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SHIVAJI UNIVERSITY, KOLHAPUR - 416 004 MAHARASHTRA
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शिवाजी विद्यापीठ, कोल्हापूर - ४१६ ००४ महाराष्ट्र

दूरध्वनी ईपीबीएक्स- २६०९०००, फॅक्स ००९१०२३१२६९१५३३ व ००९१०२३१६९२३३३
संलग्नता टी २ विभाग थेट दूरध्वनी क्र. ०२३१ २६०९०९१,२६०९१३५



जा.क्र. संलग्नता/टी-२/परिपत्रक/ No - 1231

दि. 20 JAN 2024

परिपत्रक

प्रति,
मा. प्राचार्य/संचालक,
सर्व संलग्नीत महाविद्यालये/ मान्यताप्राप्त संस्था,
शिवाजी विद्यापीठ, कोल्हापूर

विषय:- Judgment of the Hon'ble Supreme Court of India regarding mandate for
educational institutions, society, trust etc.

संदर्भ:- All India Council For Technical Education यांचेकडून दि. १३ जानेवारी, २०२४ रोजी
प्राप्त मेल.

महोदय/महोदया,

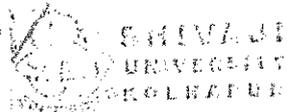
उपरोक्त नमूद संदर्भाकित विषयास अनुसरून आपणास आदेशान्वये कळविण्यात येते की, सोबत जोडलेला
मा. सर्वोच्च न्यायालय यांनी दिलेला निर्णय अवलोकनी घेवून सर्व संलग्नीत महाविद्यालयांनी त्याअनुषंगाने आवश्यक
ती कार्यवाही संस्था/महाविद्यालयांनी आपले स्तरावर करावी.

कळावे,

आदेशान्वये

श्री. विलास एस. सोयम
उपकुलसचिव
संलग्नता टी-२ विभाग

सोबत- वरीलप्रमाणे



VC Office <vcoffice@unishivaji.ac.in>

Judgment of the Hon'ble Supreme Court of India regarding mandate for educational institutions, society, trust etc.

1 message

All India Council for Technical Education(no-reply) <admin@aicte-india.org>
To: vcoffice@unishivaji.ac.in

Sat, Jan 13, 2024 at 2:55 PM

No. 20-AICTE/P&AP/Misc/2023-24 Dated: 11.01.2024

CIRCULAR

SHIVAJI UNIVERSITY
Vice-Chancellor's Office
Date 16 JAN 2024
Inward No. 1467
To Whom R/DOT/LO

To

All Vice Chancellors of Technical Universities and
All Directors/ Principals of AICTE Approved Institutions,

Subject: Judgment of the Hon'ble Supreme Court of India regarding mandate for educational institutions, society, trust etc.

Respected Sir/Madam,

Education is essential for unlocking human potential, fostering a fair society, and driving national progress. Ensuring that everyone has access to excellent education is crucial for India's ongoing growth and global leadership in areas such as the economy, social justice, scientific advancements, national unity, and cultural preservation. By prioritizing universal, high-quality education, we can tap into our nation's abundant young talent and resources for the benefit of individuals, society, our country, and the world.

The Hon'ble Supreme Court of India in its judgment dated 19.10.2022 in Civil Appeal No. 3795/2014 has directed that the societies or trusts etc. running educational institutions are required to solely engage themselves in education or educational activities, and not to engage in any activity of profit. Such institutions cannot have objects, which are unrelated to education. All objects of society, trust etc., must relate to imparting education or be in relation to educational activities. Please peruse **Para 76** of the judgment, url:

https://main.sci.gov.in/supremecourt/2012/25090/25090_2012_1_1502_39247_Judgement_19-Oct-2022.pdf

Further, the Hon'ble Supreme Court in pursuance of departing from the previous rulings in this matter and in order to avoid disruption has directed **vide Para 78 of the *ibid* judgment** that the law declared in the above judgment shall operate prospectively to give time to institutions to make appropriate changes and adjustments, if need be. The copy of the aforesaid judgment may be accessed from the url indicated above or from the web portal of the Supreme Court.

