

(2019) 05 MAN CK 0015

In the Manipur High Court

Case No : Public Interest Litigation No. 49 Of 2018, Writ Petition (c) No. 327 Of 2019, 825, 1036, 1084 Of 2018

Chongtham Nimai Singh And Others

APPELLANT

Vs

Union Of India And Others

RESPONDENT

Date of Decision : 22-05-2019

Acts Referred:

Constitution Of India, 1950 — Article 14, 16, 32, 52, 53, 53(1), 54, 73(1), 74, 74(1), 77, 77(3), 162, 215, 226, 356
Manipur University Act, 2005 — Section 3(3), 4, 4(1), 7(A)(7), 9, 9(3), 12, 13, 13(1), 13(2), 13(3), 21, 30

Citation : (2019) 05 MAN CK 0015

Hon'ble Judges : Lanusungkum Jamir, J;Kh. Nobin Singh, J

Bench : Division Bench

Advocate : N. Jotendro, M.C. Linthoingambee, A. Mohendro, Ajay Pebam, Y. Nirmolchand, L. Raju, M. Hemchandra, N. Kumarjit, P. Tamphamani, H.S. Paonam, S. Gunabanta, S. Suresh, A. Mohendro, B.P. Sahu, S. Yaiskul, Th. Ibohal, Th. Modhu, N. Ibotombi, A. Sachikumar

Final Decision : Disposed Off/Allowed/Dismissed

Judgement

Kh. Nobin Singh, J

[1] Heard Shri N. Jotendro, learned Sr. Advocate assisted by Ms. M.C. Linthoingambee, Advocate appearing for the petitioners in PIL No.49 of 2018; Shri N. Kumarjit, learned Advocate General, Manipur assisted by Shri P. Tamphamani, Advocate for the State respondents, Shri H.S. Paonam, learned Sr. Advocate assisted by Shri S. Gunabanta, Advocate for the respondent No.2 in WP(C) No.825 of 2018; Shri M. Hemchandra, learned Sr. Advocate for the petitioners in WP(C) No.1084 of 2018 & 327 of 2019 and the respondent No.5 in PIL No.49 of 2018, Shri Y. Nirmolchand, learned Sr. Advocate assisted by Shri L. Raju, Advocate for the petitioner in W.P. (C) No. 1036 of 2018; Shri S. Suresh, learned ASG for the Union of India; Shri A. Mohendro, learned Advocate for the petitioner in WP(C) No.825 of 2018 and the respondent No.4 in PIL No.49 of

2018, Shri B.P. Sahu, learned Senior Advocate assisted by Shri S. Yaiskul, Advocate appearing for the Manipur University; Shri Th. Ibohal, Senior Advocate for the respondent No.6, MUTA in PIL; Shri Th. Modhu, the learned Advocate for the respondent No.8, MUSA in PIL; Shri N. Ibotombi, Senior Advocate for the Manipur University in WP(C) No.825 of 2018 and Shri A. Sashikumar, Advocate for the respondent No.7, MUSU.

[2] The above mentioned petitions namely writ petitions and the PILs, have arisen out of the same set of facts and therefore, the same are being disposed of by this common judgment and order. The said petitions have, indisputably and undoubtedly, arisen out of the problems plagued by the student's agitation in Manipur University for quite some time. A University is meant for the education of students and therefore, the interest of the students is paramount. The teachers and staff of the University are the stakeholders whose roles are indispensable for the smooth functioning of the University.

PIL No. 49 of 2018

[3.1] A PIL No.48 of 2018 was taken up by this Court pursuant to a letter dated 29-09-2018 submitted to the Hon'ble Chief Justice of this court by a journalist, Shri Hemantakumar Ningomba, the then Editor of Hueiyen Lanpao, a local daily (Manipuri Edition) for taking up appropriate action regarding the imbroglio of the Manipur University vis-a-vis the unwanted atmosphere in the institution whereby the academic careers of thousands of students were at stake. His letter dated 29-09-2018 reads as under:

"To

The Hon'ble the Chief Justice

High Court of Manipur

(Through the Registrar General, High Court of Manipur)

Sub:- Request for taking up appropriate action regarding the present imbroglio of Manipur University vis-à-vis the unwanted atmosphere presently enveloping the institution whereby academic careers of thousands of students are at stake.

Sir,

I, the undersigned am a concerned citizen of this country and a native of the State of Manipur. I am working as Editor of Hueiyen Lanpao News daily (Manipur Edition). It pains me to see the situation of thousands of students whose academic careers are at stake and thereby stand to lose a whole academic year besides the acute mental trauma they must be going through presently.

I submit to you, that without any doubt there are countless students who have become grist of the mills. And, I, on behalf of these voiceless student community, implore you take up any appropriate action to allay the fears and alleviate the hardships faced by them.

And for such act of kindness, the undersigned shall ever be obliged.

Dated, Imphal

29/09/2018

Yours sincerely,

(Hemantakumar Ningomba)

Khongman Okram Chuthek, P.O. Singjamei,

P.S. Irilbung, Imphal East District, Manipur.

Mobile No. 9856088733."

[3.2] While PIL No.48 of 2018 was pending, the instant PIL No.49 of 2018 came to be filed by Shri Chongtham Nimai Singh, a retired Lecturer of Johnstone Higher Secondary School, Imphal, at present, doing social work for the welfare of the State of Manipur. The prayers made in the said PIL No.49 of 2018 read as under:

"In view of the aforesaid facts and circumstances, it is therefore, prayed that Your Lodships may graciously be pleased to:-

(i) Issue rule and call for records;

(ii) Issue a Writ in the nature of mandamus or certiorari or quo-warranto or any other appropriate Writ of the like nature for direction to the Respondents to bring normalcy inside the campus of the Manipur University and its affiliated colleges under the said University within certain stipulated period coupled with a prayer for quashing and setting aside the impugned order dated 10/09/2018 as available at Annexure-A/14 issued by Professor Adya Prasad Pandey (AP Pandey in short) as illegal and without any authority of law in view of the order dated 3/9/2018 as available at Annexure-A/7 issued by the Registrar-in-Charge, Manipur University and also in view of the Office Memorandum dated 21/08/2018 issued by the Registrar-in-Charge, Manipur University pending final inquiry of the 2 (two) Members Inquiry Committee as per the Memorandum of Agreement dated 16/8/2018 signed amongst the Joint Secretary, MHRD, Government of India, Commissioner (Higher & Tech. Edn.), Govt. of Manipur, President, MUTA, MUSA & President, MUSU respectively and further direct the Respondents to appoint a Pro-V.C. as per the provisions of Schedule 4(1) of the Statutes of the Manipur University Act, 2005 till the inquiry proceedings are completed against the said AP Pandey;

(iii) In the interim, suspend or stay all the orders issued by the Private Respondent No. 4 (A). P. Pandey, V.C. of M.U.) during the period of his leave and also after his suspension as the same were issued by usurping his power including the appointment of Pro-V.C. namely K. Yugindro Singh dated 10/9/2018 as available at Annexure-A/14 to the writ petition pending final disposal of the instant so as to enable to bring normalcy inside the Manipur University campus;

Or,

(iv) Direct to appoint a fresh Pro-V.C. as per the Schedule 4(1) of the Statues of the Manipur University Act, 2005 so as to enable to bring normalcy inside the Manipur University campus;

-AND-

(v) Pass any order/orders or direction/directions which this Hon'ble Court may deem fit and proper to secure the ends of justice."

[3.3] Considering the fact that since these two PILs were closely related and ultimate end sought for was the normalcy of the situation in Manipur University, this Court vide its order dated 01-10-2018 directed that these two PILs should be clubbed together and merged. In order to avoid any multiplicity of orders passed by this court in these two PILs, PIL No.48 of 2018 stood merged with PIL No.49 of 2018 and accordingly, the petitioner in PIL No.48 of 2018 was co-opted with the petitioner in PIL No.49 of 2018. Similarly and for the same reason, the respondent Nos. 6 to 8 in PIL No.48 of 2018 were also made the respondents in PIL No.49 of 2018. Keeping in mind the fact that the management of the Manipur University would come within the purview of the University authorities and also the extraordinary situation which called for certain role to be played by the Court, this Court issued notice to the respondents.

[3.4] In the affidavit on behalf of the Manipur University, respondent No. 3 herein, the following suggestions have been made:

" 2. That, as directed by the Hon'ble High Court vive the order dated 01-10-2018 my suggestion to resolved the crisis being face by the Manipur University are as under :-

3. That, the Manipur University Teacher Association may be directed to co-operate the authorities of the University. Likewise, the Manipur University Staff Association may also be directed to co-operate the authorities of the University, so that the University restore its normalcy.

4. That, the law and order problem is the State subject for which the State of Manipur is required to be directed for taking up necessary action so that untoward incident may not be occurred in an around the premises of the Manipur University.

5. That, some of the prayers made in the above referred PIL which relates to the appointment of Pro-Vice Chancellor and its removal as well as other functionaries of the University will not be within the purview of the PIL in view of the Notification dated 27-01-2011 issued by the Registrar General, Gauhati High

Court to the extend that "service matters and those pertaining to pension and gratuity" may not be under PIL. Therefore, such prayers may be deleted from the above referred PIL."

[3.5] The Respondent No. 4, Prof. A. P. Pandey also filed an affidavit placing his suggestions before this Court and the para 3 thereof read as under:

"3. That, I am reproducing my suggestions as under:"

SHORT TERM SOLUTION FOR BRINGING PEACEFUL

ATMOSPHERE AT MU CAMPUS

(I) Any enquiry may be constituted due process of law.

(II) Any demand by the agitators be submitted as charter of demands to the concerned authority as provided in Manipur

(III) All agitators should withdraw all their illegal means/ manners of demand and respect the Rule of Laws.

(IV) Teachers, Staffs and Students should return to their respective Department and Class Rooms.

LONG TERM/PREVENTIVE MEASURE FOR KEEPING PEACEFUL

ATMOSPHERE AT MU CAMPUS IN FUTURE

(I) All Contract work pertaining to construction or repair work or supply work of the Manipur University should be done in accordance with Rules and Regulations of the Manipur University.

(II) Students, Teachers and Staffs of the Manipur University should not involve in any contract/ supply work of the Manipur University.

(III) Any Organizations shall not be existed at Manipur University. However, grievances of the teachers, staffs and students can be made out as per Rules of the University.

(IV) All the suggestions for development of University are welcome if reasonable and the same shall be implemented within a short period."

In addition to his aforesaid affidavit, an affidavit-in-opposition has been filed by Prof. A.P. Pandey, the respondent No.4 wherein an objection as regards the maintainability of the PIL was raised on the inter-alia grounds that no public issue was involved as the issue related to the appointment of Prof. K. Yugindro Singh, the respondent No.5 as the Pro- Vice-Chancellor and therefore, the same could not have been entertained by this Court. Moreover, the subject matter involved herein did not fall within the categories as provided in Appendix-28 of the Gauhati High Court Rules. In his affidavit, certain challenging works, alleged to have been done by him for the welfare of the students and teachers of the Manipur University which he undertook during the period of his administration, were also highlighted and the same, in short, are as under:

(a) A peaceful settlement was worked out in respect of the issue relating to reservation by adopting the amended central admission reservation norms and in

particular, the UGC press release dated 19-10-2017;

(b) A seniority list of the employees, for the first time, was prepared and maintained in Manipur University;

(c) As many as eighty first ordinances were prepared which were approved by the Executive Council on 24-04-2017 and subsequently, by the Central Government;

(d) Ph.D. Ordinance, 2017 was prepared, for the first time in Manipur Manipur, as per the guidelines contained in the UGC Regulations, 2016;

(e) Draft ordinance/ regulation as regards the affiliation of colleges and courses of study was prepared under his supervision;

(f) Pursuant to the guidelines contained in the UGC Regulations, 2016, four templates for recruitment and promotion of faculty staff, were prepared;

(g) On priority basis, all incomplete buildings were completed and out of forty-five, only five buildings remained incomplete;

(h) New departments including Department of Yoga, Department of Music; Department of Teacher education etc., were opened after having obtained successfully sanctioned posts;

(i) 2nd day East Zone Vice-Chancellor's meet was hosted in November, 17 to 18, 2018 and 105th Indian Science Congress was organized during March, 16-20, 2018;

(j) 17 Smart Classes were installed for the first time in Manipur University;

(k) In order to expedite in declaring the examination results, barcoded answer scripts were introduced;

(l) The petitioner could ensure smooth flow of fund from the UGC for maintenance and various development works of the University;

(m) The petitioner initiated process for filling up of the statutory posts like Registrar, Controller of Examination, Librarian, Curator etc, on regular basis.

It has further been stated by him that in spite of the remarkable works done by him as aforesaid for the welfare and the development of the Manipur University, the agitation was launched on false allegations which are, in short, as under:

(a) The respondent No.4 declined to pay Rs.5 crore as demanded by an unlawful organization, rather lodged a complaint to the police on 14-02-2018;

(b) The representation dated 19-05-2018 submitted by the MUSU for sanctioning certain amount for publication of annual magazine was referred to the Purchase Committee, which annoyed the MUSU;

(c) Some of the teachers are not happy with the publication of seniority lists of

the faculty and the teachers;

(d) The teachers and the students are not allowed to get themselves involved in contract works or arranging programme, seminar etc.;

(e) Refusal by the respondent No.4 to the approach of some staff to stop CBI enquiry;

(f) The demand made by the respondent No.4 for the Departments to submit annual reports on their performance so that Manipur University could be included in the all India ranking;

(g) A conspiracy hatched by some members of the MUSU and the vested interest of some teachers and staff of the Manipur University for his removal.

[3.6] In the affidavit on behalf of the Manipur University Students' Union (hereinafter referred to as "the MUSU"), it has been stated that it is a body of students having about 4000 members. The respondent No.4, Prof. A.P. Pandey who was appointed as the Vice-Chancellor of Manipur University, assumed charge on 26-10-2016 and from the day he assumed his charge, the Manipur University had been witnessing several crisis because of mismanagement in academic and administrative fields. As a consequence thereof, the MUSU was compelled to launch the agitation for a total shutdown of the Manipur University since 30-05-2018. As the administration of Prof. A.P. Pandey became bad to worst, the Manipur University Teachers' Association (hereinafter referred to as "the MUTA") and the Manipur University Staffs' Association (hereinafter referred to as "the MUSA") joined the agitation. The problem in Manipur University, ultimately, became a problem of the society, because of which many other civil organizations supported the agitation and demanded for removal of Prof. A.P. Pandey. A fact finding Committee was constituted vide order dated 17-07-2018 issued by the Under Secretary, Ministry of Human Resource Development, Department of Higher Education, Government of India (hereafter referred to as "the MHRD") and leave for 30 (thirty) days w.e.f. 02-08-2018 was granted to him. In a joint sitting amongst the representatives of MUSU, MUTA, MUSA on the one side and Shri G.C.Hosur, Joint Secretary, MHRD, Government of India and the Commissioner (Hr. & Tech. Edn.), Government of Manipur in the presence of the Hon'ble Chief Minister, Manipur on the other, a Memorandum of Agreement was signed by them on 16-08-2018 and consequently, the Under Secretary, MHRD issued an order dated 17-08-2018 constituting a two member Enquiry Committee to enquire into the allegations made against Prof. A. K. Pandey, the Vice-Chancellor. The Registrar i/c, Manipur University issued an office memorandum dated 21-08-2018 thereby approving the said memorandum of agreement which was issued with the approval of the MHRD. On 03-09-2018 the Registrar i/c issued another order extending the leave of Prof. A.P. Pandey w.e.f. 01-09-2018 until the completion of the enquiry proceedings against him. While Prof. A.P. Pandey was on leave, the functions of the Manipur University were restored to its normalcy such as declaration of the undeclared examination

results, resumption of classes etc. In the meantime, Prof. A.P. Pandey claimed to have resumed his duties as the Vice-Chancellor of the Manipur University with effect from 01-09-2018 and issued an order dated 10-09-2018 appointing Prof. K. Yugindro Singh as the Pro-Vice-Chancellor without any authority under the provisions of the Manipur University Act, 2005 (hereinafter referred to as "the Act, 2005") read with the Statute (4) and the UGC Regulation, 2018. When Prof. K. Yugindro Singh made an attempt to enter into the Manipur University as the Vice-Chancellor i/c, a commotion took place for which he lodged a complaint with the police with false and malicious allegations against the professors and the students who were arrested and detained in jail. In terms of the Statute (4), the Pro-Vice-Chancellor shall be appointed by the Executive Council on the recommendation of the Vice-Chancellor. In the absence of the Pro-Vice-Chancellor, the senior most professor shall perform the duties of the Vice-Chancellor if the post of Vice-Chancellor becomes vacant for the reasons mentioned in the statute. Moreover, as per the seniority list of faculty members published on 01-04-2017, Prof. K. Yugindro Singh was not the senior most but his name was placed at serial No.15 thereof. The name of Prof. K. Yugindro Singh was chosen so that Prof. A.P. Pandey could continue to abuse the administration of the Manipur University through him. The integrity of Prof. K. Yugundro Singh was questionable for the reason that he even went to the extent of lodging FIR and got some of the students and teachers arrested by the police. He wrote a letter dated 03-10-2018 to the MHRD branding the students and teachers to be involved in terrorist activities inside the campus of the Manipur University. Even the high dignitaries including the Hon?ble Governor, Manipur and the Hon?ble Chief Minister, Manipur were not spared from such allegations which prompted the Secretary to the Hon?ble Governor, Manipur to write a letter dated 06-10-2018 reacting against his attitude. Prof. K. Yugindro Singh vide his letter dated 08-10-2018 had to tender his apology stating that his irresponsible allegation was due to mental stress. The appointment of Prof. K. Yugindro Singh was not in public interest at all and the invocation of this court's jurisdiction was to issue a writ of quo-warranto to prohibit his continuation in the office.

[3.7] The MUTA filed an affidavit and since the averments made therein are identical with that of the MUSU, the same are not repeated here for the sake of brevity and in addition thereto, it has been stated therein that the Manipur University under the tenure of Prof. A.P. Pandey as the Vice-Chancellor brought severe academic and administrative crisis which was attributable to his conduct and habit and moreover, for his misconduct and misadventure, the students community had to face the brunt and suffer irretrievable loss. The appointment of Prof. K. Yugindro Singh in contravention of the Statute aggravated the problem in Manipur University. In order to bring justice to the people, this Court was approached by the public spirited persons invoking the jurisdiction of this court to prohibit the continuation of Prof. K. Yugindro Singh in the office as the Pro-Vice-Chancellor. The stand taken by the MUSA in its affidavit, is similar to that of the MUSU and MUTA and therefore, the same is not repeated here for the sake of

brevity.

