

(2009) 10 MAD CK 0077

In the Madras High Court

Case No : Writ Petition No. 6370 of 2009 and M.P. No's. 1 and 2 of 2009

Sri Ramakrishna Mission Vidyalaya Polytechnic College

APPELLANT

Vs

The Secretary to Government, Education Department, The
Director of Technical Education, The Principal Secretary/
Commissioner of Technical Education and Chairman, Board of
Examinations and All India Council for Technical Education

RESPONDENT

Date of Decision : 15-10-2009

Acts Referred:

Constitution of India, 1950 — Article 162

Citation : (2010) 2 MLJ 1187

Hon'ble Judges : S. Nagamuthu, J

Bench : Single Bench

Advocate : G. Masilamani, SC for Ramesh Venkatachalapathy, for the Appellant;
P. Wilson, AAG Asst. by E. Ranganayaki, G.A. (Education) for RR 1 to 3 and N.
Muralikumaran, for R4, for the Respondent

Final Decision : Dismissed

Judgement

S. Nagamuthu, J.—The petitioner is a Polytechnic College. It was founded by Sri Ramakrishna Mission, which is a registered society

several decades ago. It is offering Diploma courses in Technical Education. It is affiliated to the 2nd respondent. Under G.O.Ms.841, Education

Department, dated 07.05.1980 the 2nd respondent granted academic autonomous status to the petitioner Polytechnic College. Fulfilling all the

conditions stipulated therein, the petitioner polytechnic college was all along functioning enjoying the full status of autonomy. While so, All India

Council for Technical Education Act, 1987 (in short , the AICTE Act"") came into being. As per the said Act, the AICTE has issued guidelines on

the scheme of autonomous polytechnic colleges and other Diploma level

institutions throughout the country. The 2nd respondent by letter D.Dis.

No. 21930/H5/96, dated 10.05.1996 communicated the said guidelines to the petitioner indicating thereby, that the petitioner Polytechnic should follow the said guidelines scrupulously.

2. As per the guidelines, an autonomous polytechnic college will have freedom in respect of the following:

(i) to determine and prescribe its own courses of study and syllabi in close collaboration with the user system;

(ii) to prescribe rule of admission as per AICTE regulations, subject to the reservation policy of the State Government;

(iii) to evolve methods of evaluation and to conduct examination; and

(iv) the autonomy shall be a means to achieve higher standards and greater creativity in the future. An autonomous institution will be fully

accountable for the content and quality of education that it imparts. It will be responsible for evaluation of students for awards of

Diploma/Certificate which will be accepted by the parent Board.

3. Admittedly, the 2nd respondent is the parent Board. After the coming into force of the said guidelines, indisputably, there was no need to get

fresh affiliation or autonomous status. The affiliation granted earlier to the petitioner polytechnic college and the autonomous status granted hold good.

4. While the petitioner polytechnic college was enjoying the autonomous status, a letter was sent by the 3rd respondent on 17.03.2009 vide Ref.

No. 112386/M1/2008 directing the petitioner polytechnic college to take corrective measures to the effect that

(1) Proposal for the Internal Evaluation System to be in consonance with the State Board's norms;

(2) Grading of classes to be in conformity with the State Board's norms; and

(3) To frame the curriculum within the time limit and get them approved by the State Board;

5. It was further informed that in the event of the petitioner failing to take corrective measures, the State Board of Technical Education may have to

review the autonomous status for the institution which may lead to taking action to abridge or withdraw the autonomous status of the petitioner

polytechnic college. In response to the said letter, the petitioner sent a letter dated 01.04.2009 requesting the respondents to convene the award

committee meeting on 11.04.2009 and to depute DOTE nominees for the same. Thereafter, under letter No. 112386/M1/2008, dated

08.04.2009, the 3rd respondent again informed the petitioner that he would be allowed to convene the award committee meeting only after

corrective measures as advised in the letter dated 17.03.2009 have been taken. As a result, though the students have taken the examination and

evaluation has been done by the college, since, award committee meeting was not held, the college could not recommend to the second

respondent for awarding of certificates. Challenging these two letters the petitioner has come forward with this writ petition.

