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

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Reserved on: 14.08.2024
Pronounced on: 17.08.2024

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W.P.(C) 9196/2024 & CM APPL. 37570/2024

VIVEKANANDA INSTITUTE OF PROFESSIONAL
STUDIES & ANR.Petitioners

Through: Mr. Manoj Goel, Senior
Advocate with Ms. Anisha
Upadhyay, Mr. Vaibhav Kalra,
Mr. Rohit Dev Sharma, Ms.
Vedika Jain and Mr Vinayak
Goel, Advocates.

versus

GOVERNMENT OF NCT OF DELHI
& ORS.Respondents

Through: Mr Anuj Aggarwal, ASC for
GNCTD with Mr Yash
Upadhyay and Mr Siddhant
Dutt, Advocates for R-1 & R-
2.
Ms. Anita Sahani, Advocate
for R-3.
Mr. Anil Soni, Standing
Counsel for R-4.

CORAM:
HON'BLE MS. JUSTICE SWARANA KANTA SHARMA



J U D G M E N T

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SWARANA KANTA SHARMA, J.

1. The grievance of petitioner-Institute i.e. Vivekananda Institute of Professional Studies, Delhi [**'VIPS'**] centers on the alleged administrative inaction on the part of respondent nos. 1 to 3 to increase the intake for the B.Tech. (Electronics Engineering-VLSI Design & Technology) program in the petitioner-Institute for academic session 2024-25 to 180 seats from existing 60 seats, despite the petitioner-Institute receiving an approval from All India Council



Technical Education for the same. The petitioner-Institute essentially alleges failure on part of respondent nos. 1 to 3 in granting the necessary No Objection Certificate for increasing the student intake in the said program, on the basis of Policy Guidelines issued by the Directorate of Higher Education, Delhi in the year 2016, despite the petitioner-Institute obtaining approval from the central statutory authority i.e. the All India Council for Technical Education.

2. Therefore, the present writ petition has been filed under Article 226 of the Constitution of India, seeking following reliefs:

“(i) Issue a writ in the nature of mandamus and/ or any other appropriate writ/ order/ direction thereby directing the Respondent nos. 1 to 3 to implement the order of AICTE (respondent no. 4) and grant additional 120 seats (180 seats in total) to Vivekananda Institute of Professional Studies for the B. Tech - Electronics Engineering (VLSI Design & Technology) program for the Academic Session 2024-25 as approved by the AICTE in terms letter dated 15.04.2024 and further to modify the Notification dated 28.06.2024 issued by Respondent No. 3/ University for 60 seats at S.No. 120 to 180 seats for B. Tech - Electronics Engineering (VLSI Design & Technology) program, and/ or;

(ii) Issue a writ in the nature of mandamus and/ or any other appropriate writ/ order/ direction thereby directing the Respondent nos. 1 and 2 to grant the NOC with respect to 180 60 seats to Vivekananda Institute of Professional Studies for the B. Tech - Electronics Engineering (VLSI Design & Technology) program for the Academic Session 2024-25 as approved by the AICTE in terms letter dated 15.04.2024 and take consequential steps in this respect”

3. The respondents arrayed before this Court are as follows: Government of NCT of Delhi [*GNCTD*] as *respondent no. 1*; Department of Training and Technical Education [*DTTE*], which falls under GNCTD, as *respondent no. 2*; the affiliating University of



petitioner VIPS i.e. Guru Gobind Singh Indraprastha University, Delhi [*'GGSIP University'*] as *respondent no. 3*; and All India Council for Technical Education [*'AICTE'*] which is a statutory body established by the Central Government under the AICTE Act, 1987, as *respondent no. 4*.

FACTUAL BACKGROUND

4. The present case revolves around a series of events concerning the petitioner-Institute's efforts to secure approval and increase intake capacity for its B.Tech (Electronics Engineering- VLSI Design & Technology) program.

5. The story of the case begins with the issuance of Policy Guidelines by the Directorate of Higher Education, Delhi on 12.01.2016 [*'Policy Guidelines of 2016'*]. These guidelines outlined the requirements for obtaining a No Objection Certificate [*'NOC'*] for the institutes affiliated with GGSIP University, applicable for the academic year 2016-17 and onwards.

6. On the other hand, on 04.02.2020, AICTE had updated its regulations for grant of approvals for technical institutions, replacing the previous 2018 regulations. These new regulations i.e. All India Council for Technical Education (Grant of Approvals for Technical Institutions) Regulations, 2020 governed applications seeking approval for new courses, increases in intake, and related matters. These Regulations were further amended in the year 2021.

7. On 18.02.2023, AICTE introduced a new curriculum for B.Tech (Electronics Engineering-VLSI Design & Technology)



program, reflecting a push toward specialized technical education. The petitioner-Institute sought approval from AICTE to offer the said program, and on 19.07.2023, it received the approval for 60 seats for the academic year 2023-24. Following this, the petitioner-Institute on 26.12.2023 applied for an increase of 120 seats in intake for the next academic year i.e. 2024-2025, and also sought the continuation of provisional affiliation with GGSIP University for the said academic year.

8. It is relevant to note that grant of provisional affiliation by University is subject to the grant of NOC by the respondent GNCTD, in terms of the Policy Guidelines of 2016. Moreover, for grant of affiliation, the private institutes are made to undergo rigorous assessment and inspection by the Joint Assessment Committee [**JAC**] consisting of the representatives of respondent University and the State Government, chaired by experts who review the institute based on strict parameters and submit a detailed three part report. Based on this recommendation of the JAC, the GNCTD issues NOC to conduct courses for the following year.

9. Accordingly, a JAC was constituted to inspect the petitioner-Institute, which submitted its report on 11.03.2024. However, in its report, the JAC recommended existing intake of 60 students, as granted in the previous academic year 2023-24 for B.Tech (Electronics Engineering-VLSI Design & Technology) program, and did not consider the additional 120 students intake sought by the petitioner-Institute.

10. In the meantime, on 19.03.2024, the petitioner-Institute applied



to AICTE for an increase in student intake from 60 to 180 seats, as per Approval Process Handbook 2024-27 of the AICTE. A Scrutiny Committee was formed by AICTE on 19.03.2024 to review its application, however, it noted the absence of the required NOC from the affiliating University, which led to issuance of a deficiency report. By way of email dated 19.03.2024, the petitioner-Institute informed the GGSIP University about the aforesaid and requested for issuance of an NOC on the basis of the report of JAC. The same was subsequently issued by the University on 20.03.2024, in which the seat intake for academic year 2024-25, on the basis of JAC recommendation, was mentioned as 60.

11. Following this, AICTE's re-scrutiny committee cleared the deficiencies, and an Expert Visit Committee [*'EVC'*] was constituted to inspect the petitioner-Institute. The EVC conducted its inspection on 09.04.2024, and recommended the enhancement of intake to 180 seats for the 2024-25 academic session. The petitioner thereafter made a representation to the GGSIP University for consideration by the Appellate Committee, for additional intake of 120 seats in the concerned B.Tech. program in addition to 60 existing seats, for the academic session 2024-25, wherein it was mentioned that the EVC had approved the additional intake of 120 seats, thereby taking the total intake to 180 seats for academic year 2024-25.

