

(2000) 11 KAR CK 0050

In the Karnataka High Court

Case No : Writ Petition No. 3795 of 2000 connected with Writ Petition No's.
14958 to 14967 of 1999 and 6121, 27843 to 27853 and 15277 to
15289 of 2000

Yellalinga Education Trust and Others

APPELLANT

Vs

State of Karnataka and Others

RESPONDENT

Date of Decision : 21-11-2000

Acts Referred:

Karnataka State Universities Act, 1976 — Section 53, 53 (5)

Rajiv Gandhi University of Health Sciences Act, 1994 — Section 45, 45 (5)

Citation : (2000) ILR (Kar) 4972 : (2001) 2 KarLJ 102

Hon'ble Judges : V. P. Mohan Kumar, J

Bench : Single Bench

Advocate : Sri Ashok B. Hinchigeri, Sri K. N. Patil, Sri B. Veerabhadrappe and Sri B. T. Parthasarathy, for the Appellant; Sri K. Vishwanath, Government Advocate, Sri N. B. Bhat, Sri S. A. Nazeer, Sri M. I. Arun, Sri Ashok B. Hinchigeri, Sri R. S. Malipatil, for the Respondent

Judgement

1. These writ petitions are primarily concerned with the establishing of Ayurvedic and Unani Medical Colleges in Karnataka State. They raise a common question, the factual matrix whereof is as follows:

2. The petitioner-colleges were originally situate within the area of operation of either the Karnatak University or Gulbarga University as the case may be, functioning under the Karnataka State Universities Act. With intent to commence an Ayurvedic or Unani Teaching College or Nursing College, as the case may be they had submitted their applications duly to the respective Universities for affiliation. The process of affiliation is governed by Section 53 of the Karnataka State Universities Act, 1976. Broadly speaking, the scheme of the statute is that the University appoints a Local Inspection Committee ("LIC" for short), who inspects the applicant college and verifies on the application submitted and recommend the viability to the Academic Council of the University. The Academic Council deliberates on the report and submits its opinion to the Syndicate for

further action. It may be noted that neither of the body makes any recommendation as to whether the application be granted or rejected. It only opines on the application submitted as a fact finding body. The reports thus of the Academic Council along with the report of the Local Inspection Committee is submitted to the Syndicate. The Syndicate in its turn deliberates on the request of the application for affiliation of the college. It decides and recommends to the State Government as to whether the affiliation be granted or not. The decision thus formed is forwarded to the competent Government for its decision. The stage is as contemplated u/s 53(5) of the Karnataka State Universities Act, 1976. For the sake of understanding the scope of controversy it is relevant to refer to Section 53(5) of the Act of this stage. Section 53(5) reads as under:

"53(5) The Registrar shall (within such time as the Government may from time to time specify) submit applications and all proceedings, if any, of the Academic Council and of the Syndicate relating thereto to the State Government which after such inquiry as may appear to it to be necessary shall make their recommendations for the grant of the application or any part thereof and the University shall issue orders accordingly".

(emphasis supplied)

When thus the Registrar of the concerned University submits the application and all proceedings of the Academic Council and the Syndicate relating to the application submitted by the college for affiliation, the State Government as an independent body conduct an enquiry as it deems fit for its decision making process, depending on the nature of information it requires to take a decision. It means, it is not mandatory on the part of the State Government to accept the recommendation of the Syndicate or that of the Academic Council as the case may be, in order to come to any conclusion. It may take a decision independently on its own and thereupon statute commands that the consequent order shall be issued by the University on the basis of the recommendation of the Government. The grant of affiliation is purely result of the decision making process of the State Government, and the University merely acts as the agency nominated to communicate the decision.

3. We will now deal with individual cases on hand:

(i) In the case of petitioner in W.P. No. 3795 of 2000 is concerned, the application for the approval of the college was made by Annexure-B on 29-9-1994. The Local Inspection Committee, the Academic Council and the Syndicate of the Gulbarga University deliberated thereon and on 10-4-1995 communicated through the Registrar its recommendation that the affiliation cannot be granted. It is averred in the writ petition that, the permission was withheld, for want of infrastructure and existence of yet another college imparting studies in Ayurveda. It reached the Government and the Government examined the application. But on 23-5-1997, Annexure-C order was issued by the Government directing that the affiliation be granted. That is to say, the

competent authority took the final decision to grant affiliation to the college overruling the objection of the University. Still, the Gulbarga University did not act; meanwhile the Rajiv Gandhi University had come into being. They initially issued Annexure-D on 19-8-1999, stating that retrospective affiliation cannot be granted; soon, they issued yet another order Annexure-E, dated 2-12-1999, to the effect that, in the light of the order issued by the State on 16-3-1999 banning commencing of new Ayurveda College for 3 years, the request of the petitioner cannot be granted. Annexure-D and E are impugned herein with consequent reliefs.