W.P. (C) No. 825 of 2018:

[4.1] By the instant writ petition, the petitioner, Prof. A.P. Pandey has prayed for issuing a writ of mandamus to declare the memorandum of agreement dated 16-08-2018 executed by and amongst the respondent No.1, respondent No.4 and other organizations as without jurisdiction; to issue a writ of certiorari or any other appropriate writ to quash the order dated 17-08-2018 issued by the respondent No.1; the order dated 03-09-2018 issued by the respondent No.2 and any other order issued by the Vice-Chancellor i/c and Prof. Sh Dorendrajit Singh after the petitioner resumed his duty on 01-09-2018 as being without jurisdiction and also to issue a writ of certiorari or any other appropriate writ to quash the O.M dated 21-08-2018 issued by the respondent No.3 as being without jurisdiction.

[4.2] Facts and circumstances as narrated in the writ petition, are that the petitioner was appointed as the Vice-Chancellor, Manipur University and he assumed the charge of it on 26-10-2016. When he joined the Manipur University, it was almost defunct on account of many problems. The petitioner in order to resolve those issues, took up the work very seriously and discharged his duties diligently and regularly.

[4.3] Upon the petitioner assuming the charge of the Manipur University and attempting to streamline the education and administrative process in Manipur University, certain persons having vested interest have aggravated the agitation in Manipur University to satisfy their own vested interest. The bonafide students in Manipur University were being deprived of regular classes; qualitative and consistent education. The Manipur University was infested with vested agitations by a handful of persons of vested interest including students, teachers and some members of the Staff who are part of the organizations such as MUTA, MUSA and MUSU. Such organizations are not recognized by the Act, 2005 and the Statutes made thereunder. Some of the agitators were clearly earning substantial amount of money from the local contractors who were giving them percentage of their income earned from discharging various contractual works of the Manipur University. Realizing the loss of exchequer to the Manipur University, the petitioner took concrete steps to mitigate those losses by introducing new contractors from outside the local area. The agitators were aggrieved by the transparent process of recruitment adopted and initiated by the petitioner completely in compliance with the statutory provisions of the Act. Some of the agitators who are part of the MUSU, MUTA and MUSA started initiating allegations against him with an intention of prevailing upon the respondent No.1 to recommend removal of the petitioner from the post of Vice Chancellor. Despite such opposition, the petitioner had managed to push through his development agenda by successfully hosting the Indian Science Congress and other activities in the University. However, the State Government has apparently supported the agitators? illegal demands and has refused to extend protection to the petitioner

and the University. The fall out of the aforesaid harassment is that while the petitioner was on leave, the agitators prevailed upon the Respondent No.1 to direct a fact finding Inquiry into the affairs of the University. Firstly, an order dated 12-07-2018 came to be passed by the respondent No.1 directing the constitution of a fact finding Committee to inquire into the allegations made against the petitioner. An order dated 17-07-2018 was passed superseding the earlier order dated 12-07-2018 whereby instead of a two Member Committee, a three Member Committee came to be constituted. Thereafter, the petitioner learnt that a memorandum of agreement dated 16-08-2018 was executed by and amongst MUSU, MUSA and MUTA on the one side and the Joint Secretary, MHRD and the Commissioner (Hr. & Tech. Edn.), Government of Manipur on the other. The Manipur University as a body corporate was not a party to the said agreement.

[4.4] In pursuance of the memorandum of agreement dated 16-08- 2018, the respondent No.1 issued another order dated 17-08-2018 in supersession of its own dated 17-07-2018 reconstituting the fact finding Committee to comprise only two members. While the petitioner was on graded leave as per the terms and conditions of his service, the petitioner nominated Prof. W. Vishwanath Singh to discharge the day-to-day functions of the Vice-Chancellor in his absence. But in arbitrary exercise of powers and without any jurisdiction or authority, the Vice-Chancellor i/c proceeded to replace the regularly appointed Registrar of the Manipur University with another person to discharge the functions of the Registrar i/c. The respondent No.3 vide its letter dated 21-08-2018 in blatant usurpation of authority and in complete subordination of the provisions of the Act, 2005, proceeded to issue an O.M declaring the petitioner to be on leave during the period of inquiry as aforesaid. This act of the respondent No. 3 was in complete contravention of the provisions of the Act.

[4.5] Upon learning the fact that the fact finding Committee was constituted by the respondent No.1 on the insistence and pressure of some agitators, the petitioner addressed a letter dated 27-08-2018 to the respondent No.1 clarifying the circumstances and requesting the respondent No.1 to look into the matter. The respondent No.1 was pleased to issue a letter accepting the prayer of the petitioner and authorizing him to revert the Registrar i/c and undo the changes illegally done by the Vice-Chancellor i/c.

[4.6] Since the legitimate leave of the petitioner came to an end on 31- 08-2018, he resumed his duties on 01-09-2018. The agitators tried their best to prevent the petitioner from resuming his duties. In pursuance of the letter dated 30-08-2018, the petitioner ended the duties of the respondent No.2 as the Registrar i/c and directed Prof. Shyamkesho Singh to resume his duties as the Registrar i/c. However, the erstwhile Registrar i/c, the respondent No.2 issued an order dated 03-09-2018 declaring that the leave of the petitioner had been extended w.e.f. 01-09-2018 till the completion and implementation of the report thereof. Since the respondent No.2 had no authority to issue any O.M in

contravention of the Act, 2005, the Registrar appointed as per the provisions of law wrote a letter dated 03-09-2018 immediately to the Chancellor requesting him to withdraw the O.M dated 03-09-2018.

[4.7] Since all the orders, OMs and agreements being beyond the scope and purview of the Act, 2005, are illegal and are not binding on the Manipur University, least of all, the petitioner. The respondents have clearly violated the fundamental rights of the petitioner to carry on his work without fear or favour and being aggrieved by their action to oust him from his post, by fabricating charges against him, illegally and irregularly, the instant writ petition has been filed by the petitioner.

[5.1] An affidavit-in-opposition on behalf of the respondent No.3, Manipur University has been filed denying the averments made in the writ petition and in addition thereto, it has been stated that the fact finding Committee was constituted to enquire into the allegations made against the petitioner vide O.M dated 21-08-2018 issued by the authority after obtaining approval from the competent authority. It has further been stated that Prof. A.P. Pandey attended his office of the Vice-Chancellor, Manipur University usually after 12:30 pm at Canchipur and was in the office till 8 to 9 pm and interacted with the persons closed to him, some of whom were/ are not the employees of the Manipur University. The time available for interaction with the University Community was only for a short duration. He was always with few teachers who are his advisers. The students of the Manipur University who wish to discuss with him on student's affairs, were detained for a long time; they were frisked and their bodies searched by armed personnel before allowing them to enter inside his room. He frequently took leaves and sometimes, he did not mention the date of his return. He often returned after the date he mentioned in the leave letter. In his absence, the senior most professor was assigned to look after the routine matters without assigning any power. One day Prof. W. Vishwanath, the senior most professor, applied for duty leave to deliver a keynote address at Sikkim University for a National Seminar held on 29-30th May, 2018. Even though Prof. W. Vishwanath Singh informed the Vice-Chancellor about the matter, he left the station on 29th May, 2018 giving charge of the Vice-Chancellor to Prof. W. Vishwanath Singh.

[5.2] On 30-05-2018 when the student's agitation started, the office room of the Vice-Chancellor was locked by the MUSU. Prof. W. Vishwanath, on his return from Sikkim, had to rush to the Manipur University campus from the airport to attend the Dean's Committee meeting to settle the matter. That day, he talked to the Vice-Chancellor over the phone and requested him to agree with the student's demands. But he replied in the negative. When a meeting was proposed to be held on 01-06-2018 with the students, the Vice-Chancellor and the Deans, he told that he would come to the Manipur University and talk to the students only when they opened the lock of his office. He used to have meetings with the Deans, Professors, etc. at his quarter at Sanjenthong from 02-06-2018 onwards. The MUTA and MUSA joined the agitation by holding rallies followed by hunger

strike demanding removal of Prof. A.P. Pandey for his administrative and financial misappropriations.

[5.3] Prof. A.P. Pandey was granted 30 (thirty) days leave and during his absence, Prof. W. Vishwanath Singh was appointed as the Vice-Chancellor i/c, as per the statutes, at the advice of the MHRD. But since the agitators did not allow Prof. W. Vishwanath Singh to occupy the office without a solution being brought out, he apprised the Vice-Chancellor about the situation and requested him to resolve the crisis of the Manipur University vide his letter dated 08-08-2018.

[5.4] The State Government invited the Joint Secretary, MHRD at Imphal and some meetings were held at the Chief Minister's Secretariat amongst the Joint Secretary, MHRD, State Government Officials and the agitation groups from 14-08-2018 to 16-08-2018 and a seven points memorandum of agreement were signed by them. The Vice-Chancellor i/c rushed to Delhi to pursue for an early solution of the matter and accordingly, the MHRD issued an order dated 17-08-2018 which contained reconstitution of enquiry committee to enquire into the allegations made against the Vice-Chancellor, Manipur University. The Vice-Chancellor i/c also met the Hon'ble HRD Minister to seek his advice to resolve the crisis. However, the agitators did not suspend/call off the agitations as the order dated 17-08-2018 did not reflect the point No.D as contained in the memorandum of agreement. On 21-08-2018, the Vice-Chancellor i/c reported the matter over the phone to the Joint Secretary, MHRD followed by a draft office memorandum and on receipt of the said draft office memorandum, the Joint Secretary, MHRD vide its mail dated 21-08-2018 stated that the draft office memorandum was approved subject to withdrawal of the strike and resumption of academic activities in Manipur University. The Registrar i/c, Prof. M. Shyamkesho Singh came to the campus only on 21-08-2018 after several requests being made by all concerned, although he did not come to the Manipur University during the last 85 (eighty five) days long agitation. He was not accessible to any member of the University Community for any matter during the period which had caused inconveniences and anger among the university community. The agitators were against the resumption of the duty by the Registrar i/c. Only when the agitators suspended the agitation, the Vice-Chancellor i/c and other officials and staffs of the University resumed their duties on 23-08-2018. However, since Prof. M. Shaymkesho Singh instead of attending the office, applied for casual leave on 23-08-2018 and in order to proceed with several pending works of the administration including the declaration of results, Prof. Sh. Dorendrajit Singh was given the additional charge of the Registrar i/c for a period of thirty days.

[5.5] On 24-08-2018, the MHRD wrote a letter to the Vice-Chancellor i/c to undo the replacement. The Vice Chancellor i/c, after discussing the matter with all the stakeholders including the Governor, Manipur, apprised the MHRD about the requirements of approaching several Universities for extension of last date of admission and accordingly, the Vice-Chancellor i/c wrote a letter dated

27-08-2018 to which the MHRD did not react at all. In the meantime, on 23-08-2018 Prof. Sh. Dorendrajit Singh, the Nodal Officer of the enquiry committee was directed by the Chairman, two Member Enquiry Committee to issue letters informing that the proceedings of the enquiry be commenced shortly.

[5.6] On 01-09-2018, Prof. A.P. Pandey issued a letter that he resumed his duties in Manipur University followed by various letters to the effect that Prof. M. Shyamkesho Singh would perform his duties as the Registrar of the Manipur University and that the MUTA and MUSA were banned. Prof. Sh. Dorendrajit Singh, the Registrar i/c issued an office order with the approval of the Chancellor extending the leave of the Vice-Chancellor w.e.f. 01-09-2018 until the completion of the enquiry and Prof. W. Vishwanath Singh would continue to perform the duties of the Vice-Chancellor. On 05-09-2018, the Vice-Chancellor i/c wrote a letter to the MHRD appraising the prevailing situation in Manipur University including the activities of Prof. A.P. Pandey. The Vice-Chancellor i/c issued an O.M declaring that the headquarter of the Manipur University was at Canchipur and that there was no any provision in the Act, 2005 of having a transit office somewhere else.

[5.7] An affidavit on behalf of the Union of India, respondent No.1 has been filed wherein it has been stated that on 26-10-2018 when Prof. A.P. Pandey took charge as the Vice-Chancellor of the Manipur University. About eighteen months after he took charge, several irregularities in the administration of the Manipur University were alleged by the MUSU and MUTA. It has further been stated that many of the allegations are serious and would give the perception of a whimsical, autocratic, non-responsive leadership, apart from non-negotiable financial irregularities. Some of the allegations are as under:-

(i) The Vice Chancellor, Manipur University remains outside the State for prolonged periods without stating the purpose which badly affected the normal functioning of the University. In view of the fact that he did not devote enough time in the campus, he did not convene or hold mandatory Court meetings (at least once a year), Convocations (annual-mandatory), Executive Council meetings, Finance Committee meetings as per rules.

(ii) The statutory posts of the Registrar, Controller of Examination, Pro-V.C. and Librarian were kept vacant thereby affecting the normal functioning of the University.

(iii) He is surrounded by the armed police, and is inaccessible to students and teachers. Students were harassed and threatened psychologically as they were frisked with utter disrespect by his security guards while entering his chamber.

(iv) VC has neither dialogue nor cordial relations with the Teachers and Students, which reflects the lack of leadership qualities desirable in a head of the institution."

[5.8] Further, the Vice-Chancellor circulated an extortion demand note

purportedly written by the Revolutionary People's Front, an armed insurgent group demanding payment for an amount of Rs.5 crore which the State Government stated to be a fake letter. A visible attempt was made by him to link the extortion demand with the agitation by claiming that the agitation was because of non-compliance of the demand note. Protesting against the attitude of the Vice-Chancellor, the MUSU locked down the administrative offices and the Controller of Examinations office of Manipur University on 30-05-2018 which was joined by the MUTA and MUSA in support of the MUSU. To assess the situation and find out a peaceful solution, the Joint Secretary, MHRD visited the Manipur University and held meetings with the students, teachers and the Chief Minister, Manipur on 21st and 22nd June, 2018. Based on the decision taken in his visit, a fact finding Committee comprising of officers from MHRD and UGC was constituted vide order dated 12-07-2018 to enquire into the allegations made against the Vice-Chancellor, Manipur University.

[5.9] Being not satisfied with the composition and terms of references of the Committee, the MUSU, MUTA and MUSU did not withdraw the strike demanding the removal of Prof. A.P. Pandey from the post of Vice-Chancellor. The Joint Secretary, MHRD visited the University on 12-08-2018 to resolve the issues in the presence of Hon'ble Chief Minister, Manipur and some meetings were held on 14th, 15th and 16th August, 2018 by the Hon'ble Chief Minister, Manipur with all the representatives of MUSU, MUTA and MUSU in the presence of the Council of Ministers. After all these discussions, with a view to resolve the impasse created by the agitating students and teachers association, a Memorandum of Association was signed amongst the MHRD, State Government and MUSU, MUTA & MUSA on 16-08-2018 containing the following terms:-

(a) During the period of enquiry (1 Month) and until follow up action taken on the enquiry report by the competent authority, preferably within a period of 15 days, Prof. A.P. Pandey will be on leave.

(b) An independent enquiry committee consisting of Shri T. Nandakumar Singh, former acting Chief Justice of the High Court of Meghalaya and Prof. M.K. Choudhary, former Vice Chancellor of Tezpur University was constituted, vide this Ministry's order dated 17-08-2018, to enquire into allegations against the Vice Chancellor, Manipur University relating to administrative and financial irregularities in the management of affairs of the Manipur University. The Committee was requested to submit its report within one month from the date of its constitution."

[5.10] This subsequently led to suspension of the agitation on 22-08- 2018 after a period of 85 days and the Manipur University started functioning from 23-08-2018. Despite the agreement between the Government of India and the State Government which wanted the Vice-Chancellor to be on leave till the completion of the enquiry and the follow action being taken, Prof. A.P. Pandey came back to Imphal and resumed his duties on 01-09-2018 on his own. Immediately, after resuming his duties, Prof. A.P. Pandey issued several orders

which had deteriorated the academic atmosphere of the Manipur University such as:-

(a) Banned the representative bodies of the Teachers and Staff Union namely MUTA and MUSA respectively, without any specific authority and also without giving opportunity of being heard by the unions.

(b) Declared his residence as a Transit Office, and started issuing orders from there.

(c) Suspended Prof. W. Vishwanath who has been VC (in charge) without giving any reason.

(d) Suspended the Registrar Prof. Dorendrajit whereas his is not the appointing authority for the post of Registrar.

These actions created an anarchic situation in the campus and the Manipur University was set to get closed again.

[5.11] The Hon'ble Chief Minister, Manipur wrote a letter dated 04-09- 2018 seeking intervention of the MHRD to tackle the issue as the agitation had led to serious law and order problem and administrative crisis in the State, some of which being the following:-

(i) On 07-07-2018, College students clashed with police when they tried to storm into Chief Minister's office in pursuit of their demand to declare results of semester exams, leaving six of them injured. Later in the night, the Sports office of the University was burnt down by unknown persons.

(ii) All Colleges were shut down by the Joint College Students Forum from 12-07-2018 onwards.

(iii) Manipur University Students' Union burnt effigies of Hon'ble Union Human Resource Development Minister Shri Prakash Javadekar, Registrar-in-charge M. Shyamkesho Singh, UGC Joint Secretary J.K. Tripathi and MHRD Deputy Secretary, Surat Singh, Prof. Adya Prasad Pandey.

(iv) On 18-19 July, 2018, there was 48 hours shut-down in Valley areas called and imposed by 6 student umbrella organizations.

(v) Many vehicles were damaged by agitators during road blockade and there were clashes with students.

(vi) On 23-24 July, 2018, there was a 48 hours blockade along NH 2 & 102.

(vii) Several rallies and sit-in demonstrations were organized across the State.

(viii) On 9-11 August, 2018, there was a 48 hour shut down in Hill Areas imposed by All Tribal Students Union, Manipur (ATSUM)."

