IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA.

CWP No. 7688 of 2013 a/w CWP No. 840 of 2014

Judgment reserved on: 8.7.2014

Date of Decision : July 23, 2014.

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1. CWP No. 7688 of 2013

H-Private Universities Management Association (H-PUMA) …Petitioner

Versus

State of Himachal Pradesh and others . …Respondents.

For the petitioner : Mr. R.L.Sood, Senior Advocate, with Mr. B.C.Negi, Advocate.

For the respondents : Mr. Shrawan Dogra, A.G. with Mr. Romesh Verma, Mr. V.S.Chauhan, Addl.A.Gs and Mr. J.K.Verma and Mr. Kush Sharma, Dy. A.Gs, for respondents No. 1 & 2.
Mr. Dilip Sharma, Senior Advocate with Mr. Manish Sharma, Advocate, for respondent No.3.

2. CWP No. 840 of 2014

Private Technical Institution's Association Himachal Pradesh and others. …Petitioners

Versus

State of Himachal Pradesh and others . …Respondents.

For the petitioners : Mr. R.L.Sood, Senior Advocate, with Mr. Ajay Mohan Goel and Mr. Arjun K. Lall, Advocates.

For the respondents : Mr. Shrawan Dogra, A.G. with Mr. Romesh Verma, Mr. V.S.Chauhan, Addl.A.Gs and Mr. J.K.Verma and Mr. Kush Sharma, Dy. A.Gs, for respondent No. 1.
Mr. Tara Singh Chauhan, Advocate, for respondent No.2
Mr. Vijay Arora, Advocate, for respondent No.3.

Coram

The Hon'ble Mr. Justice Mansoor Ahmad Mir, Chief Justice.

The Hon'ble Mr. Justice Tarlok Singh Chauhan, Judge.

Whether approved for reporting ? Yes

Tarlok Singh Chauhan, Judge

Though the petitioners have claimed various reliefs in the writ petitions, however, during the course of arguments, the petitioners have confined their claim for issuance of writ of mandamus directing the respondents to allow the petitioner-institutions to fill up the seats which remained vacant in various technical courses being offered by them after admitting the candidates offered by respondent No.2-University by initiating process in this regard simultaneously with the process of admission to be initiated by the respondent No.2-University for making admissions to various technical courses in the institutions affiliated with it and have also questioned the fee structure fixed by respondent No.2-University.

2. The petitioners in both the cases are an association consisting of institutions imparting technical education. It is contended by the learned counsel for the petitioners that earlier the private technical institutions were permitted to admit the students in the technical courses in accordance with the guidelines prescribed by the All India Council for Technical Education (for short 'AICTE') and further it was provided that in case some of the seat remain vacant after counselling, the same would be filled up by adopting the criteria mentioned therein by the College management. In other words, there was a provision that the College management could fill up the vacant seats by adhering to the eligibility qualification criteria mentioned in the prospectus which were those eligibility qualification criteria as was laid down by the AICTE, because the respondents No. 1 and 2 otherwise could not lay separate or different eligibility qualification

criteria for admission to technical courses in view of the statutory provisions contained in Section 10 (i) of the AICTE Act which provides that one of the functions of the AICTE is to lay down norms and standards for courses, curricula, physical and instructional facilities, staff pattern, staff qualifications, quality instructions, assessment and examinations. Now the respondent No.2 has issued a communication dated 6.12.2013 on the subject, "Admission for B.Tech (direct entry/literal entry), B-Pharma (direct entry/literal entry), MCA, MBA, M.Tech and M-Pharma in the Government of private affiliating institutions of Himachal Pradesh Technical University, Hamirpur for the Session 2014-15", which would demonstrate that for admission to B.Tech first year direct entry course, the criteria will be merit of rank/score obtained in JEE (main)-2014 and that the aspirant candidates have to apply only through JEE Main, 2014 online between 15.11.2013 to 26.12.2013 for appearing in the Joint Entrance Examination, 2014 to be conducted by JEE Apex Board. It has further been mentioned that the University of its own will not conduct any separate test for admission to B.Tech first year direct entry. Similarly, for the purpose of admission to B-Pharmacy first year direct entry, it is mentioned that the admission criteria shall be merit of score/marks obtained in a Common Entrance Test to be conducted by respondent No.2-University. It is further mentioned therein that the desirous candidates will have to apply on the prescribed application form available in the prospectus to be issued by the University in due course of time for appearing in the Common Entrance Test.

3. Similarly, for the purpose of admission to MBA course, it is mentioned that the criteria of admission shall be merit of rank/score obtained by the candidate in CMAT, 2014 to be conducted by AICTE, New Delhi. As per communication, the aspirant candidate shall have to apply online through AICTE between 1.11.2013 to 12.1.2014 for appearing in a Common Entrance Test, 2014-15 (second test) to be conducted by AICTE, New Delhi. It is also mentioned in the communication that the University will not conduct any separate test for MBA, however, the candidates appearing in CMAT, 2014 will have to apply separately on the prescribed application form available in the prospectus to be issued by the University in due course of time for seeking admission in affiliating institutions of the University on the basis of the marks of rank/score obtained in CMAT, 2014.

4. For the purpose of admission to M.Tech courses, it is mentioned that the admission shall be on the basis of rank obtained by a candidate in GATE, 2014 to be conducted by IIT Kharagpur. It is further mentioned that the candidates appearing in GATE, 2014 will have to apply separately on the prescribed application form which has to be provided in the prospectus to be issued subsequently by the University for seeking admission in the affiliating institutions of the University on the basis of the marks of rank/score obtained in GATE, 2014. Similarly, as far as the admission to M-Pharmacy course is concerned, the criteria of admission as mentioned in the above communication are marks of rank/score obtained in GPAT, 2014 to be conducted by AICTE. It is further mentioned therein that the aspirant candidates shall have to apply to appear in the said test for AICTE

within the dates mentioned therein and the University shall not be conducting any independent examination in this regard and shall make admissions on the basis of marks of rank/score obtained by the candidates in the above mentioned examination, for which purpose the candidate shall have to apply separately on the prescribed application form which has to be provided in the prospectus to be issued subsequently by the University. For admission to MCA course, the criteria of admission mentioned is merit obtained in a Common Entrance Test to be conducted by Himachal Pradesh University, Shimla and for this purpose, the respondent No.2-University shall not to be conducting any separate examination, however, the candidates, who appear in the Common Entrance Test to be held by Himachal Pradesh University shall have to separately apply for admission on prescribed application form which has to be provided in the prospectus to be issued subsequently by the respondent No.2-University.

