGAR PART-II,
PALAM COLONY, NEW DELHI-110077

.....RESPONDENT NO.50

UDAY DAHIYA, (IT 1ST SHIFT)

S/O MR. VIKAS DAHIYA,
H. NO. 2, SUKHRALI SECTOR-17,
GURGAON, HARYANA-122001

.....RESPONDENT NO.51

SARTAK DHANKAR, (IT 1ST SHIFT)

S/O MR. NARENDRA KUMAR,
C-207, IRCON CGHS,
PLOT NO. 14, SECTOR-18A,
DWARKA, NEW DELHI 110078

.....RESPONDENT NO.52

HARSHITA SAHRAWAT, (IT 1ST SHIFT)

D/O MR. NARENDER SINGH,
RZ-E-9, GALI NO. 6, RAGHU NAGAR,
SYNDICATE ENCLAVE, SOUTH WEST,
DELHI -110045

.....RESPONDENT NO.53

VANIJ SINGH, (IT 1ST SHIFT)

S/O MR. VIJAY PAL SINGH,
P2/72, DLF PHASE-2, GURGAON 122002

.....RESPONDENT NO.54

RIPTI KARN, (IT 1ST SHIFT)

D/O MR. BIPIN KUMAR KARN,
A-35/38, BHAGWATI GARDEN EXTN.,
GALI NO. 17, JAIN ROAD, UTTAM NAGAR,
NEW DELHI-110059

.....RESPONDENT NO.55

PIYUSH DALAL, (IT 1ST SHIFT)

S/O MR. KRISHAN DALAL,
403, GANPATI APARTMENTS,

PLOT NO. 06, SECTOR-9, DWARKA,
NEW DELHI 110077

.....RESPONDENT NO.56

HIMANSHU DESWAL, (CSE 2ND SHIFT)

S/O MR. BALRAJ SINGH,
NETAJI NAGAR, STREET NO. 1,
LINE PAR, BAHADURGARH-124507

.....RESPONDENT NO.57

SAKSHI, (IT 2ND SHIFT)

D/O MR. SHASHIPAL,
PLOT NO. 22, FIRST FLOOR,
SHIV PARK, OLD PALAM ROAD,
GALI NO.1, KAKROLA, NEW DELHI-110078

.....RESPONDENT NO.58

GAUTAM DAHIYA, (IT 2ND SHIFT)

S/O MR. VINOD KUMAR DAHIYA,
E-24, MILAP NAGAR, UTTAM NAGAR,
NEW DELHI-110059

.....RESPONDENT NO.59

VAIBHAV SANGWAN, (IT 2ND SHIFT)

S/O MR. OMBIR SANGWAN,
109-A, G.F., LANE NO. 5, KRISHNA NAGAR,
SAFDARJUNG ENCLAVE, NEW DELHI-110029

.....RESPONDENT NO.60

MEHUL GUPTA, (IT 2ND SHIFT)

S/O MR. PRAVEEN GUPTA,
436-C/4, JACOB PURA, GURUGRAM- 122001 (HR)

.....RESPONDENT NO.61

APSARIKA, (IT 2ND SHIFT)

D/O MR. ANIL KUMAR,
FLAT NO. 45, KAUTILYA APARTMENTS,
SECTOR-14B, DDA MIG FLATS, DWARKA,
NEW DELHI-110078

.....RESPONDENT NO.62

KARTIKEY RAJAIN, (IT 2ND SHIFT)

S/O MR. SHAMSHER SINGH,

PLOT NO. 15, 2ND FLOOR,
GALI NO. 1, A-BLOCK, POCHANPUR EXTN.,
SECTOR-23, DWARKA, NEW DELHI-110077

.....RESPONDENT NO.63

SUDARSHAN, (EEE)

S/O MR. JAGVIR SINGH,
SHOP. NO. 150, NEW GRAIN MARKET,
GOHANA, SONIPAT, HARYANA-131301

.....RESPONDENT NO.64

PURUVEER SINGH, (EEE)

S/O MR. VIDUR DHANKHAR,
FLAT NO. 292, PLOT NO. 21,
SANT SUNDAR DAS APARTMENTS,
DWARKA SECTOR-12. NEW DELHI-110077

.....RESPONDENT NO.65

SARTHAK MALIK, (EEE)

S/O MR. PRATAP SINGH,
A-38, VISHWAS PARK, UTTAM NAGAR,
NEW DELHI-110059

.....RESPONDENT NO.66

ARCHIT SURI, (EEE)

S/O MR. ANIL SURI,
B-1A/30B, JANAK PURI,
NEW DELHI 110058

.....RESPONDENT NO.67

VANSH, (EEE)

S/O MR. YOGESH KUMAR,
RZ-6, APHAS, E-4, NEAR ELECTRIC TRANSFORMER,
PREM NAGAR, NAJAFGARH,
SOUTH WEST DELHI-110043

.....RESPONDENT NO.68

PARTH HOODA, (EEE)

S/O MR. AJAY HOODA,
17/1744, DHARAMPURA,
BAHADURGARH, HARYANA-124507

..... RESPONDENT NO. 69

(Through: Ms. Anita Sahani, Advocate with Rahul Mourya, Advocates for Respondent No. 1.

Mr. Puneet Mittal, Senior Advocate with Mr. Kumar Utkarsh Advocates for Respondent No. 2.

Mr. Anuj Aggarwal, ASC, GNCTD along with Ms. Ayushi Bansal, Mr. Sanyam Suri & Ms. Arshya Singh, Advocates for Respondent No. 3.

Mr. Kirti Uppal, Senior Advocate with Ms. Shikha Sharma Bagga, Advocate for R-4 to R-69

Mr. Manish Vashisht, Senior Advocate with Mr. Vanshay Kaul, Advocate for respondents)

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Pronounced on: 17.05.2023

J U D G M E N T

1. This batch of writ petitions involves common issues, viz- validity of Circulars dated 22.09.2022, 27.09.2022 and 14.10.2022; interpretation of applicable admission rules in the matter of admitting students under Management Quota Seats and the same is, thus, being decided by a common order. For the sake of clarity, facts are being extracted from W.P.(C) No. 14677/2022 titled as '*Vivekananda Institute Of Professional Studies - Technical Campus v. Govt. of NCT of Delhi and Ors.*'. However, wherever necessary, facts from individual matters will be adverted to and discussed.

2. The writ petitions being W.P.(C) 11906/2022 and W.P.(C) 14347/2022 have been filed by an aspirant, namely, Shubham Jha seeking admission in B.Tech course against the 10% Management Quota Seats in private unaided institutions. The petition being W.P.(C) 16709/2022 is filed by another aspirant, namely, Noorakshi Dahiya seeking admission against the 10% Management Quota Seats. The petition being W.P.(C) 2368/2023 is filed by the students, already admitted against the same 10% Management Quota Seats, by

Maharaja Suraj Mal Institute of Technology (*hereinafter referred to as 'MSIT'*). However, the University has not ratified their admission and has declared these admissions, as null and *void*.

3. The other four writ petitions being W.P.(C) 14677/2022- *Vivekananda Institute of Professional Studies-Technical Campus*, W.P.(C) 14678/2022- *Surajmal Memorial Education Society (Regd.)*, W.P.(C) 14679/2022- *Maharaja Agrasen Technical Educational Society* and W.P.(C) 14680/2022- *Bharati Vidayapeeth's College of Engineering*, have been filed by private institutions, *inter alia*, against Circulars issued by the Respondents *i.e.* State of NCT of Delhi and Guru Gobind Singh Indraprastha University, New Delhi (*hereinafter referred to as the 'University'*).

4. The challenge in the petitions filed by the aforementioned institutions is against Circulars dated 22.09.2022, 27.09.2022 and 14.10.2022. *Vide* Circular dated 22.09.2022, the Directorate of Higher Education (*hereinafter referred to as DHE*) issued directions to the Vice Chancellor of the University with respect to the admissions against Management Seats in private institutions affiliated to the University. *Vide* Circular dated 27.09.2022, the University issued directions regarding online registration for Management Quota admissions on the University's portal and the display of merit list on the said portal. *Vide* another Circular dated 14.10.2022, the University issued the Schedule for Online Registration for Management Seats Admissions for the Programme B. Tech (Code-131). It is pertinent to note that *vide* Circular dated 17.10.2022, the University reaffirmed its earlier Circular dated 14.10.2022, whereas, *vide* Circular dated 18.10.2022, the schedule for online registration for Management Seats was declared, however, the same have not been specifically challenged.

5. The challenge to the impugned Circulars is mainly on the ground of violation of Article 19(1)(g) of the Constitution of India and the same being issued without any jurisdiction and authority of law.

6. Mr. Manoj Goel, learned Senior Counsel assisted by Mr. Nishant Anand, Mr. Gunjan Bansal, Mr. Kumar Abhishek and Mr. Sachin Sharma, Advocates, submits that the Petitioner-institution, which is a private unaided professional educational institution, has the right to admit up to 10% seats under the Management Quota in accordance with The Delhi Professional Colleges or Institutions (Prohibition of Capitation Fee, Regulation of Admission, Fixation of Non-Exploitative Fee and Other Measures to Ensure Equity and Excellence) Act, 2007 (*hereinafter referred to as the 'Act of 2007'*) and The Delhi Professional Colleges or Institutions (Prohibition of Capitation Fee, Regulation of Admission, Fixation of Non-Exploitative Fee and Other Measures to Ensure Equity and Excellence) Rules, 2007 (*hereinafter referred to as the 'Rules of 2007'*). Mr. Goel submits that, the impugned Circulars are also in direct contravention of the provisions of the Act of 2007 and the Rules of 2007. He states that the Circulars are *void ab initio*. He further states that the manner in which the seats up to 10% of Management Quota are to be filled is prescribed under the Rules of 2007, and that any procedure other than the one prescribed under the Act of 2007 or the rules made thereunder, would not be permissible in law.

7. Mr. Goel further states that the Circulars in question have not been issued by the 'Government'. As per Section 17 of the Act of 2007, it is only the 'Government' (or any other officer who is specially empowered by it) that has the authority to issue the directions. He states that as per Section 3(j) of the Act of 2007, 'Government' would mean the Hon'ble Lieutenant Governor of the

NCT Territory of Delhi appointed by the Hon'ble President under Article 239 and designated as such under Article 239AA of the Constitution of India.

8. He then submits that in view of the special provisions under the Act of 2007, the general law of authorization on behalf of the Governor under Section 44 of the Government of NCT Territory of Delhi Act, 1991 (*hereinafter referred to as the 'GNCTD Act, 1991'*) would not be applicable as the Transaction of Business of the Government of NCT Territory of Delhi Rules, 1993 (*hereinafter referred to as the 'Transaction of Business Rules, 1993'*) cannot be contrary to the provisions of the Act of 2007 or the Rules of 2007. He further states that there is absolutely no material to show that the issuance of the impugned Circulars was necessary and expedient. The powers under Section 17 of the Act of 2007 can only be exercised when, in the opinion of the 'Government', such directions are necessary or expedient for carrying out the purposes of the Act of 2007 or to give effect to any of the provisions contained therein. He further submits that the Circulars in question could not have been issued to the Vice Chancellor of the University as the Act of 2007 only empowers the 'Government' to issue directions to the institutions.

9. Learned Senior Counsel places reliance on the decisions of the Hon'ble Supreme Court in the cases of *Institute of Chartered Financial Analysts of India and Others v. Council of the Institute of Chartered Accountants of India and Others*¹, *K.K. Bhalla v. State of M.P. and others*², *State of Haryana v. P.C. Wadhwa, IPS, Inspector General of Police and Another*³, *Dipak Babaria and Another v. State*

¹ (2007) 12 SCC 210

² (2006) 3 SCC 581

³ (1987) 2 SCC 602

*of Gujarat and others*⁴, *State of Bihar and others v. Project Uchha Vidya, Sikshak Sangh and others*⁵, *Pharmacy Council of India v. Rajeev College of Pharmacy and others*⁶, *B.N. Nagarajan and others etc.*⁷ *v. State of Mysore and others, etc.*⁸, *Bhuri Nath and others v. State of J&K and others*⁹, *Mangulal Chunilal v. Manilal Maganlal and another*¹⁰, *Commissioner of Police, Bombay v. Gordhandas Bhanji*¹¹, *Sahni Silk Mills (P) Ltd. and Another v. Employees' State Insurance Corporation*¹², *State of Kerala and others v. K. Prasad and Another*¹³, *Union of India and Another v. Central Electrical & Mechanical Engineering Service (CE&MES) Group 'A' (Direct Recruits) Assn., CPWD and others*¹⁴, and *Ashok Lanka and Another v. Rishi Dixit and others*¹⁵.

10. Learned Senior Counsel for the Petitioners without prejudice to his submissions with respect to the jurisdictional authority of the 'Government' or of the 'University' to issue the impugned Circulars, has also argued that even otherwise, the impugned Circulars are in violation of the fundamental right of occupation vested in the Petitioner-institution under Article 19(1)(g) of the Constitution as the said right, *inter alia*, includes the right to admit the students. He, therefore, states that any regulation made to regulate the freedoms entrenched in fundamental rights can only be by 'law' under Article 19(6) of the Constitution. He submits that administrative instructions

⁴ (2014) 3 SCC 502

⁵ (2006) 2 SCC 545

⁶ 2022 SCC OnLine SC 1224

⁷ AIR 1966 SC 1942

⁸ AIR 1966 SC 1942

⁹ (1997) 2 SCC 745

¹⁰ AIR 1968 SC 822

¹¹ 1951 SCC OnLine SC 70

¹² (1994) 5 SCC 346

¹³ (2007) 7 SCC 140

¹⁴ (2008) 1 SCC 354

¹⁵ (2005) 5 SCC 598

in the form of Circulars cannot restrict the fundamental rights of the Petitioner and the same is even otherwise not a reasonable restriction under Article 19(6) of the Constitution.

11. He states that there is no power that enables the taking over of the right to admit the students against Management Quota Seats when the same is statutorily conferred by a valid legislation. He lastly submits that in any case, the Circulars in question could not have been issued to govern the 10% Management Quota Seats of the Petitioner-institution, when for the Academic Session 2022-2023, 90% admissions were already completed in respect of Management Quota Seats and the process with respect to the remaining 10% seats was also underway.

12. To support his aforesaid submissions, he places reliance on the decisions of the Hon'ble Supreme Court in the cases of *Kharak Singh v. State of U.P. and others*¹⁶, *Bijoe Emmanuel and others v. State of Kerala and others*¹⁷, *Union of India v. Naveen Jindal and Another*¹⁸, *Punit Rai v. Dinesh Chaudhary*¹⁹, *Shri Dwarka Nath Tewari and others v. State of Bihar and others*²⁰, *Pancham Chand and others v. State of Himachal Pradesh and others*²¹, *State of Uttar Pradesh and others v. Dinesh Singh Chauhan*²², *Parmender Kumar and others v. State of Haryana and others*²³, *P.A. Inamdar and others v. State of Maharashtra and others*²⁴, *Major Saurabh Charan and others v. Lieutenant Governor, NCT of Delhi and others*²⁵, *Janhit Abhiyan v.*

¹⁶ AIR 1963 SC 1295

¹⁷ (1986) 3 SCC 615

¹⁸ (2004) 2 SCC 510

¹⁹ (2003) 8 SCC 204

²⁰ AIR 1959 SC 249

²¹ (2008) 7 SCC 117

²² (2016) 9 SCC 749

²³ (2012) 1 SCC 177

²⁴ (2005) 6 SCC 537

²⁵ (2014) 6 SCC 798

***Union of India*²⁶ and *T.M.A. Pai Foundation and others v. State of Karnataka and others*²⁷.**

13. Mr. Puneet Mittal learned Senior Counsel appears on behalf of MSIT and he has presented two notes on behalf of MSIT to explain the chain of events. According to him, MSIT is in full compliance of the provisions of the Act of 2007 and the Rules of 2007. He points out the following aspects for consideration:-

(i) In the brochure issued in the month of March, 2022 by the University, all the students including the students desirous of admission against the 10% Management Quota Seats were to register themselves on the University portal, therefore, no second registration was required.

(ii) On 26.08.2022, MSIT published an advertisement in two newspapers which was also displayed on MSIT's notice board and the website, as per which 18 days, time had been given to the students to apply. The same method of advertisement has been followed consistently since 2007 and there has not been any objection by the University at any point of time.

(iii) As on 12.09.2022 i.e. the last date of submission of application, 68 students applied for admission against 66 seats of management quota. No complaint was received by the institute either from any candidate or from university that the desirous candidates were not issued the forms.

(iv) On 14.09.2022, in compliance of an Order dated 08.09.2022, passed by this Court in the case of Shubham Jha in W.P.(C) 11906/2022, he was issued the form.

²⁶ (2019) 10 SCC 27

²⁷ (2002) 8 SCC 481

(v) On 16.09.2022, a list of 69 candidates was displayed on the website of MSIT along with marks obtained by the candidates in the qualifying examination, including the name of Shubham Jha.

(vi) On 16.09.2022, the merit position and the process for admission was largely complete as there were only 69 candidates against 66 seats and in the absence of any competition, only the formal counselling was to take place amongst 69 students.

(vii) On 19.09.2022, MSIT provided the details of the advertisement, its publication and display of the list of candidates as required by the University through its communication dated 15.09.2022 to the University.

(viii) After the notifications dated 22.09.2022 and 27.09.2022, issued by GNCTD and the University respectively, MSIT again informed the University on 28.09.2022 that MSIT is meticulously following the prescribed procedure as notified under the rules issued by the University and DHE, GNCTD.

(ix) On 04.10.2022, the University called a meeting of all the stakeholders in pursuance to Order dated 28.09.2022 passed by this Court in W.P.(C) 11906/2022 and CONT.CAS(C) 1044/2022 to ensure compliance of the said Orders.

(x) On 07.10.2022, MSIT sent the schedule for Management Quota admission for the Academic Session 2022-2023, where the first round of counselling was to take place on 27.10.2022 and second round of counselling was to take place on 28.10.2022. According to the schedule attached to the said letter, the date for filling of vacant seats (Reserved to unreserved, as per the prescribed notification), was to take place on 29.10.2022.

(xi) On 08.10.2022, the University sent an email to MSIT to clarify certain aspects regarding the schedule of the counselling and the advertisement on 10.10.2022.

(xii) On 10.10.2022, the staff of MSIT visited the University and provided the requisite documents and clarifications. Even as on 10.10.2022, no discrepancy was pointed out by the University regarding violation of the provisions of the Act of 2007 and the Rules of 2007.

(xiii) On 14.10.2022, the University again called upon the institutions, including MSIT to provide a schedule of admission relating to Management Quota positively by 15.10.2022.

(xiv) MSIT in pursuance of the communication dated 14.10.2022, reverted to the University on the same date and explained the schedule of admission and counselling. It was stated in the letter dated 14.10.2022 that the process of admission of Lateral Entry (hereinafter referred to as 'LE') under Management Quota had already been completed on 11.10.2022. The schedule of first year B.Tech admission in Management Quota was attached as well although, the same had already been sent on 07.10.2022.

(xv) On 17.10.2022, this Court, in four writ petitions filed by the institutes, recorded the submissions made by the University that the admission process, which was complete on the date of issuance of the impugned Circulars, would not be affected.

(xvi) On 26.10.2022, MSIT informed the University that the counselling, as per the schedule dated 07.10.2022, was being conducted.

(xvii) On 27.10.2022, free, fair and transparent counselling was conducted. The result of counselling was displayed and the objections were solved. The result was displayed on the notice board and website as per the rules. Out of the 69 eligible candidates, 62 students who had been present on the date of counselling were admitted.

(xviii) On 28.10.2022, the University raised an objection for the first time by way of an e-mail that the counselling is in violation of the directions of the Hon'ble High Court.

(xix) On 02.11.2022, a comprehensive list-cum-notice, without any merit, without any college wise, branch wise bifurcation, consisting of 849 candidates, was published by the University regarding admissions against the Management Quota Seats in various institutions.

(xx) On 03.11.2022, fees towards University share for 62 students i.e. ₹20,000/- each was sent to the University by MSIT which was accepted by the University without any objection.

(xxi) On 07.11.2022, the classes commenced.

(xxii) On 11.11.2022, the University sent an e-mail informing MSIT that all admissions done by it on 27.10.2022 and 29.10.2022 were in violation of the Orders passed by this Court and in violation of the rules.

(xxiii) On 12.11.2022, MSIT issued notice for fresh counselling for 4 vacant seats under extreme pressure from the University. On the same day, another notice was issued extending the time from 7 AM to 8 AM and a revised notice (3rd notice) was issued realising that detailed information/instructions are necessary to be disclosed to new applicants that the special round of counselling is only for 4 vacant seats out of 66 seats.

(xxiv) On 13.11.2022, all 62 candidates who were already admitted and 37 new students reported to MSIT for counselling. As only 4 seats were vacant, the same were filled up. Out of 4 seats, 2 candidates were to be admitted from Defence Reserved category and 2 were to be admitted from General quota. The same was done on the basis of their choice and merit.

(xxv) On 14.11.2022, the University *vide* its communication declined to take cognizance of the letter dated 13.11.2022 and has wrongly termed the admissions as *void* under Section 14 of the Act of 2007.

(xxvi) On 15.11.2022, MSIT duly replied to the letter dated 11.11.2022 and 14.11.2022.

14. By way of a supplementary note, Mr. Puneet Mittal, learned Senior Counsel, explains that out of 66 seats of Management Quota, there were 44 seats for General (Delhi and outside Delhi) and 22 seats were under the Reserved category. On 27.10.2022, 40 General plus 1 OBC i.e. 41 candidates were selected out of 69 candidates.

15. On 29.10.2022, after conversion of seats of reserved category into general, 21 candidates were admitted and therefore, 41 plus 21 i.e. 62 candidates were admitted, leaving only 4 seats vacant.

16. While explaining the aforesaid facts, Mr. Puneet Mittal, learned Senior Counsel states that MSIT has strictly followed the Act of 2007 and the Rules of 2007 made there under. The University does not have any power to declare the admission as *void* or illegal, and the same is the power vested with the committee prescribed under Section 4 of the Act of 2007. According to him, there is an inbuilt mechanism, providing sufficient safeguard for the institute to be heard before taking any decision. The Admission Regulatory Committee (*hereinafter referred to as 'ARC'*) can only take such a decision once

it conducts reasonable inquiry and forms an opinion that the admission has been made in violation of the provisions of the Act or the guidelines suggested by the ARC. He states that since there is no such committee, therefore, there arises no question of adhering to any guidelines issued by such ARC. Nevertheless, MSIT has religiously followed the provisions of the Act and the Rules, therefore, in no case, the University can take such a unilateral decision, declaring the admissions as *void*. He also states that neither the Circular dated 22.09.2022 nor any other notification discarded the admissions already made by the MSIT. Moreover, this Court in terms of Order dated 17.10.2022, records that the admission process which has already been completed, will not be adversely affected. Since the admission process was already complete, only certain ministerial formalities were left out therefore, there was no necessity to conduct a fresh round of counselling.

17. He further submits that there is no complaint by a more meritorious candidate, higher in the merit list, that he or she has not been granted admission. No one has filed any petition before this Court. There is no iota of evidence or even a single finding recorded by the University that MSIT indulged in any profiteering or malpractices. It is thus, stated that in the name of ratification which only requires a formal consent, the University cannot examine all the admissions which were made strictly in accordance with law and at this stage of time all admission cannot be nullified.

18. Mr.Puneet Mittal, learned Senior Counsel also presented a classificatory note dated 29.03.2023 in response to the short note presented on behalf of Petitioner-Noorakshi Dahiya. He explains the objections pointed out by Noorakshi Dahiya.

19. Mr. Sameer Vashisht, learned counsel appearing on behalf of the Petitioners in W.P.(C)2368/2023 filed by 57 students and for Respondents in W.P.(C) 16709/2022 filed by Noorakshi Dahiya, supports the submissions made on behalf of MSIT and he states as under:-

(i) The Petitioner in W.P.(C) 16709/2022 i.e. Noorakshi Dahiya has not applied for Management Quota admission in pursuance of the notice/advertisement issued by MSIT on 26.08.2022. She did not participate in the counselling dated 27.10.2022, therefore, no question arises for raising any grievance with respect to the admission granted by MSIT to the students who registered themselves and participated in counselling in pursuance of the advertisement issued by the institute.

(ii) The marks obtained by the Petitioner-Noorakshi Dahiya i.e. 78% are much lower than the marks obtained by the candidates who were granted admission by MSIT and none of the admitted students are less meritorious than Noorakshi Dahiya. The admissions of all the students are strictly in accordance with the brochure published by the University. They have deposited their fees and are continuing their studies. Therefore, in any case, in absence of any fault on their part, their admission cannot be disturbed.

20. Mr. Sameer Vashisht, learned counsel appearing on behalf of the Petitioners in W.P.(C)2368/2023 has placed reliance on a decision of the Hon'ble Supreme Court in the case of *Suresh vs Vasant And Ors.*²⁸ to substantiate his argument that when Noorakshi Dahiya could not have been granted admission on the date of counselling on the basis of her merit, therefore, at her instance, the petition would not be maintainable. He relies on another decision of the Hon'ble Supreme

²⁸ (1973) 2 SCC 124

Court in the case of *Commissioner of Central Excise, New Delhi v. Hari Chand Shri Gopal and Others* ²⁹.

