

# പതിനാലാം കേരള നിയമസഭ

## പത്താം സമ്മേളനം

നക്ഷത്ര ചിഹ്നമിട്ട ചോദ്യം നം. \*119

05.03.2018 -ലെ മറുപടിയ്ക്ക്

### ജസ്റ്റീസ് ദിനേശൻ കമ്മീഷൻ റിപ്പോർട്ട്


ചോദ്യം

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ഉത്തരം

പ്രൊഫ. സി രവീന്ദ്രനാഥ്  
(ബഹു.വിദ്യാഭ്യാസ വകുപ്പ് മന്ത്രി)

(എ)	സ്വാശ്രയ വിദ്യാഭ്യാസ സ്ഥാപനങ്ങളിലെ പ്രശ്നങ്ങളെ സംബന്ധിച്ച് പഠിച്ച് റിപ്പോർട്ട് സമർപ്പിക്കുവാൻ നിയോഗിച്ച ജസ്റ്റീസ് ദിനേശൻ കമ്മീഷൻ സർക്കാരിന് റിപ്പോർട്ട് സമർപ്പിച്ചിട്ടുണ്ടോ; വ്യക്തമാക്കുമോ;	(എ)	ഉണ്ട്. ജസ്റ്റീസ് കെ.കെ.ദിനേശൻ കമ്മീഷൻ സർക്കാരിന് സമർപ്പിച്ച റിപ്പോർട്ട് മന്ത്രിസഭ അംഗീകരിക്കുകയും ടി റിപ്പോർട്ട് 22.02.2018 ലെ സർക്കാർ ഉത്തരവ് (കെ) നം.55/2018/ഉ.വി.വ പ്രകാരം തത്യാത്തിൽ അംഗീകരിച്ച് ഉത്തരവ് പുറപ്പെടുവിക്കുകയും ചെയ്തിട്ടുണ്ട്.
(ബി)	പ്രസ്തുത റിപ്പോർട്ടിലെ പ്രധാന ശിപാർശകൾ എന്തെല്ലാമാണെന്ന് വിശദമാക്കാമോ;	(ബി)	ശിപാർശകൾ അനുബന്ധമായി ചേർക്കുന്നു.
(സി)	ഈ റിപ്പോർട്ടിന്മേൽ എന്തെല്ലാം നടപടികൾ സ്വീകരിച്ചു എന്ന് വിശദമാക്കുമോ?	(സി)	തത്യാത്തിൽ അംഗീകരിച്ച ടി റിപ്പോർട്ട് സർക്കാർ പരിശോധിച്ചുവരുന്നു.

  
**സെക്ഷൻ ഓഫീസർ**

**Summary of Recommendations**

- 1) Take up the issue of restoration of the legislative powers of the States by entering "Education" in List-II of Schedule VII of the Constitution as existed prior to the 42nd amendment together with entry 25 of List-III. Eroding the legislative power of the States, especially in matters like education, is tantamount to weakening the concept of federality. It is a serious issue affecting the public as a whole and the same deserves to be taken up for discussion in the public domain and in the All India Conference of Chief Ministers of the States. Restoration of the legislative power will take the States a long way to bring more effective legislations on education and to deal with institutions including unaided colleges imparting higher education (see 2.5)
- 2) Kerala University of Health Sciences may monitor the action taken by the affiliated colleges to comply with the directions of the Medical Council making it mandatory for the medical colleges to provide bio-metric finger print attendance machine for capturing faculty attendance using OFAMOS under Digital Mission Mode Project and report faults, if any, on the part of the college authorities to the Medical Council for necessary action. (see 4.3.1)
- 3) But for Section 69 in Chapter VIII A and except to the extent the aforesaid section provides for matters specifically stated therein, the entire provisions of the Kerala University Act and similar provisions in the other Acts apply to SFCs also. Universities must alert themselves to make use of the powers conferred on them by law, exercising discretion wherever necessary, to distinguish between provisions that are applicable to private colleges as a whole and those provisions applicable only to aided colleges. (see 6.9)
- 4) It is the duty of the University to see that qualified teachers who have been appointed by issuing proper orders of appointment are attending the colleges and imparting education. It is also the duty of the university to satisfy itself that essential infrastructure and learning equipments are available in the self-financing colleges (see 6.12)
- 5) Only two options are left for a statutory public institution like the university regarding self financing institutions maintained by it.  
(1) Administer SFCs observing rules and regulations, providing

salary and humane conditions of service as a model employer. (2)  
If not, get rid of the risk of maintaining self financing colleges or courses by the university. Instead, focus on the powers, functions and duties of the University as enjoined by the Act and the Statutes. (see 6.13)

