

A. Mahesh, Vs. K.K. College of Pharmacy Rep. by Its Principal/Correspondent, Chennai,

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Court : Chennai

Decided On : Apr-10-2002

Reported in : 2003(4)CTC657

Judge : D. Murugesan, J.

Acts : [All India Council for Technical Education Act, 1987](#) - Sections 2, 3, 10, 12, 12(3), 13, 15, 15A and 15B, 19, 30, 31 and 31; All India Council for Technical Education Act, 1948; [Constitution of India](#) - Article 372; [Pharmacy Act, 1948](#)

Appeal No. : W.P. Nos. 4248 of 2001 and 20477 of 2001 and W.P.M.P. 30200 of 2001

Appellant : A. Mahesh, ;s. Ananda Natarajan, ;r. Balaji, ;r. Mohanakumar, ;r. Thiruvengkadam, ;p.G. Palanivelu, ;

Respondent : K.K. College of Pharmacy Rep. by Its Principal/Correspondent, Chennai, ;The Vice Chancellor, Tamil

Advocate for Def. : V.P. Rajendran, ;M. Vellaisamy, ;S. Kandasamy, SGP, ;R. Santhanam, SCGSC, ;Rangaramanujam and ;N. Muralikumaran, ACGSC

Advocate for Pet/Ap. : Anand Venkatesh and ;S. Gopinathan, Advs.

Disposition : Writ petitions allowed

Judgement :

ORDER

D. Murugesan, J.

1. Since the issues involved in both the writ petitions are one and the same, by consent of parties, both the writ petitions are taken up together for disposal by this common order.

2. The petitioners in W.P.No.4248 of 2001 are the students of the first respondent college namely K.K.College of Pharmacy, Saligramam, Chennai. The said college is functioning from the academic year October 1992. Initially it was approved by the Government of Tamil Nadu and was recognised by the Pharmacy Council of India, New Delhi under the provisions of [Pharmacy Act, 1948](#) (hereinafter referred to as the 'Pharmacy Act') to impart education in Bachelor of Pharmacy course. In view of the enactment of the [All India Council for Technical Education Act, 1987](#) (hereinafter referred to as 'AICTE Act'), the said college was approved by the Council constituted under the said Act from the year 1994 and was affiliated to Dr. M.G.R. Medical University, and there was no approval from the Pharmacy Council thereafter. The first petitioner appeared for the entrance examination conducted by the Government of Tamil Nadu for admission to the said course during the year 1995 and was admitted under free seat category, and the petitioners 2 to 9 were admitted in the college under the payment category. All the petitioners underwent and completed the B. Pharm. Degree course successfully and were conferred Degrees by the University. The petitioner in W.P.No.20477 of 2001 was also admitted to the B. Pharm. Degree Course in the first respondent college during the year 1994 under the payment seat category. The petitioner after completing the said course joined in the M. Pharm Degree course in C.L.Baid Metha College of Pharmacy, Chennai during 1998 and completed the same during the year 2001. The Tamil Nadu Dr. M.G.R. Medical University had also granted the course completion certificate to the petitioners.

3. On the strength of completion of the course and conferment of degrees, all the petitioners approached the Registrar, Pharmacy Council of Tamil Nadu, requesting

to enter their names in the Register so as to enable to practice as Pharmacists. However, the petitioners were informed by the Registrar, Pharmacy Council of Tamil Nadu that the Pharmacy Council of India, New Delhi had not recognised the college under the provisions of the [Pharmacy Act, 1948](#) and hence, the request of the petitioners even to apply for registration with the Pharmacy Council of India cannot be accepted. Hence, the petitioners have approached the Pharmacy Council of India in their letter dated 20.2.2001 requesting the Council to take necessary steps to obtain the registration of the college so as to enable them to get registered under the Pharmacy Council. Since there was no response from the Pharmacy Council of India, the petitioners have approached this Court for a writ of mandamus directing the Secretary, Pharmacy Council of India, New Delhi to issue certificate of 'Registered Pharmacists' to the petitioners.

