

OSMANIA UNIVERSITY TEACHERS ASSOCIATION
v.
STATE OF ANDHRA PRADESH & ANR.

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AUGUST 13, 1987

[O. CHINNAPPA REDDY, M.H. KANIA AND
K. JAGANNATHA SHETTY, JJ.]

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Constitution of India, 1950—Entry 66 List I and Entry 25 List III—Seventh Schedule—Education—Whether State competent to legislate on subject falling within List I.

Andhra Pradesh Commissionerate of Higher Education Act, 1986—Validity of—Whether Act within legislative competence of State Legislature.

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The Andhra Pradesh Commissionerate of Higher Education Act, 1986 (Act No. 26 of 1986) providing for the constitution of a Commissionerate to advise the Government in matters relating to Higher Education in the State and to oversee its development with perspective planning and for matters connected therewith and incidental thereto and to perform all functions necessary for the furtherance and maintenance of excellence in the standards of higher education in the State was enacted on the basis of the recommendations of a high power committee constituted by the State Government to study the Higher Education system in the State with special reference to its curricula, courses of study, finance and management.

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The validity of the aforesaid Act was challenged in the High Court which, while upholding it, held that the Act fell under Entry 25 List III—Concurrent List of the Seventh Schedule to the Constitution of India.

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In the appeals to this Court, it was contended on behalf of the appellant that the Act was just a duplicate of the University Grants Commission Act and the State had no legislative power at all to enact it since it squarely fell under Entry 66 List I. On behalf of the State-respondent it was submitted that the enactment in pith and substance fell within Entry 25 of List III and not under Entry 66 of List I of the Seventh Schedule.

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Allowing the appeals, this Court,

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A **HELD: 1.1 Entry 25 List III relating to education including technical education, medical education and Universities had been made subject to the power of Parliament to legislate under Entries 63 to 66 of List I. Entry 66 List I and Entry 25 List III should, therefore, be read together. [955F-G]**

B **1.2 Entry 66 gives power to the Union to see that a required standard of higher education in the country is maintained. The standard of Higher Education including scientific and technical should not be lowered at the hands of any particular State or States. It is the exclusive responsibility of the Central Government to co-ordinate and determine the standards for higher education. That power includes the power to evaluate, harmonise and secure proper relationship to any project of national importance. It is needless to state, that such a coordinate action in higher education with proper standards, is of paramount importance to national progress. It is in this national interest, the legislative field in regard to 'education' has been distributed between List I and List III of the Seventh Schedule. [955G-H; 956A-B]**

D **1.3 Parliament has exclusive power to legislate with respect to matters included in List I. The State has no power at all in regard to such matters. If the State legislates on the subject falling within List I that will be void, inoperative and unenforceable. [956B]**

E **1.4 The Commissionerate Act has been drawn by and large in the same terms as that of the U.G.C. Act. Both the enactments deal with the co-ordination and determination of excellence in the standards of teaching and examination in the Universities. Here and there, some of the words and sentences used in the Commissionerate Act may be different from those used in the UGC Act, but nevertheless, they convey the same meaning. It is just like referring the same person with different descriptions and names. [966B-D]**

F **1.5 The High Court has gone on a tangent, and would not have fallen into an error if it had perused the UGC Act as a whole and compared it with the Commissionerate Act or vice-versa. [966D]**

G **1.6 The Commissionerate Act contains sweeping provisions encroaching on the autonomy of the Universities. The Commissionerate has practically taken over the academic programme and activities of the universities. The universities have been rendered irrelevant if not non-entities. [965D; 966A-B]**

H **1.7 It is unthinkable as to how the State could pass a parallel**

enactment under Entry 25 of List III, unless it encroaches Entry 66 of List I. Such an encroachment is patent and obvious. The Commissionerate Act is beyond the legislative competence of the State Legislature and is hereby declared void and inoperative. [966E-F]

1.8 The Constitution of India vests Parliament with exclusive authority in regard to co-ordination and determination of standards in institutions for higher education. The Parliament has enacted the UGC Act for that purpose. The University Grants Commission has, therefore, a greater role to play in shaping the academic life of the country. It shall not falter or fail in its duty to maintain a high standard in the Universities. Democracy depends for its very life on high standards of general, vocational and professional education. Dissemination of learning with search for new knowledge with discipline all round must be maintained at all costs. [967D-E]