12. AICTE, on 15.04.2024, granted the 'Extension of Approval' to the petitioner-Institute and approved the increased intake i.e. a total of 180 seats in B.Tech (Electronics Engineering-VLSI Design & Technology) program, for a period of three years. Thereafter, the



GGSSIP University communicated on 01.05.2024 to the petitioner-Institute, the observations of the Appellate Committee, stating that an increase in seats would only be considered if the admission rate in the same program during the previous two academic years exceeded 75%. However, considering the other facts and circumstances, the Appellate Committee suggested that the case of petitioner be forwarded to the DTTE, i.e. respondent no. 2 herein, for consideration.

13. However, the DTTE issued a provisional NOC on 09.05.2024, in respect of petitioner-Institute, wherein only 60 seats were allowed for the B.Tech (Electronics Engineering-VLSI Design & Technology) program, based on the JAC report.

14. In response, the petitioner-Institute made representations to both the Vice-Chancellor of GGSIP University on 22.05.2024, and the Secretary of Higher Education, GNCTD, requesting reconsideration of the seat enhancement from 60 to 180. The petitioner emphasized that AICTE had already approved the increased intake for the academic year 2024-25, and urged the authorities to align with this approval. On 27.05.2024, GGSIP University, acknowledging the AICTE's Extension of Approval granted to the petitioner, requested the DTTE to reconsider the intake increase as requested by the petitioner-Institute. The petitioner-Institute also made a representation to Lieutenant Governor of Delhi on 25.06.2024, highlighting that AICTE's approval was granted after thorough inspection and requesting support for the enhancement.

15. Despite the aforesaid efforts of petitioner-Institute, the



respondent no. 3 i.e. GGSIP University on 28.06.2024 notified on its website that the petitioner-Institute was allotted only 60 seats for the B.Tech (Electronics Engineering-VLSI Design & Technology) program for the academic session 2024-25 as no fresh NOC was received from GNCTD for 180 seats.

16. In this factual backdrop, the present writ petition has been filed by the petitioner-Institute.

SUBMISSIONS BEFORE THIS COURT

Submissions on Behalf of the Petitioner-Institute: VIPS

17. Learned Senior Counsel appearing on behalf of the petitioner argues that the VLSI and semiconductor sectors are vital to national economic growth, and meeting the escalating demand for a skilled workforce in these areas serves the public interest. It is stated that AICTE, as the statutory body governing technical education, has already granted approval for the increased intake *qua* B.Tech (Electronics Engineering- VLSI Design & Technology) program following a rigorous scrutiny process, indicating that the petitioner-Institute meet all necessary standards and infrastructure requirements. It is further contended that AICTE's approval, backed by its statutory authority under the AICTE Act, 1987, should take precedence over any conflicting decisions by state authorities, in accordance with Article 246 of the Constitution of India. It is stated that any state-level decisions or policies that conflict with or undermine the AICTE's approval are legally untenable and subordinate to the central legislation. It is also submitted that the exhaustive scrutiny by



AICTE, involving multiple expert committees, rendered the need for an additional NOC from the State authorities redundant.

18. It is argued on behalf of petitioner that the existing policy of DTTE/GNCTD dated 12.01.2016, is in conflict with the AICTE Act and therefore it cannot override the central statutory framework. It is further argued that the state or university lacked the authority to alter the AICTE-approved number of seats, and even if they had such authority, it had to align strictly with AICTE's regulations. It is also submitted that the respondents' inaction has infringed upon the fundamental rights of the petitioner-Institute under Article 19(1)(g) of the Constitution, which guarantees educational institutions the fundamental right to establish, administer, and run courses without undue executive interference, safeguarding the autonomy of educational institutions under the law.

19. It is contended that the respondents failed to consider that the parameters of space, faculty, and infrastructure have been duly inspected by the JAC which included a representative from the government as well as the University. However, the JAC report was faulty and arbitrary since the petitioner-Institute, despite meeting the requisite parameters, was not granted additional 120 seats without any justifiable reason. It is submitted that in fact, the respondent University, through its letters dated 01.05.2024 and 27.05.2024, had even recommended respondent no. 2 i.e. DTTE to grant the NOC to the petitioner-Institute. It is also stated that despite AICTE's approval and these letters being issued by the University, the State authority had not communicated any rejection or adverse decision regarding



the NOC application, resulting in administrative inaction that hindered the petitioner-Institute's ability to conduct admissions based on the approved intake of 180 seats.

20. Learned Senior Counsel, while referring to the provisions of AICTE Act and Regulations framed thereunder, argues that it is only at the stage of establishment of technical institutes or grant of a new course that the requirement of obtaining the views of the State Government and of the affiliating University are required. However, at this stage, of mere increase in intake of students, there is no such requirement, much less mandatory requirement, of again having approval from the State Government and of the affiliating University.

21. It is fervently argued that it is a settled position of law that the AICTE Act, 1987 is passed by the Parliament relatable to Entry 66 of Union List and, as such, neither the State nor the University has any power in respect of the field covered by the said Act and the Regulations framed thereunder. It is also stated that the field of intake and increase in intake is solely governed by the AICTE. In this regard, learned Senior Counsel has also relied upon several case laws, which have been discussed in later part of this judgment. It is also argued that the State Policy cannot be relied upon to defeat the Constitutional mandate, provisions of AICTE Act, 1987 and its Regulations.

22. Therefore, it is prayed on behalf of the petitioner-Institute that the present petition be allowed.



Submissions on behalf of GNCTD & DTTE

23. Sh. Anuj Aggarwal, learned ASC appearing on behalf of respondent no. 1 and 2 i.e. GNCTD and DTTE respectively, submits that a total intake of 60 seats was recommended by the JAC in respect of the B.Tech. EE (VLSI Design) program for the academic year 2024-25, in the petitioner-Institute and the respondent had issued an NOC in the favour of the petitioner-Institute, after perusing the JAC Report, on 09.05.2024. It is submitted that Clause 6.3 of the Policy Guidelines of 2016 clearly provides that the increase in total sanctioned intake shall be considered for a specific study-program, only when the admissions to the said study program is more than 75% in the preceding two academic years. It is argued that the petitioner-Institute, having commenced B.Tech EE (VLSI Design) from the academic session 2023-24 with 60 number of fresh intakes and 58 admitted students, does not qualify for an increase in seat intake since two academic years have not yet been undertaken. It is thus submitted that the provisional NOC issued to the petitioner-Institute *vide* letter dated 09.05.2024 was in consonance with the Policy Guidelines of 2016.