4. Mr. Anand Venkatesh, learned counsel appearing for the petitioners in W.P.No.4248 of 2001 and Mr. S. Gopinathan, learned counsel for the petitioner in W.P.No.20477 of 2001 submitted that the college in which the petitioners underwent the course was approved by the Government of Tamil Nadu and was recognised by All India Council for Technical Education (hereinafter referred to as 'AICTE') at the time when the petitioners were admitted to the college. The petitioners have also completed the course successfully and have been issued with necessary certificates evidencing their successful completion of the course by the Tamil Nadu Dr. M.G.R. Medical University and therefore, the refusal on the part of the Pharmacy Council of India to register their names to enable them to practice would be unfair, without any reason and consequently deprive the legitimate right of the petitioners to practice as Pharmacists for which they are qualified. It is the further contention of the petitioners that after the 'AICTE Act' came into force, the provisions of the said Act alone govern the field of technical education including the Pharmacy Degree course in regard to laying down norms and standards for courses, curricula, physical and instructional facilities, staff pattern, staff qualifications, quality instructions, assessment and examinations. When once the provisions of the AICTE Act occupies the above field, the provisions for separate norms and standards for courses etc., as prescribed under the provisions of 'Pharmacy Act' would have no force and those provisions shall be deemed to have been impliedly repealed and therefore, the petitioners who

underwent the course in the curricula prescribed by the AICTE cannot be deprived of their right to register themselves under the provisions of the Pharmacy Act.

5. Mr.N.Muralikumaran, learned Additional Central Government Standing Counsel appearing for Pharmacy Council of India submitted that for the purpose of entering the names of the petitioners in the register of pharmacist maintained by the State and Central pharmacy Councils, the norms laid down by the Pharmacy Council for B. Pharm. Degree Course shall be followed by the college and for the said purpose, unless the college is approved by the Central Council, there is no corresponding obligation on the part of either the Central Council or the State Council to enter the names of the petitioners of a college which was not approved by the Central Council to get themselves registered in the register of pharmacist. Mr. R. Santhanam, learned Senior Central Government Standing Counsel appearing for All India Council for Technical Education, on the other hand, would submit that when both the [Pharmacy Act, 1948](#) and AICTE Act, 1987 provide for the minimum standards of norms for admission, syllabi and the examinations, the later enactment namely the AICTE Act alone shall prevail insofar laying down of the norms etc. Mr. M. Vellaisamy, learned counsel appearing for the second respondent University submitted that in view of the grant of approval by the AICTE to the first respondent college, the University had given affiliation to the said college and the students, namely the petitioners who were admitted on the strength of the approval of AICTE were permitted to write the examinations and were also conferred degrees in the Pharmacy Degree course. Hence, the learned counsel submitted that the petitioners are entitled to get themselves registered as pharmacists in the registers maintained by the State Pharmacy Council as well as in the Central Pharmacy Council.

6. The above rival submissions leave the only point to be considered and decided by this Court namely whether approval from the Pharmacy Council of India is necessary to impart education in Pharmacy Degree course by the first respondent college after the 'AICTE Act' has come into force even when the first respondent college was approved by AICTE. In order to decide the above, the relevant provisions of both the [Pharmacy Act, 1948](#) and the [All India Council for Technical Education Act, 1987](#) are necessarily to be referred to.

7. Let me firstly refer to some of the provisions of the Pharmacy Act which are relevant for disposal of the writ petitions. [Pharmacy Act, 1948](#) (Act 8 of 1948) is a pre-constitution enactment. The statement of objects and reasons of the Act, is to establish a Central Council of Pharmacy which will prescribe the minimum standards of education and approve courses of study and examinations for Pharmacists and provincial Pharmacy Councils which will be responsible for maintenance of provincial registers of qualified Pharmacists. The said Act was amended by Act 70 of 1976 with the object to provide for wider representation in the Pharmacy Council of India by providing representatives of the Union Territory, as also of the University Grants Commission and All India Council for Technical Education and also to empower the Pharmacy Council of India to keep non specialist members as members of its committee. Section 2(i) defines 'registered pharmacist' as meaning a person whose name is for the time being entered on the register of the State in which he is for the time being residing or carrying on his profession or business of pharmacy. Section 3 provides for Constitution and composition of Central Council. The said Council so constituted shall include a representative of the University Grants Commission and a representative of the All India Council for Technical Education also. Section 10 provides that the Central Council may subject to the approval of the Central Government, make regulations, to be called the Education Regulation, prescribing the minimum standard of education required for qualification as a pharmacist on the following and without prejudice to the generality of the power (a) the nature and period of study and of practical training to be undertaken before admission to an examination; (b) the equipment and facilities to be provided for students undergoing approved courses of study; (c) the subjects of examination and the standards therein to be attained and (d) any other conditions of admission to examinations. Section 12 makes a provision for approval of courses of study and examinations. As per the said section, an authority which conducts a course of study for pharmacists may apply to the Central Council for approval of the course, and the Central Council, if satisfied, after such enquiry as it thinks fit to make, that the said course of study is in conformity with Education Regulations, shall declare the said course of study to be an approved course of study for the purpose of admission to an approved examination for pharmacists. Equally an authority which holds an examination in