21. He further states that the doctrine of substantial compliance has been followed in the instant case. The substance and essence of the requirements under the Act and Rules of 2007, has been fulfilled. Therefore, mainly for some technical reasons, the admission should not be disturbed. He also places reliance on a decision of the Hon'ble Supreme Court in the case of *Ram Deen Maurya (Dr.) v. State of Uttar Pradesh and Others*.³⁰ to buttress his submission on substantial compliance of the requisite provision. He also places reliance on a decision passed by this Court in the case of *Prachi v. Guru Govind Singh Indraprastha University*.³¹ to state that the students who were applying for admission could hardly be expected to look beyond the admission brochure issued by the University. They cannot be expected to be familiar with the provisions of the Act of 2007 and the Rules of 2007. He therefore, concludes that in any case, there is no inherent or fundamental ineligibility attached in the admission of the students and therefore, at this stage, their admission may not be disturbed.

22. Mr. Kirti Uppal, learned Senior Counsel who also appears for some of the students, takes the same stand and while placing reliance on paragraph No.154 of a decision of the Hon'ble Supreme Court in the case of *P.A. Inamdar and Others v. State of Maharashtra and Others*³², he explains that by the time the notification was issued by the State Government i.e. on 22.09.2022, the applications submitted by the students had already been considered. The students were found to be eligible. It was only the allotment of branch on the basis of their

²⁹ (2011) 1 SCC 236

³⁰ (2009) 6 SCC 735

³¹ 2019 SCC OnLine Del 6407

³² (2005) 6 SCC 537

merit that was left to take place in counselling, which was also done on 27.10.2022 and 29.10.2022, therefore, no fault can be attributed to the students. He submits that the University had ample opportunity and time to indicate to MSIT or to this Court at any time before the admissions were made, that MSIT is not competent to conduct the counselling in pursuance to the schedule declared on 07.10.2023. According to him, this Court, in various Orders, has noted the submissions made by the University but in none of the proceedings it was brought on record by the University that the admission process being conducted by MSIT is illegal or improper. He, therefore, states that the University, at this stage cannot create any hue and cry.

23. Respondent Nos.1 and 2 i.e., Government of NCT of Delhi and the DHE in W.P. (C) 14677-14679/2022 respectively filed their common counter affidavit and opposed the prayer made in the instant writ petitions.

24. It is stated in their counter affidavit that this Court in W.P. (C) No.11906/2022 *vide* Order dated 08.09.2022 had noted the submissions made by one of the candidates, namely Shubham Jha, with respect to not maintaining fairness and transparency in filling up of the Management Quota Seats by the institutions. This Court, therefore, directed the institutes therein to issue the requisite form enabling the Petitioner therein to apply for admission in the said institutions. It has also been contended that the University *vide* letters dated 07.02.2019 and 04.09.2019 requested the State for a revision of the policy and to prescribe the manner in which the institutions should be compulsorily asked to fill up the seats through online mode. It is, therefore, submitted that the Circular dated 22.09.2022 is issued based on the experience and observations that the institutions by and large

were not maintaining fairness and transparency in filling up the 10% Management Quota Seats.

25. The Respondents further stated that after issuance of the Circular dated 22.09.2022, another meeting dated 18.10.2022 was convened regarding directions issued by the State concerning admissions against the Management Quota Seats. The minutes of the meeting dated 18.10.2022 have been placed on record. It is further submitted on behalf of the Respondents, that pursuant to the meeting dated 18.10.2022, another round of follow up meeting was convened on 16.01.2023 in the chamber of the Director, DHE; wherein the officers of the University informed that the directions issued by DHE had been implemented. A copy of the minutes of meeting dated 16.01.2023 has also been placed on record.

26. It is also submitted on behalf of the Respondents that education is a service to society and that the Hon'ble Supreme Court has time and again laid emphasis on the said aspect. It is further stated that education has been held to be recognised as a charitable activity and not an activity to be undertaken with the objective of generating profits.

27. The Respondent Nos.1 and 2 further stated that by way of impugned order, an endeavour has been made to uphold the spirit of the decision of the Hon'ble Supreme Court rendered in various cases to ensure that the admissions are made with utmost transparency and fairness.

28. Mr. Santosh Tripathi, learned Standing Counsel (Civil) has elaborately explained various facts and circumstances to indicate that the impugned Circulars, in no way restrict the free and smooth admission process against 10% Management Quota Seats by the

private institutions. According to him, by the impugned Circulars, it is only the 'mode' which is sought to be prescribed as mandated by this Court. The concerned department by executive instructions can always facilitate not only the students but the institutions also to have a better choice from a large pool in order to admit the most meritorious candidates. He states that since the Circulars in question do not create any 'restriction', therefore, the same are not necessarily to be 'by law'. According to him, if the information with respect to the availability of seats against the 10% Management Quota Seats is disseminated to a large number of candidates, such a mechanism would be treated to be facilitation of the private institutions which must be welcomed in the interest of everyone.

29. During the course of argument, learned Standing Counsel for Respondent-NCT of Delhi takes a categorical stand that the Circular dated 22.09.2022 is prospective in nature and, therefore, in Clause (ii) of the Circular the word 'prospective' has been consciously mentioned. He also takes the categorical stand that the Circular would be made applicable once the University creates a portal. According to him, no portal has been created by the University for the Academic Session 2022-2023. He further submits that the University has deviated from the Circular dated 22.09.2022 while issuing the follow up Circular dated 27.09.2022. According to him, no registrations were intended to be done at the University level.

30. Learned Standing Counsel has distinguished all decisions relied upon by the learned counsel for the Petitioners and he maintains the stand that since no restrictions have been imposed by way of the impugned Circulars, therefore, none of the decisions relied upon by the Petitioners will have any relevance with respect to the facts of the present case. While presenting a chart in a tabular form, he tries to

explain the facts in each case relied upon by learned counsel for the Petitioners and the reason for their distinction from the present case.

31. Mr. Santosh Kumar Tripathi, learned Standing Counsel has placed reliance on the decisions of the Hon'ble Supreme Court in the cases of *Union of India v. Moolchand Kharaiti Ram Trust*³³, *Modern School v. Union of India & Ors.*³⁴, *Action Committee of Unadied Private Schools & Ors. v. Director of Education, Delhi & Ors.*³⁵ and *Indian Medical Association v. Union of India & Ors.*³⁶. He has also placed reliance on the decisions of this Court in the cases of *Association of Self Financing Institutions and Anr. v. Guru Govind Singh Indiraprasth University and Anr.*³⁷ and *Vivekananda Institute of Professional Studies v. Govt. of NCT and Anr.*³⁸

32. Learned Standing Counsel states that the Circular dated 22.09.2022 is in juxtaposition with the Rules of 2007, and explains as under:

(i) As per condition (i) of the Circular dated 22.09.2022, the University is required to make an online portal to display the branch wise and college wise seats available under the management quota. As per Rule 8(2)(a)(ii) also the institutions are required to advertise admission notice for management quota seats in at least two leading daily newspapers, one in Hindi and the other in English in addition to displaying the same on the institutions' website and the institutions notice board, kept at a conspicuous place. The admission notice is required to include the place from which the admission forms will be available, the date time and manner for

³³ (2018) 8 SCC 321

³⁴ (2004) 5 SCC 583

³⁵ (2009) 10 SCC 1

³⁶ (2011) 7 SCC 179

³⁷ W.P.(C) 3262/2013

³⁸ 2018 SCC OnLine Del.12287

submission of a completed applications and the schedule for various admission processes and counselling.

If the University is to also display on its online portal the branch wise and college wise seats available under management quota such an exercise in no way would disturb the institutions to smoothly admit students against 10% management seats.

*(ii) What Clause (ii) of the Circular dated 22.09.2022 requires is reiteration of the rule position that the students can apply online against available seats. To allow the students to apply online is optional as the word used therein is “can”. If the students are applying offline, the same cannot be considered to be wrong. The online option to apply is in addition to offline facility and is not a substitution of the offline facility. If the prospective students can apply online against available seats under the management quota is read in **strictive senso** the same would also in no manner impinges upon any of the rights of the private institutions to admit students against 10% management seats.*

(iii) If clause (iii) of the Circular dated 22.09.2022 is read in the right perspective the same is also the reiteration of rule 8(vi) of the Rules of 2007 which requires that the list of students admitted to the management quota seats made on the basis of the merit list drawn of in an aforementioned manner and the balance of the management quota seats in each course shall be published at the end of each round of the counselling of the website of the institutions as well as that of the designated agency. He, therefore submits that if the same is already the requirement under the Rule and if the same is reiterated in Circular dated 22.09.2022, no fault can be found with.

33. Learned Standing Counsel then explains that the constitution of a Grievance Redressal Committee is also necessary to prevent potential problems while taking precautionary steps before the situation goes out of hand. He then states that the Grievance Redressal Committee includes the principal/head of the concerned affiliated institution and also the admission in charge of the concerned affiliated institutions. Therefore, out of four members, two members are from the institution concerned and two members are the nominee of the Vice-Chancellor and nominee of the Director of Directorate of Higher Education respectively. Hence, it cannot be said that the Grievance Redressal Committee takes over any of the rights enjoyed by the private institutions.

34. Reliance has been placed on the decision of the Hon'ble Supreme Court in the case of *P.A. Inamdar (supra)* and decision of this Court in the case of *Forum for Promotion of Quality Education for All v. Lt. Governor of Delhi & Ors.*³⁹.

35. The Respondent-University in its separate counter affidavit has also prayed for the dismissal of the instant writ petitions. It is stated that in terms of the mandate of the Act of 2007, the Rules of 2007, and with a view to maintain fairness and transparency, the Respondent-University has taken steps in the larger interest of the student community.

36. Ms. Anita Sahani, learned counsel appearing on behalf of the University, while explaining the role of the University states that in all fairness, the private institutions should not have any objection with respect to the impugned Circulars. According to her, there is a noticeable background behind the issuance of the Circulars in

³⁹ 2014 SCC OnLine Del 6650

question. This Court in W.P. (C) No.11906/2022 considered the grievance of one of the candidates and expected the State to come out with a mechanism to ensure fairness and transparency in the admission process.

37. Learned counsel appearing on behalf of the Respondent-University during the course of arguments, has also presented a short note on the issue of Management Quota Seats. The said short note indicates the following facts:-

(i) In the month of March 2022, the University issued the prospectus for admissions in all institutions affiliated to it. In Clause 6.2 of the said prospectus, the manner in which the Management Quota admissions are to take place is prescribed which includes reproduction of entire Rule 8 of the Rules of 2007.

(ii) On 04.03.2022, the University commenced online registration for 90% seats of private institutions affiliated to university.

(iii) On 22.07.2022, the CBSE declared the result for Class XII examination.

(iv) On 08.08.2022, the Joint Entrance Examination (*hereinafter referred to as 'JEE'*) result was declared by National Testing Agency (*hereinafter referred to as 'NTA'*).

(v) One Shubham Jha, filed a petition bearing W.P. (C) No.11906/2022 titled *Shubham Jha v. Guru Gobind Singh Indraprastha University Through Registrar and Ors.* against the non-transparent admission procedure adopted by Private institutions in 10% Management Quota Seats and the said petition was taken up by this Court on 16.08.2022 and notices were directed to be issued.

(vi) On 01.09.2022, the University issued the instructions to the Principles/Directors of all self-financing institutions for strict compliance of the provisions of Act of 2007 and the Rules of 2007 notified by Government of NCT of Delhi for filling up of Management Seats.

(vii) On 08.09.2022, the petition i.e., W.P. (C) No.11906/2022 filed by Shubham Jha was again taken up for hearing by this Court and the stand of the University was recorded in paragraph No.2 of the said order that the University had already made recommendations to the Government to issue necessary directions to ensure transparency in the admission process. The institutions were also directed to issue the requisite forms enabling the Petitioner to apply in the said institutions.

(viii) On 16.09.2022, the Respondents-institutes were directed to comply with the requirements. On 22.09.2022, one of the impugned notifications was issued by the Government and on 27.09.2022, the University implementing the Government notification dated 22.09.2022, issued consequential directions.

(ix) On 28.09.2022, the contempt application filed by Shubham Jha was taken up for hearing by this Court, where Maharaja Agrasen Institute of Technology (*hereinafter referred to as 'MAIT'*) [Petitioner in W.P. (C) No.14679/2022] unequivocally stated that in view of the Government and the University notifications dated 22.09.2022 and 27.09.2022 respectively, necessary steps would be taken to follow the said directions.

(x) On 07.10.2022, in the case of Shubham Jha i.e., in W.P. (C) No.11906/2022, the grievance put forth by the said Petitioner was considered that the Circular of the University was not being implemented. Therefore, again in paragraph No.3 of the said Order,

the statement of MAIT has been recorded to the effect that it will abide by the previous statement and will conduct the counselling as per the Circular of the University.

(xi) On 10.10.2022, another petition filed by Shubham Jha i.e., W.P. (C) No.shubham jha

(xii) /2022 was taken up, where the stand of MAIT has been recorded to the effect that the counselling had been postponed till further orders.

(xiii) On 14.10.2022, the University issued a notice regarding online registration for admissions to Management Quota Seats on the University's portal, wherein it was stated that the schedule for online registration on University's portal for admission to Management Quota Seats would be uploaded on the University's website on 17.10.2022. In the said notice, it was also stated that the tentative date for commencement of online registration on University's portal for admission in Management Seats for B. Tech programme would be 19.10.2022.

(xiv) On 17.10.2022, four petitions filed by private institutions challenging the impugned Circulars were taken up by this Court and the interim relief sought against the impugned Circulars was declined.

(xv) On 17.10.2022, another notice regarding online registration on University's portal for admission in Management Quota Seats for B. Tech programme was issued and the earlier instructions dated 14.10.2022 were reiterated.

(xvi) On 18.10.2022, a detailed schedule for online registration for Management Quota Seats was issued by the University and the date for submission of registration-cum-enrolment for Management Quota

Seats was declared. The date of commencement was 19.10.2022 from 4:00 PM onwards and the closing date was 24.10.2022 up to 11:50 PM. Along with the notice dated 18.10.2022, the entire seat matrix in the affiliated colleges/ institutions for Management Quota Seats in B. Tech programme was displayed as on 18.10.2022. The subsequent Circulars were also assailed, and this Court on 20.10.2022 in W.P. (C) No.14677/2022 titled '*Vivekananda Institute of Professional Studies- Technical Campus v. Govt. of NCT of Delhi & Others*' and other connected matters declined to grant any stay against the subsequent Circulars as well.

(xvii) On 21.10.2022, the date for registration was extended till 27.10.2022 up to 11:50 PM. On 28.10.200, it was again intimated to all the candidates who had applied in pursuance of the University's notification dated 18.10.2022 on the University's portal for Management Quota Seats that the merit list on the basis of qualifying marks would be displayed on the University's website on Tuesday i.e., 01.11.2022. It was mentioned therein that the follow up counselling would be conducted by the respective affiliated colleges.

(xviii) On 31.10.2022, LPA No. 614/2022 filed by Vivekananda Institute of Professional Studies- Technical Campus was disposed of by the Hon'ble Division Bench of this Court against the Orders dated 17.10.2022 and 20.10.2022 passed by this Court granting liberty to the Appellant therein to make a mention before this Court for preponement of the date fixed therein.

(xix) On 01.11.2022, the detailed instructions regarding schedule of counselling for admission in Management Quota Seats were directed to be notified on Wednesday i.e. 02.11.2022.

(xx) On 02.11.2022, the University issued a notice regarding admission in Management Quota Seats displaying the name of 849 students who had applied to the University in pursuance of the notice issued by the University.

(xxi) On 04.11.2022, this Court in the petition filed by Shubham Jha i.e., W.P. (C) No.14347/2022 declined to pass any directions to stay Clause (i) of one of the notifications dated 02.11.2022.

(xxii) On 10.11.2022, the University again reiterated that any candidate who is desirous of seeking admission in B.Tech programme and has applied for admission in the Management Seats in any affiliated institute is advised to take admission strictly in accordance with the directions given by this Court coupled with the direction issued by the State and the University. If the same are found to be in violation thereof, the same shall be treated as null and *void*.

(xxiii) On 11.11.2022, a third petition was filed by Shubham Jha i.e., W.P. (C) No.15528/2022, wherein, the Petitioner was aggrieved by certain conditions of the undertaking furnished by each candidate that he/ she has not taken admission in any other institute. This Court rejected the interim prayer made therein and issued notice to the Respondents.

(xxiv) On 12.11.2022, the University issued an important notice reiterating therein that the University had already displayed the list of 849 candidates who were registered on the University's portal for the purpose of admission in Management Quota Seats in the affiliated institutes on 02.11.2022. It was noted therein that MSIT intimated the University that the schedule of counselling for B. Tech programme under Management Quota category would be conducted by 13.11.2022. The same stand taken by Bharati Vidyapeeth's College of

Engineering and HMR Institute of Technology & Management was noted, which had also declared their date of counselling as 13.11.2022. It is thus stated by the University that the entire sequence of dates and events would not demonstrate violation of any of the fundamental rights of the Petitioners-institutions and the University has acted strictly in accordance with the Act of 2007 and the Rules of 2007.

38. According to the learned counsel appearing on behalf of the Respondent-University, neither the right to call for applications by the Petitioners-institutions has been usurped by the University nor any counselling is sought to be conducted. She maintains a categorical stand that the Management Quota counselling fee of Rs.10,000/- (non-refundable) as per Circular dated 18.10.2022, is not strictly a counselling fee but is the share of the University which otherwise also the University is entitled to, against each admission irrespective of the fact whether the same is out of 90% or out of 10% of the Management Quota Seats. According to her, against each admission, the University is entitled to charge Rs.20,000/- towards its fee from the respective affiliated institutes.

39. In the instant case, the University was required to upgrade and create a portal. Therefore, Rs.10,000/- was charged in advance and the charging of Rs.10,000/- in advance would be adjusted in the total of Rs.20,000/- to be paid to the University. The advance charge of Rs. 10,000/- cannot indicate that the University itself has conducted the counselling and whether the University has conducted the counselling or not, will have to be seen from the entire chain of events which admittedly is not sought to be done by the University.

40. Ms. Anita Sahani, learned counsel in addition to the aforesaid submissions also presented another short note on the issue of violation

of Court Orders and notices in admission to the Management Quota Seats. According to her, the admissions in MSIT are in gross violation of the provisions of the Act of 2007 and the Rules of 2007, Circulars issued by the University as well as Orders passed by this Court from time to time.

41. She states that on 16.09.2022, this Court in W.P.(C) No.11906/2022 specifically directed the Respondent-institutes therein, including MSIT, to comply with the requirements contained in paragraph No.8 of the admission prospectus regarding 'allotment of seats' under the Rules of 2007 for the admission in the year 2022-2023. She submits that on 16.09.2022, MSIT issued a list of candidates who applied under the Management Quota for B.Tech (CSE/ECE/IT/EEE). The said list was of 69 candidates. There are 66 seats for Management Quota in the said institution and the number of applications against 66 seats are 69 in total, which speaks volumes about the manner in which the applications were being invited.

42. Ms. Anita Sahani, learned counsel states that notwithstanding the clear directions by this Court and the Circular of the said University, MSIT on 26.10.2022 issued the notice declaring the schedule of first round of counselling/admission for Management Quota, which was to take place on 27.10.2022. On 27.10.2022, MSIT issued a list of provisionally admitted eligible candidates which included 41 names therein. It is also shown that MSIT invited 28 candidates on 28.10.2022, who according to the said institute were found to be eligible for admission in B.Tech under Management Quota for counselling on 28.10.2022 from 9:00 AM to 11:00 AM. It is also shown by the learned counsel that on 29.10.2022, 25 candidates were called, who were registered in General category, for seats

converted from Reserved category to unreserved category after completion of the second round of counselling.

43. Ms. Anita Sahani, learned counsel states that on 26.10.2022 and on 27.10.2022, by separate communication MSIT, informed the University about the list of candidates provisionally admitted on 27.10.2022 and the list of candidates invited for the second round of counselling scheduled on 28.10.2022. The Respondent-University in response to both the communications of MSIT on 28.10.2022 stated that MSIT did not follow the provisions of the Act and the Rules of 2007 and therefore, the action reported to the University in two letters dated 26.10.2022 and 27.10.2022 were in violation of the Orders of this Court as well as the Orders of the DHE. MSIT had also been informed that the University was not taking any cognizance of MSIT letters dated 26.10.2022 and 27.10.2022, as both the letters were in violation of the directions given by this Court, Circulars of the State Government and University and, therefore, are null and *void*.

44. On 31.10.2022, the University, therefore, communicated to MSIT to notify the schedule for counselling of both Reserved and Unreserved category for admission in Management Quota Seats and to provide the said schedule on 01.11.2022 by 11:00 AM without fail. Ms. Anita Sahani, learned counsel, further states that on 07.11.2022, all Self Financing Institutes were informed that the last date to fill up the Management Quota Seats would be nine calendar days after the last date for regular admissions in the University. Therefore, the last date would be 13.11.2022 for filling up the Management Quota Seats in B.Tech programme. On 10.11.2022, a reminder was sent for strict compliance for filling up of the seats. It is stated that till 11.11.2022, the University did not receive any compliance from MSIT and, therefore, the purported admissions claimed to have been made by

MSIT was found in violation of the relevant provisions of law. Accordingly, a warning was conveyed to MSIT that if it failed to comply with the Orders of this Court and the provisions of law by 13.11.2022, then Management Quota Seats of MSIT would be considered to have remained vacant for the academic session 2022-2023.

45. Ms. Anita Sahani, learned counsel then states that on 12.11.2022, MSIT issued three notices. The first notice described the schedule of counselling for first and second round of counselling on 13.11.2022 between 7:00 AM to 9:00 PM. The second notice of the same date in the form of a revised notice changed the timing from 7:00 AM to 8:00 AM. However, the third revised notice of the same date drastically changed the instructions and the manner of counselling and named it as the second round of counselling, limiting it to only four seats commencing from 9:00 AM without any outer time limit. While pointing out the merit list of the students admitted under Management Quota, during the self-styled counselling held on 13.11.2022, she states that 31 candidates participated and, barring two candidates, all candidates were refused admission on the ground that there was no vacancy. She also states that on 14.11.2022, the University, while taking into consideration the entire gamut of the matter, decided not to take cognizance of the letter dated 13.11.2022 as all the admissions in the Management Quota were found to be *void* under Section 14 of the Act of 2007. Therefore, the same were declared to be *void*. She also states that a complaint was received on 01.12.2022 with respect to three candidates, who reported to MSIT on 13.11.2022, and were not considered for admission and in their place, less meritorious candidates were granted admission.

46. Ms. Anita Sahani, learned counsel, therefore, states that the entire approach of MSIT is erroneous, in as much as, the admission and counselling process does not fulfil the requirements of the provisions of the Rules of 2007. She also maintains the stand that notwithstanding the Circular dated 22.09.2022 or other follow up Circulars issued by the University, MSIT has miserably failed to adhere to the provisions of the Act of 2007 and Rules of 2007. Once MSIT had resorted to conduct counselling on 13.11.2022, it could not have confined itself only to a few seats. According to her, the so-called counselling dated 13.11.2022 is a whitewash which was already declared to be *void* and the Order of declaring the said counselling as *void*, is not under challenge. Therefore, neither the earlier counselling nor the subsequent counselling would have any recognition under the law in the absence of any ratification by the University, therefore, all admissions under Management Quota made by MSIT be declared to be *void*.

47. Mr. Rajshekhar Rao, learned Senior Counsel appearing on behalf of the Petitioner in W.P. (C) No.16709/2022 '*Noorakshi Dahiya v. Guru Gobind Singh Indraprastha University*', supports the submissions made by Mr. Santosh Kumar Tripathi and Ms. Anita Sahani, learned counsel, with respect to the justification of impugned Circulars and the non-transparent manner of admitting students by MSIT. He states that on 13.11.2022, the Petitioner in her case reported to MSIT and had her case been considered, excluding the names of the admitted candidates, on 27.10.2022 and 29.10.2022, she would have a chance to be admitted. He also states that the approach of MSIT in not adhering to the provisions of the Act of 2007 and Rules of 2007 made there under is completely erroneous. He also states that once MSIT had issued a counselling notice for 13.11.2022, the same could not

have been confined to a few seats. While justifying the necessity of the Circular dated 22.09.2022 and other follow up Circulars, he states that the DHE was legally empowered to issue the impugned Circulars.

