

**BEFORE SHRI SUNIL DUTT SHARMA, HON'BLE MEMBER, H.P. PRIVATE EDUCATIONAL  
INSTITUTIONS REGULATORY COMMISSION SHIMLA-171002.**

**Suo Moto Case No: 8 of 2016**

**Instituted on: 3.08.2016**

**Decided on: 08.12.2016**

**In the matter of:**

Heritage Institute of Hotel and Tourism Sanjauli, Shimla (HP)-171006

**Present:** Shri B.K. Singh, Chairman of Heritage Educational Society, Heritage Knowledge city, 13 K.M. Mile Stone BamroliKatarra, Agra 282006 (UP) running Heritage Institute of Hotel and Tourism at Sanjauli Shimla-171006 (HP).

**ORDER**

1. Initially H.P. Private Educational Institutions Regulatory Commission (HPPER) Shimla with an intention to collect basic information from Heritage Institute of Hotel and Tourism (HIHT) Sanjauli called for the information vide its letter dated 3.8.2016. HIHT vide its letter dated 10.08.2016 submitted reply /information viz. (a) Copy of renewed registration certificate of Heritage Educational Society Agra wherein it has been indicated that Registration Certificate No.19/2006-07 dated 05.04.2006 has been renewed on 05.04.2016 of a period of five years and this renewed Registration No. 016919 has been issued on 27.07.2016 (b) a copy of amended Memorandum of Association (c) details of students from Batch-1 to 13 who have been given placement (d) copy of certificate dated 28.07.2016 issued by Dr. J. Balan Director, Directorate of Distance Education Madurai Kamaraj University, Palkalai Nagar, Madurai-625021 to the effect, "It is certified that M/s Heritage Institute of Hotel & Tourism, Sanjauli, Shimla, Himachal Pradesh-171006 is an approved Catering Training Centre for Tourism and Hospitality Management Courses of Directorate of Distance Education, Madurai Kamaraj University from 31.07.2015 to 30.06.2017. However, for the UGC territorial jurisdiction for other states/ NRI Centre admission is purely subject to the outcome of verdict of Hon'ble Madurai Bench of Madras High Court, Madurai in W.P. (MD) No.23143 of 2015." (e) copy of order dated 21.12.2015 passed by Hon'ble Mr. Justice D. Hariparanthaman of Hon'ble Madurai Bench of Madras High Court in MP(MD) No.1 of 2015 in WP(MD) No.23143 of 2015 titled Madurai Kamaraj University Versus UGC and another whereby order of interim stay has been granted against order D.O. No.F.9-B/2008 (CPP-1/PU) dated 12.08.2015 issued by UGC; (f) copy of Memorandum of Understanding entered into between Registrar Madurai Kamaraj University and Mr.Gaurav Dixit on 16.2.2016 whereby activities of the Directorate of Distance Education of Madurai Kamaraj University has been extended to the students of Himachal Pradesh through a training centre at Heritage Institute of Hotel & Tourism, Sanjauli, Shimla (HP) on certain terms and conditions. The HIHT issued public notice in DainikBhaskar on 18.8.2016 whereby applications have been invited for admission in the Institute for 3 years Bachelor in Hotel Management and 1 year PG Diploma in Hotel Management. After receiving the reply from the Institute, HPPER called representatives of the Institute for personal hearing on 23.08.2016.
2. On 23.08.2016 Shri Vikrant Vyas (Principal) and Shri Chiranjeev Sharma Admission Advisor of Heritage Institute of Hotel and Tourism (HIHT) appeared in person. They stated that

the College is being run by a Heritage Educational Society registered under Societies Registration Act with Registrar of Societies Uttar Pradesh having its registered address as; Heritage Knowledge City, 13 KM Miles Stone BamrouliKatara, Agra-282006 which has been renewed for five years w.e.f. 5.04.2016 vide Renewal No. 1044. They further stated that following courses are being run in the Institute since the year 2007 and fee as indicated against each is being charged:

| Sr. No. | Name of course and duration                               | Fee for the entire course | Hostel charges per annum | Intake per year |
|---------|---|---------------------------|--------------------------|-----------------|
| 1.      | 3 years' B. Sc. Hotel Management and Catering Science.    | Rs. 2,93,000/-            | Rs. 31,000/-             | 50              |
| 2.      | 1 year Diploma in Catering Science                        | Rs. 53,000/-              | Rs. 31,000/-             | 20              |
| 3.      | 1 year Diploma in Front Office & Accommodation Management | Rs. 53,000/-              | Rs. 31,000/-             | 20              |
| 4.      | 1 year Diploma in Food & beverage Service.                | Rs. 53,000/-              | Rs. 31,000/-             | 20              |