6. The crux of the contentions of the petitioner is as follows:

(i) The impugned letters tend to interfere with the internal administration of the petitioner polytechnic college which is impermissible in law.

(ii) Refusal to convene the award committee to recommend for awarding of Diploma certificates to the candidates who have done the first year

Diploma course during the year 2008-2009 is highly arbitrary.

(iii) The petitioner polytechnic college which is enjoying complete academic autonomy is free to prescribe its own curricula, method of valuation,

etc., which have been rightly done. The impugned letters directing the petitioner polytechnic college to change the same is violative of the guidelines

of AICTE.

(iv) Neither the State Government nor the Director of Technical Education has got power to direct the petitioner to change the curricula, method of

evaluation, in view of the Central Regulation which occupies the field.

7. In the counter filed by the 1st respondent, inter alia, it is contended that under the executive power of the State Government under Article 162

of the Constitution of India, in order to achieve higher standards of education, the Government has got power to prescribe higher qualifications than

the qualifications prescribed by the AICTE.

8. It is further contended that, the petitioner polytechnic college is bound by the guidelines stipulated by the special committee which prescribes

modes for internal evaluation for awarding of marks. But, the petitioner institution has proposed for internal evaluation system in a different manner,

more particularly, the petitioner institution proposes to award 10 marks for students appraisal , which is contrary to the special committee's report.

9. The next contention is that in the matter of awarding First class as per the Special Committee's Report , a student who completes all the papers

including that of the I and II semesters within the stipulated period of study without break of study alone is entitled for First class and for First class

with distinction; whereas according to the petitioner polytechnic college, in special cases, such as break in studies due to genuine reasons (e.g.,)

medical / financial grounds, as per the recommendations of the special committee constituted by the Principal for this purpose, even though a

student has not completed the semesters within the stipulated study period and without any break of study, he is entitled for First class with

honours and I class. This again runs contrary to the guidelines of AICTE.

10. Yet another contention is that, there cannot be two standards adopted for awarding of Diplomas by the State Board for Technical Education

and Training, one as per the guidelines issued by the Directorate and the other by the petitioner according to its own regulations.

11. It is further contended that, if the proposal of the petitioner polytechnic college in the matter of internal evaluation system and the proposal

regarding grading of classes are accepted, then, there will be decline in standard of education and that is the reason why, under the impugned letter,

the petitioner polytechnic college was directed to take corrective measures to prescribe the internal evaluation system and grading of classes on par

with the other institutions in the State governed by the 2nd respondent.

12. Lastly, it is stated that in respect of Diploma in Audit course, as per the DoTE scheme there are only 9 subjects, for which total number of 400

marks are awarded; whereas according to the proposal of the petitioner polytechnic college, 12 subjects have been included, for which a total

number of 1300 marks is awarded. It is further contended that 3 additional subjects, which have been added have got nothing to do with the

technical education and thus the inclusion of the same is illegal. It is also contended that if escalated marks are awarded for these 3 subjects for the

students studying in the petitioner polytechnic college , certainly, it will have impact on the over all percentage of marks secured by the students.

When the students, who are studying in the other institutions in the State of

Tamil Nadu are pitted against the students who are studying in the petitioner college, certainly, the students in the petitioner polytechnic college will be in advantageous position in the matter of percentage of over all marks. This would clearly amount to discrimination, which cannot be permitted. Further, adding additional subjects, which have no connection at all with the technical education would result in decline in standard of technical education.

13. The 4th respondent has not filed any separate counter affidavit. But, the learned Counsel appearing for the 4th respondent submitted that the respondents 1 to 3 are bound by the guidelines issued by the 4th respondent and not by the special committee report on which reliance is now made by the respondents 1 to 3.

