IN THE HIGH COURT OF KARNATAKA AT BENGALURU

THE HON'BLE MR.ABHAY S. OKA, CHIEF JUSTICE

AND

THE HON'BLE MR. JUSTICE S.R.KRISHNA KUMAR

WRIT APPEAL NO. 2025 OF 2015 (EDN-REG- P) DATED: 28-11-2019

CHETANA EDUCATION TRUST (R) , DAVANAGERE VS. . STATE OF KARNATAKA REPRESENTED BY ITS SECRETARY DEPARTMENT OF HIGHER EDUCATION (PUC), BENGALURU-560 001 AND OTHERS

JUDGMENT

S.R.KRISHNA KUMAR, J.,

The above appeal arises out of the impugned judgment and order dated 07th July 2015 passed by the learned single Judge dismissing the writ petition filed by the appellant.

2. The brief facts giving rise to the above appeal are as under:

The appellant claims to be an education trust established with the intention of providing education to the children of the State of Karnataka.In addition to establishing several educational institutions imparting primary, secondary and collegiate education, the appellant has also established 13 pre-university colleges at Davanagere and other places in Karnataka.It is contended that the P.U.Colleges established by the appellant are running after obtaining proper recognition and permission from the authorities.

3. The appellant has filed the petition before the learned single Judge for the following reliefs:

a) Declare Rule 4 (2) (a) of the Karnataka Pre-University Education (Academic, Registration, Administration & Grant-in-Aid etc.)Rules, 2006 as unconstitutional and ultravires of the Constitution of India and the Karnataka Education Act, 1983:

Annexure- G; b) Issue writ in the nature of Certiorari or any other Writ or Order or Direction in the similar nature quashing Order dated:03.07.2015 vide Annexure- H bearing No. Papushi/Sibbandi- 3/GD/Re.Am-28093/2012 9117/2012/2012-13 Bangalore dated:30.06.2015 passed by the 3rd respondent authority;

c) Issue writ in the nature of Mandamus or any other Writ or Order or Direction in the similar nature directing the respondent authorities to accord and renew the recognition granted in favour of the Pre-University Colleges run by the Petitioner Trust;

d) Grant such other relief or reliefs as this Hon'ble Court may deems fit to grant in the facts and circumstances of the case in the interest of Justice and equity.

4. In the writ petition, in prayer (a), the appellant sought for a declaration that rule 4 (2) (a) of the Karnataka Pre Univesity Education (Academic, Registration, Administration and Grant-in-aid etc.)Rules, 2006 (for short '

the said Rules of 2006 ') are unconstitutional and ultravires the Constitution of India and the Karnataka Education Act, 1993.In this context, it is relevant to state that by the impugned order dated 03.07.2015 (Annexure- H to the writ petition), the Respondent No.3 had withdrawn the recognition granted in favour of the appellant on the ground that the appellant had not complied with the mandatory requirement of acquiring 25,000 Sq.ft. of land as contemplated in Rule 4 (2) (a) of the said Rules of 2006.By way of prayer ' b ', the appellant sought to quash the aforesaid order at Annexure- H dated 03.07.2015.At prayer ' c ', the appellant sought for a consequential direction to the authorities to accord and renew the recognition granted in favour of the aforesaid P.U.colleges run by the appellant.

5. By the impugned judgment and order, the learned single Judge came to the conclusion that the Rule 4 (2) (a) was neither discriminatory nor arbitrary and that the same was very reasonable having regard to the fact that it was not in public interest to run P.U colleges on small patches of land less than 25,000 Sq.ft.which would obviously not accommodate the required infrastructure.The learned Single Judge also came to the conclusion that Rule 4 (2) (a) does not offend any constitutional provision or limitations and that the said rule is also not contrary to any provision of the Karnataka Education Act, 1993 so as to strike it down.The learned single Judge also held that the impugned order at Annexure- H did not prejudice the case of the appellant who had contended that the same was contrary to Section 39 (2) of the Act having regard to the facts involved in the case.

Under these circumstances, the learned Single Judge came to the conclusion that the petition filed by the appellant was not a fit case to warrant interference under extra-ordinary jurisdiction of this Court under Articles 226 and 227 of the Constitution of India and accordingly, the learned Single Judge dismissed the petition.Hence, the present appeal.

6. We have heard the learned Senior Counsel appearing on behalf of the appellant and the learned AGA for the respondents.