They stated that there is no restriction for intake which depends upon the availability of the students and the decision of the Institute is final. The course calendar is January and November/December each year. They stated that in the case of diploma courses the same is divided into two parts i.e. 6 months for academic programme and remaining 6 months for Industrial Exposure Training in different hotels. Likewise B.Sc. Hotel Management and Catering Science course is divided into two parts i.e. 2 years and six months for academic programme and remaining 6 months for Industrial Exposure Training in different hotels. They further stated that Mr.Gaurav Dixit on behalf of Heritage Institute of Hotel & Tourism has entered into an MoU with Registrar, Madurai Kamaraj University Palkalai Nagar, Madurai for running the College at Shimla under Distance Learning Programme for the above courses. The examination papers are set up by Madurai Kamaraj University and the examinations are also conducted by the said University and certificates are also issued by the said University. Copy of MoU has been submitted. Madurai Kamaraj University (MKU) has also issued certificate dated 28.07.2016 in favour of M/s Heritage Institute of Hotel & Tourism Sanjauli vide which it has been certified that this institute is an approved Catering Training Centre for Tourism and Hospitality Management Courses of Directorate of Distance Education, Madurai Kamaraj University from 31.07.2015 to 30.06.2017 wherein it has been indicated that for the UGC territorial jurisdiction for other states/ NRI Centre admission is purely subject to the outcome of verdict of Hon'ble Madurai Bench of Madras High Court, Madurai in W.P. (MD) No.23143 of 2015.

After hearing the representatives, documents submitted were taken on record. Representatives of the institute were directed to submit the following documents:

- (a) Copy of NOC issued in favour of Heritage Institute of Hotel & Tourism Sanjauli by any authority of Government of Himachal Pradesh for running the institute in the State of Himachal Pradesh.

- (b) Details of students admitted in 3 years' B. Sc. Hotel Management and Catering Science since 2014 to 2016.
- (c) Details of students admitted in 1 year Diploma courses w.e.f. 2014 to 2016.
- (d) Details of faculty alongwiththeir qualifications, appointment letters, date of joining and their salaries supported by Bank account statement.
- (e) Details of infrastructure.
- (f) Previous approval of PTU under which it was running courses since 2007.
- (g) Fee structure approved by Madurai Kamaraj University.
- (h) Prospectus.

The representatives of the Institutes were directed to submit above documents personally on 31.08.2016 and the case was accordingly fixed for such date.

3. On 31.08.2016 Shri Vikrant Vyas (Principal) and ShriChiranjeev Sharma Admission Advisor of HIHT appeared in person. Representatives of HIHT submitted following documents:

- (a) Details of students admitted in 3 years' B. Sc. Hotel Management and Catering Science since 2014 to 2016.
- (b) Details of students admitted in 1 year Diploma courses w.e.f. 2014 to 2016.
- (c) Details of faculty alongwith their qualifications, appointment letters, date of joining and their salaries supported by Bank account statement.
- (d) Details of infrastructure.
- (e) Previous approval of PTU under which it was running courses since 2007.
- (f) Fee structure approved by Madurai Kamaraj University.
- (g) Prospectus.
- (h) One Hotel Administration (Theory) book.

Representatives of the HIHT, however, failed to furnish copy of NOC issued in its favour by any authority of Government of Himachal Pradesh for running the institute in the State of Himachal Pradesh. They further stated that during earlier hearing in HP PERC they had submitted placement details, which contained some error. However, such error has been corrected and the rectified copy of details has been placed on record. They further stated that the HIHT is collecting entire fee from the students at Shimla and thereafter sending only registration fee to Madurai Kamaraj University. They further stated that the Society has devised its own fee structure which is reflected in the Prospectus. Such fee structure is implemented by the HIHT. They further stated that classes for degree/diploma courses are being run 6 hours everyday. However on the occasion of Diwali 15 days holidays are allowed and thereafter the Institute is closed for 25-30 days in winters. The Institute is running regularly.

After hearing representatives of the HIHT, documents submitted were taken on record. Representatives of the institute were directed to submit following documents:

- (a) Map of the building duly approved by MC Shimla.
- (b) Proof of sending registration fee to Madurai Kamaraj University
- (c) Schedule of running classes year-wise.
- (d) Statement of account since the year 2014.
- (e) Copy of resolution authorizing ShriGaurav Dixit and Shri Vikrant Vyas to enter into MoU with Madurai Kamaraj University.
- (f) Original fee receipt book alongwith photo copies w.e.f. 2014 till date.

The above information should reach HP PERC by 14.09.2016 and the casewas accordingly fixed for such date.

4. On 14.09.2016 Shri B.K. Singh Chairman of the Society and Shri Vikrant Vyas Principal of the Institute appeared in person. They submitted (a) copy of income tax return for the year 2012-13 (b) copy of salary sheet for 2015-16 (c) copies of letters dated 19.3.2013, dated 04.06.2014, 30.04.2015 issued by All India Council for Technical Education, 7<sup>th</sup> Floor, Chandralok Building, Janpath, New Delhi-110 001 whereby Heritage Educational Society, Agra (UP) has been accorded approval in favour of Heritage Institute of Hotel & Tourism Agra (UP) to run full time Under Graduate classes of Hotel Management and Catering Technology and the affiliating body has been shown to be Uttar Pradesh Technical University Lucknow. (d) Copy of Income Tax Return for the Assessment year 2009-2010, 2011-12 and 2014-15 and (e) copies of bank statement for the period 15.10.2007 to 06.09.2016. However they failed to supply documents as mentioned at (a), (b), (c) and (e) of my order dated 31.8.2016. They further stated that the Institute is running distance education programme from the year 2007. Shri B.K. Singh failed to submit remaining documents as ordered on 31.8.2016.

