REPORTABLE

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 364 OF 2005

All India Council for Technical Education .... Appellant

Versus

Shri Prince Shivaji Maratha Boarding House's College of Architecture & Ors. .... Respondents

WITH

CIVIL APPEAL NO. 8506 OF 2019
(Arising out of SLP(C) No. 5400/2011)

CIVIL APPEAL NO. 8507 OF 2019
(Arising out of SLP(C) No. 8443/2011)

CIVIL APPEAL NO. 8511 OF 2019
(Arising out of SLP(C) No. 20460/2011)

CIVIL APPEAL NO. 8509 OF 2019
(Arising out of SLP(C) No. 17006/2016)

CIVIL APPEAL NO. 8508 OF 2019
(Arising out of SLP(C) No. 17005/2016)

CIVIL APPEAL NO. 8510 OF 2019
(Arising out of SLP(C) No. 28121/2018)

J U D G M E N T

ANIRUDDHA BOSE, J.

Delay condoned in SLP(C)No.17005 of 2016 and SLP(C)No.17006 of 2016. Leave is granted in all the six petitions for special leave to appeal.

2. This set of appeals mainly involves the question as to whether the mandate of the Council of Architecture (CoA) or that of the All India Council for Technical Education (AICTE) would prevail on the question of granting approval and related matters to an institution for conducting architectural education course, if there is any contradiction in the opinions of these two bodies. Both of them are regulatory bodies constituted by Parliamentary legislations having power to approve or recognize and thereafter monitor working of such an institution.

3. The CoA owes its origin to the provisions of Section 3 of the Architects Act, 1972 (the 1972 Act). AICTE has also been constituted under the provisions of Section 3 of the All India Council of Technical Education Act, 1987 (the 1987 Act). As the preambles of these two statutes suggest, the former has been enacted to provide for registration of Architects and for matters connected therewith. The object of the latter statute is to provide for a Council with a view to proper planning and coordinated development of the technical education system throughout the country, promotion of qualitative

improvements of such education in relation to planned quantitative growth and the regulation and proper maintenance of norms and standards in the technical education system and for matters connected therewith. Section 2(g) of the 1987 Act stipulates:-

> "technical education" means programmes of education, research and training in engineering technology, architecture, town planning, management, pharmacy and applied arts and crafts and such other programme or areas as the central government may, in consultation with the Council, by notification in the official Gazette, declare;"

4. Though the preamble of the 1972 Act projects the aim of the legislation to provide for registration of architects, this statute also deals with educational aspects of a course in architecture. Duties of CoA under the 1972 Act includes undertaking steps for recognizing qualifications for the purposes of the said Act. Such recognition, as, contemplated by the Act, is at two levels. There is a schedule to the Act which lists diplomas and degrees awarded by named Indian and foreign institutes or bodies. Section 14 of the 1972 Act describes them as authorities. These degrees and diplomas are recognized qualifications under the said statute. There is also provision for amendment of the schedule, so as to incorporate therein architectural qualification granted by

any authority in India. The CoA under the said Act however has not been conferred with the power to directly recognise the architectural qualification. The Central government is the authority to undertake that exercise. CoA under the 1972 statute is a consulting body. The effect of recognition by the Central Government is that such recognised qualification shall be sufficient for enrollment in the register of architects maintained under the said Act. After such registration, a person can claim to be an architect under the law. Section 25 of the 1972 Act prescribes three modes for entry into the register, the main one being holding a recognised qualification. Sub-clause (b) of the said provision preserves the right of practising architects at the time of initial preparation of the register. The said sub-clause is not relevant so far the subject-controversy is involved. Section 25 (c) prescribes as a condition for entering one's name in the register, possession of such other qualifications as may be prescribed by the Rules. But no such Rule providing for any additional qualification has been brought to our notice by the learned counsel appearing for the parties.

5. On the question of qualification of architects, Section 2 (d) of the 1972 Act defines "recognised qualification" to mean any qualification in architecture for the time being included in the Schedule or notified under Section 15 thereof. The lis in this set of appeals does not relate to the provisions of Section 15 of the 1972 Act, which is in respect of qualification from a foreign educational body.

6. The expression "approval", however, is not employed in the 1972 Act. This Act deals with recognition of qualification in architecture. Section 14 of the 1972 Act stipulates: -

> "**14. Recognition of qualifications granted by authorities in India**.— (1) The qualifications included in the Schedule or notified under Section 15 shall be recognised qualifications for the purposes of this Act.
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> (2) Any authority in India which grants an architectural qualification not included in the Schedule may apply to the Central Government to have such qualification recognised, and the Central Government, after consultation with the Council, may, by notification in the Official Gazette, amend the Schedule so as to include such qualification therein, and any such notification may also direct that an entry shall be made in the Schedule against such architectural qualification declaring that it shall be a recognised qualification only when granted after a specified date:
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> Provided that until the first Council is constituted, the Central Government shall, before

issuing any notification as aforesaid, consult an Expert Committee consisting of three members to be appointed by the Central Government by notification in the Official Gazette."

7. The power to amend the schedule is vested with the Central Government under Section 16 of the 1972 Act. This provision reads:-

> **"16. Power of Central Government to amend Schedule**.—Notwithstanding anything contained in sub-section (2) of Section 14, the Central Government, after consultation with the Council, may, by notification in the Official Gazette, amend the Schedule by directing that an entry be made therein in respect of any architectural qualification."

8. So far as the 1987 Act is concerned, Section 10 thereof, inter-alia, specifies: -

> "**POWERS AND FUNCTIONS OF THE COUNCIL**
>
> **10.** It shall be the duty of the Council to take all such steps as it may think fit for ensuring coordinated and integrated development of technical education and maintenance of standards and for the purposes of performing its functions under this Act, the Council may:-
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> xxx xxx xxx
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> xxx xxx xxx
>
> (i) lay down norms and standards for courses, curricula, physical and instructional facilities, staff pattern, staff qualifications, quality instructions, assessment and examinations;
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> (j) fix norms and guidelines for charging tuition and other fees;
>
> (k) grant approval for starting new technical institutions and for introduction of new courses or

programmes in consultation with the agencies concerned;

xxx xxx xxx

(m) lay down norms for granting autonomy to technical institutions;

xxx xxx xxx

(o) provide guidelines for admission of students to technical institutions and Universities imparting technical education;

(p) inspect or cause to inspect any technical institution;

(q) withhold or discontinue grants in respect of courses, programmes to such technical institutions which fail to comply with the directions given by the Council within the stipulated period of time and take such other steps as may be necessary for ensuring compliance of the directions of the Council;"

9. In this judgment, altogether seven appeals shall be dealt with, all of which involve the dispute outlined in the first paragraph. The main appeal which has been argued before us in detail is Civil Appeal No.364 of 2005. The appellant in this proceeding is **AICTE** and its appeal is against the judgment of a Division Bench of the Bombay High Court delivered on 8th September 2004 in Writ Petition No.5942 of 2004. Dispute in this matter pertains to intake capacity of an institution by the name of **Shri Prince Shivaji Maratha Boarding House's College of Architecture**. The CoA, on carrying out inspection of the college in the year 2004 chose to restore the intake

capacity of 40 students per year which was reduced to 30 students for two earlier academic years, 2003-2004 and 2004-2005. Such reduced intake capacity was based on a joint inspection undertaken by CoA and AICTE on 25th April 2003. The CoA had decided to restore the intake capacity to 40 students by a communication on 18th May 2004 upon being satisfied with a compliance report filed by the institution followed by inspection. For the Academic Year 2004-05 the Director of Technical Education, however, fixed the intake capacity of 30 students in respect of same institution on the basis of norms and standards fixed by the AICTE. Questioning legality of such action, the institution and the trust which ran the latter, brought an action under Article 226 of the Constitution of India before the High Court. The Bench of the High Court framed the question for adjudication in the following terms:

> "3.....whether the All India Council of Technical Education Act, 1987 (for short, 'AICTE Act') overrides the provisions of the Architects Act, 1972 in the matter of prescribing and regulating norms and standards of architectural institutions. In other words, whether the AICTE Act which is a later Act has impliedly repealed the provisions of the Architects Act....."

10. The Bench of the Bombay High Court found, on examination of the scheme of both the statutes that the 1972 Act was specially designed to deal with the architects and maintenance of the standards of architectural education and profession with recognized qualifications. The scope of the AICTE Act, in the opinion of the Bench, covered various programmes of education, research and training in wide range of subjects including architecture. The Bench held that the 1972 Act was not impliedly repealed by the 1987 Act and quashed the order of the AICTE authorities reducing the intake capacity. Relying, inter alia, on a decision of a two-Judge Bench of this Court in the case of **Bharathidasan University and Another vs. All India Council for Technical Education & Others**,[1] the High Court upheld the power of regulatory body under the 1972 Act as the final authority for the purpose of fixing the norms and standards of institutions running course on architecture. In the judgment appealed against, it was observed, after referring to different authorities: -

> "20…….. It is obvious that the legislature never intended to confer on the AICTE a super power undermining the status, authority and autonomous functioning of the existing statutory bodies in areas and spheres assigned to them under the respective legislations. There is

[1] (2001) 8 SCC 676

> nothing in the AICTE Act to suggest a legislative intention to belittle and destroy the authority or autonomy of Council of Architecture which is having its own assigned role to perform. The role of the AICTE vis-à-vis the Council of Architects is advisory and recommendatory and as a guiding factor and thereby subserving the cause of maintaining appropriate standards and qualitative norms. It is impossible to conceive that the Parliament intended to abrogate the provisions of the Architects Act embodying a complete code for architectural education, including qualifications of the architects by enacting a general provision like section 10 of the AICTE Act. It is clear that the Parliament did have before it the Architects Act when it passed AICTE Act and Parliament never meant that the provisions of the Architects Act stand pro tanto repealed by section 10 of the AICTE Act. We, therefore, hold that the provisions of the Architects Act are not impliedly repealed by the enactment of AICTE Act because in so far as the Architecture Institutions are concerned, the final authority for the purposes of fixing the norms and standards would be the Council of Architecture. Accordingly, we quash and set aside the order of the Deputy Director reducing the intake capacity of the petitioner college of architecture from 40 to 30. Rule is accordingly made absolute in terms of prayer clauses (a) and (b) with no order as to costs."

