

REPORTABLE

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 6753 OF 2019

(Arising out of SLP (Civil) No. 19807/2019)

Rohan Virani & Ors.

...Appellants

versus

State of Maharashtra & Ors.

...Respondents

J U D G M E N T

INDU MALHOTRA, J.

Leave granted.

1. The present Civil Appeal has been filed by a batch of students from University of Mumbai to challenge the Judgement and Order dated 25.07.2019 passed by a division

bench of the Bombay High Court in Writ Petition (ST) No. 20304 of 2019.

The issue which arises is with respect to admission to the Post Graduate courses of MBA/MMS in the Jamnalal Bajaj Institute of Management Studies (“**JBIMS**”) for the current academic year 2019-2020. The contest is based on the issue whether JBIMS is to be treated as an autonomous or non-autonomous Department of the University of Mumbai for the current academic year.

2. JBIMS was established in 1965 as a Department of the University of Mumbai, and is one of the most prestigious and oldest institutions for management courses in the country.

It has consistently been ranked amongst the top 10 business schools in India. JBIMS is well known for its distinguished and professional faculty members, including representatives from industry and academia.

- 2.1. The University of Mumbai *vide* letter dated 11.07.2014, granted autonomous status to JBIMS for a period of five years from the academic year 2014-2015 to 2018-2019.

A perusal of the letter dated 11.07.2014, shows that the Academic Council *vide* Resolution dated 07.06.2014, and the Management Council of the University of Mumbai *vide* Resolution dated

07.06.2014, resolved to confer autonomous status on JBIMS.

The autonomous status was granted for a period of 5 years from the academic year 2014-15 to 2018-19.

- 2.2. For the academic years 2014-2015, 2015-2016, 2016-2017, and 2017-2018, admissions to the MBA and MMS Courses in JBIMS was conducted as an Autonomous PG Department of the University of Mumbai.

The autonomy granted to JBIMS from 2014-2015 to 2018-2019 was not challenged by any party.

As a consequence, 85% seats were filled up from all universities in the State of Maharashtra on the basis of merit, while 15% were filled up from the all India quota merit list.

- 2.3. As per Section 122 (4) of the Maharashtra Public Universities Act, 2016, Autonomous Colleges/University Departments may prescribe their own courses of study, evolve their own teaching methods and conduct examinations and tests for their students, and recommend the award of degrees, and diplomas to the University as per the procedure prescribed in the Statutes.
- 2.4. During the academic year 2018-2019, the Directorate of Technical Education issued a Notification whereby

100% seats in JBIMS were allocated to the students from the State of Maharashtra, and thereby wiped out the 15% all India quota in entirety. The Bombay High Court in *Mayuri Umesh Munde v. Directorate of the Technical Education & Ors.* [W.P. (L) No. 2342 /2018 decided on 27.07.2018] held the 100% State quota to be illegal and impermissible.

- 2.5. The JBIMS *vide* letter dated 18.02.2019 addressed to the Directorate of Technical Education, Maharashtra, informed the Directorate that JBIMS was an autonomous department of the University of Mumbai. A decision was taken by the Board of Management on 15.02.2019, that JBIMS would process its own admission program for the MMS course for the ensuing academic year 2019-2020. The Directorate was requested not to include JBIMS in the CET process, and further informed that the procedure for admission and the timelines being followed would be intimated in due course.

A separate letter dated 18.02.2019 was addressed to the Admission Regulatory Authority (CET-Cell) to the same effect.

- 2.6. The JBIMS addressed a letter dated 25.05.2019 to the Vice Chancellor of the University of Mumbai, for extension of its autonomous status.

Further letters dated 27.06.2019 and 28.06.2019 were written to the Vice Chancellor for extension of autonomy for the next five-year period.

2.7. For the academic year 2019-2020, a confusion occurred about the status of JBIMS since the autonomous status granted by the University of Mumbai was for a period of five years i.e. from 2014 to 2019.

