



**HIGH COURT OF JUDICATURE FOR RAJASTHAN
BENCH AT JAIPUR**

(1) S.B. Civil Writ Petition No. 13200/2019

1. Sita Devi Educational Society, Bhilwara Through Its Secretary, Bhawana Totla,

2. Management Committee, Sita Devi College, New Pani Ki Tanki, Sindhu Nagar, Bhilwara (Raj.) Through Secretary Bhawana Totla.

-----Petitioners

Versus

1. State Of Rajasthan, Through Its Principal Secretary, Higher Education Department, Government Of Rajasthan ,secretariat, Jaipur.

2. The Commissioner, College Education, Government Of Rajasthan, Jaipur.

3. The Joint Director (Private Institutions), Block-4, Shiksha Sankul, Jln Marg, Jaipur.

4. Dy Director, College Education, Jaipur.

5. Urban Improvement Trust, Bhilwara Through Its Secretary, Bhilwara, Rajasthan.

-----Respondents

Connected With

(2) S.B. Civil Writ Petition No. 7841/2016

1. Shri Ji Sewarth Samiti,
through its Secretary, Shri Nitin Jain,

2. Indira Professional Sansthan College, Main Road, Gulabpura, Bhilwara through its Secretary, Shri Nitin Jain,

....Petitioners

Versus

1. State Of Rajasthan Through Its Principal Secretary, Higher



- Education, Government Of Rajasthan, Secretariat, Jaipur
2. The Commissioner, College Education, Government Of Rajasthan, Jaipur
 3. Joint Director, (Private Institutions), Block-4, Shiksha Sankul, J.I.n. Marg, Jaipur
 4. The Director, Local Bodies, Local Self Government, Civil Lines, Jaipur

-----Respondents



(3) S.B. Civil Writ Petition No. 3966/2017

1. Gayatri Shiksha Evam Seva Sansthan, Kotada Through Its Chairman,

2. Vagad College, Village Davela-Kotda, Tehsil Garhi, District Banswara, Through Its Chairman, Managin, Village And Post Arthuna, Tehsil Garhi, District Bhilwara

-----Petitioners

Versus

1. State Of Rajasthan Through Its Principal Secretary, Higher Education, Government Of Rajasthan, Secretariat, Jaipur
2. Principal Secretary, Social Welfare Department, Government Of Rajasthan, Secretariat, Jaipur
3. The Commissioner, College Education, Government Of Rajasthan, Jaipur
4. Joint Director, Private Institutions,
5. The Director, Local Bodies, Local Self Government, Civil Lines, Jaipur

-----Respondents

(4) S.B. Civil Writ Petition No. 4033/2017

1. Shri Ram Krishna Paramhans Vikas Samiti, Banswara Through Its Chairaman Smt. Jaya Shree Acharya,
2. Management Committee, Maharana Pratap Mahavidyalaya, Through Its Chairman,



----Petitioners

Versus

1. State Of Rajasthan Through Its Principal Secretary, Higher Education, Government Of Rajasthan, Secretariat, Jaipur.
2. Principal Secretary, Social Welfare Department, Government Of Rajasthan, Secretariat, Jaipur.
3. The Commissioner, College Education, Government Of Rajasthan, Jaipur.
4. Joint Director, Private Institutions,

----Respondents

(5) S.B. Civil Writ Petition No. 1803/2018

1. Wagar Infotech Shiksha Samiti, 79, Nathelav Colony, Behind Kabir Temple, Dahod Road, Banswara 327001, Rajasthan.

2. Wagarshree College, Tripolia Road, Ghantaghar Palace, Banswara 327001.

----Petitioners

Versus

1. State Of Rajasthan Through Its Principal Secretary, Higher Education, Government Of Rajasthan, Secretariat, Jaipur.
2. The Commissioner, College Education, Government Of Rajasthan, Jaipur.
3. Joint Director Private Institutions, Block 4, Shiksha Sankul, J.I.n. Marg, Jaipur

----Respondents

(6) S.B. Civil Writ Petition No. 5864/2019

1. Gurukul Institution Of Education, Doongarpur
2. Management Committee, Gurukul Collage Sadwara, District Doongarpur, Through Its Secretary

----Petitioners

Versus

1. State Of Rajasthan, Through It Principal Secretary, Higher Education, Government Of Rajasthan, Secretariat, Jaipur.



2. The Commissioner, Collage Education, Government Of Rajasthan, Jaipur.
3. The Joint Director (Private Institutions), Block-4, Shiksha Sankul J.I.n. Marg, Jaipur.

----Respondents

(7) S.B. Civil Writ Petition No. 10222/2019

1. Gayatri Shiksha Evam Seva Sansthan, Kotada, Through Its Chairman, Shri Jayant Panchal



2. Vagad College, Village Davela-Kotda, Tehsil Garhi, District Banswara, Through Its Chairman, Shri Jayant Panchal

3. Shri Ram Krishna Paramhans Vikas Samiti, Banswara, Through Its Chairman, Smt. Jaya Shree Acharya,

4. Management Committee, Maharana Pratap Mahavidyalaya, Through Its Chairman

----Petitioners

Versus

1. State Of Rajasthan, Through Its Principal Secretary, Higher Education, Government Of Rajasthan, Secretariat, Jaipur.
2. The Commissioner, College Education, Government Of Rajasthan, Jaipur.
3. Joint Director, (Private Institutions), Block-4, Shiksha Sankul, J.I.n. Marg, Jaipur.

----Respondents

(8) S.B. Civil Writ Petition No. 13652/2019

1. Siddhnath Sewa Sansthan, Banswara Through Its Secretary, Tarun Trivedi



2. Managing Committee, Subhash Chandra Bose Mahavidyalaya, Ganeshpura Ambapura, Tehsil Abapura, District Banswara, Through Its Secretary,

3. Mahi Foundation Society, Banswara Through Its Secretary, Shri Sunil Yadav,

4. Mahi College Of Education, Village Katumbi, P.o. Chhoti Sarwan, Tehsil Chhoti Sarwan, District Banswara, Through Its Secretary, Shri Sunil Yadav,



-----Petitioners

Versus

1. State Of Rajasthan, Through Its Principal Secretary, Higher Education, Government Of Rajasthan, Secretariat, Jaipur.

2. The Commissioner, College Education, Government Of Rajasthan, Jaipur.

3. Joint Director College Education (Private Institutions), Rajasthan, Block-4, Shiksha Sankul, J.I.n. Marg, Jaipur.

4. Regional Director, National Council For Teacher Education, Wing Ii, Bahadur Shah Zafar Marg, New Delhi.

-----Respondents

(9) S.B. Civil Writ Petition No. 13806/2019

1. Shree Nath Shikshan Sansthan, Agarpura Colony, Banswara, Through Its President Ranchhod Garg,

2. Shree Nath College, Kumji Ka Parda, Post Garhi, District Banswara, Through Its Director Managing Committee, Ranchhod Garg,

-----Petitioners



Versus

1. State Of Rajasthan, Through Its Principal Secretary, Higher Education, Government Of Rajasthan, Secretariat, Jaipur.
2. The Commissioner, College Education, Government Of Rajasthan, Jaipur.
3. Joint Director, College Education (Private Institutions), Rajasthan, Block-4, Shiksha Sankul, J.I.n. Marg, Jaipur.

----Respondents

(10) S.B. Civil Writ Petition No. 13825/2019

1. Azad Bal Mahila Viklang Jan Kalyan Sanstha, Bhilwara, Rajasthan. Through Its Secretary Shri Amit Saraswat,
2. Pathik Collage, Post Bijolia Through Its Secretary, Amit Saraswat Saaji Ka Mahalla, Manohar Chauk, Bhilwara

----Petitioners

Versus

1. State Of Rajasthan, Through Its Principal Secretary, Higher Education, Government Of Rajasthan, Secretariat, Jaipur.
2. The Commissioner, College Education, Government Of Rajasthan, Jaipur.
3. The Joint Director (Private Institutions), Block-4, Shiksha Sankul J.I.n. Marg, Jaipur

----Respondents

(11) S.B. Civil Writ Petition No. 14157/2019

1. Wagar Mewar Kalyan Vikas Sansthan, Banswara (Rajasthan) Through Director Prateek K. Jain
2. Mahatma Gandhi College, Tatiya Crossing, Near Moradi Mill, Timbagamdi, Udaipur Road, Banswara (Rajasthan) Through Its Director Managing Committee Prateek K. Jain



Rajasthan.