48. He has shown the scheme of Article 162, 163 and 166 of the Constitution of India. He has also referred to Section 44 of the GNCTD Act, 1991 to indicate as to how the business of NCT Territory (*Hereinafter referred to as 'NCT'*) of Delhi would be conducted. While placing reliance on the Transaction of Business Rules, 1993, he states that under sub rule 2 of Rule 4, the Minister in charge of the department is primarily responsible for the disposal of the business pertaining to the concerned department. He has also placed reliance on allocation of work amongst various departments of Government of NCT of Delhi notified *vide* notification No.57/1/92-SI/Volume-III dated 01.12.1993 to indicate that college education is within the realm of the Education Department and, hence, falls within the ambit of the DHE. He, therefore, states that firstly, since the Circulars in question are not imposing any restriction, they are not violative of Article 19(1)(g) of the Constitution. Secondly, as the same have been issued by the competent authority no interference is required. He places reliance on a decision of Hon'ble Supreme Court in the case of *Lalaram and Others v. Jaipur Development Authority and Another*⁴⁰.

49. Mr. Rajshekhar Rao, learned Senior Counsel further submits that *vide* Order dated 05.05.2011 in pursuance of Clause (g) of Section 3 of the Act of 2007, the Government of NCT of Delhi has already appointed GGSIP University as the designated agency for conducting Common Entrance Test (*Hereinafter referred to as 'CET'*) and counselling for admission in the institute. Therefore, the University

⁴⁰ (2016) 11 SCC 31

has independent power flowing from Section 17 of the Act of 2007 to issue appropriate directions consistent with the provisions of the Act and rules made there under and therefore, the Circulars in question are saved under the Act of 2007 and Rules of 2007 read with the Order dated 05.05.2011 issued in the name of the Lieutenant Governor of NCT of Delhi.

50. Mr. Rao, learned Senior Counsel presented a short note on the submissions of MSIT to state that:-

- (i) The counselling held on 13.11.2022 is the only valid counselling.
- (ii) There was a failure to give adequate notice in the ordinary course.
- (iii) There were complaints received by the university regarding denial of application forms.
- (iv) There was a failure to comply with the Circulars dated 22.09.2022 and 27.09.2022.
- (v) The MSIT suppressed the actual merit list dated 22.10.2022.
- (vi) There were various inconsistencies in MSIT's stand.
- (vii) Counselling rounds dated 27.10.2022 and 29.10.2022 are in violation of the Order dated 20.10.2022 passed by this Court.

51. In his rejoinder submissions, Mr. Manoj Goel, learned Senior Counsel appearing on behalf of the Petitioners states that the decisions relied upon by the respective Respondents are not applicable under the facts of the present case. According to him, the Hon'ble Supreme

Court in the case of *Pharmacy Council of India (supra)* in paragraph nos. 42 and 43 has clearly laid down that a citizen cannot be deprived of the right under Article 19(1)(g) except in accordance with law and the requirement of ‘law’ for the purpose of Article 19(6) of the Constitution can by no stretch of imagination be achieved by issuing a Circular or a policy decision in terms of Article 162 of the Constitution or otherwise and the same has to necessarily be by a law enacted by the legislature. He states that any restrictive measure taken under Article 19(6) of the Constitution must be valid in law. If it is not found to be valid, Article 19(1) (g) is straight away infringed and no further question of reasonableness, laudable objective etc. would arise. He has placed reliance on the decisions of the Hon’ble Supreme Court in the cases of *Narendra Kumar and Others v. Union of India and Others*⁴¹, *Bennett Coleman & CO. and Others v. Union of India and Others*⁴², *Mohd. Yasin v. Town Area Committee, Jalalabad and Another*⁴³. He further states that when the State Government has promulgated the Act of 2007, the same is the sole law which will govern the admissions into private unaided education institutions.

52. In response to the submissions made by the State and the learned Senior Counsel for Noorakshi Dahiya, Mr. Manoj Goel, learned Senior Counsel elaborates the constitutional scheme applicable *qua* NCT of Delhi and he then submits that the extent of power under Article 163 exercised by the Council of Ministers in a State are distinct from the extent of the power to be exercised by the Council of Ministers in the Union Territory of Delhi. He, therefore, explains that under Article 239 AA of the Constitution, special provisions with respect to Delhi are prescribed.

⁴¹ AIR 1960 SC 430

⁴² (1972) 2 SCC 788

⁴³ (1952) 1 SCC 205

53. While elucidating upon Clause 4 of Article 239AA, he states that the Lieutenant Governor is empowered to exercise independent powers which are vested in him by or under any law, and are required to be discharged in his discretion. While referring to Article 163(1) of the Constitution, he states that in a State, the Governor has to discharge his function by or under the Constitution but in NCT Territory of Delhi, the Lieutenant Governor has much wider powers than the powers being exercised by the Governor in a State. He then refers to Sections 41 and 44 of the GNCTD, Delhi Act, 1991 and states that if at all any power lies with any of the Authority under the Act of 2007, the same would lie with the Lieutenant Governor in view of Section 41(ii) of the GNCTD, Delhi Act, 1991 and irrespective of the fact whether such a power is exercised by the Lieutenant Governor on his own or on the advice of his Ministers or otherwise, it has to be expressed in the name of the Lieutenant Governor as per the mandate of Section 44(2) of the GNCTD, 1991.

54. While further explaining the Transaction of Business Rules, 1993, he states that, subject to the orders of the Chief Minister under Rule 8 of the Transaction of Business Rules of 1993, all proposals referred to in the Schedule to the Transaction of Business Rules of 1993 have to be placed before the Council in accordance with the provisions contained in Chapter-III of the Transaction of Business Rules, 1993. He then takes this Court to Rule 8 of the Transaction of Business Rules, 1993 to state that all proposals referred to in the Schedule shall be submitted to the Chief Minister, after consideration by the Minister in charge, with a view of obtaining his orders for the circulation of the proposal under Rule 9 or for placing it for consideration of the Council.

55. He then explains that under the Schedule of the Transaction of Business Rules, 1993, proposals involving any important change in policy or practice are necessarily to be routed through the Chief Minister of NCT of Delhi. He also places reliance on paragraph No.14 and 15 of the counter affidavit of Government of NCT of Delhi in W.P. (C) No.14680/2022 to state that according to the Government of NCT of Delhi, the impugned Circulars are policy decisions of the Government. He then states that there is non-compliance of Article 166 (1) and (2) of the Constitution of India and the impugned Circulars are, therefore, vitiated on law. He places reliance on two decisions of the Hon'ble Supreme Court in the cases of *Jaipur Development Authority and Others v. Vijay Kumar Data and Another*⁴⁴ and *Rajasthan Housing Board v. New Pink City Nirman Sahkari Samiti Limited and Another*⁴⁵ and states that they categorically recognize the principle that unless an order is expressed in the name of the President or the Governor and is authenticated in the manner prescribed by the Rules, the same cannot be treated as an order made on behalf of the Government and according to him, the decision in the case of *Lalaram (supra)* relied upon by the other side would not have any application in the present case. More so, the later decision of the Hon'ble Supreme Court in the case of *Lalaram (supra)* does not express and discuss the legal position already settled in the two decisions in *Rajasthan Housing Board (supra)* and *Jaipur Development Authority (supra)*. He then states that in case of a conflict between two decision of the Apex Court, the High Courts should follow the decision rendered by the larger bench. He places reliance on the decisions in the cases of *Virendra Kumar @ Bittoo v.*

⁴⁴ (2011) 12 SCC 94

⁴⁵ (2015) 7 SCC 601

*State*⁴⁶, *Jabalpur Bus Operators Association and Others v. State of M.P. and Others*⁴⁷, *Union of India and Another v. K.S. Subramanian*⁴⁸ and *State of U.P. v. Ram Chandra Trivedi*⁴⁹. He also cites two authorities on the proposition that in case of such conflict, even the Supreme Court should follow the larger Bench decision i.e. authority in the case of *Mattulal v. Radhe Lal*⁵⁰ and *Laxman Thamappa Kotagiri v. G.M., Central Railway and Others*⁵¹.

56. Learned Senior Counsel Mr. Manoj Goel and Mr. Mohit Mathur appearing for private institutions counter the submissions made by GNCTD and the University. While presenting a note on the impact of Circular dated 22.09.2022, they state that the said Circular places the private educational institutions completely opposite to their position prior to 22.09.2022. They state that Sub-Clause (ii) of Rule 8(2)(a) of the Rules of 2007 provide for an offline procedure for admission against the 10% Management Quota Seats whereas, the Circular dated 22.09.2022 prescribes an online admission procedure.

57. While placing reliance on a communication dated 04.09.2019 of the University to GNCTD it is stated that even as per the understanding of the University, such recourse is only possible while amending the rules as per Section 23 of the Act 2007. The basic facet of 19(1)(g) of the Constitution of India i.e. to prepare a merit list, is within the hands of the institutions as per Sub-Clause (iv) of Rule 8(2)(a) of the Rules of 2007 and the right is sought to be transferred to the hands of the University. Neither under the Act of 2007 nor under the Rules of 2007 is there any provision where the University can be

⁴⁶ (1995) SCC OnLine Del 107

⁴⁷ (2003) 1 MPLJ 513

⁴⁸ (1976) 3 SCC 677

⁴⁹ (1976) 4 SCC 52

⁵⁰ (1974) 2 SCC 365

⁵¹ (2007) 4 SCC 596

brought into the picture before the admissions are completed by private institutions and the merit list is prepared and sent to the concerned University. They state that, the entire procedure is not being sought to be changed and instead, at the end, the University is introduced at the very threshold of issuance of the advertisement itself for admitting students against the 10% Management Quota Seats.

58. They further state that no committee could have been constituted in Circular dated 22.09.2022 than the committee which is already envisaged under the Act of 2007. They further state that under Sub-Clause (x) of Rule (8)(2)(a) of the Rules of 2007 the grievance redressal mechanism is provided, namely, if a dispute arises in case of even one seat under Management Quota, the designated agency and the Government shall have overriding powers to issue directions to the institutions which shall be binding upon the institutions concerned. They, therefore, state that the direction to constitute a committee is in stark violation of Sub-Clause (ii), (iv), (v), (vi) and (x) of Rule 8(2)(a) of the Rules of 2007, and thus these are *void ab initio*.

59. Mr. Mohit Mathur, learned Senior Counsel specifically highlights that Rule 8(2)(a)(i) requires the Chairman or Secretary of the highest management body of the institution to furnish an affidavit to the designated agency, mentioning therein that they have followed the procedure laid down in the Act and the Rules framed thereunder in the prescribed manner and they have done so without any prejudice or undue favour. According to him, disobedience of such a statutory requirement attracts Section 18 of the Act of 2007 which provides for conviction for a term of up to 3 years or with fine which may extend to Rs.1 crore or both if someone contravenes the provisions of Act or the Rules. He, therefore, states that if contravention of the Rules leads to civil and criminal consequences, then any restriction or requirement

in addition to the provisions of the Act or the Rules can only be by way of a valid law and not otherwise. Various communications have been read to indicate that the University did send mails to institutions requiring them to provide a schedule of admission relating to the Management Quota before a particular date. Learned Senior Counsel, therefore, states that the argument made by GNCTD that the impugned Circulars are innocuous in nature and are not binding upon the private institutions, is incorrect, and on the contrary, the impugned Circulars have adversely impacted the rights of the private educational institutions in admitting students against the 10% Management Quota Seats. Therefore, it is not only the language of the Circular but the impact created by those Circulars that will also have to be considered while appreciating the entire controversy.

60. Mr. Manoj Goel, distinguishes all decisions relied upon by GNCTD, while reading the relevant paragraphs, to indicate that the same are distinguishable on facts and law.

61. I have heard the learned Counsel appearing on behalf of the parties and perused the record.

62. The first question that arises for consideration is whether the Circular dated 22.09.2022 can be said to have been issued under Section 17 of the Act of 2007.

63. Section 17 of the Act of 2007 empowers the Government to issue directions. It requires that the Government or any other officer specially empowered in this behalf by the Government may, from time to time, by an order, issue such directions, consistent with the provisions of this Act and the Rules made thereunder, to any institution, as in its opinion are necessary or expedient for carrying out the purposes of this Act or give effect to any of the provisions

contained therein or in any rules or orders made there under and the management of the institution shall comply with every such direction.

64. The Government is defined in Section 3(j) of the Act of 2007 to be the Lieutenant Governor of the NCT Territory of Delhi appointed by the President under Article 239 and designated as such under Article 239 AA of the Constitution.

65. If the first Circular in question dated 22.09.2022 is carefully perused, the same would clearly indicate that the same has been issued by the Director, DHE with the prior approval of Hon'ble Minister of Higher Education/Dy. Chief Minister, Delhi.

66. Article 239AA of the Constitution of India provides for special provisions with respect to Delhi. Sub-Article 4 of Article 239AA reads as under:-

"(4) There shall be a Council of Ministers consisting of not more than ten per cent. of the total number of members in the Legislative Assembly, with the Chief Minister at the head to aid and advise the Lieutenant Governor in the exercise of his functions in relation to matters with respect to which the Legislative Assembly has power to make laws, except in so far as he is, by or under any law, required to act in his discretion:

Provided that in the case of difference of opinion between the Lieutenant Governor and his Ministers on any matter, the Lieutenant Governor shall refer it to the President for decision and act according to the decision given thereon by the President and pending such decision it shall be competent for the Lieutenant Governor in any

case where the matter, in his opinion, is so urgent that it is necessary for him to take immediate action, to take such action or to give such direction in the matter as he deems necessary."

67. Thus, with respect to the matters on which the Legislative Assembly can legislate, the Lieutenant Governor should act on the aid and advice of the Legislative Assembly. However, the Lieutenant Governor is not supposed to act on the aid and advice with respect to matters where he has to act as per his discretion by or under law. Under Section 3(j) of the Act of 2007, Government is defined to mean

Lieutenant Governor appointed under Article 239 and designated as such under Article 239AA of the Constitution. Therefore, unless the directions are issued with the approval of the Lieutenant Governor, the same cannot be construed to be the directions issued by the Government. Any other interpretation would be tantamount to destroying the mandate of Section 3(j) of the Act of 2007.

68. It is to be noted that Section 17 of the Act of 2007 empowers the Government to issue directions, consistent with the provisions of the Act and the Rules made thereunder, to any institutions, as in the opinion of the State Government if such directions are necessary or expedient for carrying out the purpose of the Act or to give effect to any of its provisions. A perusal of the Circular dated 22.09.2022 clearly indicates that the same is not issued to institutions and is addressed to the University. Secondly, the same is not issued by the Government as defined in Section 3(j) of the Act of 2007. Therefore, the Circular dated 22.09.2022 cannot be considered to have been issued under Section 17 of the Act of 2007.

69. In view thereof, it is held that the Circular dated 22.9.2022, in the absence of being issued by the Government, as defined in Section 3(j) of the Act of 2007, cannot be considered to have been issued under Section 17 of the Act of 2007.

70. The second question which is required to be considered is whether the Circulars in question can be considered, to be the law under Article 19(6) of the Constitution of India.

71. The Hon'ble Supreme Court in the case of *State of Bihar and others (supra)* was considering a Circular laying down a policy decision to achieve the target of establishment of at least four high schools out of which one may be a girls' high school in every block in

the State of Bihar. Teaching and non-teaching staff of several schools filed a large number of writ petitions before the Hon'ble Patna High Court during the period between 1992-97, *inter alia*, contending that the said Circular/ letter was arbitrary and discriminatory. There were various Orders passed by the Hon'ble High Court and the matter travelled to the Hon'ble Supreme Court which directed the matter to be resolved by a Full Bench of the Hon'ble Patna High Court. Accordingly, a Full Bench of the Hon'ble Patna High Court delivered its judgment on 07.12.1999. The Full Bench, besides various other directions, directed the State Authorities to examine the claim of the individual Petitioners therein for recognition/ absorption of their services in the respective schools. The State preferred an appeal before the Hon'ble Supreme Court. In paragraph 69 of the said decision, the Hon'ble Supreme Court held that the right to manage an institution is also included in the right to occupation. A citizen cannot be deprived of the right under Article 19(1) (g) of the Constitution of India except in accordance with law. The requirement of law for the purpose of Clause (6) of Article 19 of the Constitution can by no stretch of imagination be achieved by the issuance of a Circular or a policy decision in terms of Article 162 of the Constitution or otherwise. Such a law must be enacted by the legislature.

72. Relying on the decision in the case of *State of Bihar and others (supra)* besides various other decisions, the Hon'ble Supreme Court in the case of *Pharmacy Council of India (supra)* in paragraph No.55 of the said decision has held that directions in the nature of executive instructions cannot impose restrictions on the fundamental right to establish educational institutions under Article 19(1)(g) of the Constitution of India, and therefore, the Resolutions/communications in question issued by PCI were struck down on the said short ground.

Paragraph No.55 of the decision of the Hon'ble Supreme Court in the case of ***Pharmacy Council of India (supra)*** is reproduced as under:-

“55. Since we have held that the Resolutions/communications dated 17th July 2019 and 9th September 2019 of the Central council of the Appellant-PCI, which are in the nature of executive instructions, could not impose restrictions on the fundamental right to establish educational institutions under Article 19(1)(g) of the Constitution of India, we do not find it necessary to consider the submissions advanced on other issues. We find that the Resolutions/communications dated 17th July 2019 and 9th September 2019 of the Central Council of the Appellant-PCI are liable to be struck down on this short ground.”

73. In view of the aforesaid and the legal position settled by the Hon'ble Supreme Court, it is held that a Circular is not 'law' for the purposes of Article 19(6) of the Constitution of India.

74. The third question for consideration of this Court is whether the impugned Circular imposes any restriction on the Petitioners' fundamental rights under Article 19(1)(g) of the Constitution of India.

75. The right of professional institutions to establish and manage educational institutions is regarded as an "occupation" under Article 19(1)(g) of the Constitution of India as held in the case of ***T.M.A. Pai Foundation (supra)***. It has been held in paragraph No.25 of the said decision that the establishment and running of an educational institution where a large number of persons are employed as teacher or administrative staff, and an activity is carried on, that results in imparting of knowledge to the students, must necessarily be regarded as an "occupation", even if there is no element of profit generation. Paragraph No.25 of the said decision reads as under: -

“25. The establishment and running of an educational institution where large number of persons are employed as teachers or administrative staff, and an activity is carried on that results in the imparting of knowledge to the students, must necessarily be regarded as an occupation,

even if here is no element of profit generation. It is difficult to comprehend that education, per se, will not fall under any of the four expressions in Article 19(1)(g). "Occupation" would be an activity of a person undertaken as a means of livelihood or a mission in life. The above quoted observations in Sodan Singh case correctly interpret the expression "occupation" in Article 19(1)(g).

76. The Hon'ble Supreme Court delineated four specific rights which encompass the right to occupation, namely: -

- “(i) a right to admit students;*
- (ii) a right to set up a reasonable fee structure;*
- (iii) a right to appoint staff (teaching and non-teaching);*
- and*
- (iv) a right to take action if there is dereliction of duty on the part of any employees.*

77. While the Hon'ble Supreme Court recognized treating and managing educational institutions as an occupation, the Hon'ble Court has categorically held that this activity could not be treated as a “business” or “profession”. It has been treated to be a separate category which was carved out for the specific purpose of education on a no profit no loss basis. Those who establish and manage the educational institutions are not expected to indulge in profiteering and commercializing this noble activity. It is, thus, in paragraph No.58 of the decision in the case of *T.M.A. Pai Foundation (supra)*, that it has been held that excellence in professional education would require greater emphasis to be laid on the merit of students seeking admission. It was emphasized that appropriate legislations for the said purpose may be made keeping in view other observations made in the said decision in the context of admissions to unaided institutions.

78. It has also been held that the right to establish and administer an institution includes the right to admit students and to set up a reasonable fee structure, but the said right could be regulated to ensure maintenance of proper academic standards, atmosphere, and

infrastructure. Fixing of a rigid fee structure, dictating the formation and composition of a governing body, compulsory nomination of teachers and staff for appointment or nominating students for admissions, would be unacceptable restrictions. However, the occupation of imparting education was not a business but a profession involving a charitable activity. The State can therefore, forbid the charging of capitation fee and profiteering. The object of setting up of an education institution is not to make profit. There could, however, be a reasonable revenue surplus, for the development of education. For admission, merit must play an important role. The State or the University could require private unaided institutions to provide for merit as the basis of selection while giving sufficient discretion in admitting students. Certain percentage of seats could be reserved for admission by the Management out of students who have passed the CET held by the institutions or by the State/ University.

79. Interpretation of certain observations in paragraph No.68 of the judgment of *T.M.A. Pai Foundation (supra)* has been a matter of debate.

80. A group of writ petitions came to be filed before the Hon'ble Supreme Court after the judgment in *T.M.A. Pai Foundation (supra)*. A batch of those writ petitions was dealt with by a Constitution Bench of five Hon'ble judges in *Islamic Academy of Education and Another v. State of Karnataka and Others*⁵².

81. The Hon'ble Supreme Court in *Islamic Academy of Education (supra)* required the setting up of a Committee by each of the States to decide whether the fee structure proposed by institutes was justified and did not amount to profiteering or charging of capitation fee. With

⁵² 2003 6 SCC 697

respect to admission as well, an Admission Committee was directed to be set up. The admissions were directed to be made based on CET conducted by the State or an Association of all colleges for a particular type, for example, Medical Engineering or Technical, etc.

82. The issue was then considered by a larger Bench of seven Hon'ble judges by the Hon'ble Supreme Court in the case of ***P.A. Inamdar and others (supra)***, wherein it was held that two committees for monitoring admission procedure and determining fee structure as per the judgment in ***Islamic Academy of Education (supra)*** were permissible as a regulatory measure aimed at and directed towards the student community as a whole as also the minority themselves to maintain the required standards of professional education on non-exploitative terms. The same was held to be non-violative of Article 13(1) or Article 19(1)(g) of the Constitution of India.

83. Paragraph 145 of the decision in the case of ***P.A. Inamdar and others (supra)*** states that unless the admission procedure and fixation of fee is regulated and controlled at the initial stage, the evil of unfair practice of granting admission on available seats guided by the paying capacity of the candidates, would be impossible to curb.

84. Paragraph Nos. 136, 137, 138, 144, 147, 154 and 155 of the decision of ***P.A. Inamdar and others (supra)*** are reproduced as under:-

“136. Whether minority or non-minority institutions, there may be more than one similarly situated institutions imparting education in any one discipline, in any State. The same aspirant seeking admission to take education in any one discipline of education shall have to purchase admission forms from several institutions and appear at several admission tests conducted at different places on the same or different dates and there may be a clash of dates. If the same candidate is required to appear in several tests, he would be subjected to unnecessary and avoidable expenditure and inconvenience. There is nothing

wrong in an entrance test being held for one group of institutions imparting same or similar education. Such institutions situated in one State or in more than one State may join together and hold a common entrance test or the State may itself or through an agency arrange for holding of such test. Out of such common merit list the successful candidates can be identified and chosen for being allotted to different institutions depending on the courses of study offered, the number of seats, the kind of minority to which the institution belongs and other relevant factors. Such an agency conducting the common entrance test ("CET" for short) must be one enjoying utmost credibility and expertise in the matter. This would better ensure the fulfilment of twin objects of transparency and merit. CET is necessary in the interest of achieving the said objectives and also for saving the student community from harassment and exploitation. Holding of such common entrance test followed by centralised counselling or, in other words, single-window system regulating admissions does not cause any dent in the right of minority unaided educational institutions to admit students of their choice. Such choice can be exercised from out of the list of successful candidates prepared at CET without altering the order of merit inter se of the students so chosen.

137. *Pai Foundation [(2002) 8 SCC 481]* has held that minority unaided institutions can legitimately claim unfettered fundamental right to choose the students to be allowed admission and the procedure therefore subject to its being fair, transparent and non-exploitative. The same principle applies to non-minority unaided institutions. There may be a single institution imparting a particular type of education which is not being imparted by any other institution and having its own admission procedure fulfilling the test of being fair, transparent and non-exploitative. All institutions imparting same or similar professional education can join together for holding a common entrance test satisfying the above said triple tests. The State can also provide a procedure of holding a common entrance test in the interest of securing fair and merit-based admissions and preventing maladministration. The admission procedure so adopted by a private institution or group of institutions, if it fails to satisfy all or any of the triple tests, indicated hereinabove, can be taken over by the State substituting its own procedure. The second question is answered accordingly.

138. It needs to be specifically stated that having regard to the larger interest and welfare of the student community to promote merit, achieve excellence and curb malpractices, it would be permissible to regulate admissions by providing a centralised and single-window procedure. Such a procedure, to a large extent, can secure grant of merit-based admissions on a transparent basis. Till regulations are framed, the Admission Committees can oversee admissions so as to ensure that merit is not the casualty.