pharmacy may apply to the Central Council for approval of the examination, and the Central Council, if satisfied, after such enquiry as it thinks fit to make, that the said examination is in conformity with the Education Regulations, shall declare the said examination to be an approved examination for the purpose of qualifying for registration as a pharmacist under this Act. Under sub-section 3 of Section 12, every authority which conducts an approved course of study or holds an approved examination shall furnish such information as the Central Council may, from time to time, require as to the courses of study and training and examination to be undergone, as to the ages at which such courses of study and examination. Under Section 13, the Central Council is empowered to withdraw the approval granted in the event the approved course of study or an approved examination does not continue to be in conformity with the Education Regulations. Section 15(A) provides for maintenance of register of pharmacists to be known as Central Register which shall contain the names of all persons entered in the register for States. Under Section 15(B) of the Act, the Registrar of the Central Council shall on receipt of the report of registration of a person in the register for a State, enter his name in the Central Register. Under Section 29 of the Act, every State Government shall prepare and keep a register of pharmacists for the State. Qualifications for entry on first register is provided under Section 31 of the Act and the said section reads as under:-

'A person who has attained the age of eighteen years shall be entitled on payment of the prescribed fee to have his name entered in the first register if he resides, or carries on the business or profession of pharmacy, in the State and he-

(a) holds a degree or diploma in pharmacy or pharmaceutical chemistry or a chemist and druggist diploma of an Indian University or a State Government as the case may be, or a prescribed qualification granted by an authority outside India or

(b) holds a degree of an Indian University other than a degree in pharmacy or pharmaceutical chemistry, and has been engaged in the compounding of drugs in a hospital or dispensary or other place in which drugs are regularly dispensed on prescriptions of medical practitioners for a total period of not less than three years, or has passed an examination recognised as adequate by the State Government

for compounders or dispensers, or

(d) has been engaged in the compounding of drugs in a hospital or dispensary or other place in which drugs are regularly dispensed on prescriptions of medical practitioners for a total period of not less than five years prior to the date notified under sub-section (2) of Section 30.'

Section 32(A) also provides for registration of displaced persons in the register kept by the State Council. Section 32(B) relates to displaced persons, repatriates and other persons. After the registration under Section 32, 32(A) and 32(B), the State Council shall forward the list to the Central Council for entering the names in the Central Register as provided under Section 15(B) of the Act. By virtue of the powers under Section 10 of the Act, the Pharmacy Council of India had also framed Education Regulation, 1991 prescribing minimum qualification for admissions, duration of the course, course of study, syllabi, approval of the authority conducting the course of study, conduct of examinations etc., which was also approved by the Government of India, Ministry of Health, notified on 11.7.92 as amended by a subsequent notification dated 9.7.94.

8. A combined reading of the statements and objects of the Pharmacy Act and the above provisions would indicate that the Act was enacted only to make better provision for the regulation of the profession and practice of pharmacy and for that purpose to constitute Central Pharmacy Council and State Pharmacy Councils.