[5.12] With the approval of the Visitor, Prof. A.P. Pandey was placed under suspension w.e.f. 17-09-2018 till the completion of the enquiry and while seeking

approval of the visitor, he was informed that an independent Enquiry Committee consisting of two members had been constituted vide order dated 17-08-2018 to enquire into the allegations against the Vice- Chancellor, Manipur University relating to administrative and financial irregularities in the management of affairs of the Manipur University. Over and above, the following averments have been made in their affidavit:

"The petitioner has contended that University Act provides for visitation powers to be exercised by the Visitor, who is an Ex-Officio, the President of India. In this regard, it is stated that there is no doubt about the fact that only the appointing authority i.e., President of India will be the disciplinary authority in regard to the matter of service of the Vice-Chancellor in Manipur University. However, it is within the purview of this Ministry to put forth truth & facts before the appointing authority because every proposal that requires consideration of the Visitor is moved to the President Secretariat through Ministry of Human Resource Development (MHRD).

The issue of jurisdiction/competency of the Ministry is also further explained hereunder.

Provision under Section 9(3) of Manipur University Act contemplates to cause an inquiry to be made in like manner in respect of any matter connected with the administration or finances of the University, Colleges or Institutions. This Section does not contemplate inquiry against the Vice Chancellor of the University. Since, the complaints are against the Vice Chancellor himself for mismanagement and financial irregularities, therefore, an independent enquiry committee, as stated above has been constituted on 17-08-2018 to enquiry into allegations against the Vice Chancellor, Manipur University. The Committee was requested to submit its report within one month from the date of its constitution.

Manipur University along with 39 other Central Universities is autonomous organization that comes under the purview of MHRD. These autonomous organizations are governed by their Act and Statutes & Ordinances framed there under. However, MHRD is the administrative Ministry in respect of these autonomous organizations.

Ministry is answerable to Parliament in respect of the activities of the Central Universities.

Annual Reports and Audited Annual Accounts of the Central Universities are laid in Parliament after getting authenticated by the Minister. Ministry makes reply of audit para concerning Central Universities to CAG.

President of India is the Visitor of all the Central Universities. Proposals requiring approval of Visitor are sent to him through this Ministry. For example, Statute 2 of the Manipur University Act, 2005 provides that the Vice Chancellor shall be appointed by the Visitor from a panel of not less than three persons who shall be recommended by a Committee. In this case, the recommendation of the

Committee is sent to the Visitor for his consideration only through MHRD.

Complaints addressed to any of the offices/ authorities including President's Secretariat (Visitor's Office) are forwarded to this Ministry for appropriate attention.

It is a fact that there is no provision of constitution of Fact Finding Committee (FFC) under the Act or Statute of any Central Universities including Manipur University. However, there are several instances of constitution of FFC by the MHRD because whenever substantial complaints about functioning of the Central Universities are received, it becomes incumbent upon this Ministry to get to the truth behind the allegations, for this Ministry not only provides hundred percent funding to the University through University Grants Commission (UGC) but it is also answerable to the President's Secretariat (office of the Visitor) and Parliament.

Therefore, there is nothing unlawful in constituting a FFC by the Central Government. After all, the mandate of the FFC is just to find the facts. Further action is taken on the basis of the facts and in accordance with the law. If nothing substantial is found, the matter is closed. Whenever anything of grave nature is observed, further action is taken with the approval of the Competent Authority in accordance with the law. Thus, petitioner has misconceived the provisions of Manipur University Act and the Statutes and Ordinances framed thereunder.

It is against the above background that Enquiry Committee in question was constituted by this Ministry to know the truth and facts behind the allegations leveled against the petitioner.

With the approval of the Visitor, Prof. Pandey has been placed under suspension w.e.f. 17-09-2018 till completion of the enquiry and action to be taken thereon in the interest of justice for free and fair enquiry or till further orders. While seeking approval of the Visitor for suspension of Prof. Pandey, the Visitor was informed that an independent enquiry committee consisting of Shri T. Nandakumar Singh former acting Chief Justice of the High Court of Meghalaya and Prof. M.K. Choudhary, former Vice Chancellor of Tezpur University has constituted, vide this Ministry's order dated 17-08-2018, to enquire into allegations against the Vice-Chancellor, Manipur University relating to administrative and financial irregularities in the management of affairs of the Manipur University."

[5.13] It has further been stated by the Union of India that an enquiry committee was constituted to get the true facts as regards the serious allegations made against the petitioner. It is needless to mention that if any disciplinary action on the basis of the findings of the enquiry committee is required to be taken, the same shall be as per the provisions of law i.e. with the approval of the appointing authority/ disciplinary authority i.e. the President of India who is also the Visitor of the Manipur University.

[5.14] In the affidavit filed on behalf of the respondent No.7, MUSU, the allegations made in the writ petition have been denied and it has been stated that Prof. A.P. Pandey assumed charge on 26-10-2016 as the Vice-Chancellor and from the day he took charge, he mismanaged the affairs of the Manipur University which compelled the MUSU to launch the agitation and call for a total shutdown of the University since 30-05-2018. As the administration of Prof. A.P. Pandey became bad to worst, the MUTA and MUSA had to join the agitation. The problem ultimately became a problem of the society in Manipur resulting in a problem of maintaining law and order. On 12-07-2018 the Under Secretary, MHRD constituted a fact finding committee consisting of two members. As the demand of the students was for a judicial enquiry, another order dated 17-07-2018 was issued in supersession of the earlier one by which an enquiry committee was constituted by adding another member namely, Shri T. Nandakumar Singh, former Acting Chief Justice of Meghalaya High Court. As the Central Government failed to constitute a commission of a judicial enquiry, the agitators demanded for inclusion of one Vice-Chancellor of a University and for keeping the petitioner on leave during the enquiry. Considering the public order, a joint sitting was held on 16-10-2018 and after the matter was discussed thoroughly, a Memorandum of Agreement was signed. Accordingly, an order dated 17-08-2018 was issued reconstituting the enquiry committee consisting of two persons. The Registrar i/c, Manipur University issued an O.M dated 21-08-2018 notifying the Memorandum of Agreement dated 16-08-2018 and also about the reconstitution of independent enquiry committee. In the said O.M dated 21-08-2018, it was mentioned that during the period of enquiry and until follow up action being taken thereon, Prof. A.P. Pandey would be on leave. The said O.M was issued with the approval of the MHRD and copies of the same were sent to all concerned including Prof. A.P. Pandey. On 03-09-2018, the Registrar i/c, Manipur University issued an order for extension of leave of Prof. A.P. Pandey w.e.f. 01-09-2018 until the completion of the enquiry proceedings. While Prof. A.P. Pandey was on leave, the functioning of the University was restored to its normalcy but all of a sudden Prof. A.P. Pandey claimed himself to have resumed his duties as the Vice-Chancellor on 01-09-2018 and issued an order dated 10-09-2018 appointing Prof. K. Yugindro Singh as the Pro-Vice Chancellor. When Prof. K. Yugindro made an attempt to assume the office of Pro-Vice Chancellor in-charge of Vice Chancellor, there was a strong protest from the students? community with the result that the normalcy of the Manipur University was again broken. Having considered the facts and situations of the Manipur University and public order in the State of Manipur, the President of India in his capacity as the Visitor issued an order dated 17-09-2018 placing Prof. A.P. Pandey under suspension with immediate effect and till the completion of the enquiry. The Visitor in view of his order dated 17-09-2018, granted post-facto approval to the enquiry against Prof. A.P. Pandey which was not challenged by him and therefore, the instant writ petition had become infructuous. Pursuant to the order dated 11-10-2018 passed by this court in the PIL, Shri Jarnail Singh was appointed as the Administrator and from the day he started functioning as the Administrator,

the Manipur University resumed its normalcy with the academic activities, administrative and development works being undertaken without any disturbance.

[5.15] The Act, 2005 and the Statutes made thereunder are silent in so far as the person(s) or the authority to order for enquiry against the University/ Vice-Chancellor including removal of the Vice-Chancellor and also the person(s) who are competent to grant leave to the Vice-Chancellor. Considering the authority of Central Government as regards the service conditions of the Vice-Chancellor, the Chancellor who is the head of the University under Section 12 of the Act was competent to grant leave to the Vice-Chancellor and to authorize the Registrar to issue an order granting leave to the Vice-Chancellor. A conjoint reading of the Act, 2005 and the CCS (Leave) Rules would make it clear that the Chancellor is competent to grant leave to the Vice-Chancellor and the Registrar of the Manipur University is the authority to issue appropriate orders concerning the affairs of the Manipur University as empowered by the Act, 2005 and the Statutes. Eighty five days of non-functioning of the Manipur University caused serious public order which called for intervention by the State Government as well as the Union of India who are competent to regulate the affairs of the Manipur University. Accordingly, the memorandum of agreement was drawn in which both the Union of India and the State Government being party, did not suffer from any incompetency and illegality. The circumstances under which the said memorandum of agreement came to be signed, were detailed in the affidavit.

[5.16] Both MUTA and MUSA also filed their affidavits but since the averments made therein are identical with that of MUSU, the same are not repeated here in detail for the sake of brevity. In addition thereto, it has been stated that the MUTA and MUSA joined the agitation, when the administration had become bad to worst with the result that it became a problem of the society. Many other civil organisations came forward to support the agitation and demanded the removal of Prof. A. P Pandey from being the Vice-Chancellor of the Manipur University.

W.P. (C) No. 1036 of 2018:

[6.1] The order dated 10-09-2018 issued by Prof. A.P. Pandey, the Vice-Chancellor, Manipur University is under challenge in this writ petition for which the petitioner has prayed for issuing a writ of quo-warranto or any other appropriate writ to quash it.

[6.2] Facts and circumstances as narrated in the petition, are that the petitioner is a Professor in the Economics Department, Manipur University. Prof. A. P. Pandey who was appointed as the Vice-Chancellor of the Manipur University, assumed charge on 26-10-2016 and since the day he assumed the charge of Vice-Chancellor, the Manipur University had been witnessing several crisis and mismanagement in the academic and administrative fields causing extreme hardship to the students, teaching staff and non-teaching staff, as a result of which the MUSU was compelled to launch the agitation since 30-05-2018. Due to the turmoil in the Manipur University as regards the removal of Prof. A.P. Pandey,

Vice-Chancellor, Manipur University, a fact finding Committee was constituted vide order dated 17-07-2018 issued by the Under Secretary, MHRD with a direction to submit a report thereof within a month. After the enquiry committee having been constituted, Prof. A.P. Pandey was granted leave for 30 (thirty) days w.e.f. 02-08-2018 and Prof. W. Vishwanath Singh, Department of Life Sciences being the senior most professor of the University, was allowed to perform the duties of the Vice-Chancellor for a period of thirty days vide order dated 02-08-2018. The Under Secretary, MHRD issued another order constituting two members enquiry committee to enquire into the allegations made against the Vice-Chancellor, Prof. A.P. Pandey which was directed to submit a report within 1 (one) month from the date of issue of the order. In this regard, another order dated 17-8-2018 was issued and 18 (eighteen) terms and conditions to be referred to the Committee, were framed.

[6.3] During this period of unsettled and turmoil, Prof. A.P. Pandey, the Vice-Chancellor issued an order dated 10-09-2018, in fragrant manner and in contravention of the provisions of the Act, 2005 and the Statute made thereunder, appointing Prof. K. Yugindro Singh as the Pro-Vice-Chancellor. Prof. A.P. Pandey, while issuing the said order, had misused and misinterpreted Section 13(3) of the Act and therefore, the order dated 10-09-2018 was highly illegal and arbitrary and act of nepotism and with malafide intention with the sole aim to appoint Prof. K. Yugindro Singh as the Pro-Vice-Chancellor by hook and crook.

[6.4] Being aggrieved by the said order dated 10-09-2018, the instant writ petition has been filed on the inter-alia grounds that the Pro-Vice-Chancellor of the Manipur University is to be appointed by the Executive Council on the recommendation of the Vice-Chancellor and therefore, the impugned order dated 10-09-2018 is not sustainable in law and it deserves to be quashed as illegal and void ab-initio

[6.5] An affidavit-in-opposition on behalf of the respondent No. 5, Prof. K. Yugindro Singh has been filed wherein it has been stated that since the order dated 10-09-2018 was issued by invoking the provisions of Section 13(3) of the Act, 2005 read with the Statute (4) and the UGC Regulations, 2018, the same was not illegal. It has further been stated that the said order dated 10-09-2018 was approved by the MHRD vide its order dated 19-09-2018 with the direction to the respondent No.5 to hold the charge of Vice-Chancellor. In view of the provisions of Section 13(3) read with Section 21 of the Act and the UGC Regulations, 2018, it is crystal clear that the seniority of a person in service is not at all a determinant factor for appointment of a person as the Pro-Vice-Chancellor. In view of the atmosphere prevailing in the Manipur University being not conducive for calling a meeting of the Executive Council, the inherent power conferred under Section 13(3) of the Act was exercised by the Vice-Chancellor while appointing the respondent No.5 as Pro-Vice-Chancellor. Second proviso to Section 13(3) of the Act, 2005 provides for recourse to anybody who is aggrieved by any appointment under Section 13 of the Act. There is no illegality when the

respondent No.5, Prof. K. Yugindro took the charge of the office of the Vice-Chancellor as per the provisions and Statute 2(6) of the Act, 2005.

W.P. (C) No. 1084 of 2018

[7.1] By the instant writ petition, the petitioner has prayed for issuing a writ of mandamus or any other appropriate writ to direct the respondents to refrain/restraint the Administrator, Manipur University from extraneous exercise of administrative power/ function in respect of the appointment of various posts on direct recruitment, promotion of teaching and non-teaching staff and holding of meetings of Executive Council, Academic Council or other bodies which are normally chaired by the Vice-Chancellor.

[7.2] Facts and circumstances as narrated in the writ petition, are that the petitioner was appointed as the Pro-Vice-Chancellor of the Manipur University vide office order dated 10-09-2018 issued by the office of the Vice-Chancellor, Manipur University.

[7.3] The Deputy Secretary, MHRD issued an order dated 17-09-2018 regarding the suspension of Prof. A.P. Pandey, Vice-Chancellor with immediate effect and till the completion of the enquiry and action being taken thereon. After the appointment of the petitioner as the Pro-Vice-Chancellor vide order dated 10-09-2018, the MHRD issued another order dated 19-09-2018 approving the appointment of the petitioner and directed that the petitioner should hold the charge as the Vice-chancellor under Statute 2(6) of the Act until further order.

[7.4] A PIL being PIL No.49 of 2018 was filed by Shri Chongtham Nimai praying for quashing the order dated 10-09-2018 by which the petitioner was appointed as illegal and without authority of law in view of the order dated 03-09-2018 issued by the Registrar i/c, Manipur University and the O.M dated 21-08-2018 issued by the Registrar i/c, Manipur University. This court passed an interim order dated 11-10-2018 allowing it to interfere with the management of affairs of the Manipur University for bringing normalcy and defusing the prevailing state of stalemate, volatile and violent situation obtaining in Manipur University. Consequent upon the interim order, Shri Jarnail Singh, IAS (retired) was appointed as the Administrator fully empowered to discharge the functions of the Vice-Chancellor as provided under the Act, 2005 and other relevant statutes whose primary role was to bring normalcy in Manipur University as the continuance in the office of the Administrator was till the normalization in the Manipur University is attained or until further order of the court.

[7.5] The appointment of Jarnail Singh as the Administrator of the Manipur University was outside the provisions of Act, Statutes and Ordinances, as his appointment was purely on interim measure for bringing normalcy and dealing volatile situation that prevailed in the Manipur University for more than 100 days. Being aggrieved by the said interim order dated 11-10-2018, the petitioner preferred a petition for special leave to appeal being SLP No.28380 of 2018 before the Hon'ble Supreme Court which affirmed the interim nature of the order

of this Court and expressed no inclination to interfere with the interim order. It was made very clear in the order dated 11-10-2018 that the Hon'ble Supreme Court observed categorically that it did not express any opinion on the merits of the case.

[7.6] It is not disputed by anybody that the complete normalcy has restored in Manipur University with full academic activities going on and accordingly, the days of the Administrator ought to end as per the directives of this Court and the charge of the Manipur University ought to be handed over to the Vice-Chancellor/ Pro-Vice-Chancellor as per the provisions of the Act, 2005. Unfortunately, despite normalcy being restored, the present Administrator was making inroads into the domain of extraneous activities which are to be normally executed by the Vice-Chancellor appointed by the Act, 2005 but not warranted by virtue of the interim order. As per Section 13(2) of the Act, 2005, the Vice-Chancellor is the principal and academic officer of the Manipur University and in the UGC Guidelines, 2018, the essential qualifications for appointment as the Vice Chancellor have been prescribed and moreover, as per the Central Government norm, any person who has crossed 65 years of age, cannot be appointed as the Vice-Chancellor. Therefore, the allowance of the court appointed Administrator who does not fulfill the mandatory requirements for appointment as the Vice-Chancellor to chair the meetings of the Executive Council, academic bodies including Selection Committee, is arbitrary, deleterious and disgracing. Without paying any heed to the limitation of power in the academic administration, the Administrator issued advertisements to fill up 133 posts, although the MHRD vide its letter dated 19-11-2018 informed the Registrar, Manipur University to postpone the recruitment process until further order in view of the unsettled reservation issue. On top of that, the Administrator took steps for holding meetings of the Selection Committee of faculty members assuming that he has the authority to chair such meetings and to conduct meetings of Selection Committees for promotion of faculty members and meetings of the Executive Council, Academic Council contrary to the Act, 2005. The interim order passed by this court cannot be construed as the one allowing the main prayer of the case being finally heard and allowed. The purpose of the interim order was to maintain status quo or restrain from causing any further injury to the parties and the stakeholders. Being aggrieved by the actions of the Administrator, the instant writ petition has been filed.

