

(1998) 03 AP CK 0009

In the Andhra Pradesh High Court

Case No : Writ Petition No. 18389 of 1997

M.R. Jayasreel and others

APPELLANT

Vs

Secretary, State Board of Technical Education and Training,
A.P. and others

RESPONDENT

Date of Decision : 12-03-1998

Acts Referred:

Conduct Rules — Rule 89

Constitution of India, 1950 — Article 136

Citation : AIR 1998 AP 263 : (1998) 2 ALD 752 : (1998) 2 ALT 629

Hon'ble Judges : B.S. Raikote, J

Bench : Single Bench

Advocate : Mr. K.R. Sreenivas, for the Appellant; Mr. P.V.S.S. Rama Rao, Government Pleader for Technical Education and Government Pleader for Higher Education, for the Respondent

Judgement

1. This writ petition is filed by ten students for a writ of Mandamus, declaring the action of the respondents in directing the petitioners to once again study the courses of Diploma in Mechanical, Electrical and Electronics Engineering, Civil Engineering, for which courses, the petitioners have already written examinations, which were held on 7-4-1997 and as such, the action of the respondents is violative of principle of "Promissory Estoppel" and consequently direct the respondents to declare the results of the petitioners examinations that were held in the month of April, 1997.

2. In the affidavit in support of the writ petition, it is elaborated that petitioner Nos. 1,2,3,4,5,8 and 10 were the students of final year polytechnic and the petitioner Nos.6,7 and 9 were the students of second year polytechnic and they were all the students of Government Model Residential Polytechnic, Paderu, Visakhapatnam District. It is further stated in the affidavit that there was shortage in attendance and they were allowed to sit for the examination by giving hall-tickets, on the petitioners paying Rs. 100/- for the condonation of shortage of attendance. When the petitioners were awaiting for the results, all of

a sudden, third respondent served on them the impugned proceedings dated 1-7-1997, directing the petitioners to once again appear for the examination, which they have already written, on the ground that petitioners had shortage of attendance. They further stated that there was no fault on their part. They submitted that the hall-tickets were given and when they were permitted for the examination and if they were made to appear for the examination once again by completing the attendance, they would be losing one year and it would cause hardship to them. Therefore, the writ as prayed for may kindly be issued.

3. Counters are filed by all the three contesting respondents.

4. In the counter of respondent No. 1, it is stated that petitioners have not put in minimum per cent prescribed i.e., 75 per cent, as per Rule 89 of the Conduct Rules for Students of Technical Institutions, issued in G.O.Ms.No.1896, Education Department, dated 27.06.1962. However, as per the resolution of the Board, the shortage of 10 per cent attendance could be condoned by the Principal, on payment of certain fees. For the condonation of shortage of attendance between 65 per cent to 70 per cent, Rs. 507/- and for the shortage of attendance between 70 per cent and 75 per cent, Rs. 100/- is the fee prescribed. In the instant case, the petitioners have put in attendance at 48 per cent, 61 per cent, 56 per cent, 59 per cent, 50 per cent, 58 per cent, 61 per cent, 53 per cent, 59 per cent and 43 per cent respectively and the minimum percentage of attendance required is 75 per cent. It is further stated that the 3rd respondent has allowed the petitioners to appear for the examination without any authority. Since, the shortage of attendance regarding the present petitioners is concerned, it is more than 10 per cent and since the petitioners do not have the minimum of 75 per cent, which is required, they should not have been permitted by the 3rd respondent to appear for the examination. 3rd respondent has made a mistake and, respondent No.1-Board would not be bound by the same. It is further stated that for not having fulfilled the statutory requirement of minimum attendance for the academic year 1996-97, the petitioners were not entitled to take the examination and they cannot allege that without their fault, they may lose one year for the fault of the respondents. It is further alleged that "Doctrine of Promissory Estoppel" does not apply to the facts of this case. It is further stated that the petitioners have not challenged the Rule pertaining to the minimum requirement of attendance and in such academic matters, normally the High Court would be slow in interfering. The 2nd respondent in his counter stated that the petitioners have put in 40 to 60 per cent of attendance. The Project Officer, Integrated Tribal Development Agency, Paderu gave orders to allow the petitioners for appearing for the examination in question, if the petitioners have put in 40 per cent of attendance and the petitioners have also paid Rs. 100/- towards condonation fee. In those circumstances, hall-tickets were issued to them and they were allowed to take the examination. It is further stated that the action of the Project Officer, I.T.D.A. in directing the Principal to permit the persons who have put in 40 per cent of attendance is not correct. It was, in those circumstances, the 2nd respondent issued the proceedings cancelling the