9. Coming to the [All India Council for Technical Education Act, 1987](#), the statement of objects and reasons are as follows:-

'1. The All India Council for Technical Education (AICTE) was set up in 1945 by a Government resolution as a National Expert Body to advise the Central and State Governments for ensuring the co-ordinated development of technical education in accordance with approved standards. During the first three decades the Council functioned quite effectively and there was phenomenal development of technical education in this period. However, in recent years, a large number of private engineering colleges and polytechnics have come up in complete disregard of the guidelines, laid down by the AICTE. Most of these institutions have serious

deficiencies in terms of even the rudimentary infrastructure necessary for imparting proper education and training. Barring some exceptions, there is scant regard for maintenance of educational standards.

2. Taking into account the growing erosion of standards, the Council at its meeting held in 1981 came to the conclusion that a stage had been reached when it should be vested with statutory powers to regulate and maintain standards of technical education in the country. In pursuance of these and other recommendations, a National Working Group was set up in November, 1985 to look into the role of the AICTE. The National Working Group recommended that in order to enable the AICTE to play its role effectively, it shall have to be vested with necessary statutory authority. The National Policy on Education, 1986, also stipulated that the AICTE will be vested with statutory authority for planning, formulation and the maintenance of norms and standards, accreditation, funding of priority, areas, monitoring and evaluation, maintaining parity of certificates and awards and ensuring the co-ordinated and integrated development of technical and management education.

3. The Bill seeks to provide statutory powers to the All India Council for Technical Education to ensure;

(i) proper planning and co-ordinated development of the technical education system throughout the country;

(ii) promotion of qualitative improvement of technical education in relation to planned quantitative growth, and

(iii) regulation of the system and proper maintenance of norms and standards.

Accordingly, the power and functions assigned to the AICTE, inter alia, provide laying down norms and standards for programmes and institutions, giving approval for setting up of technical institutions, prescribing guidelines for admission of students and the charging of fees, and inspecting and evaluating institutions periodically with a view to maintaining standards and to provide recognition or withhold recognition of programmes and institutions. As part of this overall co-

ordination and developmental responsibilities, the AICTE will also give grants to institutions for identified developmental purposes. In addition, the AICTE will promote innovation, research and development, linkages with industry and greater access to technical education by women, handicapped and weaker sections of the society.

4. The Bill seeks to achieve the above objective.'

Section 2(g) of the Act defines 'Technical Education' as meaning programmes of education, research and training in engineering technology, architecture, town planning, management, pharmacy and applied arts and crafts and such other programme or areas as the Central Government may, in consultation with the Council, by notification in the Official Gazette, declare. Section 2(i) of the Act defines 'University' as meaning a University defined under clause (f) of Section 2 of the University Grants Commission Act, 1956 (3 of 1956), and includes an institution deemed to be a University under section 3 of that Act. Section 3 provides for establishment of the Council. The said section also provides for inclusion of a representative to the Pharmacy Council of India under Section 3(m)(v) of the Act. The constitution of the Council is wider including the representatives from Central Advisory Board of Education, Association of Indian Universities, the Indian Society for Technical Education, the Council of the Indian Institutes of Technology, the Council of Architecture and the National Productivity Council. The Chairman, University Grants Commission is also a member of the Council. The Director General, Council of Scientific and Industrial Research is also one of the member of the Council. Under Section 10(1)(b) of the Act, the Council has the power to co-ordinate the development of technical education in the country at all levels. Under Section 10(1)(d), the Council has the power to promote innovations, research and development in established and new technologies, generation and adoption and adaptation of new technologies to meet developmental requirements and for overall improvement of educational processes. Under Section 10(1)(i), the Council is empowered to lay down norms and standards for courses, curricula, physical and instructional facilities, staff pattern, staff qualifications, quality instructions, assessment and examinations. Under Section 10(1)(k), the Council has the power to grant approval for starting