5. Learned counsel for the petitioners argued that now in view of the instructions issued on 6.12.2013, the Colleges are mandatorily required to take students from the merit list prepared by the University after conducting various Common Entrance Tests (for short 'CET'). It is also argued that over the years, due to this restriction on admitting students only through the merit list prepared consequent to the CET, seats remain vacant in the institutions for want of qualified candidates. It is further submitted that the members of the Association cannot admit students either on their own or through any other agencies in view of the norms and guidelines laid down by the respondents.

6. The respondent No.1 has sought to justify its stand by filing reply in which following preliminary objections have been taken:

(i) That 16 Private Universities, 1 Private Engineering Colleges, 12 Bachelor of Pharmacy Private Colleges, 09 Private management Colleges and 25 Private Polytechnics exist in the State alongwith 129 No's of Industrial Training Institute in Private Sector. The State Government in order to ensure that the students are not subjected to multiple entrance tests as well to ensure admissions to these institutions are made in a fair and transparent manner, decided that the respondent No.2 University shall admit students to B.Tech programmes in its constituent Colleges and affiliated Private Engineering Colleges through the common entrance test i.e. JEE (Mains). Accordingly, the Registrar of respondent No.2-University informed all the Principals (Government and Private) that admissions to B.Tech. Degree Programmes in Government and Private Engineering Colleges shall be made on the basis of merit/marks obtained by the candidate(s) in the Joint Entrance Exam (JEE Main-2013) being conducted by the JEE Apex Board. This information was also brought to the notice of general public through print and electronic media.

(ii) It is submitted that from various sources it has come to the notice that large number of ineligible candidates has been allowed admissions by these institutions, details of which are as under:

> (a) *The then H.P. Regulatory Commission had informed that against total number of 6520 seats in Private Universities in B.Tech Courses, total 3200 candidates were admitted by them including 305 ineligible candidates. Besides, private*

Universities have also admitted 308 students in M.Tech., MBA, MCA, M. Pharmacy and B. Pharmacy who are not meeting AICTE norms as per admitted

(b) H.P.Technical University (Respondent No.2) has informed that the admission details are not being sent by these institutions despite repeated reminders and it reported that 1490 invalid admissions have been made by these private institutions. Private Technical Institutions Association vide their letter dated 18.09.2013 and 21.09.2013 has admitted that 4405 students have been admitted in B.Tech. Diploma, B. Pharmacy, M. Pharmacy, M.Tech and MBA without entrance test (with minimum eligibility criteria as per AICTE) which shows that these admission were to be made not only on the basis of minimum eligibility criteria as per AICTE norms but also through an Entrance Test which is mandatory as per AICTE norms.

(c) Secretary, H.P.Technical Education Board has informed that in 23 Private Polytechnics, out of 3866 students admitted, 2627 admissions are without PAT/LEET and only 1239 are made on the basis of PAT/ LEET students against total of 9000 approved seats.

(iii) It is further submitted that the Hon'ble Apex Court in Civil Appeal No. 9048 of 2012, vide order dated December 13, 2012 has prescribed the last date of 15th August by which all seats should be filled positively and after which there shall be no admission, whatever be the reason or ground. The State Government earlier vide leter dated 25.7.2013 has allowed one time permission to take admissions to B.Tech Courses only for the academic session 2013-14 in all Private Universities and Engineering Institutions on the basis of qualifying examination i.e. Physics, Mathematics and one of the subject from Chemistry, Bio-technology, Computer Science, Biology along with 65% marks after exhausting the merit of the JEE (Main).

(iv) The average result of Private Polytechnics in the first year (2012-13) was less than 5% and for senior classes, the result was around 15-20% which speaks volumes about the availability of infrastructure, faculty, quality and standard of education being imparted by these institutions. It is submitted that these institutions are not making any real investment in the infrastructure, not employing experienced and qualified faculty severely affecting the quality of education which is manifested in such results. The lowering down of admission standards have also contributed to the aforesaid poor results.

7. On the other hand, the respondent No.2 - University in its reply has taken the following preliminary objections:

(i) That as per notification of AICTE dated 7th March, 2003 issued consequent upon the judgment delivered on 31.10.2002 by eleven Judges Bench of the Hon'ble Supreme Court in W.P. No. 317 of 1993 titled as TMA Pai Foundation V/s State of Karnataka and others wherein it has been clearly mentioned that all the seats including the seats reserved for the management must be filled up through Joint Entrance Test/Common Entrance Test conducted by Central/State Government or University followed by counseling as per present practice. However, the private unaided institutions may fill up the management seats by having their own counseling in an objective and transparent manner taking the students from same merit list prepared on the basis of Joint Entrance Test/Common Entrance Test of Central/State Government

(ii) It is further submitted that vide notification dated 22nd February, 2011, the Governor of Himachal Pradesh while exercising power under Section 6 (2) of the H.P. Technical University (Establishment and Regulation) Act, 2010 is pleased to order that all the Colleges situated in Himachal Pradesh imparting technical education as per the provisions of Section 2 (k) of the above Act in the subjects of Engineering Technologies, Information Technologies, Sciences, Management, Pharmacy and Architecture and such other subjects as may be deemed fit by the State Government from time to time shall be deemed to be associated with and admitted to the privileges of the H.P. Technical University, Hamirpur with effect from the date of issue of this notification and shall cease to be associated in any way with, or admitted to any privileges of, Himachal Pradesh University, Shimla. The Government has further ordered that all the above colleges imparting technical education shall pay affiliation fee, inspection fee, infrastructure fee and any such other fee as may be imposed to the H.P. Technical University, Hamirpur with immediate effect.

