

(2000) 07 AP CK 0073

In the Andhra Pradesh High Court

Case No : Writ Petition No"s. 9791, 9792 and 10125 of 2000

Venkataraiaiah and another

APPELLANT

Vs

Osmania University, Hyd. and another

RESPONDENT

Date of Decision : 14-07-2000

Acts Referred:

Andhra Pradesh University Act, 1991 — Section 19, 2, 3, 5(8), 51
Constitution of India, 1950 — Article 226
Osmania University Act, 1959 — Section 44, 57

Citation : (2000) 4 ALD 558 : (2000) 4 ALT 513

Hon'ble Judges : V.V.S. Rao, J

Bench : Single Bench

Advocate : Mr. C. Nageswara Rao and Mr. J. Ramachander Rao, for the Appellant; Mr. K. Ramakanth Reddy, SC for Osmania University, for the Respondent

Judgement

1. These three writ petitions raise a common and interesting question in the realm of University law and it is appropriate to dispose them of by a common order. At the time of preliminary hearing, learned Counsel requested to dispose of main writ petitions themselves and they were heard finally. The facts may be briefly stated.

In WP No.9791 of 2000, the two petitioners allege that they are students of the Osmania University. The first petitioner is studying MA first year and the 2nd petitioner has completed MA final year. Both of them belong to Backward Class. They were granted hostel accommodation by the 2nd respondent. They allege that they made deposit in an amount of Rs.1,500/-each as per the University stipulations for the respective years of the course. This deposit is called mess and hostel deposit. It is their further case that though for the relevant period i.e., upto 13-6-2000 the respondents collected mess charge of Rs.600/- from all the students, they have closed down the mess on 1-6-2000 without any reason. On 6-6-2000, the Registrar of the 1st respondent-University issued order/ notice closing down the campus hostels with effect from 10-6-2000 and all the boarders

were requested to vacate the premises with luggage and handover possession thereof to the Wardens/Care Takers concerned. However, the boarders of EI hostel were permitted to keep their luggage in their respective rooms allotted to them. The order seeks to close down the hostels indefinitely and in an indiscriminate manner, and in that some students have to leave the hostels with bag and baggage, while others have been given the opportunity to leave the hostel by keeping their luggage in their respective rooms. The order does not disclose any reasons and the same is illegal. In the entire State of Andhra Pradesh, the campus hostels of any university were never closed. The University being a place where the students are exposed to higher education and learning, the hostels should not have been closed down. A student who joins the course for a particular duration requires not only to complete the course but also has to gain worldly knowledge so that he can come out from the campus with purpose of usefulness to the society at large.

2. For the purpose of availing the facilities provided by the University, the students are required to pay amounts towards room rent charges and mess charges. The University is collecting an amount of Rs.60/-per student, which includes charges towards electricity and water. Apart from this, mess charges have to be paid depending upon the food ordered by the students. The students belonging to OC category have to deposit a sum of Rs.3,000/- for utilising the hostel facility. The students belonging to Backward Class and Scheduled Castes and Scheduled Tribes have to deposit Rs.1,500/- and these students are provided with scholarship towards mess charges and also room rent at the rate of Rs.400/- and Rs.520/- per month respectively. Besides this, students belonging to economically poor people (EPP) are granted an amount of Rs.225/- as mess charges besides an amount of Rs.25/- as pocket money. A boarder of the hostel is allowed to use facility of mess only if he clears the mess bill of the previous month. The deposit collected by the University at the rate of Rs.3,000/- from the students belonging to OC category and at the rate of Rs.1,500/- from the students belonging to BC and SC categories will sufficiently takes care of the entire duration of the course and, therefore, having collected the room rent for the entire period in advance, the respondents cannot close down the hostel in an arbitrary manner.

3. It is also alleged that arbitrary closure of hostel would deny the students/boarders to improve the knowledge. As the job opportunities are dwindling, a student is required to do other courses to improve his knowledge by using library facilities offered by the University. A student is required to stay in University 365 days and therefore hostel facility is a must. Most of the students in the first respondent university are from Telangana area of the State where drought situation prevails. Therefore, there is no congenial atmosphere at the native place of the students for learning and they are required to stay in the University and utilise the library. Most of the five thousand students who stay in campus hostels continue to use hostel facilities for their education purpose. Even if they go for vacation, they usually come back within ten or fifteen days and resume

their stay in hostels and therefore the order/notice of closure is not in the interest of student community besides being illegal and arbitrary. The action of the respondents amounts to harassing the students. The University also declared that temporary accommodation will be provided for those students appearing for UPSC examinations etc., and other students who are appearing for entrance examinations are not eligible for such temporary accommodation. Even for temporary accommodation each student has to deposit a sum of Rs.150/- towards rent, electricity and water charges which itself is illegal and arbitrary. The University has adopted this method of collecting Rs.150/- per student for temporary accommodation only with a view to earn more money, which is not permissible. The entire action of the respondents leading to the decision of closure of the hostels is illegal and unauthorised. Therefore, the petitioners pray for a writ of mandamus declaring the order/notice dated 6-6-2000 issued by the Registrar of the University as illegal and arbitrary.