11. SLP(C) No.5400 of 2011 also originates from a similar controversy and the appellant in this proceeding is **Rajiv Gandhi Proudyogiki Vishwavidayalaya.** This appeal arises out of a judgment delivered by a Division Bench of the Madhya Pradesh High Court in a Writ Petition brought by a Society (**Bhartiya Vidya Mandir Shiksha Samiti**) running a college of Architecture. The said writ petition was registered as W.P. No.315 of 2011 and the

judgment was delivered on 2nd February, 2011. In this case, the institution had been granted permission by the AICTE to conduct B. Arch Degree course with intake of 80 students for the academic sessions 2010-2011 and it was seeking affiliation from the said University. The Directorate of Technical Education had allotted 16 students to the institute upon conducting online counselling. The CoA, however, had mandated that the said institution ought to have a separate building, independent school or college of architecture and it should have separate infrastructure facilities for the aforesaid purpose. The appellant University (respondent No.2 in the Writ Petition) informed the institution that it could grant affiliation to them after approval of the programme B. Arch. by the CoA. This was contained in clause 2 of a communication issued by the University, dated 6th September 2010. In course of hearing before the High Court, as recorded in the judgment under appeal, it was submitted on behalf of the institution that it would construct their own building for the purpose of B. Arch. Degree course within a period of one year. The Bench of Madhya Pradesh High Court directed the appellant University to consider the matter with regard to grant of temporary affiliation to the institution without insisting

upon compliance of condition No.2 in the letter dated 6th September 2010. The Bench, however, directed compliance of aforesaid condition of the CoA within a period of one year for conducting the said course and if no such compliance was made, and the institution could not get approval from AICTE (respondent No.3 in that proceeding) within the stipulated period, admission of students for B. Arch. course in future was made impermissible. In this decision, co-existence of power of both the regulatory bodies was in substance accepted. One of the questions on which the University wants decision of this Court in this appeal is whether the various regulations framed in pursuance of the 1972 Act could be overlooked by the Bench of the High Court in issuing such directions.

12. SLP(Civil) No. 8443 of 2011 is an appeal by the institution concerned, being **Bhartiya Vidya Mandir Shiksha Samiti**, assailing the same judgment of the Madhya Pradesh High Court, delivered in Writ Petition No. 315 of 2011 on 2nd February 2011. In this appeal also, the question of conflict of powers in deciding admission norms between CoA and AICTE has been raised. The power of the

CoA to direct construction of a separate building is specifically questioned in this appeal.

13. The same judgment has also been assailed by the CoA in SLP(Civil) No. 20460 of 2011. One of the grievances of the CoA in this appeal is that it was not made a party in the Writ Petition in which the High Court had directed granting of temporary affiliation to the institution without insisting on approval of Council of Architecture. On 18th July 2011, a Bench comprising of two Judges of this Court granted permission to CoA to file this SLP. The direction of the High Court in the judgment under appeal was conditional in that the respondent-institution was required to construct and create separate building and infrastructure within a period of one year. That was the specific requirement of CoA so far as Bhartiya Vidya Mandir Shiksha Samiti is concerned.

14. SLP(Civil) No.17006 of 2016 has been instituted by AICTE challenging the legality of a common judgment and order passed by a Division Bench of the Karnataka High Court in Writ Appeal No.110 of 2013 and Writ Appeal No.112 of 2013. The dispute in these two appeals, inter-alia, was over contradictory directives issued by the CoA

and AICTE in relation to admission of two students for the academic session 2011-2012 beyond the intake capacity by an institution operated by one BMS Educational Trust. The intake capacity so far as course of architecture was concerned for the applicable academic session was 80 students. The appellate committee of the AICTE had recommended that excess admission fee, five times that of total fee collected per student, ought to have been levied in each case of admission beyond the intake capacity. On the other hand, CoA had given its approval for intake of additional two students during the academic year 2011-2012 on condition that the institution would admit two students less than that of its intake capacity of 80 for the next academic session i.e. 2012-2013. In the writ petition, the learned Single Judge, referring to a decision of the Bombay High Court in the case of **Khayti Girish Purnima Kulkarni Vs. College of Architecture & Ors.**[2], had held that approval of CoA was sufficient and it was not necessary that the petitioners (the aforesaid Trust) had to seek approval from the AICTE. In the appeal preferred by the AICTE before an Appellate Bench of the same Court, it

[2] 2012 (4) AIR BOM R 371

was held in substance by the Division Bench that the decision of the learned Single Judge would be ultimately subject to outcome of the pending appeal before this Court on the same point. That appeal, we are apprised, is the first case in this batch of appeals. In the case of **Khayti Girish Purnima Kulkarni** (supra), the judgment of the Division Bench of the Bombay High Court in **Shri Prince Shivaji Maratha Boarding House's Council of Architecture, Kolhapur Vs. State of Maharashtra and Ors.** was referred to and followed.

15. SLP(Civil) No.17005 of 2016 is also against same judgment by the Division Bench of the Karnataka High Court by which two writ appeals stood disposed of. AICTE is the appellant in this appeal. The origin of this appeal lies in the writ petition instituted by BMS School of Architecture. Legality of a circular issued by the Visvesvaraya University dated 19th September, 2011 mandating all institutions teaching architecture to secure approval of the AICTE was questioned in that writ petition. Also assailed in the writ petition was an order issued by the State Government on 21st September, 2011 in substance directing compliance of the same requirement.

The main point involved in this appeal is if AICTE norms can be made applicable in respect of architecture course or not.

16. SLP(Civil) No.28121 of 2018 **(Muslim Educational Association Vs. The University of Calicut & Ors.)** arises out of a decision of a Division Bench of the High Court of Kerala. In this decision, it has been held that approval of AICTE is necessary for starting a new college of architecture. The petitioner in that case before the High Court was the said Association, which had obtained approval of the CoA for starting the college. The affiliating university – the University of Calicut had declined approval. One of the reasons for that was that the Association had not obtained approval from AICTE. The Association approached the High Court invoking its writ jurisdiction questioning legality of the decision of the university declining its affiliation. In the judgment delivered on 29th August 2018 (in W.P.(Civil) No. 25412 of 2018) the High Court primarily addressed the question as to whether approval of AICTE was necessary in addition to the recognition or approval granted by the CoA. Following an earlier decision of the same Court in the case of **Thejus**

College of Architecture Vs. State of Kerala & Ors. in W.P.(C) No.23858 of 2018, decided on 6th August 2018, the Bench dismissed the Writ Petition, inter-alia, on the reasoning that it did not have approval of the AICTE.

17. In some of the cases involved in these proceedings appeal, the CoA has been prescribing certain measures for individual institutions to undertake to bring them at par with CoA norms. The specific provision of the 1972 Act or the regulations framed thereunder does not specifically provide for prescribing such corrective measures. Such directives, however, in our opinion, are incidental to the regulatory powers conferred upon the CoA.

18. There are specific provisions in the 1972 Act dealing with setting standards and norms for institutions dealing with the education of architecture. Some of these provisions have been referred to earlier in this judgment. There are also provisions for monitoring quality of education being imparted by the respective institutions. The CoA has also the power to make representation to the Central government in the event there are breaches of norms or standards prescribed by the regulations, which may ultimately result in withdrawal of such recognition.

The decision making hierarchy within the CoA for making representations to the Central Government has also been statutorily prescribed, running up from inspectors to Executive Committee and ultimately the Council.

19. Both the regulatory authorities under the respective statutes have power to frame regulations for giving effect to the provisions of the respective Acts. Power to make rules in respect of certain areas covered by the statutes have been vested in the Central Government both under the 1972 Act and the 1987 Act. So far as CoA is concerned, their power to make regulations is derived from Section 45 of the 1972 Act. The said provision stipulates: -

> "**45. Power of Council to make regulations.**
>
> (1) The Council may, with the approval of the Central Government, [by notification in the Official Gazette] make regulations not inconsistent with the provisions of this Act, or the rules made thereunder to carry out the purposes of this Act.
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> (2) In particular and without prejudice to the generality of the foregoing power, such regulations may provide for—
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> (*a*) the management of the property of the Council;
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> (*b*) the powers and duties of the President and the Vice-President of the Council;
>
> (*c*) the summoning and holding of meetings of the Council and the Executive Committee or any other committee constituted under Section 10, the times and places at which such meetings shall be held, the conduct of business thereat and the number of persons necessary to constitute a quorum;

(*d*) the functions of the Executive Committee or of any other committee constituted under Section 10;

(*e*) the courses and periods of study and of practical training, if any, to be undertaken, the subjects of examinations and standards of proficiency therein to be obtained in any college or institution for grant of recognised qualifications;

(*f*) the appointment, powers and duties of inspector;

(*g*) the standards of staff, equipment, accommodation, training and other facilities for architectural education;

(*h*) the conduct of professional examinations, qualifications of examiners and the conditions of admission to such examinations;

(*i*) the standards of professional conduct and etiquette and code of ethics to be observed by architects; and

(*j*) any other matter which is to be or may be provided by regulations under this Act and in respect of which no rules have been made."

(3) Every regulation made under this section shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the regulation or both Houses agree that the regulation should not be made, the regulation shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that regulation." **(emphasis supplied).**

20. The power to frame regulations by the AICTE originates from Section 23 of the 1987 Act. This section stipulates:-

"23. **Power to make regulations.**—(1) The Council may, by notification in the Official Gazette, make regulations not inconsistent with the provisions of this Act, and the rules generally to carry out the purposes of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such regulations may provide for all or any of the following matters, namely:—

(a) regulating the meetings of the Council and the procedure for conducting business thereat;

(b) the terms and conditions of service of the officers and employees of the Council;

(c) regulating the meetings of the Executive Committee and the procedure for conducting business thereat;

(d) the area of concern, the constitution, and powers and functions of the Board of Studies;

(e) the region for which the Regional Committee be established and the constitution and functions of such Committee."

