2024:CGHC:37702-DB

AFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

Reserved for orders on :16-07-2024

Order passed on : 25-09-2024

WPC No. 4327 of 2023

1 - Mahaveer College of Ayurvedic Science Village - Sundra, District Rajnandgaon - Chhattisgarh, Through - Chairman, Nemi Chand Parekh, S/o Late S.K. Parekh, A/o 62 Years, Occupation - Chairman, Mahaveer College of Ayurvedic Science Village - Sundra, District Rajnandgaon - Chhattisgarh

2 - Youth Foundation of India Village - Sundara, District Rajnandgaon - Chhattisgarh, Through - Chairman, Nemi Chand Parekh, S/o Late S.K. Parekh, A/o 62 Years, R/o Village - Sundra, District Rajnandgaon, Chhattisgarh

... Petitioners

versus

1 - State of Chhattisgarh Through - Medical Education (Ayush) Department, Mantralaya, Mahanadi Bhawan, Naya Raipur, Raipur (C.G.)

2 - Secretary Health and Family Welfare Department, Mantralaya, Mahanadi Bhawan, Naya Raipur, Raipur, Chhattisgarh

3 - Directorate of Ayurved Yogya and Prakratik Chitkisa, Unani Sidhi and Homeopathy (Ayush), Chhattisgarh, Through - Directorate, Block-1, 3rd Floor, Indravati, Bhawan, Naya Raipur, Raipur, Chhattisgarh

---- Respondents

(Cause-title taken from Case Information System)

For Petitioners : Ms. Surya Kawalkar Dangi, Advocate.
For State/Respondents: Mr. Yashwant Singh Thakur, Additional Advocate General.

Hon'ble Shri Justice Ramesh Sinha, Chief Justice

Hon'ble Shri Justice Ravindra Kumar Agrawal

CAV Order

Per Ravindra Kumar Agrawal, J.

1. The present is the writ petition under Article 226 of the Constitution of India filed by the petitioners through their unaided private educational institution for declaring the Rule 4(1)(d)(i) of the Chhattisgarh Ayush Graduate Course Admission Rules, 2023 (Annexure-P/1) being ultra virus and unconstitutional and also for holding that there can be no fixation of the Govt. seats in the minority institutions and further for a direction to the respondents authorities to permit the petitioner No.1 to admit all India students in BAMS.

2. The petition has been filed for the following relief(s):-

> "*I. That this Hon'ble Court may kindly be pleased to declare the rule 4(1)(d)(i) of the Chhattisgarh Ayush Graduate Course Admission Rules, 2023 (Annexure P/1) as being ultra vires and unconstitutional.*
>
> *II. That, this Hon'ble Court may kindly be pleased to hold that there can be no fixation of government seats in the minority institutions.*
>
> *III. That, this Hon'ble Court may kindly be pleased to direct the respondent authorities to amend the counselling notice dated 21.09.2023 (Annexure-P/8) and further*

direct the respondent authorities to permit the petitioner No.1 to admit all India students in BAMS course.

IV. *Any other relief, which this Hon'ble Court deems, fit in the facts and circumstances may also be granted in favour of the petitioner.*"

3. The brief facts of the case as pleaded by the parties in the writ petition are that the petitioner is an unaided minority institution imparting education and degree in Bachelor of Aayurvedik Medicine and Surgery (BAMS) and was established in the year 2017. The respondent No.1, C.G. Govt. has framed C.G. Ayush Graduate Course Admission Rules, 2023 (hereinafter called as 'the Admission Rules, 2023') wherein the State has fixed quota in minority institutions under Rule 4(1)(d)(i) of the Admission Rules, 2023 which is impermissible and against the various judgments passed by the Hon'ble Supreme Court in this regard. Prior to the enforcement of the Admission Rules, 2023, the C.G. Ayush Graduation Course Admission Rules, 2019 was applicable wherein the minority institutions were exclusively excluded from the ambit of such quota and admissions were made strictly in accordance of the merit obtained by the students of all India in NEET-UG examination. No such quota has been fixed either in dental or medical minority institutions, but only in the minority institutions imparting education in Ayush course said quota has been fixed. Further, the State has no right to fix quota of the weaker society in the minority institutions under the Right of Children to Free and

Compulsory Education Act, 2009. As per Rule 4(1)(a) of the Admission Rules, 2023, the said quota is 85% of the total seats and as per Rule 4(1)(d)(i) of the Admission Rules, 2023 out of 85% of the said quota, 50% seats has to be filled up by local minority students, i.e., from Jain community of Chhattisgarh State for which the minority institution is established and remaining 50% from general merit list prepared for the C.G. State from which counseling is to be conducted.

It is also the case of the petitioner that the petitioner No.1 is not receiving any grant from the State Govt. No Government hospital has been attached with the petitioner No.1 college and merely sending some of the students to the District Hospital of Rajnandgaon for internship the same cannot be in any manner termed as grant to the petitioner's college. Since the counseling schedule was declared for admission in the academic session of 2023-24 by the respondent No.3 on 21-09-2023 and the application from the students for registration has been called, the petitioner No.1 institution reserved 9 seats to be filled up by all India quota and remaining 51 seats are reserved to be filled up by the State quota and therefore, the petition has been filed challenging the Rule 4(1)(d)(i) of the Admission Rules, 2023.

4. Respondents/State have filed their return and submitted that the State of Chhattisgarh being a welfare State is having legislative competence to make rules in order to provide reservation in admission of students belonging to Scheduled Castes/Scheduled

Tribes and Other Backward Class in educational institutions and therefore the State Government has enacted the C.G. Educational Institutions Reservation in Admission Act, 2012 (in short 'the Act, 2012') and Section 2(f)(2) of the Act, 2012 empowers the State Government to frame admission rules to regulate admission in Ayush courses. The Admission Rules, 2023 is brought in force from 06-09-2023 and as per Rule 4(1)(a) of the Admission Rules, 2023, the State quota which has been fixed is 85% of the total seats and as per rule 4(1)(d)(i) from the State quota 50% seats has to be filled up by the local minority students, i.e., Jain community of C.G. State and remaining 50% from general merit list, i.e., merit list prepared for the State of C.G. from which counseling is to be conducted. It is also replied by the State that as per the judgment of the Hon'ble Supreme Court in the matter of **T.M.A. Pai Foundation and others Vs. State of Karnataka and others**, (2002) 8 SCC 481, the religious and linguistic minority have to be considered statewise and that Article 30 of the Constitution of India include the right of minorities to establish and administer educational institutions, but there should be regulatory measures to ensure educational standards to maintain the guidelines of minority educational institutions and the procedure and method of admission in the said institutions. The admission in such colleges should not be only for the purpose to make profits, but also to ensure that the same would be benefited for the people at large. The State in no manner has restricted the petitioner

institution to carry on its admission process, but it has exercised its right to give admission to the students of the State of C.G. and in this regard rules have been framed for the upliftment of residents of C.G. The petitioners college has 60 seats of which 15% seats, i.e., 9 seats are marked for all India quota and 50% seats of remaining 51 seats have been marked for Jain minority and remaining 50% seats go for the other eligible candidates. The petitioner is claiming parity between the rules which are in force for other institutions, but the said reliance will be of absolutely no consequence in view of the fact that the State of C.G. under its legislative competence of the State to formulate the present Admission Rules, 2023.

