

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28/02/2003

CORAM

THE HONOURABLE MR. JUSTICE K.P.SIVASUBRAMANIAM

WRIT PETITION NO.32296 OF 2002
AND W.P.NO.S 37348 and 37349 of 2002

Sapthagiri Educational Trust rep.,
by its Chairman M.Jothiprakasam
No.103, Bazullah Road,
T.Nagar, Chennai-600 017. ... Petitioner in WP 32206/2002

Immaculate Heart of Mary's Society,
(Educational Agency of Immaculate
Teacher Training Institute),
rep., by its Secretary,
Idhaya Nagar,Melaputhamangalam,
Thirunallar,
Karaikal □ 609 607. ... Petitioner in WP 37348/2002

Immaculate Heart of Mary's Society,
(Educational Agency of Immaculate College
of Education for Women), rep.,
by its Secretary,
Pakkamudayanpet,
Pondicherry □ 605 008. ... Petitioner in WP 37349/2002

-Vs-

Government of Pondicherry,
rep., by Secretary to Govt.,
Education Department,
Chief Secretariat,
Pondicherry. ... 1st respondent in WPs 37348
and 37349/2002

Government of Pondicherry,
rep., by its Under Secretary
to Govt.,Education Department,
Chief Secretariat,
Pondicherry. ... 1st respondent in WP 32296/2002

The Director,
Department of Education,
Saram Post,
Pondicherry. ... 2nd respondent in all WPs.

The Secretary,
Centralised Admission
Committee (CENTAC-D.T.Ed),
Diploma in Teacher Education,
Pondicherry. .. 3rd respondent in WP 32296/2002

Writ petitions filed under Article 226 of the Constitution of India praying for the issue of Writs of Certiorari for the reasons stated therein.

For petitioner in all WPs. : Mr.N.R.Chandran,
Advocate General for
M/s.R.Suresh Kumar and
V.Balaji.

Mr.T.R.Rajagopalan,
Senior Counsel for
M/s.P.V.S.Giridhar and
Associates.

For respondents in all WPs. : Mr.T.Murugesan,
Govt. Pleader
(Pondicherry)

:O R D E R
The above three writ petitions involve
consideration of common issues and hence taken up together.

2. W.P.No.32296 of 2002 is filed by a Private
Unaided Non Minority Institution, established at Pondicherry, seeking to quash
G.O.Ms. No.41, Chief Secretariat (Education) of Pondicherry Government dated
11 .4.2002.

3. W.P.Nos.37348 and 37349 are filed by a
Minority Unaided Institution. In W.P.No.37348 of 2002, the institution prays
for quashing G.O.Ms.No.29, Chief Secretariat (Education), dated 25.3.2002 and
G.O. Ms.Nos.41 and 42 dated 11.4.2002. In W.P.No.37349 of 2002, the prayer
is to quash G.O.Ms.No.29, Chief Secretariat (Education), dated 25.3.2002 and
G.O.Ms.No.35, Chief Secretariat (Education), dated 28.3.2002.

4. The main or the only issue which arises
for consideration in these writ petitions is the manner and extent of control
which the State Government/Government of Union Territory can exercise over the
process of admission of students in the petitioner institutions in terms of

the law declared by a eleven Judges Bench of the Supreme Court in a batch of cases dated 31.10.2002 in T.M.Pai Foundations and Others vs. State of Karnataka and Others reported in 2002 AIR SCW Page 4957 = 2002 (8) SCC 481. These three writ petitions came to be filed even earlier and during the pendency of these writ petitions, the Supreme Court had delivered judgment as aforesaid. The task of this Court is therefore simplified to test the validity of the impugned Government Orders in the light of the judgment of the Supreme Court. It may be stated at the outset that the judgment of the Supreme Court as mentioned above had reversed its earlier judgment in Unni Krishnan, J.P. vs. State of A.P. (1993 1 SCC 644 = AIR 1993 SC 2178) to a considerable extent. The crux of the contention of the petitioners is that the impugned Government Orders had been issued by the Pondicherry Government, claiming to be in consonance with the directions or the guidelines contained in Unnikrishnan's case and that in view of the modified statement of law in T.M.A.Pai's case, the impugned Government Orders cannot be sustained. The petitioner institutions offer diploma course in teacher training. To appreciate their contentions, it would be necessary to outline the implications of the four Government Orders, which are impugned in these writ petitions.