(ii) Likewise in W.P. No. 6121 of 2000, the application as per Annexure-A for starting of an Unani Medical College was made on 28-9-1991. The University conducted the enquiry and after deliberations contemplated by the statute, made Annexure-B recommendation on 18-5-1994 to the Government to grant approval. The Government issued notification Annexure-C on 4-9-1996 in exercise of its power u/s 53(5) of the Act, directing the affiliation of the college. Consequently, the Council of Indian Medicine, issued Annexure-D order on 10-1-1997 recommending admission of 30 students. Meanwhile, when with effect from 1-6-1996, the Rajiv Gandhi University came into being, the petitioner applied to the 1st respondent for grant of affiliation. This is obviously on the strength of Annexure-C order dated 4-9-1994. There was exchange of correspondence between the petitioner on the one hand and the University who ultimately issued Annexure-H, dated 16-8-1997 directing the petitioner to apply for affiliation afresh which was submitted by the petitioner accordingly, vide Annexure-J, dated 13-10-1997. But, the 1st respondent despite the order of the State Government u/s 53(5) of the Act, issued Annexure-L order on 1-2-2000, declining affiliation on the ground that Syndicate has decided to decline affiliation. Annexure-L is challenged in this proceedings.

(iii) As regards Writ Petition Nos. 27843 to 27853 of 2000 are concerned, these relates to starting of B.Sc. Nursing Course. The petitioner in W.P. No. 27843 of 2000 is the College and the petitioner in W.P. No. 27844 of 2000 is the Trust. The other Petitioners namely 3 to 11, the petitioners in W.P. Nos. 27845 to 27853 of 2000 are the students. An application was submitted in September 1995, to the Bangalore University for affiliation of the Nursing College proposed to be started. Pending the application, on 1-6-1996, the Rajiv Gandhi University of Health Sciences Act was enacted and the Rajiv Gandhi University of Health Sciences was established. The synonymous provision corresponding to Section 53 of the Karnataka State Universities Act, i.e., Section 45 in the Rajiv Gandhi University of Health Sciences Act. This section is identical to Section 53. One other fact to be adverted to in this behalf is Annexure-A, the decision taken with respect to Rajiv Gandhi University of Health Sciences, by which it was decided to employ the existing infrastructure of the predecessor Universities in the matter of discharging the statutory functions conferred on the various academic bodies of the University such as Academic Council, Syndicate, etc. Such an order would cover the exercise of the power u/s 45 of the Act as well. Based on this

resolution, the Bangalore University within whose area of operation the first petitioner-college was located, proceed the application of the petitioner for the affiliation of the college. They made the recommendations on the application after due enquiry on 25-5-1998 vide Annexure-B to the Government and the Government by Annexure-C, called upon the Director of Health Education to conduct an inspection and report. The Government after being satisfied after the report, passed Annexure-D order u/s 53(5) of the Karnataka Universities Act (corresponding to Section 45(5) of the RGUHS Act), directing the affiliation of the college for imparting studies in Nursing Course with respect to year 1999-2000. The petitioner thereupon submitted Annexure-E to the 1st respondent-Rajiv Gandhi University and Annexure-F to the Indian Nursing Council on 10-4-1999. But, the 1st respondent advised the 1st petitioner by Annexure-G to make fresh application for affiliation. As the order u/s 53(5) (corresponding to Section 45(5) of the RGUHS Act) had already been issued, according to the petitioner, what remained thereafter was the formal issuance of order of affiliation by the University. Meanwhile, the 1st petitioner had already made admission and the list of the candidates was also submitted (vide Annexure-K). However, by Annexure-L order the Rajiv Gandhi University of Health Sciences declined to grant affiliation. The petitioner impugns Annexure-L order. In the meanwhile, after the issuance of Annexure-D order by the Government, on 6-4-1999, for the year 1999-2000, the petitioner-college had admitted 9 students in anticipation of the formal affiliation order from the University. When it was declined, those students have also approached this Court challenging the decision and seeking a writ of mandamus. The petitioner challenges Annexure-L and seeks for a writ of mandamus, directing the 1st respondent to affiliate the 1st petitioner-college to the University.