14. I have considered the rival submissions and also perused the records carefully.

15. At the outset , I have to state that though the petitioner is an autonomous institution , it cannot claim absolute exemption from the purview of the

Government as well as the Director of Technical Education. Though the petitioner polytechnic college follows its own curricula , conduct of

examinations and evaluation of the students" performance , ultimately , the Diploma is awarded only by the 2nd respondent. As per the AICTE

Regulations, the parent Board is the 2nd respondent. The 2nd respondent cannot blindly award Diplomas to whomsoever the petitioner

polytechnic college recommends. The autonomy cannot be misunderstood to mean a complete freedom to the petitioner polytechnic college to

prescribe any curricula, any method of evaluation and any mode of grading of the successful students. No freedom can be absolute without any

reasonable restrictions; likewise no autonomy granted to any institution can be absolute without reasonable restrictions. Therefore, the whole issue

involved in this case should be approached by keeping in mind that the State Government in its executive power under Article 162 of the

Constitution of India has got power to prescribe reasonable restrictions on the autonomy either in the matter of admission or in the matter of

curricula or in the matter of evaluation or in the matter of grading.

16. The learned senior counsel appearing for the petitioner, with his usual fairness, submitted that the petitioner polytechnic college is bound by the

standards prescribed by the 2nd respondent. But, all that he would argue is that the inconsistencies pointed out in the impugned letters, requiring the petitioner polytechnic college to take corrective measures, would not result in decline in standard of education. But, the same would only add to the standard of technical education imparted by the petitioner polytechnic college. Therefore, according to him, the proposal to award 10 marks for students appraisal for the internal would only encourage better discipline, decorum and behaviour of the students. He would further submit that by the clauses treating the said cases such as, break in studies due to genuine reasons (e.g.,) medical and financial grounds as per the recommendations of the special committee constituted by the Principal for this purpose, is only in tune with the DOTE norms since non autonomous polytechnic colleges also have provisions of relaxation of break in studies due to genuine reasons provided the students concerned furnish documents to justify the claim. This also, according to the learned senior counsel, would not indicate that there is decline in standards of technical education.

17. In respect of marks awarded for 3 additional subjects for the Diploma in Audit course, it is stated that these subjects are essential ingredients for development of total personality of the students. These components were included by the staff and experts of the Board of Studies on the basis of the positive feed back from the students, parents and ALUMINI of the Institution. According to the learned senior counsel for the petitioner, this is in no way in contradiction with the K-Scheme of the DoTE. Above all according to the learned senior counsel, adding 3 additional subjects and awarding of marks for the same would not in any manner result in decline in standard of technical education.

18. Learned Additional Advocate General appearing for the respondents 1 and 2 would take me through the guidelines of the AICTE and the report of the Special Committee constituted by the Government of Tamil Nadu which has all along been followed in the State of Tamil Nadu. According to him, awarding of 10 marks out of 25 marks for appraisal is not measurable qualitatively and it may lead to discrimination. This, according to him, is totally against the State Board norms. He would further submit that awarding of grades in the petitioner polytechnic college

based on the medical / financial grounds and based on the opinion of the committee is weak in nature and not followed in any other institution in the State. It is unjust and the same will create unrest among the students of other Polytechnics. He would further submit that out of 343 polytechnics in the State where there are about 2.8 lacs students studying, if one polytechnic college is allowed to grade the students in a different manner, it will amount to clear discrimination among students.

19. He would further submit that the writ petition is highly prematured and the same is liable to be dismissed since the impugned letters are only show cause notices calling upon the petitioner polytechnic college to take corrective measures and cautioning the petitioner that in the event of failure , action would be taken to review the autonomous status granted to the petitioner polytechnic college.

20. At this juncture, it should be noticed that the results of the examination conducted during the academic year 2008-2009 have not so far been declared because the 2nd respondent, by means of the impugned letter, has been insisting to redo the evaluation and also the grading system prescribed by the Director of Technical Education. As a result, the students are suffering.

21. Though it is contended by the learned Additional Advocate General that the impugned letters are in the nature of only show cause notices, I am not impressed by the said arguments. De hors the said letters, if the 2nd respondent had taken any action to safeguard the interest of the students without wasting their valuable career , then, this Court would have been in a position to appreciate the said argument. Since, the respondents 1 and 2 have rest contended with the two letters without taking any further action and as a result, the fate of the students is in perils, I am of the considered view that the present writ petition cannot be termed as highly premature warranting dismissal at its threshold as it is argued by the learned Additional Advocate General.

