

[2021] 6 S.C.R. 535

SRI SAI RR INSTITUTE OF PHARMACY

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v.

DR. A.P.J. ABDUL KALAM TECHNICAL  
UNIVERSITY AND ANOTHER

(Writ Petition (C) No.446 of 2021)

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JULY 06, 2021

**[R.F. NARIMAN, K.M. JOSEPH AND B. R. GAVAI, JJ.]**

*Education/Educational Institutions: Pharmacy college – Writ petitions seeking directions to respondent no.1-University to comply with Notification dated 19.03.2021 issued by the State Government and grant conditional affiliation to the petitioner-colleges for academic year 2020-2021; direction to University to organize special examinations for B.Pharma students for academic year 2020-2021 and to permit students of the petitioner-colleges to participate in the special examinations – Held: The facts of both the writ petitions are almost similar to facts in WP(Civil) no.390 of 2021 which was decided by this court on 15.04.2021 in favour of the petitioner-college – Therefore, present petitioners are also entitled to same relief as was granted in WP (Civil) no.390 of 2021 – The University is directed to grant affiliation to petitioner-colleges for the academic year 2020-2021 to participate in the special examinations to be organized by the University for the academic year 2020-2021 in view of Notification dated 19.03.2021 – Writ petitions allowed.*

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*VIIT Pharmacy College and another v. Dr. A.P.J. Abdul Kalam Technical University and another 2021 SCC Online SC 332 – relied on*

**Para 2**

**2021 SCC Online SC 332 relied on**

*CIVIL ORIGINAL JURISDICTION: Writ Petition (C) No. 446 of 2021*

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*(Under Article 32 of the Constitution of India)*

*With*

*Writ Petition (Civil) No.448 of 2021*

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- A Siddhartha Dave, Sr. Adv., Ajit Sharma, Anant Ram Mishra, Rishabh Sharma, Abhishek Rana, Sushil Sharma, Ms. Anamika Agrawal, Ajay K. Agrawal, Advs. for petitioner.
- Amitesh Kumar, Ms. Binisa Mohanty, Ms. Priti Kumari, Mritunjay Kumar Sinha, Advs. for respondents
- B The Order of the Court was passed by  
**B. R. GAVAI, J.**
1. Both these writ petitions filed by the petitioner – colleges seek various directions, including the direction to respondent No. 1 - Dr. A.P.J.
- C Abdul Kalam Technical University (hereinafter referred to as “the University”), i.e, to comply with Notification dated 19.3.2021 issued by the State Government and grant conditional affiliation to the petitioner – colleges for Academic Year 2020-2021; direction directing the University to organize special examinations for B. Pharma students for Academic Year 2020-2021 in view of the aforesaid Notification dated 19.3.2021;
- D and direction to the University to permit students of the petitioner – colleges to participate in the special examinations.
2. It is the contention of the petitioner – colleges that the facts in the present writ petitions are identical with the facts in Writ Petition (Civil) No. 390 of 2021 (VIIT Pharmacy College and another vs. Dr. A.P.J. Abdul Kalam Technical University and another)<sup>1</sup>, which was allowed by this Court vide order dated 15.4.2021.
3. Insofar as Writ Petition (Civil) No. 390 of 2021 is concerned, the University has not seriously disputed that the facts in the present writ petitions are similar to that in Writ Petition (Civil) No. 390 of 2021.
- F However, it is the contention of the University, taken for the first time in Writ Petition (Civil) No. 448 of 2021 (Shri Badrinath College of Pharmacy vs. Dr. A.P.J. Abdul Kalam Technical University & Anr.), that the petitioner - Shri Badrinath College of Pharmacy did not participate in the counselling process and as such, is not entitled to any relief. Another
- G ground that has been taken is, that there is a similar writ petition pending before the High Court filed by the petitioner - Shri Badrinath College of Pharmacy with regard to the same relief.
4. We find, that the facts in both the present writ petitions are almost similar to facts in Writ Petition (Civil) No. 390 of 2021 decided by

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H <sup>1</sup>2021 SCC Online SC 322

this Court on 15.4.2021. In both cases, grant of affiliation was denied by the University on the sole ground, that the timeline as prescribed by All India Council for Technical Education (AICTE) had lapsed. A

5. It is also not in dispute, that vide Notification dated 19.3.2021, the State Government after considering the recommendations made by the Affiliation Committee has granted conditional affiliation to the petitioner - colleges for admission in B. Pharma course in compliance with the order of the High Court passed in Writ Petition No.12536 of 2020. B

6. The writ petitions have been filed by the petitioner – colleges since the University has refused to grant affiliation to the petitioner – colleges and to permit their students to appear for First Year B. Pharma examination. C

7. This Court while allowing Writ Petition (Civil) No. 390 of 2021 has observed thus:

“9. This Court, in the case of, **Dr. S.K. Toshiwal Educational Trusts Vidarbha Institute of Pharmacy (supra)**, has held as under:- D

*“87. In view of the above and for the reasons stated above, it is held that in the field of Pharmacy Education and more particularly so far as the recognition of degrees and diplomas of Pharmacy Education is concerned, the Pharmacy Act, 1948 shall prevail. The norms and regulations set by the PCI and other specified authorities under the Pharmacy Act would have to be followed by the concerned institutions imparting education for degrees and diplomas in Pharmacy, including the norms and regulations with respect to increase and/or decrease in intake capacity of the students and the decisions of the PCI shall only be followed by the institutions imparting degrees and diplomas in Pharmacy. The questions are answered accordingly.” E F*

10. Indisputably, in the present case, the PCI has granted approval to both the petitioners vide order dated 10<sup>th</sup> April 2020, with intake capacity of 100 and 60 admissions/students respectively. Not only that, the petitions filed by the petitioners challenging the policy decision of the State Government dated 15<sup>th</sup> May 2020, have been allowed by the High Court vide judgment and order dated 9<sup>th</sup> G H

- A November 2020. Indisputably, the State Government also vide notification dated 19<sup>th</sup> March 2021, has granted conditional affiliation after considering the recommendations made by the Affiliation Committee. In the peculiar facts and circumstances of the case and particularly, taking into consideration, that the averments made on affidavit by the petitioners, are not controverted by the respondent No.1-University, we find that the petition deserves to be allowed.”
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8. As in the aforesaid case decided by order dated 15.4.2021, in the present case also the approval has been granted by the Pharmacy Council of India (PCI) on 10.4.2021 to both the petitioner – colleges with an intake capacity of 60 students each. The present petitioners have also filed the petitions challenging the policy decision of the State Government dated 15.5.2020 before the High Court and the same have been allowed by the High Court by judgments and orders dated 2.11.2020 and 10.11.2020. In the present case also, the State Government vide
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- D Notification dated 19.3.2021 has granted conditional affiliation after considering the recommendations made by the Affiliation Committee.

9. In the peculiar facts and circumstances of the case, particularly finding that the facts in both the present cases are almost similar with the facts in Writ Petition (Civil) No. 390 of 2021, we are of the view that
- E the present petitioners are also entitled to the same relief as is granted by this Court in Writ Petition (Civil) No. 390 of 2021.

10. We are therefore inclined to allow the petitions in the following terms:

- F The University is therefore directed to grant affiliation to the petitioner - Colleges for the Academic Year 2020-21 and also permit the students of the petitioner - Colleges to participate in the special examinations to be organized by the University for the Academic Year 2020-21 in view of the Notification dated 19<sup>th</sup> March 2021.

11. The writ petitions are allowed in the above terms.