----Petitioners

Versus

1. State Of Rajasthan, Through It Principal Secretary, Higher Education, Government Of Rajasthan Secretariat, Jaipur.
2. The Commissioner, College Education, Government Of Rajasthan, Jaipur.
3. The Joint Director (Private Institutions), Block-4, Shiksha Sankul J.I.n. Marg, Jaipur.

----Respondents

(12) S.B. Civil Writ Petition No. 7714/2021

1. Navsarthak Foundation, Road No. 2, Mohan Colony, Banswara Through Its Chief Executive, Manish Trivedi

2. Leo College, Leo Campus, Dangpada, Udaipur Road, Banswara Through Its Executive Director, Manish Trivedi

----Petitioners

Versus

1. The State Of Rajasthan, Through Its Principal Secretary, Department Of Higher Education, Government Secretariat, Government Of Rajasthan, Jaipur (Raj.)
2. The Commissioner, Department Of Higher Education, Jln Marg, Shiksha Sankul, Jaipur, Rajasthan.
3. The Director, Local Bodies, C-Scheme, Jaipur.
4. Municipal Council, Banswara, Through Its Commissioner, Gandhi Murti, Banswara (Raj.)

----Respondents

(13) S.B. Civil Writ Petition No. 8406/2017

Shri Pragya Mahila Mahavidhyalaya, Manjari Kallan, Neemrana, District - Alwar, Through Its Secretary, Shri Baljeet Kumar



----Petitioner

Versus

1. The State Of Rajasthan Through Secretary, Department Of College Education, Government Of Rajasthan, Secretariat, Jaipur.rajasthan.
2. Commissioner, College Education, Rajasthan, Jaipur.
3. Joint Director Private Institutions College Education, Rajasthan, Jaipur.
4. Raj Rishi Bhartrihari Matsya University, Through Its Registrar.

----Respondents

(14) S.B. Civil Writ Petition No. 8407/2017

Koshyalya Devi Mahila Mahavidhyalaya Through President Of Managing Committee Of The College, Shri K, Resident Of Village-Baswa, Tehsil - Baswa, District -Dousa. Rajasthan.

----Petitioner

Versus

1. The State Of Rajasthan Through Secretary, Department Of College Education, Government Of Rajasthan, Secretariat, Jaipur Rajasthan
2. Commissioner, College Education Rajasthan, Jaipur.
3. Joint Director Private Institutions, College Education, Rajasthan, Jaipur
4. Rajasthan University, Jaipur Through Its Registrar

----Respondents

(15) S.B. Civil Writ Petition No. 8409/2017

Shri Pragma Mahila Mahavidhyalaya, Sodawas, Ajarka Road, Sodawas, Tehsil - Mundawar, District Alwar, Resident Of Shikshak Colony, Behrod, District - Alwar. Rajasthan

----Petitioner

Versus

1. The State Of Rajasthan Through Secretary, Department Of College Education, Government Of Rajasthan, Secretariat, Jaipur Rajasthan
2. Commissioner, College Education Rajasthan, Jaipur.
3. Joint Director Private Institutions, College Education,



Rajasthan, Jaipur

4. Raj Rishi Bhartrihari Matsya University, Alwar, Through Its Registrar.

-----Respondents

(16) S.B. Civil Writ Petition No. 27851/2018

Shri Pragma Mahila Mahavidyalaya, Manjari Kallan, Neemrana, District Alwar Through Its Secretary, Shri Rajesh Kumar S/o

-----Petitioner

Versus

1. The State Of Rajasthan, Through Commissioner, Department Of College Education, Rajasthan, Jaipur (Raj.)
2. Raj Rishi Bhartrihari Matsya University Alwar, Through Its Registrar.

-----Respondents

(17) S.B. Civil Writ Petition No. 27855/2018

Shri Pragma Mahila Mahavidyalaya, Sodawas, Ajarka Road, Sodawas, Tehsil Mundawar, District Alwar Through Its Secretary,

-----Petitioner

Versus

1. The State Of Rajasthan Through Commissioner, Department Of College Education, Rajasthan, Jaipur (Raj.)
2. Raj Rishi Bhartrihari Matsya University, Alwar, Through Its Registrar.

-----Respondents

(18) S.B. Civil Writ Petition No. 3427/2021

Shri Pragma Mahila Mahavidyalaya, Sodawas, Ajarka Road, Sodawas, Tehsil Mundawar, District Alwar Through Its Secretary,



-----Petitioner

Versus

1. State Of Rajasthan, Through Commissioner, Department Of College Education, Rajasthan, Jaipur (Raj.)
2. Raj Rishi Bhartrihari Matsya University, Alwar, Through Its Registrar.

-----Respondents

(19) S.B. Civil Writ Petition No. 3438/2021

Shri Pragma Mahila Mahavidyalaya, Manjari Kallan, Neemrana, District Alwar Through Its Secretary, Shri Baljeet Kumar

-----Petitioner

Versus

1. State Of Rajasthan, Through Commissioner, Department Of College Education, Rajasthan, Jaipur (Raj.)
2. Raj Rishi Bhartrihari Matsya University, Alwar, Through Its Registrar.

-----Respondents

(20) S.B. Civil Writ Petition No. 17038/2019

Shaheed Bhagat Singh College, Kotkasim, Alwar, Through Its President Vinay Kumar

-----Petitioner

Versus

1. State Of Rajasthan, Through Principal Secretary, Department Of Higher Education, Secretariat, Jaipur.
2. Commissioner, College Education, Commissionerate Of College Education, Jaipur.
3. Raj Rishi Bhartrihari Matsya University, Alwar, Through Its Registrar.

-----Respondents

(21) S.B. Civil Writ Petition No. 3439/2020

Vivekanand Kanya Mahavidhyalaya, Dholpur Through Society



Vivekanand Bal Vidhyalaya Shiksha Samiti, Dholpur Through
Secretary Balveer Singh Verma

----Petitioner

Versus

Maharaja Surajmal Braj University, Bharatpur Through Registrar.

----Respondent

(22) S.B. Civil Writ Petition No. 3450/2020

Pandit Uma Dutt Girls P.g. College, Uma Nagar, G.t. Road,
Dholpur Through Society Indira Gandhi Shikshan Sansthan, G.t.
Road, Dholpur Through Principal Dr. Santosh Lal Sharma

----Petitioner

Versus

Maharaja Surajmal Braj University, Bharatpur Through Registrar.

----Respondent

(23) S.B. Civil Writ Petition No. 17770/2019

Lok Manya Tilak College, Ramgarh, Alwar (Rajasthan) Through
Its Honorary Director, Rishi Raj Sharma

----Petitioner

Versus

1. The State Of Rajasthan, Through Its Additional Chief Secretary, Department Of College Education, Government Secretariate, Jaipur.
2. The Commissioner, College Education, Rajasthan, Shiksha Sankul, J.I.n. Marg, Jaipur.
3. Rajrishi Bhartihari Matya University, Alwar Girls Hostel Building, Babu Shobha Ram, Govt. Arts College Campus, Alwar (Rajasthan)
4. The Joint Director, (Private College), College Education, Rajasthan, Shiksha Sankul, JIn Marg, Jaipur.