The State has also filed its additional return and he has further submitted that the linguistic and religious minorities are governed by the expression “minority” under Article 30 of the Constitution of India. Since the reorganization of the State in India is based on linguistic line for the purpose determining the minority. Unit will be the State and not the whole of India and the religious and linguistic minorities who have been put on par in Article 30 of the Constitution of India are to be considered statewise. The expression minority used in Article 30 of the Constitution of India is having two sense, one is on religious and the other is on language. Article 30(1) of the Constitution provides for all minorities whether based on religion or language and they shall have right to establish and administer educational institutions of their choice.

The right under Article 30 of the Constitution of India granted to the minorities to establish educational institutions of their choice is not absolute, but is subject to reasonable regulations for the benefit of the institutions. It is also submitted that in **P.A. Inamdar and others Vs. State of Maharashtra and others**, (2005) 6 SCC 537 it is held by the Hon'ble Supreme Court that in aided minority educational institution they would be entitled to have right of admission of students belonging to the minority group and would be required to admit a reasonable extent of non-minority students so that the rights under Article 30(1) are not substantially impaired. Further, in **T.M.A. Pai Foundation** case (supra) it was held that the minority educational institutions will have to admit students of the minority group to a reasonable extent whereby the character of the institution is not annihilated and at the same time the rights of the citizens engrafted under Article 29(2) of the Constitution of India are not subverted. As such the State Govt. can prescribe percentage of minority community to be admitted in minority educational institution taking into consideration the population of the minority community and the educational needs of the area in which the institution is located.

5. Learned counsel for the petitioners would submit that the impugned Rule 4(1)(d)(i) of the Admission Rules, 2023 is illegal and unconstitutional and violative of Article 30(1) of the Constitution of India and in unaided minority institution the State cannot fix State quota seats for granting admission to students.

Relying upon the judgment passed by the Hon'ble Supreme Court in the matter of **P.A. Inamdar and others Vs. State of Maharashtra and others**, (2005) 6 SCC 537 and the order passed by the coordinate Bench of this Court in **WPC No.1356/2012**, Doctor Aditi Jain and others Vs. State of C.G. and others decided on 20-11-2012 she would submit that there can be no fixation of Govt. seats in the minority institutions and the State has no right to nominate any student or to fix any quota in unaided professional colleges. It is also submitted by her that by the Admission Rules, 2019 the minority institutions were specifically excluded from the ambit of admission rules and further by virtue of an amendment part on 13-11-2020 it is further clarified that no State quota seats shall be reserved in minority institutions, yet by the Admission Rules, 2023 the quota has been fixed in minority institutions. Therefore, she prays for struck down of Rule 4(1)(d)(i) of the Admission Rules, 2023 and to declare the same as unconstitutional.

6. Per contra, learned counsel for the State vehemently opposes the submissions made by the learned counsel for the petitioner and has submitted that being the welfare State C.G. Government had framed the Admission Rules, 2023 and in order to secure the interest of the minority institutions of the State of C.G. the quota has been fixed for admission in minority institutions under its legislative competence to regulate the admission in Ayush courses, the Admission Rules, 2023 were framed and it is only for

regulatory measure to ensure educational standard and maintain excellence of minority education institutions. It is also submitted by learned counsel for the State that the linguistic and religious minority are governed under the right of the minority under Article 30 of the Constitution of India and since reorganization of the States in India has been on linguistic line, therefore, for the purpose of determination the minority, religious and linguistic minorities are to be on par in Article 30 of the Constitution statewise. Article 30 of the Constitution of India granted certain rights to the minorities to establish and administer educational institutions of their choice subject to reasonable regulation for the benefit of the institutions. He would also rely the **P.A. Inamdar case** (supra) and **T.M.A. Pai Foundation case** (supra) and would submit that fixation of the percentage governing admission in minority educational institutions will have to be on a reasonable extent. The State Government can prescribe the percentage of the minor community to be admitted in the minority educational institutions taking into the population of the minor community and the educational needs of the area in which the institution is located. He would also submit that the very object of the Rule 4(1)(d)(i) is to give opportunity to the students of minority community of the State of C.G. in view to protect their rights, therefore, the impugned rule cannot be said to be ultra virus or unconstitutional and therefore, the writ petition is liable to be dismissed.

7. We have heard learned counsel for the parties and perused the

documents annexed with the writ petition.

8. The petitioner No.1 Mahaveer College of Ayurvedic Science Village - Sundra, District Rajnandgaon – Chhattisgarh was established in the year 2017 with intake capacity of 60 students to impart education and degree in Bachelor of Ayurvedic Medicine and Surgery (BAMS). The said college is run by youth foundation of India which is registered society. The said college is duly affiliated with Pandit Deendayal Upadhyay Medical Science and Ayush University Raipur, C.G. and recognized by the Director of Aayurvedik, Yoga and Prakritik Chikitsa vide order dated 24-05-2019 (Annexure-P/2). The said college was given additional permanent recognition as the minority institution under the directives, principals and procedure, 2007. Condition No.1 and 5 of the said order dated 24-05-2019 is given hereinbelow:-