The University Grants Commission, it is hoped will duly discharge its responsibility to the Nation and play an increasing role to bring about the needed transformation in the academic life of the Universities. [967E-F]

Kerala State Electricity Board v. Indian Aluminium Company, [1976] 1 SCR 552; *Gujarat University, Ahmedabad v. Krishna Ranganath*, [1963] Suppl. 1 SCR 112; *DAV College, Bhatinda etc. v. State of Punjab & Ors.*, [1971] Suppl. SCR 677; *R. Chitralkha & Anr. v. State of Mysore & Ors.*, [1964] 6 SCR 368; *State of Andhra Pradesh v. Lavu Narendranath & Ors. etc.*, [1971] 3 SCR 699; *Ambesh Kumar v. Principal, LLRM College, Meerut*, AIR 1987 SC 400 and *Prem Chand Jain v. R.K. Chhabra*, [1984] 2 SCR 883, referred to.

CIVIL APPELLATE JURISDICTION: Civil Appeal Nos. 1205-06 of 1987.

From the Judgment and Order dated 24.3.1987 of the Andhra Pradesh High Court in Writ Petition No. 15582 of 1986.

Dr. Y.S. Chitale, B. Parthasarathy and K.V. Sreekumar for the Appellant.

T.S. Krishnamurthy Iyer, T.V.S.N. Chari, Ms. V. Grover and Ms. Sunita M. for the Respondents.

The Judgment of the Court was delivered by

A **JAGANNATHA SHETTY, J.** This appeal on a certificate raises a short but an important question as to the Constitutional validity of the Andhra Pradesh Commissionerate of Higher Education Act, 1986 (Act No. 26 of 1986) (called shortly “The Commissionerate Act”). The question is whether the enactment falls within Entry 66 List I or Entry 25 List III—Concurrent List of the Seventh Schedule to the Constitution. The High Court of Andhra Pradesh has upheld its validity by holding that the Act falls under the latter Entry, but granted a certificate for leave to appeal to this Court under Article 133(1) of the Constitution.

C The said Act was enacted on the basis of the recommendations of a high power committee constituted by the State Government to study the higher education system in the State of Andhra Pradesh with special reference to its curricula, courses of study, finance and management. The Committee in its report submitted to the Government observed, inter-alia, that there is no proper coordination and academic planning among the various bodies like Universities, Directorate of Higher Education and University Grants Commission etc. D There is no policy perspective in the development of higher education system. The Committee said that in order to streamline the general working and oversee the development of higher education in the State, there is need to constitute a Commission to advise the Government in that matter.

E The Government appears to have accepted the said report of the Committee. That is obvious from the Preamble to the Commissionerate Act. It states that “Act is to provide for the Constitution of a Commissionerate to advise the Government in matters relating to Higher Education in the State and to oversee its development with perspective planning and for matters connected therewith and incidental thereto.” F

Section 2(e) defines “Higher Education” to mean intermediate education and education leading to a degree or post graduate degree including professional and technical education.

G Section 2(c) defines “Commissionerate” to mean the Andhra Pradesh Commissionerate of Higher Education constituted under subsection (1) of Section 3. Thereunder, the Commissionerate has been constituted as a Corporate body. The composition of the Commissionerate is provided under Section 4. The Commissionerate shall consist H of Chairman, Vice-Chairman and not more than 10 members [Section

4(1)]. The Chairman and the Vice-Chairman shall be appointed by the Government [Section 4(2)]. Of the ten members of the Commission, three are Secretaries to the Government: Education Secretary, Labour Secretary and Finance and Planning Secretary. Four of them shall be representing Professors and Vice-Chancellors of any of the Universities in the State. One shall represent industry and commerce, and another shall represent engineering or legal or medical education. The last one shall be a distinguished educationalist. All these persons are to be appointed only by the Government. The Chairman and Vice-Chairman shall be whole time and salaried persons and their terms and conditions are provided under Section 5(1).

Section 9 gives overriding effect and power to the Commissionerate over all other authorities and bodies connected with the Higher Education in the State. Section 9(1) provides:

“With effect on and from the Constitution of the Commissionerate under Section 3 and notwithstanding anything contained in the Andhra Pradesh Intermediate Education Act, 1971, and the Andhra Pradesh Education Act, 1982, the Director of Higher Education, the Secretary, Board of Intermediate Education and the Secretary to the Board of Technical Education shall function under the administrative control of the Commissionerate.”