Documents submitted were taken on record. Representatives of the Institute were directed to submit Original fee receipt book alongwith photo copies thereof for the sessions 2014 onwards within a week's time, which information has been submitted by the Institute and after retaining photo copies, the original has been returned.

5. I have gone through the record submitted by HIHT. Perusal of application form and instructions booklet of HIHT indicates following fee schedule for 3 years Bachelor Degree Programme and one year diploma courses with eligibility criteria:

**(a) Fee structure for 3 years Bachelor Degree Program AGRA, Shimla**

(eligibility 10+2 Pass/ Appear)

One Time Payment

Payment Option-1

| At the time of Admission |              |
|--------------------------|--------------|
| Registration Fee         | 19395        |
| University Fee           | 9500         |
| Other Fee                | 5585         |
| <b>Total</b>             | <b>34480</b> |

| At the time of Reporting |               |
|--------------------------|---------------|
| Library fee              | 3,900         |
| Training Food            | 5,000         |
| Examination fee          | 6,000         |
| <b>Total</b>             | <b>14,900</b> |

| Next Month of Reporting |                 |
|-------------------------|-----------------|
| University Fee          | 55,500          |
| Other fee               | 1,53,625        |
| <b>Total:</b>           | <b>2,09,125</b> |

Payment in Instalment (Agra/Shimla) September Session

## Payment Option-2

| Due Date  | At the time of Adm. | Nov. 2016 | Feb.2017 | May, 2017 | Aug. 2017 | Nov. 2017 | Feb. 2018 | May 2018 | Aug. 2018 | Nov 2018 | Feb. 2019 |
|-----------|---------------------|-----------|----------|-----------|-----------|-----------|-----------|----------|-----------|----------|-----------|
| Reg. Fee  | 19395               |           |          |           |           |           |           |          |           |          |           |
| Uni. Fee  | 9500                |           | 9500     |           | 11,500    |           | 11500     |          | 11500     |          | 11500     |
| Other fee | 5585                | 19973     | 17436    | 22473     | 15435     | 22473     | 15435     | 22473    | 15435     | 22473    | 15436     |
| Exam Fee  |                     |           | 1000     |           | 1000      |           | 1000      |          | 1000      |          | 1000      |
| G. Total  | 34480               | 19973     | 27936    | 22473     | 27935     | 22473     | 27935     | 22473    | 27935     | 22473    | 27935     |

## At the time of Reporting

|                 |           |
|-----------------|-----------|
| Library fee     | Rs. 3,900 |
| Training Food   | Rs. 5,000 |
| Examination Fee | Rs. 1,000 |
| Total:          | Rs. 9,900 |

1. The fees should be paid either by cash or Demand Draft drawn in favour of Heritage Institute of Hotel & Tourism payable at Agra/Shimla.
  2. The other Fees include Tuition Fee, F&B Practical Fee, Food Production Practical Fee, Computer Fee, Games & Sport Fee, Development Fee and Industrial Exposure Fee.
  3. Uniform Kit will be provided free of cost by Institute which includes Blazer, Trouser, Shirts, Tie/ Scarf, T-shirt, Chef Coat, Chef Apron, Chef Cap, Institute Bag, Journal, Identity Card and Library Card in first year.
  4. A receipt of all fees paid must be obtained from the office by the payee.
  5. Fees should be paid strictly within the time specified i.e. within 7<sup>th</sup> working day of each instalment month failing which fine is payable as per rules of Institute.
  6. The Fees paid once are neither refundable nor transferable in any condition.
  7. The institute is not responsible for Postal Delays.
  8. This document cannot be used for judicial purpose.
- #Examination fee can be changed during the course by the University.

**(b) Fee Structure**  
**Diploma courses**

- Diploma in Catering Operations (Eligibility 12<sup>th</sup> Class Passed)
- Front office and Accommodation management (eligibility 10<sup>th</sup> class passed)
- Food & beverage service (eligibility 10<sup>th</sup> class passed)

Session Sep. 2016

| Due Date         | At the time of Admission | Oct.2016 | Dec.2016 | Feb.2017 |
|------------------|--------------------------|----------|----------|----------|
| Registration Fee | 10585                    |          |          |          |
| University Fee   | 8000                     |          |          |          |
| Other Fee        | 2130                     | 10850    | 10850    | 10850    |
| Grand Total      | 20715                    | 10850    | 10850    | 10850    |

- Note:
1. The Fee should be paid either by cash or Demand Draft drawn in favour of Heritage Institute of Hotel & Tourism payable at Agra/Shimla.
  2. The other fees include Tuition Fee, F&B Practical Fee, Computer Fee, Sports & Games Fee, Development Fee and Industrial Exposure Fee.
  3. Uniform Kit will be provided free of cost by Institute which includes Blazer, Trouser, Shirts, Tie/ Scarf, Institute Bag, Journal, Identity Cards and Library Card.
  4. A receipt of all fees paid must be obtained from the office by the payee.
  5. Fees should be paid strictly within the time specified i.e. within 7<sup>th</sup> working day of each instalment month, failing which fine is payable as per rules of Institute.
  6. The Fees paid once are neither refundable nor transferable in any condition.
  7. the institute is not responsible for Postal Delays.
  8. This document cannot be used for judicial purpose.
  9. Examination fee Rs. 500/- is payable on yearly exam basis.  
(Subject to change as per University Rules).