- Health
- 6) Being a course of study in the medical field which generates job opportunities to members of lower and middle class families, here and abroad, Government in the Health Department and KUHS may bestow special attention to proper conduct of nursing colleges. (see 7.9.)
- Health
- 7) It is only proper that Government takes appropriate decision in the matter of stipend to interns on the basis of the report from KUHS, at the earliest. (see 7.11.7)
- 5
- 8) Government may frame First Statutes under section 42 of the APJ Abdulkalam Technological University Act, urgently, taking into consideration the observations made in this Report. (see 8.5)
- 5
- 9) Amend clause (ii) of sub-section (2) of Section 60 of the APJ Abdulkalam Technological University Act by including unaided colleges also within the purview of that clause (see 8.7)
- C
- 10) All India Bar Council has to take serious note of the observations made in Chapter IX of this Report and arrange to conduct inspections in the Law Colleges run by self-financing private managements for necessary action. Government may forward relevant portion of this Report on "Law Colleges" to the Chairman, All India Bar Council, New Delhi for information. ( see 9.3, 9.4 & 9.5 )
- B
- 11) B.Ed courses shall be converted into integrated courses so that candidates who seek admission to the course after passing + 2 examination will be able to acquire double graduation, namely, BA and B.Ed or B.Sc and B.Ed at a single stroke. The total period required for the course will be four years. Regulations issued by NCTE permit the conduct of such integrated courses. Universities may initiate action to permit the managements to start integrated courses as stated above (see 10.7)
- 5
- 12) Government may, if it considers necessary, set up a separate Committee for regulating admission and determining tuition fee for students of professional colleges other than medical and engineering and all non-professional colleges/courses by enacting a law to that effect or amending the existing law to entrust that function also to the Admission and Fee Regulatory Committee

presently in office with appropriate changes in the members who are to represent the disciplines to which the students are to be admitted and whose tuition fees are to be determined.(see 11.2)

- 13) Law relating to installing CCTV system in college campuses is covered by Government circulars, regulations of Apex bodies and judgment of the High Court. University has to deal with grievances of students relating to installation of CCTV within the boundaries of the law mentioned above. However, in cases where the managements install CCTV in violation of the above principle of law and interfere with the right to privacy, university has the duty to examine the grievance on merit and take necessary action.(see 13.4.2)
- 14) Government may constitute District Level and State Level Ombudsman to deal with disputes between the students and the managements, except disputes relating to internal assessment for which alternate grievance redressal forum will be functioning, by incorporating necessary provisions in the legislative enactment to be made covering all relevant aspects of self financing colleges.(see 13.5)
- 15) Election of office bearers and representatives of the students organizations shall be made in accordance with the recommendations contained in the Lyngdoh Committee Report as modified by the order of the Supreme Court. (see 14.3)
- 16) Consider the scope of bringing a legislation ensuring freedom of speech and expression, to assemble peaceably and without arms and to form associations or unions to all students in the institutions of higher education as guaranteed by Article 19 of the Constitution of India and the reasonable restrictions to be statutorily made for the exercise of the above rights. (see 14.12)
- 17) System of internal assessment in the self financing colleges may be regulated on the basis of the recommendations made by the Vice-Chancellors' Committee subject to the condition that the minimum score insisted for internal assessment shall be dropped. Instead a combined minimum (IA marks plus final examination marks) can be insisted upon for a pass. (see 15.7)
- 18) SC/ST and OEC students in the self financing institutions in the State are entitled to the benefits without reference to whether they were admitted in the merit quota or management quota and also without insisting that they should have been admitted from the list prepared by the Commissioner of Entrance Examinations. There are Government Orders granting the benefit of fee

concession, lumpsum grant etc. to OEC students. Hence, it is the duty of the SFC managements and the State to see that the above benefits are made available to students belonging to OEC. (see 16.2)

9) 19) Complaints of SC/ST/OEC students that managements of self financing educational institutions used to extract money from them which is far in excess of the prescribed rate of special fee and other fee shall be enquired into and action taken to stop such malpractices. (see 16.3)