Section 9(2) provides power to the Government to appoint a Secretary to the Commissionerate. Rest of the Officers and employees are to be appointed from time to time by the Commissionerate but with the previous approval of the Government.

The Central power of the Commissionerate has been located in Section 11. We may give the gist of it here. The Commissionerate shall

- (i) evolve a perspective plan for the development, of Higher Education in the State;
- (ii) monitor and evaluate the academic programmes in higher education and enforce accountability in the system;
- (iii) establish and develop resources centre for curriculum materials and continuing education of teachers;
- (iv) co-ordinate the academic activities of various institutions of higher education in the State;

- A (v) undertake examination reforms;
- (vi) establish linkages between Universities industries and community development organisations:
- B (vii) transfer teachers appointed in aided posts from one aided private college to another such college subject to such rules as may be made by the Government in this behalf and generally encourage mobility of teachers; and
- (viii) perform any other functions necessary for the furtherance and maintenance of excellence in the standards of higher education in the State.

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Section 11(2) provides:

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“Notwithstanding anything contained in any law relating to Universities in the State, the Board of Intermediate Education Act, 1971 and the Andhra Pradesh Education Act, 1982, every University or college including a private college in the State shall obtain the prior approval of the Commissionerate in regard to—

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- (i) creation of new posts;
- (ii) financial management; and
- (iii) starting of new higher educational institutions.

F Section 13 is another important Section. It provides power for inspection for ascertaining the financial needs of a University or its standards of teaching, examination and research. The Commissionerate shall communicate to the University its views in regard to the result of any such inspection and may, after ascertaining the opinion of the University, recommend to the University the action to be taken as a result of such inspection and the University shall comply with any

G such direction.

H Section 16 states that the Commissionerate shall be guided by such directions issued by the Government on questions of policy relating to State purposes or in case of any emergency as may be given to it by the Government. Section 18 confers power to the Government to make rules to carry out all or any of the purposes of the Act. Section 19

provides power to the Commissionerate to make regulations consistent with the Act and the rules made thereunder. A

The sole contention of Dr. Chitale, learned counsel for the appellant is that the Commissionerate Act is just a duplicate of the University Grants Commission Act ("The UGC Act") and the State has no legislative power at all to enact it, since it squarely falls under Entry 66 List I. But the contention of Mr. Krishnamurthy Iyer, learned counsel for the State of Andhra Pradesh, is to the contrary. While supporting the judgement of the High Court, he submitted that the enactment in pith and substance falls within Entry 25 of List III and not under Entry 66 of List I of the Seventh Schedule. For proper consideration of the contentions we may set out these two Entries: B

Entry 66 List I: C

"Co-ordination and determination of standards in institution for higher education or research and scientific and technical institutions." D

Entry 25 List III:

"Education, including technical education, medical education and universities, subject to the provisions of entries 63, 64, 65 & 66 of List I, vocational and technical training of labour." E

Till January 3, 1977, Education was a State subject under Entry 11 in List II. By the 42nd Amendment Act, 1976, Entry 11 was deleted and it was placed in the Concurrent List by enlarging the Entry 25, as set out above. F

Entry 25 List III relating to education including technical education, medical education and Universities has been made subject to the power of Parliament to legislate under Entries 63 to 66 of List I. Entry 66 List I and Entry 25 List III should, therefore, be read together. G
Entry 66 gives power to Union to see that a required standard of higher education in the country is maintained. The standard of Higher Education including scientific and technical should not be lowered at the hands of any particular State or States. Secondly, it is the exclusive responsibility of the Central Government to co-ordinate and determine the standards for higher education. That power includes the power to evaluate, harmonise and secure proper relationship to any H

A project of national importance. It is needless to state that such a coordinate action in higher education with proper standards, is of paramount importance to national progress. It is in this national interest, the legislative field in regard to 'education' has been distributed between List I and List III of the Seventh Schedule.

B The Parliament has exclusive power to legislate with respect to matters included in List I. The State has no power at all in regard to such matters. If the State legislates on the subject falling within List I that will be void, inoperative and unenforceable.