HIHT has also submitted Prospectus alongwith Application form applicable in **Madurai Kamaraj University (Directorate of Distance Education)**. Fee for the related courses of B.sc. Hotel Management and Catering Science and diploma courses has been prescribed as under:

#### **B.Sc. Hotel Management & Catering Sciences**

| First Year (Rs.) | Second Year (Rs.) | 3 <sup>rd</sup> Year (Rs.) | Total (Rs.) |
|------------------|-------------------|----------------------------|-------------|
| 7,000            | 7,000             | 7,000                      | 21,000      |

#### Diploma in

- |   |                                |
|---|--------------------------------|
| (1) Catering Operation                      | Fee Rs. 8000/- (entire course) |
| (2) Front Office & Accommodation Management | Fee Rs. 8000/- (entire course) |
| (3) Food and Beverage service               | Fee Rs. 8000/- (entire course) |

Registration Fee: Applications should remit the Registration Fees (See Table under Fee details) at the time of admission of application, which is not refundable or adjustable. Application received without the Registration Fee will be rejected.

Examination Fee: The examination fees should be paid in the following manner:

| Nature of examination                | Courses | Fee per paper (Rs.) |
|--------------------------------------|---------|---------------------|
| Theory (non-semester) examinations   | UG      | Rs. 100             |
|                                      | Diploma | Rs. 200             |
| Practical (non-semester) Examination | BTHM    | Rs. 100             |
|                                      | Diploma | Rs. 200             |

6. In order to afford final opportunity to HIHT Sanjauli, the HP PERC vide its letter dated 7.11.2016 directed the institute to submit any additional document in its defence before 15.11.2016. In response to the said notice Shri Vikrant Vyas Principal of the Institute attended office of the HP PERC on 18.11.2016 and handed over letter of Shri D.K. Singh, Chairman, Heritage Educational Society Agra vide which HIHT reiterated its stand as taken during proceedings before the HP PERC and no additional documents were produced by him.
7. After hearing the representatives of the institute and going through the documents in detail the following issues emerged for consideration and I have rendered findings thereunder:

**Issue No. 1: *Whether Madurai Kamaraj University is State University?***

Madurai Kamaraj University came into being through a bill passed in the Legislative Assembly of the State in the year 1965. Thus, it is a statutory university owned and funded by the Government of Tamilnadu and the University Grants Commission. This University is a member of Association of Indian Universities and one of the nine universities in India with a status of University with Potential for Excellence. The present Manonmaniam Sundaranar University, Alagappa University and Mother Theresa University are the off- shoots of Madurai kamaraj University. As on date, it covers four revenue districts of Madurai, Virudhunagar, Dindugal and Theni for its regular academic programme. Currently it holds a total of 77 renowned Departments and 20 Schools. In addition to the Departments and Schools, the University has 21 academic centres and 21 quasi academic supportive units. It has 24 autonomous colleges, 14 aided colleges, 33 self financing colleges, 18 approved institutions, 4 evening colleges, 6 constituent colleges and one University College. Thus it can fairly be concluded that it is State University.

**Issue No.2: *Whether Madurai Kamaraj University can offer Distance Education Programme or open its study centres in the States beyond its territorial jurisdiction?***

UGC vide its communication D.O. No. F.9-8/2008 (CPP-I/PU) dated 12<sup>th</sup> August, 2015 has directed All State Universities under 12 B&(F) and Private Universities to the following effect:

“1. No off-campus/study centre/outreach centre is established by your esteemed university outside the territorial jurisdiction of the state.

2. If you are a private university, even within the state, the off-campus/study centre/outreach centre should be established with the prior approval of the UGC as mandated in the UGC (Establishment of and Maintenance of Standards in Private Universities) Regulations, 2003.”

In view of the UGC communication D.O. No. F.9-8/2008 (CPP-I/PU) dated 12<sup>th</sup> August, 2015, MaduraiKamaraj University cannot run any distance education programme by establishing off-campus/study centre/ outreach centre outside the territorial jurisdiction of the State.

However, the above communication has been challenged by Madurai Kamaraj University before the Madurai Bench of Hon’ble Madras High Court in WP (MD) No. 23143 of 2015 titled Madurai Kamaraj University Versus UGC and another. The Hon’ble High Court in MP(MD) No.1 of 2015 in WP (MD) No.23143 of 2015 has granted interim stay on 21.12.2015 in the following terms:

“Petition praying that in the circumstances stated therein and in the affidavit filed therewith the High court will be pleased to pass an order of Interim Stay of the Impugned Order D.O. No.F.9-8/2008 (CPP-I/PU) dated 12.08.2015 passed by the 1<sup>st</sup> respondent pending disposal of the main Writ Petition.

ORDER: This petition coming on for orders upon perusing the petition and the affidavit filed in support thereof and upon hearing the arguments of M/s K.M. VIJAYAN, Senior Counsel for M/s. T. SAKTHI KUMARAN, Advocate for the petitioner and MR. V. MAHARAJAN, for the Respondents the court made the following order:-

In an identical circumstances, by order dated 31.08.2015 in W.P. (MD) No.27185 of 2015 this Court passed the following order:-

2. The learned counsel appearing for the petitioner submitted that the condition imposed qua territorial limit has been found to be illegal by the order passed by this Court in W.P. No.30039 of 2012 dated 12.03.2013, the Writ Appeal was filed by the respondents in W.A. No. 606 of 2015 against the said order and there is no interim order. The order passed in M.P. NO.1 of 2015 is to the effect that all admissions made by the petitioner in respect of the Distance Education Programme for the centres situated outside the territorial jurisdiction shall be subject to the final decision of the pending Appeal.