----Respondents

(24) S.B. Civil Writ Petition No. 25209/2018

Rajeshwar Mahavidyalaya, Shyam Nagar, Behror, Alwar Through



Its Secretary Rajkumar Yadav, Aged 36 Years,

-----Petitioner

Versus

1. State Of Rajasthan, Through Principal Secretary, Department Of Higher Education, Secretariat, Jaipur.
2. Commissioner, Commissionerate Of College Education, Jaipur.
3. Raj Rishi Bharthari Matsya University, Alwar Through Its Registrar.

-----Respondents

(25) S.B. Civil Writ Petition No. 17609/2019

Gargi Mahila Mahavidhyalaya, Shahjahanpur, Tehsil Neemrana, District Alwar (Raj.) Through Its Secretary Smt. Poonam Yadav

-----Petitioner

Versus

1. State Of Rajasthan, Through Principal Secretary, Department Of Higher Education, Secretariat, Jaipur.
2. Commissioner, College Education, Commissionerate Of College Education, Jaipur.
3. Raj Rishi Bhartrihari Matsya University, Alwar, Through Its Registrar.

-----Respondents

(26) S.B. Civil Writ Petition No. 1753/2020

Pandit Uma Dutt Girls P.g. College, Uma Nagar, G.t. Road, Dholpur Through Society Indira Gandhi Shikshan Sansthan, G.t.

-----Petitioner

Versus

1. State Of Rajasthan, Through Principal Secretary Higher Education, Secretariat, Jaipur.
2. Commissioner, College Education, Rajasthan, Shiksha



Sankul, Jaipur.

----Respondents

(27) S.B. Civil Writ Petition No. 1757/2020

Vivekanand Kanya Mahavidhyalaya Dholpur, Through Society
Vivekanand Bal Vidhyalaya Shiksha Samiti, Dholpur Through
Secretary Balveer Singh Verma

----Petitioner

Versus

1. State Of Rajasthan, Through Principal Secretary Higher Education, Secretariat, Jaipur.
2. Commissioner, College Education, Rajasthan, Shiksha Sankul, Jaipur.

----Respondents



(28) S.B. Civil Writ Petition No. 3544/2020

Guru Gobind Singh Kanya Mahavidhyalaya, Ramgarh, Alwar,
Through Its Secretary Sarabjeet Singh

----Petitioner

Versus

1. State Of Rajasthan, Through Principal Secretary Department Of Higher Education, Secretariat, Jaipur.
2. Commissioner, College Education, Commissionerate Of College Education, Jaipur.
3. Raj Rishi Bhartrihari Matsya University, Alwar Through Its Registrar.

----Respondents

(29) S.B. Civil Writ Petition No. 4027/2020

Shri Pragma Mahila Mahavidyalaya, Manjari Kallan, Neemrana,
District Alwar Through Its Secretary, Shri Baljeet Kumar

----Petitioner



Versus

1. State Of Rajasthan, Through Commissioner, Department Of College Education, Rajasthan, Jaipur (Raj.)
2. Raj Rishi Bhartrihari Matsya University, Alwar, Through Its Registrar.

----Respondents

(30) S.B. Civil Writ Petition No. 4028/2020

Shri Pragya Mahila Mahavidyalaya, Sodawas, Ajarka Road, Sodawas, Tehsil Mundawar, District Alwar Through Its Secretary, Shri Baljeet Kumar

----Petitioner

Versus

1. State Of Rajasthan, Through Commissioner, Department Of College Education, Rajasthan, Jaipur (Raj.)
2. Raj Rishi Bhartrihari Matsya University, Alwar, Through Its Registrar.

----Respondents

(31) S.B. Civil Writ Petition No. 3292/2021

Sarswati College Reni Alwar, Through Its Managing Committee Sarswati Siksha Sansthan Reni Alwar Through Its Secretary Madan Lal Meena

----Petitioner

Versus

1. Rajrishi Bharthari Matsya University Of Alwar, Through Exam Controller Girls Hostel Building Babu Shobha Ram Govt. Arts College Campus, Alwar.
2. Commissioner College Education, Rajasthan Jaipur Block-4 R.k.s Sankul JIn Road Jaipur.

----Respondents

(32) S.B. Civil Writ Petition No. 3293/2021

1. Shri Matsya Pg College, By Pass Road Kherli Alwar Through Its Managing Committee Matsya Adarash



Shiksha Samiti Kherli Through Its Secretary Ashok Kumar

2. Shri Matsya College, Gandura Road Badoda Mev Alwar Through Its Managing Committee Matsya Adarash Shiksha Samiti Kherli Through Secretary Ashok Kumar

----Petitioners

Versus

1. Rajrishi Bharthari Matsya University Of Alwar, Through Exam Controller Girls Hostel Building Babu Shobha Ram Govt. Arts College Campus, Alwar.
2. Commissioner College Education Rajasthan Jaipur, Block-4 R.k.s Sankul JIn Road Jaipur.

----Respondents

(33) S.B. Civil Writ Petition No. 4439/2021

Palak College, Bhanokhar, Kathumar, Alwar Through Its Managing Committee Palak Shikshan Sansthan, Kathumar, Alwar Through Its Secretary Rashmi Sharma Wife Of Shri. ...
Shri. ... Resident Of ... Kathumar

----Petitioner

Versus

1. Rajrishi Bharthari Matsya University Of Alwar, Through Exam Controller, Girls Hostel Building, Babu Shobha Ram Govt. Arts College Campus, Alwar.
2. Commissioner College Education, Rajasthan Jaipur Block-4 R.k.s Sankul JIn Road Jaipur.

----Respondents

(34) S.B. Civil Writ Petition No. 4732/2021

Pandit Uma Dutt Girls P.g. College, Uma Nagar, G.t. Road, Dholpur Through Society Indira Gandhi Shikshan Sansthan, G.t. Road, Dholpur Through Principal Dr. Santosh Lal Sharma S/o.

----Petitioner



Versus

1. Maharaja Surajmal Braj University, Bharatpur Through Registrar.
2. State Of Rajasthan, Through Principal Secretary Higher Education, Secretariat, Jaipur.
3. Commissioner, College Education, Rajasthan, Shiksha Sankul, Jaipur.

-----Respondents

(35) S.B. Civil Writ Petition No. 4733/2021

Vivekanand Kanya Mahavidhyalaya Dholpur, Through Society
Vivekanand Bal Vidhyalaya Shiksha Samiti, Dholpur Through
Secretary Balveer Singh Verma

-----Petitioner

Versus

1. Maharaja Surajmal Braj University, Bharatpur Through Registrar.
2. State Of Rajasthan, Through Principal Secretary Higher Education, Secretariat, Jaipur.
3. Commissioner, College Education, Rajasthan, Shiksha Sankul, Jaipur.

-----Respondents

(36) S.B. Civil Writ Petition No. 7150/2021

Utkarsh Mahavidhyala, Through Its Managing Committee Utkarsh
Shikshan Sansthan, Weir, Distt. Bharatpur Through Its Chairman
Shri Pooran Mal Pushp

-----Petitioner

Versus

1. Maharaja Surajmal Brij University, Chak Sakitara, Kumher, Bharatpur, Through Its Registrar.
2. Commissioner College Education Rajasthan, Jaipur Block-4 R.k.s Sankul JIn Road Jaipur.

-----Respondents

(37) S.B. Civil Writ Petition No. 7151/2021



Shri Vijaysthalī Vidhyapeeth Mahila Mahavidyalaya, Through Its
Managing Committee Nav Srijan Vikas Sansthan, Deeg Road,
Kumher, Distt. Bharatpur Through Its Secretary Shri Hari Om

-----Petitioner

Versus

1. Maharaja Surajmal Brij University, Chak Sakitara,
Kumher, Bharatpur, Through Its Registrar.
2. Commissioner College Education, Rajasthan Jaipur Block-
4 R.k.s Sankul JIn Road Jaipur.