(iii) It is also submitted that the Himachal Pradesh Technical University (Establishment and Regulation) Act, 2010 under Section 5 (zi) has empowered the replying respondent to make appropriate measures for creation of an independent financial base of the University and Section 5 (zk) also empowers to prescribe fees or other charges for examination and other purposes and to demand and receive the fees or other charges so prescribed. Accordingly, the first meeting of Finance Committee of the replying respondent was held on

March 24, 2011 in which the approval of fee structure for processing of applications, affiliation, inspection, University Registration, examination fees, counseling fee etc. in academic session 2011-12 was discussed and the same was approved. The Board of Governors of the replying respondent in its meeting held on April 27, 2011 also accorded its approval to the minutes of the meeting of Finance Committee under item No. 2.5 the minutes of 2nd meeting of BOG. Thereafter, fees for processing of applications, affiliation, inspection, University registration, examination fees, counseling fee as approved by the Finance Committee and the Board of Governors of the replying respondent are being demanded from the petitioners. Since H.P. Technical University is to make this University as an independent financial base, the University is empowered to prescribe fee and other charges as per the decisions of Finance Committee and the Board of Governors of the replying respondent.

8. We have heard learned counsel for the parties and have also gone through the records carefully.

9. The learned counsel for the petitioners argued that under the provisions of notification dated 6.12.2013 institutions are mandatorily required to take students from the merit list of CET. It is argued that over the years, due to this restriction on admitting students only through the merit list prepared consequent to CET, seats remained vacant in the various courses for grant of CET qualified students. It is also submitted that the members of the Association cannot admit students either on their own or through any other agencies in view of the norms laid down in the letter dated 6.12.2013.

The learned counsel for the petitioners have further contended that right to admit students is guaranteed under Article 19 (1) (g) of the Constitution so far as private self financed unaided institutions are concerned, and the restrictions imposed vide letter dated 6.12.2013 interfered with this freedom whereby despite empty seats, these institutions are unable to admit students. It is argued that the Hon'ble Supreme Court has repeatedly recognized that the "right to establish includes the right to administer" the institutions which broadly comprises the right to admit students, the right to set up a reasonable fee structure etc. It is further contended that the present regulations violate this freedom of the petitioners by mandating a prescribed procedure for admission thereby interfering with the institutions right to decide upon their own policies. It is argued that the freedom of occupation to run an institution is rendered nugatory when the members of the institutions are not able to determine their own admissions policies and carry out their business in a manner they deem fit, of course, so long as the educational objectives of the institution are not compromised. By mandating through admissions, through the CET, this freedom is violative when neither the institutions can choose their admissions policies and at the same time the seats also remain vacant.

10. It is further contended that CET is process of elimination and not process of selection of the students and therefore, conducting CET in such a case negates the very purpose for which these institutions have been created because without students, these institutions are enable to perform any teaching activities. It is argued

that in order to find a solution against such arbitrariness there ought to be some provision allowing the colleges to admit students based upon any other method, including prescribing of particular percentage in a qualifying examination. The petitioners claimed that they are ready and willing to adopt any method which is transparent and fair and would admit the students only on the basis of merit.

11. The petitioners point out that they made huge investments by obtaining loans from banks and financial institutions and once the seats in their institutions are lying vacant, they are not in a position to pay back the instalments.

12. The learned counsel for the petitioners have further contended that in case the payment seats are not exhausted on the basis of the merit criteria either on account of paucity of students prepared to take admission on payment basis or on account of drop-outs after the cut off date, the vacancy or vacancies, if any, should be permitted to be filled up by the management, because in case the State Government does not permit the institute to fill up the vacancies not filled up from amongst students who had qualified at the entrance test, a solution to the question of financing the institute would have to be found or else it must be prepared to bear the financial burden by paying a sum equivalent to the payment seats remaining vacant to the institute as a grant to run the institute for otherwise it would have to close down. Reliance in support of such submission is placed upon the judgment of the Hon'ble Supreme Court in ***State of H.P. and others vs. Himachal Institute of Engg. And Technology, Shimla (1998) 8 SCC 501*** wherein it has been held as under:

"2. The contention of the learned counsel for the Institute is that according to this Scheme, if all the payment seats are not exhausted on the basis of the merit criteria either on account of paucity of students prepared to take admission on payment basis or on account of drop-outs after the cut-off date, the vacancy or vacancies, if any, had to be filled by the management, For filling these vacancies, the management had to determine its own criteria since none from amongst those who qualified at the entrance test was forthcoming to take the seat on payment basis. In such a situation, counsel contends, either the seats must remain vacant and be wasted or the management must be permitted to fill those seats on a reasonable criteria adopted by the management. To take the situation in the instant case, out of the 50 per cent payment seats in one particular year, we are told that only six students applied for those seats and their names were forwarded by the State Government for admission. No one from amongst the candidates, who had qualified at the entrance test, was forthcoming to take the remaining vacant seats on payment basis, presumably because they could not afford it. After the cut-off date, those seats remained vacant. The management contends that it was entitled to fill those seats under clause (9 of para 210 of Unni Krishnan case on the basis of a reasonable criteria of selection that may be adopted by the management. The management also did not mind any criteria being fixed in this behalf by any other authority like the central council or the State government. What it is concerned with is that if the payment seats remain vacant in such large numbers, the Institute would not be able to meet the expenses for running the professional course and would be placed on the Hobson's choice of either suffering huge losses or closing down the Institute. Our attention was also drawn to a subsequent decision of this court in T.M.A. Pai Foundation v. State of Karnataka, (1995) 5 SCC 200. That was a case where religious and linguistic minority institutions had approached the court for clarification in view of some difficulty arising from the observations in Unni Krishnan case (1993) 1 SCC 645. In that case, the court further divided the 50 per cent payment seats into two halves and allowed the minority institutions to fill the first-half from minority students but again on inter se merit at the entrance examination, the other half had to be filled in accordance with the criteria laid down in Unni Krishnan case. That decision does not really apply to the situation in the instant case because here the position is quite different, in that, the 50 per cent payment seats are not exhausted because students

are not forthcoming in this professional discipline io take admission. The situation has to be resolved because as very rightly pointed out by counsel for the Institute, the choice is between running huge losses or closing the Institute for want of availability of such students. Ultimately, the finance has to come from those students as per the scheme envisaged in Unni Krishnan case. If the State government does not permit the Institute to fill up the vacancies not filled up from amongst students who had qualified at the entrance test, a solution to the question of financing the Institute would have to be found. Counsel for the Institute submitted that if the State government wants to adopt the attitude of not permitting the Institute to fill up those vacancies by students prepared to pay but who have not qualified at the entrance examination, then it must be prepared to bear the financial burden by paying a sum equivalent to the payment seats remaining vacant to the Institute as a grant to run the Institute for otherwise it would have to close down. The learned counsel for the State of Himachal Pradesh very rightly pointed out that he would like to place this matter before the State government to enable it to make a positive response to the stalemate situation arising in the State in regard to this professional discipline from year to year. An effective solution has to be found. A copy of this order may be given to the learned counsel for the State of Himachal Pradesh to enable him to seek the response of the State government and place the same before this court before the next date of hearing. Let the matter come up after two weeks."

