

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 1ST DAY OF OCTOBER, 2026

PRESENT

THE HON'BLE MR. JUSTICE D K SINGH

AND

THE HON'BLE MR. JUSTICE H.SHANTHI BHUSHAN

WRIT APPEAL NO. 1619 OF 2026 (S-RES)



BETWEEN:

1. RAJEEV EDUCATIONAL TRUST (R)
GOVERNMENT HOSPITAL ROAD,
HASSAN 573201
REPRESENTED BY ITS
SECRETARY
2. RAJEEV INSTITUTE OF TECHNOLOGY,
PLOT NO. 1 D (P-1),
GROWTH CENTER,
INDUSTRIAL AREA,
BENGALURU - MANGALORE BYPASS ROAD,
HASSAN 573201
REP. BY ITS. PRINCIPAL

...APPELLANTS

(BY SRI. VIKRAM HUILGOL, SENIOR COUNSEL FOR
SRI. OMKAR KAMBI., ADVOCATE)

AND:

1. MR M V RAMESHA
S/O VENKATE GOWDA,
AGED MAJOR,
R/A MADIKEHOSAHALLI, HULIKOD (P)
ARAKALGUD TALUK,
HASSAN DISTRICT - 573102

...RESPONDENT

(BY SRI. G.BALAKRISHNA SHASTRY FOR
SRI. SANCHAN JAI NANDAN., ADVOCATE)

Digitally
signed by
VASANTHA
KUMARY B
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Location:
HIGH
COURT OF
KARNATAKA

THIS WRIT APPEAL IS FILED UNDER SECTION 4 OF THE KARNATAKA HIGH COURT ACT PRAYING TO SET ASIDE THE ORDER DATED 09/04/2026 PASSED BY THE LEARNED SINGLE JUDGE IN WP NO.14128/2021 AND TO ALLOW THE WRIT PETITION AS PRAYED, ETC.

THIS APPEAL HAVING BEEN HEARD AND RESERVED FOR JUDGMENT ON 17.09.2026, COMING ON FOR PRONOUNCEMENT THIS DAY, **HON'BLE MR. JUSTICE D K SINGH** PRONOUNCED THE FOLLOWING:

CORAM: HON'BLE MR. JUSTICE D K SINGH
and
HON'BLE MR. JUSTICE H.SHANTHI BHUSHAN

CAV JUDGMENT

(PER: HON'BLE MR. JUSTICE D K SINGH)

PREFACE:

1. The present intra-Court appeal has been filed impugning the judgment and order dated 09.04.2026 passed by the learned Single Judge in W.P.No.14128/2021 whereby the order dated 20.03.2021 passed by the Education Appellate Tribunal (for short 'EAT') setting aside the removal of the respondent herein from the service of the post of a lecturer was affirmed.

FACTS OF THE CASE:

2. The appellant-Institute is a private engineering college affiliated to Visveswaraya Technological University (for short 'VTU') established in the year 2008. The respondent, Sri. M.V. Ramesha, was appointed as a Lecturer in the Department of Civil Engineering in the appellant-Institute on 07.02.2011, and he joined duty on 10.02.2011. At the time of his appointment, he possessed a B.E. degree in Civil Engineering with First Class.

3. At the time of taking up the said employment, the requisite qualification for the post of a lecturer in the branch of civil engineering was a bachelor's degree with first class in civil engineering as prescribed by the All India Council for Technical Education Regulations (for short 'AICTE Regulations'). Subsequently, the AICTE, in exercise of its powers conferred under Section 10(1)(i) of the All India Council for Technical Education Act, 1987 (for short 'AICTE Act'), revised the norms relating to qualifications prescribed for teachers in technical institutions. The revised AICTE Regulations, notified vide Gazette Notification dated 05.03.2010, came to effect along with Government Orders recognizing only three teaching designations in a technical institution namely, Assistant Professor, Associate Professor and Professor. Under the revised

norms, the minimum qualification for teaching undergraduate engineering courses was prescribed as B.E./B. Tech along with M.E./M. Tech. in the relevant branch with first class or equivalent qualification. The VTU vide communications dated 07.01.2015 and 03.02.2015 directed the appellant-Institute to ensure compliance with the said AICTE norms.

4. The appellant-Institute, in compliance of the AICTE regulations and VTU communication, issued a general notice dated 06.02.2015 to all the faculty members possessing only undergraduate qualifications, stating that in order to continue teaching positions, they were required to pursue a Masters degree. A specific notice dated 18.02.2015 was also issued to the respondent directing him to comply with AICTE and VTU norms.

5. The respondent neither responded to the notices nor took any steps to enrol for a M.E or M.Tech programme. He also failed to furnish any undertaking to comply with the procedure prescribed by VTU for in-service faculty seeking higher qualifications. Thus, the appellant-Institute issued a relieving order dated 07.05.2015, relieving the respondent from service

solely on the account of lack of qualification possessed by the respondent.