[7.7] The stand of the Manipur University is that after the issuance of the unsustainable order thereby appointing the petitioner as the Pro-Vice-Chancellor, the Vice-Chancellor who issued the order, had been placed under suspension. The appointment of Shri Jarnail Singh, respondent No. 4 as the Administrator of the Manipur University was made pursuant to an interim order passed by this court which was required to be passed in view of the situation prevailing in Manipur University. As regards the issue which arises in connection with the alleged irregularities committed by the Vice-Chancellor, an independent enquiry committee had been constituted. It cannot be said that there is normalcy in the

Manipur University as long as the allegations made against the Vice-Chancellor are not fully settled by the authorities concerned. The resumption of the classes cannot be said to mean that the normalcy in the Manipur University is restored. Unless and until the issue arising out of the imbroglio of the Manipur University is decided, the university authorities have nothing to say as the legal position is that in a democratic country like ours, no one is above the law. Even though the advertisements for appointments have been made in respect of various posts including the faculty posts, no further steps were taken in view of the letter dated 19-11-2018 issued by the MHRD. The Administrator is exercising his power in terms of the directions issued by this court and in particular, the direction No.7 which states that no authority including the authorities under the Act, 2005 shall have any authority to curtail the powers and functions of the Administrator without the leave of this court.

W.P. (C) No. 327 of 2019

[8.1] The letter dated 25-03-2019 issued by the Registrar i/c, Manipur University is under challenge in this writ petition and in addition thereto, a prayer has been made to direct the respondents to expressly exclude any decision/ agenda with regard to appointment of the petitioner as the Pro-Vice- Chancellor as provided under the provisions of the Act.

[8.2] Facts and circumstances as narrated in the writ petition, are that the petitioner was appointed as the Pro-Vice-Chancellor vide order dated 10-09-2018 issued by Prof. A.P. Pandey, Vice-Chancellor of the Manipur University. It has been made in anticipation of an approval of the Executive Council. After Prof. A.P. Pandey was placed under suspension vide order dated 17-09-2018, the petitioner was acting as Pro-Vice-Chancellor of the Manipur University as per the order dated 18-09-2018 issued by the Registrar i/c, Manipur University. Thereafter, vide letter dated 18-09-2018, Prof. A.P. Pandey handed over the charge of the Vice-Chancellor to the petitioner which was followed by a letter dated 19-09-2018 issued by MHRD by which the petitioner was directed to hold the charge of Pro-Vice-Chancellor.

[8.3] While the petitioner was performing his duties as the Vice-Chancellor, a PIL being PIL No.49 of 2018 was filed by Shri Chongtham Nimai Singh praying for issuing a writ of quo-warranto or any other appropriate writ to quash and set aside the impugned order dated 10-09-2018 in view of the orders dated 03-09-2018, O.M dated 21-08-2018 and memorandum of agreement dated 16-08-2018. This court vide its interim order dated 11-10-2018 suspended the order dated 10-09-2018 appointing the petitioner as the Pro-Vice-Chancellor and thereafter, Shri Jarnail Singh, IAS (retired) officer was appointed as the Administrator to discharge the functions of the Vice-Chancellor. Being aggrieved by the interim order dated 11-10-2018 passed by this court, the petitioner preferred a petition for special leave to appeal being SLP No.28380 of 2018 before the Hon?ble Supreme Court which upheld the interim order without any interference and observed that it did not express any opinion on the merits of the

case.

[8.4] In the meanwhile, Shri Amar Yumnam filed a writ petition being WP(C) No.1036 of 2018 praying for issuing a writ of quo-warranto or any other appropriate writ to quash and set aside the impugned order dated 10-09-2018 appointing the petitioner as Pro-Vice-Chancellor as illegal, null and void and the said writ petition is still pending for adjudication by this court. Thereafter, the petitioner filed a writ petition being WP(C) No.1084 of 2018 praying for issuing a writ of mandamus or any other appropriate writ to direct the respondents to refrain/ restraint the Administrator from extraneous exercise of administrative powers and functions in respect of the appointment of various posts on direct recruitment, promotion of teaching and non-teaching staff and holding of meetings of the Executive Council, the Academic Council or other bodies which are normally chaired by the Vice Chancellor

[8.5] The Administrator called for a meeting of the Executive Council to be held on 16-04-2018. The Executive Council being a statutory body, is the principal executive body and its meeting is to be convened and chaired by the Vice-Chancellor. The convening of the 29th Meeting of the Executive Council by the Administrator was illegal and ultra vires.

[8.6] The appointment of the petitioner vide order dated 10-09-2018 was made in anticipation of the approval of the Executive Council in terms of the provisions of Section 13(3), Statute (4) and the UGC Regulations, 2018. It is mandatory for the office order to take approval of the Executive Council in its 29th Meeting to be held on 16-04-2019. Since the appointment of the petitioner vide order dated 10-09-2018 is under challenge before this court in PIL No.49 of 2018 as well as the writ petition being WP(C) No.1036 of 2018 and in the event of a decision being taken by the Executive Council while the said petitions are pending before this court, they will become infructuous. In view of the above, the instant writ petition has been filed by the petitioner.

[9] From the aforesaid pleadings , certain facts which are not in dispute amongst the parties, have emerged and the same may be summarized as under:

(a) Prof. A. P. Pandey who was appointed as the Vice-Chancellor of the Manipur University, assumed the charge on 26-10-2016 and after having assumed the charge, he claimed to have started certain challenging works for the welfare of the students and teachers of the Manipur University as detailed in his writ petition. On the other hand, denying the tall talk of Prof. A.P.Pandey, the students community submitted that he started mismanagement of the affairs of the Manipur University which led to the crisis and even the dialogue failed to materialise;

(b) The MUSU started the agitation on 30-05-2018 by locking the office room of the Vice-Chancellor. When Prof. W. Vishwanath, the senior most professor who was given the charge of the Vice-Chancellor while Prof. A.P. Pandey was on leave, came back from Sikkim, he rushed to the Manipur University to attend a meeting

to settle the matter. He apprised Prof. A.P.Pandey about it and even a meeting with the students was proposed to be held on 01-06-2018;

(c) On 01-06-2018 Prof. A. P Pandey came back to Imphal but he refused to come to the University for negotiation with the students on the ground that he would not come unless his room was opened. From 02-06-2018 onwards, he started holding meetings, at his quarter at Sanjenthong, with Deans, representative of MUTA etc. His refusal to come to the University for talks led to intensify the agitation in the form of mass rally, relay hunger strike etc;

(d) On 21st and 22nd June, 2018, the Joint Secretary, MHRD visited Manipur University and held meetings with the students and teachers of the Manipur University discussing about the issue and later, with the Chief Minister, Manipur;

(e) On receipt of several representations from various quarters leveling allegations against Prof. A.P.Pandey and after same being examined, on 12-07-2018 the MHRD decided to conduct a fact finding enquiry vide its order assigning the task to two persons-one, from the UGC and two, from the MHRD itself;

(f) On 17-07-2018, the MHRD issued another order modifying the constitution of the Committee vide order dated 12-07-2018 by adding one more person to be the Chairman to inquire into the allegations made against Prof. A.P Pandey but the agitators refused to co-operate with the committee contending that a high power committee under the provisions of the Commission of Enquiry Act, 1952 be constituted;

(g) Prof. A.P.Pandey issued a letter dated 01-08-2018 stating that he would be on leave from 02-08-2018 to 31-08-2018 and during this period, Prof. W. Vishwanath should look after the office of the Vice-Chancellor. On 02-08-2018, a mail was sent to the Registrar by Shri G.C. Hosur to take necessary action for sanctioning the leave and to make alternative arrangement for the charge of the Vice-Chancellor. On receipt of the said mail, Prof. M. Shyamkesho Singh issued the office order dated 02-08-2018 in that regard;

(h) On 08-08-2018, Prof. W. Vishwanath Singh wrote a letter to the Secretary, MHRD informing that the academic and official activities became completely paralised and he was unable to perform his duties pending constitution of a high power committee. He requested the Secretary, MHRD to take necessary action for resolving the crisis of the Manipur University;

[i] The State Government invited Joint Secretary, MHRD and meetings were held in the Chief Ministers' Secretariat from 14-08-2018 to 16-08-2018 amongst the Joint Secretary, MHRD, State Government officials and the representatives of the agitating groups and after a long discussion and deliberation, a memorandum of agreement was signed amongst them whereby it was agreed that the two officials from the UGC and MHRD be replaced by a retired Vice-Chancellor. Accordingly, the MHRD issued an order dated 17-08-2018 reconstituting the

enquiry committee to inquire into the allegations against Prof. A.P.Pandey. On 18-08-2018, the Vice-Chancellor i/c met the Hon?ble MRHD at his residence seeking his advice to resolve the crisis;

(j) On 21-08-2018, the Vice-Chancellor i/c reported the matter over the phone to the Joint Secretary, MHRD and thereafter, a draft OM including the leave matter as contained in MOA was sent to him by the Registrar i/c. In reply thereto, a mail was sent stating that the draft was approved by the MHRD subject to the withdrawal of the strike and resumption of academic activities of the Manipur University. Accordingly, the Registrar i/c, Prof. M. Shyamkesho Singh issued the OM dated 21-08-2018. He came to the office after several days, ie., about 85 days only on 21-08-2018 which had caused inconvenience and anger amongst the communities. Since the agitators suspended the agitation, the Vice-Chancellor i/c; other officer and staff of the University resumed their duties on 23-08-2018. However, Prof. M. Shyakesho Singh, instead of attending the officer, applied for casual leave on 23-08-2018 by e-mail on health grounds;

(k) Considering the urgent need of a Registrar i/c to proceed with several pending works including the declaration of examinations of the Manipur University and affiliated colleges etc,, Prof. Sh. Dorendrajit Singh was given additional charge of the Registrar i/c for a period of thirty days and during this period, Prof. M. Shyamkesho Singh would work in the parent department. The MHRD wrote a letter dated 24-08-2018 to the Vice-Chancellor i/c to undo the replacement, because of which the Vice-Chancellor i/c discussed the matter with the Chief Rector, the Governor of Manipur to apprise the MHRD regarding the situation in Manipur University, resumption of normalcy, the need to approach the other universities for extension of last date of admission etc. Thereafter, the Vice-Chancellor i/c wrote a letter dated 27-08-2018 to the MHRD requesting it reconsider its instruction as regards the replacement of Prof. M. Shyakesho Singh for which no response was given but it did not insist upon undoing the appointment of the Registrar i/c;

(l) Prof. A.P. Pandey wrote a letter dated 27-08-2018 to the Secretary, MHRD raising objections as regards the constitution of two member enquiry committee on six reasons, one of which is that the Chairman of the enquiry committee is a first close relative of one of the spokesperson of one of the agitating bodies. In his conclusion, he stated that the Act, 2005, statutes and ordinances provide sufficient provisions to handle the matter relating to indiscipline shown by the students, teachers and non-teaching staff and the unrest in Manipur University could be handled by invoking those provisions with the support of the State Government by providing armed security personnel;

(m) Prof. A.P Pandey claimed to have resumed his duties on 01-09-2018, as his legitimate leave came to an end on 31-08-2018 and issued various orders dated 02-09-2018 from his quarter including the one by which MUSU and MUTA were banned. He directed Prof. M. Shyamkesho Singh to resume his duties as the Registrar i/c;

(n) On 03-09-2108 with the approval of the Chancellor of the Manipur University, Prof. Sh. Dorendrajit Singh, Registrar i/c issued an office order extending the leave of Prof. A. P. Pandey from 01-09-2018 until the completion of the enquiry proceedings initiated against him and necessary action being taken thereon and also declaring the interim orders issued by him on 1st & 2nd September, 2018 as null and void. On the same day, Prof. M. Shyamkesho Singh, Registrar i/c issued a notice dated 03-09-2018 informing to all concerned that Prof. Sh. Dorendrajit Singh was no longer the Registrar of the Manipur University and that the issuance of the order dated 03-09-2018 by him referring the approval of the Chancellor was beyond the power and functions of the Chancellor;

(o) On 04-09-2018, Prof. W. Vishwanath issued an office memorandum declaring the orders dated 01-09-2018 issued by Prof. A. P. Pandey and Prof. M. Shymkesho Singh invalid, because of which he was placed under suspension vide order dated 05-09-2018 issued by Prof. M. Shyamkesho Singh. On 04-09-2018 itself, the Chief Minister, Manipur wrote a letter seeking intervention of the MHRD to tackle the issue as the agitation had led to serious law and order problem and administrative crisis in the State;

(p) Prof.K.Yugindro Singh was appointed as the Pro-Vice-Chancellor vide order 10-09-2018 issued by the Vice-Chancellor of the Manipur University which was later approved by the MHRD vide its order dated 19-09-2018 with the direction that the charge of the Vice-Chancellor be held by him until further order;

(q) With the approval of the Visitor, Prof. A.P.Pandey, the Vice-Chancellor was placed under suspension till the completion of the enquiry vide order dated 17-09-2018 issued by the Deputy Secretary to the Government of India. Thereafter, on 19-09-2018 Prof. W. Vishwanath Singh addressed a letter to the MHRD seeking a clarification about his position as the Vice-Chancellor i/c.

From the aforesaid facts, it is seen that the problem in Manipur University could not be solved for more than 130 days despite endeavour being by the Union of India and it went almost out of control resulting in the problem of law and order.

[10] The following three main issues have arisen for consideration by this Court:

(a) Whether, having regard to the facts and circumstances of the present case and in particular, the fact that the PIL No.48 of 2018 stood merged with it, the PIL No.49 of 2018 is maintainable or not for the reason that one of the prayers made therein being a matter relating to service ?

(b) Whether, having regard to the facts and circumstances of the present case, the MHRD, Government of India, other than the Visitor, is competent to enter into the memorandum of agreement dated 16-08-2018 with the agitating groups and to issue the order dated 17-08-2018 constituting the enquiry committee to inquire into the allegations made against the Vice-Chancellor, Prof. A.P.Pandey and in other words, whether the President of India as the Visitor of the Manipur University, has to exercise his powers and functions as provided under the

provisions of the Act, 2005 with the aid and advice of the Council of Ministers ?

(c) Whether, having regard to the facts and circumstances of the present case, the Vice-Chancellor, Manipur University is competent to issue the order dated 11-09-2018 appointing Prof. K. Yugindro Singh as the Pro-Vice-Chancellor under Section 13(3) of the Act, 2005 and in other words, whether the appointment of Prof. K. Yugindro Singh as the Pro-Vice-Chancellor is legally valid or not ?

In Re: issue (a):

[11.1] It has been submitted by Shri M. Hemchandra, the learned Senior Advocate appearing for the respondent No.5 that PIL is not maintainable in service matter and therefore, the petitioner has no locus to file the PIL; that as per the rule prescribed in Appendix-37 of the Gauhati High Court Rules, the service matter does not fall within any of the categories of PIL; that the petition has been filed in the guise of PIL with oblique motives by suppressing relevant documents; that the PIL is based on documents which do not have the force of law; the contention that the appointment of the respondent No.5 as the Pro-Vice-Chancellor is illegal, is not tenable for the reason that the order was issued by the Vice-Chancellor by invoking Section 13(3) of the Act, 2005 and that since the respondent No.5 has already been appointed as the Pro-Vice-Chancellor by invoking Section 13(3) of the Act, 2005, the prayer for appointment of a new Pro-Vice-Chancellor is unreasonable and untenable. In order to substantiate his contentions, reliance has been placed on the decisions of the Hon'ble Supreme Court in *Girjesh Shrivastava Vs. State of MP*, (2010) 10 SCC 707; *Dr. Duryo Dhan Sahu Vs. Jitendra Kumar Mishra*, (1998) 7 SCC 273; *Ayaaukhan Noorkhan Patan Vs. State of Maharashtra*, (2013) 4 SCC 465; *Jaipur Shahr Hindu Vikas Samiti Vs. State of Rajasthan*, (2014) 5 SCC 530; *Gurpal Singh Vs State of Punjab & ors.*, (2005) 5 SCC 136; *Common Cause (a Regd. Society) Vs. Union of India*, (2008) 5 SCC 511; *Oswal Fats and Oils Limited Vs. Addl. Commissioner (Administration), Bareilly & ors.*, (2010) 4 SCC 728; *Kishore Samrite Vs. State of Uttar Pradesh & ors.*, (2013) 2 SCC 398 and *K.D Sharma Vs. Steel Authority of India & ors.*, (2008) 12 SCC 481. The submissions made by Shri A. Mohendro, the learned counsel appearing for the respondent No.4 are similar to that of the learned counsel appearing for the respondent No.5 and therefore, the same are not repeated here for the sake of brevity. Shri N. Jotendro, the learned Senior Advocate appearing for the petitioner has supported the maintainability of the PIL by contending that in the High Court of Manipur Rules, 2019 which have been notified vide Notification dated 06-03-2019 issued by the Registrar General, the PIL will fall within the category (8) as mentioned therein and in particular, within the expression "other matters of public importance". Shri Th. Modhu, the learned counsel appearing for the MUSA, in support of the PIL, has submitted that this Court can pass an unconventional order keeping in mind that extraordinary fact situation requires extraordinary measure, for which he has relied upon the decisions of the Hon'ble Supreme Court rendered in *Prithipal Singh & ors Vs. State of Punjab & ors.*, (2012) 1 SCC 10; *B.P Achala Anand Vs. Appi Reddy*,

(2005) 3 SCC 313; Badshah Vs. Urmilah Badshah, (2014) 1 SCC 188; Continental Foundation Joint Venture Holding Vs. CCE, (2007) 10 SCC 337 and a decision of the Gauhati High Court rendered in Dharampal Styapal Ltd. & ors. Vs. Union of India & anr., 2011 (1) GLT 625.

[11.2] The decisions relied upon by Shri M. Hemchandra, the learned counsel appearing for the respondent No.4 can be categorised into two groups-one, PIL is not maintainable in service matter and two, a person who approaches the court, is under an obligation to candidly disclose all the material facts before the Court. There is no and can be no any dispute as regards the law laid down by the Hon^{ble} Supreme Court in the aforesaid cases. What is a PIL? This concept of PIL was evolved by the Hon^{ble} Supreme Court. It may be noted that following the decisions of English and American, the Hon^{ble} Supreme Court has, of late, admitted exceptions from the strict rules relating to affidavit, locus standi and the like in the case of class of litigations as PIL. This extraordinary jurisdiction was evolved by the Hon^{ble} Supreme Court, initially, for the enforcement of the fundamental rights. The existence of a legal right or fundamental right is the foundation for invoking the jurisdiction of the High Court under Article 226 of the Constitution. In other words, it is the condition precedent to the maintenance of an application under Article 226 of the Constitution. The PIL is a weapon which has to be used with great care and circumspection. No rigid rule of locus standi can be applied to a PIL. There is no procedure prescribed for initiating a PIL. Only a person acting bonafide and having sufficient interest in the proceeding of PIL will alone have a locus standi. In PIL, the dispute is not inter-party. In State of Uttaranchal Vs. Balwant Singh Chauhal & ors., (2010) 3 SCC 402, the Hon^{ble} Supreme Court examined the definition, origin, evolution of the PIL and after referring to its earlier decisions and in order to preserve the purity and sanctity of the PIL, the Hon^{ble} Supreme Court issued some directions which read as under:

"181. We have carefully considered the facts of the present case. We have also examined the law declared by this Court and other courts in a number of judgments. In order to preserve the purity and sanctity of the PIL, it has become imperative to issue the following directions:

(1) The Courts must encourage genuine and bona fide PIL and effectively discourage and curb the PIL filed for extraneous considerations.