24. It is further argued that two years is the minimum period required to judge the performance of an institute on various grounds such as performance of the students, which is also based on the quality of the teaching faculty and the infrastructure provided etc., the feedback/satisfaction of the students/teachers, etc. It is further contended that since no challenge has been made to the *vires* of the conditions stipulated under the Policy Guidelines of 2016, the said



guidelines are sacrosanct for the petitioner as well as the respondents and they are bound by them alike. It is also argued that the Policy Guidelines issued by the GNCTD are in no way violative of any constitutional provisions or any other statute *per se* and have been uniformly made applicable to all the institutions falling within its domain.

25. It is submitted that the entire basis on which the petitioner is basing its claim is the EoA issued by the AICTE to the petitioner-Institute and the increased number of seats so sanctioned, which cannot be the sole basis for seeking such a relief. However, a bare perusal of said EoA of the AICTE unequivocally lays down the mandate of strict adherence of the conditions laid down in the Approval Process Handbook 2024-27. It is further contended the AICTE Act and regulations made thereunder have in no way any overriding effect on the guidelines prescribed by the GNCTD for regulating its colleges and educational institutions. Rather, a bare perusal of Para 7 of the Affidavit of the AICTE clearly reveals that an EoA can only be issued subject to the adherence/ compliance of the Approval Process Handbook (2024-2027), which clearly stipulates that the college in question shall be mandatorily required to comply with all the relevant guidelines, which the University granting the affiliation is bound by. It is further relevant to note that Chapter II, 2.1 (d) of the Handbook lays down that the Institutions shall also have to adhere to the existing Central, State and Local Laws and the norms of other Regulatory bodies, wherever applicable.

26. It is submitted that there is no prohibition on the petitioner-



Institute to apply for an increase in seat intake and it shall be eligible to be considered for an increase in the seats offered by it in the concerned program only after successful completion of two years as per the Clause 6.3 of Policy Guidelines of 2016. However, currently, it has only been a year since the said course was introduced for the first time by the petitioner, making it ineligible to be considered for an increase in the seat intake at least for the current academic year. Therefore, it is prayed that the present petition, being devoid of merit, be dismissed.

Submissions on behalf of GGSIP University

27. Smt. Anita Sahni, learned counsel appearing on behalf of respondent no. 3 i.e. GGSIP University, submits that the University functions within the framework of the Guru Gobind Singh Indraprastha University Act, 1998 and Statutes, Rules & Regulations, Ordinances made thereunder and other relevant applicable laws. It is stated that the colleges affiliated to the University are inspected every year for its infrastructure, facilities and teachers and, thereafter, the technical bodies sanction the seats in each college for each course. The seat matrix in every college is prepared on the basis of said inspection and input by the inspecting committee(s). It is submitted that the petitioner-Institute is affiliated to the GGSIP University and before the grant of affiliation, the petitioner-Institution had submitted a duly sworn in affidavit to state that “*Dr. Anuradha Jain, Principal of the Vivekanand Institute of Professional Studies Technical Campus also hereby undertake to abide by the policy Guidelines of Govt. of*



NCT of Delhi/ GGSIP University for academic session 2024-25 onwards”.

28. It is contended that the petitioner-Institute was to continue with the strength of intake of 60 students for the academic year 2024-2025, for the concerned program, in view of the specific policy of the GNCTD, and the GGSIP University, being a state university, and its affiliated colleges are accordingly bound to follow the policy of the GNCTD. It is further argued that the policy of the GNCTD has been in place since the academic year 2016-17 and the same has been within the knowledge of the petitioner and other affiliated institutes of the University, who have been following the said policy since inception.

29. It is submitted that the policy of the State is neither repugnant nor contrary to the AICTE Act or the policy guidelines or the Handbook of the AICTE. It is argued that a perusal of AICTE (Grant of Approvals for Technical Institutions) Guidelines 2024-27 reveals that the AICTE requires the NOC from the State Government/University specifically and has also mentioned clearly wherever it is not required. Therefore in view of the AICTE itself requiring the NOC from the State government, the allegations of the petitioner are liable to be rejected. It is argued that the NOC from the State Government is not a mere formality and it can only be granted as per the prevalent policy of the GNCTD. It is stated that the policies are formulated keeping in mind the best interest of the student community at large and to maintain the standards of imparting of education. Therefore, on behalf of respondent no. 3 also, it is prayed



that the present petition be dismissed.

Submissions on behalf of AICTE

30. Sh. Anil Soni, learned Standing Counsel appearing on behalf of respondent no. 4 i.e. AICTE, outlines the role and responsibilities of the AICTE as established under the AICTE Act, 1987 and submits that the Council is tasked with ensuring the coordinated development and maintenance of quality standards in technical and management education across India. He states that Section 10 of the AICTE Act specifies the functions of the Council, which include promoting integrated development and maintaining standards in technical education. Additionally, Section 23 of the Act empowers the Council to create regulations to fulfill the objectives of the Act. It is further stated that AICTE has formulated Regulations and a Approval Process Handbook that outline the mandatory norms and minimum standards required for the approval of new technical institutions, the introduction of new courses or programs, and the variation of intake capacity at existing institutions. These standards are legally binding and must be met for approval to be granted, as held by the Hon'ble Supreme Court.

31. It is argued on behalf of AICTE that the Clause 6.3 of Policy Guidelines issued by DTE, GNCTD dated 12.01.2016, which states that increase in seats in a course is considered only if the admission in the same programme during the last two academic years in the institute is more than 75%, seems to be an outdated policy and not in terms with the new education policy and emerging technologies. It is



further submitted that AICTE has issued a circular dated 21.04.2022 to encourage institutions to offer courses on the emerging technologies in line with the national objective to promote emerging technologies. It is also argued that since the Government of India is promoting emerging technologies, the GGSIP University must allow the petitioner-Institute to increase the intake from 60 to 180 to conduct B.Tech. in Electronics Engineering (VLSI Design and Technology) effective from academic year 2024-25 as it is an important area where Government of India is putting efforts to train large number of people so that chip manufacturing and designing can be escalated in the country.

32. It is submitted on behalf of respondent no. 4, that in the instant case, the petitioner-Institute had applied for an increase in intake in B.Tech. in Electronics Engineering (VLSI Design & Technology), from the approved intake of 60 to 180 along with other changes. The application was processed as per provisions mentioned in the Approval Process Handbook (2024-27), which went through the following stages of evaluation: (i) Scrutiny, (ii) Re-Scrutiny, and (iii) Expert Visit Committee. It is stated that after due evaluation, the applied increase in intake was approved and Extension of Approval was issued to the petitioner-Institute as per norms, after ensuring the requirement of infrastructure, laboratories and other facilities required to conduct for the programmes. Therefore, it is prayed on behalf of AICTE that appropriate orders be passed in the given set of facts and circumstances, and taking into account the genuine grievance of the petitioner-Institute.



33. This Court has **heard** arguments, at length, addressed on behalf of the petitioner-Institute, the respondent nos. 1 and 2 i.e. GNCTD and DTTE, respondent no. 3 i.e. GGSIP University and respondent no. 4 i.e. AICTE. The material placed on record by all the parties has also been perused by this Court.

