
(1992) 02 RAJ CK 0025

In the Rajasthan High Court

Case No : Civil Writ Petition No's. 89 and 3532 of 1990 and 2715 of 1991

Atteque Ali

APPELLANT

Vs

Zubberiya Tibbiya College and Others

RESPONDENT

Date of Decision : 10-02-1992

Acts Referred:

Constitution of India, 1950 — Article 220, 311

Citation : (1992) 1 WLN 211

Hon'ble Judges : B.R. Arora, J

Bench : Single Bench

Judgement

B.R. Arora, J.—These three writ petitions relate to the functioning, management and affiliation of Zubberiya Tibbiya College, Jodhpur, and raise a common question of fact and law and, therefore, they are being decided by this common judgment. With an object to establish an institution to impart education in Yunani Medicines and to treat the patients by Yunani methods of medicines, Zubberiya Tibbiya Trust, Jodhpur, was created, which was registered on February 6, 1980. The Trust, also, established and started a college, known as Zubberiya Tibbiya College, Jodhpur, with a view to imparting knowledge of education in Yunani Medicines. Abdul Rashid and Mohammed Ramjan were the two Authors of the Trust. By the said deed of Trust, Maulvi Astfaaq Hussain, Abdul Rashid, Maulvi Sayyed Hussain Bukhari, Mohammed Umar and Mohammed Ramjan Kadri were appointed as the Trustees. The trustees got the Zubberiya Tibbiya College affiliated with the Board of Indian Medicines, Rajasthan Jaipur, and after the recognition, granted to the College by the Board of Indian Medicines, the Central Government sanctioned a sum of Rs. 1,60,000/- to the college. After the grant of the affiliation/ recognition by the Board of Indian Medicines, certain complaints were received by the Board against the College. Those complaints, received against the functioning of the College, were considered by the Board and the Board took a decision to cancel the affiliation/recognition granted to the College. This decision was communicated to the Principal, Zubberiya Tibbiya College, Jodhpur, vide letter dated February 28, 1989. The affiliation/recognition granted

to the college was cancelled on the ground that the admissions to the students are being given by charging capitation fee and the admissions are made in an irregular manner and the selections have not been made in accordance with the "Yunani Pariksha Adhiniyam, 1980. It was, also, pointed-out in the letter that even the orders of the Board have been flouted and no reply to the letters of the Board was given by the College and/or the Trusty Even the notice to show cause remained unanswered and whatever reply was given, was not found satisfactory. The Board, therefore, withdrew the recognition with immediate effect and cancelled the admissions given by the College for the academic session 1989. Dissatisfied with the decision of the Board of Indian Medicines, Rajasthan, Jaipur, withdrawing the affiliation/recognition, the Trust preferred an appeal before the State Government and the State Government, vide its order dated July 4,1989, dismissed the appeal filed by the Trust and held that the College has violated the decision of the government regarding admissions and, therefore, the appeal cannot be accepted. While dismissing the appeal, the State Government advised the Trust to seek affiliation from the University of Rajasthan. The Trust thereafter moved an application before the University of Rajasthan for the grant of affiliation for Pre-Tibb and B.U.M.S. Courses. After the receipt of the application, an Inspection Committee was appointed by the University of Rajasthan and on the basis of the recommendation of the Inspection Committee, provisional affiliation to Zubberiya Tibbiya College for Pre-Tibb and B.U.M.S. Courses was granted for" starting Pre-Tibb Examination, 1990, B.U.M.S.--First Year Examination, 1991, II Year Examination, 1992, III Year Examination, 1993, IV Year Examination, 1994 and Final Year Examination 1995, subject to fulfilment of the conditions recommended by the Inspector of the University of Rajasthan and the recommendation of the Central Council of Indian Medicine, if any, and with the further condition that no capitation fee will be charged by the college and if it does so, no further extension of provisional affiliation will be granted. The conditions of the affiliation, suggested by the University of Rajasthan, are as under:

- (1) 60 bedded hospital be converted in 90 bedded hospital.
- (2) Botanical garden and laboratory (Pharmacy) be constructed.
- (3) Own College building be constructed.
- (4) Endowment of fund of seven lakh rupees be provided.
- (5) Own postal hostel be constructed and provided for the residence of students coming from out-side.
- (6) Sufficient own play-grounds be provided for games etc.
- (7) One qualified PTI (Academic as well as Professional) be appointed.
- (8) Qualified Librarian be appointed.
- (9). Well-furnished library reading room be provided.