13. The learned counsel for the petitioners would further submit that these being the unaided professional institutions are entitled to autonomy in their administration whereby they have the right to management and administer their institutions which includes the right to make admission and also charge reasonable fee apart from the other rights and placed reliance upon the judgment of the Hon'ble Supreme Court in ***T.M.A. Pai Foundation and others vs. State of Karnataka and others (2002) 8 SCC 481*** wherein it has been held as under:

"*68. It would be unfair to apply the same rules and regulations regulating admission to both aided and unaided professional institutions. It must be borne in mind that unaided professional institutions are entitled to autonomy in their administration while, at the same time, they do not forgo or discard the principle of merit. It would, therefore, be permissible for the university or the Government, at the time of granting recognition, to require a private unaided institution to provide for merit based selection while, at the same time, giving the management sufficient discretion in admitting students. This can be done through various methods. For instance, a certain percentage of the seats can be reserved for admission by the management out of those students who have passed the common entrance test held by itself or by the State/University and have applied to the college concerned for admission, while the rest of the seats may be filled up on the basis of counselling by the State agency. This will incidentally take care of poorer and backward sections of the society. The prescription of percentage for this purpose has to be done by the Government according to the local needs and different percentages can be fixed for minority unaided and non-minority unaided and professional colleges. The same principles may be applied to other non-professional but unaided educational institutions viz. graduation and postgraduation non-professional colleges or institutes.*

69. In such professional unaided institutions, the management will have the right to select teachers as per the qualifications and eligibility conditions laid down by the State/University subject to adoption of a rational procedure of selection. A rational fee structure should be adopted by the management, which would not be entitled to charge a capitation fee. Appropriate machinery can be devised by the State or university to ensure that no capitation fee is charged and that there is no profiteering, though a reasonable surplus for the furtherance of education is permissible. Conditions granting recognition or affiliation can broadly cover academic and educational matters including the welfare of students and teachers.

70. It is well settled all over the world that those who seek professional education must pay for it. The number of seats available in government and government aided colleges is very small, compared to the number of persons seeking admission to the medical and engineering colleges. All those eligible and deserving candidates who could not be accommodated in government colleges

would stand deprived of professional education. This void in the field of medical and technical education has been filled by institutions that are established in different places with the aid of donations and the active part taken by public minded individuals. The object of establishing an institution has thus been to provide technical or professional education to the deserving candidates, and is not necessarily a commercial venture. In order that this intention is meaningful, the institution must be recognized. At the school level, the recognition or affiliation has to be sought from the educational authority or the body that conducts the school leaving examination. It is only on the basis of that examination that a school leaving certificate is granted, which enables a student to seek admission in further courses of study after school. A college or a professional educational institution has to get recognition from the university concerned, which normally requires certain conditions to be fulfilled before recognition. It has been held that conditions of affiliation or recognition, which pertain to the academic and educational character of the institution and ensure uniformity, efficiency and excellence in educational courses are valid, and that they do not violate even the provisions of Article 30 of the Constitution; but conditions that are laid down for granting recognition should not be such as may lead to governmental control of the administration of the private educational institutions.".

14. The learned counsel for the petitioners in furtherance of their contention have placed reliance upon the judgment of the Hon'ble Supreme Court in ***P.A. Inamdar and others vs. State of Maharashtra and others (2005) 6 SCC 537*** wherein it has been held as under:

" **Admission procedure of unaided educational institutions.**

133. So far as the minority unaided institutions are concerned to admit students being one of the components of "right to establish and administer an institution", the State cannot interfere therewith. Upto the level of undergraduate education, the minority unaided educational institutions enjoy total freedom.

134. However, different considerations would apply for graduate and post-graduate level of education, as also for technical and professional educational institutions. Such education cannot be imparted by any institution unless recognized by or affiliated with any

competent authority created by law, such as a University, Board, Central or State Government or the like. Excellence in education and maintenance of high standards at this level are a must. To fulfill these objectives, the State can and rather must, in national interest, step in. The education, knowledge and learning at this level possessed by individuals collectively constitutes national wealth.

135. Pai Foundation has already held that the minority status of educational institutions is to be determined by treating the States as units. Students of that community residing in other States where they are not in minority, shall not be considered to be minority in that particular State and hence their admission would be at par with other non-minority students of that State. Such admissions will be only to a limited extent that is like a 'sprinkling' of such admissions, the term we have used earlier borrowing from Kerala Education Bill, 1957. In minority educational institutions, aided or unaided, admissions shall be at the State level. Transparency and merit shall have to be assured.

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 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 Common Entrance Test (CET, for short) must be one enjoying utmost credibility and expertise in the matter. This would better ensure the fulfillment 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 centralized counseling 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 list of successful candidates prepared at the CET without altering the order of merit inter se of the students so chosen.

137. Pai Foundation has held that minority unaided institutions can legitimately claim unfettered fundamental right to choose the students to be allowed admissions and the procedure therefor 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 abovesaid 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 mal-administration. The admission procedure so adopted by 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 mal-practices, it would be permissible to regulate admissions by providing a centralized 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."

