
(1988) 05 BOM CK 0002

In the Bombay High Court

Case No : Writ Petition No"s. 119, 156, 196, 225, 226 and 368 of 1988

M.D. Nasir Khan and Others

APPELLANT

Vs

State of Maharashtra and Others

RESPONDENT

Date of Decision : 09-05-1988

Acts Referred:

Nagpur University Act, 1974 — Section 37, 4(10), 4(14)

Citation : AIR 1989 Bom 197

Hon'ble Judges : Dhabe, J;Desai, J

Bench : Division Bench

Advocate : P.G. Palshikar, G.Y. Gharote, C.S. Kaptan and S. Bobde, for the Appellant; S.K. Snnyal, for the Respondent

Judgement

Dhabe, J.—Parties by counsel Rules heard forthwith.

In view of the urgency in these matters ,we have heard them at length at the stage of notice before admission and they are , therefore , disposed of on merits by issuing rule. Since all these writ petitioners relate to the question of admission of the petition therein to the B.Ed. Examination of the Nagpur University to be conducted in July 1988 and thus involve certain common questions of fact and law, they are being disposed of by this common judgment. Although the specific points in each of these petitions are dealt with separately in theis judgment.

2. Briefly , the facts in these writ petition are that the B.Ed, colleges in these writ petitions are all unauthorised colleges to which no affiliation was granted under the provisions of the Nagpur University Act , 1974 (for short the University Act). However , these unauthorised colleges gave admissions to the students for B.Ed. Course in 1986-87 with impunity and the students also took admission in these colleges during the said academic year although the Nagpur University has black-listed the said colleges and warned the students, vide its press note dt. 17-3-1986 and its notifications dt. 21-5-1986 and 7-10-1986 that such students would not be entitled to appear for the B.Ed. Mrach/April Examination 1987 of the University. The Nagpur University therefore firmly refused to allow the

students of such unauthorised colleges to appear for its March/April 1987 examination.

3. One such unauthorised college by name Vasant Shikshan Mahavidyalaya, Gopuri, Wardha, run by Shankaranand Education and Cultural Society, Nagpur, had filed a writ petition in this Court bearing Writ Petition No. 299 of 1987 for permitting its students to appear for the March/April 1987 examination of the Nagpur University. However, by the judgment dt. 29-4-1987, this Court dismissed the said writ petition on the ground that the said college was an unauthorised college and that the University had warned the college as well as students that it would not allow its students to appear for the said examination. In taking its view, this Court relied upon the judgment of the Supreme Court in the case of N.M. Nageshwaramma and Others Vs. State of Andhra Pradesh and Another, . It will be worthwhile to notice the observations of the Supreme Court in Para 3 of the said judgment, which are as follows;

"The students who have undergone training in private teacher training institutes established without permission cannot be permitted to appear at the examination under Art. 32 or 226 of the Constitution. These institutions were established and the students were admitted into these institutes despite a series of press notes issued by the Government. If by a fiat of the Court the Government is directed to permit them to appear at the examination Court will practically be encouraging and condoning the establishment of unauthorised institutions. It is not appropriate that the jurisdiction of the Court either under Art. 32 of the Constitution or Art. 226 should be frittered away for such a purpose. The Teachers Training Institutes are meant to teach children of impressionable age and Court cannot let loose on the innocent and unwary children teachers who have not received proper and adequate training. True they will be required to pass the examination but that may not be enough. Training for a certain minimum period in a properly organised and equipped Training Institute is probably essential before a teacher may be duly launched.

4. It may be seen that there were unauthorised B.Ed. colleges within the jurisdiction of the Marathwada University also, which had given illegal admissions to the students during 1986-87. But it appears that the said University had not perhaps issued any press note and/or notifications warning the students that if they would take admission in such unauthorised colleges, they would not be entitled to appear for the B.Ed. examination of the Marathwada University. The Marathwada University had also firmly refused to allow the students of the unauthorised colleges within its jurisdiction to appear for its March-April 1987 B.Ed. examination. However, in the writ petition preferred by some such students before the Aurangabad Bench of this Court, the Marathwada University was directed to allow such students to appear for the March/April 1987 B.Ed. examination. The Marathwada University challenged the aforesaid judgment of this Court before the Supreme Court. However, as a special case, without going into the merits of the case, the

Supreme Court by its judgment, dt. 14-4-1987, permitted the students to appear for the aforesaid examination and directed the Marathwada University to declare their results also.

5. After the students in the unauthorised B.Ed. colleges within the jurisdiction of the Marathwada University were allowed to appear for the B.Ed. examination of 1987, it appears that the unauthorised colleges within the jurisdiction of the Nagpur University started an agitation and made representations to the State Government to allow them to appear for the B.Ed. examination of the Nagpur University. Yielding to the agitation/representations of the students, the Secretary of the Education Department of the State Government by his letters dt. 7-5-1987 and 15-6-1987, requested the Nagpur University that 535 students as per the enclosed list who were admitted in various unauthorised B.Ed. (whose list was with the State Government) within its jurisdiction, should be allowed to appear for its March/April 1988 B.Ed examination.

6. The Executive Council considered the said letters in its meeting dt. 27/30th July 1987 along with the judgment of the Supreme Court in the case of the Students within the jurisdiction of the Marathwada University and the judgment of this court in the case of Vasant Shikshan Mahavidyalaya. Gopuri, Wardha, cited supra. The University decided that the students, whose lists were sent by the State Government, should be required to undergo regular course of studies for which they decided to provide them with teaching facilities in its various authorised colleges by making extra admissions therein on payment of necessary tuition fees and other fees. The Executive Council resolved that the Government should be asked to correct the list of 5035 students after verifying the names and addresses etc. From the concerned institutions where they were enrolled. The Government was further requested to take necessary legal steps against such delinquent institutions who in spite of the warnings given by the University enrolled these students for the B.Ed. course in 1986-87. A monitoring Committee under the Chairmanship of Shri Atal Bahadursingh to regard to the admissions of these students was also constituted In the said meeting of the Executive Council.

