State of Tamil Nadu and Anr. vs. Adhiyaman Educational & Research Institute and Ors.
[(1995) 4 SCC 104]

EXTRACTS ONLY

"8. It may thus be seen that although on the facts in the present case, what is questioned is the power of the State Government and the University respectively to derecognise and disaffiliate the Engineering College, what is involved is the larger issue as stated at the outset, viz., the conflict between the Central Act on the one hand and the Tamil Nadu Private College [Regulation] Act, 1976 ..... on the other. We have, therefore, in effect to address ourselves to this larger issue.

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15. The subject "coordination and determination of standards in institutions for higher education of research and scientific and technical institutions" have always remained the special preserve of the Parliament..... It cannot, therefore, be doubted nor is it contended before us, that the legislation with regard to coordination and determination of standards in institutions for higher education or research and scientific and technical institutions has always been the preserve of the Parliament. What was contended before us on behalf of the State was that Entry 66 enables the Parliament to lay down the minimum standards but does not deprive the State Legislature from laying down standards above the said minimum standards....."

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43. What emerges from the above discussion is as follows:

[i] The expression "coordination" used in Entry 66 of the Union List of the Seventh Schedule to the Constitution does not merely mean evaluation. It means harmonisation with a view to forge a uniform pattern for a concerted action according to a certain design, scheme or plan of development. It, therefore, includes action not only for removal of disparities in standards but also for preventing the occurrence of such disparities. It would, therefore, also include power to do all things which are necessary to prevent what would make "coordination" either impossible or difficult. This power is absolute and unconditional and in the absence of any valid compelling reasons, it must be given its full effect according to its plain and express intention.

[ii] To the extent that the State legislation is in conflict with the Central legislation though the former is purported to have been made under Entry 25 of the Concurrent List but in effect encroaches upon legislation including subordinate legislation made by the center under Entry 25 of the Concurrent List or to give effect to Entry 66 of the Union List, it would be void and inoperative.

[iii] If there is a conflict between the two legislations, unless the State legislation is saved by the provisions of the main part of Clause [2] of Article 254, the State legislation being repugnant to the Central legislation, the same would be inoperative.

[iv] Whether the State law encroaches upon Entry 66 of the Union List or is repugnant to the law made by the center under Entry 25 of the Concurrent List, will have to be determined by the examination of the two laws and will depend upon the facts of each case.

[v] When there are more applicants than the available situations/seats, the State authority is not prevented from laying down higher standards or qualifications than those laid down by the center or the Central authority to short-list the applicants. When the State authority does so, it does not encroach upon Entry 66 of the Union List or make a law which is repugnant to the Central law.

[vi] However, when the situations/ seats are available and the State authorities deny an applicant the same on the ground that the applicant is not qualified according to its standards or qualifications, as the case may be, although the applicant satisfies the standards or qualifications laid down by the Central law, they act unconstitutionally. So also when the State authorities derecognize or disaffiliate an institution for not satisfying the standards or requirement laid down by them, although it satisfied the norms and requirements laid down by the central authority, the State authorities act illegally.

44. We find nothing in the impugned judgment of the High Court which is contrary to or inconsistent with the propositions of law laid down above. Hence we dismiss the appeals and the special leave petitions with costs.

45. As a result, as has been pointed out earlier, the provisions of the Central statute on the one hand and of the State statutes on the other, being inconsistent and, therefore, repugnant with each other, the Central statute will prevail and the derecognition by the State Government or the disaffiliation by the State University on grounds which are inconsistent with those enumerated in the Central statute will be inoperative.