15. The learned counsel for the petitioners would also contend that there is already a time bound schedule fixed by the Hon'ble Supreme Court for conducting examination, counselling and

commencement of the academic session whereby the last date for granting or refusing approval has also been fixed and, therefore, even the petitioners cannot go beyond the schedule so fixed. In support of their contention, they have placed reliance upon the judgment of the Hon'ble Supreme Court in ***Parshvanath Charitable Trust and others vs. All India Council for Technical Education and others (2013) 3 SCC 385*** wherein it has been held as under:

"41. The appropriate Schedule, thus, would be as follows:

Event	*Schedule*
Conduct of Entrance Examination (AIEEE/State CET/ Mgt. quota exams etc.)	*In the month of May*
Declaration of Result of Qualifying Examination (12th Exam or similar) and Entrance Examination	*On or before 5th June*
1st round of counselling/ admission for allotment of seats	*To be completed on or before 30th June*
2nd round counselling for allotment of seats	*To be completed on or before 10th July*
Last round of counselling for allotment of seats	*To be completed on or before 20th July*
Last date for admitting candidates in seats other than allotted above	*30th July. However, any number of rounds for counselling could be conducted depending on local requirements, but all the rounds shall be completed before 30th July*
Commencement of academic session	*1st August*
Last date upto which students can be admitted against vacancies arising due to any reason (no student should be admitted in any institution after the last date under any quota)	*15th August*
Last date of granting or refusing approval by AICTE	*10th April*
Last date of granting or refusing approval by University / State Govt.	*15th May ".*

16. Lastly the learned counsel for the petitioners would contend that the rights of private individuals to establish and administer educational institutions under Article 19 (1) (g) of the Constitution, is now well established whereby it is settled that the right to admit students in different educational and medical institutions is an integral part of the right to administer and cannot be interfered with except in

cases of maladministration or lack of transparency. This integral part of freedom and rights guaranteed under Article 19 (1) (g) of the Constitution of India and that the admissions to educational institutions have been held to be part and parcel of the right of an educational institution to administer and the same cannot be regulated, except for the purpose of laying down standards for maintaining the excellence of education being provided in such institutions and have placed reliance upon the recent judgment of the Hon'ble Supreme Court in ***Christian Medical College, Vellore and others vs. Union of India and others (2014) 2 SCC 305*** wherein it has been held as under:

> *"146. Despite the various issues raised in this batch of cases, the central issue relates to the validity of the amended Regulations and the right of MCI and DCI thereunder to introduce and enforce a common entrance test, which has the effect of denuding the State and private institutions, both aided and unaided, some enjoying the protection of Article 30, of their powers to admit students in the MBBS, BDS and the postgraduate courses conducted by them. There is little doubt that the impugned notifications dated 21.12.2010 and 31.5.2012, respectively, and the amended Regulations directly affect the right of private institutions to admit students of their choice by conducting their own entrance examinations, as they have been doing all along. Attractive though it seems, the decision taken by MCI and DCI to hold a single National Eligibility-cum-Entrance Test to the MBBS, BDS and the postgraduate courses in medicine and dentistry, purportedly with the intention of maintaining high standards in medical education, is fraught with difficulties, not the least of which is the competence of MCI and DCI to frame and notify such regulations. The ancillary issues which arise in regard to the main issue, relate to the rights guaranteed to citizens under Article 19 (1) (g) and to religious and linguistic minorities under Article 30 of the Constitution, to establish and administer educational institutions of their choice.*
>
> *154. The four impugned Notifications dated 21.12.2010 and 31.5.2012 make it clear, in no uncertain terms, that all admissions to the MBBS and the BDS courses and their respective postgraduate courses, shall have to be made solely on the basis of the results of*

the respective NEET, thereby preventing the States and their authorities and privately-run-institutions from conducting any separate examination for admitting students to the courses run by them. Although, Article 19 (6) of the Constitution recognizes and permits reasonable restrictions on the right guaranteed under Article 19 (1) (g), the course of action adopted by MCI and DCI would not, in our view, qualify as a reasonable restriction, but would amount to interfere with the rights guaranteed under Article 19 (1) (g) and, more particularly, Article 30, which is not subject to any restriction similar to Article 19 (6) of the Constitution. Of course, over the years this Court has repeatedly observed that the right guaranteed under Article 30, gives religious and linguistic minorities the right to establish and administer educational institutions of their choice, but not to maladminister them and that the authorities concerned could impose conditions for maintaining high standards of education, such as laying down the qualification of teachers to be appointed in such institutions and also the curriculum to be followed therein. The question, however, is whether such measures would also include the right to regulate the admissions of students in the said institutions.

156. The Supreme Court has consistently held that the right to administer an educational institution would also include the right to admit students, which right, in our view, could not be taken away on the basis of notifications issued by MCI and DCI which had no authority, either under the 1956 Act or the 1948 Act, to do so. MCI and DCI are creatures of statute, having been constituted under the Indian Medical Council Act, 1956 and the Dentists Act, 1948, and have, therefore, to exercise the jurisdiction vested in them by the statutes and they cannot wander beyond the same. Of course, under Section 33 of the 1956 Act and Section 20 of the 1948 Act, power has been reserved to the two Councils to frame regulations to carry out the purposes of their respective Acts. It is pursuant to such power that MCI and DCI has framed the Regulations of 1997, 2000 and 2007, which set the standards for maintaining excellence of medical education in India. The right of MCI and DCI to prescribe such standards has been duly recognized by the courts. However, such right cannot be extended to controlling all admissions to the MBBS, the BDS and the postgraduate courses being run by different medical institutions in the country. At best, a certain degree of control may be exercised in regard to aided institutions, where on account of the funds being provided by the Government, it may have a say in the affairs of such institutions.

158. The rights of private individuals to establish and administer educational institutions under Article 19 (1) (g) of the Constitution are now well established and do not require further elucidation. The rights of unaided and aided religious and linguistic minorities to establish and administer educational institutions of their choice under Article 19 (1) (g), read with Article 30 of the Constitution, have come to be crystallized in the various decisions of this Court referred to hereinabove, which have settled the law that the right to admit students in the different educational and medical institutions is an integral part of the right to administer and cannot be interfered with except in cases of maladministration or lack of transparency. The impugned Regulations, which are in the nature of delegated legislation, will have to make way for the constitutional provisions. The freedom and rights guaranteed under Articles 19 (1) (g), 25, 26 and 30 of the Constitution to all citizens to practice any trade or profession and to religious minorities to freedom of conscience and the right freely to profess, practice and propagate religion, subject to public order, morality and health and to the other provisions of Part III of the Constitution, and further to maintain institutions for religious and charitable purposes as guaranteed under Articles 25 and 26 of the Constitution, are also well established by various pronouncements of this Court. Over and above the aforesaid freedoms and rights is the right of citizens having a distinct language, script or culture of their own, to conserve the same under Article 29 (1) of the Constitution.