21. Under the 1987 Act, the power of Central Government to make rules is derived from Section 22 of the Act. The said provision stipulates:-

"**22. Power to make rules.—**

(1) The Central Government may, by notification in the Official Gazette, make rules to carry out the purposes of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

(a) the procedure to be followed by the members in the discharge of their functions;

(b) the inspection of technical institutions and Universities;

(c) the form and manner in which the budget and reports are to be prepared by the Council;

(d) the manner in which the accounts of the Council are to be maintained; and

(e) any other matter which has to be, or may be, prescribed"

22. Similar power on the Central Government has been conferred under Section 44 of the 1972 Act, which lays down:-

"**44. Power of Central Government to make rules.-** (1) The Central Government may, by notification in the Official Gazette, make rules to carry out the purposes of this Act.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely—

(*a*) the manner in which elections under Chapter II shall be conducted, the terms and conditions of service of the members of the Tribunal appointed under sub-section (2) of Section 5 and the procedure to be followed by the Tribunal;

(*b*) the procedure to be followed by the expert committee constituted under the proviso to sub-section (2) of Section 14 in the transaction of its business and the powers and duties of the expert committee and the travelling and daily allowances payable to the members thereof;

(*c*) the particulars to be included in the register of architects under sub-section (3) of Section 23;

(*d*) the form in which a certificate of registration is to be issued under sub-section (7) of Section 24, sub-section (4) of Section 26 and Section 33;

(*e*) the fee to be paid under Sections 24, 25, 26, 27, 28, 32 and 33;

(*f*) the conditions on which a name may be restored to the register under the proviso to sub-section (2) of Section 27;

(*g*) the manner of endorsement under sub-section (3) of Section 27;

(*h*) the manner in which the Council shall hold an enquiry under Section 30;

(*i*) the fee for supplying printed copies of the register under Section 34; and

(*j*) any other matter which is to be or may be provided by rules under this Act.

(3) Every rule made under this Section shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification to the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule."

23. In course of hearing before us, on behalf of AICTE three Regulations have been brought to our notice by Mr. Pandey, learned counsel representing this body. The first one carries the title "All India Council for Technical Education (Grant of approval for starting new technical institutions, introduction of courses or programmes and approval of intake capacity of seats for the courses or programmes) Regulations, 1994." This Regulation has been framed by the AICTE in exercise of power under Section 23(1) of the 1987 Act and became effective on 31st October, 1994. Another Regulation, framed also in exercise of power under Section 23(1) read with Sections 10 and 11 of the 1987 Act of the year 2016 in supersession

of earlier regulations has also been referred to. But so far as the present appeals are concerned, the respective causes of action predates this regulation of 2016 except in the case of the Muslim Educational Association, i.e. S.L.P.(Civil) No.28121 of 2018. The other Regulation is titled "All India Council for Technical Education (Norms and Guidelines for Fees and guidelines for admission in Professional Colleges) Regulations, 1994, framed in exercise of powers conferred under Section 23(1) and Sections 10 (j) and (o), 1987 Act. This one is dated 20th May, 1994. No other regulation or rule has been brought to our notice in course of hearing on behalf of AICTE.

24. Dr. Rajeev Dhavan, learned senior counsel representing the CoA has referred to Minimum Standard of Architectural Education Regulations, 1983, framed by CoA in exercise of powers conferred by clauses (e), (g), (h) and (j) of sub-section (2) of Section 45 read with Section 21 of the 1972 Act. Another document which was produced before us by Dr. Dhavan is the annual report of CoA for the year 2017-2018. So far as this document is concerned, its relevance for adjudication of these appeals would be the content recorded under following two sub-heads therein:-

"**14.0 APPROVAL OF NEW INSTITUTIONS IN THE ACADEMIC SESSION 2017-18:-**

During the year under the report 22 new institutions were granted approval to impart Bachelor of Architecture Courses and 6 existing institutions were granted approval for imparting PG Courses.

With this, the total number of institutions imparting recognized courses in architecture in the year 2017-18 with the approval of Council are 468.

The annual intake of students sanctioned by the Council at Undergraduate level is approximately 24741, Post-graduate level is 1640.

15.0 EXTENSION OF APPROVAL FOR THE ACADEMIC SESSION 2017-18 ONWARDS:

The Council granted extension of approval or otherwise for UG and PG Courses for the academic session 2017-18 as under:-

i) Institutions granted extension of approval for B.Arch. Course: 408

ii) Institutions granted extension of approval for M. Arch. Course: 64

iii) Institutions put on 'No Admission' : 12

iv) Institution put on 'withdrawal of approval' : NIL

The Council also initiated the process of inspection for the academic session 2018-2019 which were due for inspections."

Reporting on these subjects demonstrate CoA's continued engagement in the process of recognition of "authorities" granting architectural qualification.

25. We find that both the statutes have provisions for approval and monitoring of architecture courses run by institutions. So far as the 1972 Act is concerned, the expression employed is recognition of qualification and the

ultimate authority for granting or withdrawing recognition to degree or diploma courses in architectural education by different academic institutions is the Central Government. The CoA under the statutory scheme however has significant role in such decision making process. AICTE has also been empowered under the 1987 Act to lay down standards and norms for courses on architecture along with other subjects coming within the term "technical education". We have extracted relevant parts of Section 10 of the 1987 Act earlier in this judgment. Both the Councils also appear to have had proceeded with this understanding. In the decision of the Bombay High Court delivered in the case of **Shri Prince Shivaji Maratha Boarding House's Council of Architecture**, (supra), it is recorded in the judgment under appeal that joint inspection was held in respect of the institution involved in that proceeding by AICTE and CoA. Moreover, under Section 3(3)(b), of the 1972 Act, the CoA is required to have two persons nominated by the AICTE. On the other hand, Section 3 (4) (m) of the 1987 Act stipulates that AICTE is to consist of representatives of various bodies, including a member to be appointed by the Central Government to represent the CoA. Section 10(k) of the 1987 Act requires

AICTE to grant approval in consultation with the agencies concerned.

26. Though both the enactments deal with several aspects of the main subject matter of the respective legislations, on the aspect of setting norms for architectural education and for monitoring the institutions engaged in imparting architectural education, there are overlapping powers of these two Councils. Section 14 of the 1972 Act has been reproduced earlier in this judgment. On the aspect of recognising any architectural qualification, Sections 18 and 19 thereof stipulate:

> "**18. Power to require information as to courses of study and examinations.-** Every authority in India which grants a recognised qualification shall furnish such information as the Council may, from time to time, require as to the courses of study and examinations to be undergone in order to obtain such qualification, as to the ages at which such courses of study and examinations are required to be undergone and such qualification is conferred and generally as to the requisites for obtaining such qualification.
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> **19. Inspection of examinations.-**
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> 1. The Executive Committee shall, subject to regulations, if any, made by the Council, appoint such number of inspectors as it may deem requisite to inspect any college or institution where architectural education is given or to attend any examination held by any college or institution for the purpose of recommending to the Central Government recognition of architectural qualifications granted by that college or institution.
>
> 2. The inspectors shall not interfere with the conduct of any training or examination, but shall report to the Executive Committee on the adequacy

> of the standards of architectural education including staff, equipment, accommodation, training and such other facilities as may be prescribed by regulations for giving such education or on the sufficiency of every examination which they attend.
>
> 3. The Executive Committee shall forward a copy of such report to the college or institution and shall also forward copies with remarks, if any, of the college or institution thereon, to the Central Government."

27. Section 20 of the 1972 Act deals with withdrawal of recognition of an authority listed in the Schedule to the Act. The process involves a report by the Executive Committee of the CoA. On the basis of such report, if it appears to the Council that the courses of study and examination held in any college or institution or the staff, equipment, accommodation, training and other facilities for staff and training provided in such college or institution do not conform to the standards prescribed by the regulations then the CoA is empowered to make a representation for withdrawal of recognition to the appropriate Government. Section 21 of the 1972 Act also empowers the Council to prescribe minimum standards of architectural education required for granting recognized qualifications by colleges or institutions in India.

28. From the nature of the dispute giving rise to these seven appeals, it is apparent that the shortcomings

pointed out by the two regulatory bodies relate primarily to infrastructural facilities of the respective institutions. The power of the CoA to examine such infrastructural facilities at the time of considering the application for recognition or monitoring the quality of an institution recognized by the Council stems from Sections 18, 19, 20 and 21 of the 1972 Act.

29. A Regulation has been framed by the CoA with the approval of the Central Government titled as the Council of Architecture Regulations, 1982. Part VIII of the 1982 Regulations deals with inspection of educational institutions of Architecture. Clauses 29 and 30 thereof stipulate:

> "**29. Inspection of educational institutions and their examinations.-** The inspection of architectural institutions and the attendance at the time of training and examination under section 19 shall be carried out in accordance with the following manner, namely : -
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> (1) each institution imparting instruction in architecture shall be inspected by the inspectors once in five years:
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> (2) the Registrar shall fix the date of inspection in consultation with the inspector or inspectors and the institution;
>
> (3) the Executive Committee shall appoint such number of inspectors as may be deemed necessary to inspect an institution or to attend any examinations and to report thereon:

Provided that the minimum number of inspectors for such inspection shall be two.

(4) (a) every inspector shall receive from the Chairman, Executive Committee, a formal commission in writing under the seal of the Council;

(b) the instructions of the Chairman shall specify the institution or institutions, courses of studies and scheme of examination or examinations or training programme or educational standards including staff, equipments, accommodation, training and other facilities which are required to be inspected or attended;

(c) the Chairman shall inform the inspector that he is to report to the Executive Committee who shall submit their final report with recommendations to the Council in accordance with these regulations;

(d) the Registrar shall provide the inspector with a copy of the documents and of the recommendations of the Council in regard to recognition of the qualifications or educational standards and improvements to be made thereon and of the resolutions with regard to architectural education."