3. The learned senior counsel also submits that the admissions are made in the University and only study Centres are located outside the territorial limit. Even assuming the condition is upheld, the students can be put-forth into the petitioner's University.

4. Taking note of the fact that there is no interim order of stay of the order passed by the Single Judge on the earlier occasion and in the light of the order passed by the Hon'ble Division Bench, there shall be an order of interim stay.

5. Registry is directed to post this writ petition along with W.A. No. 606 of 2015.

6. However, it is made clear that the admission made are subject to the result of further orders that can be passed by the Hon'ble Division Bench. The petitioner shall make this position clear to the students who are to be admitted.

2. The aforesaid case was filed by the Registrar of Annamalai University, Cuddalore District. The aforesaid order was also followed in W.P. No. 34428 of 2015 filed by the Registrar of Periyar University, Salem District and by order dated 29.10.2015, an order of interim stay was granted.

3. Hence, in terms of the aforesaid orders, there shall be an order of interim stay. Notice.

Sd/-  
21/12/2015"

In view of interim order dated 21.12.2015 passed by Hon'ble Court, Madurai Kamaraj University can offer Distance Education Programme and make admissions subject to the result of further orders that can be passed by the Hon'ble Division Bench in WP(MD) No. 23143 of 2015 titled Madurai Kamaraj University Versus UGC and another



and Madurai Kamaraj University has to make this position clear to the students who are to be admitted.

***Issue No.3: Whether Heritage Educational Society is a Study Centre of Madurai Kamaraj University?***

From the perusal of Memorandum of Understanding (MoU) entered into between Madurai Kamaraj University and ShriGaurav Dixit, it appears that this MoU is defective to the extent that particulars of ShriGaurav Dixit and the capacity under which he acted on behalf of Heritage Educational Society have not been disclosed fully, as such status of Heritage Institute of Hotel & Tourism, Sanjauli, Shimla to be a Study Centre of Madurai Kamaraj University is doubtful. Further from the perusal of advertisement released by Heritage Institute of Hotel & Tourism Sanjauli in daily newspaper i.e. DainikBhaskar 18.08.2016, it appears that it has issued the same for admission in a regular Institute/ College. Nowhere the said advertisement mentions the courses offered under Distance Education Programme of Madurai Kamaraj University being a study centre thereof. The management of the HIHT, Sanjauli, Shimla has indulged in a malpractice by issuing misleading advertisements for attracting students for admission on regular basis. It has not only played fraud with the general public but also cheated the vulnerable/gullible students. The HP PERC had earlier adjudicated similar matter (however in that case the institute was running Distance Education Programme of Sikkim Manipal "Private" University) and rendered its findings in Cases No. 2 and 3 of 2012 which order has been upheld by Hon'ble High Court of Himachal Pradesh. Vide its judgment dated 27.4.2016 rendered in CWP No. 8789 and 8781 of 2014 titled Business Institute of Management Studies Vs State of Himachal Pradesh and others, has observed as under:

- “9. The Court can take judicial notice of the fact that number of fraudulent boards and institutions are coming up in the country with a primary aim of duping the public in the field of education, by presenting imaginary and illusionary picture for making a successful career to the innocent and vulnerable students.
10. The Hon'ble Supreme Court has repeatedly deprecated the practice of admitting students to these unrecognized, unapproved and unaffiliated institutions. Undeniably, slackening the standard and judicial fiat to control the mode of education and examining system are detrimental to the efficient management of education.
11. In State of Tamilnadu and others Vs. K. Shyam Sunder and others, (2011) 8 SCC 737, the Hon'ble Supreme Court explained the importance of education in the following terms;-

*‘18. In the post-Constitutional era, an attempt has been made to create an egalitarian society removing disparity amongst individuals, and in order to achieve that purpose, education is one of the most important and effective means. After independence, there has been an earnest effort to*

*bring education out of commercialism/mercantilism. In the year 1951, the Secondary School Commission was constituted as per the recommendation of Central Advisory Board of Education and an idea was mooted by the Government to prepare textbooks and a common syllabus in education for all students. In 1964-1966, the report on National Education Policy was submitted by the Kothari Commission providing for common schools suggesting that public funded schools be opened for all children irrespective of caste, creed, community, religion, economic conditions or social status. Quality of education imparted to a child should not depend on wealth or class. Tuition fee should not be charged from any child, as it would meet the expectations of parents with average income and they would be able to send their children to such schools. The recommendations by the Kothari commission were accepted and reiterated by the Yashpal Committee in the year 1991. It was in this backdrop that in Tamil Nadu, there has been a demand from the public at large to bring about a common education system for all children.'*