(10) Additional recurring and non-recurring grants be provided for purchase of library books.

(11) Sufficient furniture, equipment and apparatus etc. be provided.

(12) Well-equipped laboratories be provided.

The University, also, directed the Principal to apply for extension of provisional affiliation for the year 1989-90 session alongwith required fee of Rs. 1 500/- and with the report of fulfilment of the conditions, through the Secretary, Medical and Health Department, Government of Rajasthan, Jaipur, so as to reach in the office before December 31, 1989. An application for the extension of affiliation for the year 1990-91 was made on December 21, 1989. After the grant of the affiliation by the University of Rajasthan, the college gave admissions to 30 students. A further supplementary list was issued by the College further admitting 14 students. One Atteque Ali, who was not admitted in the college, and who was desirous for admission in the Zuberiya Tibbiya College, Jodhpur, filed a writ petition before this court, which was registered as S.B.Civil Writ Petition No. 89 of 1990 (Atteque Ali v. Zuberiya Tibbiya College and 46 Ors.). In this writ petition, the notice to show cause were issued to the respondents. The petitioner, in this Writ petition, challenges the admissions made in the Pre-Tibb and B.U.M.S. courses on the ground that admissions have been made secretly and in a clandestine manner and contrary to the Rules, framed by the University or the Board for the grant of admissions and no publicity was given and even the applications were not invited and those persons, whose admission. This petition challenging the admission for the academic session 1989-90, was under challenge and the Principal, Zuberiya Tibbiya College again issued a notice in the various news-papers for inviting applications for admissions in Pre-Tibb and B.U.M.S. Courses for the Academic session 1990-91. As certain irregularities were committed by the Principal of the College with the aid of Abdul Rasheed and the admissions were given in a clandestine manner and, therefore, the Board of Trustees, in its meeting held on July 20, 1990, passed a Resolution for staying the admission of the students in the college as the necessary conditions set-up by the University have not been complied-with and the Trust was not able to fulfil its obligations. The result of the meeting was conveyed to the Principal, but the Principal did not comply-with the directions given by the Board of the Trustees and continued with the consideration of the applications of various students for providing them admissions to Pre-Tibb and B.U.M.S. courses. As the Principal and Abdul Rasheed did not desist from the process of admitting the students, the Trust, therefore, filed a writ petition, which was registered as S.B. Civil Writ Petition No. 3532 of 1990 (Zuberiya Tibbiya Trust, Jodhpur v. University of Rajasthan and Ors.), It was prayed in that writ petition that the respondents No. 2 and 3 may be restrained from granting admissions to B.U.M.S. Degree Courses for the term 1990-91 and they may further be directed not to grant admission till the conditions of affiliation are fulfilled. Notice to show cause was issued and the respondents were restrained from granting admission to the B.U.M.S. Degree

