Maharshi Mahesh Jogi ... vs State Of M.P. & Ors on 3 July, 2013

Bench: Fakkir Mohamed Ibrahim Kalifulla, B.S. Chauhan

Reportable

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO.6736 OF 2004

Maharshi Mahesh Yogi Vedic
Vishwavidyalaya ...Appellant

- Versus -

State of M.P. & Ors. ...Respondents

J U D G M E N T

Fakkir Mohamed Ibrahim Kalifulla, J.

1. This appeal is directed against the Division Bench decision of the High Court of Madhya Pradesh at Jabalpur, dated 20.03.2002, in W.P.No.1065 of 2001, in and by which, the Division Bench allowed the writ petition in part. The challenge in the writ petition was to the amendment introduced to Sections 2, 4, 9 and 17, as well as insertion of Sections 31-A, 31-B, 31- C, 37-A, 37-B to the Maharshi Mahesh Yogi Vedic Vishwavidyalaya Adhiniyam, 1995 (Act No.37 of 1995), hereinafter referred to as "1995 Act". The amendment was by way of Amendment Act No.5 of 2000, hereinafter called the "Amendment Act".

2. The Division Bench upheld the amendment to Section 4(1) of 1995 Act. The Division Bench also held that the amendment to Sections 9(2), 31-A(1) and (2), 31-B, 31-C, 37-B(a), 37-B(b), 37-B(d) and 37-B (e) are intra-vires. The Division Bench further held that the proviso to Section 4 is intra- vires, as far as it provides that no Centres shall be established without prior approval of the State Government and no centre would mean no further Centres excluding the existing ones. The Division Bench further held that the said proviso as far as it stipulated that no courses should be conducted or run without the prior approval of the State Government is ultra-vires, as far as, it related to the present stream of courses and the existing Centres. Section 37-A was held to be ultra-vires in its entirety. Section 37-B (e) was held to be not ultra-vires.

3. To understand the scope of challenge made in this appeal, the brief facts are required to be stated. The appellant is the University, which was a creation by way of a Statute viz., 1995 Act. Therefore, in the forefront, it will be better to note the scheme of the Act, which received the assent of the

Governor on 25th November 1995 and was published in the Madhya Pradesh Gazette dated 29th November 1995. The Preamble of the Act would state that it was an Act to establish and incorporate a University, in the State of Madhya Pradesh and to provide for education and prosecution of research in Vedic learnings and practices and to provide for matters connected therewith or incidental thereto. Section 2 defines the various expressions, including the expressions "Board of Management", "Distance Education System", "Institution", "Statutes" and "Ordinance" and the definition of "University" under Section 2(u) means the appellant University. Again Section 3(1) refers to the appellant University and Section 3(2) refers to the headquarters of the University to be at village Karondi in District Jabalpur, Madhya Pradesh, providing for establishment of campuses at such other places within its jurisdiction. Under sub-section (3) to Section 3, the First Chancellor, Vice Chancellor and the first Members of the Board of Management of the Academic Council etc., has been set out.

4. The crucial section is Section 4 and in particular sub-clause (1) of Section 4, which refers to the powers of the University, which specifically states that such power would provide for instruction in all branches of Vedic Learning, as well as promotion and development of the study of Sanskrit, as the University may from time to time determine and also to make provision for research and for the advancement and dissemination of knowledge.

5. Sub-clauses (ii) to (xxviii) of Section 4 refers to the various other powers such as granting diplomas and certificates; to organize and undertake extra-mural studies; conferment of honorary degree; facilities for distance education system; to recognize an institution of higher learning for such purposes as the University may determine; to recognize persons for imparting instructions in any college or institution maintained by the University; to appoint persons working in any other University or organization, as a teacher of the University for a specific period; to create teaching, as well as administrative posts; to co-operate or collaborate with any other University or authority; to establish other campus, special centers, specified laboratories etc., to institute and award fellowships, scholarships etc., to establish and maintain colleges and institutions; to make provision for research and advisory service; to organize and conduct refresher courses; to make special arrangements for teaching women students; to appoint on contract or otherwise visiting professors, scholars; to confer autonomous status on a college or an institution or a department; to determine standards of admission of the University etc.; to fix quota for reserved class students; to demand and receive payment of fees and other charges; to take care of the hostels of the students with other inmates of the college; to lay down conditions of service of all categories of employees; to frame discipline; to receive benefications, gifts, etc., and to do all such other acts and things as may be necessary, incidental or conducive for attainment of all or any of its objects.

6. Section 5 states that the jurisdiction of the University would extend to the whole of the State of Madhya Pradesh. The status of the Chancellor has been described in Section 9. Sub-section (1) of Section 9 recognizes the status of Maharshi Mahesh Yogi as its first Chancellor, who was entitled to hold office during his lifetime. Sub-section (2) to Section 9 provides the manner in which the next Chancellor can be appointed by the Board of Management and the qualification and eligibility for appointment as Chancellor. Section 10 deals with the position of the Vice Chancellor, qualification and procedure for filling up of the said post. Section 11 deals with the status of the Pro-Vice

Chancellor. Sections 12, 13 and 14 deals with the position of Deans of Schools, the Registrar and the Finance Officer of the appellant University.

7. Section 15 deals with the manner of appointment, powers and duties of the other officers of the University, which has to be prescribed by the Statutes. Sections 17 and 18 specifically deal with the power of the Board of Management and its constitution. Section 19 deals with the Academic Council, while Section 20 deals with the Planning Board and Section 24 enumerates the powers to make Statutes and the provisions to be contained therein. Section 25 enumerates as to how the Statues has to be made. Section 26 stipulates as to how all Ordinances should be made. Section 28 deals with the preparation of annual report of the University, including the annual accounts and the balance sheet duly audited by a chartered accountant under the direction of the Board of Management. Sections 30 and 31 prescribe the procedure for appeal and arbitration in disciplinary cases against students. Section 32 deals with the creation of provident and pension funds. Section 34 deals with the constitution of committees, while Section 35 deals with the manner in which the casual vacancies are to be filled up. The transitional provisions are specified in Section 38 of the Act. The last Section 39 stipulates that every Statute, Ordinance or Regulation made under the Act, should be published in the Official Gazette and that it should be laid down, as soon as it is made before the Madhya Pradesh Legislative Assembly.

8. A conspicuous reading of the above provisions of the 1995 Act, discloses that the appellant University was established and incorporated under Section 3 of the Act. At the very outset, it must be stated that the establishment of the University itself was at the behest of Maharshi Mahesh Yogi, who was the man behind the institution and was an inspiration, if we may say so, for the establishment and effective functioning of it. The State Government came forward to pass the legislation for establishing the appellant University on his initiative and persuasion. It was his vision of spreading total knowledge on the holistic interpretation of the 'Vedas' and it must be stated that his move to propagate natural law and technology of consciousness was very laudable. It is stated that he was instrumental for establishing many such Universities at various places throughout the world. Therefore, it was his vision, as well as mission, to establish this University with the laudable object of spreading the holistic principle enshrined in the Vedas, Upvedas, Agam Tantra, Itihas, Puranas, as well as Gyan-Vigyan.

9. The purport of establishing this University at his instance was to ensure that the ancient knowledge embedded in those Vedas, Upvedas, Agam Tantra, Itihas, Puranas etc., are kept intact and the wealth of knowledge contained in these Vedas, Upvedas etc., are not only spread by establishing an institution, but by teaching them through well established institutions and thereby, ensuring that such wealth of knowledge is kept intact for the future generations to come.

10. In this context, we must state that the Division Bench of the Madhya Pradesh High Court in its scholarly judgment has dealt with the intricacies of the wealth of knowledge contained in Vedas, running for several pages and hence, we only state that the same shall be read as part and parcel of this judgment for its better understanding.

11. When we refer to the subjects dealt with in Vedas, it will be worthwhile to note the details garnered and noted in the judgment of the Division Bench, which in our considered opinion have to be referred to in order to appreciate the challenge made to the amendment by the State Government with particular reference to Section 4(1) of the 1995 Act. In fact the Division Bench has dealt with the above aspects in several pages, however, for the purpose of this case, it will be sufficient if we refer to certain relevant portions of the judgment in order to get a better understanding that the concept of Vedas deals with various aspects of life, which also includes science in general, as well as human autonomy. Reference can be made to paragraph 29 and 30 of the judgment, where the Division Bench has noted the four different branches of Vedas viz., Rigveda, Samaveda, Yajurveda and Atharvaveda, along with the four Upvedas viz., Ayurveda, Gandharvaveda, Dhanurveda and Sthapatyaveda. If all these Vedas are understood in their proper perspective, we can find that they deal with various aspects of life, the way of living, the culture, sculpture, medicines and quintessence of civilization and so on and so forth.

12. The Division Bench has also noted that in Vedas there are formulae, which deals with mathematics. The Vedic sutras enable a person to solve complex mathematical problems because of its cogency, compactness and simplicity. The Division Bench has also stated that it is a total misconception for any one to state that Vedas are only relatable to rituals. It went on to add that mathematicians have observed that while ordinary multiplication methods require many steps, in Sanskrit sutra, only one line method is sufficient. To quote a few, the Division Bench has referred to ‘Urdhwa’, ‘Tiryak Sutra’, ‘Ekadhiken Purva Sutra’ and ‘Kalana- Kalna Sutra’. A little more detailed analysis made by the Division Bench, as regards the in-depth contents in Vedas can be profitably referred to by extracting paragraph 33 of the judgment of the Division Bench, which reads as under:

> “33. The modern physicists are also connecting certain theories propagated by the ancient Indians. Some scientists have seen atomic dance in the deity of 'Natraj'. The empirical knowledge which has been achieved, had been perceived knowledge which has been achieved, had been perceived by the ancient 'Drastas'. The memories of cells, which is the modern discovery finds place in the wise men of the past. The Psychology, Psychiatry, Neurology had also been adverted in their own way in the Shastras. Presently scholars recognize one continuous shining background which had its base is the pure consciousness. Thoreau, the eminent thinker, realised this and expressed so through his writing, Psychological quiescence is not unknown to the ancients. The principle that there cannot be difference between the body and mind was found by them. The great American, Emerson expressed :
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> "They reckon ill who leave me out; When me they fly I am the wings; I am the doubter and the doubt, And, I the hymn the Brahamana sings."

Possibly for these reasons T.S. Eliot wrote: "Mankind cannot bear too much of reality."

13. Again in paragraph 43, the Division Bench has highlighted how Vedic learning is also concerned with human anatomy and physiology. It mentions that Atharvaveda gives a picture of human bio-existence in a different manner. It is also stated that Vedas qua human anatomy, coincides more

or less with the medical science of today. It is further mentioned that the language of interpretation may be different, but the essence of science is one and the same. The Division Bench states that the Atharvaveda does not perceive man's physiology, as delineated in terms of science, but visualizes in subtler elements, by making specific reference to the nadis, annihilation, exhalation, retention of air in the body, which has its corresponding note in the winds and vayu.

