



CGHC010249432026



2026:CGHC:30859

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

WPC No. 3547 of 2026

Order Reserved on 14.07.2026

Order Delivered on 21.07.2026

1 - Ayush College Of Polytechnic (Owned And Managed By Gram Meduka Krishi Shikshan Samiti, Meduka), Village Meduka, Tahsil Pendra Road, Distt. Gaurela Pendra Marwahi, Chhattisgarh. (Through Its President Shri Ajay Jaiswal, S/o Shri Awadhramjaiswal, Aged 51 Years, R/o Village Meduka, Post Darri, Tahsil Pendra Road, Distt. Gaurela Pendra Marwahi, Chhattisgarh.)

... Petitioner(s)

versus

1 - State Of Chhattisgarh Through Director Technical Education, H O D Building, Block 3, Science And Technology Department, 3rd And 4th Floor, Indravati Bhawan, Naya Raipur, Distt. Raipur, Chhattisgarh.

492002.

2 - Chhattisgarh Swami Vivekanand Technical University Through Its Registrar, Newai, P.O. Newai, Bhilai, Distt. Durg, Chhattisgarh 491107.

3 - All India Council For Technical Education Through Its Chairman,
Nelson Mandela Marg, Vasantkunj, New Delhi 110070.

... Respondents

(Cause-title taken from the Case Information System)

For Petitioner :- Mr. Kshitij Sharma, Advocate

For State :- Mr. Anand Dadariya, Dy. A.G.

For Respondent No.2:- Mr. Neeraj Choubey, Advocate

For Respondent No.3:- Mr. Ajit Singh, Advocate

SB- Hon'ble Shri Justice Amitendra Kishore Prasad

CAV Order

1. The petitioner seeks to impugn and challenge the Communication dated 24.06.2026 (ANNEXURE P-1), whereby the Respondent University has declined to grant affiliation to the Petitioner Institution for Academic Session 2026-27 for the Diploma Course and subjects namely Mechanical Engineering, Electrical Engineering & Civil Engineering.
2. Facts of the Case are that the petitioner is an educational institution managed by a duly registered society engaged in imparting technical education, including Diploma/Polytechnic courses, and is affiliated with the competent authorities. For the Academic Session 2026–27, the petitioner obtained

Extension of Approval from the All India Council for Technical Education (AICTE) by approval letter dated 16.03.2026 for 30 seats in Diploma (Civil Engineering) and 60 seats each in Diploma (Electrical Engineering) and Diploma (Mechanical Engineering). The petitioner institution also enjoys the privileges of the respondent University under the provisions of the Chhattisgarh Swami Vivekanand Technical University Act, 2004 and has been regularly paying the prescribed affiliation fee. Pursuant to the annual inspection conducted by the respondent University on 21.04.2026, certain deficiencies were communicated to the petitioner on 25.04.2026. The petitioner claims to have promptly rectified the deficiencies, submitted the requisite compliance report along with an affidavit regarding ratification of the Principal and faculty members in terms of Statute 19, and also underwent re-inspection on 01.06.2026. Despite submission of full compliance, no further communication was issued by the respondent University. However, by the impugned communication dated 24.06.2026, the respondent University declined affiliation to the petitioner institution for the Academic Session 2026–27 and declared it as a "Zero Admission" institution, which has been assailed in the present writ petition

as being arbitrary, illegal and violative of the applicable statutory provisions.

3. Following reliefs have been prayed in this petition:-

“10.1 That the Hon'ble Court may be pleased to issue appropriate writ/order/direction, call for the entire records pertaining to the present case from the Respondent authorities for its kind perusal.

10.2 That the Hon'ble Court may be pleased to issue appropriate writ/order/direction quashing the impugned Communication dated 24.06.2026 (ANNEXURE P-1), issued by the Respondent University, since the same is also without jurisdiction and suffers from ambiguity.

10.3 That the Hon'ble Court may be pleased to issue appropriate writ/order/direction to the respondent university, directing them to confer affiliation to the petitioner institute to conduct the Diploma / Polytechnic as per the AICTE approval.

10.4 That the Hon'ble Court may be pleased to issue appropriate writ/order/direction to the respondent university to allow the petitioner to participate in counseling for academic session 2026-2027 for the Diploma / Polytechnic as per the AICTE approval.

10.5 Costs of the petition.

10.6 Any other relief(s), direction(s), which Hon'ble the Court deems fit, and proper, in the circumstances of the case.”