4. Writ Petition No.9732 of 2000 is filed by the President of National Students Union of Andhra Pradesh Unit. The averments made in this writ petition are similar to the averments made in WP No.9191 of 2000. WP No.10125 of 2000 is filed by three students of University Law College. Petitioners 1 and 2 are studying LLB third year and first year respectively and the 3rd petitioner is studying LLM final year. The averments made in this writ petition are also similar to averments made in WP No.9791 of 2000. However, one additional averments, which requires to be noticed, is that LLM students are required to stay in the hostel for the purpose of preparing their thesis papers to be submitted in the final year. For Law College, there is already vacation in the month of January and, therefore, asking the students to leave the hostel during summer vacation is not in the interest of student community.

5. The Osmania University filed a common counter-affidavit in WP No.9791 of 2000 and WP No.9792 of 2000. The averments in brief are as follows :

The petitioner in WP No.9792 of 2000 has no locus standi to question the action of the University to close down the hostels. The petitioner approached this Court without any lawful entitlement. The petitioners in WP No.9791 of 2000 have no locus standi or legitimate expectation or any statutory or vested right to claim the relief. The first petitioner in WP No.9191 of 2000 is a student of MA (Public Administration) previous at Nizam College staying in room No.75 in E-I Hostel. He has completed his examinations on 18-5-2000 and his entitlement to stay in the hostel ceases in May, 2000. In case he passes M.A. (Previous) examination and gets admitted to M.A. (Final) then he has to seek fresh admission in to the hostel at that time. The 2nd petitioner was an occupant of room No.75 in E-1I hostel of the University Campus. He completed second year Post Graduation course in M.A. (History) in April, 2000, and therefore, he has no locus standi to come and stay in the hostel as his examinations are over in April, 2000 itself. The University is collecting an amount of Rs.40/- towards room rent and Rs.20/- towards miscellaneous expenditure, which includes charges for newspaper,

magazines, sports material etc. An amount of Rs.60/-per month was collected only for a period often months from July/August, 1999 to April/May, 2000. The hostels will have to be closed down on the orders of the Chief Warden with the prior permission of Vice-Chancellor. However, the students of M.Phil belonging to Backward Classes, Scheduled Castes and Scheduled Tribes can stay for a period of eighteen months and they have to vacate the hostel after completion of their period of study. Likewise, the research scholars working for their Ph.D are entitled to stay in the hostel for a period of 36 months. The university has 12 hostels and some of them were closed temporarily which will be reopened on 15-7-2000, as University has to complete maintenance works to keep the hostel premises in habitable condition.

6. It is further stated in the counter-affidavit that on 24-3-2000 a meeting of Chief Warden with Wardens, Principals and Registrar was held in which a decision was taken to close down the hostels till 15-7-2000 and the same was approved by the Vice-Chancellor as well as the Executive Council in its meeting held on 30-5-2000 as per clause (14) of Section 19 of A.P. Universities Act, 1991 (for short "the Act"). On 24-4-2000 and 26-4-2000 notices were displayed in the notice boards at the hostels as well as the hostel messes informing the students that hostels will remain closed during vacation for undertaking repairs and maintenance works. The hostel accommodation is not as a matter of right and the same is subject to various provisions of the Act, statutes and ordinances. All the eligible students are entitled to seek hostel accommodation for a period of ten months only and once the examinations are over, a student staying in the hostel will cease to be a boarder. At the beginning of every academic year, the University has a right to allot the hostel rooms to eligible students. As per Statute X providing duties and powers, the Chief Warden, subject to the general control and supervision by the Vice-Chancellor, has a right to organise and manage the hostel in a proper manner and to maintain discipline among the resident students. The counter also placed reliance on various Rules contained in Osmania University Hand-Book on "Hostels and Messes".

7. The counter further states that out of 3757 boarders who are occupying 1145 rooms in 12 hostels, 2955 boarders have vacated the rooms after completion of annual examinations as per the notice given by the University. 802 students who are pursuing M.Phil or Ph.D courses, BCJ and MBA programmes are staying in four hostels, namely, New Research College Hostel, Old P.O. Hostel, New P.O. Hostel and Campus Hostel for Women which are kept open for them. The students of LLB and LLM who are given rooms in E-I hostel have been permitted to keep the luggage since they have vacation from first week of June to second week of July, 2000 and have not completed the examinations. The University is collecting mess fee for a period of ten months besides collecting deposit towards mess charges. All other allegations regarding the necessity to keep the hostels open during vacation to improve the knowledge of the students, the allegation in regard to socio-economic condition in Telangana region etc., are denied in the counter-affidavit. Collection of charges at Rs.150/- from the students who are

given alternative temporary accommodation during vacation is sought to be justified in the counter on the ground that during the vacation the students who are appearing for competitive examinations conducted by the Union Public Service Commission and "students appearing for other examinations conducted by JRF/NET/UGC etc., are allowed to stay in the hostels as a special measure and hence they are to be charged Rs.150/-. Even the temporary allotment during vacation can only be made for those students who have cleared all the dues. Such decision was taken in the interest of the students and to keep the hostels in good condition so that the hostels will be of utmost utility in future also. Adverting to the contention of the petitioners in WP No.10125 of 2000, it is stated that the examinations of LLM. Previous are likely to be held in November, 2000 or January, 2001 and the University requires them to submit the thesis papers only in the month of August, 2000 and, therefore, they have no right to stay in the hostel during vacation.