-----Respondents

(38) S.B. Civil Writ Petition No. 291/2021

Siddhi Vinayak Mahavidhayalya, Through Its Secretary Smt
Gayatri Bai Meena

-----Petitioner

Versus

1. State Of Rajasthan, Through Principle Secretary
Department Of Higher Education, Govt. Of Rajasthan,
Govt. Secretariat, Jaipur.
2. Commissionerate Of College Education, Through Its
Commissioner, Higher Education, Block-Iv, R.k.s. Sankul,
J.l.n. Road, Jaipur (Rajasthan)
3. Joint Director (Private Institutions), College Education,
Block-Iv, R.k.s. Sankul, J.l.n. Road, Jaipur (Rajasthan)
4. Principal (Nodal Officer), Government College, Gangapur
City Rajasthan.
5. University Of Kota Through Its Registrar, Near Kabir
Circle, Mbs Marg, Swami Vivekanand Nagar, kota,
Rajasthan.

-----Respondents

(39) S.B. Civil Writ Petition No. 1057/2021

Rahul Chandija Memorial College, Vill. Bhanpur Kalan, Tehsil
Jamwa Ramgarh, Jaipur (Raj.) Through Its Secretary Bhanwar



-----Petitioner

Versus

1. State Of Rajasthan, Through Principal Secretary, Department Of Higher Education, Secretariat, Jaipur.
2. Commissioner, College Education, Commissionerate Of College Education, Jaipur.
3. University Of Rajasthan, Jaipur Through Its Registrar.

-----Respondents

(40) S.B. Civil Writ Petition No. 8189/2021

Gyan Kunj College, Ladunda, Surajgarh, Jhunjhunu Through Its Secretary Mahaveer Prasad

-----Petitioner

Versus

1. State Of Rajasthan, Through Principal Secretary Department Of Higher Education, Secretariat, Jaipur.
2. Commissioner, College Education, Commissionerate Of College Education, Jaipur.
3. Pandit Deendayal Upadhyaya Shekhawati University, Sikar, Through Its Registrar.

-----Respondents

(41) S.B. Civil Writ Petition No. 8648/2021

Maa Bhagwati Degree College, Pichuna, Tehsil Roopwas, Distt. Bharatpur (Raj.) Through Its Secretary Shri Jagdish Prasad

-----Petitioner

Versus

1. State Of Rajasthan, Through Secretary, Department Of Higher Education, Government Secretariat, Jaipur.
2. The Commissioner Cum Special Secretary, College Education, Sikha Sankul, J.I.n. Marg, Jaipur (Raj.)

-----Respondents

For Petitioner(s) : Mr. Mahendra Shah, Sr. Adv. with
Mr. Kamlesh Sharma, Adv.
Ms. Pragya Seth, Adv.
Ms. Sarah S. Sharma, Adv.
Mr. Ashish Sharma Upadhyay, Adv.
Mr. Naveen Dhuvan, Adv.
Mr. Manu Bhargava, Adv.
Mr. Ravi Kant Sharma, Adv.
Mr. Sanjay Joshi, Adv.
Mr. B.L. Saini, Adv.
Mr. Vijay Jain, Adv.
Mr. K.A. Khan, Adv.



Mr. Atar Singh, Adv.
 Mr. Himanshu Jain, Adv.
 Mr. Sanjay Sharma, Adv.
 Mr. Ashish Kumar, Adv.

For Respondent(s) : Mr. Prakhar Gupta, Adv. for
 Dr. V.B. Sharma, AAG
 M. Aditya Sharma, Dy.GC
 Mr. Lokesh Kumar Sharma, Adv.
 Mr. Vinod Kumar Gupta, Adv.
 Mr. Sudhir Yadav, Adv.

HON'BLE MR. JUSTICE SAMEER JAIN

Judgment / Order

REPORTABLE

Reserved On 15/02/2022

Pronounced On 11/03/2022

1. All these writ petitions involving almost common cause are listed before this Court under the order dated 17/11/2021 passed by the learned Division Bench of this Court in State of Rajasthan & ors. Vs. Lok Manya Tilak College, Ramgarh, Alwar (DB Special Appeal Writ No.690/2021) whereby the Hon'ble Division Bench observed as under:-

"Learned counsel for the appellant-State Government stated that against similar interim order passed by the learned Single Judge the State had preferred D.B. Special Appeal (Writ)No.646/2021 which was disposed of on 17.08.2021 giving liberty to the petitioner to move the learned Single Judge for fixing earlier date of hearing. Consequently, request was made to the learned Single Judge and those petitions are coming up for hearing on 22.11.2021. Let Civil Writ Petition No.17770/2019 also be tagged along with the similar cases before the learned Single Judge.

The appeal is disposed of accordingly."

2. As per observations of the Hon'ble Division Bench, referred to above, all the connected matters were tagged either as per directions of this Court or on insistence of learned Advocates representing various parties having common cause.

3. All these writ petitions were categorized in three broad categories and lead matters were taken up for disposal qua the



issues which were identical on facts but were having different prayers.

4. The first set of writ petition was qua the declaration of policy issued by the Commissioner, College Education, Rajasthan as without jurisdiction qua the imposition of penalty for regularizing the deficiencies in temporary recognition as ultra-vires and illegal.

In this regard, the lead case of Sita Devi Educational Society Vs. State of Rajasthan (SB Civil Writ Petition No.13200/2019) was taken up which was argued by learned Senior Counsel-Mr. Mahendra Shah.

5. In second set of writ petitions, apart from seeking directions to the respondents for issuance of No Objection Certificate, an additional prayer was made for striking down Clause 13 of the Private College Policy for the year 2015-16 and 2016-17 and in this regard, the lead case of Lok Manya Tilak College Vs. State of Rajasthan (SB Civil Writ Petition No.17770/2019) was taken up which was argued by Mr. Manu Bharagava, Adv. and other respective counsels.

6. The third and last category of writ petitions was qua prayers for issuance of directions to the respondents for issuance of NOC or for directions to the University to extend affiliation or for declaration of students from ex-student to regular student or for permitting the students to appear in the examination or for extension of temporary recognition. In this regard, the lead matter in Saraswati College, Reni, Alwar (SB Civil Writ Petition No.3292/2021) was argued by Mr. Ravi Kant Sharma, Adv. and other respective counsels.

7. Upon hearing the aforesaid bunch matters, the first and foremost argument which was taken up by learned Senior Counsel



Mr. Mahendra Shah pertained to the powers of the Commissioner, College Education for imposition of pecuniary punishment by way of penalty for compounding the deficiencies for grant of temporary recognition and regularizing the same by imposition of the penalty for issuance of NOC. It was submitted by learned Sr. Counsel that if the penal provisions of the policy for various years are declared ultra-vires, illegal and beyond jurisdiction of the Commissioner, College Education, the instant bunch matters can be decided and the consequential relief asked for in the prayers can be granted without adverting to the issues of NOC/Policy and categorization of the students.

8. In the light of the said submission and on agreement being reflected by respondents' counsels appearing for the State, Universities represented by Mr. Prakhar Gupta, Mr. Vinod Gupta and others, at the outset, it was agreed upon to consider these matters on the point of competence of the Commissioner, College Education for issuance of policy and more particularly qua the powers of imposing penalty under the same and whether the same is legal, jurisdictionally valid and permissible under the Rajasthan Non-Government Educational Institutions Act, 1989 or not?

9. Mr. Mahendra Shah, learned Sr. Counsel relied upon the provisions of Sections 2(e), 2(p), 3, 5, 7, 33, 34, 42 and 43 of the Act of 1989 which read as under:-

"2. Definition

2(a)....

2(b)....

2(c)....

2(d)....

2(e) **"Competent Authority"** means any officer or authority authorised by the State Government, by notification, to perform the functions of the competent authority under this Act for such area or in relation to such class of recognised Non-Government



educational institutions as may be specified in the notification;

2(f)....

2(g)....

2(h)....

2(i).....

2(j)....

2(k)....

2(l)....

2(m)....

2(n)....

2(o)....