22. The learned senior counsel appearing for the petitioner does not dispute the fact that the guidelines issued by the AICTE bind the petitioner polytechnic college. As per Clause 5 of the guidelines , the right of autonomy many not be conferred once for all. The exercise of rights on freedom of autonomy will however be continuously earned and deserved. Initially, the

autonomy be granted for a period of 3 years and the same be reviewed every 3 years with the help of the committee constituted there under. In case of evidence of declining standards in technical education, it is open to the State Board, after careful scrutiny, to revoke the autonomy itself in consultation with the AICTE.

23. The learned Additional Advocate General would submit that there is a decline in standard of technical education in the petitioner polytechnic

college and therefore, the impugned notices were issued only with a view to review the autonomous status. In my considered opinion, in so far as

the petitioner polytechnic college is concerned, the autonomous status was not conferred in pursuance of AICTE guidelines after coming into force

of the same. The autonomous status was given to the petitioner polytechnic college in the year 1980 as per the norms prescribed by the Director of

Technical Education based on the report of the special committee. Though, for all practical purposes, the autonomous status conferred prior to the

coming into force of AICTE guidelines has been adopted as autonomous status granted under the said guidelines, it should be construed that the

said autonomous status shall be in force only for 3 years from the date of coming into force of AICTE guidelines in the year 1996. This Court is not

informed that on expiry of 3 years term, after coming into force of the AICTE Norms, the respondents 1 and 2 had ever reviewed the autonomy

given to the petitioner polytechnic college as required under the guidelines once in 3 years. Though, the guidelines were issued in the year 1996, for

about 13 years, the petitioner polytechnic college has been enjoying the autonomy without there has been any review of the autonomy as required

under the guidelines. This shows that the respondents 1 and 2 have not discharged their functions in the expected lines. It is also not brought to the

notice of this Court that a committee has been constituted in the State of Tamil Nadu to review the autonomous status of these polytechnics as

required under the AICTE guidelines and that the State Board has collected any material so far evidencing declining standards of technical

education imparted in the petitioner polytechnic college. It is also not the argument of the learned Additional Advocate General that the State

Board has been in consultation with the AICTE for the purpose of withdrawing the autonomous status. When the 2nd respondent has not reviewed

the autonomous status every 3 years as required under the AICTE guidelines, it is really surprising to hear the arguments of the learned Additional

Advocate General that the impugned notices are in the nature of show cause notices to withdraw the autonomous status given to the petitioner

polytechnic college. The question of revoking autonomy would arise only when there are materials collected during the 3 years period for which

autonomy is granted. In the case on hand, since no review was done so far for the past 13 years , even now it is the obligation of the 2nd

respondent to review the autonomous status given to the petitioner so as to decide whether to allow the petitioner polytechnic college to enjoy the

autonomy for another 3 years or not. Thus, in my considered opinion, it does not require any show cause notice at all, as contended by the learned

Additional Advocate General. As it is abundantly clear from the guidelines issued by the AICTE that the 2nd respondent is required only to

constitute a Committee as required there under to review whether to allow the petitioner polytechnic college to enjoy the autonomy for another 3

years or not. Therefore, the contention of the learned Additional Advocate General that the impugned letters are only show cause notices for

reviewing the autonomous status given to the petitioner polytechnic college cannot be accepted because no such show cause notice is required for

reviewing. If it is the question of revocation , then such notice may be required.

24. Coming back to the contention of the petitioner in respect of awarding of marks in the internal assessment and grading of students, let me, now,

consider a comparative table submitted by the petitioner in respect of internal marks for the academic year 2008-2009 which is as follows:

INTERNAL MARKS BREAK-UPS

DoTE Scheme Petitioner Scheme

Theory Mark Practical Mark Theory marks Practical mark

Attendance 5 Attendance 5 Students Procedure

Test Procedure, Appraisal

10 10

observation

Assignments Observation,

and

Calculations

tabulation /

5 etc., 10

other related

Continuous Result &

practical

Assessment Neatness

work

tests 5 5

Model

10 10

Examination

Assignment 10 result 10

Total marks Record 5

Writing

25 25

Total marks 25

25. Regarding awarding of 5 marks on assignments, 5 marks for continuous assessment tests and 5 marks for model examination as per the

proposal of the petitioner, the respondents have got no objection at all as these marks are awarded based on the objective evaluation. The dispute

is only in respect of awarding of 10 marks for students appraisal. This, according to the petitioner, is necessary to encourage better discipline,

decorum and behaviour of students. But, according to the respondents, this will lead to discrimination and arbitrariness. Further, it is against the