6. Aggrieved by the relieving order dated 07.05.2015, the respondent filed M.A. (EAT) No.02/2015 before the Education Appellate Tribunal, Hassan, (for short 'Tribunal') under Section 94 of the Karnataka Education Act, 1983. The respondent's case before the Tribunal was that, at the relevant point of time, the qualification prescribed for appointment as a Lecturer was a First-Class Bachelor's Degree in the appropriate branch of Engineering/Technology. He claimed that his appointment was valid and that he discharged his duties satisfactorily thereafter.

7. The respondent continued to work as a Lecturer until 31.07.2014. He alleged that, from 01.08.2014, his name was removed from the attendance register and that he was not assigned any teaching work. He made a representation dated 20.08.2014 to the institute questioning the same. The institution, in its reply, referred to his lack of attendance through the biometric system and his alleged absence from duty. The respondent asserted that he had been prevented from discharging his duties and that the alleged absence from 01.08.2014 was not voluntary.

8. The appellant-Institute, on the other hand, contended that the respondent had been repeatedly directed to contact the Head of the Department/Principal to obtain his work allocation, but he failed to do so. The appellant-Institute also contended that, while the respondent had been appointed under the qualification applicable at the time of his appointment, the regulation governing qualifications of teaching faculty in engineering institutions has subsequently changed. According to the management, the 6th Pay Commission framework, implemented in the technical institution from September 2012, required B.E./B.Tech with M.E./M.Tech for teaching B.E. classes. The appellant-Institute states that the respondent was not extended the benefit of the revised pay scale because he did not possess the requisite postgraduate qualification.

9. The appellant-Institute further contended that the institution had several teaching staff including the respondent, possessing only Bachelor's Degree and that they were given a period of 3 years to acquire M.E./M.Tech degree. Few of the similarly placed faculty members had either registered for M.Tech while continuing in service or resigned from the service,

whereas the respondent neither acquired the qualification nor he resigned from the service.

FINDINGS OF THE EDUCATION APPELLATE TRIBUNAL:

10. The Tribunal has noted that the appellant-Institute appointed the respondent as a lecturer in the branch of Civil Engineering on 07.02.2011 on the basis of his qualification as B.E. with First Class.

11. The Tribunal has further noted that the prescribed qualification for teaching B.E. classes was subsequently revised and that possession of a postgraduate qualification, namely M.E./M.Tech, was required under the applicable AICTE Regulations and VTU norms. It was also noted that the respondent had been informed of the said requirement vide notices dated 06.02.2015 and 18.02.2015 and that he was afforded an opportunity to acquire the requisite qualification, which he admittedly failed to obtain.

12. The Tribunal has placed reliance upon Section 92(1) of the Karnataka Education Act, 1983, and observed that no teacher or employee of a private educational institution could be dismissed, removed or reduced in rank except after an enquiry in accordance with the statutory requirement and after

affording a reasonable opportunity of being heard. The Tribunal noted that no such enquiry had been conducted before issuing the relieving order dated 07.05.2015.

13. The Tribunal also considered the contention of the appellant-Institute that the order dated 07.05.2015 was merely an order relieving the respondent from service on account of him not possessing the prescribed qualification and it was not an order of dismissal or removal by way of punishment. The Tribunal, however, held that, notwithstanding the nature of the order, the respondent could not have been relieved from service without complying with the mandatory requirement contained in Section 92(1) of the Karnataka Education Act.

14. The Tribunal further held that the Principal was not competent to issue the order dated 07.05.2015 and that the order was unsustainable for want of compliance with the statutory requirement of an enquiry.

15. The Tribunal, accordingly, allowed the appeal vide order dated 20.03.2021, setting aside the order dated 07.05.2015, and directed the appellant-Institute to reinstate the respondent to his earlier post with back wages. The Tribunal, however, expressly preserved the liberty of the appellant-Institute to

take action against the respondent in accordance with law with regard to his educational qualification for teaching Engineering classes and his absence from duty

16. The appellant-Institute thereafter approached this Court in W.P. No.14128/2021, challenging the Tribunal's order dated 20.03.2021.

FINDINGS OF THE LEARNED SINGLE JUDGE:

17. The learned Single Judge has noted that at the time of the respondent's appointment, the qualification required for the post of lecturer was B.E. with First Class, which the respondent admittedly possessed. It was further noted that the respondent's name had been deleted from the attendance register from 01.08.2014 and thereafter he had not been assigned any work. The learned Single Judge has also taken note of the notice issued to the respondent requiring him to acquire the M.Tech qualification.

18. The learned Single Judge observed, that if an enquiry had been conducted on the allegation that the respondent did not possess the qualification required under the AICTE Regulations and VTU norms and the 6th Pay Commission framework, the respondent would have had an opportunity to defend himself in

relation to his qualification. Since no such enquiry had been conducted, the learned Single Judge accepted the Tribunal's conclusion that the order dated 07.05.2015 was illegal.