Courses for the term 1990-91. Respondent No. 1 was, also, restrained from granting the approval to the list of the said admissions, if prepared by the non-petitioner No. 2. This order was later on modified. The Trust as well as certain other persons made complaints to the State Government as well as to the University regarding the charging of the capitation fee from the various students for being admitted to the college as well as regarding certain other irregularities. These complaints were, also, published in the various local news- papers. After the receipt of the various complaints, the Vice Chancellor of the University of Rajasthan, appointed a Committee under the Convenorship of Dr. V.L. Verma, Dean, Faculty of Law, to enquire into the complaints received from various quarters against the Zuberiya Tibbiya College, Jodhpur. This Committee consisted of Prof. V.M. Bhandari-Dean, Faculty of Medicines and Principal & Controller, S.M.S. Medical College, Jaipur, Prof. L.N. Sharma, Dean, Faculty of Aayurved, National Institute of Aayurved, Jaipur, and Shri M.P. Jain, Deputy Registrar (Academic). This Committee enquired into the matter and after holding an enquiry and giving an opportunity of hearing to the concerned authorities of the College, submitted its report to the Board of Inspection and the Board of Inspection considered this report and vide its Resolution No. 1 dated April 22, 1991, recommended that the affiliation of the Zuberiya Tibbiya College, Jodhpur, for the I-Year B.U.M.S. Course be withdrawn -with effect from the academic session 1990-91, and secondly, the State Government be appraised about the present situation of the College as indicated from the report of the Committee. The Syndicate of the University of Rajasthan, Jaipur, by its Resolution No. 10 dated April 29, 1991, approved the recommendations of the Board of Inspection and withdrew the affiliation of the Zuberiya Tibbiya College, Jodhpur, with effect from the academic session 1990-91. This decision of the Syndicate was communicated to the Principal, Zuberiya Tibbiya College, Jodhpur, by the letter of the Registrar dated May 15, 1991. The University, also, wrote a letter to the State Government intimating its decision and, also, requesting the State Government to appoint an Administrator for the above college to work in place of the Management Committee of the College. The Principal, Zuberiya Tibbiya College, Jodhpur, and Abdul Rasheed, Secretary, Zuberiya Tibbiya College, Jodhpur, filed writ petition No. 271 5 of 1 991 [Principal, Zuberiya Tibbiya College, Jodhpur, and Anr. v. University of Rajasthan and Ors.) and prayer that the letter dated May 15, 1991, and the Resolution of the Syndicate dated April 29, 1991, may be quashed and set-aside. A further prayer was made for quashing the order Annexure. 2. This is how that these three writ petitions have been filed, which came-up for consideration before me. All these three writ petitions have been contested by the respective parties.

2. Heard learned Counsel for the parties.

It is contended by the learned Counsel for the Principal, Zuberiya Tibbiya College, Jodhpur, and Abdul Rasheed that the Vice-Chancellor of the University of Rajasthan has no jurisdiction to appoint a Committee to enquire into the matter and, therefore, the enquiry made by this committee is wholly without jurisdiction

and the decision of the Committee, based on this report, deserves to be quashed and set-aside as the powers for appointing the Committee vests in the Syndicate and it is only the Syndicate which could have appointed the committee. The next contention raised by the learned Counsel for the petitioners in this writ petition is that once the affiliation has been granted and the process of admission has been started, the affiliation, granted to the College, cannot be withdrawn and there is no material on record, on the basis of which the affiliation could have been withdrawn. It is, also, contended by the learned Counsel for the petitioners that before passing this order for withdrawing the affiliation, the report of the enquiry Committee was not supplied to them and, therefore, the order of withdrawing the affiliation is wholly without jurisdiction. Lastly it is contended that the enquiry made by the Committee was made in a flagrant disregard to the principle on natural justice. Mr. N.N. Mathur, appearing on behalf of the University, on the other hand, has supported the order passed by the University withdrawing the affiliation to the Zubberiya Tibbiya College. According to Mr. Mathur, in the case of emergency, the Vice Chancellor was competent to appoint the Enquiry Committee and he has rightly done so in the facts and circumstances of the case and the order, passed by the University, does not require any interference. Mr. P.C. Sharma, appearing on behalf of the Zubberiyas Tibbiya Trust as well as on behalf of Atteque Ali, has contended that the Principal of the college granted admission to 44 students in the academic session 1988-89 without inviting any fresh applications and even those candidates were given admissions, whose admissions were cancelled by the Medical Board. His further submission is that out of total 30 students, who were to be admitted, 25 students have been admitted, who belong to Jammu and Kashmir and Uttar Pradesh and only five candidates (students) have been taken from Rajasthan. His further case is that the Principal and Abdul Rasheed are in league and they took the capitation fees from the students taking admissions in the academic year 1988-89 and they, also, gave admissions in the academic session 1989-90 by charging capitation fee and, therefore, his case is that the admissions, given to the various students by the Principal in course should be cancelled. A preliminary objection has, also, been raised by Mr. P.C. Sharma that S.B. Civil Writ Petition No. 2715 of 1991 has been filed by the Principal and Abdul Rasheed, who have no authority under the Trust Deed to file the same and, therefore, the writ petition, filed by the Principal and Abdul Rasheed deserves to be dismissed as it is not maintainable. Mr. M. Mridul, appearing for the students (Respondents No. 4 to 47) in S.B. Civil Writ Petition No. 89 of 1990, has submitted that his clients were given admissions on December 12, 1989 and December 26, 1989 in the I year of B.U.M.S. Course and they are pursuing their studies upto now and, therefore, their admissions should not be cancelled.