> "1. गैर अनुदान प्राप्त तथा अनुदान प्राप्त अल्पसंख्यक शैक्षणिक संस्थाओं में प्रवेश केवल अल्पसंख्यक समुदाय तक ही सीमित नहीं रहेगा, लेकिन अल्पसंख्यक समुदाय के आवेदकों को प्रवेश में प्राथमिकता दी जा सकेगी। परन्तु इस संबंध में संवैधानिक प्रावधानों के अनुरुप केन्द्र एवं राज्य शासन द्वारा निर्धारित नियम बाध्यकारी होगें।
>
> 5. संस्थाओं में भर्ती के लिए चयन प्रक्रिया हेतु विश्वविद्यालय/मण्डल तथा राज्य शासन के नियम/निर्देश लागू होगें, निर्धारित शैक्षणिक अर्हता में शिथिलता नहीं दी जावेगी। योग्य शिक्षक एवं अन्य अमले हेतु भर्ती करने की स्वतंत्रता रहेगी, परन्तु सलाह दी जाती है कि शिक्षकों तथा अन्य अमलों का चयन खुली (open) विज्ञप्ति से एवं पारदर्शी प्रक्रिया से किया जाये।"

On 15-07-2019 the Directorate Aayurved, Yog and Prakritik Chikitsa Unani Sidhdh Avam Homeopathy Ayush Chhattisgarh has issued notification Admission Rules, 2019 for admission in

Chhattisgarh Ayush Graduate Admission Rules, 2019 (hereinafter called as 'Rules, 2019'). Rule 4 of the said Rules, 2019 provides the determination and reservation of seats which is as under:-

"**4. सीटों का निर्धारण एवं आरक्षण :–**

(1) सीटों का निर्धारण निम्नानुसार होगा :–

(क) शासकीय एवं निजी आयुष महाविद्यालयों की सभी सीटें प्रवेश परीक्षा की प्रावीण्य सूची के आधार पर छत्तीसगढ़ के स्थानीय अभ्यर्थियों/गैर स्थानीय अभ्यर्थियों से भरी जावेगी।

राज्य के सभी शासकीय व निजी महाविद्यालयों की कुल सीटों में से 15 प्रतिशत सीट अखिल भारतीय कोटा के तहत एवं शेष 85 प्रतिशत प्रदेश के अभ्यर्थियों से भरी जावेगी।

नोटः– केन्द्र सरकार द्वारा विदेशी छात्रों हेतु आयुष महाविद्यालयों में निर्धारित सीट अखिल भारतीय कोटा के अतिरिक्त होगी।

(ख) छत्तीसगढ़ राज्य के सभी शासकीय एवं निजी महाविद्यालयों के राज्य कोटे की सभी सीटों पर नियमानुसार छत्तीसगढ़ राज्य का आरक्षण नियम लागू होगा।

(ग) यूनानी महाविद्यालयों हेतु स्वीकृत प्रवेश क्षमता की कुल संख्या में से दस प्रतिशत सीटें प्रति वर्ष मुख्य पाठ्यक्रम में पार्श्विक प्रवेश हेतु प्राग्–तिब्ब पाठ्यक्रम उत्तीर्ण अभ्यर्थियों के लिये आरक्षित होंगी। पात्र अभ्यर्थी उपलब्ध नहीं होने की स्थिति में रिक्त सीटें प्रवेश परीक्षा की प्रावीण्य सूची के अभ्यर्थियों से भरी जायेगी।

(2) छततीसगढ़ राज्य के अनुसूचित जनजाति, अनुसूचित जाति तथा अन्य पिछड़ा वर्ग (क्रीमीलेयर को छोड़कर) के अभ्यर्थियों के लिए सीटों का आरक्षण छत्तीसगढ़ शासन द्वारा जारी प्रचलित/नवीनतम अधिसूचना के अनुसार किया जावेगा। आरक्षण का लाभ लेने हेतु राज्य शासन द्वारा समय–समय पर प्राधिकृत सक्षम अधिकारी द्वारा जारी **स्थायी जाति प्रमाण पत्र** मान्य होगा।

(3) प्रवेश परीक्षा द्वारा भरी जाने वाली सीटों की सभी श्रेणियों में **सैनिक संवर्ग** के लिए 03 प्रतिशत, **स्वतंत्रता संग्राम सेनानी संवर्ग** हेतु 03 प्रतिशत, **दिव्यांग संवर्ग** हेतु 05 प्रतिशत एवं **महिला संवर्ग** हेतु 30 प्रतिशत श्रेणीवार क्षैतिज आरक्षण होगा।"

Subsequent to notification dated 15-07-2019 corrigendum has been issued on 13-11-2019 in which Rule 4(1)(b) has been amended and after the word 'निजी महाविद्यालयों' word 'अल्पसंख्यक संस्था को छोड़कर' inserted meaning thereby the notification dated 15-07-2019 has excluded the minority institutions of the State with respect to reservation in State quota seat within the state of C.G. In the said corrigendum after Rule 4(6), a new rule 7(a) has been inserted with reads as under:-

> "(7) (क) राज्य के अल्पसंख्यक समुदाय हेतु मान्यता प्राप्त निजी आयुष महाविद्यालयों के कुल स्वीकृत सीटों में से राज्य कोटे की सीटों का 70 प्रतिशत सीटें, प्रदेश के स्थानीय अल्पसंख्यक समुदाय (जिस धार्मिक या भाषायी अल्पसंख्यक समुदाय हेतु किसी महाविद्यालय को मान्यता दी गयी है) के अभ्यर्थियों के प्रवेश हेतु आरक्षित रहेंगी। इन सीटों पर प्रवेश अल्पसंख्यक समुदाय (जिस धार्मिक या भाषायी अल्पसंख्यक समुदाय हेतु किसी महाविद्यालय को मान्यता दी गयी है) के अभ्यर्थियों के परस्पर प्रावीण्यता सूची से की जाएगी। इन सीटों पर किसी भी स्थिती में अन्य अभ्यर्थियों को प्रवेश नहीं दिया जा सकेगा। शेष 30 प्रतिशत सीटों की पूर्ति सामान्य प्रावीण्यता सूची के अभ्यर्थियों द्वारा की जावेगी। इन सीटों पर छ0ग0 शासन का आरक्षण नियम लागू नहीं होगा।"

Further in Rule 8 of the said Rules, 2019 by way of corrigendum Rule 8(1) has also been amended and after the word 'सभी सीटों', word 'अल्पसंख्यक संस्थाओं के सीटों को छोड़कर' was inserted.

In supersession of the notification of Rules, 2019 the State Government has issued another notification on 06-09-2023 with respect to the Admission in Aayurvedic, Yog and Prakritik Chikitsa, Unani Sidhdh Sovarigpa and Homeopathy (Ayush) Colleges at Chhattisgarh which is called as C.G. Snatak Pathyakram Pravesh

Niyam, 2023 (C.G. Ayush Graduate Course Admission Rules, 2023).