19. The learned Single Judge placed reliance upon the evidence of RW-1, who admitted that no departmental enquiry had been conducted by issuing a show-cause notice to the respondent regarding his alleged lack of qualification or unauthorised absence. On that ground, the learned Single Judge treated the order dated 07.05.2015 as an order of dismissal/removal/termination attracting the protection contained under Section 92(1) of the Karnataka Education Act, 1983. The learned Single Judge accepted the Tribunal's reasoning that dismissal, removal or termination amounted to a major punishment/penalty and that the statutory requirement of an enquiry under Section 92(1) had not been complied with.

20. The learned Single Judge also accepted the Tribunal's reasoning concerning the competence of the authority which issued the order dated 07.05.2015 and concluded that the Management, rather than the Principal, was the competent authority to terminate the respondent's service.

21. The learned Single Judge also noted that the Tribunal had attempted to balance the competing considerations. On one hand, the Tribunal held that the order dated 07.05.2015 could not stand and directed reinstatement with back wages. On the other hand, it expressly preserved the Management's liberty to take action in accordance with law concerning the respondent's educational qualification for teaching Engineering classes, having regard to the 6th Pay Commission Report and AICTE Regulations and VTU norms.

22. The learned Single Judge held that the Tribunal had correctly and properly considered and appreciated the entire material on record and had correctly concluded that the respondent was entitled to reinstatement while reserving liberty to the Management of appellant-Institute to proceed against him in accordance with law in respect of his qualification and alleged absence.

POINT FOR CONSIDERATION:

23. The only point that arises for our consideration is:

Whether the Tribunal was justified in directing reinstatement of the respondent on the ground that his services could not have been brought to an end without conducting an enquiry under Section 92(1) of the Karnataka Education Act,

1983, notwithstanding the requirement of the prescribed qualification for holding the post of lecturer in a technical institution?

ANALYSIS AND FINDINGS:

24. The power and functions assigned to the AICTE, *inter alia*, under the All India Council For Technical Education Act, 1987, provides for 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 to provide recognition or withhold recognition of programmes and institutions.

25. Section 10 of the AICTE Act entrusts the Council with the statutory responsibility of laying down norms and standards in relation to technical education. Amongst the matters specifically entrusted to the Council, is the prescribing qualifications for teachers and other staff employed in technical institutions under Section 10(1)(i) of the AICTE Act which is extracted hereunder:

“10. Functions of the Council – (1) It shall be the duty of the Council to take all such steps as it may think fit for ensuring co-ordinated and

integrated development of technical education and maintenance of standards and for the purposes of performing its functions under this Act, the council may –

(i) lay down norms and standards for courses, curricula, physical and instructional facilities, staff pattern, staff qualifications, quality instructions, assessment and examinations;"

26. The technical institution such as a Private Engineering College approved and governed by the AICTE Act is required to appoint teachers as per the qualifications prescribed under the Section 10(1)(i) of the AICTE Act which empowers the AICTE to lay down the norms and standards including the qualifications of the teaching and other academic staff in a technical institution.

27. The Supreme Court in the case of **JJI K.S. AND OTHERS vs L.B.S. CENTER FOR SCIENCE AND TECHNOLOGY AND OTHERS [(2024) 16 SCC 712]** has held this power of AICTE extending to the prescription and modification of faculty qualifications. The relevant paragraphs of the said judgment have been extracted hereunder:

"13. We heard Mr. Jaideep Gupta, learned Senior Counsel for the appellants. He made as many as four substantive contentions while assailing the orders impugned in this appeal. According to the

*learned Senior Counsel, there was no variation between the norms laid down by AICTE as well as the State Rules. So far as the prescription of qualification was concerned for the post of Professors, the learned Senior Counsel then contended that it was in 2010, for the first time the statutory regulations were framed by AICTE, wherein PhD was prescribed as the minimum required qualification and, therefore, such prescription will have no effect in respect of those who came to be appointed prior to the year 2010. It was also contended that the Scheme of 2003 was not a statutory one and, therefore, the question of repugnancy did not arise vis-à-vis the Special Rules of the State. Lastly, it was contended that even if AICTE scheme is the statutory instrument, the doctrine of pith and substance will have to be applied, in which event as the said non-statutory instrument cannot override the statutory instruments, namely, the Special Rules, the prescription contained in the Special Rules alone will apply. In the course of hearing, on the above submissions of the learned Senior Counsel, we expressed our disinclination to countenance any of such submissions canvassed before us. We were not inclined to countenance any of such submission, inasmuch as we were of the firm view that **under Section 10(1)(i) of the AICTE Act it was for AICTE to lay down***

the norms insofar as it related to prescription of qualifications for the teachers and other academic staff in technical institutions and that such prescription even made by way of norms, the same would come into operation instantaneously. We were not in a position to accede to the submission, that by virtue of Sections 23 and 24 of the AICTE Act, there would be a necessity for a Gazette Notification for the norms prescribed by AICTE to become enforceable insofar as it related to the prescription of academic qualifications.