14. We have ventured to make a detailed reference to the above facets highlighted in the judgment in order to state and understand that by making reference to Vedas and its other allied subjects, one cannot arrive at a conclusion that it only deals with rituals and some religious tenets and that it has nothing to do with other aspects of life. On the other hand, a detailed reference was made by the Division Bench by making an in depth study disclosing that the study of Vedas should enlighten a person in all aspects of life not necessarily restricted to religion or rituals simpliciter.

15. When we attempt to understand the intricacies of Vedas, which as stated by us earlier has been dealt with by the Division Bench in several pages in the opening part of its judgment, we also wish to make a reference to the meaning of the expression "Gyan Vigyan", as has been expressed by Dr.Subash Sharma, Dean of Indian Business Academy, Noida in his article "From Newton to Nirvana: Science, Vigyan and Gyan". A reading of the said note on "Gyan Vigyan" by the author really gives a clear picture about the said concept. We feel that it is worthwhile to make a brief reference to what has been attempted to be explained by the said author. According to the writer, "Gyan Vigyan" can be analyzed in two ways, viz., Vishesh Gyan and Vishya Gyan. The world science has linkages with senses and hence, scientific knowledge has got its roots in senses. He would state that the traditional knowledge gets legitimacy only if it can be tested on the basis of objectivity, through the senses. He would elaborate his idea by stating that while science relies on senses, Vigyan i.e. Vishesh Gyan, can be acquired through 'mind'. Therefore, Vigyan is more than science as 'mind' is more than senses. He would conclude his analysis by saying that 'Gyan' both in terms of its metaphysical and spiritual meaning, is acquired through 'consciousness' and that it is more than Vigyan as 'consciousness' is more than 'mind'. If the analysis made by the writer is understood, it can be held that if one represents senses, mind and consciousness in terms of three concentric circles, we may observe that radius of consciousness is larger than the radius of the mind and radius of mind is larger than the radius of the senses.

16. He would therefore, conclude by saying that just as senses, mind and consciousness are interconnected, the three circles of science, Vigyan and Gyan are also interconnected. It can therefore be safely stated that "Gyan Vigyan" would be nothing but a systematic study of science through senses, by applying one's mind with absolute consciousness.

17. Keeping the above perception about the basics of Vedas i.e., Upvedas, Agam Tantra, Itihas, Puranas etc., in consonance with Gyan Vigyan, it will be necessary to briefly refer as to how the University came to be established after the coming into force of 1995 Act. It is also imminently required in as much as, such an establishment had resulted in the investment of considerable sum of money for the purpose of imparting education on Vedas and its allied subjects, including Gyan Vigyan and for dissemination of knowledge, as was originally thought of by the lawmakers, while enacting 1995 Act for the purpose of establishing the appellant University.

18. One of the main themes, which was propagated by Maharshi Mahesh Yogi was that the solution of the problems in the field of education lies in developing the limitless inner potential of its students and teachers. According to him, to achieve the said goal, it was necessary to revive the ancient Vedic science and knowledge for the systematic unfolding of the full range of human consciousness. The said line of thinking of the Yogi contains the technology of the unified field that includes the Transcendental Meditation (TM) and Transcendental Meditation Siddhi Programmes. It was also highlighted by the Yogi that there were enough materials in Vedas, which pertains to seed production, crop production, sericulture, health care, management, beauty culture, marketing and accounting. It was further claimed that Vedas are the structure of pure knowledge, having infinite creative potential, which an individual can harvest. In order to highlight the valueability of the above intricate subjects, considerable investment had to be made while establishing the appellant University.

19. It was in this background that the Yogi is stated to have made an attempt for nearly four decades by repeatedly knocking at the doors of the Legislators who came forward with the Statute viz., 1995 Act for establishing the institution with the laudable object of spreading the knowledge on Vedas and its intricate subjects, through the medium of education. After the Statute viz., 1995 Act, came into effect, the appellant University took every effort to create the necessary infrastructure of high standards in education and teaching. It is revealed that the infrastructure comprised of permanent furnished buildings, teachers, staff, transport facilities, library, hostel facilities etc., and the capital expenditure as on 31.03.2000, was stated to be Rupees 12.74 crores. Besides this, the recurring expenditure was also of an equal sum. After its commencement, it is stated that 3006 students, who received education from the University, were conferred with certificates/diplomas and degrees. In the academic year 2000-01, the student strength was stated to be 3136 and that it has also awarded Ph.D degrees to 10 students, while 70 other students were pursuing their doctorate education by enrolling themselves with the University. Amongst the 70 students who enrolled themselves for pursuing their doctorate courses in the University, 46 students were granted scholarship in the range of Rs.1500 to Rs.2000 per month.

20. In the rejoinder affidavit filed in the High Court, the University further claimed that it has Rs.60 crores deposit and has realized a sum of Rs.2.5 crores by way of tuition fees and stated that the University has invested huge sums for the purpose of imparting education in Vedas, as well as in other science and art subjects, which according to the University were essential requirements to be established for the purpose of attaining its objectives.

21. The appellant University would therefore, contend that in the field of education, though the main objective of the University was to reinforce the greatness of Vedas, Upvedas, agam tantra, itihas, darshan, upanashid, puranas etc., in as much as every other field of education was intrinsically connected with the main objective of spreading the knowledge of Vedas. It was contended that the attempt of the State Government to cripple the activities of the University by restricting the scope of education in the University to Vedas alone would be doing grave injustice to the University, as well as to its beneficiaries.

22. Having analysed the emergence of the appellant University based on enactment viz., 1995 Act, we are of the considered opinion that it will also be appropriate to emphasis the need of education and its benefits in order to appreciate the issue involved in this litigation in particular to the challenge made at the instance of the appellant to certain of the amendments, which were introduced in the said 1995 Act, by the Amendment Act. It is needless to state that education, a Constitutional right, has been explained as an essential part in every one's life. In order to understand its consequential effects on the society at large, the Father of the Nation, Mahatma Gandhi, while referring to education has stated, "live as if you were to die tomorrow. Learn as if you were to live forever". Later reinforced by Nelson Mandela "Education is the most powerful weapon which you can use to change the world". The process of learning, as has been highlighted by the father of the nation, emphasises the need for one to have an everlasting thirst for acquiring knowledge by getting himself educated. It is stated that education is the most potent mechanism for the advancement of human beings. It enlarges, enriches and improves the individual's image of the future. A man without education is no more than an animal. Education emancipates the human beings and leads to liberation from ignorance. According to Pestalozzi who is a Swiss pedagogue and educational reformer stated that education is a constant process of development of innate powers of man, which are natural, harmonious and progressive. It is said that in the 21st Century, 'a nation's ability to convert knowledge into wealth and social good through the process of innovation is going to determine its future.' Accordingly the 21st Century is termed as the 'century of knowledge'.

23. Mr. Will Durrant defines 'education' as the 'transmission of civilization'. George Peabody has defined 'education' as "a debt due from present to future generations". Education confers dignity to a man. The significance of education was very well explained by the US Supreme Court first, in the case of Brown V Board of Education – 347 U.S. 483(1954), in following words: "It is the very foundation of good citizenship. Today, it is principal instrument in awakening the child to cultural value, in preparing him for later professional training and in helping him to adjust normally to his environment." Hence, it is said that a child is the future of the nation.

24. A private organization, named the International Bureau of Education, was established in Geneva in 1924 and was transformed into an inter- governmental organization in 1929, as an international coordinating centre for institutions concerned with education. A much broader approach was chosen, however with the establishment of UNESCO in 1945. United Nations, on 10th December, 1998 adopted the Universal Declaration of Human Rights (UDHR). The Preamble to the UDHR stated that: "every individual and organ of society...., shall strive by teaching and education to promote respect for these rights and freedoms...." In accordance with the Preamble of UDHR, education should aim at promoting human rights by importing knowledge and skill among the people of the nation States.

25. Article 26 of the Universal Declaration of Human Rights declares:

> "Everyone has the right to education. Education shall be free, at least in the elementary and fundamental stages. Elementary education shall be compulsory. Technical and Professional education shall be generally available and higher education shall be equally accessible to all on the basis of merit." (Emphasis added)

26. The same concept has been repeated in the UN Declaration of the Rights of the Child, which seeks to ensure;

> "Right to free and compulsory education at least in the elementary stages and education to promote general culture, abilities, judgment and sense of responsibility to become a useful member of society and opportunity to recreation, and play to attain the same purpose as of education."

27. The role of international organizations regarding the implementation of the right to education is just not limited to the preparation of documents and conducting conferences and conventions, but it also undertakes the operational programmes assuring, access to education of refugees, migrants, minorities, indigenous people, women and the handicaps. India participated in the drafting of the Declaration and has ratified the covenant. Hence, India is under an obligation to implement such provisions. As a corollary from the Human Rights perspective, constitutional rights in regard to education are to be automatically ensured.

28. Having briefly analyzed the International Conventions, we would like to refer to the provisions in our own Constitution, which provides for the significance and need for education. The Founding Fathers of the nation, recognizing the importance and significance of the right to education, made it a constitutional goal, and placed it under Chapter IV Directive Principles of State Policy of the Constitution of India. Article 45 of the Constitution requires the State to make provisions within 10 years for 'free and compulsory education' for all children until they complete the age of 14 years.

29. Further, Article 46 declares that the state shall promote with special care the educational and economic interests of the weaker sections of the people. It is significant to note that among several Articles enshrined under Part IV of the Indian Constitution, Article 45 had been given much importance, as education is the basic necessity of the democracy and if the people are denied their right to education, then democracy will be paralyzed; and it was, therefore, emphasized that the objectives enshrined under Article 45 in Chapter IV of the Constitution should be achieved within ten years of the adoption of the Constitution. By establishing the obligations of the State, the Founding Fathers made it the responsibility of future governments to formulate a programme in order to achieve the given goals, but the unresponsive and sluggish attitude of the government to achieve the objectives enshrined under Article 45, belied the hopes and aspirations of the people. However, the Judiciary showed keen interest in providing free and compulsory education to all the children below the age of fourteen years. In the case of Mohini Jain V State of Karnataka and others - (1992) 3 SCC 666, this Court held that right to education is a fundamental right enshrined under Article 21 of the Constitution. The right to education springs from right to life. The right to life under Article 21 and the dignity of the individual cannot fully be appreciated without the enjoyment of right to education. The Court observed:

> "Right to life" is the compendious expression for all those rights which the Courts must enforce because they are basic to the dignified enjoyment of life. It extends to the full range of conduct which the individual is free to pursue. The right to education flows directly from right to life. The right to life under Article 21 and the dignity of an

> individual cannot be assured unless it is accompanied by the right to education. The State Government is under an obligation to make endeavour to provide educational facilities at all levels to its citizens."