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144. *The two Committees for monitoring admission procedure and determining fee structure in the judgment of Islamic Academy [(2003) 6 SCC 697] are in our view, permissible as regulatory measures aimed at protecting the interest of the student community as a whole as also the minorities themselves, in maintaining required standards of professional education on non-exploitative terms in their institutions. Legal provisions made by the State Legislatures or the scheme evolved by the Court for monitoring admission procedure and fee fixation do not violate the right of minorities under Article 30(1) or the right of minorities and non-minorities under Article 19(1)(g). They are reasonable restrictions in the interest of minority institutions permissible under Article 30(1) and in the interest of general public under Article 19(6) of the Constitution.*

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147. *In our considered view, on the basis of judgment in Pai Foundation [(2002)8 SCC 481] and various previous judgments of this Court which have been taken into consideration in that case, the scheme evolved out of setting up the two Committees for regulating admissions and determining fee structure by the judgment in Islamic Academy [(2003) 6 SCC 697] cannot be faulted either on the ground of alleged infringement of Article 19(1)(g) in case of unaided professional educational institutions of both categories and Article 19(1)(g) read with Article 30 in case of unaided professional institutions of minorities.*

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154. *We are also conscious of the fact that admission process in several professional educational institutions has already commenced. Some admissions have been made or are in the process of being made in consonance with the schemes and procedures as approved by Committees and in some cases pursuant to interim directions made by this Court or by the High Courts. This judgment shall not have the effect of disturbing the admissions already made or with regard to which the process has already commenced. The law, as laid down in this judgment, shall be given effect to from the academic year commencing next after the pronouncement of this judgment.*

155. *It is for the Central Government, or for the State Governments, in the absence of a Central legislation, to come out with a detailed well-thought-out legislation on the subject. Such a legislation is long awaited. The States must act towards this direction. The judicial wing of the State is called upon to act when the other two wings, the legislature and the executive, do*

not act. The earlier the Union of India and the State Governments act, the better it would be. The Committees regulating admission procedure and fee structure shall continue to exist, but only as a temporary measure and an inevitable passing phase until the Central Government or the State Governments are able to devise a suitable mechanism and appoint a competent authority in consonance with the observations made hereinabove. Needless to say, any decision taken by such Committees and by the Central or the State Governments, shall be open to judicial review in accordance with the settled parameters for the exercise of such jurisdiction.”

85. In the case of ***Modern Dental College and Research Centre and others v. State of Madhya Pradesh and others***⁵³, the Constitution Bench consisting of five Hon'ble judges of the Supreme Court held that though private unaided minority and non-minority institutions have a right to establish educational institutions, however, in order to balance the public interest, the State is also empowered to frame regulations in the interest of the general public. It has further been held that while considering the scope of reasonable restrictions which are sought to be brought in, in the interest of general public, the exercise that is required to be undertaken is the balancing of the fundamental rights to carry on a trade or occupation on one hand and the restrictions so imposed on the other hand. It has been held that it was necessary to find out as to whether the restrictions so imposed were proportional or not.

86. In the case of ***Modern Dental College and Research Centre and others (supra)***, the provisions of the State Act were under challenge on various grounds including the aspect of conducting CET at the instance of the State Government. The Hon'ble Supreme Court upheld the constitutional validity of the law enacted by the State and it was held that, if the CET is conducted by the State to ensure fairness in admission process, the same would not be in violation of Article

⁵³ (2016) 7 SCC 353

19(1)(g) of the Constitution of India and can be construed to be a reasonable restriction under Article 19(6) of the Constitution of India.

87. In the present case, the Act of 2007 *inter alia* provides for Prohibition of Capitation Fee, Regulation of Admission, Fixation of Non-exploitative Fee, Allotment of Seats to Scheduled Castes, Scheduled Tribes and other socially and economically backward classes and other measures to ensure equity and excellence in professional education in the NCT of Delhi and for matters connected therewith and incidental thereto.

88. The Act of 2007 came into force w.e.f. 23.04.2007, the date on which the Legislative Assembly of the NCT of Delhi passed the same. Section 12 of the Act of 2007 provides for the allocation and reservation of seats. It provides that, subject to the provisions of the Act of 2007, 10% of the total seats in an unaided institution shall be allocated as management seats. This case relates to the admission against Management Seats, and therefore, at this stage, only relevant provisions of the Act of 2007, material to the issue involved in the instant cases are required to be discussed.

89. Section 3(1) of the Act of 2007 defines institution. The extracts of Section 3(1) of the Act of 2007 is reproduced herein below for ready reference:-

“3(l) “Institution” means a college or institution, aided or unaided, affiliated to a University, imparting education in the following disciplines, namely: -

- (a) Engineering and Technology;*
- (b) Medicine, Dentistry, Pharmacy, Ayurveda, Homeopathy; Siddha, Nursing, Para- medical and the like;*
- (c) Law and Legal Affairs;*
- (d) Management;*
- (e) Teachers Education;*
- (f) any other discipline as may be notified by the Government;*

90. Section 12 of the Act of 2007 provides that in every institution, except a minority institution, subject to the provisions of the Act of 2007, 10% of the total seats in an unaided institution shall be allocated as Management Seats.

91. At this stage, it would also be appropriate to refer to Sections 13 and 14 of the Act of 2007, which provides that any admission made in contravention of the provisions of the Act of 2007, or the Rules made thereunder, shall be *void*.

92. Section 17 of the Act of 2007 provides for the power of the Government to issue directions. Section 17 of the said Act envisaged that the Government or any other officer specially empowered in that behalf by the Government may, from time to time, by order, issue such directions, consistent with the provisions of this Act and the Rules made thereunder, to any institution, as in its opinion are necessary or expedient for carrying out the purposes of this Act or give effect to any of the provisions contained therein or in any rules or orders made thereunder and the management of the institution shall comply with every such direction.

93. Sections 12, 13, 14, 17 and 23 of the Act of 2007 are also reproduced as under: -

“12. (1) In every institution, except the minority institution

- (a) subject to the provisions of this Act, ten percent of the total seats in an unaided institution shall be allocated as management seats;*
- (b) eighty five percent of the total seats, except the management seats, shall be allocated for Delhi students and the remaining fifteen percent seats for the outside Delhi students or such other allocation as the Government may by notification in the official Gazette, direct;*
- (c) supernumerary seats for non-resident Indians and any other category shall be as may be prescribed.*

13. Manner of admission-

An institution shall, subject to the provisions of this Act, make admission through a common entrance test to be conducted by the designated agency, in such manner, as may be prescribed:

Provided that the management seats may be advertised and filled up, from the candidates who have qualified the common entrance test, by the institution in a transparent manner based on the merit at the qualifying examination.”

14. Any admission made in contravention of provisions of this Act or the rules made thereunder, shall be void.

.....

17. The Government or any other officer specially empowered in this behalf by the Government may, from time to time, by order, issue such directions, consistent with the provisions of this Act and the rules made thereunder, to any institution, as in its opinion are necessary or expedient for carrying out the purposes of this Act or give effect to any of the provisions contained therein or in any rules or orders made thereunder and the management of the institution shall comply with every such direction.

.....

23. (1) The Government may, by notification in the official Gazette, make rules for the purpose of carrying into effect the provisions of this Act.”

94. Rule 8 of the Rules of 2007 prescribes for Allotment of Seats. Rule 8(2)(a) of the Rules of 2007 deals with Management Quota. The said rule provides that the Chairman or Secretary of the Highest Management Body of the institution shall furnish an affidavit to the designated agency, mentioning therein that they have followed the procedure laid down in the Act of 2007 and the Rules made thereunder in a transparent manner and that they have done so without any prejudice or undue favour. Such an affidavit shall compile the list of successful candidates under the Management Quota to be lodged with the University in the manner laid down in Sub-Clause (viii) of Rule 8(2) of the said Rules.

95. Rule 8(2) details the entire process of advertising the admission notices for Management Quota Seats and the manner in which the seats will have to be filled up. Rule 8(2)(a) is reproduced as under: -

“8.

(2)

a) Management Quota. (i) The Chairman or Secretary of the highest management body of the institution shall furnish an affidavit to the designated agency, mentioning therein that they have followed the procedure laid down in the Act and these rules in a transparent manner and that they have done so without any prejudice or undue favour. Such an affidavit shall accompany the list of successful candidates under management quota, to be lodged with the University in the manner laid down in sub-clause (viii).

(ii) The institution shall advertise the admission notice for management quota seats in at least two leading daily newspapers, one in Hindi and the other in English in addition to displaying the same on the institution's website and the institution's notice board, kept at a conspicuous place. The admission notice shall be displayed at least a fortnight before the last date for closing of admission for the concerned course in the University and shall include therein information necessary for the students seeking admission to management quota seats. The admission notice shall include therein the place from which admission forms will be available, the date, time and manner for submission of completed applications and the schedule for various admission processes and counselling. Prospective applicants shall be given a period of at least eighteen days to apply for seats under the management quota, in the aforementioned manner.

(iii) While calculating the management seats, fraction less than 0.7 shall be ignored and above that converted into one full seat.

(iv) Based on the aggregate marks obtained by qualified applicants at the qualifying examination, the institution concerned shall prepare and display the rank ordered merit list of such applicants on the institution's website and notice board kept at a conspicuous place of the institution, within two days of the closing date for receipt of the management quota applications. The criteria for rank ordering of applicants with a tie in the qualifying examination's aggregate marks shall be the same as those laid down in the admission brochure or as laid down by the designated authority.

(v) *Based on the merit list so drawn up, the institution concerned shall conduct admission counseling for allotment of branches/courses to qualified applicants within a period of three days of drawing up of the merit list of qualified management quota applicants. Such admission counseling will, however, be subject to the condition that there shall not be more than two rounds of counseling. The list of applicants who will be called for a given round of admission counseling shall be displayed on the institution's website and notice board, kept in a conspicuous place.*

(vi) *Following the conduct of admission counseling, the list of applicants admitted to the management quota seats made on the basis of the merit list drawn up in the aforementioned manner and the balance of the management quota seats in each course shall be published at the end of each round of counseling on the website of the institution as well as that of the designated agency. A copy of such list shall be displayed on the notice board of the designated agency as well as that of the institution, kept at a conspicuous place for the information of the candidates and others. The list of the candidates being called for the first round of counseling shall be displayed in the aforementioned manner along with the merit list, indicating therein the date, time and place at which the counseling will be held. The date, time and place of the second round of counseling will be displayed along with the list of candidates admitted in the first round of counseling:*

Provided that the second round of counseling shall commence only twelve hours after publication of the list of applicants admitted in the first round of counseling and the discipline/course-wise balance of seats.

(vii) *The last date to fill up the management quota seats will be nine calendar days after the last date for regular admissions in the University and the concerned course.*

(viii) *All admissions made to the management quota seats shall be provisional and will need ratification by the designated agency, which will convey its decision within a day of being informed by the institution of the list of successful candidates and the basis of their selection as per procedure mentioned herein before.*

(x) *The affiliated institutions shall not be authorized to admit candidates against the management quota seats after the cut-off date fixed as mentioned in sub-clause (vi) above.*

(x) *If any dispute arises with regard to the admission under the management quota seat(s), the designated agency or the*

Government, as the case may be, shall have the overriding power to issue directions to the institution which shall be binding upon the institution concerned.”

96. This Court in the matter of ***Association of Self Financing Institutions & Anr. (supra)*** considered the question of the constitutional validity of Section 13 of the Act of 2007. In paragraph nos. 21, 22, 23 and 27 of the said decision, this Court has held as under:-

“21. The question of regulatory intervention in the administration of colleges, and specifically, professional courses, has been considered by the Courts in various instances. The present case concerns a limited aspect of administration, i.e. regulation of admission processes. Nonetheless, some basic propositions merit attention, as they inform any analysis on the question involved in this case.

22. It is established, as the Supreme Court conclusively held in TMA Pai Foundation, that the “right to establish and administer an educational institution” is protected as part of the freedom of occupation under Article 19(1)(g). Equally, this right is not a business or a trade, given the profit motives attached with those activities, since the establishment of educational institutions bears a clear charitable purpose. This proposition is undoubted, and has been accepted subsequently in Islamic Foundation and PA Inamdar without demur. However, as TMA Pai Foundation also noted, “[t]he question of whether there is a fundamental right or not cannot be dependent upon whether it can be made the subject matter of controls.” (emphasis supplied) The issue before the Supreme Court in TMA Pai Foundation and all subsequent cases, thus, has been to identify the breadth and depth of controls, i.e. regulatory controls that may be imposed by the state without violating the freedom to establish and administer educational institutions themselves.

23. Crucially, this freedom to establish and administer educational institutions is unique - in that private actors’ freedom to establish institutions of learning bears a direct relation with the public interest in creating such institutions. This is important, as a matter of principle, because this relationship between the public interest and private freedom determines the nature of public controls that are permissible.

27. Thus, ensuring that admissions policies judge merit of prospective students reliably is an aspect that is crucial to the maintenance of excellence in academic institutions. This is not to say that the right to admit students does not form part of the freedom under Article 19(1)(g). The autonomy granted to educational institutions in the admission of students i.e. the private right to

administer must be seen in the context of the public purpose, i.e. to ensure that admissions policies judge merit of the students fairly."

97. In the very same decision, the Division Bench of this Court, while considering the argument that allowing students who had earlier opted for admission in one college, to participate in the later round of counselling, impacts the rights of the concerned colleges, has held as under:-

"59. Likewise, the argument that allowing students who had earlier opted in one college to participate in the later round of counselling affects the individual colleges' rights cannot merit acceptance. Once it is demonstrated that the CET and the related mechanism of counselling furthers the public interest, a determination in which the Court accords respect to the judgment of other branches of the State, in enabling merited students to secure admissions to colleges of their choice, the liberty given to those who admitted in one institution to participate in the later round of counselling to seek admission in another institution cannot be viewed as unfair. Whilst the first institution may feel deprived, the fact remains that after the completion of the earlier round of counselling, several students might and do drop out. This leads to vacancies, which other students may benefit from. This Court fails to see how affording another chance to that student, to opt for a college which he or she prefers, would be unfair. Ultimately, it is the excellence of the institution which dictates the choice of the student or candidate. All that the Court can ensure while considering the reasonableness of the restriction impugned is to see that it does not sniff out or deprive meaningful exercise of the power; it cannot ensure that the reason why it is exercised is fulfilled. Thus, restrictions which a trader or man of commerce might legitimately impugn are those that deny him the right to trade or commerce in a commodity. That right does not extend to ensuring that the goods or services which the businessman offers to his customers are purchased by them. Therefore, the complaint that the counseling mechanism does not restrict the choice of the student and is designed to allow him to participate in further sessions, after having opted for admission in one institution, resulting in violation of the right under Article 19(1)(g) is without merit."

98. It is seen that this Court did not find any infringement of rights under Article 19(1)(g) of the Constitution of India in formulating a counselling mechanism and enabling the students to participate in the second round of counselling.

99. In another decision i.e. in the case of *Vivekananda Institute of Professional Studies v. Govt. of NCT and Anr. (supra)*, the Division Bench of this Court was considering the proviso to Section 13 of the Act of 2007 and Rule 8(2)(a) of the Rules of 2007 apart from various other challenges. It held as under:

"26. It is therefore, apparent that the common refrain, or thread of reasoning in all the three rulings is that for admission to institutions of higher learning, merit and merit alone, is the paramount consideration. The NCT in the present case, has devised a method whereby 90% of the seats are to be filled entirely on the basis of CET; the balance (management quota) is to be filled by considering only CET qualified students and determining the inter se merit on the basis of their results in the qualifying examination. The Petitioners complain that by imposing these two restrictions, their options to admit students of their choice, based on their independent assessment of merit, is taken away. A substantial argument made on their behalf is that in the first place, qualifying examination results are not deemed to be sufficient barometer for merit determination, which is the rationale for mandating a CET; therefore, now to revert to that norm is arbitrary. There is perhaps a grain of truth in this grievance.

27. The CET was brought in to combat the possible abuse of private managements in a criteria less situation, where they could have said that the basis of admission of students were marks in the qualifying examination and some subjectively evolved, college or institution centric norm. By the impugned provision, the eligibility for admission is two fold-qualifying in CET (which acts as a filter, to ensure a basic level of proficiency and knowledge of the applicant, evaluated on a common uniform test-the underlying implicit condition being that she has qualified in the qualifying-i.e. 10+2 board or equivalent examination, which is the premise for CET participation) and marks in the qualifying examination. This cannot be compared with admission entirely based on qualifying examination results in a regulation free environment, when individual managements selectively chose to admit students, without any oversight as to whether even applications of merited students were entertained. The eligibility (CET) ensures a basic knowledge content and puts all aspirants on an even keel. Therefore, even a student who might have scored very high marks in the qualifying board exams might fare badly and not pass in the CET; the converse might also happen. After ensuring that the basic knowledge content is tested through CET, if the qualifying marks are the determinant for admission to private colleges and institutions, - as the impugned provision does-merit is ensured. In other words, it is not the CET merit, (which is the basis of admission to 90% of the seats) but that CET results determine eligibility; the qualifying examination performance determines inter se merit.

28. In the opinion of the Court, the system devised by the impugned provision cannot be termed arbitrary, because the admission procedure for the 10% management quota is substantially different. This is another form of merit. There may be many objective methods of ensuring a uniform basis for admission, such as a combination of CET results and qualifying exam results and relative weightage to each; variations of these, with weightage to some activities such as sports, extracurricular events (theatre, debates, music and other events) or performance in an interview, etc. That such alternative methods can be devised, but are not, by the state, when it regulates admission, is not a ground for the Court to declare the its choice or method, is unreasonable or arbitrary. The provision as it exists is distinct from entirely CET merit-based admissions; it at the same time, ensures that merit is uniformly followed in admission to the 10% quota. Consequently, the proviso to Section 13 is upheld."

100. It is thus seen that the grievance of the institutions that by imposing conditions on candidates to qualify CET and to determine their merit on the basis of the result in the qualifying examination are not restrictions.

101. Having noted the scheme of the Act of 2007, the Rules made thereunder and the decisions germane to the issue in hand, it would also be appropriate to take note of the impugned Circulars and the directions made thereunder.

102. The first impugned Circular dated 22.09.2022 is addressed to the Vice Chancellor of the University, which states that in continuation of the DHE letter dated 14.06.2007 and the University Circular dated 16.07.2018, certain directions have been issued to bring transparency/ clarity and efficiency in the admissions against the management seats in private institutions affiliated to GGSIPU University. The Circular dated 22.09.2022 is reproduced as under: -

**“DIRECTORATE OF HIGHER EDUCATION
GOVT. OF NCT OF DELHI
BTE BUILDING, MUNI MAYA RAM MARG, PITAMPURA,
DEIHI-110034
diehudu@gmail.com”**

F. No. DHE.4(4)/GGSIPU/2019/4674-76
Dated: 22.09.22

To,
The Vice-Chancellor
Guru Gobind Singh Indraprastha University
Sector 16 C, Dwarka,
New Delhi – 110078

Sub: Admission against management seats in private institutions affiliated to GGSIP University

Sir,

In continuation of this Directorate's letter No. 4(15)/2006-07/1546-1605 dated 14.06.2007 and GGSIPU Circular No. IPU-7/Admissions/MQ/2018-19/4091 dated 16.07.2018, the following directions are issued to bring transparency/ clarity and efficiency in the admissions against Management Seats in private institutions affiliated to GGSIP University: -

- i. GGSIP University to make an online portal to display the branch-wise college wise seats available under Management Quota.
- ii. Prospective students can apply online against available seats under Management Quota.
- iii. All the merit list college wise shall be published online.

Further, the following Management Quota admission monitoring committee (MQAMC) be constituted in each private institution affiliated with GGSIP University for grievance Redressal and suggestions for further improvement in the admission process against management seats: -

- a) Nominee of the Vice Chancellor, GGSIPU
- b) Nominee of the Director, Directorate of Higher Education
- c) The Principal/ Head of the concerned affiliated institution
- d) The admission in-charge of the concerned affiliated institution

Wide publicity be given about the above monitoring committee with details of the contact number for lodging complaints/ grievances.

This issues with prior approval of Hon'ble Minister of Higher Education/ DY. Chief Minister, Delhi.

SD/-
DIRECTOR
(HIGHER EDUCATION)
Dated: 22/09/22

103. Another Circular dated 27.09.2022 has been issued by the University pursuant to the first Circular dated 22.09.2022 which reiterates the directions of Circular dated 22.09.2022 with further directions to self-financing privately managed colleges to provide the schedule of Management Quota Seats counselling, in order for the to be incorporated in the online portal of the University. The Circular dated 27.09.2022 issued by the University is reproduced as under: -

“Notification No.: 245 /2022

Guru Gobind Singh Indraprastha University
Sector 16 C, Dwarka, New Delhi- 110078
Admissions Branch

No.: GGSIPU/Admissions/ 2819

Dated:27/09/22

**ONLINE REGISTRATION FOR MANAGEMENT QUOTA
ADMISSIONS ON THE GGSIP UNIVERSITY PORTAL
AND DISPLAY OF MERIT LIST ON THE PORTAL**

Govt. of NCT of Delhi vide the Order No. F. No. DHE.4(4)/GGSIPU/2019/4674-76 dated 22.09.2022 has issued directions regarding Online Registration for Management Quota admissions on the University portal and display of Merit List on the portal to bring transparency / clarity and efficiency in the admissions against Management seats in private institutions affiliated to GGSIP University.

As per the directions issued by Govt. of NCT of Delhi, GGSIPU shall make an online portal to display the branch-wise, college-wise seats available under Management Quota

The Govt. of NCT of Delhi further directed that prospective students shall apply online against the available seats under Management Quota and all the merit list college-wise shall be published online.

A Management Quota Admission Monitoring Committee (MQAMC) is required to be constituted in each private institution affiliated with GGSIPU for grievance redressal and suggestions for further improvement in the admission process against Management Quota Seats. The MQAMC shall comprise of the following: -

- (a) *Nominee of the Vice Chancellor, GGSIPU.*
- (b) *Nominee of the Director, Directorate of Higher Education.*
- (c) *The Principal/ Head of the concerned affiliated institution.*
- (d) *The Admission In-Charge of the concerned affiliated institution*

Wide publicity be given about the above Monitoring Committee with details of the contact numbers for lodging complaints / grievances.

In view of above, the Schedule of Management Quota counselling may kindly be provided to incorporate in the Online Portal of the University.

All the self-financing privately managed colleges are requested to comply with the above directions.

*Brig. P. K. Upmanyu (Retd.)
Incharge (Admissions)*

104. *Vide* third Circular dated 14.10.2022, the University issued the notice regarding online registration of the admissions to the Management Quota Seats on the University's portal for Academic Session 2022-2023. The same stipulates that the schedule for online registration on University's portal for admission in Management Quota Seats will be uploaded on university's website on 17.10.2022. It further stipulates that the eligibility merit for admission etc. shall be as notified as in admission brochure for the Academic Session 2022-2023 and as in the Act of 2007. The Circular dated 14.10.2022 is also reproduced as under: -

"Notification No. 271/2022

Guru Gobind Singh Indraprastha University
Sector 16 C, Dwarka, New Delhi-110078
Website: www.vipu.ac.in

F. No. IPU-7/Online Counselling/2022/ 2902. Dated. 14/10/22

**NOTICE REGARDING ONLINE REGISTRATION FOR
MANAGEMENT SEATS ADMISSIONS ON THE
UNIVERSITY PORTAL: ACADEMIC SESSION 2022-23**

**SCHEDULE FOR ONLINE REGISTRATION FOR
MANAGEMENT SEATS ADMISSIONS FOR THE
PROGRAMME B. TECH (CODE-131)**

In continuation to the University Order No GGSIPW/Admissions/2819 dated 27/00/2022 vide which University had issued direction for Implementation of Govt. of NOT of Delhi Order No. F. No. DHE M/AVGGSIPU/2010/4674-76 dated 22.09.2022 for Admission against management seats in private institutions affiliated to GGSIP University.

It is to inform all stakeholders that the Schedule for ONLINE Registration on University portal for admission in Management Seats will be uploaded on University website on 17/10/2022

The eligibility, merit for admission etc shall be as notified as in Admission Brochure for the Academic Session 2022-23 and as in the Delhi Professional Colleges of Institutions (Prohibition of. Capitation Fee, Regulation of Admission. Fixation of Non-Exploitative Fee and Other Measures to Ensure Equity and Excellence) Act, 2007.

The tentative date for commencement of ONLINE Registration on University portal for admission in Management Seats for B Tech (Code 131) shall 19/10/2022.

*Brig. P.K Upmanyu (Retd.).
Incharge (Admissions)*

105. The Circular dated 17.10.2022 informs all stakeholders that the schedule for online registration on the University portal for admission in Management Seats will be uploaded on University's website on 18.10.2022 and that the tentative date for commencement of online registration on the University portal for admission in the Management Seats for B.Tech (code 131) shall be 19.10.2022. The same reads as under:-

*"Guru Gobind Singh Indraprastha University
Sector 16 C. Dwarka, New Delhi-110078.
Website: www.lpu.ac.in*

F. No. IPU-7/Online Counselling/2022/ 2965Dated:37/wig

**NOTICE REGARDING ONLINE REGISTRATION FOR
MANAGEMENT SEATS ADMISSIONS
ON THE UNIVERSITY PORTAL: ACADEMIC SESSION 2022-
23**

**SCHEDULE FOR ONLINE REGISTRATION FOR
MANAGEMENT SEATS ADMISSIONS FOR
THE PROGRAMME B.TECH CODE 1311**

In continuation to the University Order No. F.No. IPU-7/Online Counselling/2022/2902 dated 14/10/2022 regarding Schedule for. Online Registration for Management Seats Admissions for the Programme B.Tech (Code 131) for the Academic Session 2022-23, It Is to inform. all stakeholders that the Schedule for ONLINE Registration on University portal for admission in Management Seats will be uploaded on University website on 18/10/2022-and the tentative date for commencement of ONLINE Registration on University portal for. Admission in Management Seats for B.Tech (Code131) shall 19/10/2022

*Brig. P.K Upmanyu (Retd.)
Incharge (Admissions)"*

106. Another Circular dated 18.10.2022 is the declaration of schedule for online registration for admission to the Management Seats. The same was to take place between 19.10.2022 (4:00 PM onwards) to 24.10.2022 (upto 11:50 PM). Entire Circular dated 18.10.2022 reads as under:-

"F. NO. IPU-7/Online Counselling/2022/2909

Dated:18/10/2022

***NOTICE REGARDING ONLINE REGISTRATION FOR
MANAGEMENT SPATS ADMISSION
ON THE UNIVERSITY PORTAL: ACADEMIC SESSION 2022-23
SCHEDULE FOR ONLINE REGISTRATION FOR MANAGEMENT
STATS ADMISSION FOR THE PROGRAMME BTECH
THROUGH.IDE MAIN PAPER-1 OF 2022) ICODE-131***

This last reference to the Govt. of NCT of Delhi Order No. F.No.DHE.4(4)/GOSIPU/7019/4674-76 dated22:09.2022 and University's subsequent Notification No. GOSTPU/Admissions/2819 dated 27/09/2022 on the above subject.

