(2003) 05 AHC CK 0229

Allahabad High Court

Case No: Civil Miscellaneous Writ Petition No. 34022 of 2002

XL-IIT Forum and Others		APPELLANT
	Vs	
State of U.P. and Others		RESPONDENT

Date of Decision: May 27, 2003

Acts Referred:

- Constitution of India, 1950 - Article 14, 19(1), 19(6), 226
- Uttar Pradesh Regulation of Coaching Act, 2002 - Section 3(2), 3(3), 4, 5, 7(2)
- Uttar Pradesh Regulation of Coaching Rules, 2002 - Rule 12, 14, 15, 7

Citation: (2003) 3 UPLBEC 2067

Hon'ble Judges: R.S. Tripathi, J; M. Katju, J

Bench: Division Bench

Advocate: Ashok Khare and Anurag Khanna, for the Appellant;

Final Decision: Dismissed

Judgement

M. Katju J.

1. In this writ petition and in a large number of other similar writ petitions listed before us the petitioners have challenged the constitutional validity of U.P. Ordinance No. 8 of 2002, Annexure-2 to the writ petition entitled "The U.P. Regulation of Coaching Ordinance, 2002". This Ordinance was subsequently repealed by U.P. Regulation of Coaching Act, 2002. The petitioners have also challenged the validity of the said Act by an amendment application and also of the Rules made under the said Ordinance/Act, copy of which is Armcxure-3 to the writ petition and have prayed for a mandamus restraining the respondents from enforcing the said Ordinance/Act and Rules framed thereunder.

2. It is alleged in Paragraphs 3 to 6-A of the writ petition that the petitioners are institutions/societies imparting coaching for various courses as mentioned in those paragraphs.

3. We have heard the learned Counsel for the parties.

4. The preamble to the Act states :

"An Act to provide for restriction on coaching under certain circumstances, and for the registration of the person imparting coaching, or running, managing or maintaining coaching centres, and for matters connected therewith or incidental thereto."

5. The Statement of Objects and Reasons of the Act states ;

"The State Government received complaints that the Teachers of the Universities Degree Colleges and other aided institutions were imparting coaching or running, managing or maintaining coaching centers and were not taking interest in imparting instructions or their respective Universities, Colleges or Institutions. It was, therefore, decided to make a law to provide for restriction on coaching under certain circumstances and for registration of the person imparting coaching or running, managing or maintaining coaching centres."

6. Various submissions have been made in this bunch of petitions and we may deal with them seriatim.

7. It is first alleged that the said Ordinance/Act amounts to colourable exercise of powers. This submission is totally misconceived. The expression colourable exercise of powers'' when attributed to a legislation has nothing to do with motive but it relates only to legislative competence vide K.C. Gajapati Narayan Deo and Others Vs. The State of Orissa, ; Ashok v. Union of India, AIR 1991 SC 1792 (Para 6); Jaora Sugar Mills (P) Ltd. Vs. State of Madhya Pradesh and Others, In these decisions it has been held that the doctrine of colourable legislation has nothing to do with motive and only relates to the question of vires or the power of the legislature to make the law vide Federation of Hotel and Restaurant Association of India, etc., Vs. Union of India (UOI) and Others, ; R.S. Joshi, Sales Tax Officer, Gujarat and Others Vs. Ajit Mills Limited and Another, ; Makhan Singh Vs. State of Punjab (and connected appeals), etc.

8. In our opinion there can be no doubt that the State Legislature has legislative competence to enact the impugned legislation as education is in Entry-25 of List-III of the Seventh Schedule to the Constitution which states :

"Education, including technical education, medical education and universities, subject to the provisions of Entries 63, 64, 65 and 66 of List-I vocational and technical training of labour."

9. The education is in the concurrent list of the Constitution and hence the State legislature can certainly legislate on it subject to the provisions of Entries 63 to 66 of List-I.