(iv) W.P. Nos. 15277 to 15289 of 2000 have been filed by the students of the institution which is the petitioner in W.P. No. 3795 of 2000. As can be seen from the averments therein, these petitioners were admitted after the State Government exercised their power u/s 53(5) of the Act (corresponding to Section 45(5) of the Rajiv Gandhi Act). Their admissions have been disapproved by the University on the ground that the college where they study has not been affiliated to the University. They, hence, seek relief in the nature of approval of their admission and consequential reliefs.

(v) As regards, W.P. Nos. 14958 to 14967 of 1999 are concerned they are also the students of the institution who are the petitioners in W.P. No. 3795 of 2000. On 19-10-2000, after hearing the Counsel, I am of the view that the relief that the petitioners are entitled to is dependent on the relief being granted in W.P. No. 3795 of 2000. Hence, I dismissed the same observing as under:

"However, since the Trust and College have filed W.P. No. 3795 of 2000 and if they succeed in securing appropriate orders enabling them to secure affiliation from the year 1996-97 as prayed for, then the objection raised by the University becomes clearly unsustainable. It is only if they secure any relief, can the

petitioner secure any relief. Independently the petitioners are not entitled to any relief. Whatever benefit that the College may secure shall enure to the benefit of the petitioners in these petitions as well. If the Court declares that the College is entitled for affiliation for the period in question certainly that declaration would benefit the petitioners and the objection u/s 45(10) will not survive. If so, the refusal of the University to issue hall tickets becomes per se illegal. At any rate these writ petitions need not be kept pending. It is sufficient the interest of the petitioners is safeguarded in the above manner. With the reservation indicated above the writ petitions are disposed of".

But since I felt, such dismissal may adversely affect the contention of the petitioner in W.P. No. 3795 of 2000, I recalled the said order and heard the writ petition along with the connected cases. These petitioners joined the petitioner-College in W.P. No. 3795 of 2000, apparently on the authority of the orders issued by the State Government u/s 53(5) of the Act, commanding the University to affiliate the Colleges. As the University had declined approval of the College, the University declined to approve the admission of these petitioners. They have challenged these actions of the University seeking consequent reliefs.

4. The date 1-6-1996 is the crucial date to be reckoned in these writ petitions. On 1-6-1996 the Rajiv Gandhi University of Health Sciences Act came into force constituting the Rajiv Gandhi University of Health Sciences, ("Rajiv Gandhi University" for short). Thereafter by operation of Section 5 thereof it is provided that no colleges in the State of Karnataka shall impart education in Health Sciences without the consent of the Rajiv Gandhi University of Health Sciences. "Health Science" has been defined u/s 2(e) of the Act to include the Indian Systems of Medicine in all other branches and Indian System of Medicine defined at 2(g) takes in Ayurveda, Unani, Homeopathy, etc. Therefore, on and after 1-6-1996, no college situate in State of Karnataka shall impart education in Ayurvedic or Unani or Nursing without the consent of the University namely the Rajiv Gandhi University. Therefore, it is imperative according to the University that their consent be obtained by the respective colleges to start a new Medical College imparting Ayurveda/Unani discipline or Nursing on or after 1-6-1996. The question then is, what is the right of the University to withhold affiliation, once the competent authority had u/s 53(5) (corresponding to Section 45(5) of the RGUHS Act) directed affiliation of the college.

5. There can be no quarrel with upto this proposition. The consequent dispute thereon is, as to what is the amplitude of. Section 5(3) of the Rajiv Gandhi University Act, 1994 on this dispute. Section 5(3) of the Act reads as follows:

"5(3) With effect from and on the date of commencement of this Act, all colleges and autonomous Institutions of Health Sciences previously admitted to the privileges of or affiliated to the Universities of Mysore, Bangalore, Karnatak, Mangalore, Gulbarga and Kuvempu shall be deemed to be admitted to the privileges or affiliated to the University".

The essential issue is, as to what is meant by the expression "admitted to the privileges of the University?" Is that tantamount to grant of affiliation to the colleges or being a beneficiary of an order u/s 53(5) of the Act? We will examine this question presently.

6. There is no definition of expression affiliation in the Act. The definition of this expression, we find in Section 12-A(a) of the University Grants Commission Act, which is as under:

" "Affiliation", together with its grammatical variation, includes in relation to a college, by association of such college with, and admission of such college to the privileges of University".