results of 31 students (out of which, the petitioners are the 10 students) and they were directed to repeat the studies in their respective years of study and accordingly, memos have been issued to all the 31 students. It is further stated that 2nd respondent being Superior Officer, is entitled to cancel the orders issued by the Principal. It is further submitted that the said permission to take the examination held in the month of April, 1997 was purely provisional, subject to the final decision to be taken by the Commissioner of Technical Education and Secretary State Board of Technical Education and Training, Andhra Pradesh, Hyderabad and, therefore, such action of the 2nd respondent was not against the doctrine of Promissory Estoppel and accordingly he prayed that writ petition may be dismissed. The 3rd respondent was the Principal, at the relevant point of time, and it is he, who permitted the petitioners to take the examinations, after petitioners depositing Rs. 100/-. He stated in his counter that for the year 1996-97, 52 candidates were identified who were not having required percentage of attendance, for permitting them to take the examination, and out of these 52 students, 21 students have dropped out, as they were not interested and out of the remaining 31 students, 20 students belong to Schedule Tribes and the remaining students belong to Schedule Caste. He further stated that in the tribal areas, the Project Officer, ITDA is consulted in all matters pertaining to tribal people and for the academic year 1996-97. The Project Officer addressed a letter to him. vide letter dated 20.3.1997 to permit 20 candidates, who were schedule tribes candidates to sit for the public examination and he being under the bona fide impression that it would be in the interest of the student community, especially those belonging to schedule tribes, and in view of the letter of the Project Officer, he permitted the petitioners to take the examination. He further stated that though the Project Officer recommended regarding the students belonging to schedule tribes, but to maintain uniformity in the interest of the students, he had taken a decision to permit the remaining candidates belong to schedule casts also to sit for the examination even though there was shortage of attendance, He submitted that his action was bona fide.

5. From the pleadings in the writ petition and also in the counters, it is clear that few facts are admitted. It is admitted that the petitioners fell short of attendance. It is also admitted that the petitioners were permitted to take the examination by the 3rd respondent, the Principal of the Polytechnic College. It is also an admitted fact that the Principal has a power to condone the shortage of attendance upto ten per cent and the minimum per centage of attendance that one has to put in is 75 per cent, and the shortage of attendance between 65 per cent and 75 per cent, he can condone, and for condoning the shortage between 65 to 70 per cent, a student is required to pay Rs. 50/- and for condoning shortage of attendance between 70 to 75 per cent a student is required to pay a fee of Rs. 100/-. In other words, a student shall put in attendance of 75 per cent minimum and out of this 75 per cent, 10 per cent could be condoned by the concerned Principal. At any rate, a student has put in 65 per cent of attendance, so that the Principal may condone the 10 per cent, so as to constitute a

minimum of 75 per cent. However, the learned Counsel for the petitioners contends that the minimum attendance one has to put in is 65 per cent and out of this, the Principal can condone the shortage upto 10 per cent. In other words, according to him, the person who has put in 55 per cent of attendance, can take the examination, if the Principal condones the shortage of other 10 per cent, so as to constitute a minimum of 65 per cent. On the other hand, the learned Counsels for the respondents contended that minimum attendance required is 75 per cent, provided the Principal condones the shortage of 10 per cent attendance, so as to reach the minimum of 75 per cent. Having regard to these facts, the short points for my consideration would be, whether the minimum percentage of attendance, 65 per cent or 75 per cent and whether the petitioners are entitled to the benefit of Promissory Estoppel, in view of the fact that they have been permitted to take the examination, notwithstanding the fact that there was shortage of attendance.

6. It is not in dispute that the rules that govern the facts of the case are called Technical Education Conduct Rules for students of Technical Institutions and those rules are issued in G.O.Ms.No. 1869 Education dated 27.6.1962, Regarding attendance and leave, Rules 7 and 8 of the said Rules provide as under:

"7. Every student is required to attend the classes regularly and punctually.

8. Every student should put in at least 75 per cent of the total number of working days in the academic year. Student who fails to put in the prescribed attendance will be detained in the same class, unless the shortage is condoned by the Director. Such condonation will not be granted except in exceptional circumstances."