10. It is then urged that while there can be restriction imposed on Teachers of affiliated Colleges, associated Colleges, or institutions organized by the Board no restriction can be placed on coaching institutions. In our opinion, this argument too has no merit. In our opinion, the word "education" in Entry 25 of List-III of the Seventh Schedule is wide enough to include coaching institutes because, it is well settled that the entries in the lists in the Constitution should be given the widest scope of their meaning vide, Sri Ram Ram Narain Medhi Vs. The State of Bombay, ; Seth Banarsi Das etc. Vs. Wealth Tax Officer, Special Circle Meerut, etc., It has also been held by the Supreme Court that the general words in an entry would be held to be extend to all ancillary or subsidiary matters which can fairly and reasonably be comprehended in it vide R.S. Joshi, Sales Tax Officer, Gujarat and Others Vs. Ajit Mills Limited and Another, ; Hans Muller of Nurenburg Vs. Superintendent, Presidency Jail, Calcutta and Others, ; Navinchandra Mafatlal Vs. The Commissioner of Income Tax, Bombay City, ; Chaturbhai M. Patel Vs. Union of India (UOI) and Others, ; Rai Ram Krishna v. State of Bihar AIR 1963 SC 1967 etc. The various entries in the three lists are not powers of legislation but fields of legislation vide Union of India v. Harbhajan Singh Dhillon, (1972) 83 ITR 582 (SC); Harakchand Ratanchand Banthia and Others Vs. Union of India (UOI) and Others, ; The Calcutta Gas Company (Proprietary) Ltd. Vs. The State of West Bengal and Others, etc.

11. The meaning of the word "Education" as given in the Law Lexicon of P. Ramanatha Aiyar is as follows :

"Education is the bringing up; the process of developing and training the powers and capabilities of human beings, In its broadest sense the word comprehends not merely the instruction received at School, or College but the whole course of training moral, intellectual and physical; it is not limited to the ordinary instruction of the child in the pursuits of literature. It also comprehends a proper attention to the moral and religious sentiments of the child. And it is sometimes used as synonymous with learning."

12. The meaning of the word "education" given in the New Lexicon Webster"s Dictionary is as follows :

"Education-instruction or training by which people (generally young) learn to develop and use their mental; moral and physical powers, the art of giving such training, a gaming of experience, either improving or harmful; a branch, system or stage of instruction."

13. Thus, in our opinion, coaching is certainly part of education, and hence, the State Legislature can legislate on it.

14. It is next contended that the restriction imposed by the impugned Ordinance/Act are unreasonable restrictions upon the freedom and trade or profession of the petitioners under Article 19(l)(g) of the Constitution. We cannot accept this submission. In our opinion, the impugned Ordinance/Act and Rules made

thereunder imposes reasonable restrictions under Article 19(6) of the Constitution.

15. It must be remembered that education is a matter of paramount importance for the nation''s progress and survival in the modern world. Unless, we have a good education system in our country, we will not be able to compete with other countries. In the modern world if a State does not educate its people the country will remain poor and backward and come under the control of the developed nations, economically and politically. Hence, education is of paramount importance for the very survival of a nation in the modern world. As John Kenneth Galbraith says, in his book. "The new Industrial State."

"The industrial system, by making trained and educated manpower the decisive factor of production, requires a highly developed educational system."

16. Everyone knows what has been happening in the field of education in the State of U.P. in recent years. A visit to most of the education institutions in the State will show that often Teachers are absent, or they come only to mark their presence and take salaries, there are tuition rackets, mass copying etc. As mentioned in the Statement of Object and Reasons of the impugned Coaching Act, the State Government had received complaints that the Teachers of the Universities, Degree Colleges and other aided institutions were imparting coaching or running, managing or maintaining coaching centers and were not taking interest, in imparting instruction in their own institutions. This was a widespread malady in the institutions, as everybody knows.