3. I have considered the rival submissions made by the learned Counsel for the parties.

4. Before dealing with the writ petitions on merit, I would first like to consider the preliminary objection raised by Mr. P.C. Sharma regarding the maintainability

of S.B.Civil Writ Petition No. 2715 of 1991. The case of the petitioner is that as per Clause 9 of the Trust Deed, all suits and proceedings by and against the Trust has to be brought in the name of the Trust through two or more trustees. The case of Mr. M.R. Singhvi, on the other hand, is that all the correspondence was addressed to the Principal and the enquiry was, also, conducted against the Principal. The letter of affiliation, by which the affiliation was granted to the College, was, also, addressed to the Principal and, therefore, the Principal and Abdul Rasheed, who is the Secretary of the Trust, are, both, competent to file the present writ petition. It is not in dispute that all the correspondence, granting the affiliation, inviting application of extension of the affiliation and regarding enquiry were addressed to the Principal, but merely because the correspondence has been made in the hand of the Principal, it will not make him a person eligible to file the writ petition. It is not the Principal or Abdul Rasheed, who is the aggrieved person by the action of the University withdrawing the affiliation, but it is actually the Trust, which has started the college in order to promote the Yunani Medical Education and as per Clause 9 of the Trust Deed, all the suits and legal proceedings are to be brought in the name of the Trust through two or more trustees. Clause 9 of the Trust Deed reads as under:

(9) -All suits and legal proceedings by and against the Trust will be brought in the name of the Trust through two or more Trustees.

5. S.B.Civil Writ Petition No. . 2715 of 1991 has neither been filed on the name of the Trust nor has it been filed by two or more of the Trustees, but it has been filed by the Principal and Abdul Rasheed and, the Trust, on the other hand, has filed a writ petition, challenging the action of the Principal and Abdul Rasheed in continuing with the admission of the students to the Course of B.U.M.S. I-year. The Trust itself come with the specific case that the Conditions imposed by the University for the extension of the affiliation have not been complied-with and until and unless those conditions are complied with, no admission can be given to the students in B.U.M.S. Course. It is only those persons whose rights are directly affected or infringed, who can challenge the order affecting their rights. But in the present case, it is the rights of the Trust which are being affected and not the rights of the Principal and/or Abdul Rasheed, alleged to be the Secretary of the Trust, are, in law, separate entitles and are, thus, not entitled to file the writ petition challenging the action of the University withdrawing the affiliation. The writ petition, filed by the Principal and Abdul Rasheed, thus, in my view, is not maintainable and deserves to be dismissed on this score alone. Though the writ petition No. 2715 of 1991, filed by the Principal and Abdul Rasheed is not maintainable and deserves to be dismissed, but since the other contentions have, also, been raised by the learned Counsel for the parties, therefore, I propose to decide the writ petition on merit, also.

6. The first question, which requires consideration is whether the Vice Chancellor of the Rajasthan University was competent to appoint the committee to enquire into the matter relating to the extension of the affiliation to the Zubberiya