2(p) **"non-Government educational institution"** means any college, school, training institute or any other institution, by whatever name designated, established and run with the object of imparting education or preparing or training students for obtaining any certificate, degree, diploma or any academic distinction recognised by the State or Central Government or functioning for the educational, cultural or physical development of the people in the State and which is neither owned nor managed by the State or Central Government or by any University or local authority or other authority owned or controlled by the State or Central Government;

3. Recognition of institutions.— (1) Except in the case of institution affiliated to a University or recognised or to be recognised by the Board, the Competent Authority may, on a application made to it in the prescribed form and manner, recognise a non-Government educational institution on fulfilment of such terms and conditions as may be prescribed :

[Provided that no institution shall be recognised unless it has been registered under the Rajasthan Societies Registration Act, 1958 (Act No. 28 of 1958) or it is being run by a public trust registered under the Rajasthan Public Trusts Act, 1959 (Act No. 42 of 1959) or by trust created in accordance with the provisions of the Indian Trusts Act, 1882 (Central Act No. 2 of 1882).]

(2) Every application for recognition of an institution shall be entertained and considered by the Competent Authority and the decision thereon shall be communicated to the applicant within a period of six months from the date of the receipt of the application and, where recognition is refused, the reasons



therefor shall also be communicated to the applicant within the said period.

5. Withdrawal of recognition.— Where the management of an institution obtains recognition by fraud, misrepresentation or suppression of material particulars or where, after obtaining recognition, an institution fails to comply with any of the terms and conditions prescribed under sub-section (1) of Section 3, the Competent Authority granting the recognition may, after giving such management a reasonable opportunity of showing cause against the proposed action, withdraw the recognition.

7. Grant of aid to recognised institutions.—[(1) No aid shall be claimed by an institution as a matter of right and an aid granted under the provisions of this Act or the rules made thereunder may be stopped by the State Government at any time.]

(2) Unrecognised institution shall not be eligible to receive any aid.

(3) Subject to such terms and conditions as may be prescribed, the sanctioning authority may sanction and distribute aid to recognised institutions from time to time in accordance with the procedure as may be prescribed.

(4) The aid may cover such part of the expenditure of the institution as may be prescribed.

(5) No amount out of aid given for salary of the employees of an institution shall be used for any other purpose.

(6) The sanctioning authority may stop, reduce or suspend aid on breach of any of the terms and conditions prescribed in this behalf.

(7) The amount of aid may normally be paid to the secretary of the managing committee of an institution but, in special circumstances and for reasons to be recorded in writing, such amount may be paid to any person authorised by the Director of Education or by any other officer empowered by him in this behalf.

33. Penalty for transfer or closure of a recognised institution without notice and without satisfying the competent authority.—

Any person who contravenes the provisions of Section 13 or Section 14 or where any such contravention is committed by an association, every member of the managing committee of such association shall, on



conviction, be punished with fine which may extend to one thousand rupees :

Provided that such member of the managing committee, who has not participated in it or who has agreed upon such decision, shall not be liable to any penalty under this Section.

34. Penalty for not discharging the duties of secretary.— A person who contravenes the provisions of sub-section (3) of Section 9 or Section 12 or where any such contravention is committed by an association, every member of managing committee shall, on conviction, be punished with fine which may extend to one thousand rupees :

Provided that such member of the managing committee, who has not participated in it or who not agreed upon such decision, shall not be liable to any penalty under this Section



42. Delegation of powers.— It shall be lawful for the State Government, by notification in the Official Gazette, to delegate to any authority or officer of the Education Department all or any of the powers vested in it by this Act and to withdraw any power so delegated.

43. Power to make rules.— (1) The State Government may make rules for the purpose of carrying into effect the provisions of this Act.

(2) In particular and without prejudice to the generality of the forgoing powers, such rules may provide for —

(a) the terms and conditions for the grant of recognition to non-Government educational institutions;

(b) the maintenance of recognised institutions;

(c) the giving of grants-in-aid to recognised institutions;

(d) the levy, regulation and collection of fees in recognised institutions;(e) regulating rates of fees in recognised institutions;

(f) regulating admissions to recognised institutions which are receiving aid out of State funds by making special provision for the advancement of socially and educationally backward classes of citizens and the Scheduled Castes and Scheduled Tribes;



- (g) the manner in which accounts, registers or records shall be maintained in aided institutions and the authority responsible for such maintenance;
- (h) the submission of returns, statements, reports and accounts by Secretaries of the managing committees of recognised institutions;
- (i) the inspection of recognised institutions and the officer by whom inspection shall be done;
- (j) the mode of keeping and auditing of accounts of recognised institutions;
- (k) the standards of education and courses of study;

and
(l) all matters expressly required or allowed by this Act to be prescribed.

(3) All rules made under this Act shall be laid, as soon as may be after they are so made, before the House of the State Legislature, while it is in session, for a period of not less than fourteen days which may be comprised in one session or in two successive sessions and if before the expiry of the session in which they are so laid or of the session immediately following, the House of the State Legislature makes any modification in any of such rules or resolves that any such rule should not be made, such rule shall thereafter have effect only in such modified form or be of no effect, as the case may be, so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done thereunder."

10. He further relied upon the Rajasthan Non-Government Educational Institutions (Recognition, Grant-in-aid and Service Conditions etc.) Rules, 1993 and more particularly, G.S.R. 52, Rules 2(f), 3, 5, 7 which read as under:-

G.S.R. 52 : In exercise of the powers conferred by section 43 of the Rajasthan Non-Government Educational Institutions Act, 1989 and all other powers enabling it in this behalf, the State Government hereby makes the following rules regulating the Recognition Grant-in-Aid and Service conditions etc. of the Non-Government Educational Institutions.

2. Definitions -

2(a).....



2(b).....

2(c).....

2(d).....

2(e).....

2(f) "Competent Authority" means any officer or authority, authorised by the State Government, by notification, to perform the functions of the competent authority under these Rules, for such area or in relation to such class of recognised Non-Government educational institution as may be specified in the notification;



3. Recognition of Institution.- (1) Every institution except those affiliated to a University or recognised by the Board [or imparting elementary education from Class I to VIII] seeking recognition must be registered under the Rajasthan Societies Registration Act, 1958.

(2) Except in the case of institutions which are either affiliated a University or recognised by the Board, [or imparting elementary education from Class I to VIII] the Competent Authority as specified in Appendix - III may, on an application made to it in the prescribed Form (Appendix - I), recognize a Non-Government Educational Institution on fulfilment of such terms and conditions as prescribed hereafter.

(3) Every application for recognition of an institution shall be entertained and considered by the competent authority and the decision thereon shall be communicated to the applicant within the period as prescribed hereafter.

5. Procedure for Recognition.- (1) The educational institutions, except those affiliated to any University or recognised by the Board, [or imparting elementary education from Class I to VIII] willing to get recognition, shall submit an application in the prescribed Form (Appendix - I) to the competent authority as specified in Appendix - III, provided if fulfills all terms and conditions as laid down by the Government from time to time.

(2) The institution shall submit its application to the Competent Authority latest by 28th February.