new technical institutions and for introduction of new courses or programmes in consultation with the agencies concerned. Under Section 10(o), the Council is empowered to provide guidelines for admission of students to technical institutions and Universities imparting technical education. Under Section 14 of the Act, the Council shall establish the four regional committees namely Northern, Southern, Western and Eastern at Kanpur, Madras Bombay and Calcutta respectively. These regional committees shall advise and assist the Council to look into all aspects of planning, promoting and regulating technical education within the region and the regional committees have the power to grant approval to the institutions which conform to the norms prescribed under the Act. Section 23 empowers the AICTE to frame Regulations. By virtue of the said power, the AICTE has framed All India Council for Technical Education (Grant of Approval for Starting new Technical institutions, introduction of courses or programmes and approval of intake capacity of seats for the courses or programmes) Regulations, 1994. The Regulations have been framed for grant of approval for starting new technical institutions, introduction of courses or programmes and approval of intake capacity of seats for the courses or programmes. Regulation 2 relates to grant of approval of the Council for establishment of new technical institutions, grant of approval of the Council for introduction of any course or programme in the technical institutions, grant of approval of the Council for existing intake capacity of seats and for increase in the annual intake capacity of seats in courses and programmes. Regulation 4 prescribes the requirement for grant of approval and Regulation 6 relates to conditions for grant of approval.

10. A combined reading of objects and reasons of the AICTE Act would undoubtedly reveal that the said Act was enacted duly taking into note of the fact that most of the institutions have serious deficiencies in terms of rudimentary infrastructure necessary for imparting proper education and training and also to vest statutory powers to regulate and maintain standards of technical education in the country on the All India Council for Technical Education which was set up during the year 1945. The said enactment is a special enactment insofar as laying down norms and standards for courses, curricula, physical and instructional facilities, staff pattern and other qualifications, quality assessment and examinations as well as for grant of approval for starting new technical institutions

and for introduction of new courses or programmes in consultation with the agencies concerned.

11. An analysis of both the provisions of the Pharmacy Act and the AICTE Act would lead to a definite conclusion that while the Pharmacy Act is an Act occupying the field for regulating the profession of pharmacy, the AICTE Act is an Act enacted with a view to proper planning and co-ordinated development of the technical education in relation to planned quantitative growth and the regulation and proper maintenance of norms and standards in technical educational system and for matters connected therewith.

12. In the backdrop of the scheme of the above Acts in mind, let me now consider the submissions made by the learned counsel for petitioners. According to the learned counsel for petitioners when both the enactments were enacted by the Parliament i.e., both are Central enactments, the later enactment shall prevail over the earlier enactment and by virtue of Article 372 of the [Constitution of India](#), the provisions contained in the earlier enactment insofar as similar provisions in the later enactment shall be deemed to have been impliedly repealed though there is no specific provision for such repeal. In support of the said submission, the learned counsel would rely upon the judgment of the Supreme Court in 'ASHOKA MARKETING LTD. AND ANOTHER v. PUNJAB NATIONAL BANK AND OTHERS : '. The facts of that case are as follows. Certain buildings originally belonged to Punjab National Bank Limited, a banking company, were leased out to M/s Ashoka Marketing Limited and M/s Sahu Jain Services Limited. After the enactment of Banking Companies (Acquisition and Transfer of Undertakings) Act 1970, the undertaking of Punjab National Bank Limited was transferred and vested in Punjab National Bank, a body corporate constituted under the provisions of the said Act and hence both M/s Ashoka Marketing Limited and M/s Sahu Jain Services Limited became the tenants of Punjab National bank. Action was initiated by Punjab National Bank by issuing notice under Section 106 of the Transfer of Property Act for eviction. Thereafter, under the provisions of Delhi Rent Control Act 1958, proceedings were initiated. Objection was raised to those proceedings on the ground that the proceedings for eviction under Rent Control Act were not maintainable in view of the provisions contained in the Public Premises Act, 1971.

The Rent Control Act being the earlier provision when both M/s Ashoka Marketing Limited and M/s Sahu Jain Services Limited were inducted as tenants, the applicability of the provisions of Public Premises (Eviction of Unauthorised Occupants) Act, 1971 came up for consideration before the Supreme Court. After a detailed discussion on various provisions of the Rent Control Act and the Public Premises Act, both the Acts were enacted by the same legislature viz., the Parliament in exercise of the legislative powers under the concurrent list, the Supreme Court held as under:-