From the above Rules, it is clear that every student has to put in at least 75 per cent of the total number of working days in the academic year and those students who fail to put in prescribed attendance would be detained in the same class, unless the shortage of such attendance is condoned by Director and such a condonation of shortage would not be normally permitted, except when exceptional circumstances are made out by the concerned student. It appears that the State Board of Technical Education and Training, Hyderabad in its proceedings dated 31.7.1984 passed a resolution vide item No. 15 as under:

"Item No. 15: To consider and approve the procedure for condonation of shortage in attendance for the regular day time and part-time Diploma and Other Certificate Courses students.

Resolution No. 1-15/84

The Board considered and approved the following fees for condonation of shortage of attendance for regular day-time, part-time, diploma and certificate courses, below the minimum prescribed attendance of 75% in one or more subjects.

% Shortage of attendance: Amount Upto 5% ... Rs. 50/- More than ... Rs. 100/-

5% and upto 10% The Board further resolved that the shortage of attendance will be condoned only on medical grounds."

From the above resolution it is clear that every student has to keep a minimum attendance at 75 per cent and the power of the Director to condone upto 10 per cent is retained but I am informed that the same was delegated to the Principals prescribing certain amount of fee payable by the students in some other proceedings, not placed before me. In other words, a person who has put in 65 per cent of the attendance is entitled for condonation of another 10 per cent, so as to fulfil the minimum requirement of 75 per cent, and such condonation of shortage of attendance would be granted only in exceptional circumstances and that too on medical grounds. In this view of the matter, the contention of the learned Counsel for the petitioner that the minimum percentage required is only 65 per cent and there can be further condonation of shortage of 10 per cent and the basic minimum would come to 55 per cent is not acceptable. In other words, one has to keep in minimum per centage of 65 per cent of the attendance and the other 10 per cent between 65 and 75 could be condoned on payment of certain fee on medical grounds. Therefore, it follows that every student has to keep in minimum per centage of attendance of 75 per cent and he can seek the indulgence of the authorities only 10 per cent of such shortage of attendance.

7. In the instant case, it is an admitted fact that there is shortage of attendance on the part of the students. The 1st respondent in his counter, gave the per centage of attendance, the students had put in at paragraph No. 6 of the counter, which reads as under:

"In the instance case, I submit that the petitioners herein have put in 48%, 61%, 56%, 59%, 50%, 58%, 61%, 53%, 59% and 43% respectively which is far below the minimum required for 75 per cent of attendance. Even though they are not eligible to appear for the examinations, the 3rd respondent has allowed the petitioners to appear for the examination, without having jurisdiction to condone the shortage of attendance beyond 10 per cent."

From this statement of the 1st respondent, which is not disputed in the case, it is clear that the petitioners herein have put in their attendance between 41 per cent to 61 per cent, which is far below to 75 per cent minimum for the entitlement of condonation of delay of 10 per cent. If we take the attendance put in by petitioner No. 10 S. Nagaraju, according to the above counter he has put in only 43 per cent. That means he is hhort of 32 per cent of the minimum attendance required in order to reach the minimum per centage of 75 per cent. But as I have already stated above, the minimum per centage of attendance required is 75 per cent, out of which there could be condonation regarding 10 per cent only on medical grounds, either by the Principal of the College or the Director concerned. It is not the case of any one of the petitioners that they had applied for condonation of shortage of attendance with medical certificate to claim the benefit under Rules 7 and 8 of the Rules referred to above.

8. The Principal of the College, i.e., respondent No. 3 stated in his counter affidavit that he allowed the petitioners to take the examination in view of a direction issued by the Project Officer, X. I.T.D.A., directing the Principal to admit these students notwithstanding which shortage of attendance. I am extracting his statement as under:

"Normally in the tribal areas, Project Officer is consulted in all the matters concerning the tribal people. Even for effecting transfer or otherwise affecting the services of Government staff in tribal areas if they relate to tribal candidates the Project Officer is invariably consulted.

In the academic year 1996-97, the Project Officer addressed to me a letter dated 20-3-97, to permit 20 candidates who are scheduled tribes to sit for public examination. I have acted bona fide and thought that in the interest of student community, especially those belonging to scheduled tribes, in view of the said letter of Project Officer, I can admit them to sit for examination. As other candidates belong to Schedule Caste community and in view of the letter of the Project Officer Scheduled Tribe candidates are allowed to maintain uniformity and in the interest of students I had to take a decision to permit the remaining candidates belonging to Scheduled Caste community also to sit for the examination.""