12. *In State of Orissa Vs. MamataMohanty (2011) 3 SCC 436, the Hon'ble Supreme Court emphasized the importance of education by observing that education connotes the whole course of scholastic instruction which a person has received. Education connotes the process of training and developing the knowledge, skill, mind and character of students by formal schooling.*
13. *In Osmania University Teachers' Association Vs. State of Andhra Pradesh, (1987) 4 SCC 671, it was held that democracy depends for its very life on a high standard of general, vocational and professional education. Dissemination of learning with search for new knowledge with discipline all round must be maintained at all costs.*
14. *A learned Division Bench of this Court in CWP No. 7688 of 2013 titled H-Private Universities Management Association (H-PUMA) Vs. State of H.P. and others decided on 23.7.2014, was dealing with the right of private universities to make admission to various technical courses in the institution dehors the rules and it was held that right to establish an educational institution was not a business or trade, given solely for 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. This Court also upheld the right of the State to act as a regulator to maintain academic standard. The following observations from the judgment deserve to be taken note of:*

‘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.*

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 as a regulator is totally ill-founded in view of the various judicial pronouncements, particularly in *Visveswaraiiah Technological University and another vs. Krishnendu Halder and others* (2011) 4 SCC 606 and reiterated in *Mahatma Gandhi University and another Vs. Jikku Paul and others* (2011) 15 SCC 242.”*

The Hon’ble High Court of Himachal Pradesh in its judgement cited above further observed as under:

“23. This clearly establishes that the petitioner was concerned only with minting money and was least concerned with the prospects and future of the students. This is further evident from the fact that it was charging a fee which had not even been approved by the Sikkim Manipal University itself.

24. Education institution of the petitioner is no less than a commercial shop, where the aspiring needs of the students stand defeated due to the malpractices and frivolous activities of the petitioner. This is a classical example where the petitioner institute has presented an imaginary and illusory picture for making a successful career to the innocent students admitted in their institute, that too, by charging exorbitant fees and thereafter leaving them in the lurch to fend for themselves little knowing that even the courses undertaken by them may probably not even be recognized in the country. This practice is not only to be deprecated, but is also to be handled and dealt with a heavy hand.

25. In Prof.Yashpal and another Vs. State of Chhattisgarh and others, (2005) 5 SCC 420, the Hon’ble Supreme court has expressed its deep anxious and concern about the quality of education. It had also expressed its concern about the quality of education. It had also expressed its concern about mushrooming growth of fake education institutions. The relevant portion reads as under:-

‘63. There is hardly any merit in the submission raised. The impugned Act which enables only a proposal of a sponsoring body to be notified as a University is not likely to attract private capital and a University so notified cannot provide education of any kind much less of good quality to a large body of students. What is necessary is actual establishment of institutions having all the infrastructural facilities and qualified teachers to teach there. Only such colleges or institutions which impart quality education allure the best students. Until such institutions are established which provide high level of teaching and other facilities like well equipped libraries and laboratories and a good academic atmosphere, good students would not be attracted. In the current scenario, students are prepared to go to any corner of a country for getting good education. What is necessary is a large number of good colleges and institutions and not Universities without any teaching facility but having the authority to confer degrees. If good institutions are established for providing higher education they can be conferred the status of a deemed University by the Central Government in accordance with Section 3 of UGC Act or they can be affiliated to the already existing Universities. The impugned Act has neither achieved nor is capable of achieving the object sought to be projected by the learned counsel as it enables a proposal alone being notified as a University.’”

In the case at hand the MoU entered into between MKU and Mr.Gaurav Dixit, though defective as mentioned above, condition No.9 stipulates as under:

***“9. Theory Classes and Practical Training:***

Schedule for both these, will be prepared by the University which should be carried out by the Training Institution both in Letter and Spirit.

- (a) Attendance of candidates separately for theory and practical should be maintained, carrying the signature of individual participants. The same list should be submitted in duplicate to the University and to the Academic Coordinator.
- (b) The Centre will be paid 40% of the Tuition fees per year to carry out the theory and practical programme as shown below:

|           |   |
|-----------|---|
| I year:   | 60 Hours of Theory class                          |
| II Year:  | 60 Hours of Theory class + 90 Hours practical     |
| III year: | 60 hours of Theory class + 120 Hours of practical |

Party No.1 maintain a record of this. Under any circumstance, centre should not attempt to alter the schedule.”

The representatives of HIHT during the course of present proceedings stated that the course calendar is January and November/December each year. In the case of diploma courses the same is divided into two parts i.e. 6 months for academic programme and remaining 6 months for Industrial Exposure Training in different hotels. Likewise B.Sc. Hotel Management and Catering Science course is divided into two parts i.e. 2 years and six months for academic programme and remaining 6 months for Industrial Exposure Training in different hotels. It has further been stated that classes for degree/diploma courses are being run 6 hours everyday. However on the occasion of Diwali 15 days holidays are allowed and thereafter the Institute is closed for 25-30 days in winters. The Institute is running regularly, as such it has violated the terms and conditions of MoU to its advantage. The Hon’ble Division Bench of Hon’ble High Court of Himachal Pradesh has already held in CWP No. 7688 of 2013 titled H-Private Universities Management Association (H-PUMA) Vs. State of H.P. and others decided on 23.7.2014, *“...right to establish an educational institution was not a business or trade, given solely for 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. This Court also upheld the right of the State to act as a regulator to maintain academic standard.”* Whereas in the case at hand the HIHT has defeated the purpose of education by entering into commercialization of education in the state of Himachal Pradesh by issuing misleading advertising attracting general public /students for making admission on regular basis thereby presented an imaginary and illusory picture for making a successful career to the innocent students admitted in HIHT.