C *In Kerala State Electricity Board v. Indian Aluminium Company*, [1976] 1 SCR 552 this Court said:

D "The power of Parliament to legislate with respect to matters included in List I is supreme notwithstanding anything contained in clause (3) (again leaving out of consideration the provision of clause 2). Now what is the meaning of the words "notwithstanding" in clause (1) and "subject to" in clause 3; They mean that where an entry is in general terms in List II and part of that entry is in specific terms in List I, the entry in List takes effect notwithstanding the entry in List II. This is also on the principle that the 'special' excludes the 'general' entry in List II is subject to the special entry in List I."

E We may now refer to some of the decisions dealing with the interaction of Entry 66 List I and Entry 25 List III. In *Gujarat University, Ahmedabad v. Krishna Ranganath*, [1963] Suppl. 1 SCR 112, 137. Shah J. speaking for the majority view of the Constitution Bench observed:

F "Item 63 to 66 of List I are carved out of the subject of education and in respect of these items the power to legislate is vested exclusively in the Parliament. Use of the expression "Subject to" in item 11 of List II of the Seventh Schedule clearly indicates that legislation in respect of excluded matters cannot be undertaken by the State Legislatures. In *Hingir Rampur Coal Co. v. State of Orissa* [1961] 2 SCR 537, this Court in considering the import of the expression "Subject to" used in an entry in List II in relation to an entry in List I observed that to the extent of the restriction imposed by the use of the expression "subject to" in an entry in List II the power is taken away from

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the State Legislature. Power of the State to Legislate in respect of education including Universities must to the extent to which it is entrusted to the Union Parliament whether such power is exercised or not, be deemed to be restricted. If a subject of legislation is covered by items 63 to 66 even if it otherwise falls within the larger field of "education including Universities" power to legislate on that subject must lie with the Parliament." A B

This decision turned on the interpretation of Section 4(27) of Gujarat University Act, and it was held that the University has no power to prescribe Gujarati or Hindi as exclusive medium of instruction in higher education. The principles enunciated in the *Krishna Rangnath* case have been reiterated in *D.A.V. College, Bhatinda etc. v. State of Punjab & Ors.*, [1971] Suppl. SCR 677. C

The power of the State to prescribe certain norms for admission to colleges came for consideration before this Court in *R. Chitralekha & Anr. v. State of Mysore & Ors.*, [1964] 6 SCR 368 where Subba Rao J., as he then was, observed: D

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

The learned Judge, however, upheld the impugned scheme of the State in that case for selection of students to colleges maintained by the State since it was found that that scheme only prescribed criteria for making admissions to colleges from among students who secured the minimum qualifying marks prescribed by the University. It was held that the scheme did not encroach upon the field covered by Entry 66 List I of the Seventh Schedule to the Constitution. Similar was the view expressed by this Court in *State of Andhra Pradesh v. Lavu* H

- A *Narendranath & Ors. etc.*, [1971] 3 SCR 699 and in *Ambesh Kumar v. Principal, LLRM College, Meerut*, AIR 1987 SC 400.

B What do we have in the present case? There is no scheme for admission to colleges. There is a corporate body established under the State enactment with powers supreme in regard to all matters pertaining to higher education. To mention a few, the Commissionerate constituted thereunder shall evolve a perspective plan for the development of higher education in the State. It must monitor and evaluate the academic programmes. It must co-ordinate the academic activities of various institutions and universities. It must oversee the development and streamline the higher education in the entire State. It shall

C perform all functions necessary for the furtherance and maintenance of *excellence in the standards of higher education in the State*. It also controls the entire fund meant for the universities including grants given by the Central Government for higher education.

D Since it was argued that both these enactments are in *pari materia*, it will be useful to compare the UGC Act with the corresponding provisions of the Commissionerate Act by keeping them side by side:

E *U.G.C. Act, 1956*

The Commissionerate Act

1. Statement of Objects and reasons:

F “The Constitution of India vests Parliament with exclusive authority in regard to Co-ordination and determination of standards in institutions for higher education or research and scientific and technical institutions. It is obvious that neither coordination nor determination of standards is possible unless the Central

H Government has some voice

In order to bring a change in the higher education system in the State so as to make the courses of study more relevant to the needs of the modern society and to provide opportunities of earning and learning simultaneously at college level to all the students in the State, a four man committee was appointed in February, 1986 by the State Government to study the higher education

in the determination of standards of teaching and examination in Universities, both old and new.

system in the State with special reference to curricula and courses of studies, Finance and Management in the Higher Education system.