7. Although originally the State Government had requested for admission of 535 students from the unauthorised B.Ed. colleges, the two lists sent by the Administrative Officer, Higher Education (Grants) , Nagpur, on 24-5-1987 and 8-7-1987 contained the names of 684 students i.e. 148 more and, therefore, the Registrar of the Nagpur University addressed him a letter on 6/10-8-1987, pointing out to him that the Executive Council has decided to grant permission as a very special case for the 1987-88 session only to 535 students from these unauthorised colleges and not more. He, therefore, requested the Administrative Officer to reconcile the two lists and send a proper list of 535 students only.

8. It may be seen in this regard that originally when the list of 535 students of the unauthorised colleges was sent of the University by the Government the name of Jai bhawani Shikshan Mahavidyalaya, Unthkana, Nagpur, along with the list of its students was not included in the said list as the Government was so

aware of the existence of the said college. However, after the State Government requested the Nagpur University to allow 535 students of the unauthorised colleges as per the aforesaid list to appear for the 1986-87 B.Ed. examination, the above unauthorised college represented to the Administrative Officer Higher Education (Grants), Nagpur, on 8-7-1987 and sent a list of its 76 students for allowing them to appear for the said examination. It may also be seen that there were discrepancies in the list of the number of students submitted by the other unauthorised colleges and the number of students appearing in their records. The total numbers of students as per the lists submitted by the unauthorised colleges including the aforesaid Jai Bhawani Shikshan Mahavidyalaya was thus 684 while the total number of the students of such colleges except Jai Bhawani Mahavidyalaya as it appeared from their records was 536 thus resulting in a difference of 148 students.

8A. It appears that besides the list of 76 students submitted by Jai Bhawani Shikshan Mahavidyalaya, Nagpur, there were supplementary lists sent by the other unauthorised colleges which has already sent their lists to the State Government due to which the list of total number of students increased from 535 to 684. Since the University insisted upon a properly verified list of 535 students only, the Administrative Officer, Higher Education (Grants), Nagpur sought guidance and/or sought clarification in this matter from the Secretary of the Education Department by his letter dt. 20-8-1987, addressed to him. He thereafter by his letter dt. 7-9-1987 informed the Registrar, Nagpur University, that the names from serial Nos. 1 to 80 in each of the unauthorised colleges should be considered for admission and as regards their addresses they were called for from the concerned colleges.

9. It, however, appears that the Monitoring Committee of the Nagpur University constituted for the purpose of these admissions was not satisfied about the admission of first 80 students from the list of each college because, according to it, it would have resulted in agitation of the students and would have also led to other complications. The said Committee, therefore, wanted the Government to properly verify the lists and to send a final list of 535 students to the University in the absence of which the University pointed out, that it would be impossible for it to carry out the decision of the government. Accordingly, the Director of Higher Education, Pune, was informed by the Registrar by his letter dt. 17-9-1987. In order to sort out these 148 excess students i.e. in excess of 535, the Government decided to constitute a Two-man Committee in which the nominee of the University was to be included. Accordingly, the deputy Secretary of the Government communicated the above decision of the Government to the Vice-Chancellor of the Nagpur University.

10. The Administrative Office, Higher Education (Grants), Nagpur, then along with his letter dt. 31-10-1987, sent a list of 508 students from the six unauthorised colleges as the existence of the Jai Bhawani Shikshan Mahavidyalaya B.Ed. College itself was not known to the Government till it received the letter dated

8-7-1987 from the said college with its list of 76 students (which) is made clear in the said letter. It appears from the letter of the Administrative Officer, Higher Education (Grants) Nagpur, dt. 17-11-1987 addressed to the Registrar, Nagpur University that a Two-man Committee was constituted by the Government in regard to the students of Jai Bhawani B.Ed. college, which submitted to the State Government its report along with a list of 76 students alleged to be admitted to the said college. By the letter dt. 17-11-1987, the Administrative Officer sent to the University the above report of the Committee along with the list of students of the said college for taking further necessary action.

11. After the receipt of the aforesaid letters dt. 31-10-1987 and 17-11-1987 by the University, there was a discussion on 19-11-1987 between the chairman of the Monitoring Committee and the Director of Higher Education (Grants) and on 20-11-87 between the former and the Minister for Education. A note of the said discussion prepared on 20-11-1987 by the Chairman of the Monitoring Committee is annexed as Annexure U-15 to the submissions filed on behalf of the University. It appears from the said note of discussion that the Chairman of the Monitoring Committee insisted upon the Education Minister that there should be no recurrence of such admissions in future and that assurance should be taken from such unauthorised colleges that they would not admit the students illegally during the session 1987-88 and in future. He also told him that unless such assurance was given by the unauthorised colleges, the University would not take action upon the list of 535 students submitted by the government for the B.Ed. examination of March/April 1988. The Chairman of the Monitoring Committee by his aforesaid note recommended to the Executive Council of the University that the final list of 535 students should be accepted by the University only after the Government sent it after verification of the records and after getting the representations from the students and that such students as per the verified list only should be allowed to appear for 1987-88 summer examination.

12. The chairman of the Monitoring Committee then submitted his report to the Executive Council, which accepted it in its meeting held on 21-11-1987. The Executive Council decided to nominate Shri M.S. Khadakkar as nominee of the University in the Two-man committee proposed by the Government for setting the list of 535 students after verification of the relevant records and documents. The aforesaid decision of the University that the list of 535 students should be settled after verification of the records of the concerned colleges and after setting the representations, if any, was communicated to the Director of Higher Education by the Registrar of the University on 23-11-1987.

13. The Administrative Officer, Higher Education (Grants) Nagpur thereafter sent along with his letter dated 7-12-1987 the list of students of seven unauthorised colleges, the original list as well as the supplementary list, signed by the Three-man Committee for further necessary action by the University. The said list was considered by the Executive Council in its meeting held on 21-12-1987 in which the Chairman of the Monitoring Committee pointed out several discrepancies in

the said list. After discussion, the Executive Council resolved that the University should seek the report from the Administrative Officer requesting him to give details about the increase in the number of students from 501 to 620 and the procedure adopted by the Committee with justification in each case. It also resolved that the said report should be placed before the Monitoring Committee of the University.