14. Be that as it may, the learned Senior Counsel drew our attention to the Notification dated 5-3-2010 and submitted that the provision contained in the said Notification which came to be issued both under Section 23(1) as well as Sections 10(1)(i) and (v) of the AICTE Act will cover the issue. Under the heading "General" in Para (ii) it contains a provision to the following effect:

"(ii) No one shall be eligible to be appointed, promoted or designated as Professor, unless he or she possesses a PhD and satisfies other academic conditions, as laid down by AICTE from time to time. This shall, however, not affect those who are already designated as "Professor"."

***20.** Leaving aside the same, when we examine the submission of Mr. Gupta, learned Senior Counsel, based on the said Para (ii) contained in the Notification of AICTE dated 5-3-2010, we find that, as rightly contended by the learned Senior Counsel, the said Notification having been issued under Section 10(1)(i) of the AICTE Act prescribed the minimum required qualification as from the date of the Notification, namely, 5-3-2010. In the same breath, whatever protection provided in the said paragraph for those who were already designated as Professors will also hold good, which benefit, in our considered opinion, should be extended to the appellants without prejudice to the rights and contention of the first appellant."*

28. The AICTE prescription of qualifications is not merely advisory as to the academic standard itself. A State Government, a Private Engineering College or a State Service Board cannot prescribe a conflicting or lower qualifications for teaching posts in a technical institution. It has been held that the power to prescribe or modify faculty qualifications for maintaining standards in technical education vests with the AICTE under Section 10(1)(i) of the AICTE Act, as has been held by the Supreme Court in the case of **CHRISTY JAMES JOSE AND OTHERS vs STATE OF KERALA AND OTHERS**.

[2016 SCC OnLine SC 1817]. The relevant paragraphs have been extracted hereunder:

"11. In the course of their submissions, the learned counsel for the appellants brought to our notice a vital document, namely, Notification dated 18-2-2003 by which AICTE revised the eligibility conditions for the post of Assistant Professor. Though Ms V.P. Seemanthani, Shri S. Radhakrishnan and other counsel appearing for the private respondents attempted to argue as to the validity of the said notification or certain other notifications followed by it and issued by AICTE, as the same were not subject-matter of challenge before the learned Single Judge or the Division Bench or even referred to before the High Court, we are not inclined to entertain any such submissions in these appeals, which submissions are however left open for being raised in accordance with law if so advised. We find that the same came to be issued under Section 10(i) of the AICTE Act, 1987, which empowers AICTE to lay down among other things, the staff qualifications in order to maintain the standard of education in the technical institutions. Therefore, it will have to be held that when it comes to the prescription of qualification, the power vests with AICTE under Section 10(i) by which AICTE can alone prescribe or modify the qualifications in order to ensure that the standard of education in

the institutions is appropriately maintained. Therefore, by Notification dated 18-2-2003, AICTE itself prescribed a PhD degree along with first class degree at Bachelor's or Master's level in the appropriate branch of Engineering/Technology with 3 years' experience in teaching, etc. and held further that the acquisition of PhD degree can be made within a period of 7 years from the date of appointment as Assistant Professor. Therefore the question arises whether the prescription of the various qualifications under Special Rule 6-A (2) by the State Government can be held to be in any way contrary or conflicting with the prescription made by AICTE.

12. *Unfortunately, the said Notification dated 18-2-2003 was not placed before the High Court, either by the writ petitioners or by AICTE or by the State Government, which apparently seem to have misled the High Court to conclude that such a prescription found in Special Rule 6-A was not in consonance with the prescription made by AICTE. Inasmuch as, now it has been brought to our notice that the said prescription found in the Notification of AICTE dated 18-2-2003 came to be made in exercise of AICTE's power under Section 10(1)(i) of the AICTE Act, 1987, it must be held that there is no counter prescription in Special Rule 6-A (2). In fact the prescription of the qualification made in AICTE Notification dated 18-*

2-2003 was bodily lifted and incorporated in Rule 6-A (2) and thereby it was brought in tune with the prescription made by AICTE. Having regard to the said position, the striking down of Rule 6-A insofar as sub-rule (2) was concerned, it was uncalled for and to that extent, the impugned judgments [Anandavally M.K. v. P.G. Jairaj, 2013 SCC OnLine Ker 23641] , [Ajith Kumar B. v. State of Kerala, 2009 SCC OnLine Ker 4524 : (2009) 3 KLJ 563] of the High Court are liable to be set aside in these appeals."

29. The higher education is subject matter under Entry 66 of List I of the Seventh Schedule of the Constitution of India. It is only the Parliament which has exclusive authority under Article 246 to legislate under Entry 66 of List I of the Seventh Schedule to coordinate and determine the standards in technical education. The State Legislation or the University Regulations that operate inconsistently with the AICTE Act and the Regulations made thereunder are inoperative to the extent of inconsistency. The Supreme court in the case of **STATE OF TAMIL NADU AND ANOTHER vs ADHIYAMAN EDUCATIONAL AND RESEARCH INSTITUTE AND OTHERS [(1995) 4 SCC 104]**, held that the AICTE act empowers the AICTE to lay down the norms and standards for technical

education, including the qualifications of the teaching staff and that the norms prescribed by the AICTE would prevail over inconsistent requirements prescribed by the state. The relevant paragraphs are extracted hereunder:

"40. Shri Rao also contended that if the colleges for want of inadequate infrastructure and resources ultimately close down, the State Government may have to bear the responsibility of accommodating the students who are already admitted and are taking their courses in such colleges, and in some cases, the Government may also have to take over such colleges. It is, therefore, necessary that the higher standards and requirements prescribed by the State for starting and running the institutions should prevail. There is no material on record to show that the standards and requirements prescribed by the Council are such that the institutions complying with them are unable to conduct the relevant courses. If, however, the State Government thinks that the standards prescribed by the Council are low and will not enable an institution to conduct the courses, the State Government can certainly take up the matter with the Council and get the standards raised by it. As pointed out earlier, under the Central Act, the State Governments have a representation on the Council and have a say in laying down the

standards and requirements for starting and running technical institutions. Even otherwise, it is always open to the State Government to bring to the notice of the Council the inadequacies of the requirement laid down by it. However, pending the modifications, if any, in the requirements laid down by the Council, the State Government cannot reject the permission of any technical institution or de-recognise the existing institution because it has not satisfied the standards and requirements laid down by it.

41. *What emerges from the above discussion is as follows:*

(i) The expression 'coordination' used in Entry 66 of the Union List of the Seventh Schedule to the Constitution does not merely mean evaluation. It means harmonisation with a view to forge a uniform pattern for a concerted action according to a certain design, scheme or plan of development. It, therefore, includes action not only for removal of disparities in standards but also for preventing the occurrence of such disparities. It would, therefore, also include power to do all things which are necessary to prevent what would make 'coordination' either impossible or difficult. This power is absolute and unconditional and in the absence of any valid compelling reasons, it must be given its full effect according to its plain and express intention.

(ii) To the extent that the State legislation is in conflict with the Central legislation though the former is purported to have been made under Entry 25 of the Concurrent List but in effect encroaches upon legislation including subordinate legislation made by the Centre under Entry 25 of the Concurrent List or to give effect to Entry 66 of the Union List, it would be void and inoperative.

(iii) If there is a conflict between the two legislations, unless the State legislation is saved by the provisions of the main part of clause (2) of Article 254, the State legislation being repugnant to the Central legislation, the same would be inoperative.

(iv) Whether the State law encroaches upon Entry 66 of the Union List or is repugnant to the law made by the Centre under Entry 25 of the Concurrent List, will have to be determined by the examination of the two laws and will depend upon the facts of each case.

(v) When there are more applicants than the available situations/seats, the State authority is not prevented from laying down higher standards or qualifications than those laid down by the Centre or the Central authority to short-list the applicants. When the State authority does so, it does not encroach upon Entry 66 of the Union List or make a law which is repugnant to the Central law.

(vi) However, when the situations/seats are available and the State authorities deny an applicant the same on the ground that the applicant is not qualified according to its standards or qualifications, as the case may be, although the applicant satisfies the standards or qualifications laid down by the Central law, they act unconstitutionally. So also when the State authorities de-recognise or disaffiliate an institution for not satisfying the standards or requirement laid down by them, although it satisfied the norms and requirements laid down by the Central authority, the State authorities act illegally."

30. The binding nature of the norms prescribed by the AICTE has also been considered by the Supreme Court in the case of **PARSHVANATH CHARITABLE TRUST vs ALL INDIA COUNCIL FOR TECHNICAL EDUCATION [(2013) 3 SCC 385]**, wherein it was held that the State Government and affiliating bodies cannot act contrary to the standards prescribed by the competent Central statutory authority. The relevant paragraphs are extracted hereunder:

"22. It is not necessary for us to refer to various provisions of the AICTE Act in any greater detail as no controversy in relation to application or interpretation of any of its provisions is raised for

consideration in the present case. The facts are primarily admitted and it is only the exercise of discretion vested in AICTE which is the subject-matter of challenge in the present appeals.

24. The consistent view of this Court has been that where both Parliament and the State Legislature have the power to legislate, the Central Act shall take precedence in the matters which are covered by such legislation and the State enactments shall pave way for such legislations to the extent they are in conflict or repugnant. As per the established canons of law, primacy of the Central Act is indisputable which necessarily implies primacy of AICTE in the field of technical education. Statutes like the present one as well as the National Council for Teacher Education Act, 1993, the Indian Medical Council Act, 1956, etc. fall within the ambit of this canon of law. AICTE is the authority constituted under the Central Act with the responsibility of maintaining operational standards and judging the infrastructure and facilities available for imparting professional education. It shall take precedence over the opinion of the State as well as that of the University. The department concerned of the State and the affiliating university have a role to play, but it is limited in its application. They cannot lay down any

guidelines or policies in conflict with the Central statute or the standards laid down by the Central body. The State can frame its policies, but such policy again has to be in conformity with the direction issued by the Central body. Though there is no such apparent conflict in the present case, yet it needs to be clarified that grant of approval by the State and affiliation by the University for increased intake of seats or commencement of new college should not be repugnant to the conditions of approval/recommendation granted by AICTE. These authorities have to work in tandem as all of them have the common object to ensure maintenance of proper standards of education, examination and proper infrastructure for betterment of technical educational system."