17. In Paragraph 3(a) of the counter-affidavit it is stated that coaching classes are being run in almost all the cities in the State and complaints are often made that the full time Teachers drawing salary from the State Exchequer not only avoid proper teaching in the College but promote, some times force, the students to attend these coaching classes. Instead of attending classes in the institutions the Teachers preferred to attend the coaching even during College hours and students are exploited thereby. As stated in Annexure-1 to the counter-affidavit, while such Teachers take salary from the State Exchequer, they encourage the students to join their coaching classes, and only those who join the coaching get good marks. Often the Teachers do not teach in the institutions but only teach in the coaching centres although they take salary from the institutions. The students are often compelled to join the coaching which results in their economic exploitation.

18. In Paragraph 3(c) of the counter-affidavit it is stated that in a conference of Vice-Chancellors held on 26.2.2001 and 22.6.2002, it was unanimously resolved that the State Government must come out with effective laws to regulate such coaching so that proper teaching in the class room could be assured and exploitation of the students by the coaching centers could be effectively checked. Accordingly, the impugned Ordinance was promulgated.

19. It may be mentioned that to test the reasonability of a restriction we have to see ''the subject matter, extent of restriction, the mischief which it seeks to check, etc. The reasonableness of the restriction has to be determined in an objective manner and has to be seen from the point of view of the interest of the general public and not from the joint of view of the persons upon whom the restrictions are imposed vide Mohd. Hanif Quareshi and Others Vs. The State of Bihar, Moreover, the impugned statute cannot be said to be unreasonable merely because in a given case, it operates harshly vide State of Gujarat Vs. Shantilal Mangaldas and Others, As observed by the Supreme Court in Laxmi Khandsari and Others Vs. State of U.P. and Others, ; Trivedi v. State of Gujarat AIR 1986 SC 1323 ; State of Madras Vs. V.G. Row, ; Peerless General Finance and Investment Co. Limited and Another Vs. Reserve Bank of India, ; Harakchand Ratanchand Banthia and Others Vs. Union of India (UOI) and Others, etc., the nature of the right alleged to have been infringed, the underlying purpose of the restriction imposed and the extent and urgency of the evil sought to be remedied thereby, disproportion of the imposition, prevailing conditions at the time etc., are the relevant considerations for determining whether the restriction is reasonable.

20. Further, as held in Jyoti Pershad Vs. The Administrator for The Union Territory of Delhi, , the standard of reasonableness must also vary from age to age and be related to the adjustments necessary to solve the problems which communities face from time to time. In adjudging the validity of the restriction the Court has necessarily to approach the question from the point of view of the social interest which the legislation intends to promote vide Pathumma and Others Vs. State of Kerala and Others, P.P. Enterprises and Others Vs. Union of India (UOI) and Others, ; Jyoti Prasad v. Union Territory of Delhi (supra) etc.

21. Judged by these standards the impugned Ordinance, Act and the Rules made thereunder cannot be faulted on the ground of lack of reasonableness. As stated in the counter-affidavit and as is also widely experienced in the state of affairs prevailing in this State, there is a widely rampant racket operating among the coaching institutes as a result of which most Teachers in most of the Colleges and Universities functioning in this State instead of devoting themselves to the Colleges and the Universities where they are employed work openly in coaching institutes which have become money spinning machineries. This malaise obviously directly affects the quality of education harming the innocent students studying in the regular Colleges and Universities. What was once the pious mission and calling of the Teachers has degenerated into a moneymaking trade or business, pure and simple. The practice has become scandalous.

22. Further, it must be borne in mind that there is no absolute prohibition on running coaching institutions under the impugned statutes. There is simply a regulation and restriction to a limited extent designed to serve a largely public interest, namely, to ensure that the Teachers employed in the Colleges and

Universities on the regular side devote all their attentions to their respective Colleges and Universities where they are supposed to be serving instead of devoting their time and attention to the business of teaching in coaching institutes. That being so we find no substance in the challenge to the statutes.