Tibbiya College. According to the learned Counsel for the petitioner, it is only the Syndicate which can hold the enquiry in such matters and can appoint the Committee to investigate the case, His further submission is that when a particular mode for holding an enquiry has been provided then the enquiry has to be made in that particular manner and the person, who has been authorised to hold the enquiry, can hold the enquiry and can appoint the Enquiry Committee. Prima facie, the submission made by the learned Counsel for the Principal appears to be reasonable. In the normal routine matter, the powers vest with the Syndicate to order for the enquiry and to appoint the enquiry committee. Statute 37 of the University of Rajasthan Statutes deals with the inspection and affiliation/ recognition of the colleges for courses of studies. According to Sub-clause (5) of Statute 37, the Syndicate has powers to cause an enquiry to be made in respect of any matter connected with the college. Sub-clause (6) of statute 37 deals with the powers of the Syndicate to advice the college after the receipt of the report of the Inspection Committee or the Enquiry Committee made under Sub-clauses [4], (5) and Sub-clause [7] of Statute 37. gives powers to the Syndicate to withdraw the recognition or affiliation granted to the College. Section 13 of the Act deals with the powers of the Vice Chancellor and Sub-section (4) of Section 13 deals with the emergency powers of the Vice-Chancellor. According to Sub-section (4) of Section 13, the Vice-Chancellor, in the case of emergency, if the circumstances, in his opinion, require any immediate action then he can take such action and report, as soon as may, thereafter, his action to the officer, authority or other body, who has ordinarily to deal with the matter. The affiliation/recognition is the matter, which normally is to be considered by the Syndicate under Statute 37, but in the present case, as there were number of complaints received against the Management regarding the admissions being given to the students after getting capitation fee and certain other irregularities were, also, reported to the University and even the Trust itself made complaints to the University regarding the appalling conditions prevalent in the institution and, therefore, the Vice-Chancellor of the University of Rajasthan rightly acted under its emergency powers, vested in him u/s 13(4) of the University of Rajasthan Act. The decision of the Vice-Chancellor regarding the existence of emergency and the fact that the immediate action is required to be taken, cannot be called in question. The circumstances of the present case show that the Vice Chancellor was fully satisfied with respect to taking of the action in the matter and he rightly took the action in the matter and appointed the Committee to enquire into the matter. Even after the enquiry was made by the Enquiry Committee, the matter was referred to the Board of Inspection, which, also, approved the recommendations of the Enquiry committee and the same was, therefore, approved by the Syndicate and the Syndicate withdrew the recognition/affiliation and refused to grant extension/affiliation to the College. The action for withdrawing the affiliation was, thus, taken by the Syndicate and not by the Vice-Chancellor or the Inspection Committee and, therefore, this contention, raised by Mr. Singhvi, deserves to be rejected.

7. The next contention, raised by the learned Counsel for the petitioner is that the enquiry, held by the Inspection Committee was not proper and the principle of natural justice was not followed. The case of Mr. Singhvi, on this point/is that nobody appeared in the enquiry and only the news-papers" cuttings were relied upon by the Enquiry committee. His case, further, is that the enquiry proceeded with the belief that the petitioner is guilty. His further case is that the news-papers" cuttings cannot, be admitted in evidence and they cannot form any proof of the same and for sustaining the findings, there must be some evidence and mere filing of the news-papers" cuttings does not amount to proof of them unless these are either admitted by the other side or proved by some evidence and it is only after that, that they can be read in evidence, otherwise they cannot be read in evidence. His further case is that even on the basis of the enquiry, no case is made-out for withdrawing the affiliation to the College.

8. I have considered the submissions made by the learned Counsel for the Petitioner. The Enquiry Committee, in the present case, was holding an enquiry just to satisfy itself whether the conditions of affiliation have been complied-with and whether the college is in a position to provide education in the Yunani Medicines upto the standard which is required from a doctor and the enquiry was not meant as that of an enquiry in the Courts of law in the Criminal matters or in the civil matters or in a disciplinary enquiry in the service matters and it would not be reasonable to import into such enquiry all the considerations which govern the trial in the Courts of Law or of holding an enquiry in service matters for imposing punishment. It is open to the University or the educational institution/ authority in such a matter to invoke its own procedure for holding an enquiry to satisfy itself whether a particular college may be given recognition or affiliation and whether it fulfils the requirements prescribed by the University. The Courts in the case of educational institution and in such matters cannot apply the same scale which is applied in the case of trials before the courts of law. The enquiry committee in such matter is only a fact-finding body and the scope of the enquiry is confined only to the assessment by the Enquiry Committee regarding the fulfilment of the Conditions of Affiliation. The only right that the institution or the trust can expect in such matters is that the assessment of the Enquiry Committee must be based on the performance on the existing circumstances and conditions and must not be influenced by bias and malafide and if these conditions are complied with, the institution cannot question the assessment on the ground that the institution was not afforded any opportunity to be heard. While in the present case, the enquiry was held by the Committee after giving notice and after examining the Principal. The Enquiry Committee submitted its report after the enquiry was completed and the Board of Inspection, vide its Resolution No. 1 dated April 22,1991, approved the same and. the Syndicate, vide its Resolution No. 10 dated April 29, 1991, also, approved the recommendations of the Board of Inspection. It is not the Principal, who was kept in the dock or the enquiry was made regarding punishing him, but the matter for consideration before the Enquiry Committee was whether the grant