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2. It is, therefore, proposed to establish a University Grants Commission as a corporate body which will inquire into the financial needs of universities and allocate and disburse grants to Universities for any general or specified purpose. The Commission will act as an expert body to advise the Central Government on problems connected with the coordination of facilities and maintenance of standards in Universities.

The Committee in its report submitted to Government observed that there is no proper co-ordination and academic planning among the various bodies like universities; the Directorate of Higher Education and the University Grants Commission etc.

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The Commission, in consultation with the University connected, will also have the power to cause an inspection or inquiry to be made of any university established by law in India and to advise the university on any matter which has been the subject of an inquiry or inspection. The Commission shall also advise, whenever such advise is sought, on the establishment of new Universities.

and there is no policy perspective in the development of the Higher Education system in the State and in order to streamline the general working of the higher Education system in the State the Committee suggested to constitute a commission to advise the Government in matters relating to higher education in the State and to oversee its development. The Government have examined the above recommendations and suggestions and decided to constitute a Commissionerate of Higher Education.

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A *Sec. 4 Establishment of the Commission:*

B (1) With effect from such date as the Central Government may, by notification in the official Gazettee, appoint, there shall be established a Commission by the name of the University Grants Commission.

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D (2) The said Commission shall be a body corporate having perpetual succession and a common seal, and shall by the said name sue and be sued.

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Sec. 5 Composition of the Commission:

F (1) The Commission shall consist of:—
 (i) A Chairman, and
 (ii) A Vice-Chairman, and
 (iii) ten other members, to be appointed by the Central Government

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Sec. 9 Temporary Association of person with the Commission for particular purpose

H (Both these Sections are similar)

Sec. 3. Constitution of Commissionerate of Higher Education:

The Government may, by notification, and with effect on and from such date as may be specified therein constitute a Commissionerate for the purpose of this Act to be called The Andhra Pradesh Commissionerate of Higher Education.

(2) The Commissionerate shall be a body corporate having perpetual succession and a common seal and shall sue and be used by the said corporate name.

(2)(b) xxx ● xxx xxx

Sec. 4 Composition of the Commissionerate:

(1) The Commissionerate shall consist of:—
 (i) A Chairman
 (ii) A Vice-Chairman, and
 (iii) not more than ten members to be appointed by the State Government

Sec. 8 Temporary Association of persons with the Commissionerate for particular purpose

Sec. 12 Functions of the Commission:

It shall be the general duty of the Commission to take, in consultation with the Universities or other bodies concerned, all such steps as it may think fit for the promotion and co-ordination of University Education and for the determination and maintenance of standards of teaching, examination and research in University and for the purpose of performing its functions under this Act, the Commission may:—

- a) Inquire into the financial needs of Universities
- b) Allocate and disburse, out of the fund of the Commission, grants to Universities established or incorporated by or under a Central Act for the maintenance and development of such universities or for any other general or specified purpose.
- c) Allocate and disburse out of the fund of the Commission, such grants

Sec. 11 Powers and Functions of the Commissionerate

It shall be the general duty of the Commissionerate to:

- a) evolve a prospective plan for the development of higher education in the State;
- b) administer and release grants-in-aid to Universities as private colleges in the State and report the same to the Government.
- c) xxx xxx xxx
- d) monitor and evaluate the academic programmes in higher education and enforce accountability in the system.
- e) xxx xxx
- f) xxx xxx
- g) co-ordinate the academic activities of various institutions of higher education in the State.
- xxx xxx
- p) Perform any other functions necessary to the furtherance and maintenance of excellence in the standards of higher education in the

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- A to other Universities as
it may deem necessary or
appropriate for the
development of such
Universities or for the
B maintenance, or develop-
ment or both, of any
specified activities of
such Universities or
for any other general or
specified purpose re-
C sulting from the measure necessary
for the improvement
of University education
and advise the Univer-
sity upon the action
D to be taken for the
purpose of implementing
such recommendations.