14. By the letter dt. 21-12-1987, the Administrative Officer Higher Education (Grants) informed the Registrar, Nagpur University, that the list of 501 students from six unauthorised colleges i.e. excluding Jai Bhawani College was already sent to the University by his letter dt. 7-12-1987. He further informed that since the Executive Council wanted to consider only 536 students for admission he was supplying the justification for 35 students in that letter. It appears that there were representations made by certain students which have taken into consideration by the Administrative Officer for arriving at the figure of 536 students from these colleges.

15. The Monitoring committee of the University before whom the said report of the Administrative Officer was placed as per the decision of the Executive Council taken on 21-12-1987 was not satisfied with the said report and, therefore, in its meeting of 26-12-1987, it laid down the following criteria for admission of students to 1987-88 examination.

(i) The strength of the unauthorised B.Ed. Colleges (students-) was to be restricted to the number as communicated by the Government i.e. 535 and

(ii) The Admission Registers and the Receipt Books only should be taken into account for deciding whether the students were bona fide students of the said colleges or not.

(iii) It is as per the aforesaid criteria that the lists of students of these unauthorised colleges were scrutinised again and a report in respect of each such college was sent on 6-1-1988 by the Administrative Officer, Higher Education (Grants) Nagpur, to the University. The said report, dt. 6-1-1988 which is enclosed as annexure U-21 to the written submission of the University is most material for the purpose of these petitions. It contains final scrutiny and the final list of the 518 students selected by the Government for admission to the B.Ed examination in question.

16. In the light of the above list and the report contained in the letter dt. 6-1-1988 of the Administrative Officer, the Monitoring Committee of the University also considered the case of the students of each of the colleges in its meeting held on the 6th, 7th and 8th Jan. 1988 in which the Administrative Officer, Higher Education (Grants), Nagpur, was also invited. By its report dt. 12-1-1988, which is enclosed as Annexure U-22 of the written submission of the University the Monitoring Committee recommended to the Executive Council of the University to accept the list of 518 students submitted by the Administrative Officer. The said Committee, however, categorically rejected the recommendation

of Mr. Khadakkar, the nominee of the University on the Government Committee, for making arrangement for admission of 620 students.

17. The above report of the Monitoring Committee dt. 12-1-1988 was considered by the Executive Council of the University in its meeting held on 13-1-1988. The minutes of the above meeting of the Executive Council are enclosed as Annexure No. 23 of the written submission of the University. The Executive Council accepted the report of the Monitoring Committee in the said meeting. It further resolved not to consider any representation from the students for enhancement of seats. It also rejected the representations from the unauthorised colleges for allotment of these students to their colleges. It was then decided that it would not be possible to hold the special examination for these students before July 1988. As per the decision of the Executive Council, these students were not to be entitled for inclusion in the merit list or for any Gold Medals.

18. It was decided in the aforesaid meeting of the Executive Council that the process of admission should be immediately started and that all such students who would be admitted should be required to pay tuition fees of Rs. 2,500/-. Accordingly, a press note was issued on 16-1-1988 by which it was notified that the students whose names were included in the list of 518 students approved by the Executive should apply for admission before 25-1-1988, where after they would be granted admissions in the various authorised colleges within the jurisdiction of the University. It was made clear in the press note that their B.Ed. examination would be held in July 1988. It appears from the written submissions filed on behalf of the University that out of these 518 students 473 students have taken admissions and are allotted to different authorised B. Ed. colleges for regular training. Since the names of the petitioners in these writ petitions are not contained in the final list of 518 students who are allowed to take regular training, they have preferred the instant writ petitions in this Court.

19. The challenges raised by the petitioners in these writ petitions broadly fall into two categories viz. (I) general i.e. common to all these writ petitions and (ii) specific i.e. which arise separately in each of these petitions. It is in the light of the facts and circumstances narrated above. That all the challenges raised by the petitioners need to be considered. We shall first consider the general challenges which are common to all these writ petitions.

20. The first general challenge raised on behalf of the petitioners is that it was not open to the University to restrict the list of students to 535 only and that all the 684 students whose names were sent in the original as well as supplementary lists by the Government to the University should have been allowed by the University to appear in the July 1988 B.Ed. Examination to be held for these students. In support of the above submissions, it is urged that the State Government has allowed all the students of the unauthorised colleges to appear for 1988 B.Ed. examination which it had asked the University to arrange and the figure of 535 students mentioned by the State Government in its communication to the University by its letters dt. 7-5-1987 and 15-6-1987 was

only on the basis of the lists of students submitted then by the unauthorised colleges to the State Government and on the information and/or the records of these colleges available to the Government at that time.

20A. It is pointed out that one of the reasons why the list of 535 students originally determined by the State Government increased was that at that time Jai Bhawani Shikshan Mahavidyalaya was not included in the said list which was later on included. It is also pointed out that since in the original lists submitted by the six unauthorised colleges the names of certain students remained to be included, supplementary lists including their names were sent to the Government. The submission thus is that it is for these reasons that a list of 684 students was sent by the Administrative Officer, Higher Education (Grants) Nagpur, to the University by his letters dt. 24-6-1987 and 8-7-1987 which list therefore should have been accepted by the University.

21. In appreciating the above submissions made on behalf of the petitioners, it is necessary to emphasise that it is the prerogative of the University under the University Act to confer degrees and to conduct examination for the said purpose in accordance with the Statutes and Ordinances framed under the University Act. The University is, therefore, a final authority to admit students to such an examination if they complete regular course of instruction and training as prescribed under the Statutes and Ordinances of the University. The State Government has thus no say in these matters under the University Act and, therefore, it can only request the University to allow the students in question to appear for its examination. This is exactly what the State Government has done by its letters dt. 7-5-1987 and 15-6-1987 addressed to the Nagpur University.

