

Let all professional colleges set own fee structures: Institutional subsidy can be given to those who cannot afford

Parth J Shah, The Financial Express, 24 August 2005

The freedom of association is as pivotal to a civilised society as is the freedom of the press or the freedom to stand for a public office. Any temptations to restrict these freedoms must be very seriously evaluated. The alleged short-term gains must be weighed against the long-term harm to the social and moral fabric of the society. The recent Supreme Court judgement in the case of PA Inamdar vs State of Maharashtra has rightly re-established the presumption in favour of the freedom of association in educational institutions. The evolution of the court's understanding of the effects of violations of the basic autonomy of educational institutions has been slow, through the 1993 Unni Krishnan, 2002 TMA Pai and 2003 Islamic Academy judgements. But it is never too late to do the right thing.

The Supreme Court's August 12 ruling recognises that minority, as well as non-minority unaided professional educational institutions, have an unfettered fundamental right to choose the students to be allowed admissions and the procedure thereof, subject to its being fair, transparent and non-exploitative. If the admission procedures do not meet these triple tests enumerated by the court, then the state can institute its own procedure. It is also recognised that these institutions have a right to devise their own fee structures subject to the limitation that there can be no profiteering, and no capitation fee can be charged directly or indirectly, in any form.

The freedom of unaided professional institutions in admissions and in fee structures indicates the realisation that the cause of higher education, as in the case of telecom or travel services, is better served by relying on the market forces of choice and competition than on social engineering by the state. The power of Adam Smith's 'Invisible Hand' is finally understood. A proper framework rules of the game is necessary for the Invisible Hand to work. As Smith demonstrated, the institutions of private property and free competition are sufficient to align individuals pursuit of self-interest with social interest. Once fair and transparent rules are instituted, the Invisible Hand would work in the education sector also.

It is very heartening to see that the court agrees forces of open competition within a proper and transparent framework of rules would do more to improve the access, as well as the quality, of professional education in the country. Political parties and minority activists are strident in their opposition to the court's judgement and are demanding legislation to undermine it. This is most unfortunate. They should instead take the Court's decision a few steps further. The government should give the freedom to all professional institutions—public and private—to set their own fee structures. By requiring public institutions to charge very low fees, the government actually subsidises professional education for the middle and upper classes. A better system would be where all institutions set fees that make them self-financing and then give merit and need-based scholarships to those who cannot afford to pay those fees. Under this equal opportunity system, those who can pay would be asked to pay the full fees and those who cannot would get a subsidy from the institution. In this system, government subsidy would help a far larger number of deserving students than the current system of uniform subsidy for all, rich and the poor. It would be an even greater step forward if the above norm was applied to all institutions of higher