Sec. 13 Inspection:

- (1) For the purpose of
E ascertaining the finan-
cial needs of a Univer-
sity or its standards of
teaching, examination and
research, the Commission
may, after consultation with
F the University cause an
inspection of any department
or departments thereof to
be made in such manner as
may be prescribed and by
such person or persons as
G it may direct.
(2) The Commission
shall communicate to
the University the date
on which any inspection
under sub-section (1) is
H to be made and the
University shall be

State.

Sec. 13 Inspection:

- (1) For the purpose of
ascertaining the financial
needs of a University or its
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nation and research, the
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consultation with the Uni-
versity, cause an inspection
of any department or depart-
ments thereof to be made in
such manner as may be
prescribed and by such
person or persons as it may
direct.
(2) The Commissioner shall
communicate to the University
the date on which any inspec-
tion under sub-section (1)
shall be made and the Univer-
sity shall be entitled to be
associate with inspection

entitled to be associated with the inspection in such manner as may be prescribed.

in such manner as may be prescribed. A

(3) The Commissionerate shall communicate to the University its views in regard to the result of any such inspection and may, after ascertaining the opinion of the University, recommend to the University, the action to be taken as a result of such inspection, and the University shall comply with any such direction. B C

Sec. 16 Fund of the Commission

Sec. 12 Fund of the Commissionerate:

(1) The Commission shall have its own fund and all sum which may, from time to time, be paid to it by the Central Government and all the receipts of the Commission (including any sum which any State Government or any other authority or person may handover to the Commission) shall be carried to the fund and all payments by the Commission shall be made therefrom.

(1) The Commissionerate shall have its own fund consisting of the grants from Government voted by the Legislative Assembly of the State towards grants to Universities, and aided Junior and Degree Colleges and grants received from Central Government for higher education. D E

(2) All moneys belonging to the fund shall be deposited in such banks or invested in such manner as may, subject to the approval

(2) All moneys belonging to the Fund shall be deposited in such banks or invested in such manner as may, subject to the approval of the Government, be decided by the Commissionerate. F G

(3) The Commissionerate may spend such sums as it thinks fit for performing its functions under this Act, and such sums shall be H

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|---|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| A | of the Central Government be decided by the Commission. | treated as expenditure payable out of the fund of the Commissionerate. |
| B | (3) The Commission may spend such sums as it thinks fit for performing its functions under this Act, and such sums shall be treated as expenditure payable out of the fund of the Commission. | |
| C | Sec. 18 <i>Annual Report</i> | Sec. 14 <i>Annual Report</i> |
| D | The Commission shall prepare, once in every year in such form and at such time as may be prescribed, an annual report giving a true and full account of its activities during the previous year, and copies thereof shall be forwarded to the Central Government and the Government shall cause the same to be laid before both Houses of Parliament. | The Commissionerate shall prepare once in every year, in such form and at such time as may be prescribed an Annual Report giving a true and full account of its activities during the previous year, and copies thereof shall be forwarded to the Government and the Government shall cause the same to be laid before the Legislative Assembly of the State. |
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| F | Sec. 19 <i>Accounts & Audit</i> | Sec. 15 <i>Accounts & Audit</i> |
| G | Sec. 20 <i>Directions by the Central Government</i> | Sec. 16 <i>Directions by the Governments</i> |
| H | (1) In the discharge of its functions under this Act, the Commission shall be guided by such directions on questions of policy relating to national purposes as may be given to it by the | (1) In the discharge of its functions under this Act, the Commissionerate shall be guided by such directions on question of policy relating to State purposes or in case of any emergency as may be given to it by the |

Central Government.

Government.

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(2) If any dispute arises between the Central Government and the Commission as to whether a question is or is not a question of policy relating to national purposes the decision of the Central Government shall be final.

(2) If any dispute arises between the Government and the Commissionerate as to whether a question is or is not a question of policy relating to State purposes, or whether an emergency has arisen, the decision of the Government thereon shall be final.