In view of the ratio of the judgments cited above, HIHT cannot be termed to be a genuine study centre of MKU as it has been found to be set up for minting money by alluring vulnerable students by creating confusion in their minds being admitted to a regular course.

**Issue No.4: Whether the fee charged by Heritage Institute of Hotel and Tourism at Sanjauli Shimla-171006 (HP) is within the parameters of MKU University or above the same?**

HIHT has submitted Prospectus of Madurai Kamaraj University wherein Courses and Fee Details for other States have been prescribed as under;

(a) B.Sc. Hotel Management & Catering Science:

|             |            |
|-------------|------------|
| First Year  | : Rs. 7000 |
| Second Year | : Rs. 7000 |
| Third Year  | : Rs. 7000 |
|             | -----      |
| Total:      | Rs. 21,000 |

Under para-5 of the order, HIHT has indicated University fee of Rs. 55,000/- and other fee Rs. 1,53,625 totalling to Rs. 2,09,625/- besides taking Rs. 34,480/ (at the time of admission) and Rs. 14,900/- (at the time of reporting). Thus the total fee collected by HIHT works out to Rs. 2,58,505/- whereas in the Prospectus of Madurai Kamaraj University only fee of Rs. 21,000/- has been indicated for entire course. In this way the Institute has collected extra amount of Rs. 2,37,505/- from each student undergoing B.Sc. Hotel Management & Catering Science course under Distance Education Programme of MKU. MKU has prescribed annual fee for diploma course of one year in (i) Catering operation & Front office & Accommodation Management as Rs. 8,000/- whereas HIHT is charging Rs. 53,265/- i.e. an excess amount of Rs. 45,2650/- per student.

I have also gone through the fee structure of Private University in Himachal Pradesh undertaking BHM Course for 3 years, fee of which has been approved @ Rs. 60,000/- per annum total amounting to Rs. 1,80,000/- for the entire course. If the fee of a student undergoing Distance Education Programme of MKU through HIHT is compared to a regular student undergoing BHM Course of 3 years in a Private University in Himachal Pradesh, the HIHT is charging Rs. 29,625/- over and above the fee of a regular student.

In MoU entered into between MKU and Mr.Gaurav Dixit the relevant provisions are as under:

**“3. Fee Structure:**

1.1. The fee structure prescribed for various courses is found in the website and prospectus.

3.2: The Party No.(2) agrees to abide by the Rules and Regulations framed by the Party No.(1) in respect of the fee structure and also abide by any increase in the fee structure which will be duly intimated by Party No.(1) to Party No.(2).

The Party No.(2) should not serve as a nodal agency for any other Universities' Directorate of Distance Education courses and other similar courses.

**5. Mode of Payment:**

The fees prescribed shall be paid in the form of Demand Drafts, one Demand Draft in favour of Party No.(1) and another Demand Draft in favour of Training Centre Party No.(2). Party No.(2) will issue the application forms to the

students, collect the filled in applications and send them to the Director, Directorate of Distance Education, Madurai Kamaraj University along with Registration Fee and Tuition Fee in full. The Admission cards will be sent to the Programme Officer who in turn should issue the same to the students. The Party No.(2) should collect the University share of tuition Fee/ Examination Fee only in the form of Demand Drafts and under no circumstances, the Party No.(2) shall collect the same in CASH. No excess amount should be collected other than the amount prescribed by the University from any student. The Demand Draft for registration fee, tuition fee and other fees (except Examination fees) should be drawn in favour of "The Director, Directorate of Distance Education, Madurai Kamaraj University, Madurai-625 021". The examination fees should be paid by Demand Drafts drawn in favour of "The Registrar, Madurai Kamaraj University, Madurai-625 021". An additional amount of Rs. 100/- should be collected from each students towards "University Service Charges" alongwith the tuition fee for Party No.1 every year for the common service rendered to the student community."

However, by making a statement during the course of proceedings before HP PERC, the representatives of HIHT stated that HIHT is collecting entire fee from the students at Shimla and thereafter sending only registration fee to MKU. They further stated that the Society has devised its own fee structure which is reflected in the Prospectus. Such fee structure is implemented by the HIHT. HIHT has deviated from the terms of the MoU as it has indulged in collecting entire fee in case at Shimla and thereafter sending only registered fee to MKU. Moreover perusal of fee schedule prescribed by HIHT as reflected in the application form and instruction book let as indicated in para-5 of the above, it is apparent that this fee schedule is equally applicable for HIHT institute at Agra (which is a regular College approved by competent authority) and HIHT Institute at Shimla (which is running Distance Education Programme of MKU). Charging equal fee for regular classes and Distance Education Programme is highly arbitrary, unconstitutional, violative of fundamental right of equality.