8. The learned Counsel for the petitioners in WP Nos.9791 and 9792 of 2000 Sri C. Nageswara Rao submits that since the establishment of Osmania University in 1932, and during the period when Osmania University Act, 1959 was applicable to the University and even after coming into force of Act, 1991, the University never closed down the hostels. All the students were allowed to stay in the hostels and allowed to retain the premises even if they go to their homes in the villages and towns during the vacation for a short period. This was done to enable the students to improve their knowledge by attending to the library and departments regularly. But, all of a sudden, for the first time, University decided to close down the hostels without valid reasons. Therefore, it is submitted that the legitimate expectation of the student community is denied abusing the power vested with the university authorities. To substantiate the same, the learned Counsel relied on various Rules contained in the Hand-Book on Hostels and Messes and also alleged that the University has collected the caution deposit as well as the establishment charges for the entire duration of the course and, therefore, the students have a right to stay in the hostels even during vacation subject to payment of establishment charges of Rs.60/- per month and the mess charges as per the monthly bill.

9. Sri J. Ramachandm Rao, learned Counsel appearing for the petitioner in WP No.10125 of 2000 submits that after the completion of the admissions, LLB first year course commences in November, 2000 and immediately there was vacation in January/February, 2000 and, therefore, closing down the hostels again during the summer vacation is detrimental to the LLB students. Further, it is submitted that even as per the academic calendar issued in respect of LLM course, the students have to submit their thesis papers by August, 2000 which is compulsory for completion of the LLM course and if the hostels are closed down during summer vacation, most of the LLM students will not be able to meet the deadline fixed for submission of the thesis papers.

10. Sri K. Ramakaniha Reddy, learned Standing Counsel appearing for the

Osmania University submits that either under the Act or the Ordinance or the Hostel Hand-Book containing the rules, there is no vested right or absolute right enabling a student of the Osmania University to seek admission to hostels. Therefore, as a necessary corollary, even if a student is given admission, it is given only for the actual duration of the course in an academic year i.e., for a period of ten months and after the completion of the course of ten months in an academic year, the student has to vacate the room and has to seek renewal of the admission to hostel for the next academic year if the course is not completed. This procedure is being followed as contemplated in the rules contained in the Handbook on Hostels and Messes. Therefore, it is submitted, that there is no legitimate expectation, which can legitimately be claimed by the students. He further submits that the 2nd petitioner in WP No.9791 of 2000 and the petitioner in WP No.9792 have no locus standi to question the decision of the University. The learned Counsel relied on various judgments in support of the respective contentions.

11. In the light of the pleadings and rival contentions, the points that arise for consideration are as under :

(1) Whether a student admitted to a course in the University has an enforceable right to seek hostel admission and can be allowed to continue to stay or rejoin in the hostel during the summer vacation ?

(2) Whether a student who is admitted to a hostel has a right to stay in the hostel beyond the period of course and whether legitimate expectation can be denied to such a student?

(3) What are the rights and duties of a University, which offers hostel " accommodation to the students admitted to various courses in the University ?

(4) Whether the petitioner in WP No.9792 of 2000 has locus standi to question the action of the respondent-University ?

(5) To what relief?

In Re Points 1 and 3 :

These two points can conveniently be taken up together. University is legally defined as "a University constituted or deemed to have been constituted under the Act." Conceptually, a University is a whole body of teachers and scholars engaged, at a particular place, in giving and receiving instruction in the higher branches and learning with definite organisation and acknowledged powers and privileges and includes colleges, buildings and other property belonging to it. (See : Halsbury's Laws of England - Vol.15 - 4th Edition). One of the important attributes of a University is a provision for residence of students/scholars. All the attributes may not by themselves make it a University unless the sovereign power expresses its intention for incorporation and recognising a University. A University can be a residential University or a non-residential University. For example, in the State of Andhra Pradesh, Acharya N.G. Ranga Agricultural

University constituted under Act No.24 of 1963 is a residential University and every student of that University shall reside in a hostel provided by the said University. The same is not the case in respect of other Universities governed by the Act. It is not denied that Osmania University, which is deemed to have been established and incorporated under the Act, as per Section 4 of the Act, is not a residential University. It may also be noticed that clause (3) of Section 3 contemplates a University as a residential University or teaching university or an affiliating University. There could be a University, which only affiliates other colleges for the purpose of conferring degrees without taking up teaching work. Therefore, the question posed needs to be considered in the light of the fact that Osmania University is not a residential University.