extension affiliation to the Zubberiya Tibbiya College, Jbdhpur, and during the course of enquiry, the Enquiry Committee recorded the statement of the Principal of the College and, also, collected facts from other sources and after holding the enquiry, submitted its report with its recommendation to the Board of Inspection, which recommended for the withdrawal of the affiliation and thereafter the matter was considered by the Syndicate, which approved the same. When the University was of the opinion that no extension can be granted as the Conditions of Affiliation are not fulfilled, then in such matter, no interference is called-for.

9. The second limb of the arguments of the learned Counsel for the petitioner on this ground is that there was no substance for withholding the affiliation. This contention, raised by the learned Counsel for the petitioner is, also, without force. There is sufficient material on record which shows that the college was not complying with the Conditions of Affiliation. It has been admitted in the reply, filed by the Principal and Abdul Rasheed that the Trust has no money to make payment of salary to the lecturers and the students were paying the salary of the staff out of the fund raised by them. It has, also, come in the reply that the college had no building and was running in a rented house. Regarding the hospital, in the reply, it has been mentioned that the hospital has been established in the building of J.K. Hotel, Jodhpur, which has been taken on rent. Some irregularities in the admissions were reported to the Medical Board, also, and it is only on the complaints, received against the college that the Board withdrew its recognition granted to the College. When the financial position of the college is such that it cannot pay the salary to the lecturers and the staff, the college has no building and is running in the rented premises and the hospital is, also, situated in a hotel, and the other conditions are not satisfied, therefore, the University was fully justified in not granting affiliation or extension of the same to Zubberiya Tibbiya College.

10. The next contention, raised by the learned Counsel for the Principal is that it was necessary for the University to supply a copy of the enquiry report before passing any order withdrawing the affiliation. In this respect, suffice it to say that initially the affiliation/recognition was granted by the University for one year only and the case for extension was to be considered thereafter if the conditions of affiliation are satisfied and it is not the case of the petitioner that all these conditions regarding the affiliation are being satisfied. On the contrary, the Principal has admitted in its reply that the salary of the staff is being paid by the students, who have contributed to that fund. The enquiry in the present case is not in the form of an enquiry in a criminal or civil case or in the case of imposing major punishment in the matter of service, which is governed by Article 311 of the Constitution of India. It is an enquiry to be conducted for the grant of affiliation and in such enquiry, the principle of natural justice nowhere requires that the report of the enquiry committee should be given to the petitioner. The principle of natural justice only requires that the party concerned should be given a notice regarding the enquiry and when impartial persons have been appointed in the Committee to enquire into the matter and who conducted the enquiry

fairly without any bias against the college and the charges were known to the institution, then there can be no prejudice of any principle of natural justice. Only one enquiry is envisaged in the present case while under Article 311 of the Constitution of India, two enquiries are envisaged and, therefore, the judgments, on which reliance has been placed by the learned Counsel for the Principal, are not applicable in the present case and the matter of education, where an educational standard has to be maintained and it is only the authorities concerned which are responsible for these matters and who are only competent to look-into the matter and decide the question regarding the grant of affiliation or recognition to a particular institution. They are experts in the matter and they alone can decide these question and this Court , exercising its powers under Article 220 of the Constitution of India is not supposed to interfere in such matters. In this view of the matter, I am of the opinion that it was not necessary for the Syndicate of the University to supply a copy of the enquiry report to the Principal before passing the order refusing to extend the affiliation/recognition or withdrawing the same.

11. The next contention of Mr. Singhvi is that once the process of admission started, affiliation could not have been withdrawn. In this respect, suffice it to say that initially the affiliation was granted only for one academic session and it is only on the application of the Trust for the extension of affiliation for another year that the matter was being enquired into and no extension was granted and if the University did not consider it proper to extend the affiliation then the University has not committed any mistake. It was necessary for the institution to have invited the applications for admissions only after the affiliation/recognition was extended and not before and if without the grant of affiliation the Principal invited the applications for admission then he has to blame himself and nobody other is responsible for his mistake. The University was fully competent to withdraw the recognition/affiliation in the present case.