(3) The Competent Authority shall maintain a register of all applications received in the following proforma :-

S.	Dat	Name of	Date of	Name and	Findings	Decision	Signature	Remarks
----	-----	---------	---------	----------	----------	----------	-----------	---------



No.	e	Institutio n	Inspectio n	Designatio n of Inspection Officer	of Inspectio n report	of the competen t authority	of the competen t authority	
1	2	3	4	5	6	7	8	9

(4) *The competent authority shall complete the scrutiny of all the applications so received latest by 31st March and arrange for inspection by a party comprising -*

(i) (a) *Director of Education or its nominated gazetted officer, or (b) Competent authority as per Appendix - III;*

(ii) *One Educationist having regard to the status of the institution;*

(iii) *The Head of the Account Branch of the office of the competent authority.*

(5) *The Inspecting Party shall inspect the institution keeping in mind the prescribed norms and conditions prescribed in Appendix - II and submit its report latest by 30th April to the competent authority, who shall, by 15th May, ask for the additional information, if any, required from the institution.*

(6) *The Inspection Party shall record a clear recommendation with reference to each of the prescribed terms and conditions and give its recommendations for continuance of temporary recognition or permanent recognition as the case may be.*

(7) *The Institution shall furnish the required information as envisaged in (5) above to the Competent Authority latest by 15th June.*

(8) *The competent Authority shall inform the institution concerned of its final decision, under registered post latest by 30th June.*

(9) *The Competent Authority shall also arrange for inspection of the institutions from time to time for supervision over the activities and functions of the institutions and record its findings on the file maintained for the purpose.*

7. Withdrawal of Recognition.- (1) *The competent Authority granting the recognition may, after giving to the management a reasonable*



opportunity for showing-cause against the proposed action for withdrawal of recognition, withdraw its temporary or permanent recognition [granted under this Chapter] in the following circumstances :-

(a) if the management of an institution has obtained recognition by fraud/misrepresentation or suppression of material particulars or if, after obtaining recognition, an institution fails to comply with any of the terms and conditions prescribed in Appendix -II of these rules;

(b) if the management has closed down the educational institution or any of its part without obtaining prior approval of the Competent Authority;

(c) if the management has transferred the educational institution to any other building or place without obtaining prior approval of the competent authority;

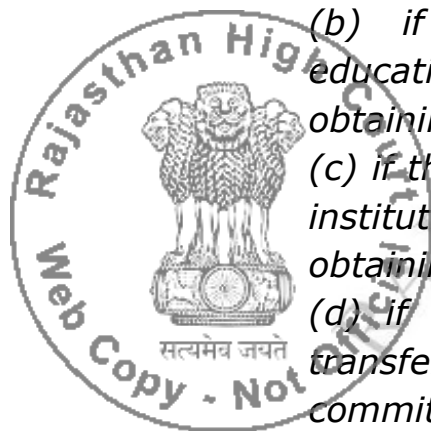
(d) if the management of the institution has been transferred to any other management committee/institution without obtaining prior approval of the Competent Authority;

(e) if on the expiry of the period of temporary recognition the management has failed to submit an application in the prescribed form to the competent Authority either for extension of the term of temporary recognition or for grant of permanent recognition;

(f) if the management of the institution fails to make irregular payment of full pay and allowances through an account payee cheque to its employees before 15th of every next month.

(2) On being satisfied that the institution has failed to comply with any of the terms and conditions specified in sub-rule (1), the competent authority may after giving the institution an opportunity of being heard, suspend the recognition for a specific period. Thereafter if the competent authority is satisfied that the said institution has shown satisfactory improvement within the period specified, it may allow the recognition to continue.

(3) Ordinarily recognition once given to an educational institution shall continue upto the end of an academic session. But in cases of fraud, misrepresentation or concealment of the material facts on which recognition was granted or in cases, where the institution has failed in timely compliance of the orders/directions of the Director of Education of the State Government, the Competent Authority may after giving management a reasonable opportunity of showing cause against the





proposed action, withdraw the recognition even during the raids of the academic session.

(4) No institution shall be given recognition retrospectively.

Explanation-

(1) In cases, where recognition given earlier, is withdrawn, but conferred again, such institution shall be termed as new institution.

(2) In case of opening of a branch by the institution at a new place, such branch of the institution at a new place, such branch of the institution shall be termed as

new institution and its application for recognition shall be decided accordingly."

11. While placing reliance upon the said provisions, it was submitted by learned counsels for the petitioners that while issuing the policy for Non-Government Private Educational Institutions, the Commissioner, College Education has gone beyond his jurisdiction as he has neither taken approval from the Governor as required under Articles 162, 163 and 166 of the Constitution of India nor as per mandate of Sections 33 and 34 of the Act of 1989, the penalty can be levied on any other instances than as prescribed under those Sections. As per Sections 33 & 34 of the Act of 1989, the penalty can be imposed only when there is contravention of the provisions of Section 13 or 14 of the Act of 1989 or where there is contravention of provisions of Sections 9 or 12 of the Act of 1989 and in that case also, the maximum amount of penalty which can be imposed is Rs.1000/-. He further submitted that in terms of Section 42 of the Act of 1989, the delegation of powers can be exercised by way of specific delegation of any power vested under the Act to be exercised by the competent authority i.e. by the State Government only in cases when notification is issued and published in Official Gazette. He submitted that in the cases in hand, there is no notification issued by the State Government or approved by the Governor of



the State which has been published in the Official Gazette whereby penalty can be imposed and the temporary recognition can be regularized on payment of exorbitant penalty specified in the particular clauses of the policies issued on academic year basis. He further submitted that in terms of Section 43 of the Act of 1989 which gives power to make Rules to the State Government for carrying into effect all the provisions of the Act of 1989, there is no express provision to impose penalty or if reliance is placed on Clause (l) of Sub-Section (2) of Section 43 of the Act of 1989, the same has to be prescribed in the Rules of 1993. The Rules of 1993 nowhere delegate the powers for imposition of penalty for regularizing the deficiencies for grant/extension of temporary recognition and therefore, he submitted that withholding of NOC on account of non-deposition of the penalty, imposed by way of Policy, is not only illegal but without jurisdiction. He placed reliance on judgment of the Apex Court in **The Central Bank of India Vs. Their Workmen: AIR 1960 SC 12; General Officer Commanding-in-Chief and Ors. vs. Subhash Chandra Yadav and Ors.: (1988) 2 SCC 351** to contend that it is not permissible for the Commissioner, College Education under the Act of 1989 and the Rules of 1993. The acts of the Executives cannot override the provisions of the statute or the rules framed thereunder. Learned Sr. Counsel further relied upon Article 166 of the Constitution of India and contended that for delegation of powers as specified under Section 42 of the Act of 1989, the authentication and sanction of the Governor was must and the approval by the State Government was mandatory alongwith publication in the Official Gazette. He relied upon the



judgments rendered by the Apex Court in **M.R.F. Ltd. and Ors. Vs. Manohar Parrikar and Ors.: (2010) 11 SCC 374** and **Shanti Sports Club and Ors. vs. Union of India (UOI) and Ors.: (2009) 15 SCC 705**. He lastly relied upon the judgment of the Apex Court in **Canon India Private Limited vs. Commissioner of Customs: AIR 2021 SC 1699**, more particularly Paras 12 to 15 wherein it has been held that when the statute confers the power to perform an act in a specific manner, then the same must be honoured in that manner. Paras 12 to 15 of the said judgment in **Canon India Private Limited (supra)** reads as under:-

"12. The nature of the power to recover the duty, not paid or short paid after the goods have been assessed and cleared for import, is broadly a power to review the earlier decision of assessment. Such a power is not inherent in any authority. Indeed, it has been conferred by Section 28 and other related provisions. The power has been so conferred specifically on "the proper officer" which must necessarily mean the proper officer who, in the first instance, assessed and cleared the goods i.e. the Deputy Commissioner Appraisal Group. Indeed, this must be so because no fiscal statute has been shown to us where the power to re-open assessment or recover duties which have escaped assessment has been conferred on an officer other than the officer of the rank of the officer who initially took the decision to assess the goods.

13. Where the statute confers the same power to perform an act on different officers, as in this case, the two officers, especially when they belong to different departments, cannot exercise their powers in the same case. Where one officer has exercised his powers of assessment, the power to order re-assessment must also be exercised by the same officer or his successor and not by another officer of another department though he is designated to be an officer of the same rank. In our view, this would result into an anarchical and unruly operation of a statute which is not contemplated by any canon of construction of statute.