7. The learned Senior Counsel appearing for the appellant submitted that the aforesaid Rule 4 (2) (a) was unscientific, irrational, arbitrary, unreasonable and contrary to Article 14, 19 and 21 of the Constitution of India.It was also contended that Rule 4 (2) (a) is contrary to the provisions of the Karnataka Education Act since the mandatory requirement of providing 25,000 sq.ft of land is not found under the provisions of the Karnataka Education Act. It was contended that in this background, Rule 4 (2) (a) of the said Rules of 2006 prescribing 25,000 sq.ft.of land has no reasonable nexus or connection with the object sought to be achieved under the Act and as such, the same was liable to be struck down.

8. Insofar as the challenge to the impugned order at Annexure- H dated 03.07.2015 is concerned, it is contended that the same is violative of principles of natural justice inasmuch as no enquiry was conducted nor an opportunity of hearing was provided to the appellant before the authorities passed the impugned order and consequently, the same was liable to be set aside on this ground alone.

9. Alternatively, it was contended on behalf of the appellant that Rule 4 (2) (a) of the said Rules of 2006 does not apply to the P.U.colleges which have less than six sections in view of Rule 4 (3) of the rules.In other words, the various requirements provided under Rule 4 (2) are applicable only if the P.U.college comprised of at least six sections and in the event, any college consisted of less than six sections, Rule 4 (2) would have no application and consequently, the said requirements are not applicable to a college comprising of less than six sections.Under these circumstances, it was contended that even assuming that Rule 4 (2) (a) is not struck down by this Court, the said Rule has to be interpreted so as to mean that Rule 4 (2) does not apply to P.U colleges having less than six sections.

In view of the fact that the 13 P.U.colleges run by the appellant do not have six sections as required under Rule 4 (3), the mandatory requirements of Rule (2) (a) are not applicable to the appellant.On this ground also, the impugned order under which the recognition in favour of the said 13 colleges was sought to be withdrawn on the ground of failure to comply with Rule 4 (2) (a) was wholly illegal and liable to be quashed.

10. In support of his contentions, the learned Senior Counsel appearing for the appellant has placed reliance on the following judgments of the Apex Court;

(i) A.Satyanarayana & Others Vs. S.Putushottam & Others[1]

(ii) Wipro Limited Vs. Assistant Collector of Customs & Others[2]

11. On behalf of the respondents, statement of objections are filed in the writ petition inter alia supporting the impugned order at Annexure- H as well as the impugned judgment and order passed by the leaned Single Judge.

Apart from opposing all the contentions and grounds urged on behalf of the appellant, it was contended that Rule 4 (2) (a) which is sought to be challenged was neither unconstitutional, unscientific nor was the same arbitrary or irrational or contrary to the provisions of the Karnataka Education Act and as such, the question of declaring the same as unconstitutional does not arise.

12. The learned Additional Government Advocate also contended that a harmonious and purposive interpretation of Rules 4 (2) and 4 (3) keeping in mind the scheme of the Act and the Rules as well as the intention of the legislature would indicate that the minimum requirements found in Rule 4 (2) are applicable to all PU colleges irrespective of the number of sections.

13. It was contended at Paragraph 11 (B) (b) and (c) of the statement of objections that the letter (b) has been omitted by mistake, oversight and inadvertence while drafting Rule 4 (3) with reference to sub-rule (2) found in the first line of Rule 4 (3).In other words, due to oversight, mistake, inadvertence, error of judgment and discrepancy while drafting the Rules, Rule 4 (3) should actually be be read read as " The minimum requirements specified in sub-rule (2) (b) " instead of " The minimum requirements specified in sub-rule (2) " which is a bonafide mistake in drafting.

It is, therefore, contended that the said omission to include the letter (b) is a case of casus omissus on the part of the legislature.Under these circumstances, having regard to the scheme of the Act and the rules as well as the other provisions contained in the rules, it is necessary to read the letter (b) in Rule 4 (3) so as to give effect to the intention of the legislature and to avoid absurdity and anomalous results, particularly when filling up the gaps and providing of the said omission was not only essential but a compelling necessity to achieve the object sought to be achieved by the Rules.

14. The learned AGA has placed reliance on the following judgments:

(i) Tahsildar Singh and another v. State of U.P.[3]

(ii) J.K. Cotton Spinning and Weaving Mils Co.Ltd., v. State of U.P and Osr. " 4

Municipal Corporation of the City of Ahmedabad t v. Ben Hiraben Manilal 5

(iv) Bombay Anand Bhavan Restaurant Vs. Regional Director, Employees ' State Insurance Corporation.