State Board norms. In so far as the norms of the State Board are concerned, as I have already stated and as admitted by the learned senior

counsel appearing for the petitioner, it bind the petitioner polytechnic college. According to the State Board norms, for attendance 5 marks is

given, which is missing in the case of the petitioner's proposal. In my considered opinion, it would be in fitness of things that 5 marks for

attendance is awarded by the petitioner polytechnic college also in tune with the

State Board norms. The remaining 5 marks may be awarded on the basis of any other objective evaluation. Admittedly, during the years 2006-07, 2007-08 for internal assessment, 25 marks were awarded by the petitioner polytechnic college under three categories viz., 5 marks for assessment, 10 marks for continuous assessment test and 10 marks for model examination. It was not objected to by the respondents as there was no subjective test regarding the internal assessment marks; whereas under the proposal for the year 2008-2009 marks are awarded for internal assessment on subjective test. Therefore, as it was during the year 2006-07 and 2007-08, the petitioner polytechnic college may award 10 marks for continuous assessment test instead of 5 marks. If that is done all the 3 tests would be objective which would escape the criticism of arbitrariness. To put it otherwise, the petitioner polytechnic college may award 5 marks for attendance; 5 marks for assessments, 10 marks for continuous assessment tests and 5 marks for model examination. If this is done, in my considered opinion, the problems could be solved. During his concluding argument, the learned senior counsel appearing for the petitioner submitted that the petitioner polytechnic college is willing to go by the verdict of this Court, if on consideration of entire arguments, this Court comes to the conclusion that awarding of 10 marks for students' appraisal would not be in accordance with law.

26. Considering the said fair submission made above, I am of the view that to obviate the doubt regarding the possibility of discrimination, the method suggested above may be adopted by the petitioner polytechnic college which may be acceptable to the respondents also. This suggestion is made because this Court is of the view that awarding of 10 marks for students appraisal will lead to unreasonable awarding of marks subject to whims and fancies of the teachers and the same would result in arbitrariness. Therefore, I hold that awarding of 10 marks for students appraisal in the internal examination is not sound in legal sense. In this regard, the respondents 1 and 2 have got power to direct the petitioner to correct the same as the respondents 1 and 2 are concerned with quality and high standard of technical education to be imparted to the students.

27. While coming to the next issue regarding grading of successful students, a comparative statement in respect of grading of students as submitted

by the petitioner polytechnic college is as follows:

As per DoTE As per Petitioner polytechnic College

First Class A candidate will be declaredFirst Class A candidate will be declared to have

to have passed in First Class passed in First Class if he secures
if he or she secures not less not less than 60% of the aggregate
than 60% of the aggregate marks in all semesters put together
marks in all semesters put except first two semesters and
together except first and successfully completes his first year
second semester and or to years from the time of his
completes all papers admission to second year under
including that of the first and lateral entry scheme*.

the second semester within

the stipulated period of study *Except special cases such as
3 years full time without break-in studies due to genuine
break-in study. reasons, e.g., medical/financial
grounds as per the

recommendations of a special
committee constituted by the
principal for this purpose

As per DoTE As per Petitioner polytechnic College

As per DoTE As per Petitioner polytechnic College

First Class A candidate will be declaredFirst Class A candidate will be declared to have

with to have passed in First Classwith passed in First Class with Honours if
Distinction with Distinction if he or she Honours he secures not less 75% of the
secures not less than 75% of aggregate marks in all semesters put
the aggregate marks in all together except first two semesters
semesters put together and passes all semesters in first
except first and second appearance and successfully

semester and passes all the completes his diploma within 3 years
above semesters in the first duration from time of his admission
appearance itself and to first year or two years from the
completes all papers time of his admission to second year
including that of first and under lateral entry scheme*
second semester within the
stipulated period of study *Except special cases such as
years full time without any break-in studies due to genuine
break-in study reasons, e.g., medical/financial
grounds as per the
recommendations of a special
committee constituted by the
principal for this purpose.