The petitioners raised their grievance against Rule 4(1) of the Admission Rules, 2023 that the State cannot restrict the minority institutions to give admission of 50% State quota seats to the students who are domicile of Chhattisgarh. Rule 4(1) of the Admission Rules, 2023 is reproduced hereinbelow:-

"**4. सीटों का निर्धारण एवं आरक्षण :–**

(1) **सीटों का निर्धारण निम्नानुसार होगा :–**

(क) राज्य के सभी शासकीय एवं निजी आयुर्वेद, यूनानी तथा होम्योपैथी महाविद्यालयों की कुल सीटों में से 15 प्रतिशत सीट अखिल भारतीय कोटा के तहत एवं शेष 85 प्रतिशत सीट राज्य कोटे के तहत भरी जावेगी। निजी आयुर्वेद, यूनानी तथा होम्योपैथी महाविद्यालयों की अखिल भारतीय कोटा की सीटों पर नियमानुसार आरक्षण लागू नहीं होता है।

(ख) बी.एन.वाय.एस. पाठ्यक्रम की सभी सीटें राज्य कोटे के तहत राज्य काउंसलिंग समिति द्वारा भरी जायेंगी।

नोटः– केन्द्र सरकार द्वारा विदेशी छात्रों हेतु आयुष महाविद्यालयों में निर्धारित सीट राज्य कोटा के अंर्तगत होगी।

(ग) यूनानी महाविद्यालयों हेतु स्वीकृत प्रवेश क्षमता की कुल संख्या में से दस प्रतिशत सीटें प्रतिवर्ष मुख्य पाठ्यक्रम में पार्श्विक प्रवेश हेतु प्राग्तिब्ब (Pre-Tibb) पाठ्यक्रम उत्तीर्ण अभ्यर्थियों के लिये आरक्षित होंगी। पात्र अभ्यर्थी उपलब्ध नहीं होने की स्थिति में रिक्त सीटें प्रवेश परीक्षा (NEET) की प्रावीण्य सूची के अभ्यर्थियों से भरी जायेगी।

(घ) **अल्पसंख्यक महाविद्यालय की सीटों का निर्धारण निम्नानुसार होगा :–**

(i) राज्य के अल्पसंख्यक समुदाय हेतु मान्यता प्राप्त निजी आयुष महाविद्यालयों के कुल स्वीकृत सीटों में से राज्य कोटे की सीटों का 50 प्रतिशत सीटें, प्रदेश के स्थानीय निवासी अल्पसंख्यक समुदाय (जिस धार्मिक या भाषायी अल्पसंख्यक समुदाय हेतु किसी महाविद्यालय को मान्यता दी गयी है) के अभ्यर्थियों के प्रवेश हेतु आरक्षित रहेंगी। इन

सीटों पर प्रवेश उन्हीं अल्पसंख्यक समुदाय (जिस धार्मिक या भाषायी अल्पसंख्यक समुदाय हेतु किसी महाविद्यालय को मान्यता दी गयी है) के अभ्यर्थियों की प्रवेश परीक्षा (NEET) की परस्पर प्रावीण्यता सूची के आधार पर दिया जायेगा। सीटों के रिक्त रहने की स्थिति में उपरोक्त सीटों पर अन्य पात्र अभ्यर्थियों को प्रवेश दिया जा सकेगा। शेष 50 प्रतिशत सीटों की पूर्ति सामान्य प्रावीण्यता सूची (General Merit List) के अभ्यर्थियों द्वारा की जायेगी। इन सीटों पर छत्तीसगढ़ शासन का आरक्षण नियम लागू नहीं होगा।

(ii) अल्पसंख्यक समुदाय हेतु आरक्षित सीटों पर प्रवेश के लिए समुदाय विशेष (जिस धार्मिक या भाषायी अल्पसंख्यक समुदाय हेतु किसी महाविद्यालय को मान्यता दी गयी है) के अल्पसंख्यक अभ्यर्थी को सक्षम अधिकारी द्वारा जारी प्रमाण पत्र प्रस्तुत करना अनिवार्य होगा।"

The main grievance of the petitioners are that the petitioners being the unaided minority institution in the State, the State cannot fix 50% quota of 50% seats for the students of domicile of Chhattisgarh. The petitioners relied upon the judgment of the Hon'ble Supreme Court in the matter of **T.M.A. Pai Foundation and others Vs. State of Karnataka and others**, (2002) 8 SCC 481, **Islamic Academy of Education and another Vs. State of Karnataka and others**, (2003) 6 SCC 697 and **P.A. Inamdar and others Vs. State of Maharashtra and others**, (2005) 6 SCC 537.

9. In the matter of **P.A. Inamdar** (supra) the question for consideration before the Hon'ble Supreme Court has found place in para 27 of the said judgment which is as under:-

"**The question spelled out by orders of reference**

27. In the light of the two orders of reference, referred to hereinabove, we propose to confine our discussion to the questions set out hereunder which, according to us, arise for decision:

(1) To what extent can the State regulate admissions, made by unaided (minority or non-minority) educational institutions? Can the State enforce its policy or reservation and/or appropriate to itself any quota in admissions to such institutions?

(2) Whether unaided (minority and non-minority) educational institutions are free to devise their own admission procedure or whether the direction made in Islamic Academy (supra) for compulsory holding an entrance test by the State or association of institutions and to choose therefrom the students entitled to admission in such institutions, can be sustained in light of the law laid down in Pai Foundation (supra)?

(3) Whether Islamic Academy (supra) could have issued guidelines in the matter of regulating the fee payable by the students to the educational institutions?

(4) Can the admission procedure and fee structure be regulated or taken over by the Committees ordered to be constituted by Islamic Academy?"