The schedule of Online Registration: submission. of Registration cum.- Enrolment for Management Quota Fee'. and. Management-

Quota Counselling Fee" for B. Tech programme for the Academic Session. 2022-23 is given, below. Further activities after for completion of Online Registration shall be separately uploaded on the University website for information of the candidates.

"REGISTRATION"				
SI. NO	Category	Activity	Starting Date	Closing Date
<i>1</i>	<i>Candidate who had appeared and qualified JEE MAIN PAPER-1 of 2022 for B.Tech programme and who fulfil the eligibility criteria as laid down in the Admissions Brochure 2022-23, and are interested to enrol for Management Seats Counselling</i>	<i>Submission of "Registration-cum-Enrolment for Management Quota Counselling Fee" of Rs.1200/- (Non-Refundable) and "Management Quota Counselling Fee" of Rs.10,000/- (Non-Refundable)</i>	<i>19.10.2022 2 (4:00 p.m onwards)</i>	<i>24.10.2022 2 (upto 11:50 p.m.)</i>

Note:-

Candidates if any who have submitted applications in offline mode for admission in Management seats in B.Tech programme in any affiliated colleges/ institutes are hereby informed that they are also required to carry out Online Registration on University Portal

I. Seats for Management Counselling:

The seats matrix in the affiliated Colleges/Institutes for Management Seats In B.Tech programme have: been displayed on the University website on 18.10.2022 and the same is enclosed. along with this Schedule.

The reservation in the seat matrix is as per provision of relevant Act 2007.

IMPORTANT INSTRUCTIONS FOR CANDIDATES CLAIMING RESERVATION:-

(a)The admission in Management Seats shall be based on the aggregate marks obtained by qualified applicants at the qualifying examination as provided in the relevant. Act 2007,

(b)The candidate, seeking admission under reserved categories have to mandatorily. upload the entitled supporting certificate in his/her name is per instructions in the Admission Brochure:

(c) *The reservation certificate should be issued from the respective state under. tie. "Region" in which the reservation is claimed ns per instructions in the Admission Brochure.*

(d) *In case the candidate, is claiming the seat reserved for DSC/DST category then He/ She should have, passed his/ her qualifying exam from Delhi/ School/Collage, and, must have SCIST certificate issued by tie Competent Authority of Govt. of NCT of Delhi only as per the instructions in the Admission Brochure.*

(e) *For claiming reservation on a seat reserved for Defence Category, the candidate have to upload the duly filled and signed Appendix 1 of Admission, Brochure 2022-23 by the competent authority as mentioned in Admission Brochure 2022-2023*

II GENERAL INSTRUCTIONS:

(a) *The candidates must read the conditions of eligibility for admission as given in the. Admission Brochure for 2022-23 carefully and must satisfy themselves regarding their eligibility.*

(b) *It is the sole responsibility of the candidate to ensure that they fulfil the minimum eligibility criteria in the programmes they seek admission.*

(c) *If the fee is paid through credit/debit card and status is not OK; it means the transaction got cancelled and the amount will be refunded to concerned credit/debit card. Such candidates have to pay the fee once gain.*

(d) *The candidates who have completed Online Registration on University Portal and also paid the requisite fee as per the Schedule are hereby informed that completion of process does not entitled admission in the Management Seat.*

(e) *Candidates can forward their grievances if any on email grievancesmq2022@emallcom.*

(f) *A Management Quota Admission Monitoring Committee (MQAMC) for grievances, redressal shall be notified separately on the University website.*

(g) *The MQAMC shall comprise of*

(i) *Registrar, GGSIPU as nominee of the Vice Chancellor, GGSIPU*

(ii) *Deputy Director, DIE ns nominee of Directorate of Higher Education*

(iii) *The Principal/ Head of the concerned affiliated institution:*

(iv) *The Admission In-charge of the concerned affiliated institution*

All candidates are advised in their own interest to visit the University website www.ipu.ac.i, as well as the online admission website <https://lpu.admissions.nic.in> for regular updates."

107. It is thus seen that the State of NCT of Delhi in the year 2007 has come out with the State legislation regulating the admission process and the fee to be collected by the institutions. The various

provisions as have been reproduced in preceding paragraphs would indicate that by way of the provisions of the Act and the Rules made thereunder, the State of NCT of Delhi on one hand recognises the rights of the private unaided institutions to carry out occupation and on the other hand, has instituted certain restrictions. A delicate balance between Article 19(1)(g) and 19(6) of the Constitution of India has been orchestrated.

108. The Circular dated 22.09.2022 envisages that the University shall make an online portal to display the branch wise and college wise seats available under Management Quota. It further requires the prospective students to apply online against available seats under Management Quota. It further directs for publication of the merit list by the University through its online portal. It also requires for constitution of the Committee for monitoring of the Management Quota Seats. The same has been categorized as Management Quota Admission Monitoring Committee (*hereinafter referred to as 'MQAMC'*). The said committee consists of a nominee of the Vice Chancellor of the University, nominee of Director/ Directorate of Higher Education, the Principal/ Head of the concerned affiliated institution, and the Admission-In-Charge of the concerned affiliated institution.

109. At this stage, it is also necessary to take into consideration the background behind the issuance of the impugned Circulars. On 12.08.2022, W.P. (C) No.11906/2022 in the matter of *Shubham Jha v. Guru Gobind Singh Indraprastha University and Ors.* came to be filed before this Court. Besides the University, Maharaja Agrasen Institute of Technology, Bhagwan Parasuram Institute of Technology, Baharti Vidaya Peeth's College of Engineering, Maharaja Suraj Mal Institute of Technology, Vivekananda Institute of Professional Studies

Technical Campus and Government of NCT of Delhi were also the parties in the said writ petition. The Petitioner in that case prayed for various reliefs and his pre-dominant relief was to issue directions to the Respondent-University to initiate online counselling for Management Quota parallel to 90% seats to be allotted under JEE (Mains) category. On 08.09.2022, this Court noted the grievance raised by the Petitioner *qua* the lack of clarity/transparency in the mechanism for filling up of the Management Quota Seats at private institutions. The Petitioner stated that the private institutions were not adhering to the mechanism as provided under the Act of 2007 and the Rules made thereunder and that the Petitioner was not being provided with the form for opting seat against Management Quota. This Court directed the Respondent-private institutes therein to issue the requisite form enabling the Petitioner to apply in the said institution. The government of NCT of Delhi was also apprised of the grievance of the Petitioner, therein, as well as the stand taken by the University, to the effect that the University had earlier recommended and requested the Government of Delhi to issue necessary directions to ensure transparency. The Order dated 08.09.2022 passed in W.P. (C) No.11906/2022 is reproduced as under:

"CM APPL. 39332/2022 (for stay)

1. Pending consideration of the petition, wherein Petitioner has raised a grievance *qua* lack of clarity/ transparency in the mechanism for filling-up of the management quota seats at Respondent No. 2-5-institutions, Petitioner intends to apply for admissions to Respondents No. 2 to 5-institutes. It is contended that since the said institutes do not adhere to the mechanism as provided in the Rules elucidated under the Delhi Professional Colleges or Institutions (Prohibition of Capitation Fee Regulation of Admission Fixation of Non-Exploitative Fee and other Measures to Ensures Equity and Excellence) Act, 2007, Petitioner apprehends that he would not be able to apply for admissions to the said institutes.

2. *In fact, in the counter-affidavit filed by Respondent No. 1-University, this aspect has been highlighted and it has been pointed out that Respondent No. 1-University has made recommendations and requested the Government of Delhi to issue necessary directions to ensure transparency. Considering the above, it is directed that Respondents No. 2 to 5-institutes shall issue the requisite forms enabling Petitioner to apply in the said institutes.*
3. *The Court has not expressed any opinion on Petitioner's eligibility or entitlement to admission and the same shall be considered by the said institutes in accordance with law.*
4. *Mr. Santosh Kumar Tripathi, Standing Counsel for Government of NCT of Delhi, has been requested to join the present proceedings. He has been apprised of Petitioner's grievance and the stand of the University. Mr. Tripathi states that he will take appropriate instructions.*
5. *List on 16th September, 2022."*

110. On 16.09.2022 the grievance of the Petitioner therein in W.P. (C) No.11906/2022, was noted by this Court that Respondent nos.3 and 4 in the said writ petition did not issue the form for Management Quota Seats on the ground that the admission process for Management Quota in those institutions had not commenced by that time. This Court, therefore, directed for compliance with the requirement as contained in paragraph No.8, allotment of seats under 6.2 Management Quota admission of the admission brochure for 2022-2023 issued by the Respondent-University in respect of the admission process relating to Management Quota Seats. The Order dated 16.09.2022 is also reproduced as under:

- "1. Mr. Jha, counsel for Petitioner, points out that Respondents No. 3&4, have not issued forms for management quota seats as yet, on the ground that the admission process for management quota seats has not commenced.*
- 2. Respondent-institutes are directed to comply with requirements as contained in "Para 8. Allotment of Seats" under "6.2 Management Quota Admissions" of the admission brochure for 2022-23 issued by Guru Gobind Singh Indraprastha University in respect of admission process relating to management quota.*
- 3. Re-notify on 7th October, 2022."*

111. In CONT.CAS(C) 1044/2022 filed by Shubham Jha, this Court has passed an Order dated 28.09.2022 and a statement on behalf of MAIT [Petitioner of W.P. (C) No.14679/2022] was recorded to the effect that the said institution would follow the Circular dated 27.09.2022. The extract of paragraph Nos. 3 to 7 of the Order dated 28.09.2022 is reproduced as under: -

“3. Further, Mr. Sudhi states that Respondent-Institute is in receipt of a notice dated 27th September, 2022 issued by the Admission Branch of Respondent No. 3 [Guru Gobind Singh Indraprastha University – hereinafter interchangeably referred to as “GGSIPU” or “University”], wherein pursuant to directions issued by GNCTD, the University has decided that all prospective students shall apply online against the seats available under Management Quota and portal for the same shall display branch-wise and college-wise seats available under such quota.

4. Mr. Sudhi states that Respondent-Institute [Maharaja Agrasen Institute of Technology] would have to necessarily follow the aforementioned directions.

5. Ms. Anita Sahani, counsel for GGSIPU further informs that as per the above notice, information gathered from private institutes affiliated to the CONT.CAS(C) 1044/2022 Page 4 of 4 University relating to Management Quota would now be readily available on the online portal and this would ensure complete transparency in admission process vis-à-vis seats available under Management Quota.

6. In light of the fact that Petitioner’s name already finds mention in the list of applicants issued on 26th September, 2022, and counselling would be held in terms of the notice issued the University, no further directions are required to be issued and the present proceedings are accordingly, closed. The Court expects that the notice dated 27th September, 2022 issued by the University shall be given effect to, expeditiously.

7. Disposed of along with pending applications.”

112. On 10.10.2022, statement of the learned Counsel appearing for Respondent No.2 MAIT has been recorded that the said institution shall abide by its previous statement and the counselling would be conducted as per the Circular of the University. It be noted that by the time Order dated 07.10.2022 was passed, the Circular dated

22.09.2022 and 27.09.2022 had already been issued. The Order dated 07.10.2022 of W.P. (C) No.11906/2022 is also reproduced as under:

“1. Mr. Khagesh B. Jha, counsel for the Petitioner, points out that despite the statement made by the counsel for Respondent No. 2, they are not implementing the Circular issued by Respondent No. 1-University (‘GGSIPU’) dated 27th September, 2022. Mr. Jha states that the University had issued a counselling schedule dated 27th September, 2022, whereunder, the first round of counselling is scheduled on 10th October, 2022.

2. On this issue, Ms. Anita Sahani, counsel for Respondent No. 1-University, has pointed out that in light of the Circular issued by the University, the mechanism which was prevalent, requires to be revamped. She submits that the portal which is to be created to enable prospective students to apply online against available seats under management quota, is still underway. In this regard, necessary directions have been issued to NIC. She further submits that a meeting has taken place between the University and the self-financing institutions which are covered by the said Circular, and accordingly steps for implementation of the Circular have been undertaken in consultation with the stakeholders and the same would take some time.

3. Mr. Shashank Deo Sudhi, Counsel for Respondent No. 2, states that he abides by his previous statement and the counselling would be conducted as per the Circular of the University. The statement made by the counsel is taken on record.

4. List on 18th November, 2022.”

113. The same student Shubham Jha filed another W.P. (C) No.14347/2022 on 06.10.2022. He prayed for directions to the Respondent University to ensure strict compliance of the Circular dated 22.09.2022 and to constitute the Grievance Committee to ensure redressal of the problems faced by the Petitioner and other similarly situated students. W.P. (C) No.14347/2022 was taken up for hearing by this Court on 10.10.2022. The Order dated 10.10.2022 passed in W.P. (C) No.14347/2022 is reproduced as under:

“CM APPL. 43807/2022 (seeking exemption from filing true typed copies of dim annexures)

1. Exemption is granted, subject to all just exceptions.

2. *The Petitioner shall file legible and clearer copies of exempted documents, compliant with practice rules, before the next date of hearing.*

3. *Accordingly, the application stands disposed of.*

W.P.(C) 14347/2022

4. *This is the second such petition at the instance of the Petitioner. Though there are various overlapping issues between the earlier petition (W.P.(C) 11906/2022) and the present one filed by him – the thrust herein is the challenge qua Notification No. 245/2022 issued by Respondent No. 2 –Guru Govind Singh Indraprastha University (GGSIPU) in consequence of the order dated 22nd May, 2022 issued by Respondent No. 1 (GNCTD). The case of the Petitioner is that Respondent No. 2 has diluted the effect of the Government notification, owing to the difference in the language of the two notifications.*

5. *Issue notice. Mr. Santosh Kumar Tripathi, Standing Counsel (Civil), for Respondent No. 1 (GNCTD); Ms. Anita Sahani, counsel for Respondent No. 2 (GGSIPU); and Mr. Shashank Deo Sudhi, counsel for Respondent No.3 (Maharaja Agrasen Institute of Technology), accept notice. Counter affidavits be filed within a period of three weeks from today. Rejoinder thereto, if any, be filed before the next date of hearing. Issue notice to remaining Respondents, by all permissible modes, including dasti, upon filing a process fee, returnable on the next date of hearing.*

6. *At the outset, Mr. Tripathi, on instructions, states that indeed there appears to be some discrepancy in the wording of the Government order and the notification issued by GGSIPU. He submits that the directions of the Government should be implemented in its true letter and spirit.*

7. *Ms. Sahani states that the notification impugned in the present petition is only to give effect to the rules under the Delhi Professional Colleges or Institutions (forbiddances of capitation fee regulation of admission, fixation of Non-Exploitative Fee and different measures to guarantee value and greatness) Act 2007, which are already enforced. She states that endeavour of GGSIPU, in terms of the orders passed by the GNCTD, is to bring transparency in the system. Nevertheless, Ms. Sahani states that she will return with instructions on this issue on the next date.*

8. *Mr. Sudhi, counsel for Respondent No. 3, states that subsequent to the order dated 7th October, 2022, Respondent No. 3 has already issued a notice postponing counselling till further orders, and reiterates his stand, as already noted in order dated 7th October, 2022.*

9. *Re-notify on 18th November, 2022 along with W.P.(C) 11906/2022.”*

114. On 17.10.2022, this Court has considered the submissions made by the Petitioners-institutions that the impugned Circulars are in contravention of the provisions of the Act of 2007, the Rules made thereunder as well as against Articles 14 and 19(1)(g) of the Constitution of India. Paragraph No.8 of Order dated 17.10.2022 recorded a *prima facie* opinion that the impugned Circulars do not infringe the provisions of the Act. The extract of paragraph No. 8 of Order dated 17.10.2022 in W.P. (C) No.14677/2022 and other connected petitions is reproduced as under: -

“8. In prima facie opinion of the Court, the impugned Circulars do not infringe the provisions of the Act. The creation of the portal is only to ensure transparency in the admission process of ‘Management Quota’ seats. The branch-wise/ college-wise seat matrix and other information, if displayed on the portal of GGSIPU, would only facilitate students in applying under the Management Quota seats. Neither the University nor the State seeks to usurp Petitioners’ right of admissions qua such seats. There is no central admission process of the Management Quota seats envisaged in impugned Circulars, as perceived by affiliated Institutes/ Petitioners. Currently, the system does not provide for the manner for issuance of the application forms and Ms. Sahani has indicated to the Court that the University regularly receives complaints against several Institutes which reflects arbitrariness in the admission process. Thus, Respondents are not intending to take over the admission of Management Quota seats, but they want to bring about transparency in the system and ease in admissions for students, which is the main objective of the impugned Circulars. The Court is thus prima facie unconvinced with the stand of affiliated Institutes and cannot grant any interim directions at this stage. Respondents must be afforded an opportunity to put forth their stand. As regards, the admission process that is already complete, Ms. Sahani has already stated that the impugned Circulars will not affect them. Whether admission process is indeed complete or not, has to be ascertained on case-to-case basis, which needs to be verified by the University and no pre-emptory order(s)/ directions can be passed by the Court. It can only be observed that the University shall examine factual assertion of each Institute, including Petitioners herein and take action in accordance with law.”

115. On 20.10.2022, the prayer with respect to Circulars dated 17.10.2022 and 18.10.2022 issued by the University, was considered.

It may be recalled that the Circular dated 17.10.2022 is the reiteration of the fact that the schedule for online registration on University's portal for admission in management seats will be uploaded on the University's website by 18.10.2022 and the tentative date for the commencement of online registration on the University's portal for admission in Management Seats for B. Tech programme shall be 19.10.2022. The Circular dated 18.10.2022 is with respect to declaration of dates i.e., between 19.10.2022 to 24.10.2022. When these two Circulars were challenged by way of applications, this Court considered the grievance in the Order dated 20.10.2022 passed in W.P. (C) No.14677/2022 and other connected matters. By way of interim Order, no reason was found to stay the said Circulars. Paragraph nos. 4 to 8 of the said Order dated 20.10.2022 are reproduced as under: -

“4. The Court has still not adjudicated the earlier interim applications filed by Petitioners [hereinafter “affiliated Institutes”], but declined to grant any ad interim relief as yet, the affiliated Institutes have filed the instant applications, inter-alia, seeking stay on operation of the following Circulars [hereinafter collectively “impugned Circulars”]: (a) Circular dated 17th October, 2022,¹ and (b) Circular dated 18th October, 2022,² both issued by Respondent No. 3 [Guru Gobind Singh Indraprastha University – hereinafter interchangeably “GGSIPU” or “the University”].

5. Before proceeding to deal with the grievance of affiliated Institutes, it must be noted that in terms of the previous Order, the said institutes have shared information with the University which as per Ms. Anita Sahani, counsel for GGSIPU, is under scrutiny and further time is needed to complete the same.

6. Petitioners contend that their apprehension of counselling for Management Quota seats being controlled by the University gets pronounced by impugned Circulars which calls upon them to submit a “Registration-cum-Enrolment fee for Management Quota Fee” and “Management Quota Counselling Fee for B.Tech programme for the Academic Session 2022-23”. Additionally, it is contended that insofar as Vivekanandaa Institute of Professional Studies [in W.P.(C) 14677/2022 – hereinafter “VIPS”] is concerned, it has received 250 applications for B.Tech course till date. Likewise, Maharaja Agrasen Institute of Technology [in W.P.(C) 14679/2022 – hereinafter “MAIT”] has received nearly 122 applications.

7. Mr. Santosh Kumar Tripathi, Standing Counsel for Respondent No. 1 and 2, reiterating his stand submits that the autonomy of the affiliated Institutes, is not being usurped by the University. Counselling for Management Quota seats will be done by such institutes itself. The impugned Circulars are only in furtherance of earlier Circular dated 22nd September, 2022 issued by Respondent No. 2 [Directorate of Higher Education GNCTD – hereinafter “GNCTD”].³ Ms. Sahani, on the other hand, states that the entire premise of affiliated Institutes is misconceived. She clarifies that for all admitted candidates, the University charges a payment of Rs. 20,000/- per candidate [See: Annexure P-5 of the petition – Circular dated 01st September, 2022].⁴ She further clarifies “Management Quota Counselling Fee” of Rs. 10,000/- is adjustable against payment which the University is entitled to receive (i.e., Rs. 20,000/-). Any candidate who does not get admitted against a seat, would be entitled to refund of the said amount.

8. In light of the afore-noted stand, the Court does not find any reason to stay the impugned Circulars. Since applications for B.Tech. seats have been received by VIPS and MAIT, they can share the information/ particulars of such applications with the University which can be put on the portal of GGSIPU. Thereafter, as assured by Mr. Tripathi and Ms. Sahani, counselling for such seats shall be done by the affiliated Institutes.”

116. It is also to be seen that both the Orders dated 17.10.2022 and 20.10.2022 were challenged in LPA No.614/2022 before the Hon’ble Division Bench. The Hon’ble Division Bench on 31.10.2022 did not find any reason to interfere with the Orders impugned, therein, but granted liberty to the Appellant therein to request this Court to decide the matters as expeditiously as possible. The Order dated 31.10.2022 passed by the Hon’ble Division Bench in LPA No.614/2022 reads as under: -

“CM APPL. 46407/2022

*Exemption allowed, subject to all just exceptions.
The application stands disposed of.*

LPA 614/2022 & CM APPL. 46406/2022

The present LPA is arising out of orders dated 17.10.2022 and 20.10.2022 passed by the learned Single Judge in W.P.(C) No. 14677/2022 and other connected matters.

The order passed by the learned Single Judge reveals that a statement has been made by the Petitioner before the learned Single Judge that they have filled up the management quota seats which learned Single Judge has noted in the order. Not only this, the counsel appearing for the GNCTD made a categorical statement before the learned Single Judge that the admissions already made will not be disturbed. In the light of the aforesaid, this Court does not find any reason to interfere with the orders impugned as the matter is now listed before the learned Single Judge on 18.11.2022.

At this juncture, Mr. Manoj Goel, learned Senior Counsel for the Petitioner has stated that the matter be decided at an early date as admissions are going on and as far as some institutes are concerned, the admissions have already taken place in respect of the management quota seats.

This Court, without commenting upon the merits of the case, is of the opinion that the matter deserves to be heard at an early date and, therefore, a request is made to the learned Single Judge to decide the same as expeditiously as possible, at an early date. The parties shall be free to make a mention before the learned Single Judge for preponement of the date of hearing.

With the aforesaid liberties, the LPA stands disposed of.”

117. On 16.11.2022, the stand of the parties was noted that the admission process under Management Quota is complete and, therefore, the matters were directed to be listed for hearing along with other connected matters.

118. The matter also came to be listed along with the other batch of cases and thereafter common orders are being passed.

119. Reverting to the main controversy, it is to be determined as to whether the impugned Circulars cast any restriction on the fundamental right of the Respondents-private institutions in admitting students against the 10% Management Quota Seats in accordance with the provisions of the Act of 2007 and Rules made thereunder.

120. If direction (i) of the Circular dated 22.09.2022 is to be understood in its right perspective, the same required the University to develop an online portal to display the branch wise and college wise

seats available under Management Quota. It is not only the mandate enunciated by the Hon'ble Supreme Court in all its decisions including in the cases of *T.M.A. Pai Foundation (supra)*, *Islamic Academy of Education (supra)* and *P.A. Inamdar (supra)* but also the fundamental object of the Act of 2007 and rules made thereunder, is to ensure quality and excellence in professional education in the NCT of Delhi and for the matters connected therewith and incidental thereto.

121. The regulation of admission in a fair, transparent and non-exploitative manner is the heart and soul of Articles 14, 19 and 21 of the Constitution of India. Neither the private institutions nor anyone else would have any grievance with respect to maintaining fairness and transparency and ensuring non-exploitative procedure for admission. If the University displays the information relating to the branch wise and college wise seats of Management Quota, by no stretch of imagination the same can be said to be any restriction on the rights of the private institutions to admit students against the 10% Management Quota.