21A. It may be seen that the students of these unauthorised colleges can appear for the B.Ed. examination to be conducted for them not because of the decision of the State Government, but because the Executive Council of the University in its meeting held on 27/30-7-1987 pursuant to the request made by the State Government in its letters referred to above agreed to arrange for their examination. However, the Executive Council made it clear in its decision that it would make arrangements for examination of 535 students only, the correct and verified list of which with necessary details such as names, addresses of the students etc. was to be supplied by the Government.

22. It may be seen in this regard that the students from these unauthorised colleges were not to be directly allowed to appear for the B.Ed. Examination to be arranged for them, but before appearing for the same, they were required to undergo regular training in the authorised colleges within the jurisdiction of the University. It is a matter of common knowledge and it cannot be disputed that the capacity of the University to give extra admissions to such students in its various authorised colleges is limited particularly looking to the fact that since this is a professional course for which practice teaching classes for the students have to be arranged, the availability and the capacity of the Secondary Schools in the area in which the authorised colleges to which these students are allotted

are situated to provide them and the regular students with the facility for taking practice teaching lessons in their schools is an important factor which needs to be taken into consideration. It is not thus a question of merely allowing the students to appear for the examination but it is a question of giving extra admissions to them in the authorised colleges for their regular training and there after to allow them to appear for the examination. All the 684 students cannot therefore, be admitted for regular training in view of the policy decision of the University to admit 535 students only which policy decision is not open to challenge by the petitioners and even the Government cannot insist, and in fact has not insisted, that the University should admit all the 684 students for its B.Ed. examination in question. It is not, therefore, possible for us to accept the above contention.

23. Even on merits also, the above claim of the petitioners that all the 684 students should have been allowed to appear for the July 1988 examinations is not tenable. It appears from the letter of the Administrative Officer, Higher Education (Grants), Nagpur dt. 20-8-1987, that the list of 684 students sent by him to the University as per his letters dt. 24-6-1987 and 8-7-1987 was an unverified list sent on the basis of the lists submitted by the unauthorised colleges. It is clear from the tabular statement given in the said letter dt. 20-8-1987, that excluding the list of 76 students sent later on by Jai Bhawani Shikshan Mahavidyalaya, the total figure of the students from the six unauthorised colleges determined by the state Government on the basis of the records was 536. It is thus clear that the list of 684 students sent by the administrative Officer was an unverified list.

23A. It is further clear from the scrutiny of the said list of 684 students made from time to time by the Government as well as the Monitoring Committee of the University that finally it was found that there were only 518 bona fide students in the 7 unauthorised colleges. It is needless to state that persons who can take benefit of the special gesture shown by the University must be the bona fide students of the unauthorised colleges and therefore, merely because a list of 684 alleged students of these unauthorised colleges is sent, it would not mean that all of them should be allowed to appear for the B.Ed. examination specially to be conducted by the University without verifying the question whether they were bona fide students of these colleges or not. In this regard it is pertinent to notice that all these unauthorised colleges which are started for making money only have given spurious admissions and have not maintained proper records which would be clear when we deal with specific points in each of these petitions. The above challenge raised on behalf of the petitioners, therefore, deserves to be rejected.

24. It is then urged that the Committee constituted by the Government for preparation of the list of students from these colleges was the final authority in the matter and, therefore, the list of 620 students submitted by the Administrative Officer Higher Education (Grants), Nagpur, along with his letter dt.

7-12-1987 should have been accepted by the University. It may be seen in this regard that from the note dt. 20-11-1987 (Annex. U-15 prepared by the Chairman of the Monitoring Committee of the University about the discussion held by him with the Director of Higher Education on 19-11-1987 and with the Education Minister on 20-11-1987 it is clear that the Government was categorically told that the Government was categorically told by the University that it had to submit the list of 535 students only after the verification from the records and after settling the representations, if any received from the students. It was, therefore, open to the University to determine whether the list of students submitted by Government is restricted to 535 or not and also whether it is properly verified or not with reference to the relevant records of these unauthorised colleges.

24A. The Above stand of the University is consistent with the fact that it is a final authority in this regard. Moreover, that is how it was understood by the Government also, because apart from the fact that the Govt. never insisted upon the University to accept its list as final, by his letter dt. 7-12-1987, the list of 620 students was submitted by the Administrative Officer only for further necessary action by the University which would mean that the said list was a tentative list and was not final unless it was scrutinised/verified and accepted by the Executive Council of the University.

25. The above view is fortified because as already pointed out, since the University had taken a policy decision to give admissions to 535 students only which decision was made known to the Government and its officers concerned time and again through its communications and discussions, it was not open to the Administrative Officer, Higher Education (Grants) Nagpur, of the Government to send a list of 620 students to the University. The fact, therefore, that a list of 620 students was still sent for further necessary action to the University by him under his letter dt. 7-12-1987 would mean that the said list was subject to further scrutiny by the University for preparing a properly verified list of 535 students who were alone to be allowed to appear for the B.Ed., examination to be held for them.

26. As regards the list of 620 students submitted along with the letter dt. 7-12-1987 the Executive Council considered the said list in its meeting dt. 20-1-1987. The Chairman of the Monitoring Committee pointed out in the said meeting various discrepancies in the said list and, therefore, after discussion, the Executive Council decided to ask for the report from the Administrative Officer giving details with justification in each case for the increase in number of the students from 501 to 620 and further resolved that his report should be placed before the Monitoring Committee.

26A. The Administrative Officer gave his report accordingly with justification by his letter dt. 21-1-1987. Being not satisfied with his report the Monitoring Committee in its meeting held on 26-1-1987 laid down two criteria to be followed by the Government Committee in preparing the list of students from the

unauthorised the list students from the these unauthorised colleges for admission to the B.Ed. examination in question. The said criteria were that the strength of the students who would be admitted for the Summer Examination was to be restricted to 535 as originally communicated by the Government (i.e. as per its original letters dt. 7-5-1987 and 15-6-1987) and that the Admission Registers and the Receipt Books should only be taken into account for deciding the question whether the students were bona fide students or not.