28. Insofar as First class is concerned, the norms prescribed by the DOTE and the petitioner polytechnic college are one and the same, except proviso clause added which is opposed to by the respondent . Similarly, for the candidates who secured more than 75% of aggregated marks as per the DOTE norms, First class with distinction is being awarded; whereas First class with honours is awarded by the petitioner polytechnic college. In this regard also there is no much difference and there is no dispute between the parties. Here again, the proviso clause added alone is challenged.

29. It is contended by the petitioner that it may happen in the case of some students that due to genuine reasons like medical and financial grounds, they may not be in a position to write the examinations and only in those circumstances, on such grounds, an exemption is given , which according to the petitioner polytechnic college would not lead to decline in standard of technical education. The learned senior counsel would submit that for any reason, if a student writes the examination and fails, resulting in break-in studies, First class or First class with honours is not awarded by the petitioner polytechnic college. He would further submit that, having regard to the realities in life, this kind of exemption is given and so the same cannot be treated as arbitrary. In my considered opinion, the said contention

cannot be accepted. As it is rightly pointed out by the learned

Additional Advocate General, it is not brought to the notice of this Court that any where in India in any other technical institution like, the petitioner

institution, this kind of exemption is given. The learned Counsel on either side would submit that as far as the university regulations are concerned,

many universities condone shortage of attendance by 5% on medical grounds. But, the learned senior counsel for the petitioner would submit that

granting exemption as per proviso clause to the proposal of the petitioner also can be treated as a condonation. In my considered opinion, the said

argument cannot be accepted for the simple reason that condonation of shortage of attendance is done by a university to qualify a student to go for

examination. If once a student is allowed to sit for the examination, the shortage of attendance has got no role to play in the matter of grading. But,

the proviso clause in question , certainly, influences the grading of the students. Therefore, the present condonation cannot be equated to

condonation of shortage of attendance presently done by various universities. The learned Additional Advocate General would submit that this

proviso clause is also not in tune with the DOTE norms.

30. It is not brought to the notice of this Court that in respect of grading AICTE has issued any regulation. Therefore, the regulation issued by the

State occupies the field and the same binds the petitioner polytechnic college. Under the guise of autonomy , the petitioner polytechnic college

cannot prescribe a different standard which may lead to an anomalous situation resulting in decline in standard of education. In my considered

opinion, as rightly pointed out by the learned Additional Advocate General, this will lead only to discrimination because the students who study in

other polytechnic colleges in the State in the same footing cannot get First class with distinction in the event of failure by getting the same condoned;

whereas the students studying in the petitioner polytechnic college alone would be in a higher position to get First class with honours by getting their

failure condoned on medical or financial grounds. This, in my considered opinion , cannot be allowed. Therefore, this clause is illegal and therefore,

the respondents 1 and 2 were right in directing the petitioner to take corrective measures to remove the clause in question.

31. Yet another dispute is in respect subjects for which marks are awarded

during the I-semester for the Diploma in Audit course. The comparative tabulation filed by the petitioner incorporating the details prescribed by DOTE and subject details prescribed by the petitioner polytechnic college is as follows:

SUBJECTS DTAILS FOR FIRST SEMESTER COURSES AS PER DoTE

Name of subjects Periods per Allocation of marks

sem Internal External Total In external Min. for

pass

Communication

English-I 64 25 75 100 50

SUBJECTS DTAILS FOR FIRST SEMESTER COURSES AS PER DoTE

Computer Annual pattern

Application 64 25 75

Mathematics 112 25 75 100 40

Engineering

Physics -I 48 25 75 100 40

Engineering

Chemistry-I 48 25 75 100 50

Engineering Annual pattern

Graphics 96 25 75

Physics Practical 32 25 75 Annual pattern

Chemistry Annual pattern

Practical 32 25 75

Workshop Annual pattern

Practice 64 25 75

Total = 560 400

Workload:16 weeks X 5 days X 7 hrs = 560 days

SUBJECTS DTAILS FOR FIRST SEMESTER COURSES AS PER PETITIONER

POLYTECHNIC COLLEGE

Name of subject Periods Allocation of marks

per sem Internal External Total In external Min. for
min. for pass

pass

English I 48 25 75 100 30 40

English Communication -

Practical 32 25 75 100 50

Basics of computer

science I 64 25 75 100 50

MathematicsI 128 25 75 100 30 40

Applied Physics-I 48 25 75 100 30 40

Applied Chemistry-I 48 25 75 100 30 40

Technical Drawing 64 25 75 100 - 50

Applied Physics -

Practical-I 32 25 75 100 50

Applied Chemistry -

Practical -I 32 25 75 100 50

Workshop Practice-I 64 25 75 100 - 50

Value Education-I 30 25 75 100 30 40

English Communication -

Skill 30 25 100 100 50

CHOOSE ANY ONE: -

1. Community based

Service

2. Cultural Education

3. Literary Education

4. National Cadet

Corps

5. National Service

Scheme

6. Physical Education

30 48

Total = 650 1300

Workload: approx. 17 weeksX 5.5daysX7hrs = 650 days

32. Up to subjects 1 to 9, there is no dispute between the parties. The dispute is in respect of additional subjects viz. 10,11 and 12 added by the

petitioner polytechnic college. It is contended by the respondent that, of course, because of the autonomy enjoyed by the petitioner, it can add any

subject so as to improve the standard of technical education. But, at the same time, under the guise of autonomy, according to the respondents 1

and 2, the petitioner cannot add subjects which have got no connection at all with technical education. The learned Additional Advocate General

would point out that Value Education and English communication skill , Community based services or cultural Education or National Cadet Corps

or National Service Scheme or Physical Education have got nothing to do with the standard of technical education. But, the learned senior counsel

appearing for the petitioner would submit that all these courses are essential ingredients for development of total personality of the students and that

is the reason why they were included. It is further contended by the petitioner that all National policies on education speak of promotion of physical

education/sports as co-curricular or curricular activities under "K-Scheme" Regulations, under IVth Semester even DoTE has also English

Communication skill, practical and written tests in professional Ethics and conduct. It is further contended by the learned senior counsel for the

petitioner that Cultural Education/ Literary Education / National Cadet Corps / National Service Scheme / Physical Education are part of student

life in all polytechnics operating under DoTE with the difference that these are not being evaluated and no theory paper exist for in these

polytechnics. Thus, these students are deprived from having proper understanding of the basic principles underlying these activities. These are

reasons why according to the petitioner, these subjects were included and marks were also awarded for the same.

33. I have carefully considered the rival submissions in this regard.

34. As rightly pointed out by the learned senior counsel for the petitioner , being an autonomous institution , the petitioner can prescribe curricula of

its own. But, as per the AICTE regulations and as per the objects of autonomy as

provided in Clause 2 of the AICTE guidelines, an autonomous

Polytechnic college will have freedom to determine and prescribe its own courses of study and syllabi in close collaboration with the user system.

The aforesaid guidelines further state that autonomy shall be a means to achieve higher standards and greater creativity in the future and an

autonomous institution will be fully accountable for the content and quality of education that it imparts.

35. Clause 3 of the guidelines states that the parent Board namely, the 2nd respondent, in the case on hand, will accept the methodologies of

teaching , evaluation , examination and courses curricula , etc. A conjoint reading of Clauses 2 and 3 would go to show that an autonomous

Polytechnic can prescribe its own curricula and the same should be acceptable to the parent Board viz., the 2nd respondent. In the case on hand,

the State Board, for all Polytechnic Colleges throughout the state of Tamil Nadu, has prescribed 9 subjects for Audit Course. The total number of

marks awarded is 400; whereas, the petitioner polytechnic college awards 1300 for Audit course which includes 100 marks for Value Education;

100 marks for English Communication Skill; and 100 marks for anyone of the others like, Community based services or cultural Education or

National Cadet Corps or National Service Scheme or Physical Education.

36. The learned Additional Advocate General would point out that this would again bring about anomalous situation. He would submit that lateral

entry to B.E. Course , the marks secured in Diploma course is taken into account. In my considered opinion, when a student, who has secured

marks out of 400 is made to compete with a student who has secured marks out of total of 1300 marks, there may not be a level playing field and

this would only create unnecessary complications. Further, as rightly pointed out by the learned Additional Advocate General, Value Education has

got nothing to do with the standard of technical education. It may even improve the personality of the students and it may improve the discipline in

his life. But, the same has got nothing to do with the standard of technical education. Thus, a totally unconnected subject has been added for which

100 marks is awarded. This cannot be countenanced.