122. A notice/advertisement inviting applications for admission in any course necessarily needs to inform interested students about the availability of the course and the admission process. Wide publicity of such information helps students to make informed decisions about whether to apply for a certain course. It provides complete transparency in the admission process and all students who meet the eligibility criteria have an equal opportunity to apply for the course. It avoids confusion and misinformation amongst students as it provides a clear and concise summary of the admission process.

123. The institutions are not claiming that they do not want limited notice as such. The wide notice at multiple platforms if is directed to

be issued does not curtail any right of the institutions in the process of admission of the candidates.

124. The stand of the State Government and of the University is very clear. They unequivocally state that the Circular dated 22.09.2022 does not cast any restriction on the right of the management to admit 10% students under Management Quota. The said Circular only supplements the provisions of the Act 2007 and the Rules made there under, particularly proviso to Section 13 of the Act of 2007 which provides that the Management Quota Seats have to be filled in a transparent manner based on merit at the qualifying examination. In addition to the advertisement being issued by the private institutions as stipulated under the Rules of 2007, if the University also displays information pertaining to the branch wise and college wise seats available under the Management Quota for the benefit of the students at large, the same cannot be said to be a restriction. It would rather be in the interest of the students and of the private institutions to have better choices and to have a larger pool from which the meritorious candidates may be selected. This would bring transparency and obviate allegations against the institutions of backdoor admissions of students under Management Quota through malpractices like non-issuance of forms to prospective candidates.

125. If Clause (ii) of the Circular dated 22.09.2022 is analyzed, the same uses the word “can” which would denote that the prospective students can also apply online against available seats under the Management Quota. The Circular does not indicate whether the application has to be made to the University or to the institutions concerned. The stand taken by the State is that the prospective students can very well apply offline in pursuance of the advertisement issued by respective institutions and if they so desire, they can also

apply online to the University so that the University after the last date of application is over can direct the concerned institute to determine the merits of the respective candidates in order to admit the students amongst all candidates. It is, therefore, seen that providing an option to also apply to the University with a view to facilitate the students and the institutions to ensure larger participation again would not impinge upon any of the rights of the private institutions to admit the students against 10% Management Quota Seats. Where a candidate has registered his application online with the University in terms of the Circular in addition to making application off-line as per the 2007 Act and the Rules made there under, the same would ensure that malpractices like non-issuance of forms and non-registration of meritorious candidates are kept under check.

126. So far as direction (iii) in Circular dated 22.09.2022 is concerned, the same is already inbuilt in Rule 8(6) of the Rule of 2007. In any case when the college wise merit list is necessarily to be published online, this Court fails to understand as to how this would infringe the rights of the private institutions in any manner whatsoever.

127. Having analyzed all three Clauses of the Circular dated 22.09.2022, it is seen that the Clauses stipulated in the Circular dated 22.09.2022 rather than imposing any restriction on the institutions' right to admit students against 10% Management Quota Seats, is in actuality supplementary in nature. As held earlier, the Circular dated 22.09.2022, does not cast any restriction on the right of the management to admit 10% students under Management Quota. The said Circular only supplements the provisions of the Act 2007 and the Rules made thereunder, particularly the proviso to Section 13 of the 2007 Act which provides that the Management Quota Seats have to be

filled in a transparent manner based on merit in the qualifying examination.

128. Even otherwise as per Section 12(1)(a) of the Act of 2007, what is prescribed is 10% of the total seats in an unaided institution to be allocated as management seats. Section 13 of the Act of 2007 stipulates that an institution shall, subject to provisions of the Act of 2007, admit students through a CET to be conducted by the designated agency, in such manner as may be prescribed. The proviso to Section 13 provides that the management seats may be advertised and filled up by the institution, with the candidates who have qualified the CET, in a transparent manner, based on the merit in the qualifying examination.

129. The only difference between the qualification in 10% seats and the remaining 90% seats is that against 10% of seats, the merit list is prepared on the basis of the qualifying examination. Meaning thereby, the students desirous of admission against the management seats of 10% Management Quota will be adjudged on the basis of their 10+2 (12th) examination. However, they have to necessarily appear in the CET.

130. The mandate of the proviso to Section 13 is also to ensure admission in Management Quota in a transparent manner. The Rules of 2007 as have been reproduced in preceding paragraphs would show that the Management Quota Seats are required to be advertised in leading newspapers and there is a sufficient time gap between the date of advertisement and the date for the acceptance of the application and for conducting the second round of counselling etc. It is thus seen that the Act of 2007 and the Rule of 2007 very much emphasized fairness and transparency even in the admission process of the 10% management seats.

131. The principle of triple test i.e. fairness, transparency and non-exploitativeness has not been diluted under the provisions of the Act of 2007 or Rules of 2007, so far as the same relates to 10% management seats admission. The impugned Circular is intended to further the same object i.e. to ensure filling up of Management Quota Seats in a transparent manner.

132. By way of the impugned Circular, neither the right of the institutions to admit 10% seats under the Management Quota Seats is compromised nor is the procedure of admitting such students as prescribed under the 2007 Act and the Rules made thereunder adversely affected, or otherwise compromised, in any manner. The intake capacity remains intact. The criteria and procedure for admission under Management Quota also remains intact. What is being done by the impugned Circulars is to facilitate the students and the private institutions to allow fair and transparent participation. The same cannot be a ground to interfere with the Circular dated 22.09.2022. The impugned Circular does not infringe any of the fundamental rights of the private institutions.

133. In *T.M.A. Pai Foundation (supra)* some of the unacceptable restrictions that have been explained are:

- (a) Fixing of rigid fee structure
- (b) Dictating and composing of a governing body
- (c) Compulsory nomination of teachers and staff and,
- (d) Nominating students for admissions etc.

116. Malpractices, maladministration and non-transparent admission processes are antithetical to Article 14 of the Constitution of India. The right to impart education and education services is recognised as an occupation as this activity is undertaken as a means of livelihood or a mission in life, not as a means to earn profit, as was held in *T.M.A.*

Pai Foundation (supra). This right is recognised as the service is based on ‘no profit no loss’ principal. The private institutions cannot claim that they generate additional revenue from their 10% seats, as the fee structure for all students is common. There should not be any reason as to why 10% seats should not be filled up amongst most meritorious available students.

134. To put it differently, the institutions are not entitled to charge any higher fees from the students admitted through the 10% Management Quota Seats students than the fee being charged from 90% students. Thus, the same fee structure is applicable to both the categories. Therefore, so long as merit is not being diluted by the impugned Circulars, the institutions ideally should not have any grievance. It is not their case that admissions are guided by the paying capacity of the candidates. The institutions are also under an obligation to maintain merit and transparency under the proviso to Section 13 of the Act of 2007.

135. The Circulars dated 01.09.2022, 27.09.2022, 17.10.2022, 18.10.2022, 21.10.2022, 28.10.2022, 01.11.2022, 02.11.2022, 04.11.2022, 10.11.2022 and 12.11.2022 issued by the University nowhere compels the private institutions to admit a particular student. The said Circulars nowhere prescribe any other criteria for judging the merit than the one prescribed under applicable rules or regulations. The Circulars, nowhere take away the right to admit the students up to sanctioned intake capacity or compel the private institutions to compromise with merit or excellence.

136. In the matter of admission in educational institutions, merit should be honoured, unless, there is any legally acceptable criterion. Even in the cases of different categories, the *inter se* merit is always honoured within the same category. Merit based admission is

envisaged even for the 10% Management Quota Seats. The merit would only be determinable when all eligible and desirous candidates are properly informed about the admission process. Malpractices and backdoor entry into admissions in professional courses is not unknown in society. Various decisions pronounced by the Hon'ble Supreme Court and High Courts of the country have elaborately dealt with such malpractices in clear terms, therefore, transparent and merit based admission process needs to be encouraged. It encourages the students to work hard and realise their potential in their academic pursuits. It ensures that the brightest and most talented students are given the opportunity to study in educational institutions which ultimately promotes excellence. The selection of students should always be based on their academic aptitude and other qualifications, rather than extraneous factors such as personal connections, wealth or social status or other resources of getting limited information of admission notice.

137. The efforts made by the DHE and the University are only with an aim to ensure that there should be large participation of the students in a fair and transparent manner. The information with respect to seat matrix and counselling etc. must be disseminated to all concerned.

138. The University's Circulars do not substitute the procedure enunciated in Rule 8 of the Rules of 2007. The charge of fee categorized as counselling fee itself would not be the reason to presume that the University is conducting the counselling when a specific stand is taken by the University which is found to be correct that the University has not conducted any counselling, rather the University has repeatedly in its Circulars such as those dated 18.10.2022, 01.11.2022 and 02.11.2022 stated that the counselling would be conducted by respective affiliated colleges.

139. The extract of paragraph No.2 of Circular dated 28.10.2022 is reproduced as under: -

“

2. *In addition to the merit list, detailed instructions regarding Schedule of Counselling for admission in Management Quota in programme B. Tech. to be conducted by the respective affiliated colleges shall also be made available on Tuesday, 01.11.2022 on the University portal.”*

140. The extract of Circular dated 01.11.2022 is reproduced as under:-

“Notification No.: 295 /2022

Guru Gobind Singh Indraprastha University
Sector 16 C, Dwarka, New Delhi- 110078
Admissions Branch

F. No.: IPU-7/Admissions/Misc./2022/2962

Dated:01/11/2022

**ONLINE REGISTRATION FOR MANAGEMENT SEATS
ADMISSIONS**

This is in reference/ continuation of the notification F. No. GGSIPU/J.R (Admissions)/ Misc./2022/2948 dated 28.10.2022 and F. No. IPU-7/Inline Counselling/ 2022/2909 daetd 18.10.2022 regarding Admissions in Management Seats for Academic Session 2022-23.

The detailed instructions regarding Schedule of Counselling for admission in Management Seats in programme B. Tech to be conducted by the respective affiliated colleges shall be notified on Wednesday, 02.11.2022 for Academic Session 2022-23.

Candidates are advised in their own interest to visit the University website www.ipu.ac.in as well as the online admission website <https://ipu.admissions.nic.in> for regular updates.

*Brig. P. K. Upmanyu (Retd.)
Incharge (Admissions)*

141. The extract of the last paragraph of Circular dated 02.11.2022 is reproduced as under:-

“
The candidates whose name is in the list above are advised to visit the University website www.ipu.ac.in as well as the online admission website <https://ipu.admissions.nin.in> regularly.”

142. It is thus seen that the understanding of the University and all concerned was clear that the counselling will have to be conducted by respective affiliated colleges.

143. In view of the aforesaid discussion, this Court holds that the impugned Circular does not restrict or curtail any fundamental rights of the private institutions. The said Circular merely seeks to achieve the same object as is sought to be achieved specifically by proviso to Section 13 of the Act 2007 i.e to ensure filling up of Management Quota Seats in a transparent and non-exploitative manner. The impugned Circular, therefore, cannot be held to be violative of the fundamental right guaranteed under Article 19(1)(g) nor is the same contrary to the Act or the Rules made thereunder. The challenge to the validity of the impugned Circular, is therefore, declined.

144. The fourth question is regarding the admission made by MSIT for the Academic Session 2022-2023 against the Management Quota of 10% seats.

145. According to MSIT's own stand, it issued an advertisement dated 26.08.2022 in a 'Daily English' newspaper and a 'Daily Hindi' newspaper. The last date for submission of application was prescribed to be 12.09.2022. The advertisement expressed that the application forms were available in the office of the institute upto 29.08.2022. The advertisement published in 'The Statesman' dated 26.08.2022 i.e., the English Daily reads as under:-

“ADMISSION NOTICE FOR MANAGEMENT QUOTA SEATS

In terms of Directorate of Higher Education/Govt. of NCT of Delhi Notifications regarding filling up of 10% Management Quota Seats, applications are invited in the form available in the offices of the Institutes upto

29.08.2022 between 10.00 a.m. to 1.00 p.m. *The last date for submission of application will be 12.09.2022 upto 1.00 p.m. The Counseling will take place in the premises of the Institutes on a date and time to be notified on the Institutes website with respect to the following courses:*

Maharaja Surajmal Institute.:

• BBA (Gen.), BBA(B&I), BCA,B.Com. (H) – 1st and 2nd Shifts, B.Ed., MBA, BBA-LLB and BA-LLB

Maharaja Surajmal Institute of Technology:

• B. Tech. (IT), (CSE), (ECE) – 1st and 2nd Shift, B. Tech. (EEE)- 1st Shift and B. Tech. (Lateral Entry)”

146. Sub-Clause (ii) of Rule 8 (2) (a) of the Rules of 2007 requires that the prospective applicants shall be given a period of at least 18 days to apply for seats under the Management Quota. The date of advertisement is 26.08.2022 and the last date to obtain the form was 29.08.2022 between 10:00 a.m. to 01:00 p.m. Of course, the last date for submission of application form was 12.09.2022. However, it is clear that for availability of forms, only a small window between 27.08.2022 to 29.08.2022 was made available to the students.

147. The Management Quota Seats are not confined to the students desirous of taking admission residing in NCT of Delhi alone but even students residing outside of NCT of Delhi are entitled to apply. The entire purpose of enacting the Act of 2007 and the Rules of 2007 is to ensure that the admissions are to be made in a transparent manner. The proviso to Section 13 of the Act of 2007 specifically emphasises that the institution must admit the candidate in a transparent manner based on the merit of the qualifying examination. If the forms are not made available at the very threshold to the candidates aspiring for admission or an extremely narrow window is made available, the very purpose of enacting the Act of 2007 and the Rules of 2007 is frustrated. Whatever be the process to be followed thereafter, may not have much significance if the candidates are not allowed to obtain the form and exercise their option of claiming admissions. It is not necessary that

the student must always raise a written complaint or file a writ petition. The requirement of law is to make sufficient time available for the students to obtain forms and to apply against Management Quota Seats. The very object of the Act of 2007 is to eliminate the evil practices such as an unfair, non-transparent and exploitative admission process. Viewed from this perspective, it is seen that at the very threshold the institution has not been found to have followed the mandate of Sub-Clause (ii) of Rule 8(2)(a) of the Rules of 2007 in providing at least 18 days' for prospective applicants to apply for seats under the Management Quota.

148. The fact that the institution did not issue the form to the desirous candidate is also established from the Order dated 08.09.2022 passed by this Court in Writ Petition No. 11906/2022, wherein this Court specifically directed the institutes to issue the requisite forms enabling the Petitioner therein to apply in the said institutes. Had the forms been made available smoothly, there would have been no occasion for the student concerned to file a writ petition and to have approached this Court. If the scheme of Rule 8(2)(a) of the Rules of 2007 is understood in the right perspective, the same would also indicate the following requirements:-

- (i) A clear advertisement published in the newspaper and also displayed the same on the notice board as well as the institutions' website. Further 18 days' time to apply for the prospective applicants.
- (ii) Preparation of a merit list on the basis of the aggregate marks obtained by applicants in the qualifying examination and its display in order of merit on the institutions' website and notice board within two days of the closing date for receipt of the Management Quota applications. The counselling must take place within a period of three days of drawing up of the merit list of the Management Quota

applicants who have qualified. The list of applicants who will be called for a given round of admission counselling shall be displayed on the institutions' website and notice board. A harmonious reading of Sub-Clause (iv), (v) & (vi) of Rule 8(2)(a) of the Rules of 2007 also indicates that the list of the candidates being called for the first round of counselling shall also be displayed in the same manner alongwith the merit list indicating therein the date, time and place at which the counselling will be held on the website of the designated agency.

(iii) Only two rounds of counselling shall take place. After the first round is over, the second round shall commence twelve hours after the publication of the list of applicants admitted in the first round of counselling and the discipline/course wise balance of sheets. All admissions made to the Management Quota Seats shall be provisional and will need ratification by the designated agency which shall be conveyed within a day of being informed by the institution of the list of successful candidates and the basis of their selection.

149. The argument made by the institute that the role of the designated agency only comes after both the rounds of counselling are over is contrary to the scheme of Rule 8 of the Rules of 2007. If Sub-Clause (vi) of Rule 8(2)(a) is read carefully, it requires that the list of applicants to be admitted to the Management Quota Seats made on the basis of the merit drawn up, shall be published at the end of each round of counselling on the website of the institution as well as on that of the designated agency.

150. The second part of the same rule indicates that the list of candidates being called for the 'first round' of counselling shall also be displayed in the same manner alongwith merit list, indicating the date, time and place at which the counselling is to be held. In second part the use of the word 'aforementioned manner' and publication of

the list of the candidates being called for the ‘first round’ of counselling reinforces the requirement of publication of the merit list on the designated agency website even before the first round of counselling takes place. Any other interpretation would be contrary to the mandate of proviso of Section 13 of the Act of 2007.

151. It is a basic principle of interpretation of statutes that if a statutory provision is open to more than one interpretation, the Court has to choose that interpretation which represents the true intention of the legislature. (See: ***Bhatia International v. Bulk Trading S.A.***⁵⁴)

152. The intent of the legislature in enacting the provisions of the Act of 2007 and the Rules of 2007 are rooted in various earlier pronouncements of the Hon’ble Supreme Court. In ***P.A. Inamdar (supra)***, the Hon’ble Supreme Court at paragraph No.138 and 155 observed as under:-

"138. It needs to be specifically stated that having regard to the larger interest and welfare of the student community to promote merit, achieve excellence and curb malpractices, it would be permissible to regulate admissions by providing a centralised and single-window procedure. Such a procedure, to a large extent, can secure grant of merit-based admissions on a transparent basis. Till regulations are framed, the Admission Committees can oversee admissions so as to ensure that merit is not the casualty."

155. It is for the Central Government, or for the State Governments, in the absence of a Central legislation, to come out with a detailed well-thought-out legislation on the subject. Such a legislation is long awaited. The States must act towards this direction. The judicial wing of the State is called upon to act when the other two wings, the legislature and the executive, do not act. The earlier the Union of India and the State Governments act, the better it would be. The Committees regulating admission procedure and fee structure shall continue to exist, but only as a temporary measure and an inevitable passing phase until the Central Government or the State Governments are able to devise a suitable mechanism and appoint a competent authority in consonance with the observations made hereinabove. Needless to say, any decision taken by such Committees

⁵⁴ (2002) 4 SCC 105

and by the Central or the State Governments, shall be open to judicial review in accordance with the settled parameters for the exercise of such jurisdiction."

153. It is thus seen that in order to protect the interest of the student community and to ensure a fair, transparent and non-exploitative admission process, what is sought to be remediated is the malpractices being resorted to by the institutions

154. In paragraph No.140, the Hon'ble Supreme Court in the decision of *P.A. Inamdar (supra)* has also taken note of the fact that despite the legal position, the Hon'ble Supreme Court cannot shut its eyes to the hard realities of commercialisation of education and the evil practices being adopted by many institutions to earn large amounts for their private or selfish ends. The need for regulation in the admission process was thus emphasised. The same is reproduced as under:-

"140. Capitation fee cannot be permitted to be charged and no seat can be permitted to be appropriated by payment of capitation fee. "Profession" has to be distinguished from "business" or a mere "occupation". While in business, and to a certain extent in occupation, there is a profit motive, profession is primarily a service to society wherein earning is secondary or incidental. A student who gets a professional degree by payment of capitation fee, once qualified as a professional, is likely to aim more at earning rather than serving and that becomes a bane to society. The charging of capitation fee by unaided minority and non-minority institutions for professional courses is just not permissible. Similarly, profiteering is also not permissible. Despite the legal position, this Court cannot shut its eyes to the hard realities of commercialisation of education and evil practices being adopted by many institutions to earn large amounts for their private or selfish ends. If capitation fee and profiteering is to be checked, the method of admission has to be regulated so that the admissions are based on merit and transparency and the students are not exploited. It is permissible to regulate admission and fee structure for achieving the purpose just stated."

155. If the provisions of the Act and the scheme of the Rules of 2007 is examined in the context of the decision of the Hon'ble Supreme Court, it leaves no iota of doubt that the merit list before both rounds of counselling i.e. the first and second rounds of counselling needs to be published on the notice board of the designated agency as well. A

bare mechanical interpretation of the words coupled with an ornamental application of the purported legislative intent, devoid of the concept or purpose will reduce most of the remedial and beneficial legislations to futility. (See: *Directorate of Enforcement v. Deepak Mahajan*)⁵⁵"

156. At each stage, the simultaneous information regarding date of counselling, whether first or second, needs to be displayed on the designated agency's website. When the institutions do not deny the fact that they do adhere to the transparent and non-exploitative procedure, then there is no reason to interpret the rule in a narrow manner. The purpose of enacting the provisions regulating the admissions in private institutions is to make it subject to, and compliant with the triple test i.e. transparency, fairness and non-exploitativeness. The same is the mandate in all three important decisions on the subject, them being *T.M.A. Pai Foundation (supra)*, *Islamic Academy of Education (supra)*, and *P.A. Inamdar (supra)*.

157. The closing date for receipt of Management Quota application admittedly is 12.09.2022 and as per Sub-Clause (iv) of Rule 8(2)(a) of the Rules of 2007 within two days from the closing date for receipt of the Management Quota applications, the preparation and display of the rank ordered merit list should have taken place. In the instant case, the same has been done on 16.09.2022. There is clear non-compliance of the Rules of 2007. It is also surprising that against 66 seats, only 69 candidates applied to the institute. It is also to be noted that no dispute has been raised with respect to any other institutes who are the Petitioners in the present batch except with respect to MSIT.

158. Before 22.09.2022 or upto 27.09.2022 admittedly no formal admissions took place at MSIT. On 28.09.2022, MSIT communicates

⁵⁵ (1994) 3 SCC 440

to the University in reference to the notification of the University dated 27.09.2022 that the MSIT meticulously follow the prescribed procedure as notified under the Rules issued by the University and DHE, Government of NCT of Delhi, from time to time regarding filling of Management Quota Seats, which reads as under:-

*“Ref.No.SMES/2022/31/190
September,022*

Dated- 28

*To
Brig. P.K Upmanyu
(Retd)
Incharge (Admissions)
Guru Gobind Singh Indraprastha University,
Sector-16C, Dwarka
New Delhi – 110078*

Sir,

This has reference to the GGSIPU Notification No. 245/2022 dated 27 .9.2022.

Maharaja Surajmal Group of Institutions (MSI & MSIT) meticulously follow the prescribed procedure as notified rules issued by GGSIPU and DHE, Govt. of NCT Delhi time to time regarding filling up of management quota seats. Accordingly, the procedure as elaborated in the admission brochure 2022-2023 has been adhered to.”

159. A reading of the communication dated 28.09.2022 of MSIT with reference to the instructions dated 27.09.2022 of the University leaves no doubt, that MSIT did not have any objection to follow the Circular dated 27.09.2022. However, on 07.10.2022, MSIT issued the notice prescribing the schedule for B.Tech admissions in the Management Quota which indicated the first counselling to be held on 27.10.2022 and second counselling was to be held on 28.10.2022 and the display of vacant seats for conversion from reserved category seats to unreserved category seats was to be held on 28.10.2022 followed by filling up of vacant seats converted from Reserved to unreserved, as per prescribed notification on 29.10.2022.

160. Even if the schedule so indicated is also accepted to be the correct schedule, the same is also found to be contrary to Rule 8(2) (a) (v) of the Rules of 2007, as the institution concerned shall conduct the admission counselling for allotment of branch/courses to qualified applicants within a period of three days from the drawing up of the merit list of qualified Management Quota applicants. In the instant case, the said list according to MSIT was prepared on 16.09.2022; therefore, the date of first counselling does not fall within a period of three days from the date of the preparation of the merit list and its publication. At this stage, there is a patent disobedience and departure from the applicable Rules of 2007 yet again.

161. The Rule does not envisage any third round of counselling whereas in the present case MSIT issued notice on 12.11.2022 describing therein that the first counselling of Management Quota Seats to take place on 13.11.2022. The notice dated 12.11.2022 reads as under:-

“NOTICE

Schedule of Counselling for B.Tech.Programme(Code-131) under Management Quota.