While considering the issue the Hon'ble Supreme Court has held in para 125, 130 and 132 of the said judgment as under:-

"**125.** As per our understanding, neither in the judgment of Pai Foundation (supra) nor in the Constitution Bench decision in Kerala Education Bill (AIR 1958 SC 956) which was approved by Pai Foundation (supra) is there anything which would allow the State to regulate or control admissions in the unaided professional educational institutions so as to compel them to give up a share of the available seats to the candidates chosen by the State, as if it was filling the seats available to be filled up at its discretion in such private institutions. This would amount to nationalisation of seats which has been specifically disapproved in Pai Foundation. Such imposition of quota of State seats or enforcing reservation policy of the State on available seats in unaided professional institutions are acts of constituting serious encroachment on the right and autonomy of private professional educational institutions. Such appropriation of seats can also not be held to be regulatory measure in the interest of the minority within the meaning of Article 30(1) or a reasonable restriction within the meaning of Article 19(6) of the Constitution. Merely because the

resources of the State in providing professional education are limited, private educational institutions, which intend to provide better professional education, cannot be forced by the State to make admissions available on the basis of reservation policy to less meritorious candidates. Unaided institutions, as they are not deriving any aid from State funds, can have their own admissions if fair, transparent, non-exploitative and based on merit."

130. For the aforesaid reasons, we cannot approve of the scheme evolved in Islamic Academy (supra) to the extent it allows the States to fix quota for seat-sharing between the management and the States on the basis of local needs of each State, in the unaided private educational institutions of both minority and non-minority categories. That part of the judgment in Islamic Academy (supra) in our considered opinion, does not lay down the correct law and runs counter to Pai Foundation (supra).

132. Our answer to the first question is that neither the policy of reservation can be enforced by the State nor any quota or percentage of admissions can be carved out to be appropriated by the State in a minority or non-minority unaided educational institution. Minority institutions are free to admit students of their own choice including students of non-minority community as also members of their own community from other States, both to a limited extent only and not in a manner and to such an extent that their minority educational institution status is lost. If they do so, they lose the protection of Article 30(1)."

10. The minority and minority educational institutions has been defined in the **P.A. Inamdar** case (supra) in para 95 which reads as under:-

"**95.** The term "minority" is not defined in the Constitution. Chief Justice Kirpal, speaking for the majority in Pai Foundation (supra) took a clue from the provisions of the States Reorganisation Act and held that in view of India having been divided into different linguistic States, carved out on the basis of the language of the majority of persons of that region, it is the State, and not the whole of India, that shall have to be taken as the unit for determining a linguistic minority vis-à-vis Article 30. Inasmuch as Article 30(1) places on par religions and languages, he held that the minority status, whether by reference to language or

> by reference to religion, shall have to be determined by treating the State as a unit. The principle would remain the same whether it is a Central legislation or a State legislation dealing with a linguistic or religious minority. Khare, J. (as His Lordship then was), Quadri, J. and Variava and Bhan, JJ. in their separate concurring opinions agreed with Kirpal, C.J. According to Khare, J., take the population of any State as a unit, find out its demography and calculate if the persons speaking a particular language or following a particular religion are less than 50% of the population, then give them the status of linguistic or religious minority. The population of the entire country is irrelevant for the purpose of determining such status. Quadri, J. opined that the word "minority" literally means "a non-dominant" group. Ruma Pal, J. defined the word "minority" to mean "numerically less". However, she refused to take the State as a unit for the purpose of determining minority status as, in her opinion, the question of minority status must be determined with reference to the country as a whole. She assigned reasons for the purpose. Needless to say, her opinion is a lone voice. Thus, with the dictum of Pai Foundation (supra) it cannot be doubted that a minority, whether linguistic or religious, is determinable only by reference to the demography of a State and not by taking into consideration the population of the country as a whole."

11. Learned counsel for the petitioners would rely upon para 132 of the P.A. Inamdar case (supra) which is answer of question No.1 raised which has already been quoted above.

12. In the matter of **Dr. Aditi Jain and others Vs. State of Chhattisgarh and others**, the coordinate Bench of this Court has passed order dated 20-11-2012 in WPC No.1356 of 2012 relying upon the judgment of P.A. Inamdar case (supra) has held that no quota or percentage can be fixed in favour of the State with respect to the seats and unaided private professional educational institutions. In para 45 and 46 of Dr. Aditi Jain case (supra) it has been observed that:-

"45. In the Inamdar case, the Supreme Court considered the preceding three cases and framed four questions to be answered. The first question was as follows:

> '(1) To what extent can the State regulate admissions made by unaided (minority or non-minority) educational institutions? Can the State enforce its policy of reservation and/or appropriate to itself any quota in admissions to such institutions?'

46. The Court answered (see below for relevant paragraph of the court's decision)[1] the aforesaid question in favour of unaided educational institutions. The Court has held that no quota or percentage can be fixed in favour of the State."

Relying upon the judgment of P.A. Inamdar case (supra) it has been held that no quota or percentage can be fixed in favour of the State with respect to the seats in unaided private professional educational institutions.

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1 The relevant part of observations of the Supreme Court in the Inamdar case is as follows:-

> '124. So far as appropriation of quota by the State and enforcement of its reservation policy is concerned, we do not see much of a difference between non-minority and minority unaided educational institutions. We find great force in the submission made on behalf of the petitioners that the States have no power to insist on seat-sharing in unaided private professional educational institutions by fixing a quota of seats between the management and the State.
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> …….
>
> 130. …….. We cannot approve of the scheme evolved in the Islamic Academy case to the extent it allows the States to fix quota for seat-sharing between the management and the States on the basis of local needs of each State, in the unaided private educational institutions of both minority and non-minority categories. That part of the judgment in the Islamic Academy case in our considered opinion, does not lay down the correct law and runs counter to Pai case.
>
> ……..
>
> 132. Out answer to the first question is that neither the policy of reservation can be enforced by the State nor any quota or percentage of admissions can be carved out to be appropriated by the State in a minority or non-minority unaided educational institution.'

13. In the matter of **T.M.A. Pai Foundation** case (supra) in para 68 the Hon’ble Supreme Court has held that though unaided professional institutions are entitled to autonomy in their administration but, at the same time, they do not forgo or discard the principle of merit. Therefore, it would 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. Reservation of seats to a certain percentage for admission by management and rest of the seats may be filled up on the basis of counseling 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 percentage can be fixed for minority unaided and non-minority unaided and professional colleges.

14. In **P.A. Inamdar case** (supra) the Hon’ble Supreme Court has come into conclusion that the States have no power to insist on seat sharing in the unaided private professional educational institutions by fixing a quota of seats between the management and the State. The State cannot insist on private educational institutions which receive no aid from the State to implement State's policy on reservation for granting admission on lesser percentage of marks, i.e. on any criterion except merit. While answering the first question the Hon’ble Supreme Court in para

132 of its judgment observed that:-

> "**132.** Our answer to the first question is that neither the policy of reservation can be enforced by the State nor any quota or percentage of admissions can be carved out to be appropriated by the State in a minority or non-minority unaided educational institution. Minority institutions are free to admit students of their own choice including students of non-minority community as also members of their own community from other States, both to a limited extent only and not in a manner and to such an extent that their minority educational institution status is lost. If they do so, they lose the protection of Article 30(1)."