'The Rent Control Act makes a departure from the general law regulating the relationship of landlord and tenant contained in the Transfer of Property Act inasmuch as it makes provision for determination of standard rent, it specifies the grounds on which a landlord can seek the eviction of a tenant, it prescribes the forum for adjudication of disputes between landlords and tenants and the procedure which has to be followed in such proceedings. The Rent Control Act can, therefore, be said to be a special statute regulating the relationship of landlord and tenant in the Union Territory of Delhi. The Public Premises Act makes provision for a speedy machinery to secure eviction of unauthorised occupants from public premises. As opposed to the general law which provides for filing of a regular suit for recovery of possession of property in a competent Court and for trial of such a suit in accordance with the procedure laid down in the Code of Civil Procedure, the Public Premises Act confers the power to pass an order for eviction of an unauthorised occupant in a public premises on a designated officer and prescribes the procedure to be followed by the said officer before passing such an order. Therefore, the Public Premises Act is also a special statute relating to eviction of unauthorised occupants from public premises. In other words, both the enactments, namely, the Rent Control Act and the Public Premises Act, are special statutes in relation to the matters dealt with therein. Since, the Public Premises Act is a special statute and not a general enactment the exception contained in the principle that a subsequent general law cannot derogate from an earlier special law cannot be invoked and in accordance with the principle that the later laws abrogate earlier contrary laws, the Public Premises Act must prevail over the Rent Control Act.

The principle which emerges from these decisions is that in the case of inconsistency between the provisions of two enactments, both of which can be regarded as Special in nature, the conflict has to be resolved by reference to the purpose and policy underlying the two enactments and the clear intendment conveyed by the language of the relevant provisions therein. We propose to consider this matter in the light of this principle.'

Holding so, the Supreme Court finally held as under:-

'It would thus appear that, while the Rent Control Act is intended to deal with the general relationship of landlords and tenants in respect of premises other than Government premises, the Public Premises Act is intended to deal with speedy recovery of possession of premises of public nature, i.e. property belonging to the Central Government, or Companies in which the Central Government has substantial interest or Corporations owned or controlled by the Central Government and certain corporations, institutions, autonomous bodies and local authorities. The effect of giving overriding effect to the provisions of the Public Premises Act over the Rent Control Act, would be that buildings belonging to Companies, Corporations and autonomous bodies referred to in S. 2(e) of the Public Premises Act would be excluded from the ambit of the Rent Control Act in the same manner as properties belonging to the Central Government. The reason underlying the exclusion of property belonging to the Government from the ambit of the Rent Control Act, is that the Government while dealing with the citizens in respect of property belonging to it would not act for its own purpose as a private landlord but would act in public interest. What can be said with regard to Government in relation to property belonging to it can also be said with regard to companies, corporations and other statutory bodies mentioned in S. 2(e) of the Public Premises Act. In our opinion, therefore, keeping in view the object and purpose underlying both the enactments viz., the Rent Control Act and the Public Premises Act, the provisions of the Public Premises Act have to be construed as overriding the provisions contained in the Rent Control Act.'

13. Pharmacy Act provides for framing of Education Regulations under Section 10 of the Act and Education Regulation 1991 has also been framed providing the

minimum qualification for admission to Diploma in Pharmacy, courses of study, syllabi, approval of the authority conducting the courses and conduct of examinations. Similarly, AICTE Act also provides for grant of permission to establish new dental college, new courses of study, laying down norms and standards, syllabi, etc., for the students to be admitted into the course and for taking examinations. Both the Acts lay down norms and standards for courses of study in Pharmacy and hence, both the Acts are two parallel enactments relating to co-ordination and determination of standards in the colleges and institutions offering courses in pharmacy, thus occupying the same field. In view of the above, it has to be now considered as to which of the Authorities under the two enactments would regulate and control the college in the matter of laying down norms and standards for courses in pharmacy. The AICTE Act being the later enactment is referable to Entry 66 of List-I of Seventh Schedule to the Constitution which reads as follows, 'co-ordination and determination of standards in institutions for higher education or research and scientific and technical institutions'. Legislatures were conscious of the existence of the [Pharmacy Act, 1948](#) and the formation of Central Council and State Council for the purpose of enrolling names in the register to enable the candidates to practice in the profession, while they enacted [All India Council for Technical Education Act, 1987](#). Definition of Technical Education in the AICTE Act includes pharmacy also. The definition of the Council under Section 3(4)(m)(v) provides for the representation of the Pharmacy Council of India also in the AICTE. The Council under the AICTE is more comprehensive and wider in its constitution which includes representatives from almost all departments of education including Central Advisory Board of Education, Association of Indian Universities, University Grants Commission etc., when compared to the Central Council under the Pharmacy Act which has no such representation from various departments of education. Such a Council formed under the AICTE Act framed regulations laying down norms and standards for the courses, etc. The AICTE Act is an enactment in order to regulate the technical education including the pharmacy and for establishment of AICTE with a view to proper planning and co-ordinated development of technical education system throughout the country, the promotion of qualitative improvement of such education in relation to the planned quantitative growth and regulation and proper