12. At this stage itself, it is convenient to consider other provisions of the Act relevant for the purpose. Clause (3) of Section 2 of the Act defines "academic year" as follows :

" "academic year" means a period of twelve months commencing on the first day of July of the year or such other period of twelve months beginning on such date as the Board of Management may specify in respect of all the colleges under the control of the University of any particular college thereof."

Clause (11) of Section 2 defines "hostel" as under:

" "hostel" means, a unit of residence for students of the University maintained or recognised by the University in accordance with the conditions prescribed."

Apart from these definitions, clause (14) of Section 2 says that "prescribed" means, prescribed by Statutes, Ordinances or Regulations. According to clause (27) of Section 2, "University College" means, a college located in the University campus which is established or maintained by the University and provides courses of study qualifying students for admission to University examinations, in accordance with the Regulations prescribed. Section 5 of the Act dealing with powers, functions and objects of the University provides that the University has power to institute, takeover and maintain colleges and hostels (Section 5(8)). Section 19 of the Act which deals with powers and duties of the Executive Council provides that the Executive Council shall have power to manage and control all colleges, hostels, libraries, laboratories, museums and the like, instituted and maintained by the University. (Section 19(14), (15) and (36)). Clause (22) of Section 19 deals with power of the University to maintain discipline of the students of the University to maintain discipline of the Students of the University and also making arrangements for promoting their health and well-being. The other provisions, which are relevant, are Sections 51 and 53 of the Act Section 51 provides that the Executive Council shall have power to make Statutes for regulating the maintenance of University hostels (Section 51(h). Section 53(c) provides that the Executive Council shall have power to make ordinances laying down the conditions of residence of students to the University and the levy of fees for residence in hostels maintained by the University. Section 53(j) also

empowers the Executive Council to make ordinances providing for the discipline, health and welfare of students of the University. It is also relevant at this juncture to notice the definition "student" as defined u/s 2(21) as under :

" "student" means, a person who is admitted to a college and is borne on the attendance register thereon until the end of the academic year".

13. The Osmania University was governed by Act No.9 of 1959 known as Osmania University Act, 1959. The said Act was repealed by the Act and the University was brought under the present Act. By virtue of Section 57(k), all Statutes, Ordinances and Regulations made under the Osmania University Act, 1959 insofar as they are not inconsistent with the provisions of the Act continue to be in force.

14. In exercise of powers conferred by clause (i) of Section 44 of the Osmania University Act, 1959, the Senate (now called Executive Council) made Statute No.X laying down the duties and powers of the Chief Warden of a hostel. The Chief Warden subject to the general control and supervision of the Vice-Chancellor is responsible for the organisation and management of the hostels and mess in hostels including the maintenance of the building and furniture and equipment of the hostels. The maintenance of discipline among the resident students is also entrusted to the Chief Warden and he is the controlling authority over the staff members working in the hostels. Clause (5) of Statute X is relevant and the same reads as under:

"5. The Chief Warden shall also have power to:--

(i) grant or refuse permission to the students for holding meetings in the Hostels and inviting speakers from outside the University.

(ii) grant or refuse permission for excursions, parties or other functions.

(iii) grant or refuse permission to students to collect fund for any purpose; and

(iv) fine or otherwise punish a student for indiscipline; provided that the Chief Warden shall not expel any student from the Hostel for any reason other than non-payment of dues, except with the previous approval of the Vice-Chancellor."

15. While analysing the provisions of the Act and the statutes, it is necessary to refer to the Handbook containing the various Rules and procedures for dealing with organisation and management of hostels and messes. Either the learned Counsel for the respondent University or the learned Counsel for the petitioners was able to definitely say about the nature of the Rules contained in the Handbook. It is not, however, denied that these Rules contained in the Handbook (hereinafter called "the Rules") were made by the Chief Warden with the approval of the Vice-Chancellor, and govern the admission of the students to the hostels and other related matters like payment of maintenance charges and mess charges. On the back cover of the Handbook some important points regarding boarders and the scholarship holders are printed. Para 5 says that the

boarders who are scholarships holders should renew their admission into the hostel at the end of each academic year, failing which, their hostel and mess facility will be stopped. Some of the important Rules in the Handbook, to which a reference has been made by the learned Counsel for the parties are Rules II, III, IV, V, VI and XIII.