(2) Instead of every individual Judge devising his own procedure for dealing with the public interest litigation, it would be appropriate for each High Court to properly formulate rules for encouraging the genuine PIL and discouraging the PIL filed with oblique motives. Consequently, we request that the High Courts who have not yet framed the rules, should frame the rules within three months. The Registrar General of each High Court is directed to ensure that a copy of the rules prepared by the High Court is sent to the Secretary General of this Court immediately thereafter.

(3) The Courts should prima facie verify the credentials of the petitioner before entertaining a PIL.

(4) The Courts should be prima facie satisfied regarding the correctness of the contents of the petition before entertaining a PIL.

(5) The Courts should be fully satisfied that substantial public interest is involved before entertaining the petition.

(6) The Courts should ensure that the petition which involves larger public interest, gravity and urgency must be given priority over other petitions.

(7) The Courts before entertaining the PIL should ensure that the PIL is aimed at redressal of genuine public harm or public injury. The Court should also ensure that there is no personal gain, private motive or oblique motive behind filing the public interest litigation.

(8) The Courts should also ensure that the petitions filed by busybodies for extraneous and ulterior motives must be discouraged by imposing exemplary costs or by adopting similar novel methods to curb frivolous petitions and the petitions filed for extraneous considerations."

[11.3] The PIL No.49 of 2018 has been filed with some prayers made therein and if it is examined and considered in isolation, the contention of Shri Hemchandra may be correct to some extent for the reason that one of the prayers made therein, is that the order dated 11-09-2018 appointing Prof. K.Yugindro Singh as the Pro-Vice Chancellor be quashed and set aside. But this court was/ is concerned only with the idea of passing appropriate order towards bringing normalcy in the Manipur University. This PIL No.49 of 2018 stood merged with PIL No.48 of 2018 vide order dated 01-10-2018 passed by this Court wherein the prayer was unlimited and omnibus. It is not confined to a particular prayer only and it relates to the normalcy to be brought in the Manipur University. The word "normalcy" is a relative term which ought to be understood in the context of the issue involved in a matter and cannot be given a definite meaning at all. In the context of the imbroglio prevailing in Manipur University, it cannot be said to mean only the holding of classes or the conduct of examinations and in any case, it means the normal functioning of the Manipur University as in the past and in all aspects. After the PIL No.48 of 2018 having been merged, the scope of PIL No.49 of 2018 became far and wide and it was not confined only to the prayer of setting aside the order appointing Prof.

K. Yugindro Singh as the Prop-Vice-Chancellor. Therefore, the contention of the learned counsel appearing for the respondent No.5, Prof. K. Yugindro Singh and the respondent No.4, Prof. A.P. Pandey that PIL No.49 of 2018 is not maintainable, is incorrect and is not acceptable to this court. PIL is absolutely maintainable. This Court was not oblivious of the law laid down by the Hon^{ble} Supreme Court that in the PIL, the issue relating to service cannot be considered and decided by it. But this court, consciously and reluctantly, had to pass the

interim order dated 11-10-2018 keeping in mind the urgent need of bringing normalcy in Manipur University in the interest of the public at large and in particular, the students who were deprived of their rights to attend classes and to sit for the examinations. As has been held by the Hon^{ble} Supreme Court in *Prithpal Singh & ors. Vs. State of Punjab & anr.*, (2012) 1 SCC 10, this Court can pass an exceptional order for the ends of justice in view of the exceptional circumstances. The validity and correctness of the order dated 10-09-2018 appointing Prof. K. Yugingro Singh as the Pro-Vice-Chancellor is one of the issues arising out of the problems in Manipur University and in other words, it is one of the facets of the problems in Manipur University and therefore, it cannot be decided in isolation leaving aside the main issue from being considered by this Court. This is relevant from the point of view that on 23-08-2018 when the MHRD issued an order reconstituting the enquiry committee, the Manipur University resumed its normalcy but the moment the order dated 10-09-2018 came to be issued by the Vice-Chancellor, Prof. A.P. Pandey appointing Prof. K. Yugindro Singh as the Pro-Vice-Chancellor, it aggravated the volatile situation and when Prof. K. Yugindro Singh made an attempt to enter into the Manipur University as the Vice-Chancellor i/c, the students raised a strong protest resulting in the police action. As has been stated hereinabove, the purpose of interfering into the issue of the Manipur University by this Court, was to bring normalcy in Manipur University. The MUSU started the agitation on 30-05-2108 bringing the Manipur University into a grinding halt and since the issue was not resolved for more than 85 days, the careers of the students were at stake. Public became flared up at the inaction on the part of the Union of India and the State of Manipur and began to support the agitation and started raising hue and cry demanding immediate solution in the interest of the students. The Union of India appears to have made no sincere efforts initially towards solving the problem. In fact, there is hardly any problem which cannot be solved provided all the stakeholders are sincere in their approaches. During the first few days from the day when the agitation was commenced by the MUSU, the Union of India appears to have adopted the principle of 'wait and watch'. The problem was not considered to be a serious one which would warrant immediate attention of the Union of India. It appears to have no botheration on the assumption that it is ultimately the students who themselves would realize, later, the mistake of their own agitation. The Vice-Chancellor, Prof. A.P. Pandey appears to have shown no real interest in solving the problem as if he were not concerned at all with the welfare of the students who had been meted out step motherly treatment nor did the Visitor appear to have shown any concern by taking a suo motu action. The since effort made by the State Government was not upto the mark as expected by the general public. The students remained helpless leaving the miraculous solution almost in the hands of god. It is unfortunate that the problem went on for more than 100 days without any solution. This Court is not really concerned with the legality and correctness of the agitation but it can be said to be a unique or a serious one, in the sense that all the stakeholders namely, the MUSU, MUTA, MUSA joined their hands together and raised a common voice for removal of the

Vice-Chancellor. The agitation being a serious one, the Union of India ought to have shown its immediate concern and ought to have taken a timely and purposeful action. Keeping in mind the situation prevailing, at that point of time, in Manipur University, this court consciously and reluctantly had to pass the order dated 11-10-2108 by which Shri Jarnail Singh, a Retd. IAS and the former Chief Secretary, Manipur was appointed as the Administrator to do such things as per directions contained therein so as to bring normalcy in Manipur University. During the course of hearing, the learned counsel appearing for Prof. K. Yugindro Singh made several attempts to question the jurisdiction of this Court under Article 226 of the Constitution of India while passing the said interim order dated 11-10-2018 including the portion thereof by which the order dated 10-09-2018 issued by the Vice-Chancellor was suspended. This court cautioned him from questioning the order dated 11-10-2018 for the simple reason that an order passed by this Court cannot be questioned before it and the only remedy available with him was to prefer an appeal before the Hon^{ble} Supreme Court which he in fact did it by filing a petition for special leave to appeal being SLP(C) No.28380 of 2018 which was disposed on 13-11-2018 by which the Hon^{ble} Supreme Court did not interfere with it being it an interim order and did not express any opinion on merit. After Shri Jarnail Singh having assumed his charge as the Administrator, the normalcy in Manipur University was almost restored to its earlier position which is acclaimed by all. The state of normalcy as it existed on his assumption as the Administrator, has been continuing till date. Since the normalcy had been restored in Manipur University to a great extent, the instant PIL could have been disposed of but for the writ petitions being WP(C) No.825 of 2018, WP(C) No.1084 of 2018 and WP(C) No.1036 of 2018 being filed by Prof. A. P. Pandey, Prof. K. Yugindro Singh, Prof. Amar Yumnam, the same could not be disposed of by this Court and is being considered for disposal along with the said writ petitions. On top of that, it may be noted that since the order dated 10-09-2018 is now under challenge in a separate writ petition being WP(C) No.1036 of 2018 praying for issuing a writ of quo-warranto declaring the said order as null and void, it will be dealt with by this Court separately.

[11.4] The rigour of following the strict rules is not there in respect of the filing of PILs. Even a letter is enough for the Hon^{ble} Supreme Court and the High Courts to take up a PIL under Article 32/226 of the Constitution of India. This is exactly what has been done by this Court while entertaining the letter dated 29-09-2018 addressed by the then Editor of the Huiyen Lanpao, a local daily to this Court which is registered as PIL No.48 of 2018. Since the details in this regard have already been elaborated in the preceding para, the same are not repeated here for the sake of brevity and in order to obviate unnecessary repetitions. Therefore, the contention of Shri M. Hemchandra, the learned counsel appearing for the respondent No.4, Prof. A.P Pandey that the PIL No.49 of 2018 is not maintainable on the ground that the petitioner has suppressed relevant documents from this Court, is not tenable at all. One aspect which needs to be noted and considered by all concerned, is that the students of the

Manipur University are all educated, in the sense that most of them are post-graduate students except few who are undergoing certain graduate courses in certain disciplines. Technically, the students may not have lost their academic career because of the timely actions being taken by the Administrator but some of them have definitely lost their opportunity to prosecute their further studies in some other universities due to non-declaration of results in time. All that this Court would hope and trust, is that the students, if possible, shall avoid such agitation affecting their own interest and that any other form of agitation as is available in a democratic country, may be resorted to by them in future. The interference by this Court in such circumstances which are of public importance is an exceptional one and it cannot be made the general rule.

In Re: issue (b):

[12.1] The validity and correctness of the memorandum of agreement dated 16-08-2018; the order dated 17-08-2018 issued by the respondent No.1; the order dated 03-09-2018 issued by the respondent No.2 and the order dated 21-08-2018 issued by the respondent No.3 are under challenge in this writ petition being WP(C) No.825 of 2018. The main grounds on which the said writ petition has been filed, are that the memorandum of agreement was signed amongst the Union of India, State Government, MUSU, MUTA and MUSA without the Manipur University being made a party thereto; that without any leave being applied for by the petitioner, it was granted by the Registrar i/c with the approval of the Chancellor, although the Visitor is the only competent authority to grant leave; that the MHRD is not competent to issue the said order dated 17-08-2018, as it is the Visitor alone which is empowered under the provisions of the Act, 2005 to cause enquiry and that all the executive actions of the Government of India shall be expressed to be taken in the name of the President. In support of his contention, Shri A. Mohendro, the learned counsel appearing for the petitioner has relied upon the decisions rendered by the Hon'ble Supreme Court in S.R. Bomai Vs. Union of India & ors., (1994) 3 SCC 1 and Raju Ram Pal Vs. Hon'ble Speaker, Lok Sabha & ors., ((1985) 3 SCC 398. In addition thereto, he has relied upon various decisions rendered by various High Courts in the country namely the Judgment and Order dated 19-12-2017 passed by Punjab & Haryana in Dr. Arvind Singh Tejwat Vs. Central University of Haryana; Judgment and Order dated 08-02-2012 passed by High Court of Kerala in Dr. Abdur Rasheed KM Vs. Government of India & ors.; Judgment and order dated 05-01-2015 passed by Madras High Court in Emil Mathew Vs. Union of India and Judgment and Order dated 23-03-1963 passed by Punjab & Haryana in S. Dutt Vs. Visitor of the University of Delhi & ors. His submissions have been refuted by the Assistant Solicitor General appearing for the Union of India. It has been contended by Shri S. Suresh, the learned ASG on behalf of the Union of India that it is within the purview of the MHRD which is the administrative Ministry of the central universities to put forth facts before the appointing authority; that as Section 9(3) does not contemplate any enquiry against the Vice-Chancellor, an independent enquiry committee was constituted; that the MHRD is answerable to

the Parliament in respect of the activities of the central universities with the annual reports and audited annual accounts being laid before it; that although there is no specific provision for constitution of a fact finding committee under the Act, 2005, the MHRD has the power and competence to do so in terms of the scheme of the Constitution of India; that as it is a mere constitution of a fact finding committee, the action based on the report thereof shall be taken by the competent authority ie., the President of India who is the Visitor, in accordance with law; that in exercise of power conferred by Article 77(3), the President of India has framed the rule called "the Government of India (Allocation of Business) Rules, 1961 (hereinafter referred to as "the Rules of Business, 1961") where under the distribution of subjects amongst the departments has been specified and that the transaction of business as regards the central universities fall within the purview of the MHRD. The learned counsel appearing for the other respondents have adopted his submissions and therefore, their submissions are not referred to herein.

[12.2] It is not in dispute that the Manipur University was established under the law called "the Manipur University Act, 2005" enacted by the Parliament. It is a central university fully funded by the Union of India. The relevant Sections read as under:

"9. The Visitor.-(1) The President of India shall be the Visitor of the University.

(2) The Visitor may, from time to time, appoint one or more persons to review the work and progress of the University, including Colleges and Institutions maintained by it, and to submit a report thereon; and upon receipt of that report, the Visitor may, after obtaining the views of the Executive Council thereon through the Vice-Chancellor, take such action and issue such directions as he considers necessary in respect of any of the matters dealt with in the report and the University shall be bound to comply with such directions.

(3) The Visitor shall have the right to cause an inspection to be made by such person or persons as he may direct, of the University, its buildings, libraries, laboratories and equipment, and of any College or Institution maintained by the University or admitted to its privileges; and also of the examinations, teaching and other work conducted or done by the University and to cause an inquiry to be made in like manner in respect of any matter connected with the administration or finances of the University, Colleges or Institutions.

(4) The Visitor shall, in every matter referred to in sub-section (3) , give notice of his intention to cause an inspection or inquiry to be made,-

(a) to the University, if such inspection or inquiry is to be made in respect of the University or any College or Institution maintained by it, or

(b) to the management of the College or Institution, if the inspection or inquiry is to be made in respect of College or Institution admitted to the privileges of the University, and the University or the management, as the case may be, shall

have the right to make such representations to the Visitor, as it may consider necessary.

(5) After considering the representations, if any, made by the University or the management, as the case may be, the Visitor may cause to be made such inspection or inquiry as is referred to in sub-section (3).

(6) Where any inspection or inquiry has been caused to be made by the Visitor, the University or the management shall be entitled to appoint a representative, who shall have the right to be present and be heard at such inspection or inquiry.

(7) The Visitor may, if the inspection or inquiry is made in respect of the University or any College or Institution maintained by it, address the Vice-Chancellor with reference to the result of such inspection or inquiry together with such views and advice with regard to the action to be taken thereon, as the Visitor may be pleased to offer, and on receipt of address made by the Visitor, the Vice-Chancellor shall communicate, to the Executive Council, the views of the Visitor with such advice as the Visitor may offer upon the action to be taken thereon.

(8) The Visitor may, if the inspection or inquiry is made in respect of any College or Institution admitted to the privileges of the University, address the management concerned through the Vice-Chancellor with reference to the result of such inspection or inquiry, his views thereon and such advice as he may be pleased to offer upon the action to be taken thereon.

(9) The Executive Council or the management, as the case may be, shall communicate, through the Vice-Chancellor to the Visitor such action, if any, as it proposes to take or has been taken upon the result of such inspection or inquiry.

(10) Where, the Executive Council or the management, does not, within a reasonable time, take action to the satisfaction of the Visitor, the Visitor may, after considering any explanation furnished or representation made by the Executive Council or the management, issue such directions as he may think fit and the Executive Council or the management, as the case may be, shall comply with such directions.

(11) Without prejudice to the foregoing provisions of this section, the Visitor may, by order in writing, annul any proceeding of the University which is not in conformity with the Act, the Statutes or the Ordinances:

Provided that before making any such order, he shall call upon the Registrar to show cause why such an order should not be made, and, if any cause is shown within a reasonable time, he shall consider the same.

(12) The Visitor shall have such other powers as may be prescribed by the Statutes.

13. The Vice-Chancellor.-(1) The Vice-Chancellor shall be appointed by the Visitor in such manner as may be prescribed by the Statutes.

(2) The Vice-Chancellor shall be the principal executive and academic officer of the University and shall exercise general supervision and control over the affairs of the University and give effect to the decisions of all the authorities of the University.

(3) The Vice-Chancellor may, if he is of opinion that immediate action is necessary on any matter, exercise any power conferred on any authority of the University by or under this Act and shall report to such authority at its next meeting the action taken by him on such matter:

Provided that if the authority concerned is of opinion that such action ought not to have been taken, it may refer the matter to the Visitor whose decision thereon shall be final:

Provided further that any person in the service of the University who is aggrieved by the action taken by the Vice-Chancellor under this sub-section shall have the right to represent against such action to the Executive Council within three months from the date on which decision on such action is communicated to him and thereupon the Executive Council may confirm, modify or reverse the action taken by the Vice-Chancellor.

(4) The Vice-Chancellor, if he is of the opinion that any decision of any authority of the University is beyond the powers of the authority conferred by the provisions of this Act, the Statutes or the Ordinances or that any decision taken is not in the interest of the University, may ask the authority concerned to review its decision within sixty days of such decision and if the authority refuses to review the decision either in whole or in part or no decision is taken by it within the said period of sixty days, the matter shall be referred to the Visitor whose decision thereon shall be final.

(5) The Vice-Chancellor shall exercise such other powers and perform such other duties as may be prescribed by the Statutes or the Ordinances."

The Schedule to the Act, 2005 contains the first statute of the Manipur University as incorporated in terms of Section 30 of the Act, 2005.

The provisions of the Statute can be amended or repealed from time to time by the Executive Council. The Statute (2) reads as under:

"2. The Vice-Chancellor.-(1) The Vice-Chancellor shall be appointed by the Visitor from a panel of not less than three persons who shall be recommended by a Committee as constituted under clause (2):

Provided that if the Visitor does not approve of any of the persons included in the panel, he may call for an extended fresh panel.