5. The University Grants Commission (UGC) appears to have issued a notification dated 14.3.2002, designating the Administrator of the Union Territory of Pondicherry as the competent authority for the purpose of determining the fees or scales of fees payable by the students and the allotment of students for admission to various professional institutions under the UGC Regulations, 1997. The Government of Pondicherry purporting to act pursuant to the said notification by UGC, had issued G.O.Ms.No.29 dated 25.3.2002 prescribing admission procedure, fees etc., to all the professional institutions within the Union Territory and as applicable to all Non Aided Professional Institutions. The petitioner institutions are objecting to such control which is sought to be exercised by the Government. In the Government Order, after mentioning that the number of seats has to be approved by the appropriate authority and that at least 50% of the students in every Non Aided Professional Institutions shall be free seats and the remaining as payment seats, under para-I(g), the Government had stipulated as follows:-

"(g) Admission to institutions under management of minority shall be regulated as under:

(i) 50% of seats in self financing professional institutions established and administered by a minority shall be filled on the basis of merit list prepared by the CENTAC. Out of this 50% seats, half shall be free seats and the other half shall be payment seats. In respect of free seats reservation for SC/ OBC and such other categories as prescribed by the Government of Pondicherry shall be applicable.

(ii) The remaining 50% of seats shall be filled by the management of the institutions from amongst the candidates belonging to the concerned minority community out of which half shall be free seats and the other half shall be payment seats.

(iii) After completing the admission, each minority non-aided professional institutions shall submit to the Government of

Pondicherry a statement containing the full particulars of the students admitted against 50% of seats filled up by the management from among the candidates belonging to the concerned minority".

6. This was followed by another Government

Order in G.O.Ms.No.35 dated 28.3.2002 and the main thrust of the said Government Order is to conduct entrance test and counselling to select candidates and setting up of a centralised admission committee for BED (CENTAC-BED). The next Government Order is G.O.Ms.No.41 dated 11.4.2002 dealing with admission to self-financing institutions, imparting course in diploma in teacher education. After referring to the judgment of the Supreme Court in Unnikrishnan's case and the procedure for admissions as contemplated under G.O.Ms.No.29 dated 25.3.2002, the Government Order had proceeded further to state that the Government had decided to lay down similar policy for regulating admission into Non Aided Private Institutions, conducting diploma course in teacher education. In the Government Order, conditions very similar to those prescribed under G.O.Ms.No.29 dated 25.3.2002 have been re-stated. On the same day, another Government Order viz., G.O.Ms.No.42 dated 11.4.2002 was also issued constituting the Centralised Admission Committee (CENTAC-DTEA), for selection of candidates for admission to the two year diploma in teacher education, similar to G.O.Ms.No.35 dated 28.3.2002.

7. The validity of these four

Government Orders are under challenge in these writ petitions. As could be seen from the perusal of the G.O.Ms.No.41 dated 11.4.2002 itself, the Government had proceeded with the issue of those Government Orders only on the basis of the law declared by the Supreme Court in Unnikrishnan's case and the observations contained in the said judgment relating to the extent of control, which could be exercised by the Government over various categories of institutions viz., Aided Minority Institutions, Unaided Non Minority Institutions and Unaided Minority Institutions. Now with the Supreme Court, having handed down the judgment in T.M.A.Pai's case, the contention on behalf of the petitioners is that the Supreme Court had re-stated the law on the subject, differing from the views expressed in Unnikrishnan's case for the most part and hence all the impugned Government Orders are liable to be set aside and quashed as illegal and unenforceable.

8. Mr.N.R.Chandran, learned Advocate

General, appearing for the writ petitioner in W.P.No.32296 of 2002 and Mr.T.R.Rajagopal, learned Senior counsel appearing for the petitioner in W.P.Nos.37348 and 373 49 of 2002, have raised several contentions touching the scope and the power of UGC/State Government/Government of Union Territory, and Universities to impose conditions. I do not propose to make any detailed reference to the elaborate contentions raised by them and as well as by the learned Government Pleader, in the context of the role which the State Government can play in the matter of admission, fixation of fee etc., and also the submissions made in the light of the judgment of the Supreme Court in Adhiyaman's case (1995 4 SCC 110) and in Al-Karim Educational Trust and Another Vs. State of Bihar and Others (1996 8 SCC 330), considering the fact that there is a comprehensive re-statement of the law by the Supreme Court in T.M.A.Pai's case. Therefore, having regard to the scope of the disposal of

these writ petitions, it is sufficient to focus the attention on the following issues alone as raised by both the learned Senior counsel for the parties:-