4. Mr. Kshitij Sharma, learned counsel appearing for the petitioner, submitted that the respondent University has acted wholly without jurisdiction in declining affiliation to the petitioner institution despite the All India Council for Technical Education (AICTE), the statutory authority under the AICTE Act, 1987, having granted Extension of Approval for the Academic Session 2026–27 after satisfying itself regarding the institution's infrastructure, faculty, and other statutory requirements. He contended that the role of the respondent University, being merely an affiliating and examining body under the Chhattisgarh Swami Vivekanand Technical University Act, 2004, is limited and it cannot sit in appeal over the decision of AICTE or prescribe standards contrary to those recognized by the apex regulatory body. It was further argued that the impugned communication dated 24.06.2026 refusing affiliation and declaring the petitioner as a "Zero Admission" institution is arbitrary, non-speaking, and has been issued in complete violation of the principles of natural justice, as no effective show-cause notice or opportunity of hearing was afforded before taking such drastic action. Learned counsel submitted that the petitioner had duly

rectified the deficiencies pointed out during inspection, submitted the requisite compliance report and affidavits, yet the University failed to consider the same and did not specify any surviving deficiencies in the impugned order. He further contended that the inspection conducted by the respondent University is contrary to the law laid down by the Supreme Court in *Rungta Engineering College Bhilai v. Chhattisgarh Swami Vivekanand Technical University*, as the University has not aligned its inspection parameters with the AICTE Regulations. It was lastly submitted that the impugned decision was issued after commencement of the counselling process, causing serious prejudice to the petitioner institution and its prospective students, and therefore deserves to be quashed.

5. Mr. Anand Dadariya, learned Deputy Advocate General appearing for the State, adopted the submissions advanced on behalf of respondent No. 2 and submitted that the impugned action has been taken by the respondent University in exercise of its statutory powers under the Chhattisgarh Swami Vivekanand Technical University Act, 2004 for maintaining academic standards in technical education. It was contended that no arbitrariness or illegality is attributable to the State authorities warranting interference under Article 226

of the Constitution of India and, therefore, the writ petition deserves to be dismissed.

6. Mr. Neeraj Choubey, learned counsel appearing for respondent No. 2—Chhattisgarh Swami Vivekanand Technical University, submitted that the impugned communication dated 24.06.2026 has been issued strictly in accordance with the provisions of the Chhattisgarh Swami Vivekanand Technical University Act, 2004 and Statutes 18 and 19 framed thereunder. He contended that the University, being the statutory affiliating and examining body, is under a legal obligation to maintain academic standards and ensure that affiliated institutions possess the requisite infrastructure, qualified faculty, regular Principal, laboratories, library and other essential facilities before permitting admissions. Learned counsel submitted that despite repeated inspections and several opportunities extended over the years, including the inspection dated 21.04.2026, communication of deficiencies on 25.04.2026, issuance of a show-cause notice dated 27.05.2026 and a subsequent re-inspection, the petitioner failed to rectify major deficiencies, particularly the absence of a regular Principal and adequate teaching faculty. It was further submitted that the petitioner itself admitted, by its communication dated 17.06.2026, that several faculty

posts and the post of Principal remained vacant and had only initiated the recruitment process immediately before consideration of its affiliation application. He argued that the Executive Council, after considering the inspection reports, compliance reports and the petitioner's past conduct, resolved to grant affiliation with "zero intake" for the Academic Session 2026–27 to protect academic standards and the interests of students, while leaving it open for the petitioner to seek restoration of intake upon removal of deficiencies. Learned counsel further contended that AICTE approval does not automatically confer a right to affiliation and that the University is competent to prescribe and enforce standards consistent with its statutory powers. In support of his submissions, he placed reliance upon the decisions of the Supreme Court in *Adarsh Shiksha Mahavidyalaya v. Subhash Rahangdale*, (2012) 2 SCC 425; *A.P.J. Abdul Kalam Technological University v. Jai Bharath College of Management*, (2021) 2 SCC 564; *Jawaharlal Nehru Technological University v. Crescent Educational Society*, 2021 SCC OnLine SC 1105; *Bharathidasan University v. AICTE*, (2001) 8 SCC 676; *Association of Management of Private Colleges v. AICTE*, (2013) 8 SCC 271; *State of Rajasthan v. LBS B.Ed. College*, (2016) 16 SCC 110; *R.*

Chitralekha v. State of Mysore, AIR 1964 SC 1823; and *Dental Council of India v. Hedgewar Smruti Rugna Seva Mandal*, (2017) 13 SCC 700, to contend that an affiliating University is entitled to insist upon compliance with statutory norms and even prescribe standards higher than the minimum prescribed by AICTE, and that the writ petition is not maintainable in view of the statutory remedy of appeal available under Statute 18.