(2) The Committee referred to in clause (1) shall consist of three persons, out of whom two shall be nominated by the Executive Council and one by the Visitor and the nominee of the Visitor shall be the convener of the Committee:

Provided that none of the members of the Committee shall be an employee of the University or an institution maintained by, or admitted to the privileges of, the University or a member of any authority of the University.

(3) The Vice-Chancellor shall be a whole-time salaried officer of the University.

(4) The Vice-Chancellor shall hold office for a term of five years from the date on which he enters upon his office, or until he attains the age of sixty-five years, whichever is earlier, and he shall not be eligible for re-appointment:

Provided that notwithstanding the expiry of the said period of five years, he shall continue in office until his successor is appointed and enters upon his office:

Provided further that the Visitor may direct any Vice-Chancellor after his term has expired, to continue in office for such period, not exceeding a total period of one year, as may be specified by him.

(5) The emoluments and other conditions of service of the Vice-Chancellor shall be as follows:-

(i) The Vice-Chancellor shall be paid a monthly salary and allowances, other than house rent allowance, at the rates fixed by the Central Government from time to time and he shall be entitled, without payment of rent, to use a furnished residence throughout his term of office and no charge shall fall on the Vice-Chancellor in respect of the maintenance of such residence.

(ii) The Vice-Chancellor shall be entitled to such terminal benefits and allowances as may be fixed by the Central Government from time to time:

Provided that where an employee of the University, or a college or an institution maintained by, or admitted to the privileges of, the University, or of any other University or any college or institution maintained by or admitted to the privileges of, such other University, is appointed as the Vice-Chancellor, he may be allowed to continue to contribute to any provident fund of which he is a member and the University shall contribute to the account of such person in that provident fund at the same rate at which the person had been contributing immediately before his appointment as the Vice-Chancellor:

Provided further that where such employee had been member of any pension scheme, the University shall make the necessary contribution to such scheme.

(iii) The Vice-Chancellor shall be entitled to travelling allowance at such rates as may be fixed by the Executive Council.

(iv) The Vice-Chancellor shall be entitled to leave on full pay at the rate of thirty days in a calendar year and the leave shall be credited to his account in advance in two half-yearly instalments of fifteen days each on the first day of January and July every year:

Provided that if the Vice-Chancellor assumes or relinquishes charge of the office of the Vice-Chancellor during the currency of a half year, the leave shall be

credited proportionately at the rate of two and-a-half days for each completed month of service.

(v) In addition to the leave referred to in sub-clause (iv), the Vice-Chancellor shall also be entitled to half-pay leave at the rate of twenty days for each completed year of service, and half-pay leave may also be availed of as commuted leave on full pay on medical certificate:

Provided that when such commuted leave is availed of, twice the amount of half-pay leave shall be debited against half-pay leave due.

(6) If the office of the Vice-Chancellor becomes vacant due to death, resignation or otherwise, or if he is unable to perform his duties due to ill-health or any other cause, the Pro-Vice-Chancellor shall perform the duties of the Vice-Chancellor:

Provided that if the Pro-Vice-Chancellor is not available, the senior most Professor shall perform the duties of the Vice-Chancellor until a new Vice-Chancellor assumes office or the existing Vice-Chancellor resumes the duties of his office, as the case may be".

Section 9 of the Act, 2005 provides that the President of India shall be the Visitor of the Manipur University whose powers and functions are enumerated therein. Under sub-Section 2, the Visitor is conferred power to review the work and progress of the Manipur University through one or more person, appointed by him, who shall submit a report on the basis of which he can take action and issue such directions. Under sub-Section (3), the Visitor has the right to cause inspection and inquiry by such person or persons and so far as the inquiry is concerned, it shall be in respect of any matter connected with the administration or finances of the University. In exercise of power conferred by Section 13(1) of the Act, the Vice-Chancellor of the Manipur University shall be appointed by the Visitor. The Vice-Chancellor shall be the principal executive and academic officer of the Manipur University and shall exercise general supervision and control over the affairs of the Manipur University. Special power is conferred upon it under sub-section (3) thereof to be exercised in certain cases where the immediate action is necessary. The Vice-Chancellor shall be appointed by the Visitor in the manner as prescribed under Statute (2) which provides that the Vice-Chancellor shall be appointed from a panel of not less than three persons who shall be recommended by a Committee consisting of three persons, out of whom two shall be nominated by the Executive Council and one by the Visitor. Statute (4) provides that the Pro-Vice-Chancellor shall be appointed by the Executive Council on the recommendation of the Vice-Chancellor.

[12.3] It may be noted that the President of India and the Visitor are one and the same person and in other words, the President of India is given the additional charge of the Visitor of the Manipur University. Our country is considered to be the largest democratic country in the world and the constitutional scheme envisages for a parliamentary form of Government. Article 52 of the Constitution provides that there shall be a President of India to be

elected by the members of the Electoral College in terms of Article 54 of the Constitution. Article 53 provides that the executive power of the Union shall be vested in the President which shall be exercised by him either directly or through officers subordinated to him in accordance with the constitution. Article 74 provides that there shall be a Council of Minister with the Prime Minister at the head to aid and advice the President who shall, in the exercise of his function, act in accordance with it. In other words, it is the constitutional mandate that the President of India shall act only on the aid and advice of the Council of Ministers. In *Samsher Singh Vs. State of Punjab & anr.*, (1974) 2 SCC 831, the question was whether the decision in *Sardari Lal's* case correctly lays down the law that where the president or the Governor is to be satisfied, it is his personal satisfaction. The Hon^{ble} Supreme Court held:

"88. For the foregoing reasons we hold that the President as well as the Governor acts on the aid and advice of the Council of Ministers in executive action and is not required by the Constitution to act personally without the aid and advice of the Council of Ministers or against the aid and advice of the Council of Ministers. Where the Governor has any discretion the Governor acts on his own judgment. The Governor exercises his discretion in harmony with his Council of Ministers. The appointment as well as removal of the members of the Subordinate Judicial Service is an executive action of the Governor to be exercised on the aid and advice of the Council of Ministers in accordance with the provisions of the Constitution. Appointments and removals of persons are made by the President and the Governor as the constitutional head of the Executive on the aid and advice of the Council of Ministers. That is why any action by any servant of the Union or the State in regard to appointment or dismissal is brought against the Union or the State and not against the President or the Governor."

Certain observations were made therein by the Hon^{ble} Supreme Court, which are relevant for the present case, to the effect that the executive power of the Union is vested in the President of India under Article 53 (1). The expression "Union" and "State" occur in Article 53 (1) and 154 (1) respectively to bring about the federal principles embodied in the Constitution. Any action taken in the exercise of executive power of the Union vested in the president under Article 53(1) is taken by the Government of India in the name of the President as will appear in Article 77 (1). Our constitution embodies generally the parliamentary form of Government under which the President is the constitutional or formal head of the Union and he exercises his powers and functions conferred upon him by or under the Constitution on the aid and advice of his Council of Ministers. The executive power is generally described as the residue which does not fall within the legislative or judicial power. In all cases where the President or the Governor exercises his functions conferred on him by or under the Constitution with the aid and advice of his Council of Ministers, he does so by making rules for convenient transaction of the business of the Government of India or the Government of the State respectively or by allocation among his Ministers of the said business under Article 77(3) and 166(3) respectively. Wherever the Constitution requires the

satisfaction of the President or the Governor, as the case may be, the satisfaction required by the Constitution is not the personal satisfaction of the President or the Governor but is the satisfaction of the President or the Governor in the constitutional sense under the cabinet system of the Government. It is the satisfaction of the Council of Ministers on whose aid and advice the President or the Governor generally exercises all his powers and functions. The Rules of Business and the allocation amongst the Ministers under the Rules of Business all indicate that the decision of any Minister or Officer under the Rules of Business is the decision of the President or the Governor. The provisions of Article 74 in the case of President and Article 163 in the case of the Governor that there shall be a Council of Ministers to aid and advice the President or the Governor, as the case may be, are the sources of the Rules of Business. These provisions are for the discharge of the executive powers and functions of the Government in the name of the President or the Governor. Where functions entrusted to a Minister are performed by an official employed in the Minister's department, there is in law no delegation because constitutionally the act or the decision of the official is that of the Minister. The official is merely the machinery for the discharge of the functions entrusted to a Minister. In *R.K. Jain Vs. Union of India*, (1993) 4 SCC 119, the scope of Article 74(2) was considered by the Hon'ble Supreme Court wherein it was held that the President exercises his executive power through the Council of Ministers as per the rules of business for convenient transaction of the Government business under Article 77(3). The Government of India (Transaction of Business) Rules, 1961 provides the procedure in that behalf. It was also held that the cabinet known as the Council of Ministers headed by the Prime Minister is the driving and steering body responsible for the governance of the country. They enjoy the confidence of parliament and remain in office so long as they maintain the confidence of the majority. They are answerable to the parliament and accountable to the people. They bear collective responsibility. Their executive functions comprise both the determination of the policy as well as carrying its execution, the initiation of legislation, the maintenance of order, the promotion of social and economic welfare and the decisions of foreign policy. In short, the carrying on or supervision of the general administration of the affairs of the Union which include political activities and carrying on all trading activities, etc. and they bear collective responsibility to the Constitution. In *S.R. Bommai & ors. Vs. Union of India & ors.*, (1994) 3 SCC 1, the satisfaction reached by the President in issuing the presidential proclamation and dissolving the Legislative Assemblies under Article 356 of the Constitution of India was the subject matter in issue and while deciding the issue relating to the satisfaction of the President thereof, the Hon'ble Supreme Court considered the powers and functions of the President as provided under the provisions of the Constitution. According to Hon'ble Mr. Justice P.B. Sawant, the principles of federalism and democracy are embedded in our constitution. States are constitutionally recognized units and not mere convenient administrative divisions. Both the Union and the States have sprung from the provisions of the Constitution. The federal principle, social pluralism and pluralist democracy form the basic structure of our Constitution. In

the words of Hon^{ble} Mr. Justice K. Ramaswamy, in regard to distribution of executive power, the Constitution made demarcation between the Union and the States. Article 73 (1) read with proviso and Article 162 read with proviso bring out this demarcation. In the cabinet system of the Government, the Council of Ministers with the Prime Minister as the head, would aid and advise the President to exercise the functions under the Constitution except where the power was expressly given to the President to his individual discretion. Hon^{ble} Mr. Justice B.P Jeevan Reddy, has observed that Article 74(1) deals with the acts of the President done "in exercise of his functions" whereas Article 77 speaks of the executive action of the Government of India which is taken in the name of the President of India. Insofar as the executive action of the Government of India is concerned, it has to be taken by the Minister/ Official to whom the said business is allocated by the Rules of Business made under clause (3) of Article 77 for the more convenient transaction of the business of the Government of India. All orders issued and the instruments executed relatable to the executive action of the Government of India, have to be authenticated in the manner and by the office empowered in that behalf. The President does not really come into the picture so far as Article 77 is concerned. All the business of the Government of India is transacted by the Ministers or the officials empowered in that behalf, of course, in the name of the President. Orders are issued, instruments are executed and other acts done by various Ministers and officials, none of which may reach the President or may be placed before him for his consideration. There is no occasion in such cases for any aid and advice being tendered to the President by the Council of Ministers. Though expressed in the name of the President, they are the acts of the Government of India. They are distinct from the acts of the President "in the exercise of his functions" contemplated by Article 74. Of course, even while acting in exercise of his functions, the President has to act in accordance with the aid and advice tendered by the Council of Ministers with the Prime Minister at its head. He is thus rendered a constitutional- or a titular head. It has further been observed by him as under:

"317. The President is clothed with several powers and functions by the Constitution. It is not necessary to detail them to expect to say that Article 356 is one of them. When Article 74 (1) speaks of the President acting "in the exercise of his functions", it refers to those powers and functions. Besides the Constitution, several other enactments too confer and may hereinafter confer, certain powers and functions upon the President. They too will be covered by article 74(1). To wit, the President shall exercise those powers and discharge those functions on the aid and advice of the Council of Ministers with the Prime Minister at its head. "

[12.4] The allied question that arises for consideration in the present case, is to whether the President of India, while exercising its powers as the Visitor, shall act in accordance with the aid and advice of the Council of Ministers. The Act, 2005 is silent on the issue. It is nowhere mentioned specifically in the Act, 2005 and the Statutes made there under that the President of India while exercising its

power as the Visitor, is not required to act on the aid and advice of the Council of Ministers and that it can act on its own wisdom. It is not in dispute that the President of India is conferred certain power under the provisions of the Act, 2005 to act as the Visitor but the manner in which the power of the Visitor ought to be exercised, is not prescribed in the Act, 2005 and the Statutes made thereunder. At this juncture, the use of the term "right" and not the term "power" under sub-Section (3) of Section 9 of the Act, 2005, is significant. There is a gulf of difference between the right and the power. The question of enforcement of a right arises, only when a corresponding duty is not performed by an authority. For example, in order to appoint a Vice-Chancellor of the Manipur University, a committee consisting of three members, is to be constituted, out of whom one member shall be nominated by the Visitor. Will the Visitor being the President of India nominate a person from amongst the names suggested by the MHRD or will he roam around and find out a person for nomination of a member of the committee. There is no procedure prescribed in the Act, 2005 which is to be followed by the Visitor while nominating a member of the committee. It may be true that it is the discretionary power of the Visitor but any exercise of discretionary power without following a principle or a settled norm may amount to arbitrary act. The conjoint reading of the constitutional provisions and the provisions of the Act, 2005 makes it clear that the Visitor being the President of India shall act on the aid and advice of the Council of Ministers. The underlined rational or logic of reading as aforesaid, is that the Constitution of India is supreme and its mandate is to be honored and respected by all. No one can infringe or violate any of the provisions of the Constitution of India. The Act, 2005 is a law enacted by the Parliament which cannot prevail upon or override the Constitution of India. In this regard, the contention of Shri S. Suresh, the learned ASG appearing for the Union of India appears to be correct. According to him, although the President of India has to act as the Visitor under the provisions of the Act, 2005, the Rules of Business, 1961 have been framed whereunder the MHRD has been identified as the Department to deal with the affairs of the central universities. It is well known that the files relating to affairs of the central universities including the administration and academic performances thereof are maintained and processed by the MHRD. The correspondence is also only between the central universities and the MHRD as regards the smooth functioning of the central universities. Finance is also taken care of by the MHRD to the extent that all the central universities are fully funded by the Union of India. In other words, the MHRD is in charge of the day-to-day affairs of the central universities and in particular, the Manipur University. This is true for the reason that our Constitution envisages federal structure and unitary in nature. The Government is divided into Union and the States, as a result of which the executive powers are shared by them in the manner as prescribed in the Constitution of India. The Union of India is empowered to make laws in respect of the subjects enumerated in List-I known as the Union list. In terms of the Rules of Business, 1961, the subjects have been allocated to different Departments including the MHRD which is the concerned department for

the present case.

[12.5] As has been stated hereinabove, the President of India is the Visitor of the Manipur University under the provisions of the Act, 2005. The President of India and the Visitor of the Manipur University are one and the same person. The only difference between the two, is that in respect of the Manipur University, the President of India has to act as the Visitor. But the procedure for exercising power as the Visitor is not laid down in the Act, 2005 and the Statutes made thereunder. There is no material on record to show that a secretariat has been set up in the office of the Visitor where the files are to be maintained in respect of the powers and functions to be exercised by the President of India in his different capacities like the Visitor of the Manipur University. It is not known to this Court as to how the Visitor of the Manipur University will take a decision in the event of any representation or a complaint being placed before him without the detailed facts thereof because the relevant files are in the MHRD. This would clearly demonstrate that the Visitor is not supposed to entertain any representation or a complaint except for a limited procedure as prescribed under Section 13 of the Act, 2005 and to take a decision thereof without the same being routed through the MHRD. Here lies the crucial role to be played by the MHRD as prescribed under the Rules of Business, 1961. In this regard, the observation of the Supreme Court in S.R. Bommai case that beside the Constitution, several other enactments too confer certain powers upon the President which too will be covered by Article 74 (1) and shall be exercised by him with the aid and advice of the Council of Ministers, is relevant and is applicable. The Act, 2005 is one of such enactments, although the term "the Visitor" has been used therein in place of the term "the President". But it is nowhere mentioned in the Act, 2005 that the President while exercising his power as the Visitor, shall act without the aid and advice of the Council of Ministers and in particular, the MHRD which is the concerned department under the Rules of Business, 1961. Assuming for the sake of argument that the Visitor shall take his own independent decision, the materials on the basis of which the decision is to be taken by him, will have to be placed before him by the MHRD. In the present case, the order dated 17-08-2018 was issued by the MHRD constituting a fact finding committee, probably, without the file being placed before the Visitor. In fact, it is merely and only a constitution of a committee which does not affect any of the petitioner's fundamental or legal rights. In his objection to the constitution of the committee, one of the grounds is that the Chairman of the committee is closely related to one of the agitators/spokespersons but during the course of hearing, that ground has been given up except questioning the constitution of the committee on the other grounds. The counsel appearing for the petitioner fairly submitted that the petitioner was ready to face an enquiry looking into the allegations made against him. But surprisingly, the constitution of the committee is being challenged by him on the technical grounds. There is nothing wrong in the constitution of the committee because its purpose is to find out the truth relating to the allegations made

against the petitioner and not to action against him which will have to be done by the appointing authority in accordance with law. It cannot be said to be illegal and at the most, it can be said to be irregular which can be rectified by a post-facto decision being taken by the Visitor. In this regard, the stand of the Union of India as well as the MUSA may be noted and it has been submitted by their counsel that the file was placed before the Visitor at the relevant time for consideration and on perusal thereof, the Visitor approved the proposal and accordingly, the order dated 17-09-2018 was issued by the Deputy Secretary to the Government of India, in the name of the President of India as the Visitor of the Manipur University, suspending the petitioner till the completion of the enquiry with the action being taken thereon. According to them, it would be deemed to have been granted post-facto approval by the Visitor. It was in fact a conscious decision of the Visitor and that too, after his being duly apprised of the constitution of the committee by the MHRD.