"**30. Powers and duties of Inspectors.-**

(1) It shall be the duty of the inspector: -

(a) to make himself acquainted with such previous reports, if any, on the institution or institutions which he is appointed to inspect as the Executive Committee may direct and with the observations of the University or examining body and the report of the Council thereon;

(b) to attend personally institution or examination or training which he is required to inspect but not to interfere with the conduct thereof;

(c) to inspect the institution which provides a recognized course of study or has applied for the recognition of its course of study and scheme of examination and to see that the course is in conformity with the regulations

relating to education and the standards laid down by the Council;

(d) to report to the Executive Committee his opinion as to the sufficiency or insufficiency of standards of education or examination or institution inspected by him;

(e) to set forth in his report, in order, all the necessary particulars as to the question proposed in the written, oral or practical parts of each examination attended by him, the sessional and class work submitted by the candidates at the time of practical or *viva-voce* examination, the arrangements made for invigilation, the method and scales of making, the standard of knowledge shown by the successful candidates and generally all such details as may be required for adjudicating on the scope and character of the examination;

(f) to set forth in his report necessary particulars in respect of institutions so as to enable the Executive Committee to assess the existing facilities for teaching as well as the extent to which the recommendations of the Council regarding professional education have been given effect to;

(g) to compare, on receipt from the Registrar, proof copy of any of his reports, the proof with the original and correct, sign and return it to the Registrar for preservation in the records of the Council as the authentic copy of such report.

(2) Every report of the inspector or inspectors shall be signed and submitted to the Executive Committee.

(3) The reports of inspectors shall be deemed confidential, unless in any particular case the Executive Committee otherwise directs.

(4) Copies of the report by inspectors marked confidential shall be forwarded to the University or the examining body concerned as well as the institution with a request that the authority should furnish to the Executive Committee within six months from the date of dispatch, such observations thereon as they may think necessary.

(5) A confidential copy of report of an inspector or inspectors, with the observations of the

University or the examining body or the institution thereon, shall be supplied to each member of the Council and shall be considered together with comments of the Executive Committee by the Council along with the observations thereon of the Executive Committee for consideration by the Council at their next meeting.

(6) A copy of every report by the inspector or inspectors, with the observations of the University or the examining body and the institution concerned and the opinion of the Executive Committee thereon, shall, after approval by the Council, be forwarded to the Central Government and State Government concerned."

30. The Minimum Standards of Architectural Education Regulations 1983 in particular, deals with the academic and infrastructural features of architecture courses. Clause (5) of the said Regulations provides:-

"**5 Intake and Migration:-**

(1) The sanctioned intake of candidates at the first year level shall not exceed a maximum of 40 in a class. If more than 40 candidates are admitted, separate classes shall be organized.

(2) The institutions may permit, at their discretion, migration of students from one institution to another subject to the maximum number of students not exceeding the permitted maximum intake in a class."

Clause 8 of the 1983 Regulations further provides:-

"**8. Standards of staff, equipment, accommodation, training and other facilities for technical education**

(1) The institutions shall maintain a teacher/student ratio of 1:8.

(2) The institutions shall have a minimum number of 12 faculty members for a student strength of 100.

(3) The institution with the maximum intake of 40 in a class may have the faculty pattern as prescribed in Appendix-B.

(4) The institutions shall encourage the faculty members to involve in professional practice including research.

(5) The institutions shall provide facilities as indicated in Appendix-C.

(6) The institutions shall encourage exchange of faculty members for academic programmes.

Notwithstanding anything contained in these regulations, the institutions may prescribe minimum standards of Architectural Education provided such standards does not, in the opinion of the Council, fall below the minimum standards prescribed from time to time by the Council to meet the requirements of the profession and education thereof."

31. Appendix B to these Regulations deal with designation, pay-scale and qualification required to be prescribed for faculty positions. The content thereof is not being reproduced in this judgment as for the purpose of determining the issues involved in these appeals, the stipulations barring those contained in Appendix C are not of much significance. Appendix C thereof reads: -

"**APPENDIX-C**

Physical Facilities

The Institution of Architecture should be located in a building to have a floor area of about 15 sq.m.m. per student. The building should include class rooms and at least 5 studios, adequate space for faculty members, library, workshop, materials museum,

laboratories, exhibition/conference room, office accommodation and common area for students and staff. The space requirements per student for architectural education whether in the Institution or in the Hostel are apt to be more than for most other types of professional courses like engineering and medicine because of the large space required for preparation of drawings. This factor should be borne in mind in the design of Hostels and Studios.

Facilities may also be provided for extra-curricular activities and sports.

The equipment in the workshop/laboratories has also to be provided to meet with the special requirement for architectural education. It is desirable to provide locker facilities in the studios for students.

The Library, Workshops, Laboratories and Photography unit should be managed by professionally qualified staff with adequate supporting staff to assist the students and faculty members in their academic programmes. There should also be administrative supporting staff to run the Architectural Institutions.

It is desirable to provide hostel accommodation and residential accommodation for staff and students in close proximity of the institution."

32. So far as the two Regulations of 1994 under the 1987 Act produced before us on behalf of AICTE, the Regulations dated 20th May, 1994 contemplates fixing approval norms and intake capacity to professional colleges. Clause 2 of this Regulation however exempts universities, university departments or colleges, government colleges, aided colleges and certain other institutions from its application. The next one has been

made applicable to all new technical institutions including universities and subsisting technical institutions and lays down a detailed approval process through multi-tier decision making structure. The AICTE appears to have made subsequent Regulations time to time superseding the earlier ones in respect of the approval process, but barring the Regulations made in 2016, no other regulations has been produced before us. None of the Regulations produced before us however specify the actual norms but refer to standards and norms to be laid down for approval of technical institutions, which include institutions imparting architectural education.

33. Clause 6 of the 1994 regulations dated 31st October, 1994 deals with conditions for grant of approval, which stipulates:

> "**6. Conditions for grant of approval.-** Every application under sub-regulation (1) of regulation 4 shall be considered subject to the fulfilment of the following conditions, namely:-
>
> (i) The financial position of the applicant shall be sound for investment in developed land and in providing related infrastructure and instructional facilities as per the norms and standards laid down by the Council from time to time and for meeting annual recurring expenditure:
>
> (ii) The courses or programmes shall be conducted as per the assessed technical manpower demands;

(iii) The admissions shall be made according to the regulations and directions of the Council for such admissions in the respective technical institution or university;

(iv) The tuition and other fees shall be charged with the overall criteria as may be laid down by the Council;

(v) The staff shall be recruited as per the norms and standards specified by the Council from time to time;

(vi) the governing Body in case of private technical institutions shall be as per the norms as specified by the council;

34. Appearing on behalf of AICTE in Civil Appeal No.364 of 2005, the fact that there are overlapping provisions on the question of grant of approval and subsequent monitoring of architectural education under both these Acts, has not been seriously disputed by Mr. Pandey. His main submission is that the 1987 Act being a later statute, covering common field, the provisions of the 1972 Act, to the extent the same deals with architectural education, shall be deemed to have been repealed by implication. The judgment of this Court relied upon on this point is the case of **Ajoy Kumar Banerjee and Others Vs. Union of India and Others**[3] His further submission is that the power of AICTE under the 1987 Act has already been upheld by this Court in the case of **State of Tamil Nadu and Others Vs.**

[3] (1984) 3 SCC 127

Adhiyaman Educational Research Institute and Others[4] On the same point, another judgment of this Court in the case of **Orissa Lift Irrigation Corporation Limited Vs. Rabi Sankar Patro and Others**,[5] has also been relied upon by him. The other authority he has cited in support of his submission that the Rules and Regulations framed by the AICTE has the force of law and binding is the case of **Parshvnath Charitable Trust and Others Vs. All India Council for Technical Education and Others**[6] In the case of **Varun Saini & Ors. Vs. Guru Govind Singh Indraprastha University** [7] also, the necessity on the part of the technical institutions for taking prior approval of AICTE has been highlighted.

35. Primacy of AICTE on the question of giving approval to a technical institution and subsequent monitoring thereof have been discussed in the cases of **Orissa Lift Irrigation Corporation Limited** (supra) and **Parshvanath Charitable Trust and Others** (supra). But in these two cases, the question of inter-se primacy between the rival regulatory bodies covering the same subject did not arise.

[4] (1995) 4 SCC 104
[5] (2018) 1 SCC 468
[6] (2013) 3 SCC 385
[7] (2014) 16 SCC 330

In the case of **Parshvanath Charitable Trust** (supra), the dispute was on the question as to whether shifting of location of college running courses on technical education could be effected without obtaining a 'No Objection Certificate' (NOC) from the AICTE. The Handbook of Approval Process, 2008 provides for obtaining NOCs from the State Government, UT administration and affiliating bodies concerned with the AICTE as per laid down procedure subject to the fulfilment of norms and standards of AICTE. The college concerned had changed location without adhering to the aforesaid procedure and it was held by this Court in that decision that withdrawal of approval by the AICTE was valid, there being no compliance with the legal requirements and binding conditions of recognition, inter-alia, by the AICTE. The lis in the case of **Orissa Lift Irrigation Corporation Limited** (supra) arose out of a dispute pertaining to service conditions of engineers including junior engineers of the said Corporation. In that case, a diploma holder in electrical engineering had joined the Corporation as junior engineer (electrical) and while in service he acquired B.Tech. (Civil) degree from a deemed university. The said deemed university did not have approval of the AICTE.

That University had started its distance education programme without taking approval from any of the regulatory authorities including University Grants Commission (UGC) and AICTE. In this decision also, judgment in the case of **Bharathidasan University** (supra) was taken note of. It was however held that deemed universities, whose courses were subject of dispute in the aforesaid cases were required to abide by the provisions of the AICTE Regulations and could not introduce courses leading to award of degrees in engineering without the approval of AICTE.