14. It is well known that when a statute directs that the things be done in a certain way, it must be done in that way alone. As in this case, when the statute directs that "the proper officer" can determine duty not levied/not paid, it does not mean any proper officer but that proper officer alone. We find it completely impermissible to allow an officer, who has not passed the original order of assessment, to re-open the assessment on the grounds that the duty was not paid/not levied, by the original officer who had decided to clear the goods and who was competent and authorised to make the assessment. The nature of the power conferred by Section 28(4) to recover duties which have escaped assessment is in the nature of an administrative review of an act. The Section must therefore be construed as conferring the power of such review on the same officer or his successor or any other officer who has been assigned the function of assessment. In other words, an officer who did the assessment, could only undertake re-assessment [which is involved in Section 28(4)].

15. It is obvious that the re-assessment and recovery of duties i.e. contemplated by Section 28(4) is by the same authority and not by any superior authority such as Appellate or Revisional Authority. It is, therefore, clear to us that the Additional Director General of DRI was not "the" proper officer to exercise the power Under Section 28(4) and the initiation of the recovery proceedings in the present case is without any jurisdiction and liable to be set aside."

12. Mr. Shah, learned Sr. counsel further submitted that in the given cases in hand, on perusal of the policy, there is no reference of any provision of the Act of 1989 and the Rules of 1993. There is no approval and sanction as per rules of business provided by the State. None of the powers given under the Act of 1989 or the Rules of 1993, referred above, gives sanction to the Commissioner, College Education to enlarge the scope of the Act of 1989 by making a condition of deposition of penalty for issuance of NOC when there is deficiency for grant of temporary



recognition. He, therefore, contended that the policy issued by the Commissioner, College Education to the extent it has proposed penalty clause, needs to be set aside and the recovery orders for issuance of NOC by imposing exorbitant penalties is not only illegal, without jurisdiction but also ultra-vires to the provisions of the Act of 1989 and the Rules of 1993.

13. In the second set of writ petitions, Mr. Manu Bhargava, learned counsel for the petitioner submitted that there is no deficiency on the part of the institution for non-grant of temporary recognition and the orders of recovery issued by the respondents are bad. It was further submitted that the College was established on 25/06/2005 and the respondent no.2 has issued him temporary NOC after consideration of requisites for the Session 2005-06 as the College was situated in lagging area and the Government wanted to promote the said area by promoting private colleges for imparting education. It was further submitted that ever since 25/06/2005 till date, the temporary recognition is granted, inspection team is regularly visiting the College on yearly basis. In the year 2007, the deficiency qua the land was also fulfilled by them and as per him, no defects/deficiency for grant of temporary/permanent recognition exists as on date. He submitted that on 27/08/2019, the respondent no.3-University directed the petitioners-colleges for submitting NOC for the Session 2019-2020 or else to deposit penalty so that result of the students may be declared. Earlier also, under compulsion in terms of Private Colleges Policy, a sum of Rs.1.75 lac was deposited on 17/12/2014 and again in compliance of interim orders of this Court, a sum of Rs.3 lac was deposited at the rate of Rs.50,000/- per year on account of deficiency for issuance of temporary recognition and



NOC so that the students may not suffer. He submitted that the provisions of Private Colleges Policy for the Academic Session 2015-16 and 2016-17 are illegal, without jurisdiction in as much as submitted in Para No.12(a) of the writ petition, a sum of Rs. 5 lac and then Rs.6 lac have been demanded which is exorbitant and nowhere specified in law. The Commissioner of College Education, on his whims and fancies, for different years in question, is imposing different penalties and relaxing the same even for the institutions established in lagging/backward areas. He submitted that when the College was set up and temporary recognition was granted, no such clause ever existed. He further submitted that the penalty can only be imposed if the same exists under the Act and the Rules. He stated that on account of non-issuance of NOC, the students are suffering as their result is withheld as yet and they are categorized as ex-students and not regular students.

14. In third set of writ petitions, Mr. Ravi Kant Sharma, Adv. and other counsels for the respective petitioners submitted that as per directions of this Court, the petitioners-colleges in their case have deposited a sum of Rs.50,000/- on yearly basis for grant of NOC/affiliation but yet result of their students has not been declared. They submitted that over the years, after establishment of college, this lethargic measure is taken up by the respondents whereby either NOC is not issued or affiliation is withheld in the middle of the course because of which the students enrolled with the college/university are not permitted to appear in the examination or their results are withheld or they are categorized as ex-students instead of regular students. Learned counsels, thus, requested for early disposal of the matter and for lenient view.



15. Per-contra, Mr. Prakhar Gupta for Dr. VB Sharma, AAG, learned counsel for the respondent-State and Mr. Vinod Gupta, for the concerned University submitted that though Chapter-VII of the Act of 1989 specifies that penalty can be imposed as per provisions of Sections 33 and 34 but as per provisions of Section 42 read with Section 43 of the Act of 1989 which has delegated powers upon the Executives/competent authorities of the Education Department and as per provisions of Section 43 of the Act of 1989 whereby power to make rules have been entrusted with the State Government, Rule 7 of the Rules of 1993 has been formulated.

16. Learned counsel for respondents further submitted that as per provisions of Rule 7 of the Rules of 1993, the recognition granted by the competent authority can be withheld and as per provisions of Rule 7(3) of the Rules of 1993, referred above, where the institution has failed in timely compliance of the orders/directions of the Director of Education or the State Government, the competent authority, after giving reasonable opportunity, can withhold the recognition even during mid of the academic session. Though learned counsel for the State was very fair in his submission that qua the students, the State takes lenient view and the State does not want to disturb or affect the career of the students in any manner or debar them from appearing in the examination on account of default of the petitioners-colleges. Learned counsel for respondents relied upon judgment of the Apex Court in **St. Johns Teachers Training Institute vs. Regional Director, National Council for Teacher Education and Ors.: (2003) 3 SCC 321** to contend that under the delegated powers under administrative law, if the question



comes qua excessive delegation, it has to be analyzed with regard to the subject matter, the scheme of the Act, the provisions of the statute including its preamble and the factual and circumstantial background of its enactment. There would be presumption in favour of force and if two constructions are possible, the one which makes it valid should be adopted.

17. While placing reliance on the said judgment, learned counsel for the respondents submitted that all the private colleges are running on temporary recognition, they are having deficiencies of one kind or the other illustratively qua the infrastructure in the form of deficiency in land, building, staff, teaching faculty, furniture or any other reason. In spite of running over the years and more than decades, they are not able to overcome the deficiencies and on account of the said fact, the students who are admitted suffer and are made scapegoat and a lenient view is taken taking into consideration their career. The same cannot be repeated over the years and as a result, while exercising the powers under Rule 7 of the Rules of 1993, the Commissioner, College Education, while formulating the policy, has added a penalty clause whereby on depositing the specified amount for the respective year, the temporary recognition can be continued upto a limit. He further relied upon judgment of Apex Court in **State of H.P. and Ors. vs. Himachal Pradesh Nizi Vyavsayik Prishikshan Kendra Sangh: (2011) 6 SCC 597** to contend that while making judicial review of the policy matters, the Courts should be slow and interference should be made only when the policy runs contrary to the mandate of the Constitution or the provisions of law. He submitted that in the case in hand, the policy for the private colleges was formulated in conformity with



the provisions of the Act, Rules and by following due procedure of the rules of business. Therefore, the policy is legal and valid. Similar arguments were advanced by the counsels for the University and the other departments.

18. This Court has considered records of the cases in hand, the submissions advanced by the respective counsels as well as the judgments cited at bar.

19. On perusal of various provisions of the Act of 1989 and the Rules of 1993 framed therein as well as the preamble of the Act of 1989, it is more than clear that the Act of 1989 was formulated for better organization and development of education in Non-Government Educational Institutions in the State of Rajasthan.

Also taking into consideration that most of the private colleges in the present bunch of writ petitions are situated in lagging areas i.e. backward areas where there was non-availability of such institutions qua the higher education, the State Government has given permission for setting up of private colleges in the field of higher education on conditional basis only on account of the fact that because of deficiency in infrastructure and funds, they were not able to spread out education in the deep rooted areas of the State of Rajasthan. Therefore, conditional permissions were given for establishment of non-government educational institutions.