2.8. The Combined Entrance Test, was conducted by the CET-Cell, Maharashtra, for the current academic year on 09/10.03.2019. The results were declared on 30.03.2019.

2.9. The State of Maharashtra *vide* G.R. dated 04.06.2019 followed by the Information Brochure dated 29.06.2019, set out the seat matrix for autonomous institutes, and non-autonomous institutes and University Departments as follows :-

Autonomous	:	85% State Level
Non-Autonomous &	:	70% for Home University
University Department		15% for Other Universities

2.10. On 01.07.2019, the Directorate of Technical Education published information on its website showing the status of JBIMS as non-autonomous. As a consequence, out of a total of 120 seats in JBIMS, 79 were to be allocated to the Home University i.e.

University of Mumbai in all categories; 17 seats were to be allocated to Outside Home Universities (OHU); and 5 seats were to be allocated to Persons with Disabilities (PWD). The balance 18 seats constituted 15% of the total number of seats left as the All India Quota.

- 2.11. JBIMS *vide* letter dated 09.07.2019, informed the Director of Technical Education, Maharashtra that JBIMS is a department of the University of Mumbai. The University itself is an autonomous body, and can grant autonomy to its own departments. The Application for extension of autonomy had been made before the Vice Chancellor. The Vice Chancellor of the University had permitted JBIMS to apply and get the process of extension of autonomy started. The extension of autonomy was expected to be received in due course.
- 2.12. On 17.07.2019 the CET-Cell, Maharashtra published the Allotment List for students, including JBIMS. In CAP Round 1, admissions were done on the basis of JBIMS being a Non-Autonomous Institute.
- 2.13. The Appellants herein are students from the University of Mumbai, who secured admission in JBIMS on the basis of the Seat Allocation made in CAP Round 1.
- 2.14. On 18.07.2019, Writ Petition bearing No. 20304/2019 was filed by Respondent Nos. 7 to 15 herein, who are

students from Other Universities in the State of Maharashtra, to challenge the admissions made to JBIMS by treating it as a Non-Autonomous Institute.

The Writ Petitioners *inter alia* contended that they had secured higher ranks on merit in the Common Entrance Test. However, the admissions were conducted on the basis of JBIMS being a Non-Autonomous Institute, and the Writ Petitioners were not able to secure admission, since 70% of the seats in JBIMS were allocated to students from the Home University i.e. the University of Mumbai. Had JBIMS been treated as an Autonomous Institute for the current academic year, then 85% seats would have been filled up by candidates from all universities across the State on the basis of merit in the Common Entrance Test.

The Writ Petitioners *inter alia* prayed for a direction to the respondents to initiate and complete the process of extension of the autonomous status of JBIMS by following the procedure prescribed under Statutes No. 593 to 642 framed by the University of Mumbai; quash the Allotment List dated 17.07.2019; grant an interim injunction to restrain the CET-Cell, Maharashtra from carrying on with the admission process.

2.15. Given the urgency of the matter, a division bench of the Bombay High Court took up the matter for final hearing and passed the impugned judgment on 25.07.2019.

It may be noted that the University Grants Commission (“UGC”) was not served, and was not represented before the High Court.

The Appellants herein have raised a serious grievance that even though their names were contained in the Allotment List dated 17.07.2019, they were neither impleaded in the Writ Petition, nor was notice issued to them by the High Court.

2.16. The High Court *vide* Impugned Judgment and Order dated 25.07.2019, allowed the Writ Petition, and directed that the admissions process be re-conducted by treating JBIMS as an Autonomous Institute.

The High Court recorded in para 42 of the impugned judgment that the Advocate General for Maharashtra did not dispute that the University of Mumbai had the power to confer autonomous status on JBIMS. As per Section 122 of the Maharashtra Public Universities Act, 2016, a University Department or Institution, affiliated college, or recognized institution could apply to the University for grant of autonomous status.

Autonomy was not granted by the State Government, but by the University.