1. The petitioner institution in W.P.No.37348 and 37349 of 2002 is an unaided minority institution and in terms of the judgment of the Supreme Court, the extent of control contemplated in Unnikrishnan's case had been reviewed and the views expressed in Unnikrishnan's case had been set aside or varied for the most part and hence the impugned Government Orders which mainly rely on the judgment in Unnikrishnan's case, cannot be enforced.
2. The University Grants Commission can have no control over teacher training institutions as those institutions have been brought under the control of National Council for teacher education (NCTE). Therefore the power which is sought to be exercised by the Administrator of the Union Territory of Pondicherry in terms of the notification of the UGC dated 14.3.2002, cannot be relied upon by the respondents to impose any conditions which go against the law laid down by the Supreme Court. The UGC regulations cannot apply to the courses in teacher education.
3. The State Government can have no role to play in the matter of establishment or regulating Technical institutions or Teacher Training institutions, considering the judgment of the Supreme Court in T. M.A.Pai's case.

9. These contentions are denied and disputed by Mr.T.Murugesan, learned Government Pleader for Pondicherry. He would contend that the regulations framed under NCTE Act, 1993, makes it clear that the State Government has a definite role to play. It is the State Government which has to decide on the necessity or otherwise of establishment of any technical institutions or teacher training colleges, depending on the requirements of the territory of the State/Union Territory. It is within the power of the State Government to have control over the mushroom growth of Technical institutes and Teacher Training institutes. This has been duly recognised under NCTE Act itself and according the learned Government Pleader, paragraph-5 (e) of the regulations framed by the council under Section 32 of the NCTE Act, 1993, every institution intending to offer a course or training shall submit the application for recognition with a no objection certificate from the State Government or Union Territory in which the institution is located. The said regulation is framed under the rule making power and hence binding on the applicants. Learned Government Pleader would further submit that the Supreme Court did not envisage either in their earlier judgments referred to on behalf of the petitioner or in the judgment in T.M.A.Pai's case, that the State Government can have absolutely no role to play in the matter of establishing professional colleges. It is further submitted that the judgment in Adhiyaman's case has to be read as a whole. Reference was also made to some of the passages in T.M.A.Pai's case, in support of his contention that even in terms of the said judgment, the right of the State Government/Union Territory to regulate the establishment of professional colleges/technical and teacher training courses have been upheld. The UGC is the parent body for any University receiving grants from the UGC and the contention that UGC cannot have control over the University is without substance. It is the University which grants the degree and hence the

Constituent Colleges cannot question the right of the UGC to formulate the regulations. It is further contended that in 1995, norms have been prescribed setting minimum requirements and standards for various issues/subjects like qualification, preparation of teachers and students, space, lighting, land, area, laboratories, minimum recurring cost etc. Under para-7 norms regarding the curriculum have been prescribed and under para-8 norms regarding admission criteria and fees have been fixed. In short, according to the learned Government Pleader, NCTE Act and Regulations operate independently as the ultimate authority in having control over teacher training institutions. The areas dealt with under NCTE Act and Regulations are not affected by the judgment of the Supreme Court in any manner and that the Government was relying only on the provisions of the Act. It is further contended that in fact, in para-68 of the judgment in T.M.A.Pai's case, the Supreme Court had specifically held that it is the Government which has to prescribe the percentage of seats to be reserved for admission by the management and seats which have to be filled up on the basis of selection by the State agency.

Reliance is also placed on the observations contained in paras-122 to 136 of the judgment holding that the right of the minorities to administer educational institutions did not prevent the State from making reasonable regulations and that Part-III of the Constitution does not give any absolute right. Right to administer does not include right to maladministration. He also referred to the ultimate conclusions in the judgment of T.M.A.Pai's case which had been spelt out by the Supreme Court by way of question and answers.

Reference in particular was made to question No.4 and 5(c). Learned Government Pleader also pointed out that the petitioner institutions have given letters of undertaking to comply with the guidelines issued by NCTE and it is not open to them to contend otherwise. In his reply,

Mr.T.R.Rajagopalan, learned Senior Counsel contended that NCTE did not formulate any regulation on the basis of the judgment in Unnikrishnan's case and it was the University Grants Commission which had formulated regulations in terms of Unnikrishnan's case. NCTE Act had prescribed only norms and standards for teacher education institutions and did not visualise interference with the process of admission.