23. We are clearly of the opinion that the restriction imposed by the impugned Ordinance/Act and Rules made thereunder cannot be said to be unreasonable in view of the above considerations. As stated in the counter-affidavit and is well known to everyone in U.P. there is scandalous coaching/tuition racket prevalent and flourishing all over U.P. on a large-scale because of which most Teachers in most of the Colleges, Universities and other educational institutions do not teach in the regular institutions from where they arc drawing salaries, but they only take interest in their coaching classes where they often get more money. Thus, education which is meant to be a pious mission has been reduced to a money spinning trade or business by such unscrupulous Teachers and persons. As pointed out in Paragraph 13 of the counter-affidavit, there is no total or absolute prohibition on running coaching institutions but there arc only limited restrictions and regulations. In our opinion, such restrictions and regulations are reasonable and valid as they arc designed to serve a larger public interest, namely, to compel the Teachers to devote maximum and undivided time in the School, College or University where they are serving and drawing salary, instead of devoting their time and attention to their coaching classes/coaching institutions.

24. As regards, the restriction imposed by Section 7(2) of the Act, the same are, in our opinion, perfectly reasonable and valid. Section 7(2) states :-

"(2) No Teacher or employee shall-

(a) Impart coaching in a Coaching Centre or any other place, other than the institution in which he is far the time being employed;

(b) Establish, run, manage or maintain or cause to be established, run, manage or maintain or maintained by Coaching Centre; or

(c) Accept any remuneration or fee, other than his legal remuneration as Teacher or employee, as the case may be."

25. The purpose of the above provision, as stated in Paragraph 18 of the counter-affidavit, was to compel the Teacher to devote maximum time to the institutions which give them salary. Moreover, such Teachers or employees can give coaching within the Campus of the institutions as is evident from Section 7(2)(a) but he cannot accept any remuneration or fee for this purpose other than the legal remuneration as Teachers or employees.

26. In considering the question of reasonability of the impugned Act, we must keep in mind the scandalous situation prevailing in the State of U.P., and the mischief which was sought to be undone by the impugned Act and Regulations made

thereunder. This mischief is clearly stated in the statement of objects and reasons and it is common knowledge that most of the Teachers in the State do not attend their institutions from which they draw salary but only take interest in coaching. From that angle the impugned Act and Regulation arc dearly reasonable restrictions on both the Teachers as well as on the coaching institutions.

27. The foregoing conclusion is further fortified by a look at Section 7(2)(c) which prohibits the Teacher or employee from accepting remuneration or fee other than the legal remuneration as a Teacher or employee. It was urged that this is an unreasonable restriction because after his regular classes are over a Teacher should have the liberty to earn money by coaching. The argument may seem plausible at first glance but when we consider the situation in U.P., it will immediately be realized that if this contention is accepted it will provide a loophole and a handle to the Teachers to continue coaching while avoiding teaching in the institution by some devious means. Hence, the whole purpose of the impugned Act will be frustrated. As regards the submission that the registration fee is very high, it is stated in Paragraph 28 of the counter-affidavit that the registration fee has been drastically reduced by notification dated 14.8.2002. The details of the registration fee are given in Paragraph 28 and, in our opinion, they are quire reasonable.

28. It is next contended that the levy of fee is illegal because there is no quid pro quo.

29. It is well settled that the there are two kinds of fees, compensatory fee and regulatory fee. For regulatory fee no quid pro quo is required vide Chakresh Kumar Jain v. State, (2001) 3 UPLBEC 2483. The impugned Act, and Rules made thereunder impose regulations for doing coaching and hence the fee charged for such regulation is a regulatory fee. Hence, no quid pro quo is necessary.