(v) M/s. Gammon India Ltd., and others Vs. Union of India and others.7

(vi) Parshvanath Charitable Trust and others Vs. All India Council for Technical Education and others.8

(vii) Chetan Pathare and another Vs. All India Council for Technical Education and others.

15. We have given our anxious consideration to the contentions advanced on behalf of the appellant as well as the respondents and perused the material on record.The following points arise for our consideration in the above appeal:

(i) Whether Rule 4 (2) (a) of the said Rules of 2006 is violative of Constitution of India or the provisions of the Karnataka Education Act?

(ii) Whether the minimum requirement of providing 25,000 Sq.ft.of land as contemplated under Rule 4 (2) (a) is applicable to a P.U college having less than six sections in terms of Rule 4 (3) of the said Rules of 2006?

(iii) Whether the principles of casus omissus are applicable to Rule 4 (3) wherein the letter (b) should be read into the first line after the words sub-rule (2)?

(iv) Whether the impugned order passed by the learned single Judge rejecting the challenge to Annexure- H dated 03.07.2015 passed by the respondent No.3 warrants interference?

16. Point No. (i)

For the sake of convenience, Rules 4 (1) and 4 (2) of the said Rules are extracted here below:

4. Procedure for establishing a new Private Pre-University college.

(1) A registered Managing Committee which is intending to establish a Pre-University college shall intimate its intention to do so to the Director, in Form- I along with a fee of Rs. 500.00.The Director shall record such intimation in a register kept in Form II and thereafter issue a letter of intent to the managing committee within thirty days from the date of intimation from the managing committee.

(2) Upon receipt of the letter of intent, the managing committee intending to establish a Pre-University college shall,

(a) Within one year from the date of letter of intent, acquire a minimum of 25,000 Sq. ft.of land on which it intends to construct the college building including the principal's chambers, class rooms, library etc;

(b) within three years from the date of letter of intent construct on the said land a building with the following facilities and rooms which shall have a corridor or a veranda of at least 8 ft. width abutting the entrance to the room, namely:

(i) Principal's chamber with a minimum plinth area of 250 sq. ft.,

(ii) Office room with a minimum plinth area of 250 sq.ft.,

(iii) Staff room with a minimum plinth area of 500 sq.ft., (iv) Waiting room with a minimum plinth area of 500 sq.ft for the girls with attached toilets for simultaneous use by 10 persons with sufficient water storage facilities,

(v) Toilets for boys with facility for simultaneous use by 10 persons,

(vi) Library with a minimum plinth area of 1000 sq.ft.,

(vii) Reading room with a minimum plinth area of 1000 sq.ft.,

(viii) At least 6 lecture halls, each measuring at least 22 ft. x 30 ft.,

(ix) Bicycle stand with a provision for parking minimum 100 bicycles at a time,

(x) If science subjects are taught, then three laboratories, one for Physics, one for Chemistry and one for Biology and if Electronics or Computer science subjects are taught separate laboratories for these subjects with a minimum plinth area of 24 ft. x 60 ft. each;

(c) Provide water, electricity and sanitary facilities in the laboratories, class rooms, office rooms and toilets making the building fit for running a Pre-University college;

(d) Provide desks, benches, tables, office furniture, shelves, office equipments, apparatus and equipment in the laboratories.

17. The said Rules are framed pursuant to the power granted under section 145 of the Karnataka Education Act, 1983 (for short, " the Act ").

The Act, which came into effect from 01.06.1995, was enacted with the object inter alia of providing for planned development of educational institutions, inculcation of healthy educations practice, maintenance and improvement in the standard of education, etc. Chapter 6 of the said Act, which consists of Sections 36 to 39, inter alia deals with the recognition of educational institutions, etc.

145 of the Act indicates that the State Government is empowered to make rules to carry out the purposes of the Act and to give effect to the various statutory provisions.In particular, Section 145 (2) (xiii) and (xiv) empower the state government to make rules which provide for establishment and maintenance and administration of educational institutions as well as grant of recognition or recognition of educational institutions and the conditions therefor.Exercising power under Section 145 of the said Act, the State Government framed the said Rules of 2006.