10. Mr.N.R.Chandran, learned Advocate

General, replying on behalf of the petitioner in W.P.No.32296 of 2002 referred to the stand taken by the respondents in their counter that the rights of the minorities to establish and admit students in the institutions run by them was not questioned. Reference was also made to contention that the NCTE alone was not the specialised agency in respect of the teacher education and that the University Grants Commission was also empowered to frame a scheme in respect of all the professional courses including B.Ed., and M.Ed., courses. Learned Advocate General pointed out that the said contention ran counter to the law declared by the Supreme Court in Adhiyaman's case.

11. I have considered the submissions of both sides.

12. While the petitioner in W.P.No.32296 of 2002 is an unaided non minority institution, the petitioner in

W.P.No.37348 and 37349 of 2002 is an unaided minority institution. Both the learned Senior Counsel appearing for the petitioners as well as the learned Government Pleader took me through the various portions of the judgment in T.M. A.Pai's case in support of their mutual contentions.

13. In Unnikrishnan's case, the rights of such institutions to admit students into their institutions and the extent of control over such institutions by the Governmental authorities and Universities were considered in detail. In Adhiyaman's case, the role of the State Government and the Universities established under State Acts came to be examined as against the provisions under All India Council for Technical Education Act and it was held that de-recognition by the State Government or disaffiliation by the Universities on grounds inconsistent with the Central Act would be inoperative and that the Central Act should prevail.

14. The rights of various types of educational institutions viz., minority and non-minority institutions, aided and unaided private institutions, have been engaging the attention of the High Courts and the Supreme Court for the past more than two decades, during which time education had become more and more privatised. With the State Governments and the Central Government expressing their disability to run educational institutions owing to several reasons, inevitably the field of education has been taken over by the Private Sector. With the growing demand for admission into professional courses, commercialisation and profiteering by charging exorbitant fees/capitation fees became possible. This situation gave raise to the need to impose restrictions over such institutions in the matter of administration and admission of students and by fixing fee regulations and to ensure merit-based admission. Simultaneously, a further question arose as to what extent such control could be exercised over aided and unaided institutions and minority and non-minority institutions. This period also witnessed the establishment of centralised authorities dealing with imparting specialised professional education/courses like AICTE taking over technical and engineering courses and NCTE taking over teacher education courses. This inturn, gave rise to controversies over the manner and extent of control by the three authorities viz., the State Government, the Universities and the Centralised authorities like Medical Council, AICTE, NCTE, Dental Council etc.

15. In dealing with the issues relating to the manner of control over private educational institutions, in Unnikrishnan's case, the Supreme Court took the view that in imparting education, the private institutions were discharging public functions and thus the State should have control over matters relating to admissions and Fee structure and in effect a scheme was framed with certain guidelines and restrictions. However, various minority institutions felt that their rights under Articles 29 and 30 were infringed while non minority unaided institutions expressed that while reasonable restrictions could be imposed under Article 19 (6), such institutions should also have the same freedom of administration of an unaided minority institution. In effect, the judgment in Unnikrishnan's case, was questioned which led to the Constitution of a larger Bench consisting of Eleven judges, which had rendered its judgment on 31.10.2002 in T.M.A.Pai's case. The judgment has been rendered after the

filings of these writ petitions and hence will have decisive impact on these petitions. It is not disputed before me by the learned Government Pleader for Pondicherry that in T.M.A.Pai's case, the scheme evolved under Unnikrishnan's case have been overruled and the statement of law in Unnikrishnan's case have been overruled for the most part and restated in T.M.A.Pai's case. It cannot also be disputed that the directions by the UGC contained in UGC (Regulation of Admission and fees in Private Non Aided Professional Institutions) Regulations 1997 and the regulations issued thereon have been based only on the law declared by the Supreme Court in Unnikrishnan's case. The impugned Government Orders issued by the Pondicherry Government are also issued on the same basis. This is evident from the very preamble in G.O.Ms.No.41 dated 11.4.2002 which is as follows:-

"In the case of Unnikrishnan JP and Others vs. State of Andhra Pradesh (AIR 1993 SC 2178), the Supreme Court laid down a detailed scheme to effect admission and regulate fees chargeable by various selffinancing professions Institutions".

16. In the said background in which the impugned orders have been issued and also bearing in mind that the scheme under Unnikrishnan's case had been overruled, it is difficult to accept the contention of the learned Government Pleader that there has been no deviation in the statement of law pertaining to the manner of control over the minority and unaided private institutions and that hence the impugned Government Orders are enforceable.