16. Rule II deals with admission and accommodation charges. As per this Rules, campus hostels are open for admission only to students who have been admitted to any one of the University Colleges situated on the University Campus. While considering the applications for admission to hostels, the fact that a student requires hostel accommodation to "pursue the course of study", is alone considered. If a candidate, after completing one stage of education is studying in same stage with a different subject wilt not be eligible. For example, a person who has completed MA in one subject desires to study MA in another subject, then hostel accommodation will not be given to him. Similarly, students who are in employment or who are practising professionals, are also not eligible. Even among the eligible applicants for admission, the order of preference is followed. Students from district centres will be preferred to others at the first instance, and students who were earlier residents of social welfare hostels will be preferred next, and the third preferred category js those students who do not fall in categories 1 and 2. The students belonging to twin cities of Hyderabad and Secunderabad are not eligible to seek accommodation.

17. The admission is given to a student of University Hostel on an application made by him to the University. The prescribed application form for admission to University hostels requires declarations/undertakings, one to be given by the father/guardian of the applicant, and another by the applicant. As per the declaration to be given and signed by the applicant, the student has to undertake to vacate the hostel during the terminal holidays and at any time when ordered to do so by the Chief Warden. After completion of an year or a part of the course, if the student desires to retain or desires to be allotted a room in the hostel, he has to seek renewal of the admission by making renewal application form. Rules IV and V deal with Charges and Payment of, Hostel and Mess Charges. Establishment charges, as prescribed by the Chief Warden have to be paid by each student. As per Rule V(4), establishment charges will be collected irrespective of holidays from each boarder as long as he does not submit the clearance certificate and vacate the room, and in the event of nonpayment of the hostel dues, the hosteller's admission will be terminated giving 24 hours time to vacate the room. Rule VI(23) empowers the Chief Warden to close the hostels and messes with prior permission to the Vice-Chancellor for such period as may be necessary for holiday Conferences of national significance or of an educational nature under the auspices of the University or for any other reason deemed for closure. Rule XIII(13)(d) authorises the closure of mess for a period not exceeding two months during the summer vacation. Rule XIII(14) says that the University reserves the right to close the hostels and messes whenever necessary without assigning any reason.

18. A reading of the various provisions of the Act, statutes and the Rules in the Handbook, lead to the following principles:

(1) The respondent-University has no obligatory duty to give admission into hostel to every student, and the same is subject to availability of accommodation. The admission of students to hostels is done in accordance with the Rules contained in the Handbook by following the order of preference.

(2) A reading of the definition of "academic year" in Section 2(3) with the definition of "student" in Section 2(21) of the Act in the light of the Rules in the Handbook, leads to an irresistible conclusion that during the "course of study", within an "academic year" a person prosecuting studies offered by the University and whose name is borne on the attendance register is a student. Only a student whose attendance is marked in a course of study can seek admission to hostel or he can exercise his right to stay in the hostel after such admission only during the period when K remains to be a student of course of study. For the purpose of hostel accommodation, the period of the course of study in an academic year, is a unit, and the same cannot be the course of study during the first year, second year or third year, because a particular course may consist of the study for a period of two or more academic years, and for the purpose of hostel admission, course of study should be interpreted narrowly in view of the Rules contained in the Handbook as well as the undertaking given by the student at the time of admission into the hostel.

(3) If a person is not a student as defined u/s 2(21) such a person is not entitled to seek admission to hostel or continue in hostel. Similarly, a student who completes course cannot be considered for hostel admission.

(4) As per the Rules contained in the Handbook, read with Statute X, made under the 1959 Act, the University or the Chief Warden with the prior permission of the Vice-Chancellor have the power to close down the hostel mess for a period not exceeding two months during the summer vacation. The University has a right to close down the hostels whenever necessary without assigning any reason. If such a decision is taken, the student cannot be said to have any enforceable right against the authorities for opening the hostels as well as the hostel mess.

19. The above legal principles are not seriously disputed by the learned Counsel for the parties. It is contended by the Counsel for the respondent-University that during this summer the hostels were closed down to take up maintenance works at cost of Rs.58.80 lakhs. This is disputed by the learned Counsel for the petitioners stating that during yester years whenever maintenance works were taken up by the University, the students were allowed to stay in the hostels during the summer vacation, and in any event, the students were allowed to keep their luggage during their absence to visit their home towns. Therefore, it is contended that the action of the respondent-University in closing down the hostels w.e.f., 10-6-2000 is arbitrary and unreasonable. This contention should

be rejected for the decision was taken long prior to the closure of the hostels that too after convening a meeting on 24-3-2000 and 26-3-2000 of all the Wardens, Principals and the Registrar. Moreover, the notice of closure was also displayed at the hostels, and on the Notice Board of the mess. When the hostels were closed down during the summer vacation for the purpose of maintenance, asking the students to leave the hostels during the summer vacation, cannot be said to be unreasonable. Admittedly, only eight hostels were closed. Four are kept open. Those students who need temporary accommodation during the summer vacation were required to apply to the Chief Warden if they are appearing for any competitive examinations like UPSC, National Eligibility Test etc. This also belies the contention of the petitioners that the action of the respondent-University is unreasonable and arbitrary. Applying the principles, noticed above, it should be held that a student admitted to a course of study has no right to claim hostel accommodation during the summer vacation, and the University has the right, and indeed a duty to close down the hostels so that the manner to enable the students joining the University for prosecuting higher studies have a congenial atmosphere.