30. In our opinion, there is no violation of Article 14 or Article 19(l)(g) of the Constitution by the impugned Ordinance/Act and Rules made thereunder. It has been made in the public interest and in fact they are salutary measures and were long over due. A scandalous state of affairs was prevailing in the State. Coaching institutions/centres and tuition racket had sprouted everywhere, and its organizers were minting money. Education, which is a noble profession, had been converted into a money making racket. The impugned Act and Regulations are, thus, a step in the right direction.

31. It is then urged that there are no guidelines under the impugned Ordinance/ Act for the Competent Authority in granting/revising registration or for suspending/cancelling the registration. There is no merit in this submission also. Section 3(3) states that if the Competent Officer is satisfied that the application for registration is in conformity with Sub-section (2) and the person applying has fulfilled the conditions in Section 4 he shall register such person and issue him certificate of registration. Moreover, the proviso to Section 3(3) states that no order

refusing registration shall be passed except after giving to the person concerned an opportunity of showing cause. The cancellation/suspension of the registration u/s 5 can only be done after giving opportunity of hearing and only if the Competent Officer is satisfied that the person concerned is violating the conditions in Section 4. Thus, in our opinion, this gives sufficient guidelines.

32. We have also considered the challenge to the Rules made under the Act copy of which is Annexure-3 to the writ petition. A challenge has been made to Rule 7 but we find nothing illegal in the said Rule. As regards Rule 12 it only requires persons running Coaching Centres to exhibit coaching number, registration certificate on the right hand top of the nameplate of the Coaching Centre. We do not see anything illegal in this Rule. There is also nothing illegal in Rules 14 and 15. All the Rules have been made to give effect to the Act, and in our opinion, they are entirely unexceptionable.

33. It is well-settled that there is a presumption in favour of the constitutional validity of a Statute vide Chiranjit Lal Chowdhuri Vs. The Union of India (UOI) and Others, ; Madhu Limaye Vs. Sub-Divisional Magistrate, Monghyr and Others, Hence, the Court should try to take a view sustaining the validity of the statute vide Sunil Batra Vs. Delhi Administration and Others etc., ; Rt. Rev. Msgr. Mark Netto Vs. State of Kerala and Others, etc.

34. It must be remembered that in certain matters which are by their very nature such as had better be left to the experts in the field instead of Courts themselves seeking to substitute their own views and perception as to what is the best way in which to remove aberrations creeping into that field. The present is clearly an instance, where the policy adopted by the legislature founded as it is on the views of experts in the academic field is reflected in the Statement of Objects and Reasons appended to the impugned Statute and as the facts stated in Paragraphs 3(a) and 3(c) of the counter-affidavit reveal. The Vice Chancellors'' meeting held on various dates and resolutions adopted thereat mentioned in Paragraph 3(c) fully highlight the menace which is resulting from the abuse and misuse by the Teachers employed on the regular side in Colleges and Universities as a result of their devoting all their time to these Coaching Institutes. In The Dental Council of India Vs. Subharti K.K.B. Charitable Trust and Another, and in Aruna Rai v. Union of India , the Supreme Court has stressed, thus, aspect or approach stating that in such matters of policy the Courts have a limited role or jurisdiction and that it should intervene only if the policy is against some provision of the Constitution. That clearly is not the case here. We have already held that the policy under challenge does not violate any provision of the Constitution of India: Neither is the restriction sought to be imposed unreasonable or otherwise bad in law.

35. In Aruna Rai v. Union of India , the Supreme Court has observed that it is for Parliament to take a decision on National Education Policy one way or other. It is not for the Court to decide on good or bad points in the educational policy. The Courts

have a limited jurisdiction to intervene in implementation of the policy only if it finds it to be against any provision of the Constitution.

36. In the words of Chief Justice Neely :

"I have very few illusions about my own limitations as a Judge. I am not an accountant, electrical engineer, financer, banker, stockbroker or system management analyst. It is the height of folly to expect Judges intelligently to review a 5000 page record addressing the intricacies of public utility operation. It is not the function of a Judge to act as a Super Board, or with the zeal of a pedantic School Master substituting its judgment for that of the administrator."