18. The Rule making power embodied under Section

19. A perusal of the various provisions contained in the Rules will indicate that the rules are a self-contained code with regard to establishment, recognition and admissions to pre-university colleges in Karnataka in addition to other aspects contained in the rules. Rules 2 and 3 deal with various types of P.U colleges in addition to classifying them into different categories.Rule 4 deals with the detailed procedure for establishment of a new P.U college.Rule 5 contemplates applicability of the rules to existing P.U colleges which are already functioning with Government permission.The supervision and control of P.U colleges is provided for in Rule 6. The procedure involved for recognition and admissions to P.U colleges is found in Rules 7 to 9 while the requirements in relation to subjects of study, attendance, teaching hours etc., are contained in Rules 10 to 14 which are part of Chapter 4. While Chapter 5 dealing with aided P.U colleges relates to recruitment and grant-in-aid as provided for in Rules 15 to 24, Rules 25 to 30 deal with the Code of conduct, Discipline and Control for employees of all P.U colleges.

20. It is contention of the Appellant that Rule 4 (2) (a) is unscientific, irrational, arbitrary, unreasonable and contrary to Article 14, 19 and 21 of the Constitution of India and that this rule has no reasonable nexus or connection with the object sought to be achieved by the Act and as such the same is liable to be struck down.

21. It is a settled position of law that there is a presumption with regard to the constitutionality of a statutory provision and it is for the person challenging the statutory provision to establish as to how a provisional of law is unconstitutional.However, the Appellant has not been able to explain satisfactorily as to why such a requirement prescribed in Rule 4 (2) (a) is is either unscientific or arbitrary or unreasonable.

22. Further, while Rule 4 (2) (a) prescribes that within one year from the date of Letter of Intent, the Managing Committee intending to establish a pre-university college shall acquire a minimum of 25,000 sq.ft.

of land on which it intends to construct the college building, Rule 4 (2) (b) clearly envisages as to what is the minimum construction that ought to be put up on such an acquired land within a period of three ears from the date of the Letter of Intent.The said requirement being that of a principal's chamber, office room, staff room, waiting room, toilet, library, etc. which are evidently essential for any college, the requirement of 25,000 square feet of land being acquired cannot be construed as either unscientific or unreasonable by any stretch of imagination.

Also, the prescription of the said requirement is in consonance with the object of the Act which is to provide for planned development of educational institutions, inculcation of healthy educations practice, maintenance and improvement in the standard of education, etc. Therefore, this contention of the Appellant deserves rejection.

23. The other argument advanced in this regard that Rule 4 (2) (a) is contrary to the provisions of the Karnataka Education Act is also not convincing.Evidently, there is nothing in the Act which is contrary to Rule 4 (2) (a).On the contrary, Section 145 (1) empowers the state government to make rules to carry out the purposes of the said Act and Section 145 (2) (xiii) specifically empowers the state government to make rules for establishment and maintenance and administration of educational institutions.

As the main object of the said Act is to provide for planned development of educational institutions; inculcation of healthy educational practice; maintenance and improvement in the standards of educational and better organization; the requirement of proper infrastructure for an educational institution, which is an essential ingredient for achieving the object of the Act, is inherent in the object of the said Act. Consequently, the rules providing for minimum requirements cannot be held to be ultra vires the Act.

24. Further, the Rules constitute a self-contained code, which takes into account all contingencies including the procedure for establishment of a college and grant of recognition as well as the power of the state government to prescribe minimum requirements for the said purposes.

25. Therefore, as rightly held by the learned Single Judge, the requirement of minimum of 25,000 sq.ft. of land in Rule 4 (2) (a) does not render the same discriminatory or arbitrary and it is a reasonable condition prescribed with an intention to promote the objects of the said Act.

26. As stated supra, the rules are a self-contained code which take into account all contingencies including the procedure for establishment and grant of recognition as well as the power of the State Government to prescribe minimum requirements for the said purposes.As rightly held by the learned Single Judge, a perusal of the Act and the rules will clearly establish that the requirement of a minimum of 25,000 Sq.ft. of land contained in Rule 4 (2) (a) does not render the same discriminatory or arbitrary.Further, the said minimum requirement is neither unreasonable, irrational, unscientific or does the same offend any constitutional provisions or any provision of the Karnataka Education Act. There is no gain saying that there is a presumption with regard to the constitutionality of a statutory provision or a Rule and it is for the person challenging the

same to establish as to how it is constitutionally invalid or ultravires.The legislature, in its wisdom, having regard to the infrastructural facilities to be provided in a P.U college in the present day context thought it fit to prescribe a minimum of 25,000 Sq.ft.of land for the purpose of establishing or housing a P.U college.In the absence of anything to show as to how the said requirement contained in Rule 4 (2) (a) is Constitutionally invalid or ultravires the provision of the Act, it cannot be said that the said rule is liable to be struck down as contended on behalf of the appellant.