If this sentence is recast omitting unnecessary words, it would read as under:

"....affiliation in relation to a college includes recognition of the college and admission to the privileges of the University".

In short, only when the college is affiliated, one can declare that the said college is admitted to the privileges of the University. In that context we will once again advert to Section 5 of the Rajiv Gandhi University of Health Sciences Act, keeping in mind the above definition. Section 5(1) as earlier noted states that with effect from the date of commencement of the Rajiv Gandhi University of Health Sciences Act, 1994, i.e., 1-6-1996 all colleges and autonomous institutions of Health Sciences previously admitted to the privileges or affiliated to the University of Mysore, Bangalore, etc., shall be deemed to be admitted to the privileges or affiliations under the Universities. It therefore contemplates that when the college is admitted to the privileges of the predecessor Universities it shall be deemed that the said college is deemed to have been admitted to the privileges of the Rajiv Gandhi University. It obviously contemplates two stages namely admitted to the privileges of the Rajiv Gandhi University of Health Sciences or affiliated to the said University.

7. We will now again advert to Section 53 of the parent Act. (Section 46 of the Rajiv Gandhi University of Health Sciences, contain identical provision as in Section 53 and for the sake of convenience we will refer to Section 53 at this stage). The scheme of Section 53 of the Karnataka State Universities Act referred to supra shows that the final power for granting affiliation is vested with the State Government. The statute clearly shows that the State Government decides independently on the basis of the report of the University and on the basis of its own independent enquiry to grant affiliation to the college concerned. The report of the Local Inspection Committee as can be seen therefrom, is subject to the scrutiny by the Academic Council. The decision of the Academic Counsel is again subject to scrutiny by the Syndicate. Neither of the prior reports are binding on the Syndicate. The Syndicate, as the statute itself indicate, can take a decision independent of the findings of the Academic Council. It is thereafter that after these findings are entered, the Syndicate conveys its decision to the Government as contemplated u/s 53(5) of the Act. The opinion of the University on the

question of affiliation of the college to the University is still not binding on the Government. Even if the Syndicate recommends to grant affiliation, the Government is not bound and is entitled to conduct a detailed fact finding enquiry independently to form its opinion and take an independent decision in the matter. It shows that the decision making process of the State Government is not trapped by any of the previous reports and decision. It means that the Government is the final authority and has power to arrive at a radically different decisions from the University if need be. What the State Government does u/s 53(5) is that it takes the decision for grant of affiliation and the University shall thereafter bound to obey the said decision. There is no question of University at any stage thereafter retracting or reconsidering its decision. The University is a mere communicator of the decision of the final authority and has no power at any stage to review or retract its earlier recommendation or sit in appeal over the decision of the final authority. The exercise of granting affiliation is complete when once a decision is taken by the State Government u/s 53(5) of the Act. In other words, the college is admitted to the privileges of the University once, a decision is taken by the Government u/s 53(5) of the Act.

8. As we have seen, on and after 1-6-1996, when the Rajiv Gandhi University of Health Sciences came into being, there was no Syndicate, Academic Council or other bodies of that University to perform various statutory duties designated under that statute. Therefore, it is seen from Annexure-A proceedings of the Government referred to above, the machinery of the predecessor University was permitted to be used by the Rajiv Gandhi University of Health Sciences, to discharge their respective functions until such time of the constitution of the respective bodies. Therefore, any proceedings initiated by the predecessor shall be the proceedings initiated by the Rajiv Gandhi University itself. Such result would be the consequence as the Act confers ample power on the Government to issue such orders to remove any difficulty arising under the provisions of the Act vide Section 61(5) thereof. The said Annexure-A is also saved by virtue of Section 65(1) of the Rajiv Gandhi University of Health Sciences Act. In such circumstances, all the proceedings initiated by the respective Universities with respect to the application submitted by the petitioners herein in the matter of seeking affiliation by the petitioners herein would be saved and treated as the proceedings binding on Rajiv Gandhi University itself. Hence, a decision taken by the Government relying on such proceedings would be perfectly legal and valid.