31. The Supreme Court, while considering the scope and effect of the AICTE Act, has recognised the statutory role of the AICTE in prescribing and maintaining standards in technical education. In the case of **ALL INDIA COUNCIL FOR TECHNICAL EDUCATION vs SURINDER KUMAR DHAWAN [(2009) 11 SCC 726]**, the Supreme Court emphasised that the AICTE is a specialised expert body entrusted with the determination of standards in technical education and that such

standards cannot be diluted by courts or other authorities. The relevant paragraph is extracted hereunder:

17. *The role of statutory expert bodies on education and the role of courts are well defined by a simple rule. If it is a question of educational policy or an issue involving academic matter, the courts keep their hands off. If any provision of law or principle of law has to be interpreted, applied or enforced, with reference to or connected with education, the courts will step in. In J.P. Kulshrestha (Dr.) v. Allahabad University [(1980) 3 SCC 418 : 1980 SCC (L&S) 436] this Court observed: (SCC pp. 424 & 426, paras 11 & 17)*

"11. ... Judges must not rush in where even educationists fear to tread. ...

17. ... While there is no absolute ban, it is a rule of prudence that courts should hesitate to dislodge decisions of academic bodies."

32. Prior to the AICTE 2010 Regulations, the teaching faculty had three designations for degree level technical institutions, namely, (a) Lecturer (b) Assistant Professor (c) Professor, besides Principal/Director. However, under the All India Council for Technical Education [Pay Scales, Services Conditions and Qualifications for the Teachers and Other Academic Staff in

Technical Institutions (Degree) Regulations 2010] framed in exercise of its power conferred under Section 23(1) r/w Section 10(1)(i) and (v) of the AITCE Act, the teaching faculty would consist of (a) Assistant Professor (b) Associate Professor (c) Professor in technical institution.

33. The qualifications for the teaching faculty namely, for the Assistant Professor, Associate Professor and Professor with pay structure and Career Advancement Scheme have been provided in the aforesaid Regulation in clause (a) of Regulation 1.2 which would read as under:

"(a) Assistant Professor/Associate Professors/Professors In Technical institutions

(i) Persons entering the teaching profession in Technical Institutions shall be designated as Assistant Professors and shall be placed in the Pay Band of Rs. 15600-39100 with AGP of Rs.6000. Lecturers already in service in the pre-revised scale of Rs. 8000-13500, shall be re- designated as Assistant Professors with the said AGP of Rs. 6000.

(ii) An Assistant Professor with completed service of 4 years, possessing Ph. D Degree in the relevant branch / discipline shall be eligible, for moving up to AGP of Rs. 7000.

(iii) Assistant Professors possessing Master's degree in the relevant branch / discipline as defined for technical education shall be eligible for the AGP of Rs. 7,000 after completion of 5 years' service as Assistant Professor.

(iv) Assistant Professors who do not have Ph.D or a Master's degree in the relevant branch / discipline of a program shall be eligible for the AGP of Rs. 7,000 only after completion of 6 years' service as Assistant Professor.

(v) The upward movement from AGP of Rs. 6000 to AGP of Rs. 7000 for all Assistant Professors shall be subject to their satisfying other conditions as laid down by AICTE.

(vi) The pay of the incumbents to the posts of Lecturer (senior scale) (Le. the pre-revised scale of Rs. 10,000-15200) shall be re-designated as Assistant Professor, and shall be fixed at the appropriate stage in Pay Band of Rs.15600-39100 based on their present pay, with AGP of Rs. 7000.

(vii) Assistant Professors with completed service of 5 years at the AGP of Rs. 7000 shall be eligible, subject to other

requirements laid down by the AICTE, to move up to the AGP of Rs. 8000.

(viii) Posts of Associate Professor shall be in the Pay Band of Rs.37400-67000, with AGP of Rs.9000. Directly recruited Associate Professors shall be placed in the Pay Band of Rs. 37400-67000 with an AGP of Rs. 9000, at the appropriate stage in the Pay Band in terms of the conditions of appointment.

(ix) Incumbent Lecturers (Selection Grade) who have completed 3 years in the pre-revised pay scale of Rs. 12000-18300 on 1.1.2006 shall be placed in Pay Band of Rs. 37400-67000 with AGP Pay of Rs. 9000 and shall be re-designated as Associate Professor.

(x) Incumbent Lecturers (Selection Grade) who had not completed three years in the pay scale of Rs. 12000-18300 on 1.1.2006 shall be placed at the appropriate stage in the Pay Band of Rs. 15600-39100 with AGP of Rs. 8000 till they complete 3 years of service in the grade of Lecturer (Selection Grade), and thereafter shall be placed in the higher Pay Band of Rs.37400-67000 and accordingly re-designated as Associate Professor.