27. Coming to the decisions relied upon by the learned counsel for the appellant, in the case of A.Satyanarayana (supra), the Apex Court reiterated in Paragraph 34 the well settled principle relating to interpretation of statutes that a statutory rule must be in consonance with the Constitutional scheme and that the same must not be unreasonable or arbitrary and should be capable of being taken to a logical conclusion.This judgment does not advance the case of the appellant in the absence of anything to show that Rule 4 (2) (a) was constitutionally invalid or ultravires the provisions of the Act, particularly in the light of Sections 29 to 34 and Section 145 of the Act coupled with the fact that the rules are a self contained code as stated supra.As such, the said ruling has no application to the facts of the instant case.

28. In so far as the other judgment of the Hon'ble Supreme Court in the case of Wipro Limited (supra) is concerned, a perusal of the same, especially at Paragraphs 32 to 34 will indicate that the said judgment was rendered in a completely different fact situation and that the same does not have any relevance or bearing to the instant case.As stated earlier, in the absence of anything to show that the impugned Rule 4 (2) (a) is violative or ultravires any provision of the Act or the Constitution of India, even this Judgment cannot be relied upon by the appellant in support of its case.

29. Under the aforesaid circumstances, we hold that Rule 4 (2) (a) of the said Rules of 2006 is perfectly legal, constitutional, valid, proper and that the same is neither unconstitutional nor ultravires the Constitution of India or the Karnataka Education Act, 1983.Point No. (i) is answered accordingly.

30. Point No. (ii);

The main contention of the appellant is that while Rule 4 (2) (a) prescribes a minimum requirement of 25,000 Sq.ft.of land to be acquired by a P.U college, the said minimum requirement does not apply to a college with less than six sections.In this context, reliance is placed upon Rule 4 (3) of the rules.It is therefore, contended that Rules 4 (2) (a) and 4 (3) will indicate that the minimum requirement of 25,000 Sq.ft.has no application to a P.U college having less than six sections.Per contra, it is contended on behalf of the respondent that a purposive and harmonious construction/interpretation has to be given to the aforesaid rules by examining the other provisions contained in the rules, in particular, Rule 11 (3) and Rule 5 keeping in mind the scheme envisaged therein and the purpose and object sought to be achieved by the Act and the rules.

31. In order to appreciate the rival contentions, it is necessary to extract Rule 4 (2) (a) and 4 (3) of the said Rules of 2006, which reads as under:

4. Procedure for establishing a new Private Pre University college.- (1) xxxxXXXX

(2) Upon receipt of the letter of intent, the managing committee intending to establish a Pre-University college shall.

(a) Within one year from the date of letter of intent, acquire a minimum of 25,000 Sq. ft.of land on which it intends to construct the college building including the principal's chambers, class rooms, library etc;

3) The minimum requirements specified in sub-rule (2), are meant for six sections and where language subjects in Part- I are only two.For every additional language subject in Part- 1, one lecture hall and for every additional subject in Part-II, two lecture halls shall be provided.

32. The entire controversy revolves around the words " are meant for six sections " found in line No.1 of Rule 4 (3) after the words " in sub-rule (2) ".

33. A plain reading of Rule 4 (3) will indicate that the primary contention advanced on behalf of the appellant is by laying emphasis on the words " are meant for six sections " found in the said rule.

These words are sought to be interpreted to contend that unless a P.U college comprises of a minimum of six sections, the minimum requirements contained in Rule 4 (2) (a) do not apply.This contention advanced on behalf of the appellant deserves to be rejected for the following reasons:

a) A reading of Rule 4 (2) and 4 (3) shows that the minimum requirement of extent of land stipulated in Rule 4 (2) (a) and and the the minimum requirement of extent of constructed/built up area and other facilities stipulated in 4 (2) (b) would constitute the minimum requirement for any pre university college which has up to six sections (i.e., from one section to six sections) and where language subjects in Part I are only two.Rule 4 (3) also stipulates that for every additional language subject in Part I there has to be one additional lecture hall and for every additional subject in Part II, two additional lecture halls have to be provided.This requirement of additional halls obviously relates to Rule 4 (2) (b) and not Rule 4 (2) (a) since additional land in addition to 25000 square feet is not required as per Rule 4 (3) for additional sections.