9. We have seen as far as W.P. No. 3795 of 2000 is concerned, there exist some other ancillary developments. It is required under the Indian Medicine Central Council Act, 1970, that an intending college should secure permission from the third respondent in the said writ petition to start Ayurveda or Unani Medical College (vide Section 14 thereof). In accordance thereof, the petitioner therein had applied to the said respondent for permission. Earlier to that on 23-5-1997 itself, the State Government had passed order calling upon the University to affiliate the college. The third respondent by Annexure-F order dated 29-12-1997, directed the petitioner to route the application through the State

Government. This of course is on a wrong premises that the State Government had not considered the application. As noticed earlier, this is factually incorrect, as, by 23-5-1997 itself the State Government had ordered affiliation of the colleges in question. Now the petitioner therefore again applied to the University seeking affiliation. On the said application, strangely, the University issued Annexure-D order on 19-9-1999 calling upon the petitioner to make a fresh application. It is seen that a fresh application accordingly was made and that was rejected by order dated 2-12-1999 stating that proposal for starting new Ayurvedic and Unani colleges cannot be considered in view of the ban imposed by the Government in this behalf for a period of three years from 16-3-1999. Confronted with this order the petitioner has moved this Court challenging the same.

10. Likewise, in W.P. No. 6121 of 2000, after Annexure-C order dated 4-9-1996, they approached the Central Council of Indian Medicine who by Annexure-D order on 10-1-1997 granted permission. After this order was issued, Annexure-E was submitted to the Rajiv Gandhi University on 28-1-1997 for affiliation. On receipt of this application, the University by Annexure-H, dated 16-8-1997 directed the continuation of affiliation. Annexure-J was submitted on 13-10-1997 seeking continuation of the affiliation as directed by the University. Meanwhile, Central Council of Indian Medicine permitted the admission of 25 students as per Annexure-K order. However, the University issued Annexure-L order rejecting the request for affiliation relying on a resolution made by the Syndicate in the matter of starting of a new Medical/Unani College. This resolution, though not produced before the Court, was made available to the Court for reference and it discloses that it solely relies on the Government Order which had banned starting of new Medical Colleges for a period of three years.

11. Now as regards the petitioner in W.P. Nos. 27843 to 27853 of 2000 is concerned, in the light of what is stated above, Annexure-L issued by the University refusing the affiliation after the State Government issued orders to affiliate the college, is clearly illegal and contrary to law and has to be quashed. The statutory position as we have noticed is that the Government is the final authority in granting affiliation of any new colleges within the area of jurisdiction and as such, once such approval has been granted by means of Annexure-D order, it is impermissible for the University to declare that it would not affiliate the college that has been already approved for affiliation by the Government. Annexure-L order is clearly contrary to Section 53(5) of the Karnataka Universities Act (corresponding to Section 45(5) of the Rajiv Gandhi University of Health Sciences Act).

12. Now, since on 1-6-1996, the Rajiv Gandhi University of Medical Sciences came into being, could it be said that these colleges are being established after the said date? The answer is in the negative. The formal issuance of the order of affiliation is the culmination of a process that commenced prior to 1-6-1996, i.e., with the making of the initial application u/s 53(1) of the Karnataka State

Universities Act.

13. The facts set out above clearly shows that there is no new Ayurveda or Unani or Nursing Colleges coming into being after 1-6-1996. These colleges have sought for affiliation to the concerned predecessor University long before the cut off date and it has reached the stage of finality where only the formal issuance of order of affiliation by the University remained. The University has taken the view that affiliation be rejected as per the Government Order to turn down the affiliation. The bar if any, can be invoked only in cases where the application originates after the Government Order, barring the establishing of Ayurveda/Unani Medical College. That Government Order is not retrospective in operation. Further, I am of the view that there does not exist any such power with the University to turn down the request, once the Government has passed an order u/s 53(5) of the Karnataka State Universities Act, 1976.

14. Section 53(5) referred to earlier clearly shows that the State Government has the final say in the matter of affiliation of the colleges. Such an order if issued by the State Government concludes the issue. The statute does not anywhere contemplate any power with the University to review the order of the State Government. If we assume that the University has the power to refuse affiliation even after the State Government commands to do so, it would be arrogating the power of review of the decision of the State Government. Such a power cannot be said to exist because the State Government has formed its opinion and decision not exclusively on the basis of the materials made available by the Syndicate. The University which is subordinate in the hierarchy of system cannot be conferred with the power to annul the decision of the superior authority, the State Government. Therefore it has to be held that once an order u/s 53(5) of the Act, has been issued, the University thereafter performs only the ministerial act of issuing the order of affiliation. If that be so, for all purposes concerned, the college has earned the privileges of the University as contemplated u/s 5(3) of the Rajiv Gandhi University of Health Sciences Act and shall be deemed to have affiliated to the University on and after the date of the order. The position thus reinforces, the view of the Court, that once an order is issued u/s 53(5) of the Karnataka State Universities Act (corresponding to Section 45(5) of the successor Act), it shall be deemed that the college would be deemed to have been admitted to all the privileges of the University.