30. In the case of Unni Krishnan J.P. and others V State of Andhra Pradesh and others reported in (1993) 1 SCC 645, this Court was asked to examine the decision of Mohini Jain's case. In Unni Krishnan (supra) this Court partly overruled the decision rendered in Mohini Jain's case. The Court held that, the right to education is implicit in the right to life and personal liberty guaranteed by Article 21 and must be interpreted in the light of the Directive Principles of State Policy contained in Articles 41, 45 and 46. This Court, however, limited the State obligation to provide educational facilities as follows:

> (i) Every Citizen of this Country has a right to free education until he completes the age of fourteen years;
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> (ii) Beyond that stage, his right to education is subject to the limits of the economic capacity of the state.

His Lordship Mr. Justice Mohan, as he then was, has stated as under in paragraph 10 & 11:

> "10. The fundamental purpose of Education is the same at all times and in all places. It is to transfigure the human personality into a pattern of perfection through a synthetic process of the development of the body, the enrichment of the mind, the sublimation of the emotions and the illumination of the spirit. Education is a preparation for a living and for life, here and hereafter.
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> 11. An old Sanskrit adage states: "That is Education which leads to liberation"- liberation from ignorance which shrouds the mind; liberation from superstition which paralyses effort, liberation from prejudices which blind the Vision of the Truth."

(Emphasis added)

31. Further, this Court in M.C. Mehta V State of Tamil Nadu and others reported in (1996) 6 SCC 756, observed that, to develop the full potential of the children, they should be prohibited from doing hazardous work and education should be made available to them. In this regard, the Court held that the government should formulate programmes offering job oriented education, so that they may get education and the timings be so adjusted so that their employment is not affected.

32. Again in Bandhua Mukti Morcha V Union of India and others, reported in (1997) 10 SCC 549, Justice K. Ramaswamy and Justice Saghir Ahmad observed that illiteracy has many adverse effects in a democracy governed by a rule of law. It was held that educated citizens could meaningfully exercise their political rights, discharge social responsibilities satisfactorily and develop sprit of tolerance and reform. Therefore, compulsory education is one of the essentials for the stability of

democracy, social integration and to eliminate social evils. This Court by rightly and harmoniously construing the provision of Part III and IV of the Constitution has made 'Right to education' a basic fundamental right.

33. The Government of India by Constitutional (86th Amendment Act) Act, 2002 had added a new Article 21A, which provides that "the state shall provide free and compulsory education to all children of the age of 6 to 14 years in such manner as the State may, by law determine". Further, they strengthened this Article 21A by adding a clause (k) to Article 51-A, which provides for those who are a parent or guardian to provide opportunities for education to his/her child or ward between the age of 6 and 14 years. On the basis of the Constitutional mandate provided under Articles 41, 45, 46, 21-A, 51-A(k) and various judgments of this Court, both the Government of India, as well as this Court has taken several steps to eradicate illiteracy, improve the quality of education and simultaneously ensure that the dropouts are brought to nil. Some of these programmes are the National Technology Mission, District Primary Education Programme, and Nutrition Support for Primary Education, National Open School, Mid-Day Meal Scheme, Sarva Siksha Abhiyan and other state specific initiatives. Besides this, several States have enacted legislations to provide free and compulsory primary education such as: The Right of Children to Free and Compulsory Education Act, 2009, The Kerala Education Act 1959, The Punjab Primary Education Act 1960, The Gujarat Compulsory Primary Education Act 1961, U.P. Basic Education Act 1972, Rajasthan Primary Education Act 1964, Tamil Nadu Right of Children to Free and Compulsory Education Rules, 2011, etc.

34. The right to education will be meaningful only and only if all the levels of education reach to all sections of people, otherwise it will fail to achieve the target set out by our Founding Fathers, who intended to make the Indian society an egalitarian society.

35. The 15th official census in India was calculated in the year 2011. In a country like India, literacy is the main foundation for social and economic growth. When the British rule ended in 1947, the literacy rate was just 12%. Over the years, India has changed socially, economically, and globally. After the 2011 census, literacy rate in India, during 2011 was found to be 74.04%. Compared to the adult literacy rate here, the youth literacy rate is about 9% higher. Though this seems like a very great accomplishment, it is still a matter of concern that still so many people in India cannot even read and write. The number of children who do not get education especially in the rural areas are still high. Though the government has made a law that every child under the age of 14 should get free education, the problem of illiteracy is still at large.

36. Now, if we consider female literacy rate in India, then it is lower than the male literacy rate, as many parents do not allow their female children to go to schools. They get married off at a young age instead. Though child marriage has been lowered to very low levels, it still happens. Many families, especially in rural areas believe that having a male child is better than having a baby girl. So the male child gets all the benefits. Today, the female literacy levels according to the Literacy Rate 2011 census are 65.46%, where the male literacy rate is over 80%. The literacy rate in India has always been a matter of concern, but many NGO initiatives and government ads, campaigns and programs are being held to spread awareness amongst people about the importance of literacy. Also the

government has made strict rules for female equality rights. Indian literacy rate has shown a significant rise in the past 10 years.

37. According to us, illiteracy is one of the major problems faced by the developing nations. In Africa and South East Asia, it has been identified as a major cause of socio economic and ethical conflicts that frequently surfaced in the region. Therefore, literacy has now become part of the Human Right dialogue. Now most of the nations of the world have also accepted their obligation to provide at least free elementary education to their citizens.

38. Owens and Shaw have stated in their book 'Development Reconsidered' "It is self-evident that literacy is a basic element of a nationwide knowledge system. The most important element of a literacy program is not the program itself, but the incentive to become and remain literate."

39. Education is thus, viewed as an integral part of national development and held as an instrument by which the skills and productive capacities are developed and endowed. Literacy forms the cornerstone for making the provision of equality of opportunity a reality.

40. With great respect, it will also have to be stated that bereft of improvement in the educational field when we pose to ourselves the question as to what extent it has created any impact, it will have to be stated that we are yet to reach the preliminary level of achievement of standardised literate behaviour. In fact, in the earlier years, though the literate level was not as high as it now stands, the human value had its own respected place in the society. It will be worthwhile to recall the control the elders could administer over the youngsters, de hors the lack of education. It is unfortunate that today education instead of reforming the human behaviour, in our humble opinion appear to have failed to achieve its objective. Instead we find troubled atmosphere in the society at large, which calls for immediate reformation with the efforts of one and all. Therefore, it has become imperative to see that the institution, the teachers, the parents, the students and the society at large can do for bringing about such a transformation. When by and large the development of education has been achieved and the percentage of literacy has considerably improved, at least to more than 60%, there should not be any difficulty for the educated mass to prevail upon every section of the society in order to ensure that the orderly society emerges, which would pave the way for a decent and safe living for every human being who is part of the society.

41. We can usefully refer to the importance of the education as highlighted by the seven Judge Bench of this Court in P.A. Inamdar and others V. State of Maharashtra and others – (2005) 6 SCC 537. In paragraphs 81, 85 and 90, it has been held as under:

> 81. "Education" according to Chambers Dictionary is "bringing up or training; ... strengthening of the powers of body or mind; culture".
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> 85. Quadri, J. has well put it in his opinion in Pai Foundation:
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> "287. Education plays a cardinal role in transforming a society into a civilised nation. It accelerates the progress of the country in every sphere of national activity. No

section of the citizens can be ignored or left behind because it would hamper the progress of the country as a whole. It is the duty of the State to do all it could, to educate every section of citizens who need a helping hand in marching ahead along with others."

90. In short, education is national wealth essential for the nation's progress and prosperity.

42. The following quote of the Hon'ble Supreme Court in Unni Krishnan's case sums up the importance of education;

"Victories are gained, peace is preserved, progress is achieved, civilisation is built up and history is made not on the battlefields where ghastly murders are committed in the name of patriotism, not in the Council Chambers where insipid speeches are spun out in the name of debate, not even in factories where are manufactured novel instruments to strangle life, but in educational institutions which are the seed-beds of culture, where children in whose hands quiver the destinies the future, are trained. From their ranks will come out when they grow up, statesmen and soldiers, patriots and philosophers, who will determine the progress of the land."

43. Having thus highlighted the importance of Education, when we now refer to the core issue involved in this appeal, the provocation for the appellant to file the writ petition was the amendment introduced by Amendment Act 5 of 2000, by which, Sections 2, 4, 9 and 17 of 1995 Act was amended, while simultaneously Sections 31-A, 31-B, 31-C, 37-A and 37-B were inserted.

44. Before adverting to the consequence of the amendments introduced to two of the crucial provisions viz., Section 4(1) and its proviso and Section 9(2) of the un-amended Act, it will have to be kept in mind that after the coming into force of the 1995 Act, the appellant University has framed its Statutes, as well as Ordinance No.15. Ordinance No.15, contains the courses of studies, which are numerous. Apart from prime subjects on Vedas there were also other professional courses such as Project Management, Human Resources Management, Financial Management, Marketing Management, Accounting and Auditing, Banking, as well as vocational courses in typing, stenography, secretarial practice, computer technology marketing and sales, dress designing and manufacturing, textile designing and printing, horticulture, seed production, crop production, sericulture, as well as, short term courses in various international topics such as, political science, theory of Government, theory of defense, theory of education, theory of management etc.

45. One other relevant factor to be noted is that the appellant University was added in the list of Universities maintained by the University Grants Commission, as provided under Section 2(f) of the University Grants Commission Act, 1956. The same was addressed by way of a communication to the University Grants Commission dated 24.08.1998, in and by which, the inclusion of the appellant University in the schedule to the University Grants Commission Act, 1956 was notified. One other factor which is also to be kept in mind is that by virtue of the provisions contained in the un-amended Act, the appellant University also opened up as many as 55 centers in which an average of 35 students stated to have got themselves enrolled to pursue various courses of study.

46. Keeping the above factors and details in mind, when we examine the challenge made in the writ petition, in the forefront, the challenge was to the amendment, which was made to Section 4(1) of the 1995 Act.

47. The next challenge was to the proviso to Section 4 and the third crucial challenge was to the amendment to Section 9(2) of the 1995 Act. In fact, Mr.Nagaeshwara Rao, learned senior counsel for the appellant in his submissions, mainly concentrated on the above three aspects on which the amendments impinge upon the rights of the appellant.

48. In the first instance, we wish to take up the amendment to Section 4(1) of the Act. In order to appreciate the submissions of the respective counsel, it will be worthwhile to note the un-amended Section 4(1), the amended Section 4(1), as well as the Preamble to the Act which are as under:

> "4 (i) to provide for instruction in all branches of Vedic learning and practices including Darshan, Agam Tantra, Itihas, Puranas, Upvedas and Gyan-Vigyan and the promotion and development of the study of Sanskrit as the University may, from time to time determine and to make provision for research and for the advancement and dissemination of knowledge."

The amended provision reads as under:--

> "to provide for instruction only in all branches of Vedic learning and practices including Darshan, Agam Tantra, Itihas, Puranas, Upvedas and Gyan-Vigyan and the promotion and development of the study of Sanskrit as the University may from time to time determine and to make provison for research and for the advancement in the above fields and in these fields may ....."