ANALYSIS & FINDINGS

34. To resolve the controversy which has arisen in the present case, it is essential to first delve into and examine the key provisions of AICTE Regulations, AICTE's Approval Process Handbook, the Statute(s) of GGSIP University and Policy Guidelines issued by the State Government/GNCTD.

AICTE Regulations 2020 (amended in 2021)

35. Section 10 and 11 of the AICTE Act, 1987 outlines the functions of the Council and its power to conduct inspections, respectively. Section 23 of the Act gives power to the Central Government to frame appropriate regulations. By virtue of power conferred by Section 23, read with Section 10 and 11 of the Act, the Central Government had framed AICTE (Grant of Approvals for Technical Institutions) Regulations, 2020, which were further amended in the year 2021. The Preamble of these Regulations of 2020 suggests that they aim to regulate/facilitate, in an organized manner, the technical institutions in maintaining quality and to follow the norms consistent with the ideals of AICTE and further to create an enabling environment for the technical institutions to become high



quality institutions.

36. Regulation 1 of these Regulations of 2020 provides for its applicability. It also makes clear that these regulations are applicable for the purpose of ‘increase in intake’ in institutions. The relevant excerpt from Regulation 1 reads as follows:

“1. Short Title, Application and Commencement.

1.2 These Regulations are applicable for the applications submitted by the Institutions/Institutions Deemed to be University offering/ propose to offer a Technical Programme at Diploma/ Post Diploma Certificate/ Under Graduate Degree/ Post Graduate Diploma/ Post Graduate Degree Level as under:

1. Increase in Intake/ Additional Course(s); ...”

37. In Regulation 2, the definition of ‘Approval Process Handbook’ has been provided, in the following manner:

“2. Definitions.

2.7 “Approval Process Handbook (APH)” is a Handbook published by AICTE, prescribing norms and procedures for processing of applications submitted for grant of various approvals from time to time.”

38. The generic conditions for grant of approval have been outlined in Regulation 4. Specifically, Regulation 4.9 lists the requirements for the new or existing institutions conducting technical programmes, wherein it is prescribed that NOC from affiliating University (such as GGSIP University in the present case) shall be required, if applicable, for such applications as specified in the Approval Process Handbook.



“4. Generic Conditions for Approval

4.9 Requirements for the new/ existing Institutions/
Institutions Deemed to be Universities conducting Technical
Programmes:

**d. NOC from Affiliating University/ Board/ State
Government/ UT shall be required, as applicable, for
such applications as specified in the Approval Process
Handbook.”**

(emphasis supplied)

39. Regulation 6 addresses the process for considering the applications and the subsequent grant of approvals. The very first sub-regulation makes it clear that all applications will be processed according to the norms and procedures laid out in the AICTE Approval Process Handbook. Additionally, Regulation 6.3, which pertains to applications from existing institutions, specifies in clause (h) that if an institution wishes to ‘reduce’ its intake, it can apply to AICTE *‘without NOC from affiliating University/ Board/ State Government/ UT’*. These regulations read as under:

“6. Processing of the applications and Grant of Approval

6.1 The applications received shall be processed as per the norms and procedures specified in the Approval Process Handbook as notified by the Council from time to time, in addition to the existing Central, State and Local Laws.

6.3 For the existing Institutions

h. Institutions may apply for reduction in Intake in any of the Course(s) within a Division by themselves in AICTE Web-Portal and maintain Faculty: Student ratio accordingly **without NOC from affiliating University/ Board/ State Government/ UT** and the reinstatement shall be permitted within a Division without NBA. Institutions may apply for



reinstatement for the same by themselves in AICTE Web-Portal. ...”

(emphasis supplied)

40. **Thus**, a perusal of the above Regulations reveals that:
- (i) The AICTE Regulations specifically apply to the increase in intake of seats at technical institutions.
 - (ii) One of the generic conditions for approval under these Regulations is the requirement to obtain an NOC from the affiliating university, state government, or other relevant authority, as specified in the Approval Process Handbook.
 - (iii) All applications submitted by institutes will be processed in accordance with the norms and procedures prescribed in the AICTE Approval Process Handbook.

Approval Process Handbook 2024-27

41. The Approval Process Handbook of AICTE acts like a roadmap for all institutes seeking approval from the Council to run programs/courses falling under its ambit. While Chapter-I of the Handbook deals with Grant of Approval to New Institution, the Chapter-II deals with Grant of Extension of Approval to Existing Institutions. A reading of Chapter-II of the Handbook, firstly, reveals that it prescribes the procedure for ‘increase in intake’, as mentioned in the initial paragraphs of Chapter-II, which read as follows:

“Grant of ‘Extension of Approval (EoA)’ for Existing Institutions for the following:



ii. Increase in Intake/ Additional Course(s).”

42. In Clause 2.1, the Handbook clarifies that the applications received by the AICTE for Grant of Extension of Approval shall be processed as per the norms and procedures provided in the Handbook, and additionally, the Institute concerned shall have to adhere to the existing Central or State or Local Laws and norms of other Regulatory Bodies, if the same are applicable. The relevant portion of the Handbook in this regard is extracted hereunder:

“2.1 Introduction

d. The applications received shall be processed as per the norms and procedures specified in this Approval Process Handbook. **The Institution shall also have to adhere to the existing Central, State and Local Laws and norms of other Regulatory Body, if applicable.**”

(emphasis supplied)

43. Insofar as the process followed by AICTE apropos the increase in intake or additional courses is concerned, the same is outlined in Clause 2.6 of the Handbook. However, it is significant to take note of the ‘Note’ appended at the end of Clause 2.6 which clarifies that the institute concerned is solely responsible to obtain the NOC from the Affiliating University & State Government, if applicable, before commencement of the Academic Session. In this regard, following portion of the Handbook is crucial:

“2.6 Increase in Intake / Additional Course(s)

NOTE:

3. It is the sole responsibility of the institution to obtain NOC from the Affiliating University & State



Government (if applicable) before starting of the Academic Session.”

(emphasis supplied)

44. **Therefore**, it becomes clear from the Approval Process Handbook that:

- (i) The institute is obligated to comply with existing Central, State, and Local Laws, along with the norms of other regulatory bodies, as required, in addition to following the procedures outlined in the Handbook.
- (ii) **Securing an NOC from the affiliating university and state government (if applicable) before the commencement of the academic session is solely the institution’s responsibility**, as stipulated by the Handbook for the purpose of increase in intake.

GGSSIP University’s Statute 24

45. The respondent no. 3 i.e. GGSIP University, with which the petitioner-Institute has been affiliated for years, is a State University, established in accordance with The Indraprastha Vishwavidyalaya Act, 1998 (*later renamed as the Guru Gobind Singh Indraprastha University Act, 1998*) enacted by the Legislative Assembly of NCT of Delhi. Section 25 of the Act deals with the ‘Statutes’ of the University and Section 25(n) mandates that the Statutes may provide for the conditions under which colleges and institutions may be admitted to the privileges of the University and the conditions under which such privileges may be withdrawn. Section 26 outlines as to



how Statutes are to be made.