The High Court further held that JBIMS continued to be an Autonomous Institute, since its Application for extension of autonomy was pending approval before the University. The Vice Chancellor of the University had permitted JBIMS to apply for extension, and get the process commenced. As a consequence, the status of autonomy of JBIMS was neither surrendered, nor was it revoked.

In this backdrop, the State Government and the Directorate of Technical Education could not have proceeded on the premise that the autonomous status of JBIMS had automatically come to an end on 11.07.2019. The presumption of the State that JBIMS is a Non-Autonomous Institute was held to be unsustainable.

The High Court further held that the status of JBIMS remained unaltered, and that JBIMS had not lost its autonomy. In these circumstances, the modification brought about by the Directorate of Technical Education by showing the status of JBIMS as non-autonomous was set aside.

It was directed that the entire admissions process be re-conducted by treating JBIMS as an Autonomous Institute.

3. The Appellants herein are 39 students who filed the Special Leave Petition against the aforesaid Judgment dated 25.07.2019 seeking special leave to appeal, since they were not impleaded before the High Court. These Appellants come from the University of Mumbai, and are seeking admission on the basis of JBIMS being a non-autonomous Institute.

On 14.08.2019, this Court issued Notice to all the Respondents, and directed that *status quo* be maintained in the meanwhile. The matter was posted for final hearing on 28.08.2019.

4. The matter was taken up for final hearing on 28.08.2019. The Appellant-Students were represented by Mr. C.U. Singh, Sr. Adv., the State of Maharashtra was represented by Mr. Prasenjit Keswani, Adv., the Respondent-Students [original Writ Petitioners] were represented by Mr. S.B. Talekar, Adv., the University of Mumbai and JBIMS were represented by Mr. Sunil Fernandes, Adv., and the UGC was represented by Mr. Apoorv Kurup, Adv.

The Court appointed Mr. Maninder Singh, Sr. Adv. to appear as *amicus curiae* and assist the Court.

5. We have heard the learned counsel for all the parties, perused the material on record, and the written submissions filed by all the parties, including the learned *amicus curiae*.

6. It was submitted *inter alia* on behalf of the Appellant-Students that :-

6.1. The impugned judgment has been passed after the Appellants had obtained admission. The Allotment List was published on 17.07.2019 i.e. prior to the filing of the Writ Petition. Hence, there was no justification for not impleading them in the Writ Petition, even though they were most vitally affected by the outcome of the proceedings. The impugned judgment being *ex parte qua* them, was liable to be set aside on this ground alone.

6.2. The impugned judgment was passed without issuing Notice to the UGC, even though it was joined as a party respondent in the Writ Petition. Representation by the UGC was necessary to determine the issues raised in the Writ Petition, since it is the case of the Appellants that concurrence of the UGC was mandatory for grant of autonomous status.

The High Court decided the case with undue haste, without granting a hearing to the necessary parties i.e. the Appellant-Students who had already secured admission, and the UGC.

- 6.3. The autonomous status conferred by the University was invalid, since the procedure prescribed by law had not been fulfilled. The University Statutes apply to colleges as well as university departments. Statutes No. 593 to 642 passed by the Senate of the University of Mumbai in its Special Meeting held on 04.12.2001 pertain to grant of autonomous status to Affiliated College/University Department/University Institution.
- 6.4. The Appellants submitted that the Statutes No. 593 to 642 of the University of Mumbai for grant of autonomous status to Affiliated College/Recognized Institution/University Department/University Institution, passed by the Senate on 04.12.2001, would be applicable to JBIMS as well.

As per Statute No. 595, the College/Recognized Institution/University Department/University Institution desirous of having autonomous status shall apply to the Registrar of the University.

The Board of College and University Department should constitute a Committee to scrutinize the Applications received. The Report of the Scrutiny Committee shall be placed before the Board for its consideration. After careful consideration of the Report, the Board shall recommend the case of such College/Recognized Institution/University

Department/University Institution to the Academic Council for its consideration.