172. What can ultimately be culled out from the various observations made in the decisions on this issue, commencing from Kerala Education Bill case to recent times, is that admissions to educational institutions have been held to be part and parcel of the right of an educational institution to administer and the same cannot be regulated, except for the purpose of laying down standards for maintaining the excellence of education being provided in such institutions. In the case of aided institutions, it has been held that the State and other authorities may direct a certain percentage of students to be admitted other than by the method adopted by the institution. However, in cases of unaided institutions, the position is that except for laying down standards for maintaining the excellence of education, the right to admit students into the different courses could not be interfered with. In the case of aided minority institutions, it has been held that the authority giving aid has the right to insist

upon the admission of a certain percentage of students not belonging to the minority community, so as to maintain the balance of Article 19 (2) and Article 30 (1) of the Constitution. Even with regard to unaided minority institutions, the view is that while the majority of students to be admitted should be from the minority community concerned, a certain percentage of students from other communities should also be admitted to maintain the secular character of education in the country in what has been described as a "sprinkling effect".

17. On the other hand, the learned Advocate General for respondents-State and Mr. T.S.Chauhan, learned counsel for respondent No.2 would contend that all the questions as raised by the petitioners herein have been rendered academic not only on account of what has been stated in the reply but also on account of various judicial pronouncements. They have contended that the Hon'ble Supreme Court has clearly held that while prescribing the eligibility criteria for admission to institutions of higher education, the State/University cannot adversely affect the standards laid down by the Central Body/AICTE and only the higher standards for admission by prescribing or laying down qualifications in addition to or higher than those prescribed by AICTE, can be prescribed by the Colleges. They further contend that the contention of the petitioners that the State authorities including the respondent-University cannot deny admission to any student satisfying the minimum standard laid down by AICTE or any other Entrance Test, even though he is not qualified according to its standards has been declared to be not a good law. They further contend that mere fact that there are unfilled seats in a particular year, does not mean that in that year, the eligibility criteria fixed by the State/University would cease to apply or that the minimum eligibility

criteria suggested alone would apply. Unless and until the State or the University chooses to modify the eligibility criteria fixed by them, they will continue to apply inspite of the fact that there are vacancies or unfilled seats in any year. They further contend that the main object of prescribing eligibility criteria is not to ensure that all seats in the colleges are filled up, but is to ensure that excellence in standards of higher education is maintained. This according to respondent No.2 has been so held and laid down by the Hon'ble Supreme Court in ***Visveswaraiah Technological University and another vs. Krishnendu Halder and others (2011) 4 SCC 606*** wherein it has been held as under:

> *"14. The respondents (colleges and the students) submitted that in that particular year (2007-2008) nearly 5000 engineering seats remained unfilled. They contended that whenever a large number of seats remained unfilled, on account of non-availability of adequate candidates, para 41(v) and (vi) of Adhiyaman would come into play and automatically the lower minimum standards prescribed by AICTE alone would apply. This contention is liable to be rejected in view of the principles laid down in the Constitution Bench decision in Dr. Preeti Srivastava and the decision of the larger Bench in S.V. Bratheep which explains the observations in Adhiyaman in the correct perspective. We summarise below the position, emerging from these decisions :*
>
> > *(i) While prescribing the eligibility criteria for admission to institutions of higher education, the State/University cannot adversely affect the standards laid down by the Central Body/AICTE. The term `adversely affect the standards' refers to lowering of the norms laid down by Central Body/AICTE. Prescribing higher standards for admission by laying down qualifications in addition to or higher than those prescribed by AICTE, consistent with the object of promoting higher standards and excellence in higher education, will not be considered as adversely affecting the standards laid down by the Central Body/AICTE.*

(ii) The observation in para 41(vi) of Adhiyaman to the effect that where seats remain unfilled, the state authorities cannot deny admission to any student satisfying the minimum standards laid down by AICTE, even though he is not qualified according to its standards, is not good law.

(iii) The fact that there are unfilled seats in a particular year, does not mean that in that year, the eligibility criteria fixed by the State/University would cease to apply or that the minimum eligibility criteria suggested by AICTE alone would apply. Unless and until the State or the University chooses to modify the eligibility criteria fixed by them, they will continue to apply in spite of the fact that there are vacancies or unfilled seats in any year. The main object of prescribing eligibility criteria is not to ensure that all seats are in colleges are filled, but to ensure that excellence in standards of higher education is maintained.

(iv) The State/University (as also AICTE) should periodically (at such intervals as they deem fit) review the prescription of eligibility criteria for admissions, keeping in balance, the need to maintain excellence and high standard in higher education on the one hand, and the need to maintain a healthy ratio between the total number of seats available in the state and the number of students seeking admission, on the other. If necessary, they may revise the eligibility criteria so as to continue excellence in education and at the same time being realistic about the attainable standards of marks in the qualifying examinations.

15. The primary reason for seats remaining vacant in a state, is the mushrooming of private institutions in higher education. This is so in several states in regard to teachers training institutions, dental colleges or engineering colleges. The second reason is certain disciplines going out of favour with students because they are considered to be no longer promising or attractive for future career prospects. The third reason is the bad reputation acquired by some institutions due to lack of infrastructure, bad faculty and indifferent teaching. Fixing of higher standards, marginally higher than the minimum, is seldom the reason for seats in some colleges remaining vacant or unfilled during a particular year. Therefore, a student whose marks fall short of the eligibility criteria fixed by the State/University, or any college which admits such students directly

under the management quota, cannot contend that the admission of students found qualified under the criteria fixed by AICTE, should be approved even if they do not fulfil the higher eligibility criteria fixed by the State/University.

16. The proliferating unaided private colleges, may need a full complement of students for their comfortable sustenance (meeting the cost of running the college and paying the staff etc.). But that cannot be at the risk of quality of education. To give an example, if 35% is the minimum passing marks in a qualifying examination, can it be argued by colleges that the minimum passing marks in the qualifying examination should be reduced to only 25 or 20 instead of 35 on the ground that the number of students/candidates who pass the examination are not sufficient to fill their seats? Reducing the standards to 'fill the seats' will be a dangerous trend which will destroy the quality of education. If there are large number of vacancies, the remedy lies in (a) not permitting new colleges; (b) reducing the intake in existing colleges; (c) improving the infrastructure and quality of the institution to attract more students. Be that as it may. The need to fill the seats cannot be permitted to override the need to maintain quality of education. Creeping commercialization of education in the last few years should be a matter of concern for the central bodies, States and universities".