[12.16] Some of the decisions rendered by the High Courts have been relied upon by the counsel appearing for the petitioner and in this regard, it may be noted that this Court is not bound by the decisions of other High Courts in the country except their persuasive values. Moreover, the facts of those cases are not identical with that of the present case and therefore, the decisions rendered therein will have no application at all. In other words, the issues involved herein have not been decided therein. In fact, in *S. Dutt Vs. Visitor of Delhi University & ors* case, Shri R.S. Narula, Advocate raised an issue whether the Visitor has to decide matters falling within Section 7-A(7) in his individual discretion or as the President of India with the aid and advice of his Ministers as provided by the Constitution of India. But the Punjab High Court declined to consider it by observing that it is not the function of the Court to express opinion on points that may or may not arise in the future and what has to be decided is the one involved therein. This Court need not delve into them for a ruling in view of the law laid down by the Hon^{ble} Supreme Court in *S.R.Bomma* case. Considering the facts and circumstances and after having heard the learned counsel appearing for the parties, this Court is of the view that the instant writ petition is devoid of any merit and it deserves to be dismissed by this Court.

In Re: issue (c):

[13.1] It has been submitted by Shri Y. Nirmolchand, the learned Senior advocate appearing for the petitioner that while issuing the impugned order, the Vice-Chancellor has violated the various provisions of the Act, 2005 and the Statutes made thereunder including Section 3(3) and Section 13(3); the Vice-Chancellor has acted arbitrarily and illegally, while issuing the impugned order, being violative of the Article 14 & 16 of the Constitution of India and that the impugned order deserves to be quashed and set aside by invoking the writ jurisdiction of this Court and in particular, the writ of quo-warranto. On the other hand, Shri M. Hemchandra, the learned Senior Advocate appearing for the respondent No.5, relying upon the same decisions of the Supreme Court as

stated hereinabove in respect of the other issues, has submitted that the writ petition is liable to be dismissed on the ground of suppression of material facts; that the writ petition is liable to be dismissed on the ground of non-joinder of necessary parties for the reason that Prof. A.P Pandey, the Vice-Chancellor who issued the order, has not been made a party and that the prayer for quashing the impugned order is not tenable because the said order was issued by the Vice-Chancellor by invoking Section 13(3) of the Act, 2005.

[13.2] It is not in dispute that the Vice-Chancellor of the Manipur University is the principal executive and academic officer and while exercising his power, he is bound by the various provisions of the Act, 2005 and in particular, the Statute (3) which provides that it is his duty to ensure that the Act, 2005, the Statutes and the Ordinances are duly observed by all concerned which will include himself. In terms of the Section 4 (1) of the Act, 2005, the Pro-Vice-Chancellor shall be appointed by the Executive Council on the recommendation of the Vice-Chancellor. It is thus absolutely clear that it is the Executive Council which is the appointing authority and not the Vice-Chancellor. Section 4 of the Act, 2005 reads as under:

"4. Pro-Vice-Chancellor.-(1) The Pro-Vice-Chancellor shall be appointed by the Executive Council on the recommendation of the Vice-Chancellor:

Provided that where the recommendation of the Vice-Chancellor is not accepted by the Executive Council, the matter shall be referred to the Visitor who may either appoint the person recommended by the Vice-Chancellor or ask the Vice-Chancellor to recommend another person to the Executive Council:

Provided further that the Executive Council may, on the recommendation of the Vice-Chancellor, appoint a Professor to discharge the duties of a Pro-Vice-Chancellor in addition to his own duties as a Professor.

(2) The term of office of a Pro-Vice-Chancellor shall be such as may be decided by the Executive Council but it shall not in any case exceed five years or until the expiration of the term of office of the Vice-Chancellor, whichever is earlier:

Provided that a Pro-Vice-Chancellor whose term of office has expired shall be eligible for re-appointment:

Provided further that, in any case, a Pro-Vice-Chancellor shall retire on attaining the age of sixty-five years:

Provided also that a Pro-Vice-Chancellor shall, while discharging the duties of the Vice-Chancellor under clause (6) of Statute 2, continue in office notwithstanding the expiration of his term of office as Pro-Vice-Chancellor, until the Vice-Chancellor resumes office or a new Vice-Chancellor assumes office, as the case may be.

(3) The emoluments and other terms and conditions of service of a Pro-Vice-Chancellor shall be such as may be prescribed by the Ordinances.

(4) The Pro-Vice-Chancellor shall assist the Vice-Chancellor in respect of such matters as may be specified by the Vice-Chancellor in this behalf, from time to time, and shall also exercise such powers and perform such duties as may be assigned or delegated to him by the Vice-Chancellor."

[13.3] It has been vehemently submitted by Shri M. Hemchandra, the learned senior counsel appearing for the respondent No.5, Prof. K. Yugindro Singh that the Vice-Chancellor is empowered under the provisions of Section 13(3) of the Act, 2005 to exercise any power conferred upon any authority of the University, whenever the immediate action is necessary. Any action taken by the Vice-Chancellor under the Section 13(3) of the Act, 2005, shall be placed before such authority at its next meeting. It is correct to that extent but this is an emergency power conferred upon the Vice-Chancellor and the exercise of this power by it depends upon the necessity of immediate action. It cannot be exercised at its sweet will. There are many other authorities as enumerated under Section 21 of the Act, 2005 and such other authorities as may be declared by the Statutes to be the authorities and the powers and functions thereof are specifically prescribed in the Act, 2005. The said authorities are required to function in accordance with the provisions of the Act, 2005 and the Statutes made thereunder. In the present case, it may be noted that when Prof. A.P. Pandey assumed the charge of the Vice-Chancellor, the post of the Pro-Vice-Chancellor was lying vacant. It is the Vice-Chancellor which has to recommend the name of a person which shall be appointed by the Executive Council as the Pro-Vice-Chancellor. There is no material on record to show that the Vice-Chancellor had ever recommended the name of a person for appointment as the Pro-Vice-Chancellor during his tenure of more than a year till he was placed under suspension on 17-09-2018. This conduct of the Vice-Chancellor, Prof. A.P. Pandey, which needs to be noted, has shown that he did not want any person to be appointed as the Pro-Vice-Chancellor nor was there any need of appointment of a person as the Pro-Vice-Chancellor. The reason as to why he could not recommend even the name of a person for appointment as the Pro-Vice-Chancellor for more than a year, is nowhere indicated in his affidavit. Under the Statute 2(6), if the post of the Vice-Chancellor becomes vacant due to death, resignation or otherwise or if he is unable to perform his duties due to ill-health or any other cause, the Pro-Vice-Chancellor shall perform the duties of the Vice-Chancellor. The proviso thereto states that if the Pro-Vice-Chancellor is not available, the senior most professor shall perform the duties of the Vice-Chancellor until a new Vice-Chancellor assumes office or the existing Vice-Chancellor assumes the duties of his office, as the case may be. In this regard, the scheme of the Act, 2005 is very clear. The Statute 2(6) is clear and unambiguous and therefore, it requires no interpretation at all. The conjoint reading of Section 13(3) and Statute 2(6) makes it very clear that the power conferred upon the Vice-Chancellor under Section 13(3) is an exceptional power which shall not be exercised in ordinary course and it shall be exercised sparingly and only when the immediate action is necessary. The respondent No.5, Prof. K.

Yugindro Singh or for that matter, Prof. A.P. Pandey, Vice-Chancellor has not produced any material which would warrant the requirement of immediate action to be taken by him without following the other specific provisions which are meant for it. The opinion as referred to in Section 13 (3) of the Act, 2005 is not to be based on the subjective satisfaction but on the objective satisfaction of the Vice-Chancellor. In other words, the opinion of the Vice-Chancellor is to be based on materials and the existence thereof is the condition precedent for exercising power by the Vice-Chancellor. The exercise of power by the Vice-Chancellor under Section 13 (3) or forming his opinion without any material thereof will set a bad precedent for the reason that the Vice-Chancellor is not the appointing authority but only a recommending authority. It will amount to usurping the power of the Executive Council which will ultimately result in the violation of the provisions of the Act, 2005. The Vice-Chancellor shall avoid such exercise of power in normal course. After the agitation being launched by the MUSU, Prof. A.P. Pandey, the Vice-Chancellor was on leave and while he was on leave, the senior most professor was allowed to perform the duties of the Vice-Chancellor vide order dated 21-08-2018 and accordingly, the functioning of the University stood resumed. Suddenly or immediately after the expiry of his leave as claimed by him, the Vice-Chancellor, Prof. A. P. Pandey resumed his office and started issuing orders/ instructions. One of such orders that he issued, which compelled the students to resume their agitation by shutting down the Manipur University, was the order dated 10-09-2018 by which Prof. K. Yugindro Singh was appointed as the Pro-Vice-Chancellor. What was the urgency because of which the exceptional power was required to be exercised by him, was not made known to anyone. The only reason indicated in the affidavit of the respondent No.5, Prof. K. Yugindro Singh was the atmosphere prevailing in the Manipur University being not conducive for calling a meeting of the Executive Council. But the imbroglio prevailing in Manipur University was not due to non-appointment of the Pro-Vice-Chancellor in time. Had it been the only problem, the issue could have been resolved without any problem. It wasn't so. Even in the absence of the Pro-Vice-Chancellor, when the senior most professor was allowed to perform the duties of the Vice-Chancellor, the administration of the Manipur University went on smoothly for few days and the problem began to rise only after the respondent No.5, Prof. K. Yugindro Singh was appointed as the Pro-Vice-Chancellor. The problem became aggravated when he made an attempt to perform the duties of the Vice-Chancellor which led to the unfortunate incident of raiding the hostels in Manipur University in the night by the police/ commando/ army personnel which never happened in the history of any educational institute in the State. Many people condemned the incident. It is expected that such thing will never be allowed to happen again in order to maintain an academic atmosphere in Manipur University without creating any kind of terror or fear in the mind of the students. In view of the above, this Court is of the opinion that the instant writ petition has some force and merit and accordingly, it deserves to be allowed by this Court.

[13.4] One of the grounds on which the writ petition was contested by the respondent No.5, Prof. K. Yugindro Singh, is that it is not maintainable and is liable to be dismissed for the reason that Prof. A.P. Pandey was not made a party. This ground has no merit at all because the order dated 10-09-2018, impugned herein, was issued by the Vice-Chancellor who was made a party as the respondent No.4. Some of the allegations made against Prof. A. P. Pandey herein, have also been made against him in the PIL wherein he was given enough opportunity to rebut the same. Moreover, when some petitions which have arisen out of the same facts and circumstances, are clubbed together and considered jointly like the present cases herein, the question of non-joinder of necessary party will not arise at all.

[14.1] The writ petitions being WP(C) No.1084 of 2018 and WP(C) No.327 of 2019 have been filed by Prof. K. Yugindro Singh with mainly two prayers-one, Shri Jarnail Singh who was appointed as the Administrator vide order dated 11-10-2018 passed by this court, be restrained from extraneous exercise of administrative power and two, the Executive Council be directed to exclude any decision/ agenda on the issue relating to the confirmation or otherwise of the order dated 10-09-2018. So far the writ petition being WP(C) No.327 of 2019 is concerned, it has become infructuous for the reason that the Executive Council in its meeting held on 16-04-2019 had not taken any decision thereon and therefore, no order need be passed by this Court by afflux of time. The grounds on which the writ petition being WP(C) No.1084 of 2018 has been filed by the petitioner, are that the appointment of Shri Jarnail Singh as the Administrator was outside the provisions of the Act, 2005 and the Statutes made there under and that since his appointment was purely on temporary measure for bringing normalcy and dealing with volatile situation in Manipur University, his service was/is no longer required after normalcy being restored to Manipur University and therefore, the charge of administration of the Manipur University ought to be handed over to the Vice-Chancellor/ Pro- Vice-Chancellor duly appointed as per the provisions of the Act, 2005.

[14.2] It may be noted that keeping in mind the urgent need of bringing normalcy in Manipur University, this Court did pass the interim order dated 11-10-2018 which read as under:

"This is a matter which has considerably engaged the attention of not only this Court but the entire State for a long period because of the unusually prolonged disturbances marked with violence. Highly contentious issues have been raised, which are not entirely academic in nature. The problems afflicting Manipur University, no more remain local issues, but have spilled over and have become serious States issues affecting the law and order in the State as well.

(2) The problems in Manipur University seem to have started sometime in the month of May, 2018 with the certain demands of the students not being addressed nor resolved. Either, because of deliberate or unavoidable course of actions taken by the University authorities, more particularly, the Vice Chancellor

of the University, the problem spiralled out of control and there has been almost a total lockdown in the functioning of the University for the last several months marked with violence. Perhaps due to the situation becoming out of control, the Vice Chancellor then took leave on personal grounds from 02.08.2018 to 31.08.2018.

(3) The Union and State Respondents who are also responsible for the smooth functioning of the University intervened, resulting in some understanding between the agitating students, teachers and staff and the Respondent authorities, after a series of meetings held on 14th, 15th and 16th of August, 2018 attended by the Hon'ble Chief Minister, the Joint Secretary from the Ministry of Human Resource Development (MHRD) on the basis of which, an Enquiry Committee was constituted consisting of a retired Acting Chief Justice of Meghalaya High Court and a former Vice-Chancellor of Tezpur University to look into various allegations levelled against the Vice-Chancellor by the students and others. This led to the suspension of agitation after a period of 85 days and University started functioning from 23.8.2018 which unfortunately lasted only for a few days to be marred by agitation and violence. The said Enquiry Committee is said to have started the enquiry, but not yet concluded.

(4) The Union Respondent through their affidavit filed on 9.10.2018 in a related petition, namely W.P.(C) No. 825 of 2018 filed by Prof. Adya Prasad Pandey challenging the enquiry against him, stated that the Vice Chancellor contrary to the aforesaid agreement resumed his duties on 1.9.2018 on his own and took certain actions which further deteriorated the academic atmosphere by banning the students union, teachers union and staff union and also suspended Prof. Vishwanath as the Vice Chancellor in charge and also suspended the Registrar in charge Prof. Dorendrajit which according to the Union Respondent led to an anarchic situation in the campus. The State Government also intimated to the Ministry of these acts of the Vice Chancellor which led to the deteriorating situation and sought their intervention. The State Government also intimated about the violent clash of the students with the police, burning down of the Sports Office in the University, shutting down of Colleges by the students, 48 hours bandh called paralysing the valley area, corresponding shut down in hill areas, destruction of public properties etc. Though the Vice Chancellor had challenged the constitution of the Enquiry Committee in the aforesaid writ petition, W.P.(C) No. 825 of 2018, this Court had declined to suspend the same. In the meantime the Vice Chancellor was placed under suspension by the Visitor of the University, who is the President of India during the pendency of the said enquiry. Though Professor W. Vishwanath Singh was appointed to look after the office of the Vice Chancellor, another Pro Vice Chancellor was appointed by Prof. Adya Prasad Pandey. The appointment of the Pro Vice Chancellor by Prof. A. P. Pandey when he was already under investigation was vehemently objected by the students, teaching and non teaching staff mainly on the ground that since he was already under a cloud and investigation and was asked to remain on leave, he ought not have appointed a Pro Vice Chancellor to exercise powers of Vice

Chancellor when an In-Charge Vice Chancellor was already appointed. This act of Prof. A.P. Pandey seems to have aggravated the situation. There is also a dispute about the appointment of the Registrar of the University. The appointment of the Pro Vice Chancellor and the Registrar in charge now functioning are questioned in this PIL also. Alleging certain actions by the students and teachers which are denied by them, an FIR was lodged by the present Pro Vice Chancellor, resulting in a midnight raid of the hostels of the University and use of force by the police to cause arrest of the students. Not only students, many teachers have been also arrested. It has been also stated before the Court, that many teachers have been placed under suspension. These State actions and of the University authorities seem to have aggravated the situation. The situation seems to be very critical now in the Manipur University with increasing instances of violent incidents.

(5) These issues would have remained only in the realm of public domain beyond the purview of the Court. However, with the filing of the PIL and other connected matters, this Court has been obligated to take notice of the same.

(6) Courts are generally confined to the primary task of adjudicating disputes of contesting parties which may involve certain pro-active role of mediation or conciliation, which are well accepted method of alternative dispute resolution. Otherwise, generally, Courts do not get involved in managing the affairs of any troubled institution, except by way of appointment of Commissioner or Receiver etc. to temporarily manage the affairs.

(7) When the PIL was admitted, considering the disturbed state of affairs obtaining in the Manipur University marred by violent incidents, use of force by the law enforcing agencies, this Court called upon the respondent authorities and other stakeholders to make an attempt to resolve the crisis, as continuing disturbance and attending violence was vitiating the academic atmosphere and adversely affecting the interest of the students, for whom primarily the University has been established. If the interest of the students for whom the University has been established is harmed and the University rendered non-functional, all sincere endeavours must be made to bring the situation under normalcy and resolve the problems. The interest of the students in any academic institution is paramount and all other interests, whether of the administrators or the teachers must be subordinated to the interest of the students.

(8) This Court is presently primarily concerned with bringing normalcy to the University and not with the issue as to who is/are responsible for bringing the Manipur University to the present disturbed state of condition. There are allegations and counter allegations as to what led to the present situation, which would require a thorough investigation. That is a matter which would require a detailed and exhaustive examination, which this Court is not inclined to do so at this stage. This Court is not presently engaged in that exercise, more particularly in view of certain Enquiry Committee constituted to examine various complaints made against the Vice Chancellor of the University. The Vice Chancellor in turn also has also cast serious aspersions on the student, teaching and non-teaching

communities of engaging in questionable and illegal activities.

(9) This Court is of the view that this should not deter this Court from exploring the possibility of resolving the crisis in the University. While the allegations and counter allegations could be looked into, which obviously would take time, this Court has felt that the immediate priority is to bring normalcy to the University so that the academic activities can be resumed, academic calendar is no more disturbed, the examinations are held and results declared in time, admissions are held in time as otherwise, it will have far reaching repercussions on the academic lives of the students.

(10) It is under these circumstances and context that this Court while admitting the PIL urged the respondent authorities to resolve the issues by observing that it is the prime responsibility of the Union Respondent and other authorities to resolve the problem, with the expectation and the hope that this Court would remain on the side-lines and passed the following order on 1.10.2018 :-

"PIL No. 48 of 2018 and PIL No. 49 of 2018 are taken up together considering that the issues raised in these PILs relate to the present state of affairs obtaining in the Manipur University. While in PIL No.48 of 2018, the petitioner has sought for an omnibus order for bringing an amicable solution to the problems plaguing the Manipur University, in PIL No. 49 of 2018, apart from making similar prayers, certain orders have been also challenged which would require appropriate response from the concerned respondents. However, considering that the fact that these two PILs are closely related and the ultimate end sought for is normalization of the situation in Manipur University, we are of the view that these two PILs can be clubbed together and merged.