20. The learned Counsel for the petitioners relied upon the reports of the Education Commission, 1952 under the Chairmanship of Sarvepalli Radhakrishnan and Education Commission, 1964 headed by Prof. Kothari. The 1952 Education Commission, while commenting on the deplorable conditions that existed in the hostels at that time emphasised the importance of living conditions in the hostels as under:

"Importance of living conditions :--No single factor has a more vital effect upon the atmosphere and morale of a college or a university than the prevalent conditions under which students live. Convenient and comfortable quarters for study and sleep, sufficient and wholesome food at low cost, are essential to good spirit and the best progress in university work.

These conditions may be found where students are housed in hostels properly reorganised, equipped and supervised. Unfortunately, most universities and colleges in India do not have adequate residential and dining facilities for students. As a general rule only a small fraction of the students find accommodation in hostels." (emphasis supplied)

21. The Kothari Commission, 1964, tracing the history of Universities in India took note of Hostels and Day-Study Centres, and recommended as under :

"Hostels and Day-Study Centres. At present, hostel facilities have been provided for about 18 per cent of the enrolment at the university stage. There is need to expand these considerably and we suggest that an effort should be made to provide hostel accommodation for about 25 per cent of the enrolment at the undergraduate stage and 50 per cent of the enrolment at the postgraduate stage. In professional courses like agriculture, engineering or medicine, the extent of hostel facilities provided is already fairly high. We do not share the view

that all students in these courses should be necessarily provided with hostel facilities....."

22. The observations of the two Commissions support the conclusion arrived at by this Court that provision of hostel accommodation to students is not sufficient, but all steps should be directed for providing convenient and comfortable accommodation, and provision of wholesome food at reasonable rates in the hostel mess so that the students occupying hostels can stay in comfort and pursue higher learning. Any step taken towards this end cannot be said to be unreasonable. In these days of criticism of providing hostel accommodation to those who are not students continuously for years together closure of hostels during the summer vacation gives an opportunity to the authorities once in a year to improve the facilities that are being extended to the "student" community by reviewing the accommodation. Points 1 and 3 are accordingly served.

In Re Point 2 :

The main contention of the learned Counsel for the petitioner is that never in the past the respondent-University ordered closure of the hostels. During all summer vacations, all the hostels were kept open, and in some years, the hostel mess was also kept open. In any event, students were never ordered to take away their luggage and leave the hostel in an arbitrary manner with the help of police. As the establishment charges are collected for a period of 12 months, during the summer vacation, the scholarship holders were allowed to utilise the mess and pay the amount whenever the scholarship was received after reopening of the University, and therefore, the student community has legitimate expectation that hostel accommodation will not be denied to the students even after the completion of the first year of the course or at the end of the course itself. In this case, it is contended that the legitimate expectation is denied in a manner, which is gross abuse of power. The power of the University, Vice-Chancellor/Chief Warden to close down the hostels is not denied, and in fact, the relevant provisions providing for the same are not challenged. What is contended is that in view of the various supporting administrative procedures like collection of establishment charges, taking caution deposit for the entire period of the course etc., the student community has a legitimate expectation, which cannot be denied to them without following the procedure prescribed by law.

23. The learned Counsel for the respondent-University refuted the contention and submitted that the question of legitimate expectation does not arise as there is no legal entitlement. If the law does not provide for any privilege or legal entitlement, the legitimate expectation does not operate in such field. The learned Counsel for the parties in support of their respective contentions relied on the judgments on this Court in *Osmania University Vs. R. Madhavi and Others*, , *Laveti Suresh Babu Vs. Convenor, MCACET-98*, *Sri Krishna Devaraya University, Anantapur and others*, , and the judgment of the Supreme Court in *Union of India and others Vs. Hindustan Development Corpn. and others*, .

24. All decisions made by the authorities are not subject to judicial review. So as to qualify for judicial review, a decision should result in altering rights or obligations of persons, which are enforceable by or against the person in private law. An exception to this general rule is that when the decision deprives the person of some benefit or advantage which he had in the past or which had been permitted by the decision maker to have such advantage or benefit, and which such person legitimately expected to be permitted to be continued. A person's legitimate expectation that the benefit or advantage would be allowed to be enjoyed or continued to be enjoyed can be denied to the aggrieved person only when he has been communicated on some reasonable ground that the same would be withdrawn, and such person is given opportunity of making representation against withdrawal, See the opinion of Lord Diplock in *Council of Civil Service Unions and others v. Minister for the Civil Service* (1984) 3 All.ER 935

25. However, obligation to give an opportunity cannot be readily inferred unless it is shown to the Court that the person enjoying the benefit or advantage was given an assurance by the decision maker that such advantage or benefit shall not be withdrawn without giving an opportunity.