In other words, all that Rule 4 (3) stipulates is that while a minimum of 25000 square feet of land as contemplated in Rule 4 (2) (a) is a mandatory requirement for all PU Colleges having 1 section upwards, lecture halls in addition to the minimum requirement found in Rule 4 (2) (b) would be required only if there are additional lecture halls as contemplated in Rule 4 (3).

b) The words " are meant for six sections " are to be understood to mean that the mandatory requirements contained in Rule 4 (2) (a) are capable of housing six sections with there being no upper limit for additional infrastructure in the event there are more than six sections.The legislature, in its wisdom has broadly laid down guidelines with regard to minimum infrastructure required to establish a P.U college consisting of upto six sections and in case, there are more than six sections, it is always open for the respective colleges to add

additional infrastructure.Therefore, it cannot be said unless there are six sections, the minimum requirements of 25,000 sq.ft.provided in Rule 4 (2) (a) do not apply.

c) There is another way of examining the said provision.A perusal of the rules would indicate that other than the procedure prescribed therein, there are no other rules applicable for the purpose of establishment, recognition, regulation and discipline of P.U colleges.

If Rule 4 (2) does not apply to a college comprising of less than six sections, all the parameters, procedure and mechanism for establishing any college having less than six sections are not found or provided for anywhere in the Act or the Rules.In other words, the Act and the Rules are completely silent with regard to a college having less than six sections.If it is held that Rule 4 (2) does not apply to a college comprising of less than six sections, then virtually there is no other requirement under the Rules in terms of having infrastructure. Such an interpretation would lead to an anomalous situation where no infrastructure or class rooms or library would have to be provided for starting a P.U. College with less than six sections. Legislative intent cannot be construed to be so anomalous.

d) This interpretation would lead to anomalous and absurd results which was obviously not intended by the legislature, particularly having regard to the fact that the rules were framed under Section 145 (1) and (2) (xiii) and (xiv) with the said object.Under these circumstances, a purposive, harmonious and reasonable construction/interpretation to be placed upon Rule 4 (2) (a) and (3) would be that the legislature intended to prescribe minimum infra-structural requirements provided under Rule 4 (2) on the premise that initially, a P.U college would provide six sections and that the said requirements would cater to the said six sections with an option for additional infrastructure for additional sections.

e) A perusal of Rules 4 (5) to 4 (8) will also indicate that the two-fold requirement of minimum land as well as minimum building found in Rule 4 (2) are absolutely mandatory and essential for fulfilling all compliances/requirements for establishing a PU College and for the same to be permitted and recognized by the State Government.The repeated reference to the words, " land " in Rules 4 (5) to 4 (8) is sufficient to show that the minimum requirement of 25000 square feet found in Rule 4 (2) (a) is applicable to all PU Colleges seeking permission and recognition from the State Government irrespective the number of sections being run in the college.

f) Rule 11 (3) also stipulates that initially a PU College can have three sections in relation to student strength and combination of subjects thereby indicating that a college can have less than 3 sections subject to complying with the minimum infrastructural requirements with regard to both land and building found in Rule 4 (2).

If Rule 4 (2) (a) is held to apply only if the college has a minimum of 6 sections, then Rule 11 (3) as well as Rules 4 (4) to 4 (8) and other related Rules would be rendered otiose which was definitely not the intention of the legislature.

g) A perusal of rule 4 (3) would also indicate that the emphasis is on providing six sections in relation to the number of subjects and the number of language subjects to be taught in the P.U college.It is therefore, prescribed that in the event additional languages are to be taught or additional subjects are to be taught, additional lecture-halls are to be provided by the college.This requirement of providing additional lecture halls is relatable to the infrastructural facilities found in Rule 4 (2) (b) and not the minimum requirement of 25,000 sq.ft.found in Rule 4 (2) (a).In other words, a harmonious reading/construction of Rule 4 (2) and 4 (3) will indicate that while 4 (2) deals with both the minimum extent of land as well as the minimum construction and infrastructure, Rule 4 (3) actually is relatable to the minimum construction and infrastructure provided for in 4 (2) (b) and not the minimum extent of land found in Rule 4 (2) (a).