BCD  
20) OEC students are eligible for stipend from the Backward Class Development Department. As soon as the amount is received from the department, the managements/college authorities are bound to pay that amount to the students concerned. But reimbursement is not made and the college authorities are misappropriating that amount. This is a serious allegation that needs to be enquired into by the Backward Class Development Department. If the allegation is found true, even prima facie, the Police in the Vigilance Department shall be informed without any delay. (see 16.4)

SC ST  
21) Government may take up the grievance of ST/SC and OEC students about the delay in granting lumpsum grant and stipend and do what is necessary including directions to the departments. (see 16.6)

22) Reserving community quota seats has been found to be unconstitutional by the High Court. In spite of that, decisions are being taken at Government level and university level to reserve certain percentage of seats in the colleges as community quota. It is recommended that the findings in the judgment of the High Court shall be given effect to. (see 16.7)

23) Identity of the college shall be made clear in the prospectus, the portals, the web sites and other notifications inviting applications from students so that there shall not be any confusion as to whether it is a government college or a government controlled self financing college (see 16.8)

24) Article 15(5) of the Constitution enables the Legislature to make a law providing reservation to backward classes and scheduled castes and scheduled tribes for admission to educational institutions run by private institutions except those managed by minority communities. Unless, a law is passed by the Legislature, the backward classes will not be able to enjoy the benefit of Article 15(5) of the Constitution. Government may take immediate action

to bring appropriate legislation in the matter of admission to colleges for which no legislation has so far been made. (see 16.9)

5. B
- 25) There is dire need to lay down by law the conditions of service of the staff of the self financing colleges, because one of the major reasons for the unsatisfactory conduct of SFCs is the absence of duly framed rules or regulations for fixing the staff strength on the basis of workload, qualifications for appointment to the teaching and non-teaching posts, pay scales and other allowances, tenure of post, eligible leave, conduct and discipline etc. Government and the universities may take immediate action as recommended in paragraph 10 of Chapter XVII of this Report (see 17.1)
- 26) Teachers, other academic staff and members of non-teaching staff have the fundamental right to form associations, assemble peaceably and raise demands by way of collective bargaining. They can request the management, through the forum of the Association, to redress their grievances in regard to conditions of service. Government may constitute a forum for adjudication, to wit a Tribunal, to entertain and resolve all disputes between the management and the employees or between employees and employees of self financing colleges. (see 17.11)
- 27) Government may make appropriate statutory provisions to form Parent-Teacher Association in the self financing colleges. PTA shall be made compulsory. Orders or rules made applicable to PTA in aided private schools can be adopted with necessary modifications. It shall be made clear that the management shall not directly or indirectly interfere with the functioning of organizations of students, employees and parent-teachers or self financing colleges. ( see 17.12)
- 28) In the matter of fixing the affiliation fee, administration fee etc. higher amounts are collected from the self financing managements than the aided private managements. There is no justification for such discrimination. Universities shall examine this grievance of the managements and rationalize the collection of fees etc. (see 18.2.1)
- 29) Grievances on the score of practical examinations shall be examined by KTU and decisions shall be taken to promote academic excellence. ( see 18.2.3)
- 30) Statutory Provisions may be made making NAAC accreditation mandatory for all colleges which have the minimum period of service. In the alternative, rules may insist that every institution shall publish all the relevant details like, how old the college is,

how much land area and built up area is there, what laboratories and learning equipments are there, how many students were admitted last year, how many students graduated in the last academic year, what was the percentage of pass in the university examinations, how many companies visited the campus last year for campus recruitment and how many students got placement, etc, in their web sites. Still another option is for the University to collect all these information and to put all of them in the University Web Site itself, under the name of each affiliated college. This information can be easily gathered by the University at the time of annual affiliation process.(see 18.2.5)

31) Prohibit by law the imposition of fine on students by the managements for any reason whatsoever. It is illegal on the part of the managements to collect from the students any amount other than the tuition fees. Law should make it clear in the manner done in the enactments made by other States that collection of any amount other than tuition fee will be deemed to be capitation fee (see 18.2.6)