As per Statute No. 597, the Academic Council, after considering the recommendations of the Board of College and University Department shall constitute the Local Inquiry Committee, which would comprise of a five-member committee, including one nominee of the UGC.

The Report of the Local Inquiry Committee shall be placed before the Academic Council for its consideration. After careful consideration of the Report, the Academic Council shall recommend the same to the Management Council.

The Management Council shall consider the Report of the Local Inquiry Committee, and the recommendations of the Academic Council, and thereafter take its decision whether autonomous status be conferred on the applicant College/Recognized Institution/University Department/University Institution, or whether the Application be rejected.

The Statutes of the University of Mumbai require a recommendation from the State Government; the concurrence from the UGC; and publication of a Notification by the University of Mumbai notifying the conferment of autonomous status.

However, none of these requirements had been fulfilled in the present case. This would be apparent from the fact that JBIMS was not included in the Annual List of Autonomous Colleges published by the UGC.

- 6.5. JBIMS was granted autonomy for a period of five academic years from 2014-15 to 2018-19 by the University. Hence, even if it is assumed that the autonomous status of JBIMS was validly granted in 2014, it was certainly not applicable for the academic year 2019-20.
- 6.6. It was further submitted that there is no provision for a deemed extension of the autonomous status of an institute. Regulation 7.10 of the 2018 UGC Regulations will apply only if an Application in the prescribed format under Regulation 7.8, has been made to the UGC, at least 6 months prior to the expiry of the autonomy cycle.
- 6.7. The Maharashtra Unaided Private Professional Educational Institutions (Regulation of Admissions to Full Time Professional Undergraduate Technical Courses) Rules, 2017 were made specifically applicable to, and adopted for Government aided/non-aided institutions and University Departments *vide* G.R. dated 25.04.2017.

The G.R. dated 25.04.2017 prescribed the seat matrix for admissions, which was further amended *vide* the G.R. dated 04.06.2019.

- 6.8. It was submitted that even if there was some ambiguity with regard to the definitions of “Autonomous Institutes” and “Non-Autonomous Institutes” for the applicability of this statutory regime to JBIMS, the Information Brochure dated 29.06.2019 put all doubts to rest, and conclusively answered this issue.

The Information Brochure dated 29.06.2019 is admittedly the document on the basis of which both the Writ Petitioners (Respondent Nos. 7 to 15 herein) and the present Appellants have applied for admission.

The said Information Brochure sets out the manner in which the Admissions Act, 2015 and the Rules of 2017 are to be applied. It sets out the definition of an “Autonomous Institution” as an institution to which autonomy is granted by the UGC.

The Writ Petitioners have neither challenged the Information Brochure, nor the G.R. dated 25.04.2017.

- 6.9. It was further submitted that even if it is conceded that JBIMS can be treated as a University Department, for which the concurrence of the UGC is not required, even then the seat matrix applicable to JBIMS will remain the same, since the seat matrix applicable to a

non-autonomous institution and a university department is the same.

7. The stand taken by the State of Maharashtra was similar to that of the Appellants.

7.1. It was submitted that the concurrence of the UGC is mandatory for grant of autonomous status to an educational institution.

7.2. It was further submitted that the Directorate of Technical Education *vide* letter dated 19.01.2019 had informed JBIMS that it is not included in the list of autonomous colleges published by the UGC.

JBIMS was asked to furnish proof of having been granted autonomy after the concurrence of the UGC, but JBIMS failed to do so.

7.3. It was further submitted that if the admissions process is re-conducted by treating JBIMS as an autonomous institute, then it will lead to complications in the entire admissions process throughout the State.

8. The Respondent – Students, JBIMS, and the University of Mumbai took the same stand that admissions to the current academic year 2019-2020 ought to be carried out on the basis that JBIMS is an Autonomous Department of the University of Mumbai.