46. In this regard, it will be important to take note of Statute 24 of the GGSIP University, framed in accordance with Section 25(n) of the Act. The Statute 24, *inter alia*, provides as follows:

“STATUTE 24: CONDITIONS UNDER WHICH COLLEGES AND INSTITUTIONS MAY BE ADMITTED TO THE PRIVILEGES OF THE UNIVERSITY AND THE CONDITIONS UNDER WHICH SUCH PRIVILEGES MAY BE WITHDRAWN

3. Essential conditions of affiliation of colleges and institutions.

(i) The Board of Affiliation may, on an application made to the Registrar in the form and in the manner laid down in the ordinances, affiliate a college or an institution.

(ii) **No college or institution shall be admitted to the privileges of the University unless-**

(b) it has been granted a no-objection certificate by the concerned state government and recognised by the appropriate statutory authority, wherever applicable, for the subjects and courses of study for which affiliation is being sought;...”

(emphasis supplied)

47. Thus, it becomes evident from the above that securing an NOC from the concerned State Government i.e. GNCTD is a fundamental requirement for any college or institute aiming to affiliate with GGSIP University and enjoy its privileges.

Policy of GNCTD *qua* Grant of NOC

48. As this Court has noted in preceding paragraph, that a condition precedent to grant of affiliation and admission to privileges of the University is the grant of NOC by the State Government. The



State Government and its Directorate of Higher Education, to streamline the entire process, has formulated the Policy Guidelines of 2016, for issuance of NOC to the new or existing Institutions affiliated to GGSIP University. The relevant portion of these guidelines, significant for deciding the present case, reads as under:

“Sub: Policy Guidelines for the issue of NOC to the new/ existing Institutions situated in conforming/ non- conforming areas and allied matters related to self-financed institutions affiliated to GGSIP University for the year 2016-17 & onward

6. Addition of new programmes/additional intake/ interchange of programmes

6.3 Additional intake in a running programme will be allowed in the Institute only if the admission in the same programme during the last two academic years in the Institute is more than 75%.”

(emphasis supplied)

49. Thus, the Policy Guidelines of 2016, by virtue of Clause 6.3, make it abundantly clear that any additional intake in an ongoing program is contingent upon the program’s prior performance, specifically requiring that the admission rate in the same program must have exceeded 75% in each of the last two academic years.

50. The petitioner-Institute, in the present case, is aggrieved by the operation of this Clause 6.3, on the premise of which, grant of NOC has been refused to the petitioner to increase the intake in one of its courses, which had been introduced only in the previous academic year.



Petitioner's Undertaking to Comply with Policy Guidelines of GNCTD

51. However, in above background, this Court notes that on one hand, the petitioner-Institute has argued at length that the Policy Guidelines of 2016, especially Clause 6.3, do not align with the requirements of new educational courses, and on the other, the petitioner-Institute itself **had submitted an Affidavit in December, 2023**, while applying for provisional affiliation with the GGSIP University, that **it shall abide by the Policy Guidelines of GNCTD and GGSIP University for the academic session 2024-2025**. It was also mentioned that the petitioner-Institute i.e. VIPS shall comply with the conditions indicated by the State Government while issuing NOC for the academic session 2024-25. The relevant portion of this Affidavit, signed by the Vice-Chairman of the Society concerned and the Principal of the VIPS i.e. petitioner, reads as under:

“...I, Dr. Anuradha Jain, Principal of the Vivekananda Institute of Professional Studies-Technical Campus **hereby undertake to comply with all the conditions indicated by the University at the time of grant/continuation of provisional affiliation, Statutory Body while according approval and State Government while issuing No Objection Certificate** for the academic session 2024-2025 along with all other conditions imposed from time to time throughout the year by them.

...I, Dr. Anuradha Jain, Principal of the Vivekananda Institute of Professional Studies-Technical Campus also hereby undertake to abide by the Policy Guidelines of Govt. of NCT, Delhi/ GGSIP University for academic session 2024-2025 onwards...”

(emphasis supplied)



Whether the Petitioner-Institute can claim non-adherence to Clause 6.3 of Policy Guidelines of 2016?

52. In assessing the contentions raised before this Court on behalf of the petitioner-Institute, it is crucial to highlight that the petitioner-Institute i.e. VIPS, as an affiliated institute of GGSIP University, would have been fully aware of the rules, regulations, and policy guidelines governing its affiliation. As noted above, the Statute 24 of GGSIP University prescribes the requirement of obtaining an NOC from the State Government. The specific policy, regarding issuance of NOC, has been in place since the academic year 2016-17. Thus, the rules and regulations governing affiliation and other allied subjects have been in place for years, and the record reveals that the petitioner-Institute, along with other affiliated institutes, has consistently adhered to these guidelines throughout the years.

53. This Court further notes that the petitioner-Institute has been affiliated with the GGSIP University for numerous programs over the years, including Integrated BA LLB (Hons.), BA (JMC) and its second shift, BCA and its second shift, BBA and its second shift, B.Com (Hons.) and its second shift, MCA, BA (Economics) (Hons.) and its second shift, BA (English) (Hons.), BA (AI & ML), B.Tech. (AI & DS), B.Tech. (CSE), B.Tech. Electronics Engineering (VLSI Design and Technology), and B.Tech. in Computer Science and Applied Mathematics. For each of these programs, the petitioner-Institute has followed the established procedure, including adhering to the guidelines of GNCTD, particularly concerning the increase in seats after a program has been operational for two years, as per the



Policy Guidelines of 2016.

54. In this regard, the respondent no. 3 i.e. GGSIP University has also placed before this Court, a chart depicting the increase in intake in the programs offered by the petitioner-Institute, specifically highlighting the increase in intake of BBA (2nd shift) from 60 seats in period 2016-18, to 120 seats in period 2018-21 and to 180 seats in period 2021-24. This clearly implies that the petitioner-Institute would have adhered to Clause 6.3 of Policy Guidelines of 2016 for seeking the increase in intake in the said course.

55. Furthermore, the petitioner-Institute has also demonstrated its acknowledgment of these regulatory frameworks by submitting an affidavit in the current year, explicitly stating that it would comply with the Policy Guidelines of GNCTD and the affiliating university i.e. GGSIP University. This affidavit serves as a clear indication that the petitioner-Institute was fully aware of the operational guidelines and had agreed to abide by them as a condition of its continued affiliation and approval for any enhancements to its academic offerings in the current academic session.

56. In this context, the petitioner-Institute now is challenging the applicability of the Policy Guidelines of 2016, on the ground that they do not align with the policies of AICTE. In this Court's opinion, the petitioner cannot selectively adhere to or challenge these guidelines when it is convenient, particularly when it has benefited from these guidelines over the years.