32) Self financing colleges shall be treated on par with government/aided colleges as they are educational institutions. Exemptions and concessions granted to government/aided colleges in the matter of electricity charges, property tax etc. shall be extended to self financing colleges also. Appropriate statutory provisions may be made in this behalf.(see 18.2.8)

33) Prohibit by law the practice of the managements of self financing colleges collecting fees in advance for future semesters also for the reason that the students may leave the college mid-way. Similarly, the practice of the managements collecting the entire amount towards tuition fee for all the semesters from a student who leaves the college mid-way is not permissible. This practice also shall be prohibited. Practice followed by the managements withholding the original certificates of the students for one reason or the other shall not be allowed to continue. Necessary legal provisions may be made prohibiting the above practice.(see 18.3)

34) Uniform provisions shall be made by amending the University Acts with regard to governing bodies and managing councils of private colleges including unaided colleges.(see 18.4)

35) Managements of aided colleges who are running unaided colleges or courses shall not utilize, in any manner, the facilities meant for aided colleges. Aided colleges and unaided colleges shall function as watertight compartments. If the managements violate this

principle, their action will be unlawful attracting penal provisions. At any rate, it will be a fraud on the Higher Education Department and the public ( see 18.5)

36) (i) Government may take over all the government controlled self financing institutions and integrate them with the government colleges so that a substantial number of SFCs will be transformed as institutions directly under the Government. Students of all such colleges will have a common procedure for admission and uniform rate of fees as they belong to a homogenous class; or

(ii) maintain government controlled SFCs as they are now, for some more time, but provide additional budgetary support to the institutions to cover up the deficit due to fall in tuition fees and increase in expenses on account of payment of salary in the prescribed pay scales and providing other service benefits to the staff; or

(iii) integration may be accepted in principle and institutions may be converted as pucca government institutions in a phased manner. While ordering conversion of the institutions as government institutions, it is open to the Government to lay down terms and conditions and other principles governing integration. Qualified employees shall have to be paid emoluments equal to that of their contemporaries working in government and aided private colleges. Benefits made available to government employees while in service can be extended to them. But retirement benefits under Part-III of KSR need not automatically be given. Teaching and other staff of the government controlled institutions were appointed without undergoing the process of consultation with the Public Service Commission. Hence, those employees cannot, as of right, claim benefits, in all respects, equal to that of government employees unless so ordered by the Government. However, granting equal benefits to them as that of government employees, while in service, is only just and reasonable. None of the rights presently enjoyed will be lost to the employees. In the matter of conferring new rights, it is open to the employer to lay down such terms and conditions in the order integrating the new institution with the employees working there. Hence, no legal objection can be raised by the employees of the government controlled colleges if merger is ordered on terms. But in the matter of other benefits including pension, gratuity etc., Government have the power to take a policy decision based on financial resources and to incorporate the same in the form of terms and conditions of integration. The employees who would be covered by the integration order, will be governed by the



terms and conditions stated therein, because it will be only on that understanding, the integration would materialize. (see 20.7)

- 37) Perspective plan pertaining to professional and higher education institutions shall be prepared by conducting survey. Notification in this behalf shall be made entrusting the work to higher education council as mentioned in Chapter - XXI of this Report. (see 21.2)
- 38) Perspective plan for KTU is a statutory requirement. The same shall be done in terms of Section 61 of the Act (see 21.3)
- 39) Officers of the departments concerned shall be directed to communicate the views of the Government, promptly and furnishing all relevant details, to the Apex bodies in response to applications for starting new colleges. ( see 21.4)
- 40) Government may review the fee structure now in force in the government colleges and examine the scope of upward revision of fees for reasons stated in this report. (see 23.2)
- 41) Government may, by law, constitute a fund, making use of the caution money deposits from the managements, to rehabilitate students who suffer desertion due to abrupt closure of colleges and to compensate the loss and injury caused to students consequent on mismanagement, maladministration, harassment, human rights violations etc. of the managements. (see 23.3)
- 42) Government may introduce a scheme, statutory or otherwise, to render financial support to students from economically weaker sections on merit-cum-means basis. Financial support can be rendered as scholarships or stipends or loans including "honour loans". ( see 23.4)
- 43) It shall be the statutory obligation of the managements to furnish, periodically, relevant information to the Government and the university, for the benefit of the public, in answer to a questionnaire structured by the Higher Education Department, Government of Kerala in consultation with the affiliating universities. (see 25)

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