maintenance of norms and standards in the technical education system and for the matters connected therewith. It may be also relevant to note that while AICTE framed norms and standards for pharmacy programmes, also took note of the Education Regulation, 1991 framed by the Pharmacy Council of India under Section 10 of the Pharmacy Act, approved by the Government of India, Ministry of Health and notified in Gazette of India dated 11.7.92 as well the consequential amendment of Education (Amendment) Regulation, 1994 notified on 9.7.94. The norms contained in the Education Regulation, 1991 have almost been adopted by the AICTE and there is no much of difference in the norms of AICTE and Pharmacy Council. Therefore, it must be held that the legislature while enacting AICTE Act intended that the said Act should govern the technical education including pharmacy, more particularly, in regard to the laying of norms and standards in the technical system. At this juncture, it must be pointed out that the Pharmacy Act is a pre-constitutional statute enacted prior to the Constitution and was in force from the year 1948. The AICTE Act is referable to Entry 66 of List I of Seventh Schedule to the [Constitution of India](#). The AICTE Act covers the same field which was earlier covered by the Pharmacy Act, particularly, laying down norms and standards for studies in the field of pharmacy. Therefore, in terms of Article 372 of the [Constitution of India](#), the AICTE Act to the extent it covers the same field as covered by the Pharmacy Act will prevail and the provisions of the Pharmacy Act to that extent would yield to the AICTE Act. When both the enactments are traceable to the power of the same legislature, on the same subject viz., the Parliament, the later enactment viz., the AICTE Act which is a special enactment insofar as laying down the norms and standards for courses, etc., shall override the provisions of Pharmacy Act and the Education Regulation, 1991 insofar as it prescribes norms and standards for admissions and examinations to Pharmacy course. Hence, provisions of Section 10 to 15 of the Pharmacy Act shall be deemed to be inoperative insofar they relate to admission of students, syllabi, course of study and the examination and for that matter, the approval for pharmacy course. Consequently, the provisions of AICTE Act alone shall regulate and control the colleges in the matter of laying down norms and standards for courses in pharmacy. When once the norms and standards prescribed by the AICTE is adopted by the college and the students have

undergone the course under the prescribed syllabi, and the students were also allowed to sit for examination by the University on the strength of the application granted to the college and indisputed the students also became successful in the examination, neither the Central Pharmacy Council nor the State Pharmacy Council could insist for approval of the course under the provisions of the Pharmacy Act for entering the names of those students in the register of pharmacist maintained by State and Central Councils. Facts of the cases here reveal that the college in question obtained the approval from the State Government to start the college to impart Pharmacy courses and the University also granted affiliation to the college on the basis of the approval granted by the AICTE and more particularly, the students who have also undergone the prescribed syllabi which has been adopted by the AICTE for the students to undergo the course and on further fact that the University has also conferred the Degrees on the petitioners for having successfully completed the course, the petitioners are entitled to get themselves registered before the State Council in the register maintained by the State and consequently in the register maintained by the Central Council. Hence, I have no hesitation to hold that the petitioners are entitled to succeed in the writ petitions. Consequently, the Registrar, Tamil Nadu Pharmacy Council, Chennai is directed to entertain the applications from the petitioners in both the writ petitions for entering their names in the register maintained by the State Council and take further action to forward the same to the Central Council to enable the Central Council to again enter their names in the register maintained by the Central Council, so as to enable the petitioners to practice as Pharmacists. With the above direction, both the writ petitions are allowed. No costs. Consequently, the connected W.P.M.P. is closed.