7. Mr. Ajit Singh, learned counsel appearing for respondent No. 3—All India Council for Technical Education (AICTE), submitted that AICTE has granted Extension of Approval to the petitioner institution for the Academic Session 2026–27 in accordance with the AICTE Act, 1987 and the applicable Approval Process Handbook after verifying compliance with the prescribed norms. It was further submitted that the question of grant or refusal of affiliation falls within the domain of the affiliating University under the relevant State enactment and statutes, and AICTE leaves the issue to be adjudicated by this Court in accordance with law.
8. I have heard learned counsel for the parties and perused the material available on record.

9. It would be apposite to consider Statute No. 18 of the Chhattisgarh Swami Vivekanand Technical University, which governs the admission of colleges to the privileges of the University and the withdrawal or refusal of such privileges. The Statute prescribes the procedure for grant, continuation, refusal and withdrawal of affiliation, requiring inspection of the institution, communication of deficiencies, issuance of a notice to the concerned institution, consideration of its explanation, and thereafter a decision by the Executive Council. It further provides a statutory remedy of appeal against an order withdrawing or refusing affiliation.

“Clause 9 of the Statute No.18- (1) Wherever as a result of a prejudicial report or otherwise the Executive Council considers it necessary to initiate action for the withdrawal of all or any of the privileges granted to an institution/College, the Executive Council shall issue a notice to the Governing Body or the Government as the case may be, apprising the said body of the intention of the Executive Council and requiring the said body to show cause why action as intended should not be taken.

Provided that where an institution/College is admitted to the privileges of the University for a definite period and the

admission is not extended for a further period, it shall not amount to withdrawal of privileges.

(2) The notice under sub-para (1) shall state:

(a) the reasons for which the intended action is contemplated; and

(b) the period within which the reply to the show cause notice must reach the Registrar of the University.

(3) The Executive Council, for reasons considered sufficient by it may extend the period for reply from time to time but the total period shall not exceed three months.

(4) On receipt of the reply of the show cause notice within the period allowed to the institution/College under sub-statute (2) and (3), the Executive Council may consider the matter in the light of the reply and representation made, if any, by the institution/College concerned, and if no such reply is received, it may consider the matter on the expiration of the said period, and may after consulting the Academic Council/Standing Committee of the Academic Council make such order as may appear to it proper including the withdrawal of all or any of the privileges granted to the institution/College.

(5) Where a resolution withdrawing wholly or partially the privileges granted to an

institution/College is passed by the Executive Council, a copy of the same shall be sent to the Government, Chairman of the Governing Body of the institution/College concerned who may make an appeal to the Chancellor against such a resolution and the decision of the Chancellor in such appeal shall be final.”

- 10.** From a perusal of the aforesaid provisions, particularly Clause 9(1) of Statute No. 18, it is apparent that whenever the Executive Council proposes to withdraw or curtail any privilege granted to an institution, or proposes to take any action prejudicial to the institution, it is mandatory to issue a prior notice to the Governing Body of the institution. Such notice must clearly disclose the intention of the Executive Council to take the proposed action, specify the reasons on which such action is contemplated, and call upon the institution to show cause as to why the proposed action should not be taken. The notice must also stipulate the time within which the reply is required to reach the Registrar of the University. Though the Executive Council may, for sufficient reasons, extend the time for submission of the reply, such extension cannot exceed three months. Thereafter, upon due consideration of the show-cause notice, the explanation submitted by the institution, and after consultation with the Academic Council, wherever required, the Executive Council

may take an appropriate decision, including withdrawal of any privilege or affiliation granted to the institution, in accordance with law.

11. From the perusal of the documents placed on record, it appears that the respondent University had, from time to time, issued communications pointing out deficiencies in the petitioner institution, particularly with regard to the availability of regular faculty members and the Principal, and the petitioner was well aware of such deficiencies. However, a reading of Clause 9(1) of Statute No. 18 makes it evident that where the University proposes to pass any order prejudicial to an institution, including withdrawal or refusal of the privileges of affiliation, it is mandatory for the Executive Council to issue a prior show-cause notice to the concerned institution specifically disclosing its intention to take such action and calling upon the institution to show cause as to why the proposed action should not be taken. Such notice must not only communicate the proposed action but must also set out the reasons forming the basis of the contemplated decision, thereby affording the institution an effective opportunity to submit its explanation before any adverse decision is taken.