Category for Academic Session 2022-23

Candidates who have registered on the GGSIP University Portal for admission under Management Quota Seats in pursuance of DHE Order dated 22.09.2022, GGSIPU Order dated 27.09.2022, Directions of the Hon'ble High Court and are looking for admission in Maharaja Surajmal Institute of Technology in the above noted programme, shall report for counselling/admission as per the schedule given below:-

Schedule of Counselling/Admission

<i>SI. NO</i>	<i>Schedule</i>	<i>Date & Time</i>
<i>1.</i>	<i>1st Counselling of Mgmt. Quota Seats</i>	<i>13.11.22(7:00 AM)</i>
<i>2.</i>	<i>Display of Vacant Seats after 1st Counselling</i>	<i>13.11.2022(9:00 AM)</i>
<i>3.</i>	<i>Second Round of Counselling, if required</i>	<i>13.11.2022(9:00 AM)</i>

Venue of Counselling Seminar Hall No. 06, Ground Floor,
Maharaja Surajmal Institute of Technology

Important Instructions:-

1) *The candidates must read the conditions of eligibility as given in the Admission Brochure 2022-23 and other Notifications issued by GGSIP University for admission in B.Tech. Programme under Management Quota and must satisfy themselves regarding their eligibility.*

2) *Only those candidates, who registered themselves on GGSIP University's Portal & whose name appear in the Merit List provided by the University, can participate in the counselling for admission in B.Tech. Programme under Management Quota Category.*

3) *The counselling shall commence in the Institute's Campus at 7.00 AM Sharp on 13.11.2022. Therefore, all the desirous participating candidates must report in the Institute before the designated time. Latecomers will not be allowed to participate in the Counselling.*

4) *Those candidates seeking admission against the reserved category has to produce the original caste certificate issued by the competent authority of Govt. of NCT of Delhi besides, an undertaking in the format is given in the Appendix 10 of Admission Brochure 2022-23 at the time of Counselling.*

5) *For claiming reservation on a seat reserved for Defence Category, the candidate have to produce duly signed Appendix-1 of Admission Brochure 2022-23 by the competent authority as mentioned in Admission Brochure 2022-23.*

6) *All the reserved seats, that remain vacant after completion of the first round of counselling, shall be converted into unreserved /general category of seats and will be filled up out of general category of candidates in the second round of counselling/Extended Round of Counselling.*

7) *Those candidates who are admitted in the first or second counselling will be required to deposit the annual fee amounting Rs. 1,56,300/- (Rupees One Lakh Fifty Six Thousand Three Hundred only) instantly in any mode. Those candidates, who fail to deposit their fee on the same day their admission shall stand cancelled.”*

162. If according to MSIT, they were not required to conduct any counselling and their admissions were already over on 16.09.2022 or on 27.10.2022/29.10.2022, there was no reason to issue another notice for conducting counselling, that too describing the same as the first counselling of Management Quota Seats. This notice dated 12.11.2022 also displays vacant seats after the first round of counselling and

second round of counselling, if required. The same gives an impression that MSIT is conducting counselling again as per the list provided by University on 02.11.2022 of 849 candidates. On the same date i.e. on 12.11.2022 another revised notice was issued by MSIT wherein the time of the first round of counselling was slightly changed from 7:00 a.m. to 8:00 a.m. However, to the utter surprise of this Court, another revised notice i.e. third notice on the same date i.e. on 12.11.2022 came to be issued by MSIT, wherein the entire nature of instructions was changed. For better understanding, the revised notice dated 12.11.2022 (third notice) is reproduced as under:-

Schedule of Counselling for B.Tech Programme (Code 131) under Management Quota
Category for Academic Session 2022-23

All the candidates who have registered on GGSIPU Portal, pursuant to direction of the Hon'ble High Court, for admission under Management Quota Seats and have not taken admission, so far, in B. Tech.

Programme (CET Code-131) for the year 2022-23, in any other affiliated colleges of GGSIFU, neither under Management Quota nor under Merit Seats though online counselling of GGSIPU and are interested for taking admission in Maharaja Surajmal Institute of Technology (MSIT), New Delhi for B.Tech Programme under Management Quota are hereby informed to report for the Second round of Counselling against the Vacant Seats as per the details and schedule, mentioned hereunder:-

Schedule of Counselling/Admission

Schedule	Date & Time	Venue	Vacant Seats
Second Round of Counselling for Admission under Management Quota Against Vacant Seats.	13.11.2022 Sunday (9:00 AM Onwards)	Seminar Hall #06, Ground Floor, MIST Building,C-4, Janakpuri, New Delhi-110058	IT-1 st Shift-01 seat ECE-1 st Shift-03 seats

It may be noted that the details of the admissions already completed during 1 Round of Counselling have been submitted to the University and the Hon'ble High Court of Delhi which is sub-judice and is pending for final adjudication, before Hon'ble High Court of Delhi. In a writ petition filed by a student admitted under first round of counselling the Hon'ble High Court of Delhi has passed order dated 11.11.2022 in WP(C) No. 15528 served to us this evening is reproduced as under:*

7. That apart, as noted in order dated 17th October 2022 in WP. (C) 14677/2022 and connected matters, Ms Sahani's statement on behalf of GGSIPU has been recorded to the effect that GGSIPU has taken a conscious decision to not disturb the admission process already completed by the affiliated institute(s) prior to the issue of concerned notification(s). Since the Petitioner has already secured admission, prima facie he would be entitled to the benefit of afore-noted decision. However, Petitioner is desirous of see during admission in other institutes. The condition imposed vide impugned notification is only to ensure that students who have already got admission in an institute should not scout for admission in other institutes, so as to ensure that other students are not deprived of a chance to get admission. Absence of such a condition would result in student holding on to multiple seats, leading to vacancies at the time of conclusion of admission process, which would be highly undesirable and a wastage of resources of the institutes.

In view of the above factual positions, the Second Round of Counselling is being conducted on 13.11.2022 to till up these 4 vacant seats as detailed above.

Important Instructions:

1) The candidates must read the conditions of eligibility as given in the Admission Brochure 2022- 23 and other Notifications issued by GGSIP University for admission in B.Tech. Programme under Management Quota and must satisfy themselves regarding their eligibility.

2) Only those candidates, who registered themselves on GGSIP University's Portal & whose name appear in the Merit List provided by the University, can participate in the counselling for admission in B.Tech. Programme under Management Quota Category.

3) The counselling shall commence in the Institute's Campus at 7.00 AM Sharp on 13.11.2022 Therefore, all the desirous participating candidates must report in the Institute before the designated time. Latecomers will not be allowed to participate in the Counselling. 4) Those candidates seeking admission against the reserved category has to produce the original caste certificate issued by the competent authority of Govt. of NCT of Delhi besides, an undertaking in the format is given in the Appendix 10 of Admission Brochure 2022-23 at the time of Counselling.

5) For claiming reservation on a seat reserved for Defence Category, the candidate have to produce duly signed Appendix-1 of Admission Brochure 2022-23 by the competent authority as mentioned in Admission Brochure 2022-23.

6) All the reserved seats, that remain vacant after completion of the first round of counselling, shall be converted into unreserved /general category of seats and will be filled up out of general category of candidates in the second round of counselling/Extended Round of Counselling.

7) Those candidates who are admitted in the first or second counselling will be required to deposit the annual fee amounting Rs. 1,56,300/- (Rupees One Lakh Fifty Six Thousand Three Hundred only) instantly in any mode. Those candidates, who fail to deposit their fee on the same day their admission shall stand cancelled.

8) If any candidate seeks withdrawal of his/her admission, his or her request for withdrawal of admission should reach the Director, MSIT on the same day in the format as given in Appendix11 of Admission Brochure 2022-23

9) Candidate shall bring the following documents for verification
(i) Proof of registration for Management Quota Seats applied on GGSIPU Portal

(ii) JEE Main Paper-1 of 2022 Admit Card (Original & Photocopy)

(iii) Copy of Rank obtained in JEE Main Paper-1 of 2022

(iv) Original Certificate and Marks Sheets of qualifying examination along with three self attested photocopies.

(v) Reserved category candidates shall bring original reserved category certificate along with three sets of selfattested copies.

(vi) Admission Verification Form (Appendix-6 of GGSIPU Admission Brochure 2022).

(vii) Physical fitness certificate. All candidates shall be required to submit a medical certificate as given in Part-B in Admission Brochure 2022 (Appendix-5)

(viii) Undertaking by the candidates with respect to anti-ragging and undertaking by the parent/guardian with respect to anti-ragging as per Appendix 7&8 of Admission Brochure 2022-23 available on the University Website.

(ix) Conduct & Character Certificate in original from the Head of the Institute from where the qualifying examination has been passed or from Gazetted Officer (Original) not more than 6 (six) months old. 128

(x) In case of Gap Year, the candidate is required to submit a notarized Gap Year Affidavit on stamp paper of Rs. 10/- with one self-attested photocopy.

(xi) Candidate shall submit undertaking that he/she has not taken admission and will not seek admission anywhere else in any college affiliated to GGSIP University in B.Tech. once the seat is allotted to him/her in Management Quota.

(xii) Candidate who has already taken admission through online counselling shall not be eligible for consideration under Mgmt. Quota.

(xiii) Candidates once admitted under Management Quota seat will not be eligible admission in any other college affiliated to GGSIPU.

xiv) All admissions are provisional subject to ratification by the University.

(xv) Seat Matrix for Management Quota Seats for B.Tech. Programme (Code 131) is also attached.

(xvi) Classes for 1st year students of B.Tech. Programmes have already been commenced from 7th November 2022 as per the Academic Calendar notified by the University

NB:- 1.

Candidates will be called strictly on merit of the qualifying examinations based on the aggregate marks percentage, if aggregate marks scored by two or more candidate are same then the merit will be decided on the maximum marks in Mathematics. If still there is a tie then candidate having more marks in Physics will get higher rank. If marks in all three subject are same then merit will be decided on Date of Birth (Older in age shall rank higher)

Dr. Ranjit Singh) Director-MSIT

163. A reading of this revised notice indicates that the counselling was to be conducted on 13.11.2022 as the second round of counselling and the same had been confined to four seats. The same appears to have been issued with multiple instructions to cover-up all the shortcomings in the admission process. If the stand of the MSIT is to be understood as has been explained, the same indicates that as per the schedule dated 07.10.2022, the first counselling was to take place on 27.10.2022 and the second counselling was to take place on 28.10.2022. The counselling for the seats converted from the unreserved category to reserved category was to take place on 29.10.2022. According to MSIT, the counselling took place and 62 seats were filled up during those counselling. However, on account of pressure exerted by the University, the revised notice on 12.11.2022

was issued confining the same to the remaining vacant seats which were four in numbers.

164. MSIT appears to have overreached not only the mandate of the Rules of 2007 but also the directions issued by this Court, most importantly the Order dated 17.10.2022. In paragraph No. 6 of the Order dated 17.10.2022, this Court recorded the statement that the process *qua* nearly 90% of the Management Seats in respect of the institutions is complete and the process for the remaining 10% seats has already begun. It was clarified by this Court in paragraph No. 8, that the said Order, with regard to the admission process already completed, whether the same was indeed complete or not had to be ascertained on a case to case basis, which needs to be verified by the University and no pre-emptory Orders/directions can be passed by the Court. The said directions reads as under:-

“As regards, the admission process that is already complete, Ms. Sahani has already stated that the impugned Circulars will not affect them. Whether admission process is indeed complete or not, has to be ascertained on case-to-case basis, which needs to be verified by the University and no pre-emptory Order(s) directions can be passed by the Court. It can only be observed that the University shall examine factual assertion of each Institute, including Petitioners herein and take action in accordance with law.”

165. The MSIT admittedly has conducted the counselling between 27.10.2022 to 29.10.2022 i.e. after passing of the directions by this Court on 17.10.2022. The University has not approved any admission till date. Had the process been completed before 22.09.2022, there would have been no reason to conduct the counselling on 27.10.2022 or thereafter. The declaration of merit list is not the completion of the admission process. The process gets completed only when the concerned candidate reports to the institution for joining the concerned course and the admission slip is issued in his or her favour, save and except cases where an additional stage is prescribed under the relevant

admission guidelines. The process of admission may depend upon the applicable admission policy. However, in the instant case, the declaration of merit list is not the completion of admission process. The Rules of 2007 require for counselling to be conducted followed by ratification. Typically, completion of admission may involve various stages, such as submission of application form, its scrutiny, publication of list of eligible candidates, counselling i.e. final verification, date of deposition of fees etc.

166. It is thus seen that as on 22.09.2022, the process was not complete even with respect to a single seat. In all fairness, MSIT was required to have approached this Court or should have clarified on 17.10.2022, that only the list of eligible candidates has been declared. Not only on 17.10.2022, this Court intended for the fair admission process but even on 20.10.2022, this Court again declined to stay the operation of Circular dated 17.10.2022 and 18.10.2022 issued by the University. Both the Orders dated 17.10.2022 and 20.10.2022 were assailed by the institutions before the Division Bench of this Court in an LPA. The Hon'ble Division Bench of this Court in LPA No. 614/2022 on 31.10.2022 declined to interfere and, therefore, liberty was sought to argue the matter finally before this Court. It is thus seen that if the stand of the institute as on 31.10.2022 was that of the completion of the admission process, the same has not been accepted and, therefore, the MSIT cannot claim that the admission process was complete before the issuance of Circular dated 22.09.2022.

167. It is also to be noted that on 28.10.2022, the University clearly communicated to the MSIT that the conduct of counselling on 27.10.2022 and the communication to that effect to the University are in violation of the Orders of this Court and the directions of the DHE. The same reads as under:

“Please refer to your letter No. MSIT/MQ/B.TECH/2022/180 dated 26.10.2022 received on 27.10.2022 and also refer letter No. MSIT/MQ/B. Tech/2022/181 dated 27.10.2022 received on 28.10.2022.

Surajmal Memorial Education Society (Reg) and Anr as Petitioner had filed Writ Petition

(C) 14678/2022 and CM APPL 44987-44988/2022, in which Petitioner have impugned

(i) Directorate of Higher Education GNCTD Circular dated 22.09.2022

(ii) GGSIPU Circular dated 27.09.2022

(iii) GGSIPU Circular dated 14.10.2022

3. The Writ Petition (C) 14678/2022 and CM APPL 44987-44988/2022 was listed for hearing before the Hon'ble High Court of Delhi and Hon'ble High Court of Delhi was pleased to pass order denying any stay and directing filing counter affidavit within two weeks. The Hon'ble High Court of Delhi vide para-9 of the Order dated 17.10.2022 had directed

9. With respect to Management Quota seats for B.Tech course, process for which is claimed to be initiated, before the issuance of the impugned Circulars, again it is for the University to verify this assertion. The University shall proceed to verify the status of affiliated Institutes qua such seats, subject to petitioner submitting requisite information by tomorrow. i.e. 18th October, 2022 and file a status report on or before next date of hearing.

4. The Hon'ble High Court of Delhi was pleased to re notify the Writ Petition for further consideration on 20.10.2022.

5. The Hon'ble High Court of Delhi vide order dated 20.10.2022 had decline to grant any ad interim relief. The Para-4 of the Hon'ble High Court of Delhi Order dated 20.10.2022 is reproduced below:

"The Court has still not adjudicated the earlier interim applications filed by Petitioners [hereinafter "affiliated Institutes"], but declined to grant any ad interim relief as yet, the affiliated Institutes have filed the instant applications, inter-alia, seeking stay on operation of the following Circulars (hereinafter collectively impugned Circulars)': (a) Circular No. F.No. IPU-7/Online Counselling/2022/2905 dated 17th October, 2022 and (b) Circular No. F.No. IPU-7/Online Counselling/2022/2909 dated 18th, October, 2022, both issued by Respondent No. 3 [Guru Gobind Singh Indraprastha University- hereinafter interchangeably "GGSIPU" or the "the University"]

6. The Hon'ble High Court of Delhi vide Para- 8 of order dated 20.10.2022 has categorically stated that Hon'ble Court does not find any reasons to stay the impugned Circulars.

7. The university had issued directions vide email dated 20.10.2022 to upload file University notifications on the affiliated College website and the Director, MSIT vide reply dated

21.10.2022 had confirmed to the University that the notifications of the University have been displayed on the Institution's website.

8. It is also observed from the Advertisements published in the Newspapers that required time period as per the Act and the Rules notified have not been compiled by the Affiliated Institute/ Society.

9. The action as stated in the two letters dated 26.10.2022 & 27.10.2022 are in violation to the Orders of the Hon'ble High Court of Delhi in the various Writ Petitions as referred above and also in violation to the Orders of the Directorate of Higher Education.

10. In view of above, the University is not taking any cognizance of MSIT letters dated 26.10.2022 & 27.10.2022 as both are in violation to the Orders of the Hon'ble High Court of Delhi and the Directorate of Higher Education. Actions taken in violation to the Hon'ble High Court Orders & Directorate of Higher Education Orders will be considered null & void.

11. The necessary action may kindly be taken to provide the Schedule of Counselling for B. Tech Programme as per the University directions issued today by e-mail and forward compliance.”

168. It is also to be noted that on 11.11.2022, the University has made it clear to MSIT that any admission made in contravention of the Order passed by this Court and other relevant provisions of law shall be considered as *void* as per the provisions of Section 14 of the Act of 2007. It was also directed that if MSIT fails to comply with the applicable directions and the provisions of law, the Management Quota Seats of MSIT will be considered to have remained vacant for the Academic Session 2022-2023. The Order dated 11.11.2022 of the University reads as under:-

“

Dated: 11/11/2022

To,

The Director,

Maharaja Surajmal Institute of Technology

C-4, Janak Puri, New Delhi- 110058.

Subject: Non Compliance of Orders of Hon'ble High Court of Delhi, provisions of Delhi Professional College & Institutions Act 2007 and the Rules made thereunder, University order dated 01.09.2022/27.09.2022 and subsequent University notifications.

Sir,

1. Please refer to the University previous directions:

(i)University letter No. IPU-7/Admissions/2022/2959 dated 31.10.2022 on the subject" Compliance for Counselling of the Management Seats for B.Tech as per University directions, Hon'ble High Court of Delhi Order and Provisions as per Delhi Professional Act, Rules therein.

(ii)The University email dated 31.10.2022 referring to communication of the University dated 28.10.2022

(iii)E-mail dated 28.10.2022 on the subject "Regarding MSIT letter No. MSIT/MQ/B.Tech/2022/180 dated 26.10.2022 received on 27.10.2022 and MSIT letter No. MSIT letter No. MSIT/MQ/B.Tech/2022/181 dated 27.10.2022 received on 28.10.2022 (copy enclosed)

(iv)Please refer to the University directions issued on 28.10.2022 on the subject "Compliance of Hon'ble High Court Orders issued in pursuance of DHE Orders and Provisions of Delhi Professional Act 2007 alongwith Rules notified therein" (copy enclosed)

(v)University letter No. F.No. IPU-7/Admissions/2022/2953 dated 31.10.2022 on the subject "Forwarding of Schedule of Counselling for Management Seats 2022-23 in respect of B.Tech (CET Code: 131)"

(vi) Provisions of Delhi Professional Colleges or Institutions Act 2007

(vii) Rules as notified by Govt. of NCT of Delhi, Directorate of Higher Education, Delhi vide letter No. DHE-4(15)/2006-07/1846-1608 dated 14.06.2007 pertaining to admissions in Management Quota Seats by self financing institutes made thereunder the provisions of Delhi Professional Colleges or Institutions Act 2007

(viii) GGSIP University letter No. GGSIPU/Incharge (Admission)/MQ/2022/2687 dated 01.09.2022

(ix) DHE letter No. DHE.4(4)/GGSIPU/2019/4674-76 dated 22.09.2022

(x)GGSIP University Notification No. GGSIPU/Admissions/2819 dated 27.09.2022.

xi) Instructions issued during the meeting held in the University on 06.10.2022 as per the meeting notice No. F.No.IPU-7/Admissions/2022-23/2862 dated 04.10.2022.

xii) Orders dated 28.09.2022 of the Hon'ble High Court of Delhi in WPC No. 11906/2022 duly communicated to the director of the institute

(xiii) Orders of the Honb'le High Court of Delhi in CONT.CAS(C)1044/2022 duly communicated to the director of the institute.(xiv) GGSIP University Notice No. F.No-IPU-7/Online Counselling/2022/2909 dated 18.10.2022 duly communicated to the director through University email dated 18.10.2022 on the subject "Notice regarding Online Registration for Management Seats Admission on the University Portal: Academic Session 2022-234 and "Schedule for Online Registration for Management Seats Admission for the Programme B.Tech (Through JEE Main Paper-1 or 2022)(CET Code- 131)'

(xv) GGSIP University Notice No. F.No-IPU-7/Online Counselling/2022/2911 dated 19.10.2022 on the subject "Revised seat matrix for Management Seats Admissions for B.Tech Programme (Code: 131) for Academic Session 2022-23."

(xvi) University email dated 21.10.2022 regarding directions to upload the University Schedule for Online Registration for Management Quota Seats.

2. The University has gone through the advertisement regarding ADMISSION NOTICE FOR MANAGEMENT QUOTA SEATS published in the English and Hindi Newspapers on 26.08.2022. The Admission Notice for Management Quota Seats published in newspapers in respect of all the programmes (BBA (Gen), BBA (B&I), BCA, B.Com (H), B.Ed., MBA, BBA-LLB, BA-LLB & B.Tech) is in complete violation to the provisions of the Act, 2007 and the Rules notified under the provisions of the Act, 2007.

The Sub Rule (ii) of Rule 8 makes it mandatory that the admission notice shall be displayed at least a fortnight before the last date for closing of admissions for the concerned course in the University.

The said Sub Rule (ii) of Rule 8 also makes it mandatory that the prospective candidate shall be given a period of at least eighteen days to apply for the seats under the Management Quota in the above aforementioned manner.

The Sub Rule (iv) of Rule 8 makes it mandatory that the Institution concern shall prepare and display the rank ordered merit list of such applicants on the institution website and notice board kept at a conspicuous place of the Institutions within two days of closing date for receipt of Management Quota applications.

The Sub Rule (v) of Rule 8 makes it mandatory that based on the merit list so drawn up, the Institution concerned shall conduct admissions counselling for allotment of branches/ courses to the qualified applicants within a period of three days of drawing up of the merit list of the qualified Management Quota applicants.

3. *The Admission Notice for Management Quota Seats in BBA (Gen), BBA (B&I), BCA, B.Com (H), B.Ed., MBA, BBA-LLB, BA-LLB in MST published in the Newspapers is in utter disregard to the Sub Rule (li) of Rule 8 notified under the provisions of Delhi Professional Colleges or Institution Act 2007.*

It is evident from the Admission Notice for Management Quota Seats in respect of BBA (Gen), BBA (B&I), BCA, B.Com (H), B. Ed., MBA, BBA-LLB, BA-LLB programme in MSI published in the Newspapers that MISI has violated the Sub Rule (ii) of Rule 8 by publishing the Notice for admission in Management Seats without providing the mandatory period of at least eighteen aforementioned manner.

The prospective candidates in respect of BBA (Gen), BBA (B&I), BCA, B.Com (H)_ B. Ed., MBA, BBA-LLB, BA-LIB have only been given three days period against mandatory requirement of period of at least eighteen days for applying. The provisions makes it mandatory to keep the window for issue of application forms open for a minimum period of eighteen days whereas only three days have been provided. The Institute has deliberately tried to mislead by closing the window for issuing applications in a period of three days i.e 26th August 2022 to 23th August, 2022 and recording 12" September the date of submission of form. Thus the action and the intent of the Notice for admissions in Management Quota. Seats in BBA (Gen), BBA (B&I). BCA, B.Com (H), B.Ed., MBA, BBA-LLB, BA-LLB is completely in contravention to the provisions of the Act 2007 and the Rules made thereunder.

All the Management Quota admissions to include BBA (Gen), BBA (B&I), BCA, B.Com (H), B.Ed., MBA, BBA-LLB, BA-LLB in respect of Maharaja Surajmal Institute are in violation the provisions of the Rules notified under the said Act 2007 and as per Section 14 of the Delhi Professional Act 2007 these admissions have been made in contravention of the provisions of the Act or the Rules made thereunder, thus all admissions in BBA (Gen), BBA (B&I), BCA, B.Com (H), B.Ed., MBA, BBA-LLB, BA-LLB are void.

4. *The Notice for admission in Management Quota Seats in B.Tech programme in MSIT is also a clear cut case of violation of the provisions of Sub Rule (in), Sub Rule (iv), Sub Rule (v) of Rule 8 notified under provision of Act 2007. That the notice for admission in Management Seats in B.Tech programme in respect of MSIT is in gross violation and complete contravention to the Rules notified for following reasons.*

(i) The prospective candidates for admission in Management Seats in B.Tech programme have been denied the mandatory period of at least eighteen days to apply for admission in Management Seats as prescribed in Sub Rule (il) of Rule 8 notified. It is evident from the notice published in Newspaper that only three days period from 26" August 2022 to 28% August 2022 have been provided to the prospective candidates thereby making the process ultra vires.

(ii) *The Sub Rule (fi) of Rule 8 makes it mandatory to take into account the last date for closing of admission in B.Tech programme in the University for the purpose of issuing notice containing the dates. Not only the prospective candidates seeking admission in B. Tech programme in Management Quota Seats have been denied the mandatory period of eighteen days but also the Institute has deliberately closed the process of issue of forms as well as submission of forms without taking into the mandatory requirements of displaying notice at least fortnight before the last date for closing of B. Tech admission in the University.*

iii) *The University vide letter dated F.No. GGSIPU/Incharge(Admission)/M10/2022/2687 dated 01/09/2022 had very specifically directed all the Self Financing Institutes to comply with the mandatory provisions of the Act 2007 and the Rules notified thereunder.*

(iv) *The admissions process is in utter violation of the provisions of Sub Rule (y) of Rule g which makes it mandatory for preparing and displaying the rank order merit list of such applicants within two days of closing date for receipt of Management Quota applications. Thus even as per the dates specified in the Admission Notice published by MSIT the merit list of the applicants should have been published on the website on 14" September 2022. The action of the Institution is ultra vires being incomplete violation to the provisions of Rule & and thus is covered under the Section 14 of the Act 2007.*

(v) *The admissions process is in utter violation of the provisions of Sub Rule (V) of Rule g which makes it mandatory for the Institutions to conduct admission counselling for allotment of branch/ courses within a period of three days of drawing up merit list of qualified Management Quota applicants. Thus as per the Notice for admission in Management Quota published in the Newspaper the Institutions was required to conduct admission counselling by 17 September*

2022. The action of the Institution is ultra vires being incomplete violation to the provisions of Rule 8 and thus is covered under the Section 14 of the Act 2007.