15. The said finding of the **P.A. Inamdar** case (supra) is further relied upon/followed by the coordinate Bench of this Court in WPC No.1356/2012 in Dr. Aditi Jain's case (supra) that no quota or percentage can be fixed in favour of the State in such institutions.

16. In the matter of **Modern Dental College & Research Center Vs. State of M.P.**, [(2016) 7 SCC 353] the Hon'ble Apex Court has held that:

> "63. In this direction, the next question that arises is as to what criteria is to be adopted for a proper balance between the two facets viz. the rights and limitations imposed upon it by a statute. Here comes the concept of "proportionality", which is a proper criterion. To put it pithily, when a law limits a constitutional right, such a limitation is constitutional if it is proportional. The law imposing restrictions will be treated as proportional if it is meant to achieve a proper purpose, and if the measures taken to achieve such a purpose are rationally connected to the purpose, and such measures are necessary. This essence of doctrine of proportionality is beautifully captured by Dickson, C.J. of Canada in R.v. Oakes [R. v. Oakes, (1986) 1 SCR 103 (Can SC)], in the following words (at p. 138):……..
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> > "To establish that a limit is reasonable and demonstrably justified in a free and democratic society, two central criteria must be satisfied. First, the objective, which the measures, responsible for a limit on a Charter right or freedom are designed to serve, must be "of" sufficient importance to warrant overriding a constitutional protected right or freedom ... Second ... the party invoking Section 1 must show that the means chosen are reasonable and demonstrably justified. This involves "a form of proportionality test..." Although the nature of the proportionality test will vary depending on the circumstances, in each case courts will be required to balance the interests of society with those of individuals and groups. There are, in my view, three important

> components of a proportionality test. First, the measures adopted must be …. rationally connected to the objective. Second, the means … should impair "as little as possible" the right or freedom in question ... Third, there must be a proportionality between the effects of the measures which are responsible for limiting the Charter right or freedom, and the objective which has been identified as of "sufficient importance". The more severe the deleterious effects of a measure, the more important the objective must be if the measure is to be reasonable and demonstrably justified in a free and democratic society."

65. We may unhesitatingly remark that this doctrine of proportionality, explained hereinabove in brief, is enshrined in Article 19 itself when we read clause (1) along with clause (6) thereof. While defining as to what constitutes a reasonable restriction, this Court in a plethora of judgments has held that the expression "*reasonable restriction*" seeks to strike a balance between the freedom guaranteed by any of the sub-clauses of clause (1) of Article 19 and the social control permitted by any of the clauses (2) to (6). It is held that the expression "*reasonable*" connotes that the limitation imposed on a person in the enjoyment of the right should not be arbitrary or of an excessive nature beyond what is required in the interests of public. Further, in order to be reasonable, the restriction must have a reasonable relation to the object which the legislation seeks to achieve, and must not go in excess of that object (see *P.P. Enterprises v. Union of India,* (1982) 2 SCC 33: 1982 SCC (Cri) 341]). At the same time, reasonableness of a restriction has to be determined in an objective manner and from the standpoint of the interests of the general public and not from the point of view of the persons upon whom the restrictions are imposed or upon abstract considerations (see *Mohd. Hanif Quareshi v. State of Bihar,* AIR 1958 SC 731: 1959 SCR 629). In *M.R.F. Ltd. v. State of Kerala,* (1998) 8 SCC 227: 1999 SCC (L&S) 1, this Court held that in examining the reasonableness of a statutory provision one has to keep in mind the following factors:

(1) The directive principles of State policy.

(2) Restrictions must not be arbitrary or of an excessive nature so as to go beyond the requirement of the interest of the general public.

(3) In order to judge the reasonableness of the restrictions, no abstract or general pattern or a fixed principle can be laid down so as to be of universal application and the same will vary from case to case as also with regard to changing conditions, values of human life, social philosophy of the Constitution, prevailing conditions and the surrounding circumstances.

(4) A just balance has to be struck between the restrictions imposed and the social control envisaged by Article 19(6).

(5) Prevailing social values as also social needs which are intended to be satisfied by the restrictions.

(6) There must be a direct and proximate nexus or reasonable connection between the restrictions imposed and the object sought to be achieved. If there is a direct nexus between the restrictions, and the object of the Act, then a strong presumption in favour of the constitutionality of the Act will naturally arise."

17. In the matter of **Christian Medical College Vellore Assn. Vs.**

Union of India, (2020) 8 SCC 705, the Hon'ble Supreme Court has held as under:-

> "**22**. In Sidhajbhai Sabhai v. State of Gujarat (1963) 3 SCR 837 : AIR 1963 SC 540, the Court again considered the matter and observed that educational institutions cater to the needs of the citizens or section thereof. Regulation made in the real interests of efficiency of instruction, discipline, health, sanitation, morality, public order, and the like may undoubtedly be imposed. Such regulations are not restrictive on the substance of the right, which is guaranteed, they secure the proper functioning of the institution in the matter of education. It was also observed that regulation must satisfy a dual test — the test of reasonableness and that it is regulative of the educational character of the institution and is conducive to making the institution a capable vehicle of education for the minority community or other persons who resort to it. In Father W. Proost and Ors. v. State of Bihar, AIR 1969 SC 465, the Court observed thus:
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> > "8. In our opinion, the width of Article 30(1) cannot be cut down by introducing in it considerations on which Article 29(1) is based. The latter article is a general protection which is given to minorities to conserve their language, script, or culture. The former is a special right to minorities to establish educational institutions of their choice. This choice is not limited to institution seeking to conserve language, script, or culture, and the choice is not taken away if the minority community having established an educational institution of its choice also admits members of other communities. That is a circumstance irrelevant for the application of Article 30(1) since no such limitation is expressed and none can be implied. The two articles create two separate rights, although it is possible that they may meet in a given case."
>
> **23.** In Ahmedabad St. Xavier's College Society v. State of Gujarat, (1974) 1 SCC 717, a college was run by the minority. A Bench of 9 Judges of this Court considered the question whether Sections 40 and 41 of the Gujarat University Act, 1949 violated Section 30, which provided all colleges within the University area would be governed by the statutes of the University which may provide or minimum educational qualifications for teachers and tutorial staff. The University may approve the appointments of teachers to coordinate and regulate the facilities provided and expenditure incurred. The Court opined that regulation which serves the interests of the teachers are of paramount importance in good administration, education should be a great cohesive force in developing integrity of the nation, thus: (SCC pp. 745-46, 748, 752, 781-82 & 784, paras 19, 20, 30-31, 46-47, 90-92 & 94)
>
> > "19. The entire controversy centres round the extent of the right of the religious and linguistic minorities to administer their educational institutions. The right to administer is said to consist of four principal matters. First is the right to choose its managing or governing body. It is said that the founders of the minority institution have faith and confidence in their own committee or body consisting of persons elected by them. Second is the right to choose its teachers. It is said that minority institutions want teachers to have compatibility with the ideals, aims, and aspirations