27. It is in the light of the above criteria that the Committee of the Government and/or its administrative Officer re-examined the lists of students of these unauthorised colleges from 28-12-1987 to 5-1-1988 and prepared a final list of 518 students which along with the details of scrutiny of each college was sent on 6-1-1988 to the University by the Administrative Officer. After this list of 518 students was received by the University, its Monitoring Committee further scrutinised it and prepared its own report on 12-1-1987 considering in detail the cases of students of each unauthorised college while accepting the above report of the administrative Officer dt. 6-1-1988.

28. It is this report of the Monitoring Committee dated 12-7-1987 which is accepted by the Executive Council of the University in its meeting held on 13-1-1988 pursuant to which further processing of admission of these students in authorised colleges commenced and for whom it was decided that the B.Ed. Examination should be held in July 1988. It is pertinent to see that when the question whether the student are bona fide students or not was required to be decided on the basis of the Admission Registers and the receipt books, even the Government Committee determined the total figure of bona fide students of these unauthorised colleges and 518 i.e. even less than 535, which the government has originally communicated to the University. It is thus clear that neither in law nor in fact the list of 620 students sent by the Administrative Officer along with his letter dt. 7-12-1987 can be treated as final for admission to the B.Ed. examination in question. The above contention raised on behalf of the petitioners thus cannot be accepted.

29. It may be noticed that the sum and substance of the submissions made on behalf of the petitioners in these writ petitions is that all the petitioners and other students who claim to be the students of these unauthorised colleges should be without any scrutiny, allowed to appear for the July 1986 B.Ed. Examination which is being held for the students of the unauthorised colleges by the University. The above claim of the petitioners, to say the least, is preposterous.

29A. It may be seen that as special case on being requested by the State Government, the University as per its resolution dt. 27th/30th July 1987 had taken a decision to allow the students of these colleges to appear for the 1987-88 B.Ed. examination of the University after they had undergone a regular course of studies in the authorised colleges to which they were to be admitted during the said session by allowing extra admissions in these authorised colleges.

The above scheme was clearly meant for the bona fide students of the unauthorised colleges which would mean that they were enrolled as students when 1986-87 session commenced and had attended the classes and taken some training in the said unauthorised colleges which may not be regular training as per the norms laid down by the University.

30. it may be seen that from the records of these unauthorised colleges submitted to the Government it was found that they were not properly maintained and that there were spurious admissions made by these unauthorised colleges solely with a view to make money. It may further be seen that the students whose names were not found in the record submitted by the management of these unauthorised colleges also made claims that they were the students of these colleges. The records or the documents submitted by the management of some of these unauthorised colleges were suspicious and in some cases, the money receipts with the students were not from the same receipt book which were submitted by the management for verification of the State Government.

31. In these circumstances ,where there were observous mal-practices committed by the management of thes4 colleges and in some cases even the students who were not the students of those unauthorised colleges, sought to take advantage of the above scheme of the University of allowing the students of these unauthorised colleges to ask its 1988 Summer examination,it was necessary that only after proper security such students who were bona fide students of these unauthorised collages admitted when the academic session 1985-87 commenced or immediately thereafter and who had taken some instruction and training in these unauthorised colleges; should be allowed the benefit of the above scheme of the University .Therefore, as contended by the petitioners, all the students who claim that they were the students of these unauthorised colleges cannot as a matter of course and without proper security , be admitted to The regular course of training before appearing for the Summer 1988B.Ed. Examination of the University. We may sound a note of warning that the tendency or the malpractice of scaring unauthorised colleges and making money out of it has now assumed a serious proportion and it cannot be curbed unless it is dealt with drastically and not sympathetically from the point of view of the students, many if whom are not innocent but are encouraged to take admissions in these unauthorised colleges , because they feel sure that on sympathetic considerations they would be allowed to take the examination.

32. Before preceding to examine the specific points in regards to the claims of the petitioners in each of the writ petitions it is necessary to observe that the cicriteria laid down by the Monitoring Committee in ite meeting held on 26-12-"1987 after security of this lists submitted by the Administrative Officer Higher Education 9Grants), Nagpur for the ultimate verification and finalization of the lists of the students of these unauthorised colleges is just and proper in the light of the facts and circumstances narrated above and need to be adopted so as

to eliminate such students whose admission are spurious or false. The said criteria as laid down by the University are that the total strength of the students of these unauthorised colleges who should be allowed to appear for the 1988 summer B.Ed. Examination is to be restricted to 535 which is the figure originally communicated by the Government to the University by its letters dt. 7-5-1987 and 15-6-1987 and that bona fide students of these unauthorised colleges or not should be decided on the college registers and the receipt books only.

32A . The value of the above criteria of "bona fide students" can be seen from the fact that although these petitioners have claimed that all the 684 students of at any rate 520 students should be allowed to appear for the 1988 summer B.Ed. Examination , after verification of the claims of these students with reference to the relevant documents. , it was found by both. The Government Committee as well as the Monitoring Committee of the University that the figure of such bona fide students is only 518 which is even much less than 535 which is the strength agreed to by the University as per the original communication of the State Summer B.Ed. Examination referred to above.

33. In considering the specific challenges in each of these writ petitions it is necessary to bear in mind that the process of verification of and/ or genuineness of the lists of students of these unauthorised colleges or not is a stupendous task which has been performed by the government Committee the Monitoring Committee of the University by making successive verification and /scrutiny before arriving at a final figure of the bona fide students of these unauthorised colleges. It may also be seen that it is humanely impossible to determine with any precision whether by particular students is a bona fide student of any of these unauthorised colleges whose records are also not properly maintained and are not authentic and reliable. It has been brought to our notice that the relevant portions of the registers of some colleges are torn and in some cases, the receipt with the students is not the same receipt which is from the receipt book submitted by the management to the Government for the purpose of verifications of its students. It will, therefore , be not proper for us to interfere with the decision of the University particularly when there are successive verifications made by its Monitoring Committee as well as the Committees of the Government unless an exceptional case of injustice is made out by the petitioners. Keeping this aspect in view, we proceed to examine the specific grievances of the petitioners in these writ petitions.

