

ABSTRACT

Higher Education – Judgement of 11 Judges Constitution Bench of Supreme Court of India, dated.31.10.2002 in W.P (Civil) No.317/1993 in TMA Pai Foundation and Others Vs State of Karnataka and Others – With regard to fixing of minimum eligibility for admissions – Orders – Issued.

Higher Education (J1) Department

**G.O.(Ms.) No.25
Dated.13.2.2003.**

Read:-

1. 1. G.O. (Ms) No.222, Higher Education (J) Department, dated.29.6.2002.
2. 2. From the All India Council for Technical Education, letter F.No.AICTE/UG/IMP-Corr/2002/G8. dated. 31.10.2002.
3. Judgement of the 11 Judges Constitution Bench of Supreme Court of India in W.P (Civil)No.317/1993, dated.31.10.2002, in T.M.A. Pai Foundation and Others Vs State of Karnataka and Others.
4. Government letter No.7096/Law (Advocate General-Opn)/03/1, dated.28.1.2003.
1. 5. From the Advocate General of Tamil Nadu D.O. Letter Roc. No. of 2003, dated.5.2.2003.

ORDER:

The Supreme Court of India in para 54 of its judgment dated 31.10.2002, referred to in the reference third read above has held that the Government can prescribe regulatory measures to ensure the maintenance of proper academic standards, atmosphere and infrastructure (including qualified staff) and prevention of mal-administration by those in-charge of management.

2. In para 66 of the judgment, the Supreme has held that,

“In the case of private unaided educational institutions, the authority granting recognition or affiliation can certainly lay down conditions for the grant of recognition of affiliation; these conditions must pertain broadly to academic and educational matters and welfare of students and teachers – but how the private unaided institutions are to run is a matter of administration to be taken care of by the Management of those institutions.”

Again in para 70 of the Judgement, the Supreme Court has held that,

“..... The object of establishing an institution has thus been to provide technical or professional education to the deserving candidates, and is not necessarily a commercial venture. In order that this intention is meaningful, the institution must be recognized. At the school level, the recognition or affiliation has to be sought from the educational authority or the body that conducts the school-leaving examination. It is only on the basis of that examination that a school-leaving certificate is granted, which enables a student to seek admission in further courses of study after school. A college or a professional educational institution has to get recognition from the concerned university, which normally requires certain conditions to be fulfilled before recognition. It has been held that conditions of affiliation or recognition, which pertain to the academic and educational character of the institution and ensure uniformity, efficiency and excellence in educational courses are valid and that they do not violate even the provisions of Article 30 of the Constitution: but conditions that are laid down for granting recognition should not be such as may lead to governmental control of the administration of the private educational institutions.

Further, while answering Question 4, the Supreme Court has held that,

“Admission of students to unaided minority educational institutions. viz. schools and undergraduate colleges where the scope for merit-based selection is practically nil, cannot be regulated by the concerned State of University, except for providing the qualifications and minimum conditions of eligibility in the interest of academic standards.

The right to admit students being an essential facet of the right to administer educational institutions of their choice, as contemplated under Article 30 of the Constitution, the state government or the university may not be entitled to interfere with that right, so long as the admission to the unaided educational institutions is on a transparent basis and the merit is adequately taken care of. The right to administer, not being absolute, there could be regulatory measures for ensuring educational standards and maintaining excellence thereof, and it is more so in the matter of admissions to professional institutions.”

3. According to the law declared by the Supreme Court of India as mentioned in paras 1 & 2 above, State have to ensure the educational standards and maintenance of

excellence thereof. The managements of the unaided professional institutions, during the meeting held by the Government on 3.2.2003 have made a request to prescribe a mere pass at +2 level as the minimum eligibility for admission to the professional institutions from the year 2003-2004 as has been prescribed by the All India Council for Technical Education in the reference second read above.

4. The request of the unaided professional institutions has been examined by the Government and it has been decided that there is no need to change the existing norms in this regard. They accordingly direct that the orders issued in the G.O. first read above shall continue to apply.

(By order of the Governor)

**V.K.SUBBURAJ,
SECRETARY TO GOVERNMENT.**

To

The Director of Technical Education , Chennai-25

The Registrar, Anna University, Chennai-25

The Director of Medical Education, Chennai-6

The Director of Agriculture, Chennai-6

The Director of Animal Husbandry, Chennai-

The Registrars of all Universities of Tamil Nadu

The Chairman/Chairperson of all the unaided professional colleges.

through (The Director of Technical Education, Chennai-25,

The Director of Medical Education, Chennai-6.

The Director of Legal Studies, Chennai

The Director of Agriculture, Chennai

The Director of Animal Husbandry, Chennai)

Copy to

The Registrar General, Supreme Court of India, New Delhi

The Registrar General, High Court of Madras, Chennai-104

The Advocate General of Tamil Nadu, High Court of Madras, Chennai-104

The Special Government Pleader(Education), High Court of Madras, Chennai. 104.

The Ministry of Human Resource Development, New Delhi.

The Chairman, All India Council for Technical Education, New Delhi

The Regional Officer, Southern Region, All India Council for Technical Education, Haddows Road, Chennai

The Secretary I to Chief Minister, Chennai-9

The Senior P.A. to Minister (Health and Education), Chennai-9

The Chief Minister's Office, Chennai-9.

The Secretary to Government, Health and Family Welfare Department, Chennai-9.

The Secretary to Government, Law Department, Chennai-9

The Secretary to Government, Animal Husbandry and Fisheries Department, Chennai-9

The Public(Special A)Department, Chennai-9

The Public(SC)Department, Chennai-9

All Departments of Secretariat, Chennai-9

All Sections in Higher Education Department, Chennai-9

SF/SC.

// forwarded / by order //

(P.P.MOORTHY)
UNDER SECRETARY TO GOVERNMENT.

for SECRETARY TO GOVERNMENT.