37. The next one is English Communication Skill. Subject No. 2 is English Communication Skill. When for English Communication Practical 100

marks has been awarded , awarding another 100 marks under the guise of English Communication Skill, for which no objective test is prescribed

will also lead to discrimination. This also cannot be accepted.

38. In respect of 100 marks awarded for anyone of the subjects like, Community based services or cultural Education or National Cadet Corps or

National Service Scheme or Physical Education , I am at loss to find any rationale behind the same. It is not as though these subjects are not taught

in other Polytechnic colleges in the country. For instance, National Cadet Course and National Service Scheme are implemented in almost all

higher educational institutions in the country. But, it is not brought to the notice of this Court that in any one of the Institutions or Universities, marks

are awarded for NCC or NSS or for Physical Education. When the students go for employment , of course, some privilege marks are awarded

for possessing NSS and NCC certificates, etc. Being a member of NCC or NSS etc., would in no way be connected with the standard of his

technical education. Thus, absolutely unconnected subjects have been included, for which marks have been awarded which also cannot be

countenanced. Thus, the respondents were right in directing the petitioner polytechnic college to correct the above.

39. The learned senior counsel for the petitioner would submit that there may be no meaning in the autonomous status, if the petitioner college has

to go by the curricula prescribed by DoTE and the method of evaluation prescribed by the petitioner. There is some force in the argument of the

learned senior counsel for the petitioner. It is true, that by enjoying the autonomous status, the petitioner college can determine and prescribe its

own syllabi in close collaboration with the user system. The phrase ""user system"" needs to be emphasised. This would indicate that the syllabi

should have some nexus with the user system. How, National Cadet Courses, National Service Scheme or Valuation Education can have any

nexus with the technical education is not explained by the petitioner. Therefore, the impugned letters directing the petitioner to do away with

awarding of 300 marks for Value Education, English Communication Skill, etc., would in no way infringe the autonomy enjoyed by the petitioner.

As I have already stated the syllabus prescribed by the autonomous college should also be acceptable to the parent Board as per Clause 3 of the

Guidelines of the AICTE.

40. The learned Additional Advocate General relied on number of judgments of the Hon"ble Supreme Court to substantiate his contention that the

regulation prescribing syllabus and curricula by the State is binding on the petitioner. More particularly, he relied on the judgment of the Hon"ble

Supreme Court in *The Secretary, Malankara Syrian Catholic College Vs. T. Jose and Others*, . I have gone through all the above judgments.

These judgments mostly relate to minority institutions that too in the matter of admission to minority institutions. No judgment has been cited before

this Court in respect of the autonomous institution. As I am accepting the arguments of the learned Additional Advocate General in respect of

power of the State Government and the Director of Technical Education in the matter of overseeing the syllabi prescribed by an autonomous

institutions and the method of evaluation, I do not want to burden this order by extracting all the judgments relied on by the learned Additional

Advocate General.

41. The learned Senior Counsel appearing for the petitioner relied on a judgment of the Hon"ble Supreme Court in *Ashok Kumar Yadav and*

Others Vs. State of Haryana and Others, to substantiate that awarding of 12.2 % marks for viva voce would not amount to discrimination or

arbitrary. The principles stated therein, I am afraid, cannot be applied to the facts of the present case as that was the case where the Hon"ble

Supreme Court had to deal with the admission procedure to College. In the case on hand, the facts are distinguishable. As I have already stated

when there is a regulation issued by the State Government , evaluation method prescribed by the petitioner should not run counter to the

regulations of the DoTE.

42. For all the foregoing reasons, I am of the considered view that the writ petition must fail and the same is liable to be dismissed.

43. In the result, writ petition is dismissed. However, considering the future of the students , the petitioner polytechnic college is at liberty to take

out corrective measures as indicated i above within a period of two weeks from the date of receipt of a copy of this order. If such corrective

measures are taken, the 2nd respondent shall permit the petitioner polytechnic college to convene the awards committee meeting within a period of

two weeks thereafter and publish the results. Consequently, connected MPs are closed. No costs.