34. Writ Petitions No. 19 of 1986:

M.D. Nasirkhan v. State Maharashtra and 2 others

This is a writ petition in respect of Jaibhawani B.Ed. Colleges, Nagpur , run by the respondents No.4 Although the petition is filed by 3 students., in the prayer clause the relief is claimed in respect of 47 other students whose list is not

enclosed with the petition. Be that it may, Jaibhawani B.Ed. College, Nagpur, was not included in the original list of the State Government of the unauthorised colleges, as it was not aware of its existence at the time of taking the decision to request the University to allow the students of the other unauthorised colleges to appear for its 1988 Summer B.Ed. examination. However, the same was included upon representation made by the said college which has supplied a list of 76 students for admission to the 1988 Summer B.Ed. examination. The question whether all these 76 students are bona fide students of the said college or not was finally examined by the Government Committee as per the report of the Administrative Officer Higher Education (grants) dt. 6-1-1988 (see page 67 of the written submission of the University) and thereafter by the Monitoring Committee of the University also by its report dt. 12-1-1988 (see page 81 of the written submissions of the University).

34A. After verification of the list of 76 students submitted by this college with reference to the relevant documents made available by it, both these Committees came to the conclusion that the students from serial Nos. 1 to 7 were alone the bona fide students of the college and that the students from Sr. Nos. 18 to 70 seemed to have been given admission later on; perhaps at the time of submission of the list i.e. in the month of July 1987 because, it was found that the receipts issued in their names were without any date and that the handwriting on the receipts and the signatures thereon were of different persons. It was also found that the receipt book did not bear any printed numbers.

35. The above conclusion reached by both these committees after verification of records cannot successfully be assailed. The learned counsel appearing for the petitioners has not been able to show that the above conclusion is perverse and cannot be drawn from the documents on record of the aforesaid college. He has also not been able to bring to our notice any cogent evidence to satisfy us that the claims of the petitioners are genuine claims. The findings rendered by these Committees, therefore, cannot be interfered with and the petitioners cannot be directed to be given admission in the regular course of training for the Summer B.Ed Examination, 1988.

36. Writ Petition No. 158 of 1988; *Punjaram Y. Gotmare v. State of Maharashtra*. Before examining the contentions raised in this petition we allow Civil Application No. 849 of 1988 for amendment made by the petitioners seeking to raise additional grounds in this petition since we have heard the learned counsel for the petitioners on the grounds raised by him in the said amendment application. Turning to the submissions made on behalf of the petitioners, it may be seen that this writ petition is filed by four students, claiming to be the students of Vasant Shikshan Mahavidyalaya, Wardha, run by the respondent 5 whose previous writ petition referred (to earlier in this writ petition) was dismissed by this Court.

36A. A perusal of para. 27 of the submissions filed on behalf of the University would show that on different dates different lists containing different number of students were submitted by the respondent 5. It is, however, clear from the final

report of the Administrative Officer, Higher Education (Grants) dt. 6-1-1988 that when the above lists were verified with reference to the documents such as Admission Registered Receipt Books etc., it was found that from the Receipt Book No. 3, the receipts from serial Nos. 237 to 300 were kept blank and a fresh receipt book No. 4 was started by the college from which certain receipts were shown to have been issued. It was further found in the said report dt. 6-1-1988, that the receipt in book No. 4 were invalid as they were issued after the date when the representative of the Administrative Officer, Higher Education (Grants) Nagpur had in October 1986 collected the information from the college of the respondent 5 and ascertained the number of its students, A list of 132 students was, therefore, finalised as per the said report dt. 6-1-1988 sent to the University by the Administrative Officer, Higher Education (Grants), Nagpur.

37. The Monitoring Committee of the University which considered the aforesaid report of the Administrative Officer dated 6-1-1988 affirmed the same by its report dt. 12-1-1988. It also concluded that at various stages it was confirmed that the total number of students actually admitted in the college had never exceeded 136. It referred in this regard to a letter dt. 13-1-1987 signed by the Junior Administrative Officer, High Education (Grants) Nagpur, addressed to Shri G.D Kakani, Joint Director of Education, Maharashtra State Pune. The list of 132 students has thus finalised by it from the college of the respondent No.5.

38. It is urged on behalf of the petitioners that the conclusion reached by the Government committee and also the Monitoring Committee of the University are pervers because certain students who have been issued receipt from Book No. 3 and whose receipt number are earlier to S.No. 237 from the said book are not included in the list of the students finalised by the said Committees although according to the said Committees the receipts in book No. 3 from 201 to 237 were genuine receipts. Some such receipts, which, it is made clear, do not relate to the petitioners are filed by the petitioners as Annexures 18 to 23 of the writ petition.

38A. To examine the validity of the above contention raised on behalf of the petitioners we asked the learned counsel for the petitioners to show us the originals of these receipts annexed as Annexures 18 to 23. We also asked the learned counsel for the State to show us book No. 3 which was submitted by the management to the Government. After having compared the original receipts produced by the petitioner with the receipts in book No. 3 found that that the receipts produced by the petitioners are different receipts and are not from the book No. 3, which would only show that spurious or fake receipts have been issued by the college of the respondent No. . the receipts enclosed as Annexures 22 and 23 appear to be suspicious as the original names on these receipts are scored out. It is not, therefore, possible for us to accept the above contentions raised on behalf of the petitioners that the finalisation of the list of 132 students from this colleges is vitiated because certain students who possessed receipts from book No. 3 earlier to serial No. 237 are not included in the final list.

39. It may be seen that the conclusion of the Committees of the Government and the University in finalising the list of 132 students in this college is based upon three main factors:

(i) Since the receipt from S.Nos. 237 to 300 in this receipt book No. 3 kept blank the receipts issued from receipt book NO. 4 are superfluous.