Preamble:

> "An Act to establish and incorporate a University in the State of Madhya Pradcsh and to provide for education and prosecution of research in Vedic learnings and practices and to provide for matters connected therewith or incidental thereto."

49. A reading of the above amendments to Section 4(1) discloses that by way of the amendment, the expression “only” and the expression “in the above fields and in these fields may...” were added, while the last set of expressions “dissemination of knowledge” were deleted. After the amendment, the grievance of the appellant was that, prior to the coming into force of the Amendment Act viz., Act 5 of 2000, the Officer on Special Duty, in the Department of Higher Education, sent a memorandum, alleging that the course of study prescribed in Clause 1(i) and (j) of Ordinance No.15, were contrary to the aims and objectives of the University and therefore, not acceptable. The University submitted through its reply vide Annexure P-7, explaining in detail with cogent reasons as to why it was entitled to conduct those courses. It is in the above stated background that the Amendment Act 5 of 2000 came to be introduced.

50. In the above stated background, when we examine the amendment to Section 4 (1), it is quite apparent that by adding the word "only" after the expressions "instruction" in the opening part of the Section and by adding expression "in the above fields and in these fields may...", the State Legislature apparently wanted to restrict the scope of providing instructions to its students only in respect of studies in branches of Vedic learning and practices, including Darshan, Agam Tantra, Itihas, Puranas, Upvedas and Gyan-Vigyan and also the promotion and development of study of Sanskrit, which was left to be determined by the University. It was also entitled to make provisions for research and for the advancement in the fields mentioned above. By omitting or by deleting the set of expression "dissemination of knowledge", apparently the State Legislature wanted to give a thrust to its intendment of restricting the scope of study in the appellant University to Vedic instructions and its allied subjects. By taking up the deletion of the expression "dissemination of knowledge", by way of the amendment as stated earlier, the State Legislature wanted to restrict the scope of study in the appellant University to Vedic instructions alone. The expression "dissemination of knowledge" is, to put it precisely, the spreading of knowledge over wide frontiers. Going by the dictionary meaning and to put it differently, "dissemination of knowledge" would mean spreading of knowledge widely or disbursement of knowledge widely. Therefore, the said set of expressions on their own, would only mean any attempt for spreading of knowledge or disbursement of knowledge. With the said set of expressions as originally contained in Section 4(1), the question for consideration was as to whether such spreading of knowledge or disbursement of knowledge should be confined only to the exclusive field of Vedic learning alone, or whether it should be read disjunctively to be applied for such spreading of knowledge, on a wide spectrum. In fact, the Division Bench has even concluded that even by retaining these set of expressions, the position would be that such dissemination of knowledge would be referable only to Vedic learning and not for general application.

51. Mr. Nageshwar Rao, learned senior counsel in his submissions took pains to contend that by reading the un-amended Section 4(1) by virtue of the word 'and' prior to the set of expressions "for the advancement" and "dissemination of knowledge", the learned senior counsel contended that the whole idea and purpose, while establishing the appellant University was for the cause of advancement and spreading of knowledge in a wide spectrum and not by restricting it to the field of Vedic learning alone. To reinforce his submissions, the learned senior counsel vehemently contended that Section 4(1), apart from providing scope for Vedic learning and practices, including Darshan, Agam Tantra, Itihas, Puranas and Upvedas also used the expression "Gyan-Vigyan" which is nothing but science and technology. The learned senior counsel therefore, contended that apart from spreading the process of learning in the field of Vedas, the establishment of the appellant University was also in other fields such as, science and technology and other vocational courses, by way of dissemination of knowledge. The learned senior counsel therefore, contended that by bringing out the amendment to Section 4(1), by way of an addition to the expressions "only" and "in the above fields and in these fields may...", the State Government has violated the Constitutional right of the appellant in the field of education, thereby conflicting with Articles 14, 19 and 21 of the Constitution.

52. The learned senior counsel further contended that the State Legislature lacks competence, in as much as education is a subject contained in Entry- 66 of List-I and is already governed by the

central legislation viz., the University Grants Commission Act, 1956 and therefore, the State was incompetent to restrict the scope of education in various fields by bringing out an amendment, as has been made in Act 5 of 2000.

53. To support the above submission, the learned senior counsel by referring to the Preamble of 1995 Act contended that the Act was enacted to provide for education primarily and prosecution of research in Vedic learning and practices, apart from providing for matters connected therewith or incidental thereto. The submissions of the learned senior counsel was that going by the Preamble to the enactment, the purport of the legislation was to provide education in all fields in the forefront, apart from prosecution of research in Vedic learning and practices. The learned senior counsel would contend that the said submission was rejected by the Division Bench by restricting the consideration to the words preceding the expression "dissemination of knowledge" and by applying the principle Noscitur A Sociis. The learned senior counsel would contend that such an approach of the Division Bench was not justified and relied upon the decisions reported in (2011) 3 SCC 436 (State of Orissa and Anr. Vs. Mamata Mohanty), (2012) 1 SCC 762 (Ramesh Rout Vs. Rabindra Nath Rout), AIR 1963 SC 1323 (State of Rajasthan and Anr. Vs. Sripal Jain), (2001) 4 SCC 286 (M/s. Shriram Vinyl and Chemical Industries Vs. Commissioner of Customs, Mumbai) and (2002) 7 SCC 273 (Union of India (UOI) and Anr. Vs. Hansoli Devi and Ors.).

54. The learned senior counsel also referred to Section 6 of the Madhya Pradesh University Act, 1973 and contended that "dissemination of knowledge" is referable to spreading of knowledge in all other fields which may also include Vedic learning. The learned senior counsel also relied upon AIR 1968 SC 1450 (Ishwar Singh Bindra and Ors. Vs. State of U.P.), (1987) 3 SCC 208 (Joint Director of Mines Safety Vs. Tandur and Nayandgi Stone Quarries (P) Ltd.) and (2005) 5 SCC 420 (Prof. Yashpal and Anr. Vs. State of Chhattisgarh and Ors.) for the proposition as to how to understand the expression "and".

55. Apart from the submission on Section 4(1), the learned senior counsel, while attacking the amendment made by introducing proviso to Section 4, contended that as far as the introduction of various courses, as well as opening of centers are concerned, they are exclusively governed by the University Grants Commission Regulations, which was framed under the provisions of the University Grants Commission Act, 1956 and therefore, the introduction of the said proviso was directly in conflict with the occupied field by the University Grants Commission Act and consequently ultra-vires of the Constitutional provisions. The learned senior counsel relied upon Prof. Yashpal and another (supra), (1995) 4 SCC 104 (State of Tamil Nadu and Anr. v. Adhiyaman Educational and Research Institute and others) and 1963 Supp. 1 SCR 112 (Gujarat University, Ahmedabad Vs. Krishna Ranganath Mudholkar). Reference was also made to Section 12 of the University Grants Commission Act, 1956 in support of the said submission.

56. As far as the challenge relating to Section 9(2) of the Act, was concerned, the learned senior counsel contended that the submission based on Entry 66 of List-I of the Constitution would equally apply to the said challenge. Besides this, he also contended that as the appellant University was created by a Statute, the amendment only seeks to interfere with its independence by casting onerous conditions on the appellant to submit a panel of three persons to the State Government,

and by empowering the State Government to grant its approval as a pre-condition for the appointment of the Chancellor. According to the learned senior counsel such a condition imposed was highly arbitrary and therefore, was liable to be set aside.

57. The learned senior counsel therefore, contended that the insertion of the word "only" in Section 4(1) of the Act, was made by simultaneously deleting the expression "dissemination of knowledge" and thereby, the un- amended provision has been made meaningless. According to the learned senior counsel, the conclusion of the Division Bench that even without the deletion, the position remains the same, was not correct because every word in the legislation has a purpose and the principle Noscitur A Sociis was not applicable to the case on hand because the term "dissemination of knowledge" is of wider import.

58. The above proposition of law as contended by the learned senior counsel has been widely dealt with by this Court in a catena of decisions right from State of Bombay and others vs. Hospital Mazdoor Sabha and others (AIR 1960 SC 610), Rohit Pulp and Paper Mills Ltd. Vs. Collector of Central Excise (AIR 1991 SC 754), Kerala State Housing Board and others Vs. Ramapriya Hotels (P) Ltd. and others, (1994) 5 SCC 672), Samantha Vs. State of Andhra Pradesh (AIR 1997 SC 3297), K. Bhagirathi G. Shenoy and others Vs. K.P. Ballakuraya and another (AIR 1999 SC 2143), Brindavan Bangle Stores and others Vs. Assistant Commissioner of Commercial Taxes and another (AIR 2000 SC 691) ending with the decision in CBI, AHD, Patna Vs. Braj Bhushan Prasad and others (AIR 2001 SC 4014 at page 4020). It has been held that the legal maxim Noscitur A Sociis, is merely a rule of construction and it cannot prevail in cases where it is clear that the wider words have been deliberately used in order to make the scope of the defined word correspondingly wider. It is only where the intention of the Legislature in associating wider words with words of narrower significance is doubtful or otherwise not clear that the present rule of construction namely Noscitur A Sociis can be usefully applied.

59. As far as the proviso to Section 4 was concerned, the submission of the learned senior counsel was, what applied to the courses would equally apply to centers and since the Division Bench has held that the State Government was not competent to legislate, as regards the courses to be introduced, on the same logic, the Division Bench ought not to have set aside the proviso in its entirety.

60. As against the above submissions Ms.Vibha Datta Makhija, learned counsel for the State contended that the University Grants Commission Rules was related to the standard of education and not on courses. According to the learned counsel, going by the Preamble to 1995 Act, it is categorical and unambiguous to the effect that the establishment of the University was only to provide education in Vedic learning and therefore, it can only be in courses connected with Vedas. As a corollary it was submitted that any course not connected with Vedic learning will stand excluded.

61. The learned counsel submitted that even going by the un-amended Section 4, it is clear that it referred only to all learning connected with Vedic study, since the various sub-clauses to Section 4 also disclosed that it was more Vedic centric rather than on general subjects. By referring to Section

17, the learned counsel pointed out that the degree of autonomy granted to the appellant University, as compared to other Universities was limited in scope.

62. The learned counsel also referred to the object and scope of the Madhya Pradesh Vishwavidyalaya Adhiniyam, 1973 (Act 22 of 1973) in particular to the Objects and Reasons and contended by making reference to the object of the said Act, which purported to consolidate and amend the law relating to Universities and to make better provisions for the organization and administration of Universities in Madhya Pradesh. The learned counsel further contended that the various provisions of the said Act viz., Section 4(17), Section 6 (1) & (8), Sections 7, 12, 24, 25, 26 and 39 provides the required authority to the State Government to regulate the manner of functioning of the Universities in the State of Madhya Pradesh, including the appellant University.