17. The very admitted position that the scheme framed and the law declared in Unnikrishnan's case had been overruled will be sufficient to hold that the impugned orders cannot be sustained. Reference to general observations in the judgment in T.M.A.Pai's case that the prescription of percentage for the purpose of admission has to be done by the Government and that it would be permissible for the University and Government to require the private institutions to provide for merit based selection (Para-68) cannot be read in isolation ignoring the discussion of the various issues and the ultimate conclusions recorded in the judgment in T.M.A.Pai's case. The impugned orders relate to the process of admission and for the purpose of showing that the impugned orders cannot be sustained, I would point out only one factor which is a major

deviation from the existing scheme and that should be sufficient to show that the impugned orders cannot be sustained and fresh revised orders have to be passed.

18. It would be appropriate to extract some of the conclusions arrived at by the Supreme Court in T.M.A.Pai's case, which would have bearing on the issues pertaining to admissions into unaided institutions and minority institutions. The following are the conclusions by the majority of the Bench relevant for the minority institutions:-

"Question-4. Whether the admission of students to minority educational institutions, whether aided or unaided, can be regulated by the State Government or by the University to which the institution is affiliated?

Answer : 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 State or University concerned, except for providing the qualifications and minimum conditions of eligibility in the interest of academic standards.

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.

A minority institution does not cease to be so, the moment grant-in-aid is received by the institution. An aided minority educational institution, therefore, would be entitled to have the right of admission of students belonging to the minority group and at the same time, would be required to admit a reasonable extent of non-minority students, so that the rights under Article 30(1) are not substantially impaired and further the citizen's rights under Article 29(2) are not infringed. What would be a reasonable extent, would vary from the types of institution, the courses of education for which admission is being sought and other factors like educational needs. The State Government concerned has to notify the percentage of the non-minority students to be admitted in the light of the above observations. Observance of inter se merit amongs the applicants belonging to the minority group could be ensured. In the case of aided professional institutions, it can also be stipulated that passing of the common entrance test held by the State agency is necessary to seek admission. As regards non-minority students who are eligible to seek admission for the remaining seats, admission should normally be on the basis of the common entrance test held by the State agency followed by counselling wherever it exists.

Question-5(a): Whether the minorities' rights to establish and administer educational institutions of their choice will include the procedure and method of admission and selection of students?

Answer : A minority institution may have its own procedure and method of admission as well as selection of students, but such a procedure must be fair and transparent and selection of students in professional and higher education colleges should be on the basis of merit. The procedure adopted or selection made should not be tantamount to maladministration. Even an unaided minority institution ought not to ignore the merit of the students for admission, while exercising its right to admit students to the colleges aforesaid, as in that event, the institution will fail to achieve excellence.

Question-5(b): Whether the minority institutions' right of admission of students and to lay down procedure and method of admission, if any, would be affected in any way by the receipt of State aid?

Answer : While giving aid to professional

institutions, it would be permissible for the authority giving aid to prescribe bye-rules or regulations, the conditions on the basis of which admission will be granted to different aided colleges by virtue of merit, coupled with the reservation policy of the State qua non-minority students. The merit may be determined either through a common entrance test conducted by the University or the Government followed by counselling, or on the basis of an entrance test conducted by individual institutions [] the method to be followed is for the University or the Government to decide. The authority may also devise other means to ensure that admission is granted to an aided professional institution on the basis of merit. In the case of such institutions, it will be permissible for the Government or the University to provide that consideration should be shown to the weaker sections of the society.

Question-9: Whether the decision of this Court in *Unni Krishnan, J.P. v. State of A.P.* (except where it holds that primary education is a fundamental right) and the scheme framed thereunder require reconsideration/modification and if yes, what?

Answer : The scheme framed by this Court in *Unni Krishnan* case and the direction to impose the same, except where it holds that primary education is a fundamental right, is unconstitutional. However, the principle that there should not be capitation fee or profiteering is correct. Reasonable surplus to meet cost of expansion and augmentation of facilities does not, however, amount to profiteering"

19. The above extract of the conclusions make it clear that there is considerable deviation from the law declared in *Unnikrishnan's* case. As regards the private unaided professional colleges, in paragraph-68, the Supreme Court has held as follows:-

"68. It would be unfair to apply the same rules and regulations regulating admission to both aided and unaided professional institutions. It must be borne in mind that unaided professional institutions are entitled to autonomy in their administration while, at the same time, they do not forego or discard the principle of merit. It would, therefore, be permissible for the University or the Government, at the time of granting recognition, to require a private unaided institution to provide for merit-based selection while, at the same time, giving the management sufficient discretion in admitting students. This can be done through various methods. For instance, a certain percentage of the seats can be reserved for admission by the management out of those students who have passed the common entrance test held by itself or by the State/University and have applied to the college concerned for admission, while the rest of the seats may be filled up on the basis of counselling by the State agency. This will incidentally take care of poorer and backward sections of the society. The prescription of percentage for this purpose has to be done by the Government according to the local needs and different percentages can be fixed for minority unaided and non-minority unaided and professional colleges. The same principles may be applied to other non-professional but unaided educational institutions viz., graduation and postgraduation non-professional colleges or institutes."