- 12.** From perusal of the entire record, it appears that before passing the impugned prejudicial order dated 24.06.2026, whereby the intake capacity of the petitioner institution for the Academic Session 2026–27 in the Diploma Courses of Mechanical Engineering, Electrical Engineering and Civil Engineering was declared as "Zero Admission", the procedure prescribed under Statute No. 18 of the Chhattisgarh Swami Vivekanand Technical University has not been followed in its true letter and spirit.
- 13.** It has been contended on behalf of the respondent University that sufficient opportunities were granted to the petitioner institution for removal of the deficiencies pointed out vide communications dated 25.04.2026 and 28.05.2026. However, the said communications cannot be treated as compliance of the mandatory requirement contemplated under Clause 9(1) of Statute No. 18. The said provision specifically requires that before taking any action which is prejudicial to the interest of an affiliated institution, including withdrawal, curtailment or refusal of the privileges of affiliation, the Executive Council is required to issue a specific notice indicating the proposed action, the grounds on which such action is contemplated, and thereafter provide an

effective opportunity to the institution to submit its explanation.

14. In the present case, from the documents available on record, it does not appear that any such prior notice was issued to the petitioner institution informing it that the University was contemplating declaration of "Zero Admission" for the Academic Session 2026–27 on account of the alleged deficiencies and calling upon the petitioner to show cause against such proposed action. The impugned decision, therefore, has been taken without adhering to the mandatory statutory procedure prescribed under Statute No. 18.

15. It is well settled that when an authority is required to act in a particular manner under a statute or statutory regulation, such authority is bound to follow the procedure prescribed therein and cannot act in disregard of the same. The requirement of issuance of notice, consideration of reply and thereafter taking a decision is not an empty formality but is intended to ensure fairness and compliance with the principles of natural justice, particularly when the decision has serious civil consequences for the institution.

16. In the matter of *Mackinnon Mackenzie and Company Limited vs. Mackinnon Employees Union (2015) 4 SCC*

544, the Hon'ble Supreme Court has held vide para 41 as under:-

"41. Further in in Sharif-ud-Din 13 it was held as under by this Court: (SCC Pp. 406-07, para 9)

"9. The difference between a mandatory rule and a directory rule is that while the former must be strictly observed, in the case of the latter substantial compliance may be sufficient to achieve the object regarding which the rule is enacted. Certain broad propositions which can be deduced from several decisions of courts regarding the rules of construction that should be followed in determining whether a provision of law is directory or mandatory may be summarised thus: The fact that the statute uses the word 'shall' while laying down a duty is not conclusive on the question whether it is a mandatory or directory provision. In order to find out the true character of the legislation, the court has to ascertain the object which the provision of law in question has to subserve and its design and the context in which it is enacted. If the object of a law is to be defeated by non-compliance with it, it has to be regarded as mandatory. But when a provision of law relates to the performance of any public duty and the invalidation of any act done in disregard of that provision causes serious prejudice to those for whose benefit it is enacted and at the same

time who have no control over the performance of the duty, such provision should be treated as a directory one. Where, however, a provision of law prescribes that a certain act has to be done in a particular manner by a person in order to acquire a right and it is coupled with another provision which confers an immunity on another when such act is not done in that manner, the former has to be regarded as a mandatory one. A procedural rule ordinarily should not be construed as mandatory if the defect in the act done in pursuance of it can be cured by permitting appropriate rectification to be carried out at a subsequent stage unless by according such permission to rectify the error later on, another rule would be contravened. Whenever a statute prescribes that a particular act is to be done in a particular manner and also lays down that failure to comply with the said requirement leads to a specific consequence, it would be difficult to hold that the requirement is not mandatory and the specified consequence should not follow." (emphasis supplied)"

17. The Hon'ble Supreme Court in the matter of ***Babu Verghese v. Bar Council of Kerala (1999) 3 SCC 422*** has held that if the manner of doing a particular act is prescribed under any statute, and the same is not followed, then the action suffers from nullity in the eye of the law, the relevant

paragraphs of the abovesaid case are extracted hereunder:

(SCC pp. 432-33, paras 31-32)