37. As stated in Paragraph 3(c) of the counter-affidavit the impugned Ordinance/Act was made in pursuance of the Vice-Chancellors conference which recommended that the State Government should make a law to regulate coaching so that proper teaching is done in the classes and exploitation of students by Coaching Centers is effectively checked. The Vice-Chancellors of the Universities are experts and the impugned Act was made on their recommendations. This Court cannot sit in appeal over the decision of the Vice Chancellor or over the wisdom of the legislature. The judiciary must exercise self-restraint in such matters and allow the legislature full latitude as long as it docs not transgress its legislative competence or violates some provision of the Constitution. We find no violation of the Constitution by the impugned Act or Rules.

38. In our opinion, the impugned Act would also serve a good purpose by giving employment to a large number of educated people who are unemployed, since full time Teachers are prohibited from doing coaching. Thus, the educated unemployed persons will have more chance of getting jobs in the Coaching Centers/Coaching Institutions. This will also help in bringing down unemployment among educated unemployed people, and also give employment to retired Teachers.

39. Thus, there is no force in this writ petition and it is dismissed. The other similar petitions listed today are also dismissed.

40. Before parting with this case, we would like to briefly comment on the subject of judicial review of a statute, which was first enunciated by Chief Justice Marshall of the U.S. Supreme Court in Marbury v. Madison 5 US (1803). We feel justified in making these comments because the times which this country is passing through requires clarification of the role of the judiciary vis-a-vis the legislature.

41. Under our Constitution the judiciary and the legislature have their own spheres of operation. It is important that these organs do not entrench on each others proper spheres and confine themselves to their own, otherwise there will always be danger of a reaction. The judiciary must, therefore, exercise self restraint and eschew the temptation to act as a super legislature or a Court of Appeal sitting over the Laws validly made by the legislature or as a third House of Parliament. By

exorcising restraint it will enhance its respect and prestige. Of course, if a law clearly violates some provision of the Constitution or is beyond its legislative competence, it will be declared by the Court as ultra vires, but as long as it docs not do so it is not for the Court to sit in appeal over the wisdom of the legislature. The Court may feel that the mischief sought to be remedied by the law may better have been achieved by adopting some other course of action or by some other law, but on this ground it cannot strike down the law. The legislature in its wisdom is free to choose different methods of remedying an evil, and the Court cannot say that this or that method should have been adopted. As Mr. Justice Cardozo observed in Anderson v. Wilson 289 US 20 ;

"We do not pause to consider whether a statute differently conceived and framed would yield results more consonant with fairness and reason. We take this statute as we find it."

42. It must never be forgotten that the legislature has been elected by the people, while Judges arc not, and in a democracy it is the people who are supreme. No Court should, therefore, strike down an enactment solely because it is perceived by it to be unwise. A Judge cannot act on the belief that he knows better than the legislature on a question of policy, because he can never be justifiably certain that he is right. Judicial humility should, therefore, prevail over judicial activism in this respect.

43. Judicial restraint is consistent with and complementary to the balance of power among the three independent branches. It accomplishes this in two ways. First, judicial restraint not only recognizes the equality of the other two branches with the judiciary, but also fosters that equality by minimizing interbranch interference by the judiciary. In this analysis, judicial restraint may also be called judicial respect; that is, respect by the judiciary for the other co-equal branches, In contrast, judicial activism''s unpredictable results make the judiciary a moving target and thus, decreases the ability to maintain equality with the co-branches. Restraint stabilizes the judiciary so that it may better function in a system of interbranch equality.

44. Second, judicial restraint tends to protect the independence of the judiciary. When Courts become engaged in social legislation, almost inevitably voters, legislators, and other elected officials will conclude that the activities of Judges should be closely monitored. If Judges act like legislators, it follows, that Judges should be elected like legislators. This is counterproductive. The touchstone of an independent judiciary has been its removal from the political process. Even if this removal has sometimes been less than complete, it is an ideal worthy of support and one that has had valuable effects.