63. As far as the legislative competence is concerned, the learned counsel referred to Entries 63 to 66 of List-I, which deals with "Co-ordination and determination of standards in institutions for higher education or research and scientific and technical institutions". By referring to Entry 32 of List – II, which deals with incorporation and regulation of Universities, as well as Entry 25 of List – III, which again deals with Education, including technical education, medical education and Universities, subject to the provisions of Entries 63, 64, 65 and 66 of List I, the learned counsel contended what was taken away was only "co-ordination and determination of standards of education" as covered by Entries 63 to 66 and by virtue of the enabling provision in Entry 32 of List-II, which empowers the State Government for incorporating an University and regulating its functioning, ample powers are vested with the State Government to pass the impugned legislation. The learned counsel therefore, contended that Section 4(1) only deals with the scope within which the appellant University can function and that it does not talk about curriculum or standard. In such circumstances, when the said provision empowers the University to set up an institution by regulating the same by taking certain measures, it cannot be held that such an exercise can be questioned on the ground of lack of competence.

64. The learned counsel would contend that the amendment introduced by the State Government was in public interest, which falls squarely under Entry 32 of List-II, as well as Entry 25 of List-III and therefore, there was no repugnancy with Entry 66 of List-I of the Constitution. In support of the above submission, the learned counsel also referred to Section 2(f) of the University Grants Commission Act, 1956 and contended that the definition of the term 'University' under the said Act means a University established or incorporated by or under a Central Act, a Provincial Act or a State Act and therefore, the University which was established under the 1995 Act can always be regulated by the State Government by passing appropriate amendments to the Act by which the State created the said University.

65. The learned counsel also referred to Section 12 of the University Grants Commission Act, 1956 to contend that the general duty of the Commission is to take, in consultation with the Universities or other bodies concerned, all such steps as it may think fit for the promotion and co-ordination of University education and for the determination and maintenance of standards of teaching, apart from examination and research in Universities for which it can take certain actions. In support of her submission, the learned counsel relied upon the decisions reported in AIR 1964 SC 1823 (R.

Chitralekha Vs. State of Mysore), 1963 Supp (1) SCR 112 (The Gujarat University, Ahmedabad Vs. Krishna Ranganath Mudholkar and Ors), 1987 (3) SCR 949 (Osmania Universtity Teachers' Association Vs. State of Andhra Pradesh and Anr.) and (1999) 7 SCC 120 (Dr. Preeti Srivastava and another Vs. State of M.P.). The learned counsel also relied upon (2009) 4 SCC 590 (Annamalai University Vs. Secretary to Government, Information and Tourism Department) and (2004) 4 SCC 513 (State of Tamil Nadu Vs. S.V.Bratheep).

66. The sum and substance of the submissions of the learned counsel for the State was that the state had competence to legislate by introducing the amendments, that the autonomy of the appellant University was also subject to the regulation by the State and that the only thing to be ensured was that such regulatory measures should be reasonable and in consonance with Article 19(1)(j) of the Constitution.

67. On the proviso to Section 4, the learned counsel contended that so long as the Centre is connected with the establishment of University, it would fall under Entry 32 of List-II and therefore, the said proviso was rightly held to be intra-vires by the Division Bench. According to the learned counsel, the effect of the amendment was not a curtailment, but was only by way of clarification. According to the learned counsel to interpret the amendment, the principle of Mischief Rule will have to be applied. The learned counsel further contended that the word "and" used in the Preamble, as well as under Section (4), will have to be read conjunctively and relied upon 1987 (2) SCR 1 (Reserve Bank of India Vs. Peerless General Finance and Investment Co. Ltd., and Others) and (1987) 3 SCC 279 (Utkal Contractors and Joiners Pvt. Ltd., and Ors Vs. State of Orissa and others).

68. Having heard the learned senior counsel for the appellant, as well as the learned counsel for the State, and having bestowed our serious consideration to the respective submissions and having perused the scholarly judgment of the Division Bench and other material papers, at the very outset we are of the view that providing education in an University is the primary concern and objective, while all other activities would only be incidental and adjunct. In this context, it would be worthwhile to emphasis the importance of education which has been emphasised in the 'Neethishatakam' by Bhartruhari (First Century B.C.) in the following words: "Translation: Education is the special manifestation of man; Education is the treasure which can be preserved without the fear of loss; Education secures material pleasure, happiness and fame; Education is the teacher of the teacher; Education is God incarnate; Education secures honour at the hands of the State, not money; A man without education is equal to animal." For this very reason, we have elaborately stated the importance of education as stated by the Father of our Nation, other renowned Authors and great men in public life as well as the mindset of our Constitutional framers in paragraphs 22 to 42. We have also referred to some of the leading judgments of this Court where it has already been held that Right to Education is a Fundamental Right, guaranteed by Article 21 of our Constitution.

69. Keeping the said basic principles in mind, when we examine the issue involved in this appeal, the burden of the appellant was that though under Section 4(1), reference to Vedic learning and its allied subjects was made in the opening sentence, the University was not established under the 1995

Act, only for the purpose of imparting education in Vedas alone, but it was intended for spreading the knowledge of Vedas and simultaneously to teach Sanskrit, science and technology and also as specifically mentioned in Section 4, for spreading of knowledge in all fields. In fact, in the pursuit of our above perception, we have quoted extensively the view points of various personalities, as well as the importance of education and the various constitutional provisions, which were incorporated mainly with a view to spread education in the independent India in order to ensure that the Society is enlightened and by such enlightenment the rights of the people and orderly society is ensured in this Country. Also while referring to a decision of this Court rendered in Mamata Mohanty (supra), the importance of imparting education is emphasized as hereunder:

> "29. Education is the systematic instruction, schooling or training given to the young persons in preparation for the work of life. It also connotes the whole course of scholastic instruction which a person has received. Education connotes the process of training and developing the knowledge, skill, mind and character of students by formal schooling...." ***
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> 33. In view of the above, it is evident that education is necessary to develop the personality of a person as a whole and in totality as it provides the process of training and acquiring the knowledge, skills, developing mind and character by formal schooling. Therefore, it is necessary to maintain a high academic standard and academic discipline along with academic rigour for the progress of a nation. Democracy depends for its own survival on a high standard of vocational and professional education. Paucity of funds cannot be a ground for the State not to provide quality education to its future citizens. It is for this reason that in order to maintain the standard of education the State Government provides grant-in-aid to private schools to ensure the smooth running of the institution so that the standard of teaching may not suffer for want of funds."

70. With the above said prelude, as regards the importance of education in an orderly society, when we come to the core issue, the appellant was aggrieved by the amendment Act 5 of 2000 by which Section 4(1) of 1995 Act was altered and thereby, the State want to contend that the appellant University can impart education only in the field of Vedic learning and practices, including Darshan, Agam Tantra, Itihas, Puranas and Upvedas. 'Darshan' means a proper reading of one's own self and the environment. Agam Tantra is oriental research, which includes history and geography. Itihas, Puranas as the very words suggest, relates to history. Upvedas are part of Vedas. The section as it originally stood stated that the University can provide education in all branches of Vedic learning and practices, which also mentioned Gyan-Vigyan, as well as promotion and development of the study of Sanskrit as the University may from time to time determine. It also mentioned that the University can make provision for research and for the advancement and dissemination of knowledge.

71. According to Mr. L. Nageshwar Rao, the learned senior counsel for the appellant, the words "and" preceding the expression "Gyan-Vigyan", "the promotion and development of study of Sanskrit", "as well as for the advancement and dissemination of knowledge", have to be read

disjunctively and not conjunctively with the first part of the provision viz., “providing for instruction in all branches of Vedic learning”.

72. As against the above submission, Ms. Makhija the learned counsel for the State would contend that having regard to the manner in which the provision has been couched, it will have to be read conjunctively and not disjunctively.

73. Both the learned counsel referred to the Preamble in support of their submissions. When we refer to the Preamble of the 1995 Act, we find that it has been stated that “an Act to establish and incorporate a University in the State of Madhya Pradcsh and to provide for education and prosecution of research in Vedic learnings and practices and to provide for matters connected therewith or incidental thereto." Here again, while Mr.Nageshwar Rao the learned senior counsel would contend that the expression “and” used clearly distinguish each set of expression, according to the learned counsel for the State, the same will have to be read conjunctively.

74. Having considered the various submissions and the analysis made based on detailed circumstances leading to the intricacies of Vedas, the field it covers, as noted by the Division Bench, as well as the concept of education, which has been explained by very many learned and prominent persons to whom we have made detailed references to in the earlier part of our judgment, we are of the considered view that education is the base for every other subject to be taught in the process of learning. Therefore, establishment of the University as the Preamble goes to state was to provide for education in the forefront. It will be appropriate to hold that such a provision for education in so far as the appellant University was concerned, should concentrate and focus in the prosecution of research in Vedic learning and practices and to provide for matters connected therewith or incidental thereto. While holding so, it will have to be stated in uncontroverted terms that merely because such specific reference was made to prosecution of research in Vedic learnings, it could be held that the imparting of education in the appellant University should be restricted to the said subject alone and not in any other subject.

75. In our considered view, such a narrow interpretation would be doing violence to the very basic concept of education, and would create a serious restrain on the University, where, imparting of education is the primary objective and dealing with any specific subject may be for enabling any one to acquire special knowledge on such subjects. In other words, any such restrictive interpretation would go against the basic tenets of the concept of education, which no Court can venture to state.

76. In this context, we must state that if such a narrow interpretation is sought to be placed, it would even create an embargo in the prosecution of research in Vedic learning and practices. In this context, as has been widely considered and referred to by the Division Bench, which we have also noted, in a precise form in the earlier part of the judgment, we find that Vedas has not left any subject untouched. The Division Bench has noted in paragraphs 20 and 30 the various fields, which have been dealt with and associated in Vedas. The Division Bench has gone to the extent of saying that some scientists have seen the atomic dance in the deity of 'Natraj'. It has also been noted that mathematic formulae are much more concise and precise in Vedas. It is said that Vedic learning is concerned with human anatomy and physiology. It was further found that there were enough

materials in Vedas, which pertains to seed production, crop production, sericulture, health care, management, beauty culture, marketing and accounting. In fact, according to the Maharshi, who was the man behind the establishment of the appellant University, in order to develop the limitless inner potential of students and teachers, the only solution is education and to achieve that end, according to him, ancient Vedic sciences have to be revived and the knowledge for systematic unfolding the range of human consciousness. In fact, this knowledge was stated to be Maharshi technology of the unified field, which included Transcendental Meditation and Transcendental Meditation Siddhi Programmes. It is also stated that Transcendental Meditation is learnt by more than three million people worldwide and implemented in public and private educational institutions in more than 20 countries through Universities, colleges, schools and educational institutions. Therefore, considering the very purport and intent of the Maharshi, who relentlessly fought for the establishment of the appellant University for nearly four decades and ultimately achieved the said objective for establishing the University, it can never be held that his sole purport was only to spread vedic learning and nothing else. Therefore, in that view when we examine the respective submissions of the learned counsel we find force in the submission of the learned senior counsel for the appellant when he contended that by virtue of the amendment, the un-amended Section 4(1) will become meaningless and that the very purport of establishing the appellant University would become a futile exercise, if it were to restrict its courses only to mere Vedic learning, without providing scope for learning all other incidental and ancillary subjects dealt with by Vedas viz., all other worldly subjects such as, Project Management, Finance Management, Crop Management, Human Resource Management, mathematics and other sciences for which fundamental basic provisions have been prescribed in Vedas and practices including, Darshan, Agam Tantra, Itihas, Puranas and Upvedas.