26. The above principle is well-settled. In *Hindustan Development Corpn's case* (supra), the Supreme Court considered the scope of legitimate expectation in public law. It was held that the doctrine does not give scope to claim relief straightaway as no crystallised right is involved. It only affords a right to fair hearing before negating legitimate expectation. No doubt, it gives standing to seek judicial review. A decision denying or negating legitimate expectation cannot be justified if it is arbitrary, unreasonable and not taken in public interest. A change of policy denying legitimate expectation is ordinarily not interfered with by the Courts unless it amounts to abuse of power. (See : Paras 33 and 36 of *Hindustan Development Corpn's case* (supra)).

27. In my judgment in WP No.23845 of 1999, dated 17-11-1999, I have considered the scope of legitimate expectation in the light of various judgments of the Supreme Court and also the latest judgment of the Supreme Court in *Punjab Communications Ltd. Vs. Union of India and Others*, , and summarised the principles as under :

(1) For a legitimate expectation to arise, the decisions of administrative authority must affect the person by depriving him of some benefit or advantage, which he had in the past or been permitted by the decision maker, which the person can legitimately expect to be permitted to continue and the person received assurances from the decision maker that the benefit will not be withdrawn without giving him an opportunity of advancing reasons.

(2) The procedural aspect of legitimate expectation relates to representation for hearing or other appropriate procedure.

(3) Substantive part of the principle is that representation made for a benefit of

substantive nature, will be granted or if the person is already in receipt of the benefit, it will be continued and not varied.

(4) The decision makers' action to change the policy in public interest, cannot be fettered by the application of principle of substantive legitimate expectation.

(5) If the authority proposes to defeat a person's legitimate expectation, the authority should afford the person an opportunity to make a representation in the matter. From this point of view, the doctrine imposed a duty to act fairly by taking into consideration all relevant facts relating to such legitimate expectation.

(6) The protection of legitimate expectation does not require the fulfilment of legitimate expectation, where an overriding public interest required otherwise.

(7) If a person is denied the benefit by virtue of a legitimate enactment or change in the statutory rules, it is always taken that the result of a change in the policy by Legislation, does not give rise to legitimate expectation.

(8) The principle of legitimate expectation certainly gives the person sufficient locus standi to seek judicial review; and

(9) The substantive legitimate expectation merely permits the Courts to find out if the change of policy resulting in defeating legitimate expectation was irrational and unreasonable.

The above principles were reiterated in Laveti Suresh Babu 's case (supra).

27. In R. Madhavi's case (supra), a Division Bench of this Court considered the scope of legitimate expectation and laid down as under:

"A person who bases his claim on the doctrine of legitimate expectation, in the first instance, must satisfy that there is a foundation and thus locus standi to make such a claim. In considering the same several factors which give rise to such legitimate expectation must be present. The decision taken by the authority must be found to be arbitrary, unreasonable and not taken in public interest. If it is a question of policy, even by way of change of old policy, the Courts cannot interfere with a decision. In a given case whether there are such facts and circumstances given rise to be legitimate expectation, it would primarily be a question of fact. If these tests are satisfied and if the Court is satisfied that a case of legitimate expectation is made out then the next question would be whether failure to give an opportunity of hearing before the decision affecting such legitimate expectation is taken, has resulted in failure of justice and whether on that ground the decision should be quashed."

28. It is not denied that the hostels were ordered to be closed from 10-6-2000, and the University is reopening on 15-7-2000 when the hostels will be opened. It is also not denied that those students who have completed only a part of their course either first year of the course or part of the first year of the course would be given renewal of admission to hostel subject to their fulfilling other conditions. Legitimate expectation of a first year postgraduate student to continue in the

same hostel in the same room, at present has not been dented. Those students who seek readmission into the hostel are only required to conform to certain procedure as contained in the Rules given in the Handbook. Insofar as the students who have completed the course like the second petitioner in WP No.9792 of 2000, who has completed the course in MA (History) by appearing for final examination held in April, 2000, has neither any legal entitlement nor any legitimate expectation to stay in the hostel. The petitioners in WP No.10125 of 2000, who are occupying rooms in El hostels are concerned, they were only asked to vacate the rooms by keeping the luggage in their respective rooms. Therefore, it cannot be said that their entitlement, benefit, advantage or legitimate expectation is denied to them. University authorities are aware that the law college was given vacation in January/ February, 2000, and their examinations are yet to be completed. This is one distinguishing feature when compared with others that weighed with the University to allow the students of El hostel to leave their luggage in their respective rooms, and in view of the above, the submission made by the learned Counsel for the petitioner that other students are discriminated is without any substance.