- 8.1. It was submitted that JBIMS is admittedly a Department of the University of Mumbai. Since the University of Mumbai itself is autonomous, it does not require the concurrence of the UGC for granting autonomous status to one of its own Departments.
- 8.2. The source of its autonomy was on the basis of conferment by the University of Mumbai, which was granted *vide* letter dated 11.07.2014 bearing Reference No. APD/523/169/2014. The autonomy was granted pursuant to the Resolution dated 07.06.2014 passed by the Academic Council, and the Resolution dated 07.07.2014 passed by the Management Council. The decision of the University of Mumbai to confer autonomous status to JBIMS was not challenged by any party.
- 8.3. It was further submitted that the UGC Regulations published on 12.02.2018 are applicable only to Colleges and Affiliated Institutes, and have no application to University Departments, such as JBIMS.
- 8.4. It was further submitted that 3 other Departments of the University of Mumbai *viz.* Physics, Chemistry, and Economics were granted autonomous status by the University almost a decade ago. Their autonomous status is continuing till date, and has never been

questioned either by the State Government, or the UGC.

8.5. It was further submitted that the List of Autonomous Colleges published by the UGC annually, includes only Colleges, and not University Departments. The non-inclusion of JBIMS from the said list has no significance.

8.6. The autonomous status of JBIMS granted on 11.07.2014 till 2019, has neither been surrendered, nor revoked.

Pursuant to the permission granted by the Vice Chancellor to apply, and get the process of autonomy started, JBIMS has submitted its Application. The Application is under active consideration of the University.

9. The UGC was represented by counsel before this Court, and filed detailed written submissions before the Court. It was submitted that :-

9.1. The UGC had initially made “Guidelines for Autonomous Colleges during the XIIth Plan Period (2012 – 2017)” which in para 3 had made it clear that only “Colleges” were eligible to apply for autonomous status.

9.2. These guidelines were replaced by the “UGC Guidelines for Autonomous Colleges, 2017” which also were applicable only to “Colleges”. Clause 6 of the 2017 Guidelines provides the condition of eligibility, wherein it is stated that:

“All Colleges (of any discipline) under Section 2(f) of the UGC Act whether aided, partially aided and unaided/self-financing are eligible to apply for autonomous status.”

9.3. The UGC promulgated the 2018 Regulations which in Regulation 1.2, state that:

“These Regulations shall apply to all Colleges/Institutions which are affiliated to, or are constituent colleges of Universities in the country seeking the conferment of Autonomous College Status.”

Regulation 6 states as follows :

“Colleges (of any discipline) whether aided, partially aided and unaided/self-financing are eligible provided they are under Section 2(f) of the UGC Act.”

Upon grant of Autonomous College Status, the concerned institution would be entitled to the benefits stipulated in Regulation 3.

The term “College” which is defined in Regulation 2.4, cannot be interpreted to include a “Department” of the Parent University, since a “Parent University” is defined under Regulation 2.9 as follows :

“The University to which the college concerned is affiliated, or of which the college concerned is a constituent.”

A Department of the University is neither affiliated to, nor a constituent of that University, and it is not required to apply to the UGC for autonomous status in terms of the University’s Statutes, since Universities are by their very nature, autonomous/independent institutions of higher education.

- 9.4. The 2018 Regulations are applicable only to Colleges to apply for autonomous status.
- 9.5. The UGC expressly took the view that JBIMS is admittedly neither an affiliated college, nor a constituent college, but a Department of the University of Mumbai. A Department of the University of Mumbai is not required to apply for autonomous status under the UGC Regulations.

It was further submitted that JBIMS is a Department of the University of Mumbai, and is not required to apply for autonomous status under the UGC Regulations. For grant of autonomous status to a Department of the University, Section 122 of the Maharashtra Public Universities Act, 2016 provides that the University Department may apply to the University for grant of autonomous status. The

Management Council on the recommendation of the Academic Council may confer the autonomous status.

The Maharashtra Public Universities Act, 2016 itself makes a distinction between a “College” and a “Department”.