20. The portions underlined

by me in the above extracts will show that both in respect of minority institutions as well as unaided private institutions, for the seats to be filled up out of the management quota, the management will be entitled to select by a common entrance test held by itself. This is a major deviation from the existing practice viz., both free and payment seats should be filled up only on the basis of marks obtained in and according to the merit list prepared by the CENTAC-vide para 6(A)(iv) of G.O.Ms.No.41 dated 11.4.200 2.

21. I have pointed out the

above one feature only to show that atleast on one major issue there is a deviation and the law declared by the Supreme Court in T.M.A.Pai's case necessitates reframing and reissue of the Government Orders. It would be idle to contend that the impugned Government Orders which have been admittedly based on the scheme framed by the Supreme Court in Unnikrishnan's case, do not require any reconsideration. Both the learned counsel for petitioners contended that as a result of the judgment in T.M.A.Pai's case, neither the Government nor the Universities can have any say at all or atleast on certain specific issues, neither the Government nor the Universities will have no role to play. I do not propose to go into the details of the contentions raised by both sides as regards the exact effect of the judgment in T.M.A.Pai's case. The judgment speaks for itself and it is for the Government to analyse and take a decision so as to fall in line with the observations of the Supreme Court. I have ventured above to point out only one particular feature viz., whether it is imperative on the minority and unaided institutions to admit students only on the basis of the merit list prepared by common entrance test held by the CENTAC, as against their quota in order to show that the impugned Government Orders cannot be sustained.

22. I do not propose to go

into all the issues which are required to be dealt with by the Government while issuing fresh orders. It is sufficient to state that revised orders have to be issued and the impugned orders which are based on the scheme framed in Unnikrishnan's case which have been set aside cannot hold the field. In fact the Kerala Government has come forward with a new Government Order, after the judgment in T.M.A.Pai's case vide G.O.(B) No.170/2002/Higher Education dated 4.12.2002. Similar exercise has to be undertaken by the Pondicherry Government also. This observation is not to be taken as holding that the terms of the Government order issued by the Kerala Government is in order and valid in all respects. I am only pointing out that the Government of Pondicherry also will have to necessarily undertake the exercise, reframe and reissue fresh orders and that it would be futile to contend that notwithstanding the restatement of law in T.M.A.Pai's case, the impugned orders would continue to be valid. As stated earlier, it is for the Government to analyse the decision of the Supreme Court on all aspects and issue fresh orders and it is not for this Court to suggest as to what the Government should incorporate in the Government orders to be issued afresh.

23. Though elaborate

arguments were advanced in the context of the extent of control which the Universities and NCTE can exercise over these institutions, I do not propose

to deal with them for two reasons. Firstly, neither the UGC nor the Pondicherry University nor the NCTE had been impleaded as parties. Secondly, the impugned Government orders deal only with the role of State Government/Union Territory in the process of admission of students. Hence, it is not necessary to go into the said issue in these writ petitions.

24. With the result, the impugned Government Orders cannot be sustained and are set aside. It is for the Government to formulate and issue fresh Orders as expeditiously as possible in the light of the judgment in T.M.A.Pai's case before the process of admission commences for the ensuing academic year.

25. With the above observations, the writ petitions are allowed. No costs. Consequently, connected WPMPs 56103 to 56106 and 46952 of 2002 are closed.

Index : Yes.

Internet: Yes.
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To

1. The Secretary to Govt.,
Government of Pondicherry,
Education Department,
Chief Secretariat,
Pondicherry.
2. The Under Secretary to Govt.,
Government of Pondicherry,
Education Department,
Chief Secretariat,
Pondicherry.
3. The Director,
Department of Education,
Saram Post,
Pondicherry.
4. The Secretary,
Centralised Admission
Committee (CENTAC-D.T.Ed),
Diploma in Teacher Education,
Pondicherry.

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