Considering the aforementioned, it is impressed upon that all technical universities and institutions take necessary measures to comply with the judgment of the Hon'ble Supreme Court and implement it diligently, in letter and spirit.

PFA:- <https://drive.google.com/file/d/1fbG6BPnHEcUcO-RDWa13YjF-Twu4hVH5/view?usp=sharing>

With regards,
(Dr. Mamta Rani Agarwal)
Advisor-I (P&AP)

① PVC/All deans
② R/DOT/LO

1/11/2024
16/1/24

15/01/2024
15/1

T-2

To circulate to all Educational institutions in the jurisdiction of Shivaji University.

16/01/24

16/1



Dr. Mamta R. Agarwal,
Advisor-I, Policy
and Academic Planning



अखिल भारतीय तकनीकी शिक्षा परिषद्
(भारत सरकार का एक सौंघीक निकाय)
(शिक्षा मंत्रालय, भारत सरकार)
नेल्सन मंडेला मार्ग, वसंत कुंज, नई दिल्ली-110070

ALL INDIA COUNCIL FOR TECHNICAL EDUCATION
(A Statutory Body of the Govt. of India)
(Ministry of Education, Govt. of India)
Nelson Mandela Marg, Vasant Kunj, New Delhi-110070

Phone : 011-26191577 - 76, 80
011-29581000
Website : www.aicte-india.org

F. No. 20-AICTE/P&AP/Misc/2023-24

Dated: 11.01.2024

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All Directors/ Principals of AICTE Approved Institutions,

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With regards,

Yours sincerely,

(Signature)

11 Jan, 24

(Dr. Mamta Rani Agarwal)



सूचना का
आधिकार

REPORTABLE

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 3795 OF 2014

M/S NEW NOBLE EDUCATIONAL SOCIETY

APPELLANT(S)

VERSUS

THE CHIEF COMMISSIONER OF
INCOME TAX 1 AND ANR.

RESPONDENT(S)

WITH

CIVIL APPEAL NO. 3793 OF 2014CIVIL APPEAL NO. 3794 OF 2014CIVIL APPEAL NO. 9108 OF 2012CIVIL APPEAL NO. 6418 OF 2012JUDGMENTS. RAVINDRA BHAT, J.

1. It has been said that education is the key that unlocks the golden door to freedom.¹ In *Avinash Mehrotra v Union of India*², this court underlined the object and value of education in the following words:

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Digitally signed by
SOMIA BHATT
Date: 2024.07.
16:26:39 (IST)
Reason: I am a blind person

an aphorism common to all faiths. Proverb 4:13 states, "Take hold of instruction, do not let go. Guard her, for she is your life." The *Pavamana Mantras* (purifying mantras) appealing to be taken from darkness to light in the *Brihadaranyaka Upanishad*, as part of verse 1.3.28 too emphasizes the value of knowledge and education, "Lead me from the darkness of ignorance to the light (of knowledge)." Surah Al-Baqarah, gives an important interpretation about learning, "He gives knowledge and wisdom to whomever He wills and to whomsoever knowledge is given, much good has been given."

²*Avinash Mehrotra v Union of India*, (2009) 6 SCC 398.

imparting education. It is unclear from the record whether R.R.M Educational Society was providing hostel facility only to its students or to others as well. If the institution provided hostel and allied facilities (such as catering etc.) only to its students, that activity would clearly be 'incidental' to the objective of imparting education.

75. The last ground urged was with respect to the refusal by the Commissioner to register certain institutions who had amended their objectives. This court is of the opinion that the impugned judgment cannot be faulted with in rejecting the challenge by the appellant societies and trusts, because the requirement of trust or societies applying for registration or approval under the provisos to Section 10(23)(C) spell out a specific time (before 30 September). As the High Court has observed, there is no provision to extend such a deadline. In the circumstances for the concerned year, the reasoning of the High Court in refusing to interfere with the concerned authorities decisions to approve or reject the registration of the institution, is hereby affirmed.