10. Mr. Maninder Singh, Sr. Adv., the learned *amicus curiae inter alia* submitted that :-

10.1. The autonomy envisaged under Section 2(5) of the Maharashtra Public Universities Act, 2016 is completely different from the autonomy envisaged under the Regulations framed by the UGC.

The UGC (Conferment of Autonomous Status upon Colleges and Measures for Maintenance of Standards in Autonomous Colleges) Regulations, 2018 (“2018 UGC Regulations”) are applicable only to colleges, and not to Departments of the University. This would be evident from the various clauses in the 2018 UGC Regulations. The Preamble to the Regulations states that the Regulations have been promulgating college autonomy. Clause 1.2. of the Regulations states that the Regulations shall apply to all Colleges/ Institutions which are affiliated to, or are constituent colleges of Universities in the country seeking conferment of Autonomous College status.

The definition of “College” under Clause 2.4 of the 2018 UGC Regulations, when read with the definition of “Parent University” under Clause 2.9, makes it abundantly clear that the 2018 UGC Regulations apply only to affiliated or constituent colleges, and not to University Departments.

The phrase “autonomous college” is employed in other provisions of the 2018 UGC Regulations, such as in Clauses 2.1, 2.3, 2.6 and 2.7. The privileges granted to an autonomous college are covered by Clause 3 of the Regulations. Throughout the Regulations, reference is made to an “autonomous college”, and not to a University Department.

Clause 6 of the 2018 UGC Regulations contains the eligibility clause, which refers only to colleges, whether aided, partially aided, or un-aided/self-financing, provided they fall under Section 2 (f) of the UGC Act.

It was therefore, submitted that since JBIMS was not a College, nor an Institution affiliated to, nor a constituent of the University, the 2018 UGC Regulations were not applicable to it.

The 2018 UGC Regulations cannot be made applicable to University Departments, since the University itself is independent/autonomous in its functioning, and therefore there is nothing that

prohibits a University from granting autonomy to one of its own Departments.

10.2. It was further submitted that the G.R. dated 04.06.2019, when it uses the word “Autonomous” would mean the status of autonomy granted by the University of Mumbai under the 1994 Act, and thereafter the 2016 Act.

10.3. Admission to prestigious educational institutions such as JBIMS must be granted on merit. If JBIMS is treated as a non-autonomous institute, and 70% of the seats are reserved for the Home University, then it would vitiate the principle of supremacy of merit.

On the other hand, if JBIMS is treated as an autonomous institute, 85% of the seats would be open for meritorious students from all universities in the State of Maharashtra.

11. We have carefully perused the written submissions made by all the parties, and heard the oral submissions made by their respective counsel, including the learned *amicus curiae*.

11.1. The admitted position is that JBIMS is a Department of the University of Mumbai, and was granted autonomous status by the University itself. JBIMS is

not an affiliated college, nor a constituent college of the University.

This position has been accepted by all parties, including the State. In para 23 of the impugned judgment, the High Court has recorded the submission of the Advocate General for the State of Maharashtra about the status of JBIMS as follows :-

“23....Then, Mr. Kumbhakoni was at pains to tell us about the status of JBIMS. He would submit that we must not forget that JBIMS is a department of University. The University has appointed the staff and the University has sanctioned the budget of JBIMS. It is not an affiliated college, but a college conducted by the University. It is not even a constituent college. Mr. Kumbhakoni would submit that the autonomy in this case is not granted by the UGC, but by the University of Mumbai....”

(emphasis supplied)

As per the University of Mumbai and JBIMS, autonomy was conferred by the University in accordance with the provisions of Maharashtra University Act, 1994.

- 11.2. The UGC in its detailed written and oral submissions has expressly stated that JBIMS being a Department of the University of Mumbai, was not required to apply for autonomous status under the UGC 2018 Regulations. The 2018 Regulations were applicable to Colleges/ Institutions affiliated to Universities in the country seeking conferment of “Autonomous College Status”.