h) A perusal of the rules will also indicate that as stated supra, the entire procedure for establishment and recognition of a new P.U college is found in Rule 4 along with the other rules.Rule 5 of the rules mandates that even in the case of existing P.U colleges which have been in existence prior to 09.10.2006 when the rules came into force, the said P.U colleges will have to comply with the requirements found in Rule 4 (2) within a period of two years from the date the rules came into force.This circumstance also indicates that all P.U colleges whether established before or after coming into force of the rules, have to comply with the mandatory requirement of Rule 4 (2) (a) and (b) irrespective of the number of sections that exist in the said college.The absence/non-mentioning of Rule 4 (3) in Rule 5 is an extremely crucial circumstances to come to the conclusion that Rule 4 (2) (a) and (b) apply to all colleges without reference to the number of sections.

i) The various judgments relied upon by the learned counsel for the respondents deal with interpretation of statutes and there is absolutely no quarrel with the principles laid down in the said judgments by the Apex Court.

However, the aforesaid interpretation placed by us upon Rules 4 (2) and 4 (3) of the rules is in tune with the law laid down by the Apex Court with regard to harmonious, purposive and reasonable interpretation/construction of statutory provisions in several judgments including the judgments relied upon by the learned counsel for the respondents.

34. In view of the discussion made above, we are of the view that Rules 4 (2) and 4 (3) have to be reconciled and interpreted to mean that the minimum requirement of providing 25,000 Sq.ft.of land found in Rule 4 (2) (a) of the said Rules of 2006 is applicable to all P.U colleges irrespective of the number of sections comprised in the college and Rules 4 (2) and 4 (3) have to be understood, construed and interpreted accordingly.

35. In this context, it has to be stated that during the pendency of the present appeal, Rule 4 (2) (a) has been amended on 11.10.2018 and the same reads as under:

3. Amendment to Rule.4-In Rule 4 of the said rules:

(1) sub-rule (2),-

(i) in clause (a), after the words and figures " acquire a minimum of 25,000 Sq.ft or land ", the words and figures " acquire or take on lease for at least 30 years a minimum contiguous extent of land as per the Karnataka Educational Institutions (Classification, Regulation and Prescription of Curricula, etc.)Rules, 1995 " shall be inserted.

36. We hereby clarify that having regard to the undisputed fact that this amendment came into force after the present appeal was filed, this order is restricted to interpretation of Rule 4 (2) (a) as it stood prior to the aforesaid amendment and we have not dealt with or interpreted the amended rules.Point No. (ii) is answered accordingly.

37. Point No. (iii):

The Learned AGA appearing for the Respondents argued that letter (b) in Rule 4 (3) has been omitted by mistake, oversight and inadvertence while drafting Rule 4 (3) with reference to sub-rule (2) found in the first line of Rule 4 (3) and that Rule 4 (3) should be actually read as " The minimum requirements specified in sub-rule (2) (b) " instead of " The minimum requirements specified in sub-rule (2) ".The Respondents have therefore contended that the said omission to include the letter (b) in Rule 4 (3) is a case of casus omissus on the part of the legislature and that under the circumstances, having regard to the scheme of the Act and the rules as well as the other provisions contained in the rules, it is necessary to read the letter (b) in Rule 4 (3) to read as " The minimum requirements specified in sub-rule (2) (b) ".

Thus it is the specific contention of the respondents that the letter (b) has been inadvertently and by oversight omitted in the first line of Rule 4 (3) after the words " sub-rule 2 ".In other words, the respondents contend that the letter ' b ' has to be read into first line of Rule 4 (3) by applying the principle of casus omissus.

38. It is well settled that this principle of casus omissus in relation to interpretation of statutes will be applied by the Court only in the rarest of rare cases and in exceptional/unavoidable circumstances which warrant, by way of compelling necessity to apply the said principle.It is equally well settled that it is not for the courts to legislate and add/subtract words to a provision and courts are normally entitled only to interpret the statutory provisions.The well defined parameters and limitations of applying the principles of casus omissus have been laid down in several judgments of the Apex Court including the judgments in the following cases:

(i) Padma Sundara Rao Vs. State of Tamil Nadu[10] 10

(ii) Shiv Shakti Co-operative Housing Society Vs. Swaraj Developers[11]

(iii) Bharat Aluminium Company VS. Kaiser Aluminium Technical Services Inc.