76. The conclusions of this court are summarized as follows:

- a. It is held that the requirement of the charitable institution, society or trust etc., to 'solely' engage itself in education or educational activities, and not engage in any activity of profit, means that such institutions cannot have objects which are unrelated to education. In other words, all objects of the society, trust etc., must relate to imparting education or be in relation to educational activities.
- b. Where the objective of the institution appears to be profit-oriented, such institutions would not be entitled to approval under Section 10(23C) of the IT Act. At the same time, where surplus accrues in a given year or set of years *per se*, it is not a bar, provided such surplus is generated in the course of providing education or educational activities.

- c. The seventh proviso to Section 10(23C), as well as Section 11(4A) refer to profits which may be 'incidentally' generated or earned by the charitable institution. In the present case, the same is applicable only to those institutions which impart education or are engaged in activities connected to education.
- d. The reference to 'business' and 'profits' in the seventh proviso to Section 10(23C) and Section 11(4A) merely means that the profits of business which is 'incidental' to educational activity – as explained in the earlier part of the judgment i.e., relating to education such as sale of text books, providing school bus facilities, hostel facilities, etc.
- e. The reasoning and conclusions in *American Hotel* (supra) and *Queen's Education Society* (supra) so far as they pertain to the interpretation of expression 'solely' are hereby disapproved. The judgments are accordingly overruled to that extent.
- f. While considering applications for approval under Section 10(23C), the Commissioner or the concerned authority as the case may be under the second proviso is not bound to examine only the objects of the institution. To ascertain the genuineness of the institution and the manner of its functioning, the Commissioner or other authority is free to call for the audited accounts or other such documents for recording satisfaction where the society, trust or institution genuinely seeks to achieve the objects which it professes. The observations made in *American Hotel* (supra) suggest that the Commissioner could not call for the records and that the examination of such accounts would be at the stage of assessment. Whilst that reasoning undoubtedly applies to newly set up charities, trusts etc. the proviso under Section 10(23C) is not confined to newly set up trusts – it also applies to existing ones. The Commissioner or other authority is not

in any manner constrained from examining accounts and other related documents to see the pattern of income and expenditure.

- g. It is held that wherever registration of trust or charities is obligatory under state or local laws, the concerned trust, society, other institution etc. seeking approval under Section 10(23C) should also comply with provisions of such state laws. This would enable the Commissioner or concerned authority to ascertain the genuineness of the trust, society etc. This reasoning is reinforced by the recent insertion of another proviso of Section 10(23C) with effect from 01.04.2021.

77. In a knowledge based, information driven society, true wealth is education – and access to it. Every social order accommodates, and even cherishes, charitable endeavour, since it is impelled by the desire to give back, what one has taken or benefitted from society. Our Constitution reflects a value which equates education with charity. That it is to be treated as neither business, trade, nor commerce, has been declared by one of the most authoritative pronouncements of this court in *T.M.A Pai Foundation* (supra). The interpretation of education being the ‘sole’ object of every trust or organization which seeks to propagate it, through this decision, accords with the constitutional understanding and, what is more, maintains its pristine and unsullied nature.

78. In the light of the foregoing discussion, the assessee’s appeals fail. It is however clarified that their claim for approval or registration would have to be considered in the light of subsequent events, if any, disclosed in fresh applications made in that regard. This court is further of the opinion that since the present judgment has departed from the previous rulings regarding the meaning of the term ‘solely’, in order to avoid disruption, and to give time to institutions likely to be affected to make appropriate changes and adjustments, it would be in the larger

interests of society that the present judgment operates hereafter. As a result, it is hereby directed that the law declared in the present judgment shall operate prospectively. The appeals are hereby dismissed, without order on costs.

.....CJI.
[UDAY UMESH LALIT]

.....J.
[S. RAVINDRA BHAT]

..... J.
[PAMIDIGHANTAM SRI NARASIMHA]

New Delhi,
October 19, 2022.