(xi) Lecturers (Selection Grade) in service at present shall continue to be designated as Lecturer (Selection Grade), as the case may be, until they are placed In the Pay Band of Rs. 37,400- 67000 and re-designated as Associate Professor in the manner described in (x) above.

(xii) Assistant Professors completing 3 years of teaching in the AGP of Rs. 8000 shall be eligible, subject to other conditions, that may be prescribed by AICTE as applicable, to move to the Pay Band of Rs. 37400-67000 with AGP of Rs. 9000 and to be designated as Associate Professor.

(xiii) Associate Professor completing 3 years of service in the AGP of Rs. 9000 and possessing a Ph.D. degree in the relevant discipline shall be eligible to be appointed and designated as Professor, subject to other conditions of academic performance as laid down by the AICTE. No teacher other than those with a Ph.D. shall be promoted, appointed or designated as Professor. The Pay Band for the post of Professors shall be Rs.37400-67000 with AGP of R.s. 10000.

(xiv) The pay of a directly recruited Professor shall be fixed at a stage not below Rs. 43000

in the Pay Band of Rs. 37400-67000, with the applicable AGP of Rs. 10000.

(xv) Ten percent of the posts of Professors in a AICTE approved Institution shall be in the higher AGP of Rs. 12000, however, teachers appointed to the posts shall continue to be designated as Professor. Eligibility for appointment as a Professor in the higher Academic Grade Pay shall be as may be laid down by the AICTE, and such eligibility conditions shall, inter alia, include publications in peer reviewed/ refereed Research Journals, and the requirement of at least 10 years of teaching as Professor and post-doctoral work of a high standard. No person appointed directly as Professor in the AGP of Rs. 12000 shall be fixed at a stage less than Rs. 48000 along with the AGP."

34. Thus, in effect the post of Lecturer is re-designated as Assistant Professor. Faculty norms prescribed under the said Regulation for engineering/Technology provides qualification for Assistant Professor as B.E./B. Tech and M.E/M.Tech. with First Class or equivalent in relevant branch.

35. In the present case, it is not in dispute that the respondent was appointed as a lecturer in the branch of Civil

Engineering on the basis of the qualification then possessed by him i.e., a B.E. degree. It is also not in dispute that he does not possess the postgraduate qualification of M.E./M.Tech. The subsequent regulatory requirements applicable to the teaching posts in engineering institutions require the prescribed postgraduate qualification for teaching undergraduate engineering courses. The material on record further discloses that the respondent was informed of the requirement and was afforded an opportunity to pursue the requisite postgraduate qualification. Despite being given such an opportunity, the respondent admittedly did not pursue the M.E./M.Tech. Thus, the matter before us is not one where an otherwise qualified teacher is sought to be visited with a penalty on account of any alleged misconduct.

36. In our view, the distinction is material. A disciplinary proceeding is directed against an employee for an act or omission constituting misconduct. The absence of an essential qualification, on the other hand, concerns the eligibility of the person to hold the post itself. Where the qualification prescribed by the governing statutory framework is absent, the question is not whether the employee should be punished for not possessing such qualification, but whether he can continue

to occupy the post notwithstanding the absence of the prescribed eligibility. This distinction has been recognised by the Supreme Court in the case of **STATE OF M.P. vs SHYAMA PARDHI [(1996) 7 SCC 118]** wherein the appointees did not possess the qualification prescribed for the post and it was held that an appointment made contrary to the prescribed qualification could not be sustained merely on the ground that the appointees had not been afforded an opportunity of hearing before their services were terminated. The Supreme Court distinguished between a case of removal of a duly qualified employee and a case where the very eligibility to hold the post was absent. The relevant paragraph is extracted hereunder:

"5. It is now an admitted fact across the Bar that the respondents had not possessed the prerequisite qualification, namely, 10+2 with Physics, Chemistry and Biology as subjects. The Rules specifically provide that qualification as a condition for appointment to the post of ANM. Since prescribed qualifications had not been satisfied, the initial selection to undergo training is per se illegal. Later appointments thereof are in violation of the statutory rules. The Tribunal, therefore, was not right in directing the reinstatement of the respondents. The question or violation of the principles of natural justice

does not arise. The ratio of Shrawan Kumar Jha v. State of Bihar [1991 Supp (1) SCC 330 : 1991 SCC (L&S) 1078 : (1991) 16 ATC 937 : AIR 1991 SC 309] , strongly relied on, has no application to the facts of this case. That was a case where the appellants possessed initial qualifications but they did not undergo the training. Since the appointment was set aside on the ground of want of training, this Court interfered with, directed the Government to reinstate them into service and further directed them to send the appellants therein for training."

37. The principle was further explained in the case of **PRAMOD KUMAR vs U.P. SECONDARY EDUCATION SERVICES COMMISSION [(2008) 7 SCC 153]**, wherein the Supreme Court reiterated that the prescribed qualification for appointment to a statutory post cannot ordinarily be dispensed with and that an appointment contrary to the governing statutory provisions cannot confer a right to continue in service. The relevant paragraphs are extracted hereunder:

"16. The qualifications for holding a post have been laid down under a statute. Any appointment in violation thereof would be a nullity.