Thus in all the modes/ ways i.e. by charging fee over and above the fee structure of MKU (in the case of students under Distance Education Programme) & the Fee structure of a Private University in Himachal Pradesh (in the case regular students), treating regular students of the Institute being run by same Society at Agra at par with students undergoing Distance Education Programme at HIHT Sanjauli, HIHT Sanjauli and deviating from the terms of and conditions of the MoU; the HIHT has been found to be indulged in minting money and least concerned with the prospects and future of the students. This is further evident from the fact that it is charging a fee which had never been approved by MKU, which clearly establishes that HIHT is least concerned with the career of students but making money illegally, as it has been successful in establishing a commercial shop where needs of the aspiring students stand defeated due to such malpractices. Moreover, as is evident from the terms and conditions of fee schedule at Sr. No.8 on pages 5 and 6 of the order, HIHT has stipulated, "this document cannot be used for judicial purposes." This stipulation clearly smacks malafides on the part of HIHT as it has shown its intention to wriggle out of any complication arising after having charged hefty/exorbitant fee from the students.

In view of above, HIHT Sanjauli deserves to be closed down forthwith in the larger interest of students and the people of State of Himachal Pradesh.

**Issue No.5: *Whether Heritage Educational Society, Heritage Knowledge City 13 K.M. Miles Stone BamrouliKatara, Agra-282006 registered under Article 21 of Societies Registration Act 1860 is competent to run any educational Institute in the State of Himachal Pradesh?***

Heritage Educational Society has been registered as a Society in Uttar Pradesh. Its constitutional frame reveals that it is a Society constituting 7 members i.e. three members from UP, two members from WB and two members from Himachal Pradesh. Seven members' Society has jurisdiction to run its activities under the objectives of the Society in the State/area in which it has been registered. In case it was to operate across entire country (in every state), it is incumbent upon Registering Society to have eight members from different states and having defined its name as Multiple-State Society. Therefore, it can be concluded that Heritage Educational Society, Heritage Knowledge City 13 K.M. Miles Stone BamrouliKatara, Agra-282006 registered under Article 21 of Societies Registration Act, 1860 has no jurisdiction to fulfil aims and objectives of the Society in Himachal Pradesh, as such it has no jurisdiction to do its activities under its bye-laws in Himachal Pradesh.

8. In view of my findings against Issues No. 1 and 2 rendered above, it is fairly concluded that Madurai Kamaraj University (MKU) is a State University and in view of the interim orders dated 21.12.2015 passed by Hon'ble Madurai Bench of Hon'ble Madras High Court in MP(MD) No.1 of 2015 in WP (MD) No.23143 of 2015, MKU can run courses under Distance Education Programme till final outcome of the case. However, in view of the findings rendered against issue No.3, the Heritage Institute of Hotel & Tourism, Sanjauli, Shimla has been found to be not a genuine Study Centre of MKU, as it has involved itself in releasing misleading advertisements resulting into cheating the gullible students and the general public as a whole thus existence of such an institute in the State of Himachal Pradesh is hazardous in education sector. The findings rendered against Issue 5, Heritage Educational Society, Heritage Knowledge City 13 K.M. Miles Stone BamrouliKatara, Agra-282006 registered under Article 21 of Societies Registration Act, 1860 has no jurisdiction to fulfil aims and objectives of the Society in Himachal Pradesh, as such it has no jurisdiction to do its activities under its bye-laws in Himachal Pradesh. Moreover in terms of findings rendered against Issue No.4, the Heritage Educational Society has indulged in charging fee not only over and above the fee payable by a student of a regular College but exorbitantly high designed on their own which is highly illegal, arbitrary and violating the MoU entered with the MKU, which practice deserves to be curbed down. It is a great concern related to Distance Education Programme that such an institute is committing fraud and minting money in violation of terms of the MoU (however, MoU entered into between MKU and Heritage Educational Society is defective as status of ShriGaurav Dixit has not been clearly mentioned in the said MoU). The Heritage Educational Society has indulged in a systematic and planned way to attract students for admission by issuing misleading advertisements. The public notice issued by the Institute nowhere mentions that it is running Distance Education Programme of MKU. Rather it reveals that the



Institute is a regular College. Heritage Educational Society has gravely violated terms and conditions of MoU entered with MKU by running a regular College, appointing faculty and designing fee structure of its own and implementing the same to its own advantage. This practice has led to spoil the career of students.

9. In view of my observations rendered under para-8 based upon the findings recorded against Issues No.1 to 5 underpara7, the following orders are passed:

(a) Shri B.K. Singh, Chairman of Heritage Educational Society, Heritage Knowledge city, 13 K.M. Mile Stone BamroliKatara, Agra 282006 (UP) running Heritage Institute of Hotel and Tourism at Sanjauli Shimla-171006 (HP) is directed to close down Heritage Institute of Hotel and Tourism at Sanjauli Shimla-171006 (HP) immediately.

(b) Compliance of the order be reported within 10 days hereof.

Copy of the orders be supplied to Shri B.K. Singh, Chairman of Heritage Educational Society, Heritage Knowledge city, 13 K.M. Mile Stone BamroliKatara, Agra 282006 (UP) running Heritage Institute of Hotel and Tourism at Sanjauli Shimla-171006 (HP)

Copy of the orders be supplied to Superintendent of Police, Shimla with reference to his letter No.R/Add.SP(R) /Sml/16-59908 dated 13.10.2016 for information and further necessary action.

Orders be hosted on the website of the HP PERC

File after due completion be consigned to record room. However, in default of compliance, the case file be put up for further orders.

Announced.

Sd/-  
(Sunil Dutt Sharma)  
Member