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Sec. 25 *Power to make Rules*Sec. 18 *Power to make Rules*

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Sec. 26 *Power to make Regulations.*Sec. 19 *Power to make Regulations."*

We have extracted only such of the provisions similar to those contained in the UGC Act. That is not all. The Commissionerate Act yet contains sweeping provisions encroaching on the autonomy of the Universities. Under Section 11(1)(c) it is for the Commissionerate to decide on the need for, and location of new colleges and courses of study including Engineering Colleges. Section 11(1)(f) provides power to the Commissionerate to establish and develop resources centre for curriculum materials and continuing education of teachers. Section 11(1)(g) confers power on the Commissionerate to coordinate the academic activities of various institutions of higher education in the State. It is also the duty of the Commissionerate to undertake examination reforms and assume accreditation functions [Section 11(1)(h) & (i)]. Section 11(1)(j) states that it is the duty of the Commissionerate to organise entrance test for University admission. Section 11(1)(k) states that it shall administer and grant scholarship and organise work study programmes. Section 11(1)(o) provides power to transfer teachers from one aided private college to another such college, subject to the rules made by the Government. There is yet a devastating provision on the autonomy of Universities. Section 11(2) states that every University or College including the private college shall obtain the prior approval of the Commissionerate in regard to: (i) creation of new posts; (ii) financial management; and (iii) starting of new higher educational institutions. This 'Super Power' has been preserved to the Commissionerate notwithstanding anything contained in any law relating to Universities in the State, the Board of Intermediate Education

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A Act, 1971 and the Andhra Pradesh Education Act, 1982.

It will be seen that the Commissionerate has practically taken over the academic programmes and activities of the Universities. The Universities have been rendered irrelevant if not non-entities.

B It is apparent from this discussion that the Commissionerate Act has been drawn by and large in the same terms as that of the U.G.C. Act. The Commissionerate Act, as we have earlier seen also contains some more provisions. Both the enactments, however, deal with the same subject matter. Both deal with the co-ordination and determination of excellence in the standards of teaching and examination in the Universities. Here and there, some of the words and sentences used in the Commissionerate Act may be different from those used in the UGC Act, but nevertheless, they convey the same meaning. It is just like referring the same person with different descriptions and names. The intention of the legislature has to be gathered by reading the statute as a whole. That is a rule which is now firmly established for the purpose of construction of statutes. The High Court appears to have gone on a tangent. The High Court would not have fallen into an error if it had perused the UGC Act as a whole and compared it with the Commissionerate Act or vice-versa.

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E In *Prem Chand Jain v. R.K. Chhabra*, [1984] 2 SCR 883 this Court has held that the UGC Act falls under Entry 66 of List I. It is then unthinkable as to how the State could pass a parallel enactment under Entry 25 of List III, unless it encroaches Entry 66 of List I. Such an encroachment is patent and obvious. The Commissionerate Act is beyond the legislative competence of the State Legislature and is hereby declared void and inoperative.

F In the result, these appeals are allowed with costs. The judgment of the High Court is reversed. There shall be a direction to the State not to enforce the provisions of the impugned Act.

G Before parting with the case we may say a word more. The impugned Act was the result of a report from a High Power Committee constituted by the State Government. The Committee went into the affairs of the higher education in the State. The Committee examined among other things, the curricula and courses of studies. The Committee found as a fact that there is no proper coordination and academic planning among the various bodies. It recommended to H the State Government the need to pass a proper legislation to stream-

line the higher education. The State Government accepted the recommendations and passed the Act in question. The Act now disappears for want of legislation competence. What about the need to enact that Act? It will not vanish to the thin air. The defects and deficiency pointed out by the High Power Committee in regard to higher education may continue to remain to the detriment of the interest of the State and the Nation. Such defects in the higher education may not be an isolated feature only in the State of Andhra Pradesh. It may be a common feature in some other States as well.

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That apart, we often hear and read in news papers with disgust about the question papers leakage and mass copying in the University examinations. It has stripped the university degrees of all its credibility. He indeed must be blind who does not see what is all happening in some of the Universities.

C

The Constitution of India vests Parliament with exclusive authority in regard to co-ordination and determination of standards in institutions for higher education. The Parliament has enacted the UGC Act for that purpose. The University Grants Commission has, therefore, a greater role to play in shaping the academic life of the country. It shall not falter or fail in its duty to maintain a high standard in the Universities. Democracy depends for its very life on a high standards of general, vocational and professional education. Dissemination of learning with search for new knowledge with discipline all round must be maintained at all costs. It is hoped that University Grants Commission will duly discharge its responsibility to the Nation and play an increasing to role bring about the needed transformation in the academic life of the Universities.

D
E

N.P.V.

Appeal allowed. F