(ii) that the receipts from book No. 4 are issued after the date when the representative of the office of the Administrative Officer Higher Education (Grants) Nagpur, collected the information and ascertained the number of students in the college of the respondent 5 in October 1986; and

(iii) at various stages it was confirmed that the strength of the students of the college of the respondent 5 never exceeded 136.

The above factors are very much relevant in finalising the list of the college for the respondent No. 5 and hence it cannot be said that the final conclusions of the Committees of the Government and the University are wrong, such less perverse. There is thus no merit in the claims of the petitioners made in this writ petition.

40. Writ Petition No. 1986 of 1988: Arun and 3 others v. State and others.

This writ petition is again of the students claiming to be the students of the Vasant B.Ed. College. Wardha, whose case is considered in the above writ petition No. 156 of 1988. We have already upheld the conclusions of the Government Committee as well as the Monitoring Committee of the University in finalising the list of 132 students from the said college. It is, however, specifically urged in regard to the petitioners 3 and 4 in this writ petition that when their names were not included in the list prepared by the Administrative Officer, Higher Education (Grants), Nagpur, in the list sent by him to the University on 7-11-1987, they had represented to him for inclusion of their names by making representations before 5 p.m. on 4-12-1987, which was the last date for submission of the representations as per the advertisement issued by him. However, according to these petitioners 3 and 4, their representations were not considered by the said Administrative Officer.

41. In reply filed by the Administrative Officer, although it is stated that no representations were made by the petitioners 3 and 4, it is further stated that the petitioners 3 had submitted his representation after the prescribed date prior to which the list was finalised on 7-12-1987. It may be seen that the petitioner No. 3 did not produce in this writ petition a copy of the representation submitted by him or any other material to show that he had made a representation on or before 4-12-1987, in the absence of which on the basis of the written submissions filed by the Administrative Officer in which he stated that he received the representation after the prescribed date and that prior to it on 7-12-1987, the list was finalised has to be accepted. The petitioner No. 3 therefore cannot legally make a grievance that his representation was not

considered by the Government.

42. As regards the grievance of the petitioner No. 4, it may be seen that there is only a vague allegation made in para 12 of the original petition that the petitioners raised objection to the list published on 30-11-1987 and that although the Committee was apparently satisfied that their names would be included in the final list, the list prepared on 7-12-1987 included the names of the petitioners 1 and 2 only and not of the petitioners 3 and 4. It may be seen that a copy of the alleged representation of the petitioner No. 4 dated 4-12-1987, which is enclosed now by him with the additional affidavit dt. 7-3-1988 is not enclosed by him along with the original petition, although if it was made, it must have been in his possession at that time it is only after the Administrative Officer, i.e. the respondent 3 denied in his written submissions filed on or about 23-2-1988 the representation that the additional affidavit is filed by him on 7-3-1988 enclosing the said representation. Except for the date stamp of the office of the Administrative Officer Higher Education (Grants), Nagpur, there is nothing to show that the above representation solely on the basis of the date stamp, which can be easily manipulated and managed, it is not possible for us to accept that the petitioner No. 4 had really made representation and that the affidavit filed by the Administrative Officer, Higher Education (Grants), Nagpur in that regard that no representation was received from the petitioner 4 is false.

43. Be that as it may, even assuming that the petitioners 3 and 4 had made representations within time it is not necessary to direct the administrative Officer to consider their representations because their names as it is stated in para 27 of the written submissions of the University are not contained in the Admission Register of the college. From the chart filed by the University for facilitating the hearing of these petitions, it is revealed that there are neither any admissible receipts of these petitioners nor are their names found in the attendance register also, as is clear from the records submitted by the management of the college for verification of its list.

43A. it may be seen that the relevant documents on the basis of which the University can Act are the Admission Registers. Attendance Registers and the receipt books, and if such documents do not contain the names of the petitioners 3 and 4 there is no case for considering their representations, much less for considering them as bona fide students of the said college. No relief can, therefore, be granted to the petitioners 3 and 4 in this writ petition. As regards the petitioners 1 and 2 it is clear that they do not hold receipts from the receipt books 1.2. and 4 from the book No. 3 up to receipt No. 236 from the book No. 3 and as already held since the receipts issued from the receipt book. No. 4 are spurious receipts they are rightly rejected. All these petitioners are thus not entitled to any relief.

44. Writ Petition No. 225 of 1988: Ku. Rajan and 6 others v. State and others;

This is writ petition filed by seven students alleging that they are students of India Gandhi B.Ed. College, Nagpur, i.e. the respondent No. 4. As regards the aforesaid college, the conclusion in the report of the Administrative Officer, Higher Education (Grants) dated 6-1-1988 is that two lists of students consisting of 99 and 100 names respectively were submitted by the management to the Government. After verification of both these lists, the Administrative Officer gave his report that the names of (95 students from the aforesaid college should be accepted as bona fide students after verification of the money receipts issued to the said students. The Monitoring committee considered the above recommendation of the Administrative Officer in its report dt. 12-1-1988 (see page 81 of the submissions of the University) and held that in case the money receipts are not produced, the final list of 95 students from the aforesaid college determined by the Administrative Officer should be accepted provisionally as it was less than the original figure of 99 as verified from the admission and Attendance Registers of the students.

45. Except the general challenges which we have already considered, no specific points are raised in this writ petition. It is, however, worthwhile to read the written submissions filed on behalf of the University in regard to the question of verification of the claims of the petitioners. It is stated in para 28 of the written submissions of the University, that after verifying the register of students of the aforesaid college, it found that the pages of the register, wherever the names of the petitioners should have been were torn out and that the signatures of the petitioners on the attendance register did not tally with their signatures on the application forms. It is thus that the claims of the petitioners were found to be suspicious and false and their names were not therefore included in the final list of bona fide students of the aforesaid colleges. It is not shown to us that the above written submissions held on behalf of the University are untrue or are contrary to the records. As the documentary evidence shows that the claims of the petitioners are suspicious, their names were rightly not included in the list of bona fide students of the aforesaid college. There is thus no merit in this writ petition.