36. In the case of **State of Tamil Nadu and Another Vs. Adhiyaman Educational and Research Institute and Others**[8], the controversy arose out of certain overlapping provisions between the 1987 Act and Madras University Act, 1923. The disputes were mainly on the aspects of prescribing terms and conditions for affiliation of different institutions including engineering colleges. It was held that in respect of the subjects specified under Section 10 of the 1987 Act in respect of institutions imparting technical education, it would not be the University Act but

[8] (1995) 4 SCC 104

the Central Act and the Council created under it would have the jurisdiction to that extent. It was held that after coming into operation of the Central Act, the provisions of the University Act would be deemed to have become unenforceable. In case of technical colleges like engineering colleges, this view was taken by this Court, having regard to the fact that the Central statue had been enacted by the Parliament under Entry 66 of List I as well as Entry 25 of List III. It was also held in that judgment that the provisions of the University Act regarding affiliation of technical colleges like the engineering colleges and the conditions for grant and continuation of such affiliation by the University was to remain operative but the conditions that are prescribed by the University for grant and continuance of affiliation will have to be in conformity with the norms and guidelines prescribed by the Council in respect of matters entrusted to it under Section 10 of the Central Act.

37. Learned counsel representing the AICTE has referred to a communication emanating from the Ministry of Human Resource Development, Government of India,

bearing No.F.17 11/2003 TS.IV. This communication specifically deals with this conflict and specifies:

> "The mandate given to the AICTE is to coordinate the development of technical education in the country at all levels. Grants of approval for starting new technical educational institutions and for introduction of new courses or Programmes in consultations with the agencies concerned. Although, the Council of Architecture deals with mainly architect profession and the Architect Act may be taken as a Special Act dealing with profession of architecture, the overall planning and coordination of technical education falls within the ambit of AICTE. For starting new courses, increase in intake, setting up of new technical institutions, the power is vested with AICTE under Section 10(k) of the AICTE Act. In that process AICTE has to inspect institutions, look into their infrastructure, set up norms and standards as per the power provided in the AICTE Act. The Architect Act does not have any power to set up any institute or grant approval to new courses or increase in intake. For the benefit of the profession, the Architect Act provides the council the authority to prescribe minimum standards of architectural education for the colleges or institutions in India. Regulations framed under Architect Act, 1972, also provides for inspection of institution once in five year and make recommendation to the central government. The ministry therefore feels that there is no overlapping of power between the two statutory bodies in so far as inspections of institutions are concerned. The architecture education is to be governed under AICTE Act and CoA should maintain register for recognition of architects who have completed full time Programmes/courses as approved by the AICTE or qualifications mentioned in the schedule of CoA Act.
>
> The matter regarding implementation of various provisions, under the Architect Act, 1972 and the AICTE Act, 1987 has been considered in the ministry and after careful examination the ministry is of the view that all aspect of architectural education shall be concern of the AICTE and CoA would look into the architect profession and ethics for maintaining its professionalism in the field of Architecture."

38. It is brought to our notice by Mr. Pandey, referring to Section 25 of the 1987 Act, that it is the Central Government which is the ultimate authority deciding on issues in giving effect to the provisions of the 1987 Act and hence the aforesaid memorandum ought to be given effect to while construing the conflict arising from these two statutes. Section 25 of the 1987 Act stipulates:-

> "**25. Power to remove difficulties**.—(1) If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by order, published in the Official Gazette, make such provisions not inconsistent with the provisions of this Act as may appear to be necessary for removing the difficulty:
>
> Provided that no order shall be made under this section after the expiry of two years from the commencement of this Act.
>
> (2) Every order made under this section shall be laid, as soon as may be after it is made, before each House of Parliament."

39. Similar provision is there under Section 43 of the 1972 Act. But no case has been made out that the memorandum to which reference has been made, has been published in the official gazette. This memorandum does not meet the requirement of valid exercise of power under the aforesaid two provisions by the Central Government so as to make it binding. This memorandum, at best, can be treated to be an advisory of the Ministry not having enforceable effect. Moreover, the aforesaid memorandum

has been issued beyond the timeframe laid down under the provisions of the statutes reproduced in the said two sections of the respective Acts. The memorandum also cannot be treated to be an executive order under Article 77 of the Constitution of India.

40. Main submission of Dr. Dhavan has been that since the 1972 statute specifically deals with architectural education along with certain other areas pertaining to regulating the profession of architects, the provisions of the said Act ought to prevail over the provisions of the 1987 Act. This statute, according to him is "architect" and "architectural education" specific. On the point of implied repeal, his submission is that as a proposition of law, implied repeal of an earlier statute under the normal circumstances ought not to be presumed merely because a subsequent legislation having common subjects of legislation comes into operation unless there is express provision to that effect. The decisions relied upon in support of this proposition is the case of **M/s. Mathra Parshad and Sons Vs. State of Punjab and Others**[9]. This judgment is an authority for the proposition that in

[9] 1962 Supp (1) SCR 913.

absence of express provision no repeal can be implied unless the two statutes cannot stand together. He also referred to another authority i.e. **A.B. Abdulkadir Vs. State of Kerala**[10]. Relying on the latter authority, he has argued that in the event the later Act deals with substantially the same subject as that of a former Act, then the principle of repeal could be applied. In the case **A.B. Abdulkadir** (supra), however, the subsequent statute, being Finance Act, a Central legislation had specific provision for repeal of the corresponding laws.

41. He has also referred to several authorities to contend that the definition clause has to be construed with caution and a particular definition given in such clause may have to be reversed, if the statutory context otherwise requires. According to him, the context can be external and can relate to another existing legislation. CoA's case on this point is that though architecture is included in the definition of "technical education" in the 1987 Act, coverage of the said subject in terms of the regulatory

[10] 1962 Supp (2) SCR 741

framework created thereunder cannot be automatically inferred. The rationale behind this submission of CoA is that the 1972 Act covers architecture education specifically in all its aspects. The authorities cited for this proposition are:-

Assn. of Registration Plates v. Union of India[11]; **Whirlpool Corpn. v. Registrar of Trade Marks**[12]; **K.V. Muthu v. Angamuthu Ammal** [13] ;**Printers (Mysore) Ltd. V. Asstt. CTO;** [14] **Pushpa Devi v. Milkhi Ram.**[15]

42. The distinction or difference between Technical institutions and Technical education as contained in the 1987 statute has been dealt with by the two Judge Benches of this Court in the cases of **Bharathidasan University** (supra) and **Association of Management of Private Colleges** (supra). On the same point, two other authorities have been cited on behalf of CoA dealing with the repugnancy between a State Act and a Central Act under Article 254 of the Constitution of India. These are **Municipal Council Palai Vs. T.J. Joseph**[16] and **Tika**

[11] (2005) 1 SCC 679
[12] (1998) 8 SCC 1
[13] , (1997) 2 SCC 53
[14] (1994) 2 SCC 434;
[15] (1990) 2 SCC 134
[16] (1964) 2 SCR 87

Ramji Vs. State of U.P.[17] He has further argued that under ordinary circumstances, special law ought to override the general law. According to him, the 1972 Act is a special law, dealing with, *inter alia*, recognition of institutions conducting architectural education. The 1987 Act, in his submission is a general law dealing with technical education as a whole. It is his case that technical education may include degree or diploma in architecture. In these appeals, there is specific legislation dealing with architectural education. In the event there is conflict between the norms and standards set under the general law, which, according to him is the 1987 Act and law specifically dealing with architectural education being 1972 Act, he has argued that proper course would be to proceed on the basis that the intention of the legislature was to keep out the provisions relating to standards and norms pertaining to architectural education from the 1987 Act and Regulations framed thereunder and mandate following the norms and standards stipulated in the 1972 Act and connected Regulations. Other authorities relied on for this proposition are: **R.S. Raghunath Vs. State of**

[17] ((1956) 1 SCR 393

Karnataka[18]; **LIC Vs. D.J. Bahadur**[19] ; **U.P. State Electricity Board Vs. Hari Shankar Jain**[20]; and **J.K. Cotton Spinning & Weaving Mills Co. Ltd. Vs. State of U.P.**[21] These are all authorities in support of the proposition of law that a general provision should yield to the special provision, if two statutes are in direct conflict.

43. His main reliance is on the case of **Bharathidasan University** (supra), in support of his argument that so far as education in Architecture is concerned, the 1972 Act ought to survive and not eclipsed by the 1987 legislation. In the case of **Bharathidasan University**, the main point involved was as to whether a university in order to start a course on technical education was required to obtain prior approval of the AICTE or not. The University in question in that case was constituted under Bharathidasan University Act 1981 with its specified area of operation over three districts in the State of Tamil Nadu. The university commenced courses in technology related subjects such as Information Technology, Management, Bioengineering and Technology, Petrochemical Engineering and

[18] (1992) 1 SCC 335
[19] (1981) 1 SCC 315
[20] (1978) 4 SCC 16
[21] (1961) 3 SCR 185

Technology, Pharmaceutical Engineering and Technology etc. The AICTE had objected to running of such courses without their prior approval. It filed a writ petition before the Madras High Court to prevent the University authorities from running/conducting any course or programme in technical education. The University took a plea that it would not fall within the definition of technical institution contained in Section 2 (h) of the 1987 Act and thus was outside the purview of Section 10 (k) thereof. Section 2 (h) of the 1987 Act stipulates:-

> "(h) "Technical institution" means an institution, not being a university which offers courses or programmes of technical education, and shall include such other institutions as the Central Government may, in consultation with the Council, by notification in the Official Gazette, declare as technical institutions."