of the institution. *Third is the right not to be compelled to refuse admission to students*. In other words, the minority institutions want to have the right to admit students of their choice subject to *reasonable regulations about academic qualifications. Fourth is the right to use its* properties and assets for the benefit of its own institution.

20. The right conferred on the religious and linguistic minorities to administer educational institutions of their choice is not an absolute right. This right is not free from regulation. Just as regulatory measures are necessary for maintaining the educational character and content of minority institutions, similarly, regulatory measures are necessary for ensuring orderly, efficient, and sound administration. Das, C.J., in the *Kerala Education Bill case* (supra) 1959 SCR 995: AIR 1958 SC 956, summed up in one sentence the true meaning of the right to administer by saying that the right to administer is not the right to mal-administer.

* * *

30. Educational institutions are temples of learning. The virtues of human intelligence are mastered and harmonised by education. Where there is complete harmony between the teacher and the taught, where the teacher imparts and the student receives, where there is complete dedication of the teacher and the taught in learning, where there is discipline between the teacher and the taught, where both are worshippers of learning, no discord or challenge will arise. An educational institution runs smoothly when the teacher and the taught are engaged in the common ideal of pursuit of knowledge. It is, therefore, manifest that the appointment of teachers is an important part in educational institutions. The qualifications and the character of the teachers are really important. The minority institutions have the right to administer institutions. This right implies the obligation and duty of the minority institutions to render the very best to the students. In the right of administration, checks, and balances in the shape of regulatory measures are required to ensure the appointment of good teachers and their conditions of service. The right to administer is to be tempered with regulatory measures to facilitate smooth administration. The best administration will reveal no trace or colour of minority. A minority institution should shine in exemplary eclecticism in the administration of the institution. The best compliment that can be paid to a minority institution is that it does not rest on or proclaim its minority character.

31. *Regulations which will serve the interests of the students*, regulations which will serve the interests of the teachers are of paramount importance *in good administration. Regulations in the interest of efficiency of teachers*, discipline, and fairness in administration are necessary for preserving harmony among affiliated institutions.

* * *

46. The ultimate goal of a minority institution too imparting general secular education is advancement of learning. This Court has consistently held that it is not only permissible but

also desirable to regulate everything in educational and academic matters for achieving excellence and uniformity in standards of education.

47. *In the field of administration it is not reasonable to claim that minority institutions will have complete autonomy*. *Checks on the administration may be necessary in order to ensure that the administration is efficient and sound and will serve the academic needs of the institution*. The right of a minority to administer its educational institution involves, as part of it, a correlative duty of good administration.

90. We may now deal with the scope and ambit of the right guaranteed by clause (1) of Article 30. The clause confers a right on all minorities, whether they are based on religion or language, to establish and administer educational instructions of their choice. The right conferred by the clause is in absolute terms and is not subject to restrictions, as in the case of rights conferred by Article 19 of the Constitution. The right of the minorities to administer educational institutions does not, however, prevent the making of reasonable regulations in respect of those institutions. The regulations have necessarily to be made in the interest of the institution as a minority educational institution. They have to be so designed as to make it an effective vehicle for imparting education. The right to administer educational institutions can plainly not include the right to maladminister. Regulations can be made to prevent the housing of an educational institution in unhealthy surroundings as also to prevent the setting up or continuation of an educational institution without qualified teachers. *The State can prescribe regulations to ensure the excellence of the institution*. Prescription of standards for educational *institutions does not militate against the right of the minority to administer the institutions. Regulations made in the true interests of efficiency of instruction, discipline, health, sanitation, morality, public order, and the like may undoubtedly be imposed. Such regulations are not restrictions on the substance of the right, which is guaranteed: they secure the proper functioning of the institution, in matters educational* [see observations of Shah, J. in Sidhajbhai Sabhai (supra), [(1963 3 SCR 837] p. 850]. Further, as observed by Hidyatullah, C.J. in Very Rev. Mother Provincial (supra) [(1970) 2 SCC 417], the standards concern the body politic and are dictated by considerations of the advancement of the country and its people. Therefore, if universities establish syllabi for examinations, they must be followed, subject, however, to special subjects which the institutions may seek to teach, and to a certain extent, the State may also regulate the conditions of employment of teachers and the health and hygiene of students. Such regulations do not bear directly upon management as such, although they may indirectly affect it. Yet the right of the State to regulate education, educational standards, and allied matters cannot be denied. *The minority institutions cannot be allowed to fall below the standards of excellence expected of educational institutions, or under the guise of exclusive right of management, to decline to follow the general pattern. While*

the management must be left to them, they may be compelled to keep in step with others.

* * *

92. A regulation which is designed to prevent maladministration of an educational institution cannot be said to offend Clause (1) of Article 30. At the same time, it has to be ensured that under the power of making regulations, nothing is done as would detract from the character of the institution as a minority educational institution or which would impinge upon the rights of the minorities to establish and administer educational institutions of their choice. The right conferred by Article 30(1) is intended to be real and effective and not a mere pious and abstract sentiment; it is a promise of reality and not a teasing illusion. Such a right cannot be allowed to be whittled down by any measure masquerading as a regulation. As observed by this Court in the case of Sidhajbhai Sabhai (supra) [(1963 3 SCR 837], regulations which may lawfully be imposed either by legislative or executive action as a condition of receiving grant or of recognition must be directed to *making the institution while retaining its character as minority institution effective as an educational institution. Such regulation must satisfy a dual test — the test of reasonableness, and the test that it is regulative of the educational character of the institution* and is conducive to making the institution an effective vehicle of education for the minority community or other persons who resort to it.