(vi) *It is a matter of record that MSIT is a Respondent in Writ Petition No. 11906/2022 and other contempt cases. It is also a matter of facts that MSIT is a petitioner in Writ Petition No. 14678/2022. Therefore MSIT being a petitioner in one Court case and being a Respondent in few other Court cases pertaining to Management Quota admissions in B. Tech 2022-23 is duty bound to abide by the decisions of the Hon'ble High Court of Delhi.*

The Surajmal Memorial Education Society (Reg) the society of MSIT had filed the Writ Petition (Civil) No. 14678/2022 before the Hon'ble High Court of Delhi challenging the Circular dated 22/09/2022 issued by the Directorate of Higher Education, University Circular dated 27/09/2022 and University Circular

dated 14/10/2022. The said Writ Petition (Civil) was listed before the Hon'ble High Court of Delhi on 17/10/2022 and the Hon'ble High Court of Delhi was pleased to renotify the Writ Petition for further consideration on 20/10/2022.

The Hon'ble High Court of Delhi in the Writ Petition No. 14678/2022 (filed by the Society of the Institute MSIT as petitioner) had recorded in Para 8 of the order dated 20/10/2022 that in light of the above afore noted stand the Court does not find any reason to stay the impugned Circulars thereby directing MSIT to comply with the University Circulars dated 27/09/2022 as well as all subsequent Circulars regarding admission in Management Quota Seats. The Hon'ble High Court of Delhi vide order dated 20/10/2022 by refusing to grant stay on the operation of University Circular No. F.No. IPU-7/Online Counselling/2022/2902 dated 14/10/2022 thereby directed Society of the MSIT to comply with the University Circular No. F.No. IPU-7/Online Counselling/2022/2902 dated 14/10/2022, which makes it mandatory for every candidate to register online on University Portal for admission in Management Seats for B.Tech (Code 131) for 2022-23.

The action of MSIT in not conducting counselling as per the directions of the Hon'ble High Court of Delhi in various Writ Petitions pertaining to Management Quota Seats admission amounts to direct disregard, disrespect to the Hon'ble High Court thereby amounting to Contempt of the Hon'ble High Court.

The University is in receipt of few complaints from meritorious candidates scoring aggregate /upto 95 percent in the qualifying exam regarding denial of admission application forms inspite of the fact that they were regularly contacting the staff of MSIT. This also includes the allegation of the Petitioners in W.P.(C) 11906/2022 and the allegations of the petitioners get the support of few others such complainants regarding denial of access to obtain admission applications form.

The process initiated by the DHE vide letter dated 22/09/2022 and subsequently by University Circular dated 27/09/2022 as well as Circular dated 14/10/2022 have been upheld by the Hon'ble High Court of Delhi during several hearings and even the Division Bench of the Hon'ble High Court of Delhi did not find any merit to intervene in the operation of the DHE and University Circulars intended to bring transparency in the Admission Process for the Management Quota Seats as also laid down by the Legislation while enacting the Delhi Professional Colleges or Institutions (Prohibition of Capitation fee Regulation of Admission, Fixation of Non-Exploitative Fee and other measures to ensure equity and excellence) Act, 2007 and the Rules notified thereunder.

Any admissions made in contravention to the Hon'ble High Court orders as referred above and other relevant provisions of Law as

well as DHE, University Notifications shall be considered as void as per provisions of Section 14 of the said Act 2007.

In view of the above, it is hereby informed that in case you fail to comply with the orders of the Hon'ble High Court of Delhi in Writ Petition (C) No. 11906/2022 and Writ Petition (C) No.14678/2022 also provisions of Delhi Professional Colleges or Institutions (Prohibition of Capitation fee Regulation of Admission, Fixation of Non-Exploitative Fee and other measures to ensure equity and excellence) Act, 2007/& the Rules notified thereunder, the DHE Circulars dated 22/09/2022 and University Circulars regarding admissions in Management Quota Seats in B.Tech in MSIT by 13/11/2022, then Management Quota Seats of MSIT will be considered to have remained vacant for Academic Session 2022-2023.”

169. Not only did the directions dated 11.11.2022 remain in operation, the University again on 14.11.2022 in unequivocal terms stated that the University was not taking any cognizance of the letter dated 13.11.2022 and then according to the University all admissions in the Management Quota were *void* under Section 14 of the Act. The Order dated 14.11.2022 of the University reads as under:-

“ Dated: 14/11/2022

To,

The Director, Maharaja Surajmal Institute of Technology

C-4, Janak Puri, New Delhi - 110058

Subject: Applicability of Section 14 of Delhi Professional Act 2007 regarding Management Quota Admission 2022-23.

Please refer to the mail received from Director MSIT on dated 13/11/2022 at 09:07 PM, enclosing letter No. MSIT/MQ/B.Tech /Admission/2022/201 dated 13/11/2022 on the subject Counselling / Admission for Vacant Seats in Management Quota for B.Tech Programme 2022-23

It is to inform you that University vide University letter No. F. No. IPU-7/Online Counselling 2022/3022 dated 11/11/2022 has already intimated that all the actions by MS and MSIT for Admissions in Management Quota Seats in all the programmes including B.Tech are in gross violation of provisions of Delhi Professional Act 2007 Rules notified under the said Act. The copy of the University letter No. F. No. IPU-7/Online Counselling/ 2022/3022 dated 11/11/2022 is enclosed.

The statement of the University Counsel in Hon'ble High Court of Delhi regarding status of admissions in Management Quota prior to University Circular No. GGSIPU/Admissions/2819 dated 27/09/22 only conveys that the Admissions carried out by the Affiliated Institutes in Management Quota prior to University Circular dated 27/09/2022 shall not be disturbed on account of implementation of University Circular dated 27/09/2022 but the said statement by University Counsel does not imply that the admissions in Management Quota done prior to University Circular dated 27/09/2022 wherever found to be in violation to the provisions of Act and Rules will not be looked into and the Section 14 of the Act will not be invoked wherever its found that admissions are in contravention to the Act and the Rules.

It is further reiterated that University vide University letter. No. F. No. IPU-7/Online Counselling/ 2022/3022 dated 11/11/2022, has already communicated that all admissions done by MS and MSIT in all programmes are void as provided in Section 14 of the Act as the said admissions in Management Quota are in contravention to the provisions of Act and the Rules notified under the said Act 2007.

The Admissions in Management Seats in B.Tech programme 2022-23 are not only in contravention to the provisions of Act, Rules notified under Act but also it is direct disobedience and disrespect to the orders of Hon'ble High Court of Delhi and thus the institute has committed Contempt of the Hon'ble High Court of Delhi. The MSIT shall be responsible for the actions taken in violation of the provisions of law.

The University is not taking any cognizance of the letter No. MSIT/MQ/B.Tech /Admission/2022/201 dated 13/11/2022 on the subject Counselling / Admission for Vacant Seats in Management Quota for B.Tech Programme 2022-23 as all the admissions in the Management Quota are void under Section 14 of the Act. The University has included all these facts in the Counter Affidavit being filed in the Hon'ble High Court of Delhi including prayer for initiating Contempt proceedings against the MSIT showing disrespect to the Hon'ble High Court of Delhi.”

170. It is thus seen that the admissions made by the MSIT have not been ratified by the University. The ratification to be made by the University, under the Act of 2007 and the Rules made thereunder, is not an empty formality. The designated agency i.e. the University, is authorised to adjudge as to whether the applicable provisions have been adhered to by the concerned institute in the matter of grant of

admission or not. The University cannot keep its eyes shut and ratify all admissions in whichever manner they are made. The same cannot be the mandate of law as laid down by the Hon'ble Supreme Court in its various decisions.

171. It is even more surprising that despite there being clear instructions by the University dated 28.10.2022, 11.11.2022 and 14.11.2022, none of those instructions have been challenged by MSIT. This Court clearly directed in its Order dated 17.10.2022 that whether the admission process is indeed complete or not has to be ascertained by the University. If the University ascertains and finds that the admission process was not complete, the same cannot be faulted, that too in absence of any challenge laid by the MSIT to that effect.

172. It is to be reiterated that once MSIT itself has issued the advertisement for counselling and on the date of issuance of the advertisement the list prepared by the University forwarded to the MSIT was already available, it consisting of 849 candidates, then in all fairness those candidates should have been allowed to participate. It is only on the basis of the determined merit position that the admissions should have taken place. Since the same has not been done, there is no reason to interfere with the decision of non ratification taken by the University.

173. It is thus seen that the admissions made by MSIT are not only in contravention of the provisions of the Act of 2007 and the rules made there under but they are also in the contravention of the mandate of this Court expressed in various Orders such as 08.09.2022, 16.09.2022, 28.09.2022, 17.10.2022 and 20.10.2022. In addition to the aforesaid, the same are also in contravention of the impugned Circulars dated 22.09.2022 and 27.09.2022.

174. The fifth question raised by the Petitioner-institution is that there cannot be any committee in the name of MQAMC as has been constituted in Circular dated 22.09.2022. The Act of 2007 stipulates an ARC to be constituted as per Section 4 of the said Act.

175. A perusal of the provisions of Section 4 clearly indicates that wide powers have been conferred to this committee to ensure not only the conduct of a CET in a fair and transparent manner but also to regulate the procedure of admission to institutions. The same consists of a person retired from a post not less than the Secretary of the Government as the Chairperson; a doctor or an engineer of eminence; a person prominent in the field of education; one of the Vice Chancellors of a University or his representative; Secretary of Department of Technical Education; and Secretary of Department of Health, are the Members. The Secretary, Department of Higher Education would be the *ex-officio* member. There can be an additional person who can be notified by the Government to be the member. In terms of Section 4(13), the ARC can hear complaints against the institutions with respect to any contravention of guidelines suggested by the said Committee and adopted by the Government during the admission process. The Committee is also empowered to recommend the cancellation of any admission if, in the opinion of the Committee; the admission has been made in violation of any provisions of the Act or the guidelines suggested by it. The Committee is empowered with the power of a civil Court under the Code of Civil Procedure with respect to certain matters as envisaged under Section 4(13).

176. Section 14 of the Act further provides that any admission made in contravention of the provision of the Act or the Rules made thereunder, shall be *void*. Sub-Clause (viii) of Rule 8(2)(a) also provides that all admissions made to the Management Quota Seats

shall be provisional and will need ratification by the designated agency which will convey its decision within a day of being informed by the institution of the list of successful candidates and the basis of the selection as per the procedure mentioned therein. It is thus seen that there are sufficient mechanisms provided under the Act of 2007 and rules framed thereunder to deal with a situation where a grievance is raised with respect to the unfair admission process or otherwise.

177. It is to be noted that the constitution of the committee was not notified till recently, therefore, no ARC was functioning in the NCT of Delhi. However, on 13.04.2023 the ARC was notified, hence, after coming into force of the statutory committee, the committee envisaged under the Circular dated 22.09.2022 has become redundant. Therefore, the direction contained in the Circular dated 22.09.2022 with respect to the constitution of the MQAMC ceases to operate having been overtaken by statutory mechanism of constitution of the ARC.

178. Having dealt with the legal issues involved in this batch of writ petitions, the prayers made in each petition are to be dealt with.

179. In the petition being W.P. (C) No.2368/2023 *Ishika Deshwal and Ors. v. Maharaja Surajmal Institute of Technology & Ors.*, the following prayer is made:-

"It is respectfully prayed from this Hon'ble Court to be please to pass an appropriate writ, order or direction to

(i) to pass an appropriate writ order or direction to declare the letter dated 22.09.2022 (ANNEXURE-P7) addressed to the vice chancellor of university and notification dated 27.09.2022 (ANNEXURE-P8), 14.10.2022 (ANNEXURE-P12) & 18.10.2022 (ANNEXURE-P13) issued by R-3 designated agency ultravires to Section 3(n) read with proviso of Section 12 of the Act and violative of right guaranteed to petitioners under Article 14, 15, 19(1)(A), 21 and 38 of Constitution of India if the same is applicable for Respondent institution where the process of admission commenced on 26.08.2022 and list of students applied in the institution

published on 16.09.2022 prior to letter dated 22.09.2022 and consequential notifications dated 27.09.2022.

(ii) to pass an appropriate writ order or direction to declare notification

dated 02.11.2022 issued by R-3 by overreaching of order dated 16.09.2022 passed by this Hon'ble Court in W.P.(C) No. 11906/2022 and also declare the same ultravires to Rule 8 of Delhi Professional Colleges and institution Act, 2007, letter dated 22.09.2022 and notifications dated 27.09.2022, 14.10.2022 and 18.10.2022.

(iii) to pass an appropriate writ order or direction to declare the letters dated 28.10.2022, 4.11.2022, 13.11.2022 and any similar letter issued by the consultant namely Brig. P.K.Upmanyu (Retd.) purported to be issued by the university void ab initio on the ground that the same has been issued by a consultant working with R-3 exercising Jurisdiction of Section 4(14) of the act to declare the admission void by use of words may, shall etc. and then usage it to delay/denial of ratification of admission.

(iv) to pass an appropriate writ order or direction to the Respondent No. 3(designated agency) to forthwith ratify the admission of petitioners and also to direct the Respondent No. 4 (University) and issue enrolment numbers to the Petitioners and direct the Respondent No. 5 to protect the petitioner from victimization of the designated agency.

(v) to pass an appropriate writ order or direction directing the Respondent No. 1 Delhi Government to constitute a committee to examine the role of Admission Branch and private institutions in violation of statutory provisions by forcing institutes to carry the admission process for B.Tech course by the list annexed with notification dated 2.11.2022 published at the website of university.

(vi) To pass any other order or further orders this Hon'ble Court deems fit on the basis of above-mentioned facts and circumstances of the case."

180. The stand of the Petitioners is that pursuant to the admission notice, they participated in the counselling and accordingly they were admitted. The Academic Session has already progressed substantially. There is no inherent disability in the qualification of the Petitioners in getting them admitted into MSIT and there is no suppression of fact or misrepresentation on their part. Therefore, at this stage, they should not be penalised for the wrong committed by the institute. It is also

argued that at this stage, even if the admissions are cancelled, the fresh lot of students cannot be readmitted in their place mid-term.

181. Having considered all the aforesaid aspects, this Court finds it appropriate not to disturb the admission of any of the admitted candidates admitted in MSIT in the Academic Session 2022-2023 as no fault can be attributed to the students.

182. At the same time, since MSIT has been found to be in violation of the provisions of law and the applicable directions of this Court therefore, appropriate Orders are required to be passed. It has also been seen that MSIT has not challenged the Orders dated 28.10.2022, 11.11.2022 and 14.11.2022 passed by the University. In one of the Orders dated 11.11.2022, the University has concluded that the admissions against the Management Quota Seats will be considered to have remained vacant for the Academic Session 2022-2023.

183. Hence, instead of treating the admissions made in the Academic Session 2022-2023 as null and void, the 10% Management Quota Seats of the MSIT for the Academic Session 2023-2024 stands reduced to Nil, meaning thereby that the 10% Management Quota Seats shall be filled up by the designated authority as per the procedure to be followed for filling up the remaining 90% seats for the Academic Session 2023-2024. Any advertisement, already issued by MSIT, for admitting students against the 10% Management Quota Seats stands cancelled.

184. With respect to W.P. (C) No.16709/2022 *Noorakshi Dahiya v. Guru Gobind Singh Indraprastha University*, the prayer in this petition reads as under:-

"Therefore, in the facts and circumstance of the present case, this Hon'ble Court may graciously be pleased to issue:

a) Issue a writ in the nature of mandamus or such other writ, order or direction as this Hon'ble Court may deem fit, directing the Respondent No. 1 i.e. the Respondent University and the Respondent

No. 3 i.e. NCT of Delhi to ensure that the Management Quota seats in Respondent No. 2 institute are filled up in a fair and transparent manner strictly in accordance with merit of those who participated in the counselling held on 13.11.2022;

b) Issue a writ in the nature of mandamus or such other writ, order or direction as this Hon'ble Court may deem fit, directing the Respondent University to publish the merit-wise list of 31 students who participated in the counselling conducted by the Respondent No. 2 on 13.11.2022 pursuant to the instruction of the Respondent University and management quota seats are filled in fair and transparent manner from the 31 students/candidates who actually participated in the Counselling held on 13.11.2022 as per instructions of University in accordance with their respective merits in compliance of the Act, Rules and orders of this Hon'ble Court;

c) Issue a writ, order or direction declaring that the admission of any candidate except those 31 candidates who had attended the Counselling held on 13.11.2022 as per the instructions of the Respondent University, is illegal, arbitrary and in violation of the instructions of Respondent University and NCT of Delhi as well as directions of this Hon'ble Court;

d) Issue a writ in the nature of mandamus or any other writ, order or direction, directing the Respondent University not to recognize the admissions of any other candidate except those 31 candidates who had attended the counselling held on 13.11.2022 as per the instructions of the Respondent University;

e) Issue a writ in the nature of mandamus or any other writ, order or direction, directing the Respondent University to ensure that the admissions against the Management Quota seats are conducted in a transparent and fair manner, while strictly observing the mandate of Act and Rules made there under as well as the direction of this Hon'ble Court issued from time to time and in accordance with the instructions contained in the Admission Brochure and issued by the Respondent University and Government of NCT of Delhi from time to time;

h) Pass such order(s) or direction(s) as this Hon'ble Court may deem fit in the facts and circumstance of the present case;"

185. This Court has already held that the admission process carried out by MSIT where this Petitioner has participated in the counselling dated 13.11.2022 is against the provisions of the Act of 2007, Rules of 2007, Circular issued by the State and the University and the mandate of this Court. Ideally, fresh counselling should be directed. However, this Court has not disturbed the admission granted by MSIT in view of

the larger interest of the students who have already been admitted in the Academic Session 2022-2023 and who have also appeared in their first semester examination. Therefore, so far as the Academic Session 2022-2023 is concerned, in the absence of any vacant seat and on account of the Academic Session having progressed substantially, no relief can be granted to the Petitioner.

186. It is also to be noted that the Petitioner has obtained 78% marks in the qualifying examination and a categorical stand has been taken by MSIT that none of the candidates admitted in the CSE branch is less meritorious than Noorakshi Dahiya. Noorakshi Dahiya in her short note dated 28.03.2023 has pointed out that one Himanshu Deswal has obtained 77.6% marks and has been allotted CSE branch. In pursuance of the said submission, MSIT in its note dated 16.03.2023 has explained that the branch allotted to Himanshu Deswal, CSE at serial No.10 be read as I.T. and the branch allotted to another candidates Deepash Rohil, I.T. at serial No.17, be read as CSE, as the same had happened on account of some typographical error. Corrigendum dated 04.11.2022 with respect to the aforesaid clarification reads as under :-

"Corrigendum

With reference to this Institute's earlier list of candidates provisionally admitted under management quota counselling dated 29.10.2022, the branch allotted to Himanshu Deswal- CSE at Sr. No.10 may be read as IT and the branch allotted to Deepash Ruhil IT at Sr No.17 may also read as CSE which has been incorrectly mentioned due to typographical error. Rest of the contents of the aforesaid list dated 29.10.2022 will remain the same."

187. The Petitioner claims admission on the basis of her appearance in the counselling dated 13.11.2022. The other admitted candidates also appeared on that date. It is thus seen that none of the candidates who are less in merit, have been granted admission in MSIT in the

Academic Session 2022-2023 and, therefore, for this additional reason, no relief can be granted to Noorakshi Dahiya.

188. The writ petition being W.P. (C) No.11906/2022 *Shubham Jha v. Guru Gobind Singh Indraprastha University Through Registrar and Ors.* has been filed praying for the following reliefs:-

"It is respectfully prayed from this Hon'ble Court to be please

A. To pass an appropriate writ order or direction to quash the notification dated 08.08.2022 up to extent the same excludes 10% seats reserved under management quota from Online counselling and also the gaps in admission brochure for session 2022-23 up to extent the same excludes the admission of 10% seats under management quota seats in private institutions offering B. Tech Course including Respondent institutions affiliated with the Respondent university and direct the Respondents university to initiate Online concealing for management quota parallel to the 90% seats to be allotted under JEE (Mains) category

alternatively

Direct the Respondents to ensure issuance the prescribed forms to the petitioner for the admission under management quota in all the colleges/ institutions affiliated with the Respondent university running the B.Tech Course and ensure his admission after the free and fair processing of the application for counselling as per his choice and his eligibility by protecting his right of choice under JEE (Mains) and Management Quota (CBSE-Class-XII) percentage category.

B. Pass an appropriate writ order or direction to the Respondent Delhi government to ensure that not lesser than 85% students under the management quota to be selected from the Delhi Quota as prescribed for the JEE(Mains) category and institutions situated at the Nazul land should be further allowed to admit students as per the scheme of allotment of institutional plots to the institution.

C. To pass an appropriate writ order or direction to the Respondent University not to restrict the choice of petitioner to opt for the better institution if he has been selected under management category on the ground of his selection under the JEE (Mains) category in the colleges affiliated with the Respondent university.

D. Pass any other order or further orders this Hon'ble Court deems fit on the basis of above mentioned facts and circumstances of the case."

189. The Petitioner-Shubham Jha has also filed another writ petition i.e. W.P. (C) No.14347/2022 which prays for the following reliefs:-

"It is respectfully prayed from this Hon'ble Court to be please

A. To pass an appropriate writ order or direction to quash the notice dated 27.09.2022 up to extent the same creates gaps to be misused by institutions to online admission process to online registration process for the management quota seats in self-financed institutions affiliated by the R-2 University vide binding executive order issued by Delhi Government to confine it to the registration and continue the devices through offline process of admission including the counselling procedure.

B. to pass an appropriate writ order or direction to the Respondent GGSIPU to ensure the strict compliance of the order dated 22.09.2022 and constitute the grievance committee to ensure the redressal of problems faced by the petitioner and other similarly situated students and process the process of counselling in online mode.

C. to pass an appropriate writ order or direction restraining the Respondents to restrain the right of choice guaranteed to the petitioner under article 19(1)(a) of the constitution of India to participate in the counselling for the other institutions after the selection in one institute or alternatively ensure the common counselling dates for all the institutions in online mode so the right of choice may be exercised by petitioner and other students.

D. Pass any other order or further orders this Hon'ble Court deems fit on the basis of above-mentioned facts and circumstances of the case."

190. So far as the relief prayed for in both the writ petitions by Shubham Jha is concerned, the same is not required to be dealt with for the reason that this Court has already interpreted the Circulars in question.

191. It is also to be noted that MSIT in its clarificatory note has taken a categorical stand that Shubham Jha has already been admitted in MSIT on 27.10.2022. The said fact has also been recorded in the Order dated 11.11.2022 in W.P (C) 11906/2022. Shubham Jha after having attended classes also filled up his examination form from MSIT and has appeared at the examination centre BVPCE with the other MSIT students. He has also appeared in practical examination and for the internal assessment examination. The admission granted by MSIT in the Academic Session 2022-2023 has been regularized,

therefore, this Court does not deem it necessary at this stage to deal with any other submission made by the said candidate. It has also been brought to the notice of this Court that Shubham Jha also filed writ petition bearing W.P (C) No.15528/2022 which is still pending, therefore, liberty is granted to him to raise any other issue if he so desires with respect to his admission or otherwise in W.P. (C) No.15528/2022, which is listed on 12.07.2023.

192. In his written submissions, learned counsel appearing on behalf of Shubham Jha stated that all four institutes skipped the compliance of Rule 8 of the Rules of 2007 and overreached the Order dated 16.09.2022 except MSIT. It be noted that neither the Petitioner in his two writ petitions nor any other candidate has challenged any of the admissions made by the other institutes, while impleading the admitted students as party and the University has taken a categorical stand that the admissions made by other institutes have been ratified. Therefore, at the instance of Shubham Jha, this Court is not inclined to deal with the said issue in these two cases.

193. The petitions are accordingly disposed of in the following terms:-

- (i) The petitions being W.P. (C) No.14677/2022, W.P. (C) No.14678/2022, W.P. (C) No.14679/2022 and W.P. (C) No.14680/2022 are dismissed. It is, however, clarified that the direction in the Circular dated 22.09.2022 with respect to the constitution of the MQAMC ceases to operate having been overtaken by statutory mechanism of constitution of the ARC.
- (ii) The petitions being W.P. (C) No.11096/2022, W.P. (C) No.14347/2022 and W.P. (C) No.16709/2022 are dismissed.

- (iii) The petition being W.P. (C) No.2368/2023 is partly allowed. The admissions of the Petitioners are regularised. However, the Management Quota Seats for the Academic Session 2023-2024 of MSIT stand reduced to Nil.

(PURUSHAINDRA KUMAR KAURAV)
JUDGE

MAY 17, 2023
nc/priya/MJ/p'ma