18. They further contend that the ratio in the aforesaid judgment in ***Visveswaraiah Technological University*** *(supra)* has been reiterated and followed in ***Mahatma Gandhi University and another vs. Jikku Paul and others (2011) 15 SCC 242*** wherein the Hon'ble Supreme Court held as under:

"8. The issues raised in this appeal are squarely covered by a recent decision of this Court in Visveswaraya Technological University & Anr. v. Krishnendu Halder & Ors. (2011) 4 SCC 606 : (2011) 3 Scale 359. We extract below the relevant principles from the said decision: (SCC pp.614-15, para 14)

"(i) While prescribing the eligibility criteria for admission to institutions of higher education, the State/University cannot adversely affect the standards laid down by the Central Body/AICTE. The term `adversely affect the standards' refers to lowering of the norms laid down by Central Body/AICTE. Prescribing higher standards for admission by laying down qualifications in addition to or higher than those prescribed by AICTE, consistent with the object of promoting higher standards and excellence in higher education, will not be considered as adversely affecting the standards laid down by the Central Body/AICTE.

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(iii) The fact that there are unfilled seats in a particular year, does not mean that in that year, the eligibility criteria fixed by the State/University would cease to apply or that the minimum eligibility criteria suggested by AICTE alone would apply. Unless and until the State or the University chooses to modify the eligibility criteria fixed by them, they will continue to apply in spite of the fact that there are vacancies or unfilled seats in any year. The main object of prescribing eligibility criteria is not to ensure that all seats in colleges are filled, but to ensure that excellence in standards of higher education is maintained.

(iv) The State/University (as also AICTE) should periodically (at such intervals as they deem fit) review the prescription of eligibility criteria for admissions, keeping in balance, the need to maintain excellence and high standard in higher education on the one hand, and the need to maintain a healthy ratio between the total number of seats available in the state and the number of students seeking admission, on the other. If necessary, they may revise the eligibility criteria so as to continue excellence in education and at the same time being realistic about the attainable standards of marks in the qualifying examinations."

This court further held: (Visveswaraya Technological University case, SCC p.616, para 17)

"17. No student or college, in the teeth of the existing and prevalent rules of the State and the University can say that such rules should be ignored, whenever there are unfilled vacancies in colleges. In fact the State/University, may, in spite of vacancies, continue with the higher eligibility criteria to maintain better standards of higher education in the State or in the colleges affiliated to the University. Determination of such standards, being part of the academic policy of the University, are beyond the purview of judicial review, unless it is established that such standards are arbitrary or `adversely affect' the standards if any fixed by the Central Body under a Central enactment. The order of the Division Bench is therefore unsustainable."

9. It is not in dispute that as per the scheme of AICTE [vide clause 6.1 (b)] to seek lateral entry to an engineering degree, the candidate must have passed the diploma in engineering in the relevant branch with a minimum of 60% marks in the aggregate. The said clause also provides that the selection of candidates will be based on the entrance test, the merit ranking in the test being the basis of admission. As per the Lateral Entry Scheme of the State Government, the additional requirement is that the candidates should also secure minimum of 20% marks in the entrance test. In view of the decision in Krishnendu Halder (supra), the contentions of the appellant will have to be accepted and the decision of the High Court is liable to be set aside."

19. We have considered rival contentions of learned counsel for the parties.

20. In view of the various pronouncements of the Hon'ble Supreme Court, it can safely be concluded that in a right to establish an institution, inherent is the right to administer the same which is protected as part of the freedom of occupation under Article 19 (1) (g). Equally, at the same time, it has to be remembered that this right is not a business or a trade, given solely for the profit making since the establishment of educational institutions bears a clear charitable purpose. The establishment of these institutions has a direct relation

with the public interest in creating such institutions because this relationship between the public interest and private freedom determines the nature of public controls which can be permitted to be "permissible". Even the petitioners concede that they have established the institutions to ensure good quality education and would not permit the standard of excellence to fall below the standard as may be prescribed by the State Government. The petitioners also conceded that the State makes it mandatory for them to maintain the standard of excellence in professional institutions. Thus, ensuring that admissions policies are based on merit, it is crucial for the State to act as a regulator. No doubt, this may have some effect on the autonomy of the private unaided institution but that would not mean that their freedom under Article 19 (1) (g) has in any manner been violated. The freedom contemplated under Article 19 (1) (g) does not imply or even suggest that the State cannot regulate educational institutions in the larger public interest nor it be suggested that under Article 19 (1) (g), only insignificant and trivial matters can be regulated by the State. Therefore, what clearly emerges is that the autonomy granted to private unaided institutions cannot restrict the State's authority and duty to regulate academic standards. On the other hand, it must be taken to be equally settled that the State's authority cannot obliterate or unduly compromise these institutions' autonomy. In fact it is in matters of ensuring academic standards that the balance necessarily tilts in favour of the State taking into consideration the public interest and the responsibility of the State to ensure the maintenance of higher standards of education.

21. It has been judicial recognized that the right to administer is not an absolute one and there could be regulatory measures for ensuring educational standards and maintenance of excellence thereof and it is more so in the matter of admission to under Graduate Colleges and Professional Institutions (TMA Pai Foundation).

