

ITEM NO.5

COURT NO.1

SECTION XVIA

S U P R E M E C O U R T O F I N D I A

RECORD OF PROCEEDINGS

Petition(s) for Special Leave to Appeal (C) No(s). 12813/2014
 (Arising out of impugned final judgment and order dated 20/03/2014
 in PIL No. 15/2013 passed by the High Court Of J & K at Jammu)

J & K BOARD OF PROFESSIONAL ENT. EXAM.

Petitioner(s)

VERSUS

COURT ON ITS OWN MOTION & ORS

Respondent(s)

WITH

T.C. (C) No. 15/2016T.C. (C) No. 19/2016T.C. (C) No. 24/2016T.C. (C) No. 23/2016T.C. (C) No. 25/2016T.C. (C) No. 21/2016T.C. (C) No. 22/2016T.C. (C) No. 20/2016T.C. (C) No. 17/2016T.C. (C) No. 16/2016T.C. (C) No. 18/2016T.C. (C) No. 13/2016T.C. (C) No. 14/2016

Date : 28/09/2016 These petitions were called on for hearing today.

CORAM :

HON'BLE THE CHIEF JUSTICE

HON'BLE MR. JUSTICE A.M. KHANWILKAR

HON'BLE DR. JUSTICE D.Y. CHANDRACHUD

For Petitioner(s)

(SLP © No.12813
 Of 2014)

Mr. Sunil Fernandes, Adv.

Mr. Puneeth K.G., Adv.

Ms. Astha Sharma, Adv.

Ms. Mithu Jain, Adv.

Mr. Anupam Raina, Adv.

For Respondent(s)

(SLP © No.12813	Mr. Riyaz Ahmad Jan, Sr. Adv.
of 2014 with	Mr. Sanjay R. Hegde, Sr. Adv.
TC No.13 of 2016)	Mr. Anupam Raina, Adv.
	Mr. Syed Ahmad Shakeel, Adv.
	Mr. Mohd. Parvez Dabas, Adv.
	Mr. Uzmi Jameel Husain, Adv.
(For MCI)	Mr. Gaurav Sharma, Adv.
	Mr. Prateek Bhatia, Adv.
(State of J&K)	Mr. G.M. Kawoosa, Adv.
	Ms. Manjula Gupta, Adv.

UPON hearing the counsel the Court made the following
O R D E R

Special Leave Petition (C) No.12813 of 2014 filed by the Jammu and Kashmir Board of Professional Entrance Examinations assails an interim order dated 20.03.2014 to the extent it directs the petitioner to publish a list of 21 meritorious candidates who on the basis of merit may be considered for admission to the MBBS course in place of candidates whose admission have been cancelled. The Board has been further directed to offer admission to MBBS 2013 session to candidates pursuing BDS courses at present in different colleges in the country against the available vacancies if the candidates decide to accept the offer. In the accompanying transferred cases the candidates whose admissions have been cancelled by the Board have assailed the orders of cancellation on several grounds including on the ground that the orders are passed in violation of principles of natural justice and without any basis whatsoever.

We have heard learned counsel for the parties at considerable length in regard to not only the special leave petition filed by

the Board but also the transferred cases. We are told by learned counsel for the Board that the candidates in the accompanying transferred cases and few others are facing prosecution for several offences pursuant to charge-sheets filed by the Special Anti-Corruption Branch of the Jammu & Kashmir before the competent court at Srinagar. We are also informed by the learned counsel that as many as 103 prosecution witnesses have already been examined at the trial so far including two investigating officers while the third investigating officer is currently being cross-examined. It is urged by learned counsel for the Board that the trial would have been concluded by now by but for the recent disturbances and law and order problems in the valley. He urged that instead of hearing and disposing off these matters it would be more appropriate to direct the trial court to conclude the trial expeditiously and to pass appropriate orders on the subject as far as possible within a time frame to be fixed by this Court.

Mr.R.A.Jan and Mr.Sanjay R. Hegde, learned senior counsel for the writ petitioners in the transferred cases submit that the writ petitioners deserve the benefit in an interim order directing re-admission keeping in view the fact that the cancellation of their admission was without any lawful basis. It is urged by them that the writ petitioners have also lost valuable time by reason of unlawful cancellation of their admission and that any further delay in restoring their admission would cause great prejudice to them.

We have given our anxious consideration to the submissions made at the Bar. Keeping in view the nature of the controversy especially the fact that the cases before us relate to the purity

of the process of selection of candidates for admission to medical colleges in the State, we are of the view that instead of passing any interim direction at this stage for re-admission of the writ petitioners to the course to which they were earlier admitted, we deem it appropriate to direct the trial court to conclude the trial expeditiously and as far as possible within a period of three months from today. We hope and trust that the trial court will be able to achieve this within the time allotted keeping in view the fact that any further delay is likely to affect the candidates who have already lost some time on account of pending litigation.

These petitions shall in the meantime stand adjourned to be listed again in the month of February, 2017.

The respondents in the accompanying transferred cases shall file their counter affidavits if not already filed. Rejoinder affidavit shall also be filed within four weeks from the date the counter affidavits are filed.

(Ashok Raj Singh)
Court Master

(Veena Khara)
Court Master