It was held in this judgment :-

> "15. To put it in a nutshell, a reading of Section 10 of the AICTE Act will make it clear that whenever the Act omits to cover a "university", the same has been specifically provided in the provisions of the Act. For example, while under clause (*k*) of Section 10 only "technical institutions" are referred to, clause (*o*) of Section 10 provides for the guidelines for admission of students to "technical institutions" and "universities" imparting technical education. If we look at the definition of a "technical institution" under Section 2(*h*) of the Act, it is clear that a "technical institution" cannot include a "university". The clear intention of the legislature is not that all institutions whether university or otherwise ought to be

treated as "technical institutions" covered by the Act. If that was the intention, there was no difficulty for the legislature to have merely provided a definition of "technical institution" by not excluding "university" from the definition thereof and thereby avoided the necessity to use alongside both the words "technical institutions" and university in several provisions in the Act. The definition of "technical institution" excludes from its purview a "university". When by definition a "university" is excluded from a "technical institution", to interpret that such a clause or such an expression wherever the expression "technical institution" occurs will include a "university" will be reading into the Act what is not provided therein. The power to grant approval for starting new technical institutions and for introduction of new courses or programmes in consultation with the agencies concerned is covered by Section 10(*k*) which would not cover a "university" but only a "technical institution". If Section 10(*k*) does not cover a "university" but only a "technical institution", a regulation cannot be framed in such a manner so as to apply the regulation framed in respect of "technical institution" to apply to universities when the Act maintains a complete dichotomy between a "university" and a "technical institution". Thus, we have to focus our attention mainly to the Act in question on the language adopted in that enactment. In that view of the matter, it is, therefore, not even necessary to examine the scope of other enactments or whether the Act prevails over the University Act or effect of competing entries falling under Entries 63 to 65 of List I vis-à-vis Entry 25 of List III of the Seventh Schedule to the Constitution.

16. The fact that initially the Syndicate of the appellant University passed a resolution to seek for approval from AICTE and did not pursue the matter on those lines thereafter or that other similar entities were adopting such a course of obtaining the same and that the Andhra Pradesh High Court in *M. Sambasiva Rao case* [(1997) 1 An LT 629

(FB)] had taken a particular view of the matter are not reasons which can be countenanced in law to non-suit the appellant. Nor such reasons could be relevant or justifying factors to draw any adverse finding against and deny relief by rejecting the claims of the appellant University. We also place on record the statement of the learned Senior Counsel for the appellant, which, in our view, even otherwise is the correct position of law, that the challenge of the appellant with reference to the Regulation in question and claim of AICTE that the appellant University should seek and obtain prior approval of AICTE to start a department or commence a new course or programme in technical education does not mean that they have no obligation or duty to conform to the standards and norms laid down by AICTE for the purpose of ensuring coordinated and integrated development of technical education and maintenance of standards."

44. In the case of **Association of Management of Private Colleges Vs. All India Council of Technical Education and Others**[22], the dispute was between private colleges, including certain colleges affiliated to Bharathidasan University on one side and AICTE on the other, broadly on the same question which engaged this Court in the case of **Bhartidasan University**. In this decision, referring to certain portions of the judgment of this Court in the case of **Parshvanath Charitable Trust** (supra), it was held:-

"**52.** The italicised portions from the said

[22] (2013) 8 SCC 271

decision in *Parshvanath Charitable Trust case* [*Parshvanath Charitable Trust* v. *All India Council for Technical Education*, (2013) 3 SCC 385] referred to supra would make it clear that the AICTE Act does not contain any evidence of an intention to belittle and destroy the authority or autonomy of other statutory bodies which they are assigned to perform. Further, the AICTE Act does not intend to be an authority either superior or to supervise or control the universities and thereby superimpose itself upon the said universities merely for the reason that it is laying down certain teaching standards in technical education or programmes formulated in any of the department or units. It is evident that while enacting the AICTE Act, Parliament was fully alive to the existence of the provisions of the UGC Act, 1956 particularly, the said provisions extracted above. Therefore, the definition of "technical institution" in Section 2(*h*) of the AICTE Act which authorises AICTE to do certain things, special care has consciously and deliberately been taken to make specific mention of university, wherever and whenever AICTE alone was expected to interact with a university and its departments as well as constituent institutions and units. It was held after analysing the provision of Sections 10, 11 and 12 of the AICTE Act that the role of the inspection conferred upon AICTE vis-à-vis universities is limited to the purpose of ensuring proper maintenance of norms and standards in the technical education system so as to conform to the standards laid down by it with no further or direct control over such universities or scope for any direct action except bringing it to the notice of UGC. In that background, this Court in *Bharathidasan University case* [*Bharathidasan University* v. *All India Council for Technical Education*, (2001) 8 SCC 676] made it very clear by making the observation that it has examined the scope of the enactment as to whether the AICTE Act prevails over the UGC Act or the fact of competent entries fall in List I Entry 66 vis-à-vis List III Entry 25 of Schedule VII of the Constitution.

53. A cumulative reading of the aforesaid paragraphs of *Bharathidasan University case* [*Bharathidasan University* v. *All India Council for Technical Education*, (2001) 8 SCC 676] which are extracted above makes it very clear that this Court has exempted universities, its colleges, constituent institutions and units from seeking prior approval from AICTE. Also, from the reading of paras 19 and 20 of *Parshvanath Charitable Trust case* [*Parshvanath Charitable Trust* v. *All India Council for Technical Education*, (2013) 3 SCC 385] it is made clear after careful scanning of the provisions of the AICTE Act and the University Grants Commission Act, 1956 that the role of AICTE vis-à-vis universities is only advisory, recommendatory and one of providing guidance and has no authority empowering it to issue or enforce any sanctions by itself.

54. It is rightly pointed out from the affidavit filed by UGC as directed by this Court in these cases on the question of affiliated colleges to the university, that the affidavit is very mechanical and it has simply and gratuitously without foundation, added as technical institutions including affiliated colleges without any legal foundation. Paras 13, 14, 15 and 19 of the affidavit filed by UGC and the assertion made in Para 23 is without any factual foundation, which reads as under:

> "That it is further submitted that affiliated colleges are distinct and different than the constituent colleges. Thus, it cannot be said that constituent colleges also include affiliated colleges."

Further, the assertion of UGC as rightly pointed out by Dr Dhavan in the written submission filed on behalf of the appellant in CA No. 1145 of 2004 that the claim that UGC does not have any provision to grant approval of technical institution, is facile as it has already been laid down by this Court that the AICTE norms can be applied to the affiliated colleges through UGC. It can only advise UGC for formulating the standards of education and other aspects to UGC. In view of the law laid down in *Bharathidasan University* [*Bharathidasan University* v. *All India Council for Technical Education*, (2001)

> 8 SCC 676] and *Parshvanath Charitable Trust* [*Parshvanath Charitable Trust* v. *All India Council for Technical Education*, (2013) 3 SCC 385] cases, the learned Senior Counsel Dr Dhavan has rightly submitted for rejection of the affidavit of UGC, which we have to accept as the same is without any factual foundation and also contrary to the intent and object of the Act."

45. Learned counsel appearing for different institutions in this set of appeals have broadly supported the arguments advanced on behalf of CoA. Learned counsel for the **Muslim Educational Association** [the appellant in SLP(C) No.28121 of 2018] has assailed the decision of the Calicut University refusing to give affiliation to the said institution. Reference has been made to regulation 15(3) of the Minimum Standards of Architectural Education Regulation, 2015, which gives 3 years to provide the building for different infrastructural facilities for a college coming within the ambit of the said Act. In fact, it has been argued on behalf of the said institution that the University could not demand AICTE approval and within the State of Kerala, there were many institutions imparting architectural education solely on the basis of recognition granted under the 1972 Act.

46. In the case of **Bharathidasan University** (supra), this Court found that in the 1987 Act, there is a distinction

made by the legislature between a technical institution per se and certain other kinds of institutions over which some other kind of monitoring or supervision is there by properly constituted universities. That would be apparent from the definition of technical institution under the 1987 Act. Sections 10 (k) and (m) of the 1987 Act also specifically deal with technical institution. Thus the 1987 Act recognises the distinguishing feature of a technical institution not being a university. The Council constituted under it has supervisory and monitoring power over technical institutions not being a university imparting courses in technical education. This was one of the main reasoning as to why it was found by this Court in the case of **Bharathidasan University** (supra) that the said university would remain out of the regulatory ambit of the AICTE. Broadly the same logic was followed in the other authority, **Association of Management of Private Colleges** (supra). The case of **Adhiyaman Educational and Research Institute and Others** (supra), was distinguished in this decision and the relevant paragraphs in that regard have been referred to earlier in this judgment. None of the authorities cited on behalf of the AICTE, however, deals with a situation where there is a

pre-existing Central legislation dealing with overlapping power on the same subject coming within the definition of "technical education".

47. CoA in these appeals wants to establish its pre-dominance on the ground that the 1972 Act is a special Act and AICTE's stand on the other hand is that the 1987 Act having come to the statue book on a later date, the provisions thereof ought to prevail when the same are in conflict with an earlier statute. As a proposition of law, we accept AICTE's stand that there need not be complete identity in the subject-matters of the two rival statutes being tested in the yardstick of point of time of their commencement of operation. Again, as a proposition of law, the principle of law canvassed by the rival bodies are accepted tools of construction. But they require application having regard to the specific circumstances of a given case. It is not an absolute proposition of law that a later Act would always prevail over the former in the event there are clashing provisions even if there is no express provision of repeal. In the case of **Ajoy Kumar Banerjee** (supra), it was held, referring to Maxwell on the Interpretation of Statutes, Twelfth Edition:-

> **"39.** From the text and the decisions, four tests are deducible and these are :(i) the Legislature has the undoubted right to alter a law already promulgated through subsequent legislation, (ii) A special law may be altered, abrogated or repealed by a later general law by an express provision, (iii) A later general law will override a prior special law if the two are so repugnant to each other that they cannot co-exist even though no express provision in that behalf is found in the general law, and (iv) It is only in the absence of a provision to the contrary and of a clear inconsistency that a special law will remain wholly unaffected by a later general law."