18. If the essential educational qualification for recruitment to a post is not satisfied, ordinarily

the same cannot be condoned. Such an act cannot be ratified. An appointment which is contrary to the statute/statutory rules would be void in law. An illegality cannot be regularised, particularly, when the statute in no unmistakable term says so. Only an irregularity can be."

38. The aforesaid principles have to be considered along with the provisions of the Karnataka Education Act. Section 92(1) of the Karnataka Education Act undoubtedly affords protection to a teacher or employee against dismissal, removal or reduction in rank except in accordance with the prescribed conditions and, where applicable, after an enquiry in the manner contemplated therein. However, such procedural protection cannot be construed as creating a substantive right in favour of a person to continue in a post for which he does not possess the qualification prescribed under the applicable statutory framework.

39. In the present case, the respondent's lack of the prescribed postgraduate qualification was not an allegation of misconduct requiring adjudication through a disciplinary proceeding. It was an objective fact bearing directly upon his eligibility to continue as a teacher in the technical institution. The appellant-Institute had brought the requirement to his

notice and had afforded him an opportunity to acquire the qualification. The respondent nevertheless failed to obtain the same. It would, therefore, be incongruous to hold that although the respondent admittedly did not possess the qualification required for the teaching post, he could still insist upon reinstatement merely because a disciplinary enquiry had not preceded the order relieving him. Such a construction would effectively permit the procedural safeguard contained in Section 92(1) to override the substantive requirement governing the eligibility to the post.

40. The decision of the Supreme Court in the case of ***THE SECRETARY, ALL INDIA SHRI SHIVAJI MEMORIAL SOCIETY (AISSMS) AND OTHERS vs STATE OF MAHARASHTRA [(2025) 6 SCC 605]***, reiterates the statutory role of AICTE in prescribing essential qualifications and examines the consequences of failure to acquire the prescribed qualification within the period permitted by the applicable regulations. The relevant paragraphs are extracted hereunder:

"31. *AICTE which is an expert body mandated by law, inter alia, to prescribe essential qualifications for a teaching post, and hence we cannot*

question the logic and wisdom of this expert body which prescribes the essential qualifications for these posts. No one has challenged such a qualification, which is PhD in the present case, on the ground that it should not have been made an essential qualification. Further in the present case, the law not only prescribes qualifications but also gives the consequences of not having these qualifications. We find nothing arbitrary in such prescriptions.

32. *This Court time and again has reiterated that the responsibility, of fixing qualifications for purposes of appointment, promotion, etc. of staff or qualifications for admissions, is that of expert bodies (in the present case, AICTE), and so long as qualifications prescribed are not shown to be arbitrary or perverse, the courts will not interfere."*

41. The fact that the respondent had initially been appointed and had thereafter continued in service for some period cannot, by itself, confer a right to continue in disregard of the qualification prescribed under the governing regulatory framework. An appointment or continuation contrary to a mandatory statutory requirement cannot be sustained merely

on the basis of length of service or the absence of a disciplinary proceeding.

42. We are, therefore, of the considered view that the Education Appellate Tribunal erred in treating the absence of a disciplinary enquiry as sufficient to invalidate the action of the appellant-Institute. The Tribunal failed to appreciate the distinction between termination by way of disciplinary punishment and cessation of entitlement to hold a post for want of the prescribed qualification.

43. Once the respondent failed to possess the qualification required for the post and also failed to acquire the same despite the opportunity being given to him, he could not claim a vested right to continue as a teacher in the institution. The requirement of a disciplinary enquiry under Section 92(1) cannot be invoked to compel the institution to continue an employee who does not satisfy the statutory eligibility prescribed for the post.

44. The appellant, despite being aware of the respondent not possessing requisite qualification for appointment to the post of Assistant Professor as per the AICTE [Pay Scales, Services Conditions and Qualifications for the Teachers and Other

Academic Staff in Technical Institutions (Degree) Regulations 2010], appointed the respondent for the reasons best known to them and it was only when the inspection was conducted by the VTU, the respondent and other faculty who did not possess requisite qualification were asked to acquire M.E./M. Tech within a period of three years, which the respondent did not avail.

45. Therefore, we are of the view that the appellant-Institute cannot escape the liability completely in making the respondent believe that he was qualified to be appointed to the post of Assistant Professor and in fact, the respondent continued for a period of four years though he did not possess qualification as prescribed by the AICTE Regulations.

46. Thus, in equity, we direct the appellant-Institute to pay a sum of Rs. 12 Lakhs to the respondent within a period of four (4) weeks from today.

47. With the aforesaid direction, we allow this intra-Court appeal and the judgment and order dated 09.04.2026 passed by the learned Single Judge affirming the order of the Tribunal in M.A.(EAT) No.2/2015 is set aside.

48. Pending IAs, if any, do not survive for consideration and accordingly they stand disposed of.

**Sd/-
(D K SINGH)
JUDGE**

**Sd/-
(H.SHANTHI BHUSHAN)
JUDGE**

BKV
CT:SN