* * *

94. *If a request is made for the affiliation or recognition of an educational institution, it is implicit in the request that the educational institution would abide by the regulations which are made by the authority granting affiliation or recognition. The said authority can always prescribe regulations and insist that they should be complied with before it would grant affiliation or recognition to an educational institution*. To deny the power of making regulations to the authority concerned would result in robbing the concept of affiliation or recognition of its real essence. No institution can claim affiliation or recognition until it conforms to a certain standard. The fact that the institution is of the prescribed standard indeed inheres in the very concept of affiliation or recognition. It is, therefore, permissible for the authority concerned to prescribe regulations which must be complied with before an institution can seek and retain affiliation and recognition. Question then arises whether there is any limitation on the prescription of regulations for minority educational institutions. So far as this aspect is concerned, the authority prescribing the regulations must bear in mind that the Constitution has guaranteed a fundamental right to the minorities for establishing and administering their educational institutions. Regulations made by the authority concerned should not impinge upon that right. *Balance has, therefore, to be kept between the two objectives, that of ensuring the standard of excellence of the institution and that of preserving the right of the minorities to establish* and administer their educational institutions. Regulations which

embrace and reconcile the two objectives can be considered to be reasonable."

32. In T.M.A. Pai Foundation (supra) [(2002) 8 SCC 481], the Court held that some system of computing equivalence between different kinds of qualifications like a common entrance test, would not be in violation of the rights conferred. The unaided minority institutions under Article 30(1) of the Constitution of India have the right to admit students, but the merit may be determined by common entrance test and the rights under Article 30(1) are not absolute so as to prevent the Government from making any regulations. The Government cannot be prevented from framing regulations that are in national interest. However, the safeguard is that the Government cannot discriminate any minority institution and put them in a disadvantageous position vis-à-vis to other educational institutions and has to maintain the concept of equality in real sense. The minority institutions must be allowed to do what non-minority institutions are permitted. It is open to State/bodies concerned to frame regulations with respect affiliation and recognition, to provide a proper academic atmosphere. While answering Question 4, it was held that the Government or the university can lay down the regulatory measures ensuring educational standards and maintaining excellence and more so, in the matter of admission to the professional institutions. It may not interfere with the rights so long as the admissions to the unaided minority institutions are on transparent basis and merit is adequately taken care of."

18. Further in the matter of **Sidhrajbhai Sabbai Vs. State of Gujarat**, AIR 1963 SC 540, which has been followed in **Christian Medical College Vellore** case (supra), the Hon'ble Supreme Court has held in para 15 and 16 that:-

15. The right established by Article 30(1) is a fundamental right declared in terms absolute. Unlike the fundamental freedoms guaranteed by Article 19 it is not subject to reasonable restrictions. It is intended to be a real right for the protection of the minorities in the matter of setting up of educational institutions of their own choice. The right is intended to be effective and is not to be whittled down by so called regulative measures conceived in the interest not of the minority educational institution, but of the public or the nation as a whole. If every order which while maintaining the formal character of a minority institution destroys the power of administration is held justifiable because it is in the public or national interest, though not in its interest as an educational institution the right guaranteed by Article 30(1) will be but a "teasing illusion" a promise of unreality. Regulations which may lawfully be imposed either by legislative or executive action as a condition of receiving grant or of recognition must be directed to making the institution while retaining its character as a minority institution effective as an educational institution. Such regulation must satisfy a dual test-the test of reasonableness, and the test that it is regulative of the educational character of the institution and is conducive to making the institution an effective vehicle of education for the minority community or other persons who resort to it.

16. We are, therefore, of the view that the Rule 5(2) of the Rules for Primary Training Colleges, and Rules 11 and 14 for recognition of

> Private Training Institutions, in so far as they relate to reservation of seats therein under orders of Government, and directions given pursuant thereto regarding reservation of 80% of the seats and the threat to withhold grant-in aid and recognition of the College, infringe the fundamental freedom guaranteed to the petitioners under Article 30(1).”

19. From bare perusal of the rule 4(1)(d)(i) of the Admission Rules, 2023 appears that it has fixed 15% seats for all India quota and 85% for the State quota, Out of 85 % of the State quota 50% have been fixed for the domicile of State of C.G. which means that if the requisite numbers of students are not available from the domicile of State of C.G., the State minority institution has to permit the students from outside of the State for admission.

20. From perusal of the impugned part of the notification, it no doubt provides that only residents of C.G. belonging to that particular minority community could be admitted against 50% seats of the college, but in view of the constitutional right under Article 30 of the Constitution, the clause will have to mention that if candidates from within the State of C.G. belonging to that particular community were available, then the college was obliged to admit only those students and in case the said students were not available within the State then it shall open to the college to look for such students from outside the State. Article 30 of the Constitution provides to all minorities whether based on religion or language to establish and administer educational institution of their choice.

By the said proposition the institutions established by the minorities are required to admit requisite number of students of their community which in the instant case was 50% of the total

seats of the said college. If that clause is to be strictly adhered, then no student from outside of the Sate are to be allowed admission then the clause would violate constitutional right of the minority institution as guaranteed under Article 30 of the Constitution of India.

21. In view of the above discussion and the law laid down by the Hon'ble Supreme Court in P.A. Inamdar's case (supra) and also the order passed in Dr. Aditi Jain's case (supra) by coordinate Bench of this Court, we are also of the opinion that the State cannot fix quota in unaided private professional institution between the Management and the State. Therefore, we deem it appropriate to declare sub-clause (i) of clause (d) of sub-rule (1) of rule 4 of C.G. Ayush Graduate Course Admission Rules, 2023 as ultra vires and hold that the State cannot fix quota or percentage of admission in unaided minority educational institutions. For the foregoing reasons the petition is allowed and the provision of sub-clause (i) of clause (d) of sub-rule (1) of Rule 4 of the C.G. Ayush Graduate Course Admission Rules, 2023 is declared as ultra vires.

22. In view of the declaration of Rule 4(1)(d)(i) of the Admission Rules, 2023 as ultra vires, the State Govt. is directed to issue necessary instructions with respect to admission in BAMS course in unaided minority institution.

Sd/-

(Ravindra Kumar Agrawal)
Judge

Sd/-

(Ramesh Sinha)
Chief Justice

Aadil

Head Note

For admission in BAMS Courses the State cannot fix quota in unaided minority professional educational institutions between the Management and the State.