77. It will have to be stated that the expression Gyan-Vigyan was specifically mentioned in Section 4(1), not merely to make a scientific study of what is contained in Vedas, as even such a study may not fulfill the purpose for which the University was created. When we think aloud as to what would happen if a scientific study exclusively about Vedas is made, we wonder whether for that purpose a creation of a University would have been necessitated. On the other hand, it is the other way around, in as much as Vedas contains very many scientific subjects such as, mathematics, study about atoms, human anatomy and physiology and other formulae. At this juncture, the inclusion of the expression “Gyan-Vigyan”, will have to be understood to have been inserted with a view to study modern science and technology as it exists and study the same in consonance with the basic principles contained in Vedas and puranas. In fact, such an approach, while reading the provisions in our considered opinion, would be the proper way of reading the said provisions and not as contended by the learned counsel for the State that the study of Gyan-Vigyan should be exclusively for the purpose of understanding Vedas and Vedic principles. We have earlier explained what is “Gyan Vigyan” by making reference to an Article “From Newton to Nirvana: Science, Vigyan and Gyan” by Dr.Subash Sharma, Dean of Indian Business Academy, Noida. Based on the said Article, we have noted that Gyan Vigyan is nothing but a systematic study of science through senses by applying one’s mind with absolute consciousness. If it is the meaning to be attributed to the expression “Gyan Vigyan”, it will have to be held that the said expression used in Section 4(1) cannot be restricted to a mere study on Vedas and its practices. Such a narrow interpretation will be doing violence to the whole concept of Gyan Vigyan, which as explained by Dr. Subash Sharma, is the

combination of human senses, mind and consciousness, which should be applied to every aspect of human life, which would include all other academic subjects viz., science, mathematics, philosophy, management, etc.

78. In this context, when we refer to the expression “promotion and development of the study of Sanskrit as the University may from time to time determine”, we find that even indisputably the said provision for the study of Sanskrit is totally unconnected to the learning of Vedas and its allied subjects, except that the scripts of Vedas may be in Sanskrit. For that purpose, there need not necessarily be a specific provision to the effect that there should be promotion and development of the study of Sanskrit. Therefore, apart from Vedic learning and its practices, the establishment of the appellant University was for the purpose of providing education in the field of science and technology, intensive learning of Sanskrit and provision for research in every other field for the advancement and disbursement of knowledge.

79. We are of the considered opinion that only such an interpretation to the un-amended Section 4(1) would be the only way of interpretation that can be accorded to the said provision. Once, we steer clear of the interpretation of the said provision in the above said manner, we find that the amendment, which was introduced by Act 5 of 2000, was clearly intended to purposely do away with its original intendment and thereby, restrict the scope of activities of the appellant University to the learning of Vedas and its practices and nothing else. The restriction so created by introducing the amendment was self-destructive and thereby, the original object and purpose of establishing the appellant University was done away with. In this context, the framing of the Ordinance 15, which provided for the study on various courses in the appellant University was consciously approved by the State Government without any inhibition. A perusal of the course contents in the Ordinance discloses that there were as many as 49 courses connected with Vedic learning and practices and about 33 courses on other subjects. By introducing the amendment under Act 5 of 2000 and thereby, insisting that imparting of education in the appellant University can be restricted only to Vedic learning and that the science and technology should also be only for the purpose of learning Vedas and its practices, will have to be stated unhesitatingly as creating a formidable restriction on the right to education, which is a guaranteed Constitutional right and thereby, clearly violating Articles 14 and 21 of the Constitution. Equally, the addition of the expression “in the above fields and in these fields may……." while deleting the expression “dissemination of knowledge”, in our considered opinion, drastically interfered with the right to education sought to be advanced by the University by its creation originally under the 1995 Act, which restriction now sought to be imposed can never be held to be a reasonable restriction, nor can it be held to have any rationale, while creating such a restriction by way of an amendment to Section 4(1).

80. Having regard to our fundamental approach to the issue raised in this appeal and our conclusion as stated above, we are convinced that the arguments based on the Legislative competence also pales into insignificance. Even without addressing the said question, we have in as much found that by virtue of the amendment introduced to Section 4(1), an embargo has been clearly created in one’s right to seek for education, which is a Constitutionally protected Fundamental Right. Therefore, there was a clear violation of Articles 14 and 21 of the Constitution and consequently, such a provision by way of an amendment cannot stand the scrutiny of the Court of Law. To support our

conclusion, we wish to refer to the following decisions rendered by this Court, right from Mohini Jain case, viz.,

(i) Society for Unaided Private Schools of Rajasthan v. Union of India- (2012) 6 SCC 1

(ii) Bhartiya Seva Samaj Trust v. Yogeshbhai Ambalal Patel - (2012) 9 SCC

(iii) State of T.N. v. K. Shyam Sunder (2011) 8 SCC 737

(iv) Satimbla Sharma v. St. Paul's Sr. Sec. School (2011) 13 SCC 760

(v) Ashoka Kumar Thakur v. Union of India - (2008) 6 SCC 1; wherein, this Court has consistently held that Right to Education is a Fundamental Right. Thus, our conclusion is fortified by the various judgments of this Court, wherein, it has been held that imparting of education is a Fundamental Right, in as much as, we have held that the establishment of the appellant University was mainly for the purpose of imparting education, while promotion of Vedic learning is one of the primary objectives of the University. Any attempt on the part of the State to interfere with the said main object viz., imparting of education, would amount to an infringement of the Fundamental Right guaranteed under the Constitution. Consequently, the amendment, which was introduced under the 1995 Act to Section 4(1) and also the insertion of the proviso, has to be held ultra-vires.

81. Having arrived at the above conclusion, when we examine the stand of the State, at the very outset, we are not persuaded to accede to the submission of the learned counsel that the amendment was only by way of a clarification of the existing provision. In fact, the Division Bench also proceeded on the footing that 'dissemination of knowledge' as it originally existed, did not empower the University to provide education to other courses other than Vedas and its practices. With great respect to the Division Bench, we are of the view that such an approach was directly in conflict with the basic principle of the Constitutionally protected Fundamental Right, the Right to Education and consequently the said line of reasoning of the Division Bench and the submissions on that basis cannot also be countenanced.

82. In fact, in this context, the decision relied upon by the learned counsel for the respondent State reported in (1987) 4 SCC 671 (Osmania University Teachers' Association Vs. State of Andhra Pradesh and another), rather than supporting the respondent State can be usefully applied to state that "dissemination of knowledge" in every respect would apply to any subject and cannot be restricted to any particular subject. In paragraph 30 of the said decision, while concluding as to the role of the University Grants Commission in the matter of academic education, it has been stated as under:

> "...Dissemination of learning with search for new knowledge with discipline all round must be maintained at all costs. It is hoped that University Grants Commission will duly discharge its responsibility to the Nation and play an increasing role to bring about the needed transformation in the academic life of the University." (Emphasis added)

> 83. The above sentence amply establishes that dissemination of learning is for acquisition of knowledge in every kind of discipline and that such a perception should be maintained at all cost. We therefore, hold that "dissemination of knowledge" as it originally stood in Section 4(1), which was deleted by way of the Amendment Act 5 of 2000, caused havoc by restricting the scope of acquisition of knowledge to be gathered by an individual from the facilities made available in the appellant University.

We make it clear that it can never be held that the said expression used in the un-amended Section 4(1) can be held to have a limited application for acquisition of knowledge on Vedas alone and not in other fields.

84. As far as the argument of the learned counsel for the respondent based on the expression used in the Preamble was concerned, at the very outset, it will have to be held that the Preamble cannot control the scope of the applicability of the Act. If the provision contained in the main Act are clear and without any ambiguity and the purpose of the Legislation can be thereby duly understood without any effort, there is no necessity to even look into the Preamble for that purpose.

85. In fact, the Division Bench itself has made reference to a decision of this Court in Union of India Vs. Elphinstone Spinning and Weaving Co. Ltd. and others etc., reported in AIR 2001 SC 724. The extent to which a Preamble of an Act can be referred to or relied upon has been succinctly stated as under :

> "...The preamble of an Act, no doubt can also be read along with other provisions of the Act to find out the meaning of the words in enacting provision to decide whether they are clear or ambiguous but the preamble in itself not being an enacting provision is not of the same weight as an aid to construction of a Section of the Act as are other relevant enacting words to be found elsewhere in the Act. The utility of the preamble diminishes on a conclusion as to clarity of enacting provisions. It is, therefore, said that the preamble is not to influence the meaning otherwise ascribable to the enacting parts unless there is a compelling reason for it. If in an Act the preamble is general or brief statement of the main purpose, it may well be of little value.... We cannot, therefore, start with the preamble for construing the provisions of an Act, though we could be justified in resorting to it nay we will be required to do so if we find that the language used by Parliament is ambiguous or is too general though in point of fact Parliament intended that it should have a limited application...." (Emphasis added)

86. The above statement of law makes the position abundantly clear that it is the statutory provision, which will have to be read and analyzed for the purpose of understanding the scope and purport for which the Legislation was intended and the brief statement contained in the Preamble will be of very little value. That apart, we have noted in the earlier part of the judgment as to how even a reading of the Preamble shows the importance attached to imparting of education in the appellant University, as has been highlighted in the forefront while making a mention about the

other aspects of providing scope for research oriented education on Vedas and its practices by the appellant University.

87. In the light of our above discussions, we hold that the submission of the learned counsel for the State by making a detailed reference to the Preamble is of no assistance to the respondents. For the very same reason, the arguments of the learned counsel that any course to be conducted in the appellant University should be Vedic centric cannot also be countenanced. On the other hand, as held by this Court in Osmania University case, "dissemination of knowledge" as originally incorporated in the un-amended Section 4(1) alone would serve the purpose of effective functioning of the appellant University in imparting and spreading knowledge on every other field available, apart from providing intensive educational curriculum in Vedic learning and its practices.

88. In the light of our above conclusion, the deletion of the said expression will have to be held to be an arbitrary action of the respondent State and thereby, violating equality in law and equal protection of law as enshrined under Article 14 of the Constitution, in as much as all other Universities, which were being controlled and administered by the State by the 1973 Act, enjoy the freedom of setting up any course with the approval of the University Grants Commission, the appellant alone would be deprived of such a right and liberty by restricting the scope of imparting education in any field other than Vedas and its practices.

89. As far as the decision relied upon by the learned counsel for the State for the proposition that the word "and" in the Preamble, as well as in Section 4 will have to be read conjunctively viz., the decision reported in (1987) 3 SCC 279 (Utkal Contractors and Joiners Pvt. Ltd. and Ors Vs. State of Orissa and others), in the light of our conclusions based on the context in which the 1995 Act was brought into force and the reading of Section 4(1) in the said context, the expression "and" used in the said Section will have to be necessarily read disjunctively. We do not find any scope to apply the said decision to the facts of this case.