57. In addition to the aforementioned considerations, it is also noteworthy that the petitioner-Institute has not specifically



challenged the Policy Guidelines of 2016 in this petition. Despite adhering to these guidelines for several years, the petitioner has chosen not to contest their validity or applicability.

58. **Therefore**, this Court, in view of the abovesaid, is of the considered opinion that the petitioner-Institute cannot claim non-adherence to Clause 6.3 of the Policy Guidelines of 2016. Furthermore, having consistently complied with and having benefited from these Guidelines, and affirming their adherence through an Affidavit, the petitioner is bound by the existing policy framework, including Clause 6.3. Moreover, the Approval Process Handbook of AICTE also mandates compliance with State laws and/or local laws, and highlights the responsibility of the Institute to obtain NOC from the State government before the start of academic session in case the increase in intake has been approved by AICTE, as per Clause 2.6 of Handbook.

Whether the Policy of the State is repugnant or contrary to policy of AICTE?

59. During the course of arguments, the learned Senior Counsel for the petitioner-Institute had vehemently argued that Policy Guidelines of 2016 for the purpose of issuance of NOC are repugnant to the policy of the Central Statutory Body i.e. AICTE.

Analysing the Judicial Precedents

60. Reliance on behalf of petitioner-Institute was placed upon several judgements of the Hon'ble Supreme Court of India, in the context of powers of AICTE *vis-a-vis* the powers of Universities or



State Governments, to beseech this Court to hold that the Policy Guidelines of 2016 would not apply in relation to AICTE's approval for increase in intake in the concerned B.Tech. program in the petitioner-Institute as the AICTE is the Central body regulating and prescribing norms for technical institutes and courses, where State policy has no role to play.

61. In this regard, learned Senior Counsel referred to the decision of the Hon'ble Supreme Court in case of *State of Tamil Nadu v. Adhiniyam Educational & Research Institute*, (1995) 4 SCC 104, wherein it was held that in view of the mandate of Section 10 of AICTE Act, 1987 and the fact that it is relatable to Entry 66 of List I of the Constitution, it is the AICTE which has the power in respect of all the aspects relating to norms and standards of course, curriculum, staff, introducing new courses, programs and performance appraisal, etc. and to that extent, the provisions of the University's Act will be deemed to have become unenforceable.

62. Learned Senior Counsel further placed reliance upon the decision of the Hon'ble Supreme Court in case of *Jaya Gokul Educational Trust v. Commr. & Secy. to Govt. Higher Education Deptt.*, (2000) 5 SCC 231 2000, wherein the decision of *Adhiniyam Educational & Research Institute (supra)* was followed and it was held that in view of Section 10 of AICTE Act, 1987, the provisions of Mahatma Gandhi University Act or Statutes requiring obtaining 'views' of the State government is not the same as obtaining 'approval', and if obtaining 'views' is treated to be the same as obtaining 'approval', then it would be repugnant to Section 10 of AICTE Act and hence



void. It was also held that the State government cannot rely upon its State policy for not granting approval. On similar grounds, reliance has also been placed on several other judgments of Hon'ble Supreme Court, wherein the aforementioned decisions had been followed.

63. This Court has carefully reviewed the case laws filed on record by the petitioner-Institute, and has given its thoughtful consideration to the principles of law laid down in these cases.

64. This Court notes that in the case of *Adhiniyam Educational & Research Institute (supra)*, relied upon by the petitioner, the Hon'ble Supreme Court was dealing with the issue as to whether after coming into force of AICTE Act, the State Governments had the power to grant and withdraw permission to 'start' a technical institute. It was held that the State government had no power to cancel the permission granted to the Trust to start the College, and that it was required to be cancelled under the AICTE Act. The present case, however, is distinguishable on the facts as this Court is not concerned with the approval to start a technical institute. Further, in the said case, the Hon'ble Supreme Court was of the view that the argument that State can prescribe higher standards than those of AICTE cannot be accepted.

65. However, the decision in case of *Adhiniyam Educational & Research Institute (supra)* was later clarified by the Constitution Bench of the Hon'ble Supreme Court in case of *Preeti Srivastava v. State of M.P., (1999) 7 SCC 120* wherein it was observed that while prescribing criteria for admission in institutes for higher education, the State cannot adversely affect the standards laid down by Union of



India, but there can be rules which are consistent with or do not affect adversely the standards of education prescribed by the Union such as in a case where State may, for admission, lay down qualifications in addition to those prescribed by the Union. A Three-Judge Bench of the Hon'ble Supreme Court thereafter, in case of state of *State of Tamil Nadu v. S.V. Bratheep*, (2004) 4 SCC 513, also clarified that if a higher minimum is prescribed by the State government than what has been prescribed by AICTE, it cannot be said that in any manner the same is adverse to the standards fixed by AICTE. It is further to be noted that in view of these decisions, the Hon'ble Supreme Court in case of *Visveswaraiah Technological University v. Krishnendu Halder*, (2011) 4 SCC 606 clarified that the observations in case of *Adhiniyam Educational & Research Institute (supra)* regarding State not permitted for setting additional qualifications for minimum standard was not a good law, and thus, to this extent, the judgment was overruled.

66. As far as decision in case of *Jaya Gokul Educational Trust (supra)*, relied upon by the petitioner, is concerned, the Hon'ble Supreme Court in this case was dealing with the issue as to whether the State government, as a matter of policy, can decline to grant approval for the establishment of a new engineering college in view of the perception of the government that opening of new college will not be in interest of the students and employment. In that respect, it was held by the Hon'ble Supreme Court that the provisions of the Kerala University First Statute merely required the University to obtain the 'views' of State government and it could not be



characterised as requiring the ‘approval’ of the State government and thus, there was no requirement for obtaining the ‘approval’ of State government and even if there was one, it would be repugnant to AICTE Act since it covers the field of Grant of Approval. The said decision, however, is not applicable to the facts of the present case.

67. At this juncture, it will be pertinent to take note of the decision in case of *Jawaharlal Nehru Technological University Registrar v. Sangam Laxmi Bai Vidyapeet*, (2019) 17 SCC 729. The Hon’ble Supreme Court in this case was concerned with the issue as to whether a University is bound to give ‘NOC’ for opening an educational institution or for a new course, irrespective of educational needs of the locality under its jurisdiction. The Court, while analysing Section 20 of the Telangana Education Act and Section 10 of the AICTE Act, held that the provisions of Telangana Education Act are not repugnant to those of AICTE Act, and if there are more colleges in a particular area, the State would be justified in not granting permission to one more college in the same area. It was also held that the provisions of the State act enables universities to grant NOC after considering the local requirement and since no guidelines in this regard had been framed by AICTE under Section 10 of AICTE Act, the refusal to grant such NOC after considering local requirements cannot be said to be an exercise of power against the norms fixed by AICTE and, therefore, no case for repugnancy arises. In conclusion, it was held that the policy decision of the State government in question could not be held to be illegal or arbitrary in any manner or in any case repugnant to the provisions of AICTE Act,



1987.