22. It is in this background that this Court is required to consider as to whether the CET in this case violates the freedom of the institutions under Article 19 (1) (g) or whether such regulatory control is permissible. It is not disputed that the CET prescribes a fair equitable standard for judging the merit of the students. The only difficulty which the petitioners express is that in this regulatory process, the seats in their respective colleges are lying vacant due to non-availability of the students because it is claimed that the total number of sanctioned seats for B. Tech courses in the country (government as well as private including IIT and NITs) is 65 lakh : 20 thousand, total number of All India applicants for JEE Test 2014 is 13 lakh : 67 thousand, total number of sanctioned seats for B Tech courses in Himachal (Government and HPU) is 540 and 120 respectively, total number of sanctioned seats for B Tech Courses in Himachal (Private Institutions) is 7680 in Private Engineering Colleges and 7820 in Private Universities, total approx. 15,000 and admissions made in B Tech Courses in Himachal (Private Colleges like petitioners) year 2012-13 through JEE 1049, year 2013-14 through JEE 429 and year 2014-15 less than 500 students have registered themselves with H.P. Technical University for admission in institutions in the State of H.P. i.e. Government B Tech Courses offering Colleges and Private B Tech

Courses offering Colleges out of which also many may finally not opt for the seats available in Himachal. Therefore, in this background, it is pleaded that the petitioners cannot be asked to perform the impossible and, therefore, should be permitted to devise a merit based process themselves rather than permitting the State to impose its determination of merit. This according to the petitioners in fact amounts to an unreasonable interference in its right to administer the institutions.

23. The State has power to regulate academic excellence particularly in matters of admissions to the institutions and, therefore, is competent to prescribe merit based admission processes for creating uniform admission process through CET. Any prayer for seeking dilution or even questioning the authority of the State to act an regulator is totally ill-founded in view of the various judicial pronouncements, particularly in ***Visveswaraiah Technological University*** (supra) and reiterated in ***Mahatma Gandhi University*** (supra).

24. The learned counsel for the petitioners have strenuously argued that the complete answer to the proposition involved in the case has been answered in its favour vide recent decision in ***Christian Medical College*** (supra) and, therefore, the petitions ought to be allowed as prayed for. He particularly relied upon the following observations:

> "……. *However, in cases of unaided institutions, the position is that except for laying down standards for maintaining the excellence of education, the right to admit students into the different courses could not be interfered with. In the case of aided minority institutions, it has been held that the authority giving aid has the right to insist upon the admission of a certain percentage of students not belonging to the*

> *minority community, so as to maintain the balance of Article 19 (2) and Article 30 (1) of the Constitution. Even with regard to unaided minority institutions, the view is that while the majority of students to be admitted should be from the minority community concerned, a certain percentage of students from other communities should also be admitted to maintain the secular character of education in the country in what has been described as a "sprinkling effect".*

25. The aforesaid observations cannot be read out of context because the Hon'ble Supreme Court in this case was dealing with the validity of regulations framed by the MCI which mandated the Combined Entrance Test (CET) for all medical colleges i.e. aided as well as unaided. The Hon'ble Supreme Court was primarily concerned with a situation where the parent enactment did not provide for or enable such regulation to be framed and in this background, the Hon'ble Supreme Court held that such regulations were not permissible and that any regulation which had the effect of take-over of seats, or reserving some part of unaided college's intake, would be an impermissible nationalization. This is not the fact situation obtaining in the present case.

26. Unlike in ***Christian Medical College,*** where the rights of minorities were involved, the present case is confined to the applicability to the scope and ambit of Article 19 (1) (g) and for this purpose, we have to fall back to the law laid down by the larger Bench decisions of the Hon'ble Supreme Court in T.M.A. Pai Islamic Academy and P.A. Inamdar which have recognised the State's power to direct a joint entrance examination, so long as it does not nationalize the intake "and result in imposition of a reservation policy". The equity and excellence in academic institutions have to be maintained and what

better way can it be maintained than by ensuring that each students competes in the same examination i.e. CET so as to ensure that in terms of the access to education (equity) and merit of students (excellence) a common platform is that for admissions into professional colleges .

27. This takes us to the next question regarding the allegations of the petitioners with respect to charging of exorbitant processing fee, inspection fee and affiliation fee for the purposes of affiliation/extension/continuation of affiliation. It is argued that the inspection fee is ₹ 75,000/- and affiliation fee for Engineering and Pharmacy Course is ₹ 2,50,000/- per course and ₹25,000/- per PG Course and while for MBA and MCA, the same is ₹75,000/- per course. It is further stated that in terms of the communication, the last date for submission of application forms is 31.1.2014, failing which the penalty of ₹ 50,000/- per course will be imposed and that no application forms will be entertained after 7.2.2014. This action of the respondent in demanding exorbitant amount of counselling fee from the Technical Institutions like the petitioners for each academic session and that too per course irrespective of the actual candidates admitted on the basis of the said counselling is claimed to be arbitrary.

28. The respondent No.2 in response to such allegations has submitted that Himachal Pradesh Technical University (Establishment and Regulation) Act, 2010 under Section 5 (zi) has empowered the respondent to make appropriate measures for creation of an independent financial base of the University and Section 5 (zk) also empowers to prescribe fees or other charges for examination and other

purposes and to demand and receive the fees or other charges so prescribed. Accordingly, the first meeting of Finance Committee of the respondent-University was held on 24.3.2011 in which the approval of fee structure for processing of applications, affiliation, inspection, University registration, examination fees, counselling fee etc. and the same was approved by the Board of Governors in its meeting held on 27.4.2011 whereby the approval was accorded to the minutes of the meeting of the Finance Committee under item No. 2.5 of the minutes of 2nd meeting of the Board of Governors. It is claimed that the fees for processing of applications, affiliation, inspection, University registration, examination fees, counselling fee is being demanded from the petitioners on the basis of the approval of the recommendation of the Finance Committee as approved by the Board of Governors. Lastly, it is claimed that the H.P. Technical University is to make this University as an independent financial base and, therefore, is empowered to prescribe fee and other charges as per the decision of the Finance Committee and the Board of Governors of the respondent No.2.

29. Unfortunately, the petitioners have not questioned this decision of the Finance Committee as approved by the Board of Governors. The fixation of fee is a policy matter and lies solely within the domain of the respondents. Even otherwise, this Court lacks expertise to determine what should be the fees for different kinds of courses. Accordingly, we find no merit in this contention of the petitioners.

30. In view of above, it is declared that the impugned measures providing for admission to various courses on the basis of

Combined Entrance Test (CET) as imposed by the respondents are reasonable and pass the test under Article 19 (1) (g) of the Constitution of India.

Accordingly, the present petitions lack merit and are dismissed, so also the pending applications, leaving the parties to bear their own costs.

(Mansoor Ahmad Mir)
Chief Justice

July 23, 2014
(GR)

(Tarlok Singh Chauhan),
Judge.