45. The constitutional trade - off for independence is that Judges must restrain themselves from the areas reserved to the other separate branches. Thus, judicial restraint complements the twin, overarching values of the independence of the judiciary and the separation of powers.

46. The Court should always hesitate to declare statutes unconstitutional, unless it finds it clearly so, and it should avoid supplementing or modifying statutes when construing them, for that is the task of the legislature. As observed, by the Supreme Court in M.H. Qureshi v. State of Bihar (supra), the Court must presume that the legislature understands and correctly appreciates the need of its own people. The legislature is free to recognize degrees of harm and may confine its restrictions to those where the need is deemed to be the clearest. In the same decision it was also observed that the legislature is the best Judge of what is good for the community on whose suffrage it came into existence.

47. In Lochner v. New York 198 US 45 (1905), Mr. Justice Holmes of the U.S. Supreme in his dissenting judgment criticized the majority of the Court for becoming a super legislature by inventing a ''liberty of contract'' theory, thereby enforcing its particular laissez faire economic philosophy. Similarly, in his dissenting judgment in Griswold v. Connecticut 381 US 479, Mr. Justice Huge Black warned that "unbounded judicial creativity would make this Court a day-to-day Constitutional Convention". Justice Cardozo stated this principle eloquently "The Judge is not a Knight errant, roaming at will in pursuit of his own ideal of beauty and goodness." Justice Frankfurter has pointed out that great Judges have constantly admonished their brethren of the need for discipline in observing their limitations (see Frankfurter''s ''Some Reflections on the Reading of Statutes'').

48. In this connection we may usefully refer to the well-known episode in the history of the U.S. Supreme Court when it dealt with the New Deal Legislation of President Franklin Roosevelt. When President Roosevelt took office in January, 1933 the country was passing through, a terrible economic crisis - the Great Depression. To overcome this, President Roosevelt initiated a series of legislation called the New Deal, which were mainly economic regulatory measures. When these were challenged in the U.S. Supreme Court, the Court began striking them down on the ground that they violated the due process clause in the U.S. Constitution. As a reaction, President Roosevelt proposed to reconstitute the Court with six more Judges to be nominated by him. This threat was enough, and it was not necessary to carry it out. The Court in 1937 suddenly changed its approach and began upholding the laws. ''Economic due process'' met with a sudden demise.

49. The moral of this story is that if the judiciary does not exercise restraint and over-stretches its limits there is bound to be a reaction from politicians. The politicians will then step in and curtail the powers, or even the independence, of the judiciary (in fact the mere threat may do, as the above example demonstrates). The judiciary should, therefore, confine itself to its proper sphere, realizing that in a democracy many matters and controversies are best resolved in a non-judicial setting.

50. We hasten to add that it is not our opinion that Judges should never be ''activist.'' Sometimes judicial activism is a useful adjunct to democracy, such as in the School

Segregation and Human Rights decisions of the U.S. Supreme Court, vide Brown v. Board of Education (1954) 347 US 483 , Miranda v. Arizona 384 US 436; Roe v. Wade 410 US 113, etc., or the decisions of our own Supreme Court which expanded the scope of Articles 14 and 21 of the Constitution. This, however, should be resorted to in exceptional circumstances, when the situation forcefully demands it in the interest of the nation, but always keeping in mind that ordinarily the task of legislation or amending the law is for the legislature, and not the judiciary.

51. We direct the Chief Secretary, Home Secretary, Education and Law Secretaries and the Director General, Police, U.P. to ensure strict compliance of the impugned Coaching Act and Regulations, and take prompt, effective action forthwith against those violating it.

52. Let the Registrar General of this Court send copies of this judgment to the above authorities and also to the Union Education Secretary, New Delhi.