68. Further, **to settle the controversy in this case**, this Court deems it appropriate to refer to the decision authored by a Three-Judge Bench of the Hon'ble Supreme Court in case of *A.P.J. Abdul Kalam Technological University v. Jai Bharat College of Management and Engineering Technology (2021) 2 SCC 564*. The issue in question before the Hon'ble Supreme Court in this case was, to an extent, similar to the issue raised in the case at hand.

69. In the aforesaid case, the respondent College was an institute offering B.Tech. courses with an annual permitted intake of 60 students. The said College had applied for seeking approval of AICTE for starting a new course in 'Artificial Intelligence and Data Science' with permitted annual intake of 60 students and it simultaneously had submitted its application for affiliation to the appellant University also. In the meanwhile, a study had been taken by some academic experts who had opined that there was a steady decline in the actual intake of students in self-financing engineering colleges and based on the same, a government order had been issued, following which, the Syndicate of the appellant University had resolved to fix some norms for the grant of affiliation to new programs. On the basis of such norms set by the University, the concerned College had approached the Hon'ble High Court of Kerala, challenging the resolution of Syndicate of University laying down certain norms. In the meanwhile, the Syndicate had modified some of its norms and had resolved that affiliation can be granted to new programs, subject to satisfaction of following criteria: (i) more



than 50% pass for the outgoing students at the time of application for affiliation; (ii) most recent academic audit overall score of “Good”, and (iii) three years average intake of more than 50% of the sanctioned intake. These norms set by the University were upheld by the Single Bench of Hon’ble High Court of Kerala and the said decision was thereafter challenged before the Division Bench wherein the decision of Single Bench was reversed, and aggrieved by the same, the appellant University had approached the Hon’ble Supreme Court. In this case, after analysing the entire position of law, the Hon’ble Supreme Court observed that the Syndicate of the University which had set three norms before seeking affiliation for additional courses was within the power flowing from the Act of the University. Most importantly, it was observed by the Hon’ble Supreme Court that the norms which the Colleges have objected to, merely seek to ensure that at least 50% of the outgoing students had passed their respective courses and further that there was an actual intake of more than 50% of the sanctioned intake in the preceding three years on an average, which in the opinion of the Hon’ble Supreme Court, were valid and reasonable norms set by the University. Further, deliberating upon the issue revolving around the role of appellant University vis-a-vis AICTE, the Hon’ble Supreme Court observed that though it is not open to the universities to dilute the norms and standards prescribed by AICTE, it is always open to universities to prescribe enhanced norms. It was also observed that AICTE was not a superpower with a devastating role undermining the status, authority and autonomous functioning of the universities



in areas and spheres assigned to them. It was further noted that even the State government can prescribe higher standards than those prescribed by AICTE, as observed by the Three-judge Bench of Hon'ble Supreme Court in case of *S.V. Bratheep (supra)*. In this case, the Hon'ble Supreme Court had also differentiated the judgment in case of *Jaya Gokul Educational Trust (supra)*, which was relied upon by the petitioner-Institute in the present case before this Court. The Hon'ble Supreme Court also in, paragraph 54, observed that AICTE had filed the counter-affidavit supporting the case of respondent College therein and branding the fixation of additional norms and conditions by the University as unwarranted. In conclusion, it was observed that no State university can afford to have a laid-back attitude and when their own performance is being measured by international standards, the power of universities to prescribe enhanced norms and standards cannot be doubted. The relevant portion of this judgment is extracted hereunder:

“29. In the case on hand, the Syndicate of the University comprised of nine persons, including the Vice Chancellor, the Principal Secretary to the Higher Education Department of the Government of Kerala, the Director of Technical Education and a few academicians. All that the Syndicate wanted from the Colleges seeking affiliation for additional courses, was the fulfillment of just three simple criteria namely:

- (i) more than 50% pass for the outgoing students at the time of application for affiliation;
- (ii) most recent academic audit overall score of “Good”; and
- (iii) three years average intake of more than 50% of the sanctioned intake.**

30. As we have seen earlier, the power to lay down norms and standards and the power to affiliate to itself the Colleges, flow out of clause (iii) and (iv) of Section 8. This power is



exercisable by University in accordance with the provisions of the Act, the Statutes, Ordinances and Regulations. It is the very same Section 8 which confers power upon the University to make Statutes, Ordinances and Regulations, under clause (xxvi).

37. When the Statutes have not prescribed any conditions for affiliation but have left it to the Syndicate to take care of matters relating to affiliation, the function of the Syndicate to lay down norms and standards by virtue of the powers conferred by Section 30(2), is made free of any fetters.

38. Therefore, the norms prescribed by the Syndicate in its meeting held on 24.06.2020 under the Chairmanship of the Vice Chancellor could not have been taken exception to. After all, the norms which the Colleges have objected to, merely seek to ensure that at least 50% of the outgoing students had passed their respective courses and that the Institution should have the most recent academic audit overall score of “Good”, **apart from having an actual intake of more than 50% of the sanctioned intake in the preceding three years on an average. We fail to understand how colleges can demand affiliation for creating additional courses, when the pass percentage of outgoing students is less than 50% and the Colleges could not even have an average intake of more than 50% of the sanctioned intake in the preceding three years.**

39. Therefore, we are of the view that the **High Court was in error in holding on the first issue that the resolutions passed by the Syndicate prescribing norms and standards for the grant of affiliation for additional courses, are ultra vires the Act.**

40. Let us now take up the second issue revolving around the role of the appellant-University vis-a-vis AICTE. A little elaboration may be necessary as this issue keeps recurring very often.

46. **The law is now fairly well settled that while it is not open to the Universities to dilute the norms and standards prescribed by AICTE, it is always open to the Universities to prescribe enhanced norms.** As regards the role of the Universities vis-à-vis the AICTE, this Court held in *Bharathidasan University and Another vs. All India Council for Technical Education and Others*, that AICTE is not a super power with a devastating role undermining the status, authority



and autonomous functioning of the Universities in areas and spheres assigned to them. This view was followed in *Association of Management of Private Colleges vs. All India Council for Technical Education and Others*.

54. Quite **unfortunately the AICTE has filed a counter affidavit before this Court supporting the case of the first Respondent College and branding the fixation of additional norms and conditions by the University as unwarranted.** Such a stand on the part of the AICTE has compelled us to take note of certain developments that have taken place after 2012 on the AICTE front.

58. In such circumstances, we are of the considered view that the view taken by the Kerala High Court in paragraphs 33 to 35 of the impugned judgment on issue no.2, is unsustainable. **At the cost of repetition, we point out that while universities cannot dilute the standards prescribed by AICTE, they certainly have the power to stipulate enhanced norms and standards.”**

(Emphasis supplied)

70. Thus, in conclusion, the resolution of the Syndicate of University in case of *A.P.J. Abdul Kalam Technological University (supra)*, wherein norms such as having 50% actual intake of the sanctioned intake strength in preceding three years had been prescribed as a condition precedent for grant of affiliation for additional courses, was upheld by the Three-judge Bench of the Hon’ble Supreme Court.