20. Some of the mandatory conditions for recognition included that running of the college will be by a registered Society or a Trust and that the institutions should meet the requirements as specified in Appendix-2 of Rule 5 of the Rules of 1993 qua the building, land, teaching faculty, furniture, library etc.

21. The private colleges like the petitioners were required to have recognition in terms of Rule 3 and affiliation from the



concerned University on meeting out the requirements under Appendix-2

22. In the case in hand, the petitioners were granted temporary recognition after due inspection, verification and the same was continued. The affiliations were granted by the Universities and the students were admitted on regular basis who have appeared for examination over the years but on account of the alleged deficiencies, in terms of private policy, for different years, penalty and recovery was initiated and on account of non-deposition thereof or any other reasons, the NOC was not issued and as a consequence, the affiliation was also either not extended or withheld and disputes arose for not releasing admit card to the students for appearing in examination or for non-declaration of their result. As a result, the said sets of writ petitions were filed before this Court with the prayer for grant of NOC/affiliation, appearing in the examination and changing the category from ex-student to regular student, etc.

23. Upon hearing learned counsel for the parties and analyzing the provisions of the Act of 1989, it is very clear that the only power for imposition of penalty under given set of circumstances for violation of respective Sections is enshrined under Section 33 and 34 of the Act of 1989. No other power for imposition of penalty in express meaning is specified in the Act of 1989 or in the Rules of 1993. Even the counsel for the respondents were not able to refute the said argument and specify the notification whereby the powers were delegated to the Commissioner, College Education for imposition of penalty, for regularizing the deficiency and grant of temporary recognition. Further, learned counsels for the petitioners have specified that neither under the provisions of



Section 43 of the Act of 1989 or under the Rules of 1993, the power of imposition of penalty by virtue of which penalty can be incorporated in the policy has been specified. Even on perusal of the Private Colleges Policies, no provision of law or the rules has been specified or referred whereby the penalty is imposed or delegated.

24. The only contention submitted by learned counsel for the respondent-State was that under Rule 7(3) of the Rules of 1993, if the institution has failed in complying with the directions, the recognition can be withdrawn by the competent authority or the Director of Education but Rule 7(3) of the Rules of 1993 nowhere specifies that penalty can be imposed and grant of temporary recognition/permanent recognition can be regularized or extended.

25. The reliance place by learned counsel for the respondent-State upon the judgment in **St. Johns Teachers Training Institute (supra)** is not applicable in the facts of the instant cases because it is a settled position of law that delegated powers should be permissible under the Act. In the given case, by virtue of Section 42 of the Act of 1989, neither any notification was issued for imposition of penalty nor the same was published nor approved by the State Government. In the cases in hand, suo-motu powers were exercised by the Commissioner, College Education voluntarily without any basis, without any authority of law which was never specified under the Act of 1989 or the Rules of 1993.

26. It is true that the Courts should be slow in interfering with the policy decisions but it is also a settled law that judicial review is permissible if any policy, instruction, letter or direction is issued



illegally without any authority of law, beyond the powers given under the Act and is overriding the provisions of the superior laws like the Act of 1989 and the Rules of 1993.

27. For the reasons stated above, the judgment cited by learned counsel for the State in **State of H.P. and Ors. (supra)** is also distinguishable and is not applicable in the given set of cases.

28. Learned counsels for the petitioners have relied upon the judgments rendered by the Apex Court in **The Central Bank of India (supra)** wherein it is held that under the ambit of policy, the scope and provisions of the Act and Rules cannot be by-passed.

29. It is also to be considered that the Hon'ble Apex Court in very categorical terms has held that the subordinate/ delegated legislation has to be tested with reference to the constitutional provisions and the rules of business and in conformity or substance.

30. In the present matters, neither the Act of 1989 or the Rules of 1993 have given any specific power for imposition of penalty other than Sections 33 and 34 of the Act of 1989. Even the policies issued by the Commissioner of College Education are in consonance as at the time of very formulation of the Colleges, there was no penal clause and in the later years, i.e. in 2015 and 2016, it was exercised exorbitantly to the extent of Rs.6 lac and in the later years, it was reduced to the extent of Rs.50,000/- on per year basis, without any reasoning, merely on the whims and fancies of the Commissioner, College Education.

31. It has been held in the judgments rendered by the Hon'ble Apex Court in **J.K. Industries Ltd. and Ors. vs. Union of India (UOI) and Ors.: (2007) 13 SCC 673** and in **M.R.F. Ltd. and**



Ors. (supra) that under administrative law under delegated legislation or ancillary or subordinate functions i.e. the power to fill up the details, directions can be passed or policies can be framed only to the extent which are permitted by the Act; they should supplement the Act or the Rules and they cannot supplant the Act; they cannot be in violation of the parent Act and if that is so, such exercise of powers is unauthorized, ultra-vires and illegal.

32. Similarly, in bunch of connected petitions decided by the Division Bench of this Court in **DB CWP 969/2022** titled as **Sudesh Taneja Vs. Income Tax Officer & Ors.** decided on **27.01.2022** while dealing with impugned notices issued by Assessing Officers under Section 148 of the Income Tax Act, 1961, reopening assessment of various years held that a subordinate legislation can not travel beyond the powers vested by the Act and the delegated legislation has to be within four corners of the Parent Statute.

33. In the given case in hand, even the phraseology 'delegated legislation' or 'delegated instructions' cannot be continued for the reasons that neither the policy was issued under the provisions of Section 42 of the Act of 1989 nor they had any authority under Section 43 of the Act of 1989. The respondents have ultra-vires to the Act of 1989 and Rules of 1993 imposed, invoked and charged the petitioners which was neither authorized nor permitted or delegated by the Act and Rules.

34. On account of the said facts, this Court is of the view that the prayer so made by the petitioners qua declaration of policy for the respective years whereby the respondents have imposed penalty provisions under the respective clause of the Private Colleges Policy for the year 2015-2016 and for future years for the



Academic Session 2018-2019 and 2021-2022 and *pari-materia* provisions are illegal, ultravires and needs to be set aside.

35. The Private Colleges Policy whereby penalty provisions have been introduced are also illegal on account of the fact that the Commissioner, College Education or any other authority has not been delegated the powers under the Act of 1989. In the light of judgment of the Apex Court in **Canon India Private Limited (supra)** the Commissioner, College Education was not having any authority to issue such directions/ instructions /policy for imposition of penalty.

36. In the light of discussions made above, following directions are issued:

(1) The penalty clause in the policy/instructions for Private Colleges issued by the Commissioner, College Education, for different years in question, is held to be beyond his power and is declared illegal.

(2) The penalty deposited by the respective petitioner/college under the orders of the Court or in the light of the provisions of the Private Colleges Policy be refunded to the petitioners/colleges within a period of sixty days failing which interest @ 6% will accrue on the same after lapse of 60 days.

(3) It is directed that the amount refunded to the petitioners/colleges by the respondents in light of the above directions, shall be deposited by the respective petitioners/colleges in the "Student Welfare Fund", and be used for the welfare and betterment of students in activities like clearing dues of students who are unable to deposit fee, medical care, library, and other amenities and facilities needed for and by the students and not be used for any other purpose.



(4) The State as well as respondents are directed to ensure that on account of present dispute, students should not be made to suffer and their results, mark-sheets, admit cards, other documents should not be withheld and be declared/released in capacity of regular students forthwith immediately, without any fail. The respondents are directed to assist and help the students in question on 24x7 basis. No student should be deprived of appearance in any future examination or appearance on account of present dispute as the petitioners have submitted that the non-declaration of result is causing prejudice to the students for appearing in future examinations including competitive examinations.

37. All these writ petitions stand disposed of in terms of the directions and observations made above. All pending applications also stand disposed of in above terms.

(SAMEER JAIN),J

RAGHU/60-71,80-86,98,101-115,117-118,122-123,125-126

सत्यमेव जयते