From the original records placed before me by the Government advocate, I find that against a show cause notice issued to him, by the Government of Andhra Pradesh, Department of Technical Education, as to the irregularity in admitting the very petitioners, the same Principal stated in his reply as under:

"I have joined duty on 21.3.97 at 9.00 am. About 30-40 students have sat under the shade of Mango tree in the entrance to the campus. I was told by the Head of Mechanical Engineering Section who is the Principal Incharge in the above period that the students are staying there without food from morning to evening from the last four days. They are awaiting the principal's arrival. They are the candidates who have secured less than 65% attendance. He has also shown the letter given by the Project Officer, Integrated Tribal Development Agency, Paderu addressed to the Principal to allow for the examinations the ST students who have secured 40% attendance (xerox copy enclosed).

I have called for a meeting of Head of Departments and respective class teachers and discussed at length but the problem could not be solved. The students are requesting to pardon them and send for the examination. The second year C-90 students have pleaded to permit them to appear for the examinations as otherwise they have to sit with C-96 curriculum students. Further I submit that, all the students are from very poor strata and they will not get any scholarship for the repeated year. They are frustrated and a few students who are perverted and desperate have threatened of committing suicide.

In the above extraordinary circumstances the Principal is in a bitter position unable to take a decision and in a helpless state. I wanted to contact the higher

authorities but in vain as it is an agency area with weak communication facilities. My position has become so crucial as I have to face the higher authorities if I yield, and if not I have to face criminal case for the death of students. Thus I was subjected to mental agony."

From the above circumstances, it is clear that respondent No.3 - Principal admitted the petitioners under threat and coercion and also on the alleged direction issued by Project Officer, I.T.D.A, Paderu. The Learned Government Pleader for Official respondents also brought to my notice the G.O. issued by Government in GO.Ms.No.434, General Administration (Special-A) Department, dated 14-8-1986, to show that Project Officer, I.T.D.A. has no power or authority to issue a direction to the Principal to admit the students, who did not put in the minimum percentage of attendance. The said G.O. shows certain administrative controls of the Project Officer regarding certain activities in the tribal area. But I do not find any power vested with him regarding the educational standards or any matters pertaining to the education. The said G.O. reads as under:

(i) The Project Officers of the Integrated Tribal Development Agencies who are in the Senior- Time Scale of IAS shall be redesignated as Project Officer, Integrated Tribal Development Agency and Ex.officio Joint Collector (Tribal Welfare) and Additional District Magistrate.

(ii) The Project Officers of the Integrated Tribal Development Agencies holding a rank of Special Grade Deputy Collector or lower in rank than Senior Time Scale of IAS shall be redesignated as Project Officer, Integrated Tribal development Agency & Ex.officio Additional Joint Collector (Tribal Welfare) and Additional District Magistrate.

(iii) Such of the powers as now exercised by the Collectors/Joint Collectors/ District Revenue Officers as per G.O.Ms.No.77, Revenue, dt.22.1.1968 and shown in the Appendix to this order shall be exercised by the Project Officers of Integrated Tribal Development Agencies in the Districts of Srikakulam, Vizianagaram, Visakhapatnam, East Godavari, West Godavari, Khammam, Warangal and Adilabad in so far as the Tribal Sub-Plan area is concerned and necessary notifications etc., in this regard will be issued from the Revenue Department.

(iv) The Project Officers of the Integrated Tribal Development Agencies will be designated as Additional Agents so far as agency areas are concerned.

(v) All development programmes in the sub-plan area shall be approved by I.T.D.As.

(vi) All Officers and staff in the sub-plan area, connected with regulatory and developmental functions shall be under the administrative control of the Project Officer, Integrated Tribal Development Agencies.

(vii) In-respect of officers whose jurisdiction lies both inside and outside sub-plan area, the Officers will be responsible to Project Officers Integrated Tribal

Development Agencies are concerned.

(viii) The Project officers are authorised to call for any record, review and inspect the works being executed by any department in Sub-Plan area.

(ix) All postings and transfers of the highest non-gazetted and the gazetted personnel in regard to and within integrated Tribal Development Agency area should be made in consultation with the Project Officers and personnel will be screened as per G. O.Ms.No. 11, Social Welfare (D) Department, dated 18-1-1977.

(x) In all recruitments for sub-plan area, the Project Officers, Integrated Tribal Development Agency will be the Chairman/Member of the Selection Committee.