48. We shall examine now as to whether the 1972 Act fits the description of a special legislation so as to prevail over a subsequent enactment covering its field or area of operation. A special law implies a statute covering a particular subject specifically. The subject of conflict in the present proceedings is architectural education. The 1972 Act however does not solely deal with architectural education. The Act intends to control or regulate the profession of architects. It has two main features, one part dealing with regulating the profession of architect and the other part regulating architectural education. Significant portion of the statute deals with formation of the CoA but the function of that body is essentially to regulate and monitor the other two areas of this statue. So far as effect of recognition is concerned, Section 17 of the 1972 Act stipulates:-

> "17. Effect of recognition.- Notwithstanding anything contained in any other law, but subject to the provisions of this Act, any recognised qualification shall be a sufficient qualification for enrolment in the register."

49. The 1987 Act deals with technical education and in particular the methodology for approval technical institutions and their monitoring. The dispute has arisen in these proceedings as architecture has been included with other subjects in the definition of "technical education" [Section 2 (g)]. Dr. Dhavan wants us, in effect, to exclude the subject of architecture from the said definition clause while construing the applicability of the Regulations for approval of a technical institution and its subsequent monitoring. He has referred to the opening sentence of Section 2 of the 1987 Act, which contains the definitions and reads:-

> "In this Act, unless the context otherwise requires.."

Such context, according to him can be external, outside the specific statute and includes other subsisting legislations. Before we deal with this submission, we shall refer to certain other key features of the two enactments.

50. The provisions of 1987 Act have not been immunised by a non-obstante clause like the one

employed in Section 17 of the 1972 Act. Having regard to the scheme and provisions of these two statutes, ex-facie it is difficult to label either of them as special law or general law. The 1987 Act has certain features of a special law being devoted to setting up, supervision and monitoring of institutions imparting technical education. But the said statute does not cover technical education imparted by all types of institutions. The exceptions have been clearly mentioned in Section 2(h) of the act and explained in the cases of **Bharathidasan University** (supra) and **Association of Management of private colleges** (supra). So far as the 1972 Act is concerned, its application is not confined to architecture education alone. This enactment contemplates establishing the Council of Architecture, recognizing degrees and diplomas in architecture and regulating the profession of architects. But there is inter-link between architecture education and registration of architects, on which aspect we shall dilate later in this judgment.

51. Under both the statutes there are overlapping areas under which the respective Councils could make Regulations. Though these Acts, by themselves, do not

come into direct conflict the inconsistencies have surfaced in implementing the power given to the Councils constituted under the respective enactments. AICTE contends that the later statute ought to prevail and as a corollary the regulations framed under the later statute should prevail. CoA wants its power to eclipse AICTE's dominant role as a regulator in relation to architectural education on the strength of the 1972 Act being a special Act. The three regulations under the 1987 Act which have been brought to our notice do not directly lay down any specific norm or standard which ought to be followed. Such norms appear to have been set by the AICTE in pursuance of the aforesaid regulations. The two Regulations of 1994 do not lay down specifically such norms. The 2016 regulations has provision for Approval Process Hand Book which may be published from time to time laying down the manner in which approval shall be given.

52. In the case of **State of Tamil Nadu and Another** (supra), conflict was between State Legislations, being Tamil Nadu Private Colleges (Regulation) Act, 1976 and

Madras University Act 1923 and the provisions of 1987 Act. In this judgment it was, inter-alia, held :-

> **"30.** A comparison of the Central Act and the University Act will show that as far as the institutions imparting technical education are concerned, there is a conflict between and overlapping of the functions of the Council and the University. Under Section 10 of the Central Act, it is the Council which is entrusted with the power, particularly, to allocate and disburse grants, to evolve suitable performance appraisal systems incorporating norms and mechanisms for maintaining accountability of the technical institutions, laying down norms and standards for courses, curricula, staff pattern, staff qualifications, assessment and examinations, fixing norms and guidelines for charging tuition fee and other fees, granting approval for starting new technical institutions or introducing new courses or programmes, to lay down norms or granting autonomy to technical institutions, providing guidelines for admission of students, inspecting or causing to inspect colleges, for withholding or discontinuing of grants in respect of courses and programmes, declaring institutions at various levels and types fit to receive grants, advising the Commission constituted under the Act for declaring technical educational institutions as deemed universities, setting up of National Board of Accreditation to periodically conduct evaluation on the basis of guidelines and standards specified and to make recommendations to it or to the Council or the Commission or other bodies under the Act regarding recognition or de-recognition of the institution or the programme conducted by it. Thus, so far as these matters are concerned, in the case of the institutes imparting technical education, it is not the University Act and the University but it is the Central Act and the Council created under it which will have the jurisdiction. To that extent, after the coming into operation of the Central Act, the provisions of the University Act will be deemed to have become unenforceable in case of technical colleges like the engineering colleges. As has been pointed out earlier, the Central Act has been enacted by Parliament under Entry 66 of List I to coordinate and determine the standards of technical institutions as well as under Entry 25 of List III. The provisions of the University Act regarding affiliation of technical colleges like the engineering colleges and the conditions for grant and continuation of such affiliation by the University shall, however, remain operative but the conditions that are prescribed by the University for grant and continuance of affiliation will have to be in conformity with the norms and guidelines prescribed by the Council

in respect of matters entrusted to it under Section 10 of the Central Act."

53. The case of **Orissa Lift Irrigation Corporation Limited** (supra) also gives primacy to the AICTE on the question of necessity for an engineering college to obtain approval from the AICTE. In this case, question arose on the point as to whether engineering degree courses operated by colleges could be conducted by open universities through distance learning mode in absence of approval by the AICTE. This case and the case of **Parshvnath Charitable Trust and Others** (supra) have been discussed in the preceding paragraphs. These authorities cited on behalf of the AICTE however do not deal with conflict arising from two Regulations framed under two Central statutes, both conferring regulatory powers over a particular subject in the field of technical education on two different statutory bodies. The ratio of the decision in the case of **Bharathidasan University** (supra), expanded by the two Judge Bench judgment in the case of **Association of Management of Private Colleges** (supra) have been cited in support of CoA's contention that the 1972 Act should be treated as a

special statute and Regulations framed thereunder should override those framed under the 1987 Act.

54. For the sole reason of there being overlapping subjects, Courts straightaway may not get into an exercise to find out if one statute intends to eclipse the other. But in the present set of appeals, intention of the legislature to override one by the other can be examined by analyzing the provisions of the two statutes. The duty of the regulatory bodies in a situation of this nature would be to come out with a unified regime, which this Court expected in the case of **Municipal Council, Palia** (supra). The two regulatory bodies in the field of architectural education however have not taken this approach and on the other hand have engaged themselves in a dispute over turf-control. In such a situation, under normal circumstances attempt should be made first at reconciliation of the competing statutory instruments. If that exercise fails, then the aim would be to find out what is the dominant purpose or principal subject-matter of a particular statute and then construe the conflicting provisions of the respective Regulations to match the dominant statutory purpose. In the case of **L.I.C. Vs.**

D.J. Bahadur (supra), it has been observed by a three Judge Bench of this Court: -

> " 52. In determining whether a statute is a special or a general one, the focus must be on the principal subject-matter plus the particular perspective. For certain purposes, an Act may be general and for certain other purposes it may be special and we cannot blur distinctions when dealing with finer points of law. In law, we have a cosmos of relativity, not absolutes-so too in life."

55. On the subject of implied repeal, the course to be followed by the Court has been explained in the well-known text "Principles of Statutory Interpretation", by Justice G.P. Singh (14th Edition). We give below the following quotation from page 737 of this text:-

> "There is a presumption against a repeal by implication; and the reason of this rule is based on the theory that the Legislature while enacting a law has complete knowledge of the existing laws on the same subject-matter, and therefore, when it does not provide a repealing provision, it gives out an intention not to repeal the existing legislation. When the new Act contains a repealing section mentioning the Acts which it expressly repeals, the presumption against implied repeal of other laws is further strengthened on the *principle expressio unius est exclusio alterius*. Further, the presumption will be comparatively strong in case of virtually contemporaneous Acts. The continuance of existing legislation, in the absence of an express provision of repeal, being presumed, the burden to show that there has been a repeal by implication lies on the party asserting the same. The presumption is, however, rebutted and a repeal is inferred by necessary implication when the provisions of the later Act are so inconsistent with or repugnant to the provisions of the earlier Act 'that the two cannot stand together'. But, if the two may be read together and some

application may be made of the words in the earlier Act, a repeal will not be inferred."

56. Having regard to the disputes involved in each of these appeals, proper course for us would be to find out the decision of which of these two regulatory bodies ought to prevail. For this purpose, it is necessary to ascertain the dominant purpose of the two legislations covering the field of architectural education. Section 10 of the 1987 Act mandates the AICTE to undertake the duties on the subjects specified therein. But it has already been held by two Benches of this Court comprising of two Judges each in the cases of **Bharathidasan University** (supra) and **Association of Management of Private Colleges** (supra) that a university or its affiliate colleges could run courses in technical education without approval of the AICTE.

57. The process of recognition and effect thereof are more expansive under the 1972 Act. All "authorities" require recognition by the Central Government to conduct any degree or diploma course in architecture education to qualify for being recognised qualification. The CoA under the said Act plays a key role in the process of recognition. There is no exclusion or exemption of any institution from undergoing such recognition process except the subsisting

ones at the time the Act became operational. The CoA has also wide monitoring power under Section 18 and 19 of the Act of every authority which grants recognized qualification under the said Act.

58. Moreover, Section 17 of the said Act is armed with a non-obstante clause. The implication of the said clause in Section 17 of the 1972 Act is that to be on the register of architects in India, recognized qualification would be sufficient. There is no provision under the 1972 Act or in any Rule thereunder which would entitle a person trained from an AICTE approved technical institution in architecture to describe himself as an architect or get himself registered as such without recognised qualification under the 1972 Act. This would be apparent from the provisions of Section 35 of the Act, which stipulates:-

> **"35. Effect of registration**.—(1) Any reference in any law for the time being in force to an architect shall be deemed to be a reference to an architect registered under this Act.
>
> (2) After the expiry of two years from the date appointed under sub-section (2) of Section 24, a person who is registered in the register shall get preference for appointment as an architect under the Central or State Government or in any other local body or institution which is supported or aided from the public or local funds or in any recognised by the Central or State Government."