[2] In order to avoid any multiplicity of orders being passed in these two PILs, PIL No. 48 of 2018 shall stand merged with PIL No.49 of 2018 and the petitioner in PIL No.48 of 2018 may be co-opted as petitioner No. 2 in PIL No. 49 of 2018, to which Mr. N. Jotendro, learned senior counsel for the petitioner in PIL No.49 of 2018, has raised no objection.

[3] For the same reasons, the respondents No.6 to 8 in PIL No.48 of 2018 are also made respondents in PIL No. 49 of 2018 for which the petitioners will make necessary corrections in the Cause Title of PIL No. 49 of 2018.

In view of the order passed, PIL No.48 of 2018 being merged with PIL No.49 of 2018, it stands closed.

[4] The issue raised in PIL No.49 of 2018 is of utmost significance which calls for expeditious consideration. Normally, the management of a University would come within the purview of the University authorities where the role of the Court ought to be minimal as far as possible and non-existent, if possible. However, there may be extraordinary situations which may call for certain role to be played by the Court. But, the fact remains that the prime responsibility for bringing normalcy in the Manipur University lies with the University authorities as well as

other authorities including Union respondents as well as the State respondents as they are best placed to understand the problems plaguing the Manipur University and devise practical solutions. If such solutions can be offered by the respondents concerned and problems resolved, this Court will be happy to remain in the sidelines.

With this understanding, we admit this PIL.

[5] Issue notice to the respondents returnable on 5th October, 2018.

Mr. S. Suresh, learned CGC accepts notice on behalf of the respondent no.1. Mr. S. Yaikul, learned counsel accepts on behalf of the respondent No.2. Mr. P. Tamphamani, learned counsel assisting learned Advocate General accepts notice on behalf of the respondent No.3. Mr. H.S. Paonam, learned senior counsel accepts notice on behalf of the respondent No.5.

Petitioners are to take steps for service of notice upon the respondent No.4 and the newly impleaded respondent Nos. 6, 7 and 8.

As the matter has been fixed on 5th of this month, notice may be sent by a Special Messenger to be arranged by the Registry of this Court.

[6] Since this PIL has been taken up for the welfare of the University in particular and State at large, and is not being taken up as an adversarial litigation, we would call upon all the respondents concerned to suggest ways and means to resolve the crisis presently being faced by the Manipur University, for which the respondents may submit their suggestions on 5th of this month so that this Court may consider these. We may also make it clear that the pendency of this PIL and the observations made by this Court as above, will not come in the way of the authorities and all the stakeholders concerned without involvement of this Court, to take all the necessary steps for resolution of the problems faced by the University because of which the academic calendar of the University has been seriously disrupted.

List the matter accordingly on 5th October, 2018 so that an endeavour can be made towards normalisation of the functioning of the University.

Mr. A. Mohendro, learned counsel for the respondent No. 4, however, submits that he may be permitted to address this Court on the very maintainability of the PIL.

List the matter again on 05.10.2018.

Copies of this order may be furnished to the learned counsel for the parties/respondents."

(11) Though this Court called upon all the Respondents concerned to suggest ways and means to resolve the crisis in the University and fixed the next date on 5.10.2018 so that the Court could consider these suggestions, none made any suggestions because of which this Court passed the following order cautioning

that in the event of failure on the part of the respondents to do so, the Court may be compelled to intervene in the matter. Accordingly, the following order was passed by this Court on 5.10.2018 urging again the respondent authorities to work out a solution or to suggest practical ways and means to resolve the crises:

"

[2]

[3]

[4] These PILs have been taken up because of the seriousness and urgent nature of the crisis in the Manipur University. It is a fact, not disputed by anybody, that the University has been dysfunctional for the last about 90 (ninety) days and it is the interest of the students which has been mostly affected adversely as the academic calendar has been thrown into disarray without regular classes, delay in declaration of examination results, admission process etc. Therefore, though the problem relates to management of the University, the effect is directly on the students.

[5] Though the authorities had taken certain steps for resolution of the crisis, these steps do not seem to have any effect and the crisis continues. It is in this context and background that these PILs have been taken up by this Court on 1.10.2018.

[6] While admitting these PILs on 1-10-2018, this Court had also urged upon all the concerned respondents to suggest ways and means to resolve the crisis faced by the Manipur University and an endeavour be made to bring normalcy to the functioning of the University as observed in Para No. 6 of the order passed by this Court on 1-10-2018 which reads as follows:

"[6] Since this PIL has been taken up for the welfare of the University in particular and State at large, and is not being taken up as an adversarial litigation, we would call upon all the respondents concerned to suggest ways and means to resolve the crisis presently being faced by the Manipur University, for which the respondents may submit their suggestions on 5th of this month so that this Court may consider these. We may also make it clear that the pendency of this PIL and the observations made by this Court as above, will not come in the way of the authorities and all the stakeholders concerned without involvement of this Court, to take all the necessary steps for resolution of the problems faced by the University because of which the academic calendar of the University has been seriously disrupted."

[7] We had also made it very clear as mentioned in para No. 4 of the order that it is the prime responsibility of the authorities to manage the affairs of the University and involvement and interference of this Court should be to the minimal as far as possible and non-existent, if possible. However, because of the continuing dislocation in the functioning of the University which directly affects

the students, these PILs have been taken up as observed in para No. 4, which is reproduced herein below:

"[4] The issue raised in PIL No.49 of 2018 is of utmost significance which calls for expeditious consideration. Normally, the management of a University would come within the purview of the University authorities where the role of the Court ought to be minimal as far as possible and non-existent, if possible. However, there may be extraordinary situations which may call for certain role to be played by the Court. But, the fact remains that the prime responsibility for bringing normalcy in the Manipur University lies with the University authorities as well as other authorities including Union respondents as well as the State respondents as they are best placed to understand the problems plaguing the Manipur University and devise practical solutions. If such solutions can be offered by the respondents concerned and problems resolved, this Court will be happy to remain in the side-lines."

[8] We have refrained from passing any order directly interfering with the management of the University so far, in the hope and expectation that the authorities concerned, who are primarily responsible to manage the affairs would come out with certain feasible and practical solution to the problem.

[9] Unfortunately, though this Court had urged the authorities concerned to submit their suggestions today, nothing is forthcoming. What we can say now only is that it is very unfortunate, as the authorities ought to show more sense of urgency in resolving the problem as continuing this crisis would invite more problems. The crisis in Manipur University should not be allowed to have a cascading effect on the other parts of the State, as there is already a threat to start a counter agitation if no solution is brought about soon.

[10] Accordingly, we again urge upon all the respondents and authorities concerned either to work out a solution on their own by the next date and if not, they may also suggest before this Court such practical solution on the next date on 11th October, 2018. We feel that prolonged disruption and crisis in the University is not in public interest. Hence, failing to resolve the crisis by the authorities concerned, we may not have any other alternative but to interfere in the affairs and management of the University which we would not have done otherwise and we also hope not to.

[11] Accordingly, let these matters be listed again on 11th October, 2018, during which time, this Court expects the authorities concerned to resolve the crisis and if for any reason the same is not done, they may at least submit their suggestions to resolve the crisis so that appropriate order can be passed by this Court on the next date.

[12] With this hope and expectation, the matters stand adjourned to 11th October, 2018. We hope that all the authorities concerned will take up the issue with all seriousness it deserves. Copies of this order may be furnished to the learned counsel for all the parties today itself."

(12) Today, when the matter was taken up, it has been submitted that the problems of the Manipur University have remained unresolved and in fact worsened. It has been stated that the situation is literally out of control, with many students, teachers and staff under custody and many of them under suspension, marred by violence and use of force by the law enforcing agencies inside the University. The agitation demanding release of students and teachers arrested is turning violent. The students, teachers and the staff contend that if the arrested students, teachers and staff are released, this would go long way in the resolution of the crisis. The demand for immediate removal of the present Pro-V.C. who is looking after the duties and functions of the VC and the Registrar in charge also continues. The agitation is thus continuing unabated. In the process, the academic routine has been literally thrown out of gear.

Today, the Respondents no. 4,5,6,7 and 8 have filed their affidavits and have submitted their views and suggestions. This Court will examine these later after hearing all the other parties. However, as the matter does not brook any further\ delay, we propose to pass certain orders today.

(13) In short, the crisis remains unresolved and has worsened with increasing violent incidents. Chaos reigns now.

This Court had expressed serious concern on the continuing stalemate and violence which is jeopardising the interest of the students and had cautioned the respondent authorities and all the stakeholders that in absence of any resolution of the crises and in absence of any practical suggestions to resolve the crises, this Court may be compelled to intervene. This expectation of the Court has been belied. The easy way out is to allow the problem to fester and wait for miracle to happen to resolve the crisis or to intervene in the matter which option we are now inclined to adopt.

(14) We have given our anxious thought and consideration over the matter and volatile and often violent situation continuing in Manipur University and considering the best interest of the students and present very disturbing situation prevailing, we have reluctantly opted to intervene in the matter by issuing the following directions.

1. We, hereby, appoint a neutral person as an ADMINISTRATOR who is fully empowered to discharge the functions of the Vice-Chancellor as provided under the Manipur University Act, 2005 and such other relevant statutes, whose primary duty and responsibility is to bring normalcy in Manipur University.

2. For the above purpose, we appoint SRI JARNAIL SINGH, IAS (Retired), and former Chief Secretary of Manipur, who had also served as Joint Secretary to the Office of the Prime Minister, who has vast experience of administration in the State of Manipur and was awarded the Prime Minister's Award for

Excellence in Public Administration for the year 2007-08, as the ADMINISTRATOR.

3. SRI JARNAIL SINGH is fully authorised to choose and appoint any competent

person as in charge Registrar of the University and he will be at liberty to appoint any other person(s) to aid, assist and advise him in discharge of the functions of the Vice Chancellor.

4. SRI JARNAIL SINGH is also fully empowered to pass any such order(s) and/or to review and revoke any such order(s) and to do such act(s) as he may deem fit for bringing normalcy to the University and defuse the volatile situation by engaging in constant dialogue and interactions with all the stakeholders, so long it is not contrary to any order of the Court. He may also seek the assistance of the State Government and Union Respondent/Central Government in this regard, who shall provide such assistance as may be necessary and requisitioned.

5. During this period, and so long as the ADMINISTRATOR is functioning,

A. The appointment of Shri K. Yugindro Singh as the Pro-Vice Chancellor under order dated 11.09.2018 issued by Prof. Adya Prasad Pandey shall remain suspended.

B. The appointment of Prof. W. Vishwanath Singh to look after the office of the Vice Chancellor vide order dated 01.08.2018 issued by Prof. Adya Prasad Pandey shall also remain suspended.

C. The appointments of Shri Shyamkesho Singh as Registrar in charge and Sri Sh. Dorendrajit Singh as Registrar in charge shall also remain suspended.

D. The Visitor of the University/Union Respondent will ensure that the suspension of Shri Adya Prasad Pandey as Vice Chancellor vide order dated 17.09.2018 issued by the Visitor of the University is continued and not revoked during the continuation of the office of the Court Appointed ADMINISTRATOR as mentioned above, and without specific leave of this Court.

6. All the authorities under the Manipur University Act, 2005 and all the respondents including the Union and State Respondents and Private Respondents herein, shall render their full cooperation and assistance to the ADMINISTRATOR in his duties to bring normalcy to the University and also, as and when the ADMINISTRATOR specifically seeks their assistance.

7. No authority, including under the Manipur University Act, 2005 shall have any authority to curtail the power and functions of the ADMINISTRATOR without specific leave of this Court.

8. Any person, whether he is a party in this petition or not, if obstructs the smooth functioning of the ADMINISTRATOR, will be deemed to interfere or obstruct the administration of justice, as the ADMINISTRATOR has been appointed by this Court to act on behalf of the Court with the specific task of bringing normalcy to the University. Accordingly, any such person who may interfere or cause obstruction to the functioning of the ADMINISTRATOR may be liable to be proceeded and punished accordingly under the Contempt of Courts Act, 1971 and/or under Article 215 of the Constitution of India, for which, the

ADMINISTRATOR will move this Court. Any party in this proceeding will be also at liberty to bring to the notice of this Court any such contumacious activity for necessary action by the Court.

9. All the authorities earlier functioning as Pro Vice - Chancellor or Vice Chancellor in charge, or Registrars in charge, shall immediately handover the charge to the Court Appointed ADMINISTRATOR and they shall forthwith refrain from acting under any such capacity.

10. SRI JARNAIL SINGH shall be entitled to draw salaries and enjoy perks and such facilities as entitled to the Vice Chancellor, as he may determine, in accordance with the financial norms, rules and regulations of the Manipur University.

11. It shall be the responsibility of the State Government to provide necessary security and safe and secure accommodation for the Court Appointed ADMINISTRATOR.

12. SHRI JARNAIL SINGH is requested to immediately take over charge as the Court Appointed ADMINISTRATOR and start discharging his duties and functions of the Vice Chancellor and do all such deeds and acts to bring normalcy to Manipur University as mentioned above.

13. In order to effectuate this mandate, authority and power of the ADMINISTRATOR to bring normalcy to the University, the ADMINISTRATOR will have the liberty to approach this Court for any clarification of this order or seek any further order or directions from this Court.

14. This arrangement and these directions will continue till normalisation of the situation in Manipur University is attained or until further order of this Court.

(15) List this matter again on 16.10.2018 to consider compliance of the directions of this Court and for passing appropriate orders in this regard, if necessary, by this Court. W.P.(C) No. 825 of 2018 is also to be listed along with this PIL.

(16) A copy of this order be immediately communicated to SRI JARNAIL SINGH, the Court Appointed ADMINISTRATOR by e-mail, fax and also by phone by the Registry of this Court for carrying out the directions of this Court.

Registry also shall render all such necessary assistance to the Court Appointed ADMINISTRATOR as he may seek.

Copies of this order may also be furnished to learned counsel for all the parties/respondents today itself including the learned Counsel for Manipur University for immediate compliance of the directions by all concerned."

[14.3] Keeping in mind the Manipur University being plagued by the imbroglio resulting in its total shutdown for more than 100 days, this Court consciously and reluctantly had to pass the aforesaid interim order being an endeavor towards

bringing normalcy in Manipur University. At that point of time, the careers of the students were at stake. No classes could be held and the results of the examination could not be declared at all. The efforts made by the stakeholders including the Union of India and the State of Manipur appeared to have failed to bring any solution to the imbroglio. By the said interim order, Shri Jarnail Singh, a Retd., IAS was appointed as the Administrator of the Manipur University who was empowered to discharge the functions of the Vice-Chancellor as provided under the Act, 2005. He was fully empowered to issue any order(s) and/ or to review and revoke any such order(s) and to do such act(s) as he may deem fit for bringing normalcy in Manipur University.

[14.4] This interim order came to be challenged by the petitioner, Prof. K. Yugindro Singh before the Hon^{ble} Supreme Court by way of a petition for special leave to appeal being SLP(C) No.28380 of 2018 which was disposed on 13-11-2018 whereby the Hon^{ble} Supreme Court did not interfere with it being it an interim order and did not express any opinion on merit. During the course of hearing, the learned counsel appearing for the petitioner made an attempt to question the validity and correctness of the interim order but this court cautioned him that he could not do so for the reason that the order passed by this Court could not be questioned before it. It ought to be done by way of an appeal before the Hon^{ble} Supreme Court which he did and failed as aforesaid. The only remedy available before this court, so far as the petitioner is concerned, was to move an appropriate application before this Court for the modification of the said interim order so that the same could have been considered by this Court along with these matters. He had failed to do so. Moreover, since the PIL No.49 of 2018 itself is being disposed by this common judgment and order, the interim order will stand merged with it and therefore, no order need be passed in this writ petition which is devoid of any merit and the instant writ petition stands dismissed accordingly. However, in case the petitioner is aggrieved by this common judgment and order, it is open to him to approach any appropriate forum for redressal of his grievance in accordance with law. The atmosphere in Manipur University obtaining as on date, is not conducive for the charge of the administration being handed over to the Vice-Chancellor/ Pro-Vice-Chancellor as long as the issue relating to allegations made against the Vice-Chancellor is not resolved or settled by the MHRD or for that matter, by the Visitor of the Manipur University.

[15] In view of the above and for the reasons stated hereinabove, the writ petitions and PIL are disposed of as under:

(a) The PIL No.49 of 2018 is disposed of with the following directions:

(i) The Registrar General, High Court of Manipur is directed to return the report, being kept in a sealed cover, to the Independent Two Member Committee through its Secretary-cum-Assessor or the Chairman within five days from to-day so that the same can be submitted by it to the MHRD;

(ii) After the receipt of the report of the Independent Two Member Committee, the MHRD shall consider it; take an appropriate decision thereon, in accordance with law, as expeditiously as possible and place it before the Visitor for his approval and order/ directions;

(iii) In the interest of the Manipur University and in particular, the interest of the students, Shri Jarnail Singh, appointed as the Administrator of the Manipur University vide interim order dated 11-10-2018 passed by this Court, shall continue to act and discharge the functions of the Vice-Chancellor on the terms and conditions mentioned therein till such time an appropriate action being taken by the Visitor through the MHRD in respect of the Vice-Chancellor of the Manipur University on the basis of the report of the Independent Two Member Committee or a new person appointed by the Visitor Manipur University under the as the Vice Chancellor of the provisions of the Act, 2005 assumes the charge of it;

(b) The writ petitions being WP(C) No.825 of 2018 and WP(C) No. 1084 of 2018 are dismissed with no order as to costs;

(c) The writ petition being WP(C) No.1036 of 2018 is allowed and consequently, the order dated 10-09-2018 issued by the Vice-Chancellor, Manipur University appointing Prof. K. Yugindro Singh as the Pro-Vice-Chancellor, is quashed and set aside with no order as to costs;

(d) The writ petition being WP(C) No.327 of 2019 is dismissed as infructuous.