"31. It is the basic principle of law long settled that if the manner of doing a particular act is prescribed under any statute, the act must be done in that manner or not at all. The origin of this rule is traccable to the decision in Taylor v. Taylor (1875) LR 1 Ch D 426 which was followed by Lord Roche in Nazir Ahmad v. King Emperor AIR 1936 PC 253(2) who stated as under: (Nazir Ahmad case²², IA pp. 381-82)

**... where a power is given to do a certain thing in a certain way, the thing must be done in that way or not at all.*

32. This rule has since been approved by this Court in Rao Shiv Bahadur Singh v. State of Vindhya Pradesh ¹⁹ and again in Deep Chand v. State of Rajasthan²³, These cases were considered by a three-Judge Bench of this Court in State of U.P. v. Singhara Singh²⁴ and the rule laid down in Nazir Ahmad case²² was again upheld. This rule has since been applied to the exercise of jurisdiction by courts and has also been recognised as a salutary principle of administrative law."

(emphasis supplied)

42. Apart from the said decisions, this Court has followed the Privy Council of 1939 and Chancellor's decisions right from the year 1875 which legal principle has been approved by this Court in Rao Shiv Bahadur Singh v. State of Vindhya Pradesh AIR 1954 SC 322 and the same has been followed until now, holding that if a statutory provision prescribes a particular procedure to be followed by the authority to do an act, it should be done in that particular manner only. If such procedure is not followed in the prescribed manner as provided under the statutory provision, then such act of the authority is held to be null and void ab initio in law. In the present case, undisputedly, the statutory provisions of Section 25-FFA of the ID Act have not been complied with and therefore, consequent action of the appellant Company will be in violation of the statutory provisions of Section 25-FFA of the ID Act and therefore, the action of the Company in retrenching the workmen concerned will amount to void ab initio in law as the same is inchoate and invalid in law."

18. Likewise, the Hon'ble Supreme Court in the matter of ***Supertech Limited vs. Emerald Court Owner Resident Welfare Association and Others (2023) 10 SCC 817*** had held as under:-

“14. Further, there is another legal principle which is applicable in the present case. It is that where a power is given to do a certain thing in a certain way, the thing must be done in that way or not at all and that other methods of performance are necessarily forbidden [Taylor v. Taylor, (1875) LR 1 Ch D 426]. Hence, when a statute requires a particular thing to be done in a particular manner, it must be done in that manner or not at all and other methods of performance are necessarily forbidden [Nazir Ahmad v. King Emperor, 1936 SCC OnLine SC 46 ; AIR 1960 SC 801]. This d Court too, has adopted this maxim [Parbhani Transport Coop. Society Ltd. v. RTA, 1960 SCC OnLine SC 46 ; AIR 1960 SC 801]. This rule provides that an expressly laid down mode of doing something necessarily implies a prohibition on doing it in any other way.”

- 19.** This Court is conscious of the fact that the University, being the affiliating and examining authority, is entitled to ensure maintenance of academic standards and take appropriate measures in case an institution fails to fulfil the prescribed requirements. However, such power is required to be exercised strictly in accordance with the procedure established under the governing statute. The statutory authority itself having framed the procedure, it cannot be permitted to bypass the same while taking an adverse

decision against an affiliated institution. It is a settled principle of law that where a power is conferred by a statute to do a particular thing in a particular manner, the same must be done in that manner alone or not at all, and all other modes of performance are necessarily forbidden. Therefore, once Statute No. 18 prescribes the procedure for taking any action prejudicial to an affiliated institution, the respondent University was under a statutory obligation to adhere to the same in its letter and spirit.

20. In view of the aforesaid discussion and the settled legal position, this Court is of the considered opinion that the impugned communication dated 24.06.2026 declaring the petitioner institution as a "Zero Admission" institution for the Diploma Courses of Mechanical Engineering, Electrical Engineering and Civil Engineering cannot be sustained, as the same has been issued in violation of the mandatory procedure prescribed under Statute No. 18 of the Chhattisgarh Swami Vivekanand Technical University. The action of the respondent University, having been taken in a manner contrary to the procedure expressly prescribed by the governing Statute, is legally unsustainable and deserves to be quashed.

21. However, this Court has not examined the merits of the allegations regarding the deficiencies pointed out by the respondent University or as to whether such deficiencies have actually been cured by the petitioner institution. The said issues are left open to be considered by the competent authority in accordance with law after following the procedure prescribed under the relevant statute.

22. Resultantly, the petition is **allowed** to the aforesaid terms.

sd/-

(Amitendra Kishore Prasad)
Judge

Vishakha