It was submitted that JBIMS is not an affiliated college, nor a constituent college, but a department of the University of Mumbai. The approval of the UGC is not required if a University Department applies to the University, for grant of autonomous status under Section 122 of the Maharashtra Public Universities Act, 2016.

- 11.3. JBIMS had informed the Directorate of Technical Education *vide* letter dated 18.02.2019 that pursuant to the decision taken in the meeting of the Board of Management held on 15.02.2019, it was finalizing the admission procedure for the MMS course for the academic year 2019-2020. It was requested that JBIMS should not be included in the CET process.

JBIMS informed the Directorate of Technical Education that since it was a Department of the University of Mumbai, it was awaiting to receive the extension of its autonomous status from the University of Mumbai.

- 11.4. The autonomous status conferred on JBIMS was granted with effect from 11.07.2014 to 11.07.2019. It was during the subsistence of the autonomous status, that the Directorate of Technical Education and the CET-Cell on 01.07.2019, had shown the status of JBIMS to be non-autonomous.

As a consequence, the entire seat matrix for admission to the post-graduate courses in JBIMS underwent a complete change. As per the seat matrix published, 70% seats would now be allocated to the University of Mumbai, to the exclusion of all other universities in the State of Maharashtra. The remaining 15% to other Universities; and the balance 15% for the All-India Quota.

In the aforesaid circumstances, since the application for extension was under consideration, the Directorate of Technical Education and the CET-Cell were not justified in treating JBIMS as a Non-Autonomous Institute for the current academic year 2019-20.

- 11.5. It is the admitted position that the autonomous status granted to JBIMS has not been revoked, or surrendered.

The application for extension was made by JBIMS pursuant to the permission granted by the Vice Chancellor of the University of Mumbai. The application for extension is stated to be under active consideration.

Since JBIMS had continued to fulfill the eligibility criteria for extension/renewal of the autonomous status, it is only a ministerial act which is required to be carried out by the University to issue the

Notification for grant of extension/renewal of the autonomous status.

- 11.6. It is relevant to note that even during the previous academic year i.e. 2018-19, the Directorate of Technical Education had issued a Notification, whereby it amended the Information Brochure, and allocated 100% seats in JBIMS to the Maharashtra State quota.

This Notification came to be challenged by a student from the All India Quota in the case of *Mayuri Umesh Munde v. Directorate of Technical Education & Ors.* (supra), wherein the Bombay High Court held that the 100% reservation in favour of candidates from the State was illegal and impermissible. The High Court noted that during the preceding years, the State of Maharashtra had consistently allocated 85% seats in Autonomous Institutes to candidates from all Universities in the State of Maharashtra, and 15% seats to candidates from the All India Quota.

The High Court held that JBIMS being a premier institution, and one of the top management colleges in the country, was being deprived of bright meritorious students from all over the country. This was a great national loss, and would undermine the status of an institution of national stature.

This judgment was not challenged any further, and attained finality.

11.7. A perusal of the provisions of the Maharashtra Public Universities Act, 2016 provide the procedure for grant of autonomous status to departments of a University.

Section 2(5) of the Maharashtra Public Universities Act, 2016 defines “autonomy” as follows :-

“2. (5) “autonomy” means a privilege of the university conferred by the Statutes to permit a college, institution or a university department to conduct academic programmes and examinations, develop syllabus for the respective subjects and issue certificates of passing the examinations;”

Section 122 of this Act provides that a University Department, institution, affiliated college, or recognized institution may apply to the University for grant of autonomous status. As per sub-section (1) of Section 122, the Management Council, on the recommendation of the Academic Council, may confer the autonomous status.

Section 122 reads as follows: -

“122. (1) A university department or institution, affiliated college or recognized institution may apply to the university for grant of autonomous status. The Management Council on the recommendation of the Academic Council may confer the autonomous status.
(2) Autonomous university department or institution or affiliated college or recognized institution shall

function with the objectives of promoting academic freedom and scholarship on the part of teachers and students which are essential to the fostering and development of an intellectual climate conducive to the pursuit of scholarship and excellence.