(xi) The project Officer, I.T.D. A. will add remarks on the work of the officers in the Annual Confidential Rolls of the Officers concerned.

Government also direct that the orders issued in the para 3 above are in addition to the powers already conferred on the project officers of integrated Tribal Development Agencies."

Since, the said Project Officer had no authority or any power to direct the Principal to admit the students for the examination, even though they have not put in the minimum prescribed per centage of attendance, the said direction is one issued wholly without jurisdiction. However, I find from the reply of the Principal, given to the show cause notice issued by the Government, that the Principal knows that he has no power to condone shortage of attendance below 65 per cent, but he permitted the petitioners under pressure and menial agony, which reads as under:

"I submit that I have no powers to condone the shortage of attendance below 65% and in case of difficulty I have to inform my superiors. I request the Secretary to kindly excuse me for exposing about myself. I am for discipline, integrity and devotion to duty and I never disobeyed the orders of my superiors in my last 36 years of service. I have not had any bad remark during my service. I am not for money, power or reward. I am only for devotion to duty with a motto of service with dedication. My character and conduct is well known to the higher authorities presently working in the office of the Technical Education and Training, Hyderabad.

At this place in August/Sept., 1992 and 21st June, 1993 the two bitter incidents have not vanished from my memory. The two incidents are known to the present secretary and then Regional Joint Director. In addition to the above two, I am facing many problems at the cost of my health and energy and by God's grace I am solving smoothly at this place for the last 5 years as Principal Incharge and FAC."

In a similar circumstance, interpreting the very rule in question, another learned single Judge of this Court in W.P.Nos. 19468, 19997, 20306 and 20278 of 1995,

vide common order dated 4-12-1995 held as under:

"From the impugned proceedings, the Court could notice that all the petitioners/ students have less than 65% of attendance. Under the regulations, the Principal, who is said to be a delegate of the Board or the University could condone the shortage only to the extent of 10%. In other words, in a case where a student has attendance of 65% or more but less than 75% such case of the candidate could be considered by the Principal and if he thinks it proper, he can condone shortage of attendance for good and valid reasons. On the other hand, if the percentage of attendance is below 65%, under the Regulations, the Principal lacks jurisdiction or competence to condone such shortage of attendance. Therefore, there is no question of Principal condoning the shortage of attendance which is below 65%. In these cases, all the petitioners have earned less than 65% of attendance, and therefore, the Principal has no jurisdiction or competence to condone such shortage of attendance.

There is no merit in the contention that Principal should have notified and given an opportunity to the petitioners to have their say in the matter before he issued the impugned proceedings."''

Even from this judgement also it is clear that prescribed attendance is at 75 per cent, of which a student shall necessarily put in 65 per cent of attendance and he could seek condonation regarding shortage of attendance between 65 per cent and 75 per cent. But from the Principal's explanation both in his counter and also in his earlier reply to the Government's show cause notice, it is clear that he admitted the petitioners, under a situation in which he found himself between a devil and the deep. The principle of promissory estoppel is a doctrine based on principles of equity. When the action permitting to take the examination is without jurisdiction and contrary to the provisions of the statute and even contrary to the principles of equity, I do not think that petitioners can plead the principle of promissory estoppel against the respondents. As it is, there is a fall in educational standards, which the Courts have to take judicial notice of. It is also required to be noticed that the leniency of the Courts is now being misused at the cost of academic career. The country needs a qualified and competent citizens, and they are the future of this Country. In these circumstances, I am of the bona fide opinion that every one has to endeavour to maintain good academic atmosphere, so that we, ultimately, have the citizens who can man this country and keep this country's head high. However, the learned Counsel for the petitioner brought to my notice a judgment of this Court reported in *A. Hemalatha Vs. Convenor (D.E.O.) District Selection Committee and Others*, . But, I find that judgment does not help the petitioners. In that judgment, this Court took a lenient view, because there was shortage of attendance of only 4 days. After directing the petitioner therein to file an application in the prescribed form for condonation of shortage of attendance, this Court held that such shortage of attendance would be deemed to be condoned once the application is made, hoping that the authorities would normally condone the shortage of 4 days, in

order to avoid further delay in the matter. Therefore, that judgment does not help the case of the students, who shortage of attendance in some cases is nearly 30 per cent of the minimum required attendance. In the judgment reported in Home Secretary, U.T. of Chandigarh and Another Vs. Darshjit Singh Grewal and Others, , the Hon"ble Supreme Court laid down the law as to the rule of promissory estoppel as under:

"23. Applicability of rule of promissory estoppel - or for that matter any other similar rule - vis-a-vis the ultra vires acts of public officials and statutory corporations has been a vexed subject in law, both in this country as well as in England and U.S.A. (see in this connection Wade's Administrative Law (six Edition) pages 261 to 263 and 41 to 46 and Corpus Juris Secundum (1964) Edition) pages 706 to 724 and C.J.S. (1983 Edition) Vol.73 para 69). It is however not necessary, to go into it for the purposes of this case, inasmuch as there is no room for invoking the rule of promissory estoppel in these cases. As pointed out hereinbefore, the respondents had not changed their position basing upon the representation - whether the representation consisted of the earlier consent of the Principal or the approval by University and Chandigarh Administration. Further, the said Rule cannot, in any event, be invoked to perpetuate the violation of a provision of law, that too a provision couched in emphatic terms (leaving no discretion in the authority) and based upon sound public policy i.e., a mandatory provision. It is not necessary to say more than this for the purpose of these cases. The decisions of this Court on the doctrine of promissory estoppel viz., Union of India (UOI) and Others Vs. Indo-Afghan Agencies Ltd., , Motilal Padampat Sugar Mills Co. Ltd. Vs. State of Uttar Pradesh and Others, ; Jit Ram Shiv Kumar and Others Vs. State of Haryana and Others, and Union of India (UOI) and Others Vs. Godfrey Philips India Ltd., , do not say otherwise. Indeed, it is reiterated in these cases that the said rule is not available in respect of the ultra vires acts of a statutory body/ authority nor can it be invoked to compel the Government - a public authority - to carry out a promise which is contrary to law or ultra vires its powers. Also see State of Kerala and Another Vs. The Gwalior Rayon Silk Manufacturing (Wvg.) Co. Ltd. etc., .

24. In this view of the matter, it is not necessary to go into the correctness of the second ground in the judgment of the High Court. Even if the High Court is right on that question, its decision is liable to be set aside on the first ground aforesaid.""

The above case also was a case relating to the students and in this case, the Hon"ble Supreme Court clearly laid down the law that rule of promissory estoppel cannot be invoked to perpetuate the violation of provision of a law, and the rule of estoppel is not available in respect of ultra vires acts of the statutory body/authority, nor can it be invoked to compel the Government or a public authority to carry out a promise, which is contrary to law or ultra vires of its powers. As I have already stated above, the students were permitted to take the examination by the Principal, as directed in a letter issued by the Project Officer

I.T.D.A., who had absolutely no power to issue such a direction. Moreover, the petitioners also were threatening the Principal that they would go on strike and would commit suicide. In these circumstances, the petitioners are not entitled to rule of promissory estoppel.

9. The other rulings relied upon by the learned Counsel for the petitioners reported in *Shri Krishnan Vs. The Kurukshetra University, Kurukshetra*, , *Sanatan Gauda Vs. Berhampur University and others*, and *Ashok Chand Singhvi Vs. University of Jodhpur and Others*, are distinguishable from the hard facts of the present case. At any rate, I am bound by the latest judgment of the Supreme Court referred to 2 supra, as to the rules of promissory estoppel. Moreover, the Hon"ble Supreme Court in the recent judgment in *S.D.P.(Civil) No. 18853/1997*, vide judgment dated 13-2-1998 issued certain guidelines in that behalf to all the High Courts as under:

"Occasional aberrations such as these, whereby ineligible students are permitted, under court orders, to undertake Board and/or University examinations, have caught the attention of this Court many a time. To add to it further, the Courts have almost always observed to it further, that the instance of such aberrations should not be treated as a precedent in future. Such casual discretions by the Court is nothing but an abuse of the process; more so when the High Court at its level itself becomes conscious that the decision was wrong and was not worth repeating as a precedent. And yet it is repeated time and again. Having said this much, we hope and trust that unless the High Court can justify its decision on principle and precept, it should better desists from passing such orders, for it puts the "Rule of Law" to a mockery, and promotes rather the "Rule of Man".

All the same, found hopes were raised in the minds of the students herein. Therefore, we decline to interfere under Article 136 of the Constitution. The S.L.Ps. are, accordingly, dismissed."

10. For the above reasons, the impugned order directing the petitioners to put in the attendance in the same class does not call for interference. According, I pass the order as under

The writ petition is dismissed. But in the circumstances without costs.