Additional Minimum Standards Set by Policy Guidelines of 2016

71. Having taken note of the judicial precedents on the issue in question, this Court is of the opinion that to hold that a State law or a State policy is repugnant to the Central law i.e. AICTE Act, 1987 and its Regulations in this case, this Court will have to arrive at a



conclusion that the norms set by the State law or policy are contrary and against the norms which have been set by the AICTE.

72. However, in this regard, firstly, it is to be noted that Section 10 of AICTE Act, 1987 prescribes several functions of the Council, one of which i.e. clause (k) pertains to granting approval for starting new technical institutions and for introduction of new courses or programs, however, the same does not specifically include granting permission for increase in intake in the existing courses. This area, however, is covered by the AICTE Regulations 2020 and the Approval Process Handbook, which provide the procedure and the norms to be followed by AICTE for the purpose of granting extension of approval *qua* increase in intake for any existing course. A perusal of the AICTE's Approval Process Handbook and its Clause 2.6 though reveals as to how the inspections are to be carried out and approval is to be granted by the AICTE for increase in intake, **there is no specific requirement or norm prescribed in the Handbook** of AICTE which deals with criteria such as an institute having some minimum percentage of intake in the previous academic year(s) for getting approval for increase in intake in the subsequent academic year. At the cost of repetition, it is to be noted that Clause 2.6 of Approval Process Handbook, pertaining to 'Increase in Seats/Additional Course(s)' mandates obtaining NOC, if applicable, from the State Government. The State's policy i.e. Policy Guidelines of 2016, framed for giving effect to Statute 24 of the GGSIP University Act, 1998, provides an '**additional minimum standard**' which is to be fulfilled by an institute, affiliated to the University,



before the State Government issues in NOC for increase in intake. This additional minimum standard is that the additional intake in a program will be allowed in the Institute only if the admission in the same program during the last two academic years in the Institute is more than 75%, and thus, NOC is issued by the State Government subject to fulfillment of this criteria.

73. The **rationale** behind this additional minimum standard, as informed to this Court by learned counsel appearing on behalf of respondent nos. 1 and 2, is that two years is the minimum period required to judge the performance of an institute on various grounds, such as performance of the students, which is also based upon the quality of the teaching faculty, the infrastructure provided by the institute, etc., as well as the feedback/satisfaction of the students/teachers.

74. **Thus**, the present case is not a case of repugnancy between the State law and Central law, but a case of additional or higher minimum standard set by the State, in a field where no specific requirement has been laid down by the AICTE in its Regulations or Approval Process Handbook. Further, guided by the observations and law laid down by the Hon'ble Apex Court in case of *A.P.J. Abdul Kalam Technological University (supra)*, this additional minimum standard set by the State cannot be held to be ultra vires the AICTE Act, for it is neither in direct contravention to any of the provisions of the Act or Regulations framed thereunder nor does it adversely affects the standards of higher/technical education set by the AICTE.



CONCLUSION

75. To summarize, this Court's decision can be encapsulated in the following points:

- i. The AICTE Regulations of 2020 clearly mandate that any increase in intake of seats at technical institutions requires compliance with the procedures outlined in the AICTE Approval Process Handbook, including the crucial requirement to obtain an NOC from the affiliating university, state government, or relevant authority.
- ii. The Approval Process Handbook of AICTE clearly stipulates that institutes must comply with relevant Central, State, and Local Laws, as well as the norms of other regulatory bodies, while also securing an NOC from the affiliating University and State government (if applicable) before the academic session begins, when seeking an increase in intake.
- iii. Securing an NOC from the State Government i.e. GNCTD is a fundamental requirement for any college or institution aiming to affiliate with GGSIP University and enjoy its privileges, as per Statute 24 of University.
- iv. Policy Guidelines of 2016, framed by GNCTD *qua* issuance of NOC to institutes affiliated to GGSIP University, by virtue of Clause 6.3 make it clear that any additional intake in an ongoing program is contingent upon the program's prior performance, specifically requiring that the admission rate in the same program must have exceeded 75% in each of the last two academic years.



- v. The petitioner-Institute cannot claim non-adherence to Clause 6.3 of the Policy Guidelines of 2016, as it has consistently followed these guidelines over the years, and also affirmed its compliance through an Affidavit submitted to the University alongwith the application seeking affiliation for academic year 2024-25.
- vi. The State's policy requiring a minimum 75% intake for two consecutive years before granting approval for increased intake does not conflict with or is not repugnant to the AICTE Act, 1987 or its Regulations, as it sets an additional minimum standard where the AICTE has no specific norm or standard prescribed.

76. However, **before parting with this case**, this Court acknowledges the fact that AICTE, which is a statutory body established under AICTE Act, 1987, and the Universities such as respondent no. 3 University in the present case, should act in tandem with each other to achieve the ultimate goal of promoting higher education and achieving co-ordinated development of the technical education system throughout the country. This Court is constrained to note that though the State Government, in its wisdom, has prescribed the policy of taking into consideration the rate of admission in the previous two academic years as a benchmark for considering request for increase in subsequent academic year, the same, however, is a general guideline governing each and every program. In this Court's opinion, this policy guideline fails to take into account the changing needs of the society and the upcoming new courses such as the one



which was being offered by the petitioner-Institute i.e. B.Tech (Electronics Engineering- VLSI Design & Technology). In this regard, the AICTE had also issued a circular dated 21.04.2022 to all the Technical Universities and Deans/Principals of AICTE approved institutions, wherein it was mentioned that the aspirations of India to set-up semiconductors and display manufacturing ecosystem would require market-ready talent pool in the field of semiconductors and display which ultimately would require a clear roadmap of capacity building, for which new courses were being introduced such as B.Tech (Electronics Engineering- VLSI Design & Technology).

77. **One also has to look at the predicament of the petitioner institute.** The Policy, specifically Clause 6.3 of the Policy Guidelines of the State Government, does not distinguish between cases where an increase in intake is sought for a long-established course and cases where a new course has been introduced and, due to its demand, the institute wishes to increase its intake in the next academic year itself. In simpler terms, even for new courses, there is a mandatory lock-in period of two years before an institute can obtain an NOC from the State government for an increase in intake.

78. Given **the emerging areas and fields in technical education, this Court is of the opinion** that it may be desirable for the GGSIP University and the State Government to consider these circumstances.

79. Having observed so, for the reasons summed up in preceding discussion, this Court finds no ground to grant relief to the petitioner-Institute as has been prayed for.



80. In view thereof, the present petition is dismissed along with pending application if any. There shall be no order as to costs.

81. The judgment be uploaded on the website forthwith.

SWARANA KANTA SHARMA, J

AUGUST 17, 2024/at