(3) The autonomous university department or institution or affiliated college or recognized institution, may constitute its authorities or bodies and exercise the powers and perform the functions and carry out the administrative, academic and other activities of the university, as may be prescribed by the Statutes.

(4) The autonomous university department or institution or affiliated college or recognized institution may prescribe its own courses of study, evolve its own teaching methods and hold examinations and tests for students receiving instruction in it, and recommend the university for award degrees, diplomas or certificates, after following the procedure as prescribed in the Statutes.

The autonomous university department or institution or affiliated college or recognized institution shall have full academic and administrative autonomy subject to the provisions of this Act and Statutes and the guidelines issued by the University Grant Commission, from time to time.”

(emphasis supplied)

The aforesaid provisions of the 2016 Act clearly indicate that it is the University which is empowered to grant autonomous status to its Departments.

Statute 604 of the University of Mumbai empowers the University to grant autonomous status initially for a period of 5 years, and then to extend it for a further period of 5 years, subject to the procedure prescribed in Statutes 598 and 600.

The Application for extension of autonomous status has accordingly been made by JBIMS as a Department of the University, which is pending consideration before the University.

12. The decision of JBIMS to apply for extension of its autonomous status was taken by its Board of Management on 15.02.2019, well before the admissions process for the MMS Course commenced for the academic year 2019-2020. Accordingly, the Directorate of Technical Education was requested not to include JBIMS in the said process. JBIMS after some delay, had addressed a letter dated 25.05.2019 to the Vice Chancellor of the University for extension of its autonomous status, which was followed up by letters dated 27.06.2019 and 28.06.2019. We observe that there was some delay on the part of JBIMS and the University, to process the Application for extension which led to uncertainty regarding its continued Autonomous Status.

We however feel that meritorious students who have secured higher marks in the CET Examination should not be denied admission, in view of the uncertainty which occurred. In our opinion, it would be unjust and unfair to the meritorious Respondent-Students. Admittedly, JBIMS has enjoyed autonomous status for the last 5 years, whereby Home University students and students from the State of Maharashtra being covered by the 85% State quota, had an

equal opportunity to compete for admission. It would harm JBIMS as an institution of national repute, and cause disillusionment and resentment amongst the meritorious students, if the admissions are not made on the basis of merit in the CET. Accordingly, we direct that for the current academic year 2019-2020, admissions would be made as per the Judgment of the High Court.

13. The Directorate of Technical Education and the CET-Cell are hereby directed to conduct the admissions process in accordance with the ranking of the students as per the Merit List published by CET-Cell, by treating JBIMS as an Autonomous Department of the University of Mumbai.

It is therefore directed that the online admissions process be carried out within a period of 2 weeks from the date of the present Order. The candidates may be granted 1 week thereafter to take admission in the respective colleges thereafter.

14. Keeping in view the various issues which have arisen for consideration, and since the Writ Petition was decided without calling for counter affidavits, we deem it appropriate to remit the matter to the High Court for determination of the issues of law pertaining to applicability of the 2016 Act, and the 2018 UGC Regulations. Since these issues were not specifically raised before the High Court, and the UGC was

not represented, it would be appropriate for the High Court to consider these issues.

We clarify that we have not expressed any opinion on the merits of the matter. The findings rendered by us are of a *prima facie* nature, in order to ensure that the admissions process for the current academic year 2019-2020 does not get stalled any further.

15. We extend our gratitude to Mr. Maninder Singh, Sr. Adv. who very ably assisted this Court as *amicus curiae* on short notice.

The Civil Appeal is accordingly disposed of.

All pending Applications, if any, are accordingly disposed of.

Ordered accordingly.

.....**J.**
(INDU MALHOTRA)

.....**J.**
(SANJIV KHANNA)

September 02, 2019
New Delhi