90. As far as the decision reported in 1987 (1) SCC 424 (Reserve Bank of India Vs. Peerless General Finance and Investment Co. Ltd., and Others), we find the following paragraph as more relevant in order to appreciate the present controversy with which we are concerned; paragraph 33 reads as under:

> 33. Interpretation must depend on the text and the context. They are the bases of interpretation. One may well say if the text is the texture, context is what gives the colour. Neither can be ignored.

Both are important. That interpretation is best which makes the textual interpretation match the contextual. A statute is best interpreted when we know why it was enacted. With this knowledge, the statute must be read, first as a whole and then section by section, clause by clause, phrase by phrase and word by word. If a statute is looked at, in the context of its enactment, with the glasses of the statute-maker, provided by such context, its scheme, the sections, clauses, phrases and words may take colour and appear different than when the statute is looked at without the glasses provided by the context. With these glasses we must look at the Act as a whole and discover what each section,

each clause, each phrase and each word is meant and designed to say as to fit into the scheme of the entire Act. No part of a statute and no word of a statute can be construed in isolation. Statutes have to be construed so that every word has a place and everything is in its place...." (Emphasis added)

91. Reading the said paragraph and having analyzed the 1995 Act on the whole along with the Preamble, the various definition clauses, Section 4(1) and the sub-clauses (ii) to (xxviii) and the provision providing for enacting the Statutes and Ordinances, we have to hold that the expression "and" used in Section 4(1) will have to be read disjunctively and not conjunctively. In this context, we wish to rely on the decision rendered by this Court in Prof. Yashpal and another (supra), wherein, it has been held in paragraph 17 as under:

> "17. In Constitutional Law of India by Seervai, the learned author has said in para 2.12 (3rd Edn.) that the golden rule of interpretation is that words should be read in their ordinary, natural and grammatical meaning subject to the rider that in construing words in a Constitution conferring legislative power the most liberal construction should be put upon the words so that they may have effect in their widest amplitude. This is subject to certain exceptions and a restricted meaning may be given to words if it is necessary to prevent a conflict between two exclusive entries." (Emphasis added)

92. Besides the above two decisions, which discuss about the methodology of interpretation of a Statute, we also refer to the following decisions rendered by this Court in Ishwar Singh Bindra (supra), wherein in para 11 it has been held as under:

> "11.....It would be much more appropriate in the context to read it disconjunctively. In Stroud's Judicial Dictionary, 3rd Edn. it is stated at p. 135 that "and" has generally a cumulative sense, requiring the fulfillment of all the conditions that it joins together, and herein it is the antithesis of or. Sometimes, however, even in such a connection, it is, by force of a contexts, read as "or". Similarly in Maxwell on Interpretation of Statutes, 11th Edn., it has been accepted that "to carry out the intention of the legislature it is occasionally found necessary to read the conjunctions 'or' and 'and' one for the other"."(Emphasis added)

93. We may also refer to para 4 of the decision rendered by this Court in (1987) 3 SCC 208 (Joint Director of Mines and Safety Vs. T & N Stone Quarries (P) Ltd.,) :

> "4. According to the plain meaning, the exclusionary clause in sub- section (1) of Section 3 of the Act read with the two provisos beneath clauses (a) and (b), the word "and" at the end of para (b) of sub- clause (ii) of the proviso to clause (a) of Section 3(1) must in the context in which it appears, be construed as "or"; and if so construed, the existence of any one of the three conditions stipulated in paras (a), (b) and (c) would at once attract the proviso to clauses

> (a) and (b) of sub-section (1) of Section 3 and thereby make the mine subject to the provisions of the Act. The High Court overlooked the fact that the use of the negative language in each of the three clauses implied that the word "and" used at the end of clause (b) had to be read disjunctively. That construction of ours is in keeping with the legislative intent manifested by the scheme of the Act which is primarily meant for ensuring the safety of workmen employed in the mines." (Emphasis added)

94. Applying the ratio as laid down in the above mentioned decisions, we are convinced that our above conclusion is fully supported by the said principles and therefore, we are not inclined to hold that the expression "and" used in the Preamble, as well as in Section 4 should be read conjunctively as contended by the learned counsel for the State. On the other hand, in the context in which the said expression is used, it will have to be read as "or" creating a disjunctive reading of the provision.

95. In this context it will be worthwhile to refer to what Scrutton, L.J. has stated in the celebrated decision reported in Green Vs. Premier Glynrhonwy State Co. (1928) 1 KB 561, "You do sometimes read 'or' as 'and' in a statute. But you do not do it unless you are obliged because 'or' does not generally mean 'and' and 'and' does not generally mean 'or' ". And as pointed out by Lord Halsbury the reading of 'or' as 'and' is not to be resorted to, 'unless some other part of the same statute or the clear intention of it requires that to be done'. [refer Mersey Docks and Harbour Board Vs. Henderson Bros., (1888) 13 AC 595 at pg.603 (HL)]. In fact in the case on hand we have found that though the expression 'and' has been used, prior to the expression 'promotion and development of the study of Sanskrit.....' and again prior to the set of expression 'for the advancement' and again prior to the set of expression 'dissemination of knowledge', the context in which the Legislation was brought into force and reading the said section along with the Preamble and other sub clauses of Section 4, the expression 'and' has to be read disjunctively and not conjunctively. Therefore, even applying the principle laid down by Lord Scrutton and Lord Halsbury, we are fortified by our conclusion that in the case on hand the expression 'dissemination of knowledge', as well as 'promotion and development of the study of Sanskrit' and 'to make provision for research', were all expressions which have been used disjunctively and not conjunctively with the words Vedic learning and practice.

96. The decision relied upon by the learned senior counsel for the appellant reported in Hansoli Devi (supra), para 9 also supports the above proposition of law. Para 9 of the said decision reads as under:

> "9. Before we embark upon an inquiry as to what would be the correct interpretation of Section 28-A, we think it appropriate to bear in mind certain basic principles of interpretation of a statute. The rule stated by Tindal, C.J. in Sussex Peerage case still holds the field. The aforesaid rule is to the effect: (ER p. 1057) "If the words of the statute are in themselves precise and unambiguous, then no more can be necessary than to expound those words in their natural and ordinary sense. The words themselves alone do, in such case, best declare the intention of the lawgiver." It is no doubt true that if on going through the plain meaning of the language of statutes, it leads to anomalies, injustices and absurdities, then the court may look into the

> purpose for which the statute has been brought and would try to give a meaning, which would adhere to the purpose of the statute……"

97. The above said proposition of law laid down by this Court fully supports the claim of the appellant.

98. With this, when we come to the other submission of the learned counsel for the appellant relating to the challenge made to the proviso added to Section 4., the proviso which has been added is to the effect that no courses should be conducted and no centers should be established or run without the prior approval of the State Government. The contention of the learned counsel for the appellant before the Division Bench, as well as before us was that the creation of courses, as well as the centers are governed by the provisions of 1995 Act and such activities of the appellant University can at best be regulated only by the University Grants Commission, by virtue of the statutory prescription under Section 12 of the University Grants Commission Act, read along with Entry 66 of List-I of the Constitution and that the State Legislature has no competence to deal with the said issue.

99. While dealing with the above contention, the Division Bench after making a detailed reference to various Entries commencing from Entries 63 to 66 of List-I, as well as Entry 25 of List-III and also Section 12 of the Universities Grants Commission Act, 1956 ultimately held that having regard to the inclusion of the appellant University in the list of Universities maintained by the Commission under Section 2(f) of the 1956 Act, as reflected in Annexure P-5, dated 24.08.1988, the existence of Ordinance 15, which came into being in accordance with law that once the University Grants Commission Act is in force, the running of the courses and determination thereof, has to be controlled by the University Grants Commission. The proviso stipulating that no course should be conducted and no centers should be established and run without the prior approval of the State Government. The restriction is so far as it related to conduct of courses is concerned, the same was beyond the Legislative competence of the State Legislature. So holding thus, the Division Bench declared that the proviso so far as it related to the aspect that no course should be conducted and run without the prior approval of the State, was ultra vires and beyond the Legislative competence of the State Legislature.

100. This Court in Prof. Yashpal and another (supra) held in paragraphs 28, 33 and 34 as under:

> "28. Though incorporation of a university as a legislative head is a State subject (Entry 32 List II) but basically a university is an institution for higher education and research. Entry 66 of List I is coordination and determination of standards in institutions for higher education or research and scientific and technical institutions. There can thus be a clash between the powers of the State and that of the Union. The interplay of various entries in this regard in the three lists of the Seventh Schedule and the real import of Entry 66 of List I have been examined in several decisions of this Court. In Gujarat University v. Krishna Ranganath Mudholkar a decision by a Constitution Bench rendered prior to the Forty-second Amendment when Entry 11 of List II was in existence, it was held that Items 63 to 66 of List I are carved out of the

subject of education and in respect of these items the power to legislate is vested exclusively in Parliament. The use of the expression "subject to" in Item 11 of List II of the Seventh Schedule clearly indicates that the legislation in respect of excluded matters cannot be undertaken by the State Legislatures. In AIR para 23, the Court held as under: (SCR pp. 137-38) "Power of the State to legislate in respect of education including universities must to the extent to which it is entrusted to the Union Parliament, whether such power is exercised or not, be deemed to be restricted. If a subject of legislation is covered by Items 63 to 66 even if it otherwise falls within the larger field of 'education including universities' power to legislate on that subject must lie with Parliament. ... Item 11 of List II and Item 66 of List I must be harmoniously construed. The two entries undoubtedly overlap: but to the extent of overlapping, the power conferred by Item 66 List I must prevail over the power of the State under Item 11 of List II. It is manifest that the excluded heads deal primarily with education in institutions of national or special importance and institutions of higher education including research, sciences, technology and vocational training of labour." ***

33. The consistent and settled view of this Court, therefore, is that in spite of incorporation of universities as a legislative head being in the State List, the whole gamut of the university which will include teaching, quality of education being imparted, curriculum, standard of examination and evaluation and also research activity being carried on will not come within the purview of the State Legislature on account of a specific entry on coordination and determination of standards in institutions for higher education or research and scientific and technical education being in the Union List for which Parliament alone is competent. It is the responsibility of Parliament to ensure that proper standards are maintained in institutions for higher education or research throughout the country and also uniformity in standards is maintained.