15. Mr. Veerabhadrappe, learned Counsel for the petitioner in W.P. Nos. 27843 to 27853 of 2000 cited the decision of this Court in Navodaya Education Trust, Raichur Vs. State of Karnataka and another, . There a similar question arose as to validity of the admission made subsequent to the Government Order, issued u/s 53(5) of the Act, ordering affiliation by the University. In this behalf this Court answered as under:

"On plain language of the section it becomes clear that after recommendation is made by the State Government the University has to pass an order in terms of the said recommendation. The words "the University shall issue orders

accordingly", in our opinion, leave no doubt that, no discretion is left to the University thereafter. The University has to pass an order in terms of the recommendation made by the Government. In this case the University had earlier on 1-4-1993 forwarded the application of the appellant with its opinion that affiliation as prayed for deserved to be granted. The Government after making its own enquiries was also of the opinion that the appellant's college deserved to be granted affiliation. It therefore recommended the University that the affiliation as prayed for should be granted to the appellant's college. The State Government decided to recommend granting of affiliation on 17-9-1993. Therefore, the only thing which the University had thereafter to do was to pass a formal order on that behalf. Relying upon this recommendation the appellant had admitted students between 14-12-1993 and 21-12-1993. Therefore, there was no valid reason for the University for not granting the affiliation from the academic year 1993-94. Even if the University received official communication from the Government late, it did not provide any justification for the University to grant affiliation from the academic year 1994-95. Granting of affiliation to colleges post facto is not unusual. Affiliation could have been granted in this case from the year 1993-94. Therefore, the action of the University in this case will have to be regarded as arbitrary and illegal in view of the provision made in sub-section (5) of Section 53 of the Act".

If that be the legal position, as declared by this Court, the petitioners are entitled to seek a writ of mandamus to affiliate the college and for recognition of the admissions made for the year 1999-2000, i.e., after Annexure-D order. There is no basis or justification for the University to decline affiliation or issuing of hall tickets.

16. If the college stands affiliated to the Rajiv Gandhi University of Health Sciences, necessarily it is not as if it was starting a new college on or after the imposition of the ban. The ban imposed by the Government even if be valid (I am not to be understood as pronouncing the validity of the Government Order at this stage as it is the subject-matter of challenge in a different writ petition) would not apply to the colleges which already stand affiliated to the University. The premises on the basis on which the University has proceeded in issuing the impugned order cannot therefore be sustained.

17. Mr. M.I. Arun, learned Counsel appearing for the University pointed out that u/s 45(10) of the Rajiv Gandhi Universities of Health Sciences Act, it is stated that no admission of students shall be made by the new colleges seeking affiliation to University or by an existing college seeking affiliation to a new course of study to such course, unless the affiliation has been granted to such new college or to the existing college in respect of such course of study. The very wording of the Section clearly states that it would operate only in case where there is no affiliation to the colleges. Once we hold that there is affiliation of the colleges for all statutory purposes to the respective University then the difficulty set up would not arise. The colleges can validly admit students on and after the

date the Government has issued orders u/s 53(5) of the Karnataka Universities Act which corresponds to Section 45(5) of the Rajiv Gandhi University of Health Sciences Act. There is no intermediate stage thereafter when University can gain step in and rescind the decision of the State Government.

18. I hold that since the colleges in question have been ordered by the State Government to be affiliated to the University, the ban order issued by the Government dated 16-3-1999 (without deciding the validity thereof) would not stand in the way of any affiliation being granted. That ban order even assuming to be valid would be prospective in operation and, will affect initiation for establishment of any college coming within its ambit only thereafter.

19. In the result, the writ petitions are allowed. The Rajiv Gandhi University of Health Sciences, shall issue formal order of affiliation to the respective colleges to take effect on and after the date on which the State Government issued orders u/s 53(5) of the Karnataka State Universities Act or Section 45(5) of the Rajiv Gandhi University of Health Sciences as the case may be and any admission made on or after the said date shall be deemed to have been validly made.

Writ petitions are disposed of.