Sub-section (2) of the said provision is not of much relevance for adjudication of the subject dispute. The scheme of the Act thus demonstrates that lack of recognized qualification under the 1972 Act would in substance disentitle a person from being registered as an architect. He would not be able to legally represent himself as an architect in India. This being the statutory mandate, CoA's role in the process of recognition of qualification of an architect cannot be said to have been obliterated by the 1987 Act. It is a fact that 1987 Act is primarily concerned with setting-up and running of a technical institution and not with regulating the professions of individuals qualifying from such institutions. But under the 1972 Act, conducting a course on architectural education and regulating the profession of architect are statutorily interwoven. Recognition of degrees or diplomas in architecture cannot be amputated from the said Act and held to have been replaced by the 1987 Act. That would render the 1972 enactment unworkable.

59. The third distinguishing element of the 1972 Act is that the CoA is not the ultimate decision-making authority but it is the Central Government in relation to process of

recognition of degree or diploma in architectural education or withdrawal thereof. Such decision is required to be taken after consultation with the CoA. But since CoA has been conferred with power to make regulations in relation to, inter-alia, recognition norms and monitoring of institutions imparting architectural education, CoA's role in such process is critical. The approval power of AICTE is direct. But in the event AICTE's norms come into conflict with that of CoA, any report or representation the CoA may make to the Central Government would be dependent upon the decision of the Central Government. The Central Government's decision, taken under the provisions of the 1972 Act in such a case would obviously prevail, the latter being an authority superior to both the Councils constituted under the two statutes.

60. AICTE is exercising its power to regulate institutions imparting architectural education on the strength of definition of technical education, which has been defined to mean programmes of education, research and training in architecture. The duty of the AICTE to regulate "technical education" is derived from the provisions of Section 10 of the 1987 Act. It has been contended on

behalf of the CoA, referring to the provisions of Section 2 of the 1987 Act, that the context of regulating architecture education requires exclusion of the expression "architecture" from the definition of technical education. In the case of **Pushpa Devi and others** (supra), it has been held that it is permissible for the Court to refer to "internal and external context" while giving meaning to a definition contained in the interpretation clause of a statue. In this decision, it was observed that a word exhaustively expressed in the definition can have different meanings in different parts of a statute. Broadly, the same principle of construction has been adopted in the cases of **Printers (Mysore) Ltd. and Another** (supra) and **Whirlpool Corporation** (supra).

In the case of **K.V. Muthu** (supra), it has been held:-

> "12. Where the definition or expression, as in the instant case, is preceded by the words "unless the context otherwise requires," the said definition set out in the section is to be applied and given effect to but this rule, which is the normal rule may be departed from if there be something in the context to show that the definition could not be applied."

61. So far as these appeals are concerned, to altogether exclude architecture from the purview of AICTE, that

expression, i.e. architecture would have to be dropped from the definition of technical education. In our opinion, if the issue is examined in the external context, which in this case would be the provisions of 1972 Act, such a course would be inevitable. In the event AICTE's stand is to be accepted and CoA's role is eliminated from the recognition process of architectural qualification, then a person having a degree or diploma from an AICTE approved institution only would in effect not be entitled to enrollment in the register of architects and would not be able to represent himself as an architect. Secondly, in view of the decisions of this Court in the cases of **Bharatidasan University** (supra) and **Association of Management of Private Colleges** (supra), there would be two parallel authorities regulating architectural education. CoA would regulate universities and affiliated colleges imparting such education while AICTE would supervise rest of the institutions. Moreover, the authority of Central Government to recognize qualifications in architecture education would stand obliterated by a body, AICTE and that too in respect of certain categories of technical institutions only.

62. The authorities we have referred to are for the proposition that a meaning different to what is ascribed in the definition clause can be given to a word in different parts of a statute if the context so demands. The subject-dispute involved in these appeals requires omission of the word architecture from the definition of technical education. Such a course, in our opinion, is also a permissible tool of construction to prevent absurd or unworkable results flowing from a statute. Here we reproduce the following passage from "Bennion on Statutory Interpretation" by F A R Bennion, Fifth Edition published by Lexis Nexis (at page 972).

> " *Strained construction* We have the authority of Lord Reid for the statement that, to avoid an unworkable result, a strained construction may be justified even where the enactment is not grammatically ambiguous. Lord Reid said that cases where it has properly been held that one word can be struck out of a statute and another substituted include the case where without such substitution the provision would be unworkable."

63. We are of the opinion that in respect of the provisions of Section 2 (g) of the 1987 Act, the definition of "technical education" would have to be given such a construction and the word "architecture" should be treated to have been inapplicable in cases where the AICTE imports its regulatory framework for institutions undertaking technical education. There would however be no substitution because the context would not demand it. This construction of the definition clause is necessary as the external context requires it to prevent an unworkable outcome in implementation of the 1987 Act. The principle of implied repeal cannot apply so far as the provisions relating to architecture education is concerned, on the basis of the 1987 Act having become operational. One of the dominant purposes of the 1972 Act is recognition of qualifications on architecture. The registration of an architect is dependent upon acquisition of such recognised qualification. The said Act cannot be held to have been repealed by implication for the sole reason of inclusion of the word "architecture" in the definition of technical education. AICTE has failed to discharge its onus to establish the

said provisions of the 1972 Act was repealed by implication.

64. We accordingly hold that so far as recognition of degrees and diplomas of architecture education is concerned, the 1972 Act shall prevail. AICTE will not be entitled to impose any regulatory measure in connection with the degrees and diplomas in the subject of architecture. Norms and Regulations set by CoA and other specified authorities under the 1972 Act would have to be followed by an institution imparting education for degrees and diplomas in architecture.

65. Now we shall turn to the individual appeals –

(a) We sustain the judgment of the Bombay High Court forming subject-matter of Appeal No.364 of 2005. The appeal of the All India Council of Technical Education is dismissed.

(b) Three appeals arose from the judgment of the High Court of Madhya Pradesh, Gwalior Bench delivered on 2nd February, 2011 in W.P. No. 315 of 2011. These are Civil Appeal No……/2019 (arising out of SLP(C) No.5400/2011), Civil Appeal No……/2019 (arising out of SLP(C) No.8443/2011) and Civil Appeal No……/2019

(arising out of SLP(C) No.20460/2011). Rajeev Gandhi Proudyogiki Vishwavidyalyalay is the appellant in the Civil Appeal arising out of SLP(C) No. 5400/2011. It wants compliance of the CoA norms and invalidation of the directive requiring it to grant temporary affiliation by the High Court without CoA's approval. The appellant in the second Civil Appeal (arising out of SLP(C)No.8443/2011) is the institution, Bharatiya Vidya Mandir Shiksha Samiti. It has questioned the necessity of obtaining CoA's approval or the requirement of compliance with the conditions set by them. It wants compliance of AICTE norms to be treated as adequate. For the reasons explained earlier in this judgment, we dismiss the appeal of Bharatiya Vidya Mandir Shiksha Samiti. The High Court has directed in the judgment under appeal compliance of the conditions communicated by the CoA. The academic session involved is 2010-2011. This Court at the notice stage in the university's appeal [SLP(C)No.5400 of 2011] granted interim stay of the order of the High Court. Subsequently, there were admissions from time to time with interim directions of this Court. We accordingly dispose of this appeal of the Rajeev Gandhi

Proudyogiki Vishwavidyalaya with direction that the process of recognition contained in the 1972 Act ought to be implemented in respect of the subject institution before any further admission takes place. But so far as admissions already undertaken in terms of interim orders of this Court, we direct that such admissions ought not be disturbed. We direct so, as we find the High Court itself had directed compliance of CoA norms in the judgment under appeal and compliance of building requirements set by CoA was to be effected within one year. Thus, in our opinion, CoA norms were substantially directed to be complied with. We also make it clear that the AICTE would not have any regulatory control over the concerned institution so far as architecture education is concerned. We are of the opinion that in the appeal arising out of SLP(C) No.20460 of 2011 that CoA ought to have been impleaded as a party respondent in the said writ petition. We are also of the opinion that decision of the High Court to issue the directions contained in the judgment under appeal in absence of CoA being added in the array of respondents was erroneous. But we do not issue any independent direction as these appeals

were heard together as batch matters and the grievances of the CoA have been addressed to in our judgment. Having held that the 1972 Act shall prevail on the question of recognition of degrees and diplomas in architecture education, we dispose of this appeal of the CoA in the above terms.

(c) The Civil Appeals arising out of SLP(C) No. 17005 of 2016 and SLP(C)No.17006 of 2016 have been instituted by the AICTE against a common judgment of the Karnataka High Court in Writ Appeal No.110 of 2013 and Writ Appeal No. 112 of 2013. The dispute in these matters relate to the question of obtaining mandatory approval from the AICTE for running course on architecture. The former appeal arose out of contradictory directives issued by AICTE and CoA over admission of two students beyond the intake capacity.

The observation of the Karnataka High Court in a common judgment has been that the controversies would be subject to the outcome of the appeal arising out of the Bench decision of the Bombay High Court. That is the first appeal we have dealt with in this judgment. We accordingly dispose of these two appeals in terms of our

decision contained in the preceding sub-paragraph (a). AICTE would not have any power to impose its regulatory measures on the concerned institution so far as architecture education is concerned.

(d) The decision of the Kerala High Court in the Civil Appeal arising out of SLP(C)No. 28121 of 2018 is set aside. The appeal is allowed. The institution involved in this appeal shall be entitled to operate with recognition obtained under the 1972 Act.

66. All interim orders passed in these appeals shall stand dissolved. All connected applications shall stand disposed of. There shall be no order as to costs.

.....CJI.
(Ranjan Gogoi)

.....J.
(Deepak Gupta)

.....J.
(Aniruddha Bose)

New Delhi
Dated: November 08, 2019.