29. As held by me, as a matter of facility, a student is admitted to hostel subject to his fulfilling the conditions and norms prescribed by the University in the Handbook governing the hostel admissions. The student who has completed the course of study may be six months or 10 months -has to vacate the room during the summer vacation or during the period when the hostel is closed down as per the decision of the Chief Warden. A student in occupation of a room in an hostel has no entitlement or legitimate expectation to stay in the hostel during the summer vacation when the teaching in the University departments is temporarily suspended due to various reasons like the University teachers enjoying their summer vacation or the University teachers attending to other duties like evaluation of answer papers and publication of results etc. When there is no teaching in the University, it is not possible to confer or recognise any privilege in the students to stay in the hostels. Therefore, the submission based on legitimate expectation is to be rejected. In any event, it is not denied that the respondent-University has given sufficient notice to all the students that the hostels will be closed down from the first week of June, 2000, and therefore, on this ground also no grievance can be made out.

30. The submissions made by the learned Counsel for the petitioners that the University is collecting establishment charges for the entire academic year, that the caution deposit is collected for the course of study, and hence the students have a right to stay in the hostel, is without any basis. The learned Counsel for the respondent-University has produced a bill before me to show that the establishment charges are collected for ten months. He has also produced true copy from the boarder's personal ledger, which shows that the establishment charges are being collected for 10 months only, and not 12 months, as alleged by the learned Counsel for the petitioners. No doubt, the deposit is collected for the period of the course. That itself would not mean that a student who paid

caution deposit is entitled to stay in the hostel during the summer vacation. The caution deposit is intended to meet any excess expenditure incurred by the students towards mess charges or for any loss or damage caused by the student to the property in the hostel room. In view of this, the submission of the learned Counsel for the petitioners is rejected. Point No.2 is answered accordingly.

In Re Point No.4 :

The learned Counsel for the respondent University placing reliance on the judgment of the Supreme Court in *Bhartiya Homoeopathy College, Bharatpur Vs. Students Council of Homoeopathy Medical College, Jaipur and Others*, , submitted that the petitioner in WP No.9792 of 2000, who claims to be the President of A.P. National Students Union has no locus standi to question the decision of the University as he is not a student, and he has not made out any case as to how he is entitled to approach the Court. It is not, however, denied that petitioner No.1 in WP No.9791, and the two petitioners in WP No.10125 of 2000 have locus standi to question the decision of the University. In my considered opinion, when the cause of action for seeking redressal before this Court by a person agitating for his rights and a person acting pro bonapublico is the same, the "doubtful locus standi in PIL case" should not prevent the Court from examining the controversy. In this case, as the action is brought before this Court by the students who are personally aggrieved, the question raised by the learned Counsel for the University is insignificant. In any view of the matter, as this Court has considered the relevant questions in the light of the pleadings in WP Nos.9791 and 10125 of 2000, this Court is not inclined to record any definite finding as to the locus standi of the petitioner in WP No.9792 of 2000. Point No.4 is answered accordingly.

In Re Point No.5 :

Though no relief is claimed, learned Counsel for the petitioner has strenuously contended that the students who are given temporary accommodation during the summer vacation in one of the four hostels are required to pay an amount of Rs.150/-towards room rent, electricity and water charges-. Therefore, it is submitted that closing eight hostels and keeping four hostels open is a method adopted by the University to earn money in an arbitrary manner and the same is unsustainable being arbitrary and discriminatory violating Article 14 of the Constitution. It is the case of the University that the provision of accommodation during the summer vacation to such of the students who are appearing for competitive examinations as well as other examinations conducted by the UGC is made as a special measure and a student who seeks admission into hostel during vacation is liable to pay Rs.150/- and there is no arbitrariness in fixing such amount. Alternatively, it is submitted even if the Court views this as arbitrary fixation of establishment charges, the matter should be left to the University to reconsider the same. It is stated in the counter affidavit that a student who has taken admission into hostel is liable to pay Rs.60/- towards establishment charges for occupying the room, which includes the amount of Rs.20/-towards

electricity and water charges. Therefore, if Rs.20/- is the component to meet electricity and water charges, an amount of Rs.120/- is being charged from a student who takes temporary accommodation in the hostel. In the matter of fixation of price, discretion should be left to the decision maker and the role of the Court is very limited. If the statute fixes maximum limits and minimum limits for the fixation of price for the service offered and if the same is violated, then it qualifies for judicial review. In this case, no material is placed before this Court to support the submission that collection of Rs.150/-towards establishment charges from the students during the summer vacation is arbitrary. In any event, this matter requires reconsideration by the Vice-Chancellor and Chief Warden subject to approval by the Executive Council, If necessary, it is also open to the University to revise the establishment charges from Rs.60/- upwardly having regard to the various relevant factors.

31. In view of the findings recorded on point Nos.1 to 4, it should be held that the petitioner No.2 in WP No.9791 of 2000 is not entitled to seek admission or continue in occupation of the hostel accommodation as he has completed his course. The other petitioner in WP Nos.9791 and petitioners 10125 of 2000 are entitled to seek renewal of admission to hostel provided they fulfil the norms and conditions of admission by duly making an application as required. Point No.5 is accordingly answered.

32. The writ petitions are accordingly disposed of. No costs.