46. Writ Petition No. 226 of 1988, Deepak Venkatesh and 15 others v. State and others This is a writ petition filed by 18 students alleging that they are students of Kausalya Mata Shikshan Vidyalaya (B.Ed.), Nagpur, which is the respondent No. 4 in this writ petition. It appears from para. 29 of the written submissions of the University that the aforesaid college had submitted list of 81 students. However, the representative of the Government found only 73 students on the roll when he visited the aforesaid college in October 1986. The report of the Administrative Officer, Higher Education (Grants) dt. 6-1-1988 (Page 65 of the submissions of the University) would show that the Administrative Officer, Higher Education (Grants) Nagpur accepted the names of 64 students from this college after verification of the money receipt and the Admission Register. Specific reasons also why their names are rejected are given by the Administrative Officer in his report dated 6-1-1988 in respect of 9 students from the list of this

college. Of these 9 names, except the first two, the rest of the names are of some of the petitioners in this writ petition. The names of the remaining 8 students are rejected in the aforesaid report of the Administrative Officer. Dt. 6-1-1988, on the ground that they were admitted after the date of visit of the representative of the office of the Administrative Officer in October 1986. The Monitoring Committee of the University has fully endorsed the above conclusions in the report of the Administrative Officer.

47. On perusal of the specific reasons given for rejecting the names of the nine students and also on perusal of the discrepancies pointed out in para. 29 of the written submissions of the University, it is clear that the conclusions drawn by the above committees cannot be successfully assailed. It is, however, urged on behalf of the petitioners that the names of 8 students could not be excluded on the ground that they were admitted after the visit of the representative of the office of the Administrative Officer in October 1986.

48. In our view, the said admissions after the date of the visit of the officer of the office of the Administrative Officer has certainly a relevance from the point of view whether such admissions are bona fide or not, because the said officer has found that there were only 73 students on the roll when he visited the aforesaid college in October 1986. When the college session starts in June 1986 and even the last date for admission in the University is over, it is difficult to believe that the admissions given after October 1986 are bona fide and that these students have undergone any course of instruction and study in the aforesaid college. There is thus no merit in the above submissions made on behalf of the petitioners no interference is called for in the finalisation of the list of students of the aforesaid college.

49. Writ Petition No. 368 of 1988 Pradeep Marotrao and 12 others v. State and others.

The petitioners have filed this writ petition alleging that they were the students of the Kalidas Shikshan Mahavidyalaya Ramtek (B.Ed.) College, i.e. the respondent 4. The conclusions of the Administrative Officer in his report dated 6-1-1988 in regard to the respondent 4 college are at page 65 of the submissions of the University and the conclusions of the Monitoring Committee of the University are at page 78 of the said submissions. The respondent 4 college has submitted a list of 80 students. The Administrative Officer, Higher Education (Grants) held that when the representative of his officer visited the said college on 12-1-1987, there were only 45 students on its roll, which fact was communicated by him to the Director of Higher Education by his letter dt. 30-10-1987. He, therefore, concluded that the rest of the students from 45 to 80 were obviously given admissions after the date of the visit of the said representative on 12-1-1987. Hence he rejected the names of the students from serial Nos. 45 to 80. The said conclusion of the Administrative Officer is affirmed by the Monitoring Committee of the University.

50. It cannot be held that the exclusion of the names from Nos. 45 to 80 as stated above is illegal or improper. The conclusion of the Committees in this regard is well supported in para 31 of the written submissions of the University in which it is shown by specific illustrations how the receipts issued to some of the petitioners are bogus. The learned counsel for the petitioners has however, urged the same contentions as urged by him in the previous writ petition viz, that the date of visit of the representative of the officer of the Administrative Officer has no relevance in determining the question whether the petitioners should be given admissions or not.

50A. As ready pointed out, there is no merit in the above submission because as per the criteria laid down only the claims of the bona fide students for admissions to the summer examination of 1988 were to be considered. It is clear that when the college session started in June and even the last date for admission of the University was over it is surprising how the admission could be given as late as after 12-1-1987 when the 1986-87 session itself was drawing to a close. It is obvious that these admissions are made by the aforesaid college solely for its monetary benefit, and that these students have not undergone any course of instruction and training in the aforesaid college. These admissions are thus spurious and these students cannot be said to be bona fide students of the aforesaid college. No interference is, therefore, called for in the conclusions drawn by the Administrative Officer, Higher Education (Grants) as well as the Monitoring Committee in this regard.

51. The general challenges as well as the specific points raised in these writ petitions thus deserve to be repelled. It is commendable that in restricting the admissions to 535 and in closely scrutinising the cases of the students of the unauthorised colleges for admission to the July 1988. Examination to be conducted from them, the University has kept in view the object of maintenance of proper standard of education. This Court should not, therefore, interfere with its decision in this behalf. The Admissions of the students to the examinations of the University who have not undergone the regular courses of study, including practical lessons should not be encouraged, more so where there are such spurious admissions in unauthorised colleges on a large scale despite the warning of the University through its press note to both, the unauthorised colleges as well as their students, that such students would not be allowed to appear for the University Examination. As observed by the Supreme Court in the judgment of *N.M. Nageshwaramma and Others Vs. State of Andhra Pradesh and Another*, it is not appropriate that the jurisdiction of this Court under Art. 226 should be frittered away for the purpose of permitting such students whose admissions are spurious to appear for the examination to be held in July 1988. These students cannot be said to have undergone any course of instruction and training in the unauthorised colleges.

52. The Supreme Court has condemned in the judgment cited supra admissions of the students of the unauthorised colleges for the examination on the ground

that it will practically be encouraging and condoning the establishment of unauthorised colleges. In fact, in our view, these are cases where the State Government needs to take drastic action against such delinquent unauthorised colleges because, it is only then that such a malpractice of exploiting the educational needs of the students can be curbed. The petitioners are not thus entitled to any of the reliefs in these matters.

53. In the result, the instant writ petitions fail and are dismissed. However, in the circumstances, there would be no order as to costs.

54. Order accordingly.