39. Further, the Apex Court in STATE OF JHARKHAND AND ORS. VS. GOVIND SINGH[13] held as follows:

21. Two principles of construction-one relating to casus omissus and the other in regard to reading the statute as a whole-appear to be well settled.Under the first principle, a casus omissus cannot be supplied by the Court except in the case of clear necessity and when reason for it is found in the four corners of the statute itself but at the same time, as casus omissus should not be readily inferred and for that purpose, all the parts of a statute or section must be construed together and every clause of a section should be construed with reference to the context and other clauses thereof so that the construction to be put on a particular provision makes a consistent enactment of the whole statute.This would be more so if literal construction of a particular clause leads to manifestly absurd or anomalous results which could not have been intended by the Legislature. "An intention to produce an unreasonable result ", said Danackwerts, L.J. in Artemiou v. Procopiou, 1966 (1) QB 878, " is not to be imputed to a statute if there is some other construction available ".Where to apply words literally would " defeat the obvious intention of the Legislature and produce a wholly unreasonable result " we must " do some violence to the words " and so achieve that obvious intention and produce a rational construction.(Per Lord Reid in Luke v. AIR 1966 AC 557 where at p 577) he also observed: "this is not a new problem, though our standard of drafting is such that it rarely emerges ".

22. It is then true that, " when the words of a law extend not to an inconvenience rarely happening, but due to those which often happen, it is good reason not to strain the words further than they reach, by saying it is casus omissus, and that the law intended quaefrequentiusaccidunt. "" But, " on the other hand, " it is no reason, when the words of a law do enough extend to an inconvenience seldom happening, that they should not extend to it as well as if it happened more frequently, because it happens but seldom " (See Fenton v. Hampton, 11 MPC 345).A casus omissus ought not to be created by interpretation, save in some case of strong necessity.

Where, however, a casus omissus does really occur, either through the inadvertence of the Legislature, or on the principle quod semelaut bis existitproetereunt legislators, the rule is that the particular case, thus left unprovided for, must be disposed of according to the law as it existed before such statute-casus omissus et oblivionidatusdispositionicommunis juris relinquitur; " a casus omissus, " observed Buller, J. in Jones v. Smart, 1 TR 52, " can in no case be supplied by a court of law, for that would be to make laws. "

40. In view of the above mentioned settled position of law, it is clear that when the words of a statute are clear and unambiguous and when they do not lead to manifestly absurd or anomalous results which could not have been intended by the Legislature the court ought not read any new terms or power in a statute.Under these circumstances, it is not possible to accept the contention of the respondents that the word ' b ' has to be supplied after the words ' sub-rule (2) found in Rule 4 (3) of the said Rules of 2006 by applying the principles of casus omissus.Accordingly, Point No.3 is answered in the negative against the Respondents and their contention in this regard is hereby rejected.

41. Point No. (iv)

The main ground on which the impugned order at Annexure- H dated 03.07.2015 was challenged before the learned Single Judge was that the same was not preceded by one month's notice as contemplated under Section 39 (2) of the Act. This contention having been adverted to specifically by the learned Single Judge in Paragraphs 6 to 8 of the impugned order, has been rightly rejected recording a categorical finding against the appellant in this regard.We do not find any illegality or perversity in the said finding so as to warrant interference in the above appeal.The learned Single Judge was fully justified in coming to the conclusion that having regard to the provisions contained in Section 39 (2) of the Act coupled with the undisputed material on record, the said contention urged on behalf of the appellant was liable to be rejected.Accordingly, point No. (iv) is answered against the appellant.

42. In view of the aforesaid discussion, we hereby summarise our conclusions on the aforesaid points as hereunder:

(i) Rule 4 (2) (a) of the Karnataka Pre-University (Academic, Registration, Administration and Grant-in aid Rules) 2006 is not violative of Constitution of India or the provisions of the Karnataka Education Act.

(ii) The minimum requirement of providing 25,000 Sq.ft.of land as contemplated under Rule 4 (2) (a) is applicable to all P.U colleges irrespecitve of the number of sections (iii) The principles of casus omissus are not applicable to Rule 4 (3) of the said Rules of 2006.

(iv) The impugned order passed by the learned single Judge rejecting the challenge to Annexure- H dated 03.07.2015 passed by the respondent No.3 does not warrant interference by this Court.

43. In view of our findings recorded supra, there is no merit in the above appeal and the same is accordingly dismissed.