34. In order to achieve the aforesaid purpose, Parliament has enacted the University Grants Commission Act. First para of the Statement of Objects and Reasons of the University Grants Commission Act, 1956 (for short "the UGC Act") is illustrative and consequently it is being reproduced below:

"The Constitution of India vests Parliament with exclusive authority in regard to 'coordination and determination of standards in institutions for higher education or research and scientific and technical institutions'. It is obvious that neither coordination nor determination of standards is possible unless the Central Government has some voice in the determination of standards of teaching and examination in universities, both old and new. It is also necessary to ensure that the available resources are utilised to the best possible effect. The problem has become more acute recently on account of the tendency to multiply universities. The need for a properly constituted Commission for determining and allocating to universities funds made available by the Central Government has also become more urgent on

this account." (Emphasis added)

101. In yet another decision, this Court has held in para 7 of the decision reported in R. Chitralekha (supra) as follows:

"7. ...This and similar other passages indicate that if the law made by the State by virtue of entry 11 of List II of the Seventh Schedule to the Constitution makes impossible or difficult the exercise of the legisiative power of the Parliament under the entry "Co-ordination and determination of standards in institutions for higher education or research and scientific and technical institutions" reserved to the Union, the State law may be bad. This cannot obviously be decided on speculative and hypothetical reasoning. If the impact of the State law providing for such standards on entry 66 of List I is so heavy or devastating as to wipe out or appreciably abridge the central field, it may be struck down. But that is a question of fact to be ascertained in each case....

102. While considering the submission of the learned senior counsel for the appellant, it will be worthwhile to make a reference to Section 12 of the University Grants Commission Act, 1956 wherein while describing the functions of the University Grants Commission, it has been stipulated that it is the general duty of the Commission to take, in consultation with the Universities or other bodies concerned, all such steps as it may think fit for the promotion and co-ordination of University education and for the determination and maintenance of standards of teaching, examination and research in Universities, and for the purpose of performing its functions under this Act, the Commission may hold certain enquiry and do certain other activities. In fact, the Division Bench while holding that conduct of courses come exclusively within the realm of control of the University Grants Commission, apparently relied upon the said provision.

103. In fact the Division Bench has made a specific reference to the expression used in the said Section, while ultimately holding that it was within the exclusive jurisdiction of the University Grants Commission i.e., the running of the Courses. The Division Bench has held to the effect "we have no hesitation in our mind that once the University Grants Commission Act is in force, the running of the courses and determination thereof has to be controlled by the University Grants Commission". The said sets of expressions have been more or less borrowed from the expression used in Section 12 itself.

104. When we examine the ultimate conclusion of the Division Bench that such a control by the University Grants Commission will not extend to the running of the centers, we are of the considered view that what all may apply to conduct of courses, should equally apply to the running of centers as well. In this context, it will be worthwhile to make a further reference to the stipulation contained in Section 12 of the University Grants Commission Act, which makes the position clear. Under

> Section 12, the general duty of the Commission to take in consultation with the Universities or other bodies is concerned, is all such steps as it may think fit for the promotion and co-ordination of University education and for the determination and maintenance of standards of teaching, examination and research in Universities. It also further stipulates that such a decision should be taken by the University Grants Commission for the purpose of the Universities to perform its functions under the Act. The Division Bench itself has noted that the running of the courses and determination thereof, can be controlled only by the University Grants Commission by virtue of the operation of Section 12. If it is for the University Grants Commission to take a decision in consultation with the Universities, such steps as it thinks fit for the promotion and co-

ordination of Universities education, then it will have to be held that, that it should include, apart from the course content, the manner in which education is imparted viz., the process of teaching, while at the same time ensuring the standard of such teaching is maintained by deciding as to whether such teaching process can be allowed to be imparted in places other than the University campus viz., in the centers or other colleges.

105. In our considered opinion, Section 12 of the University Grants Commission Act, 1956 would encompass apart from determining the course contents with reference to which the standard of teaching and its maintenance is to be monitored by the University Grants Commission, would also include the infrastructure that may be made available, either in the University or in other campuses, such as the centers, in order to ensure that such standard of education, teaching and examination, as well as research are maintained without any fall in standrard. Therefore, while upholding the conclusion of the Division Bench that it is beyond the legislative competence of the State Legislature to stipulate any restriction, as regards the conduct of the courses by getting the approval of the State Government, in the same breath, such lack of competence would equally apply to the running of the centers as well.

106. In Dr. Preeti Srivastava (supra) while dealing with the scope of Entry 66 of List-I vis-à-vis Entry 25 of List-III, this Court considered on what basis the standard of education in an institution can be analyzed. In paragraph 36, it has been held as under:

> "36..... Standards of education in an institution or college depend on various factors. Some of these are:
>
> (1) The caliber of the teaching staff; (2) A proper syllabus designed to achieve a high level of education in the given span of time; (3) The student-teacher ratio; (4) The ratio between the students and the hospital beds available to each student; (5) The caliber of the students admitted to the institution; (6) Equipment and laboratory facilities, or hospital facilities for training in the case of medical colleges; (7) Adequate accommodation for the college and the attached hospital; and (8) The standard of examinations held including the manner in which the papers are set and examined and the clinical performance is judged."

> 107. The above statement of law on Entry 66 of List-I vis-à-vis Entry 25 of List-III throws much light on this issue. For instance, in the case of the appellant, while it has got its own infrastructure facilities for imparting education on various courses spelt out in Ordinance 15, which has opened up centers in various places falling within its jurisdiction viz.

the State of Madhya Pradesh for imparting education on the very same courses specified in Ordinance 15. If we apply the principle spelt out in paragraph 36 of the above decision, where the standard for examining the standard on education of an University, the various factors culled out in the said paragraph can be held to be the factors to be considered. In the same line of reasoning, it will have to be held that the various centers created by the appellant University, would also fall as one of the items along with the eight items spelt out in the said paragraph.

108. In the light of the said reasoning also, it will have to be held that the running of centers by the appellant University would fall within the exclusive realm of Entry 66 of List – I, which would in turn be governed by Section 12 of the University Grants Commission Act and consequently the State Government to that extent should be held to lack the necessary legislative competence to meddle with such centers set up by the appellant University.

109. We therefore, hold that the entire proviso to Section 4(1) has to be held to be ultra-vires. The contention of the learned counsel for the appellant therefore, merits acceptance and the contention to the contrary made by the learned counsel for the State stands rejected.

110. It is also necessary to note, as well as mention that after the University was established for its initial establishment and for running the institution, according to the appellant, more than Rs.12 crores were spent by way of an investment and that nearly Rs.60 crores have been spent for running the University and its various centers throughout the State of Madhya Pradesh. The recurring expenditure was stated to be Rs.11 crores. Therefore, when the appellant University has proceeded to establish its institution for the purpose of imparting education by making huge investments, a major part of which would have definitely come by way of fees collected from the students who had joined the institution aspiring for improving their educational career, in our considered opinion, it is the responsibility of the State to ensure that such high expectation of the students who joined the appellant university is not impaired and that for whatever expenses incurred by the students, appropriate returns should be provided to them by way of imparting education in the respective fields which, they choose to associate themselves by getting themselves admitted in the appellant University. Therefore, on this ground as well, it will have to be held that such expectations of the students, as well as their parents cannot be dealt with so very lightly by the State, while considering for any change to be brought about in the Constitution and functioning of the appellant University. It can therefore be validly held that such expectations of the students and their parents, as well as that of the appellant University, can validly be held to be a legitimate expectation and considering the challenge made to the amendment introduced on various grounds raised at the instance of the appellant, the legitimate expectation of the appellant University, as well as the student community, would also equally support the contentions of the appellant University, while challenging the amendments in particular the amendment introduced to Section 4(1), as well as the addition of a

proviso to the said Section.

111. One other relevant factor which is also to be kept in mind is the establishment of the appellant University at the repeated persuasion of Maharshi Mahesh Yogi was definitely to provide full-fledged education on Vedas and the various intricate subjects, which are found in Vedas, as well as its practices, Ithihas, Puranas etc. In fact, there can be no two opinion that such an institution with such a laudable objective for imparting education in different fields based on the teachings in Vedas, was very rare and it is said that the appellant University is stated to be an unique University created and established by the founders of the said institution headed by Maharshi Mahesh Yogi. Therefore, when such a premium University, which is stated to be only one of its kind in the whole of the Country was successfully established based on the 1995 Act, in our considered opinion, such a well established institution should be allowed to survive by enabling the said University to conduct courses as has been planned by it and introduced under Ordinance 15 and thereby, make the appellant University a viable one. Such an approach alone, in our considered view, ensure the successful existence and continued running of the University in the further years and thereby, benefit very many aspirants from among the younger generation who wish to learn more and more about very many subjects by understanding such subjects based on the teachings that are found and established in Vedic learnings, its practices, Ithihas and Puranas etc. Therefore, on this ground as well, in our considered opinion, any attempt made from any quarters, which would disrupt the running of the appellant University, will only amount to interfering with its various Constitutional rights and fundamental rights enshrined in the Constitution. Therefore, when such interference is brought to the notice of this Court, the Court has to necessarily come to the rescue of the appellant University by saving it from any such onslaught being made on its continued existence. We, therefore, find force in the submission of the learned senior counsel for the appellant while attacking the amended Section 4(1) and its proviso, by which the appellant University was deprived of its valuable right to hold very many programmes in the conduct of the course enumerated in its Ordinance 15, which consequently resulted in violation of its Constitutional, as well as Fundamental Rights in the running of its educational institutions.

112. With this, we come to the last part of the submission made on behalf of the appellant, which related to the amendment to Section 9(2) of the 1995 Act. Under the un-amended provision, after the first Chancellor viz., Maharshi Mahesh Yogi, the Board of Management was empowered to appoint the Chancellor from among the persons of eminence and renowned scholar of Vedic education who can hold office for a term of five years and who would be eligible for reappointment. Under the amended Section 9(2), it was stipulated that after the first Chancellor, the Board of Management should prepare and submit a panel of three persons to the State Government and out of the panel, one person should be appointed as Chancellor by the Board of Management, after obtaining the approval of the State Government. As far as the period of holding office was concerned, there was no change in its terms. The Division Bench while considering the said amendment introduced under Act 5 of 2000, has held that even after the amendment, the Management had the power of recommendation and they can recommend a person of eminence and renowned scholar of Vedic education and even if the ultimate appointment is to be made with the approval of the State Government, since any such appointment can be only from the panel prepared by the Board of management, such a stipulation contained in the amendment does not in any way

impinge upon any right, much less the Constitutional Right or Fundamental Right of the appellant University.

113. Having bestowed our serious consideration to the above conclusion of the Division Bench, we do not find anything wrong with the said conclusion. We also hold that the said provision does not in any way offend Article 14 of the Constitution, nor does it affect the autonomy of the appellant University. Apart from the above challenges, no other submission relating to the other amended provisions were seriously argued before us.

114. In the light of our above conclusion, this appeal is partly allowed. We hold that the amended Section 4(1) under Act 5 of 2000 inclusive of the introduction of proviso to the said Section is ultra-vires of the Constitution and the same is liable to be set aside. In other respects, the judgment of the Division Bench stands confirmed. The application for intervention considered, no merits, the same is dismissed.

.....J. [Dr. B.S. Chauhan] .....J. [Fakkir Mohamed Ibrahim Kalifulla] New Delhi;

July 03, 2013