12. Lastly, it was prayed by Mr. Singhvi for quashing the letter dated May 15,1991, written by the Registrar, University of Rajasthan to the Secretary to the Government of Rajasthan for appointing the Administrator in place of the Management committee of the college. In this respect, suffice it to say that the manner, in which the Management is being done and the admissions are given in the college, two of the founders of the Trust and litigating in the court and the Principal is acting in favour of one of the Trustees and looking to the financial position of the college as the college is not in a position even to make payment of the salary to the staff, I am of the opinion that the view expressed by the University appears to be justified and no interference of this Court in equitable jurisdiction is called- for, rather it will be in the interest of the students, who are studying there, and, also, it will be in the interest of the institution that some independent person may be allowed to take over the Management and to manage the affairs of the Institution.

13. In this view of the matter, I do not find any merit in S.B.Civil Writ Petition No.

2715 of 1991 [Principal, Zubberiya Tibbiya College and Anr. v. University of Rajasthan and Ors.] and the same is hereby dismissed.

14. Since I have not found any merit in S.B.Civil Writ petition No. 271 5 of 1991 and have dismissed the same, S.B. Civil Writ Petition No. 3532 of 1990 [Zubberiya Tibbiya Trust v. University of Rajasthan and Ors.], in which the petitioner has challenged the admission to the College for the academic session 1990-91 and the academic session has come to an end no approval was granted by the University to the affiliation and since S.B.Civil Writ Petition No. 2715 of 1991 has been dismissed, as such this writ petition is, also, dismissed as having become infructuous. .

15. Coming to S.B.Civil Writ Petition No. 89 of 1990 (Atteque Ali v. Zubberiya Tibbiya College and Ors.),. In this case it is admitted by the Principal and Abdul Rasheed in their reply that the Board of Indian Medicines, Rajasthan, Jaipur, withdrew its recommendation by its letter dated February 28,1989, with immediate effect and the University granted recognition/affiliation on November 6, 1989, and as the academic session had already started and no time wait left, therefore, no Notifications inviting applications, was published in the news- paper (by and only one notice was pasted on the Notice Board and the earlier applications, which were received by the College for Admission, were considered and the students were given admissions. It is not in dispute that the Board of Indian Medicines. Rajasthan, Jaipur, vide its order dated February 28, 1989, withdrew its recognition/affiliation to the Zubberiya Tibbiya College, as certain irregularities were committed by the College in granting admission to the students and the admissions were given without holding any examinations as required under the Yunani Pariksha Adhinyam, 1980, even the letters of the Board were not replied and the instructions given by the Board were not complied with and even the notice was given to the College why the recognition may not be cancelled and affiliation may not be withdrawn, but no sufficient cause was shown and, therefore, on the basis of the one illegalities and the irregularities committed in the admissions, the recognition/affiliation was withdrawn. Even the appeal filed by the College was dismissed by the State Government and it was held that the college has violated the decision of the State Government regarding policy. It is not in dispute that the admissions were given without inviting any applications and even those students were given admissions whose admissions were refused by the Board. In this view of the matter, the admissions given to respondents No. 4 to 47 were wholly illegal and deserves to be quashed. But in the facts and circumstance of the case, since the students were given admission in the year 1988-89 and they have completed their study for almost two years and it will be a great hardship to those students if the admissions of those students are cancelled and, therefore, taking a lenient view, I think it proper to allow the respondents No. 4 to 47 to continue their study and to complete their Course.

16. Inthersult,S.B.CivilWritPetitionNo.2715/1991 (Principal, Zubberiya Tibbiya

College and Anr. v. University of Rajasthan and Ors.] is dismissed with costs. S.B.Civil Writ Petition No. 3532 of 1989 (Zubberiya Tibbiya Trust, Jodhpur v. University of Rajasthan and Ors.) is dismissed as it has become infractions and SB. Civil Writ Petition No. 89 of 1990 (Atteque Ali v. Zubberiya Tibbiya College and Ors.) is disposed of, as mentioned above.