

ITEM NO.20+51

COURT NO.7

SECTION XVI

**S U P R E M E C O U R T O F I N D I A**  
**RECORD OF PROCEEDINGS**

SPECIAL LEAVE PETITION (CIVIL) Diary No(s). 35072/2022

(Arising out of impugned final judgment and order dated 26-09-2022 in APOT No. 181/2022 passed by the High Court at Calcutta)

HINDUSTAN MEDICAL INSTITUTION

Petitioner(s)

VERSUS

BIRLA CORPORATION LIMITED &amp; ORS.

Respondent(s)

(FOR ADMISSION and I.R. and IA No.198798/2022-EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT and IA No.198794/2022-CONDONATION OF DELAY IN REFILING / CURING THE DEFECTS and IA No.198799/2022-PERMISSION TO FILE LENGTHY LIST OF DATES and IA No.198796/2022-PERMISSION TO FILE ADDITIONAL DOCUMENTS/FACTS/ANNEXURES )

WITH

Diary No(s). 35060/2022 (XVI)

(IA No.195640/2022-EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT and IA No.195637/2022-CONDONATION OF DELAY IN REFILING / CURING THE DEFECTS and IA No.195641/2022-PERMISSION TO FILE LENGTHY LIST OF DATES and IA No.195638/2022-PERMISSION TO FILE ADDITIONAL DOCUMENTS/FACTS/ANNEXURES)

SLP(C) No. 22799/2022 (XVI)

(FOR ADMISSION and I.R. and IA No.194244/2022-EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT and IA No.194243/2022-PERMISSION TO FILE ADDITIONAL DOCUMENTS/FACTS/ANNEXURES)

SLP(C) No. 23145/2022 (XVI)

(IA No.196740/2022-EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT and IA No.196741/2022-PERMISSION TO FILE LENGTHY LIST OF DATES and IA No.196742/2022-PERMISSION TO FILE ADDITIONAL DOCUMENTS/FACTS/ANNEXURES)

Diary No(s). 35377/2022 (XVI)

(IA No.201774/2022-EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT and IA No.201776/2022-CONDONATION OF DELAY IN REFILING / CURING THE DEFECTS and IA No.201771/2022-PERMISSION TO FILE ADDITIONAL DOCUMENTS/FACTS/ANNEXURES)

Diary No(s). 35601/2022

(IA No.205451/2022-EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT and IA No.205449/2022-CONDONATION OF DELAY IN REFILING / CURING THE DEFECTS and IA No.205450/2022-PERMISSION TO FILE ADDITIONAL DOCUMENTS/FACTS/ANNEXURES )

Date : 04-01-2023 This petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE SANJIV KHANNA  
HON'BLE MR. JUSTICE M.M. SUNDRESH

For Parties

Mr. K.K. Venugopal, Sr. Adv.  
Mr. Neeraj Kishan Kaul, Sr. Adv.  
Mr. Vikas Singh, Sr. Adv.  
Mr. Arvind Nayar, Sr. Adv.  
Mr. Chinmayee Chandra, Adv.  
Mr. P. Chidambaram, Sr. Adv.  
Mr. A. Sundaram, Sr. Adv.  
Mr. Darius Khambata, Sr. Adv.  
Mr. K. V. Vishawanathan, Sr. Adv.

Mr. Akash Agarwal, Adv.  
Mr. Akshay Joshi, Adv.  
Mr. Ashish Choudhary, Adv.  
Mr. Anand Kamal, Adv.  
Mr. Rohit Amit Sthalekar, AOR  
Ms. Rohini Musa, AOR

Mr. Kunal Vajani, Adv.  
Mr. Debanjan Mandal, Adv.  
Mr. Sanjiv Kumar Trivedi, Adv.  
Mr. Soumya Ray Chowdhury, Adv.  
Mr. Kunal Mimani, AOR  
Ms. Iram Hassan, Adv.  
Mr. Sanket Sarawgi, Adv.  
Mr. Tushar Hathiramani, Adv.  
Mr. Kartikey Bhatt, Adv.  
Ms. Mahima Cholera, Adv.  
Mr. Shubhang Tandon, Adv.

M/S. Khaitan & Co., AOR

Mr. Ajay Bhargava, Adv.  
Mrs. Vanita Bhargava, Adv.  
Ms. Trishala Trivedi, Adv.  
Ms. Abhipriya, Adv.

Ms. Pallavi Langar, AOR  
Ms. Shaunak Mitra, Adv.  
Mr. R.K. Mohit Gupta, Adv.  
Mr. Deepak Joshi, Adv.  
Ms. Deepika Kalia, Adv.

UPON hearing the counsel, the Court made the following

O R D E R

Delay condoned.

Issue notice, returnable in the month of April, 2023.

Learned counsels appearing on caveat on behalf of the respondents accept notice.

Drawing our attention to Clause 24 of the by-laws of the Society and the decision of this Court in "*L. Janakirama Iyer & Others v. P. M. Nilakanta Iyer & Others*", AIR 1962 SC 633, learned senior advocate appearing on behalf of the petitioner submits that in view of the Clause 24 of the by-laws, the aforesaid decision supports the case of the petitioner(s).

There will be a stay of operation of the directions given in the impugned judgment directing/holding that the decision of the trustees would be binding if they act in consonance and not in contradiction. Decision by the majority of the trustees will be treated as the decision of the trustees. We clarify that this interim stay order will not affect the resolutions or decisions taken prior to passing of the present interim order. However, if any proceedings relating to, or questioning or challenging the resolutions or decisions taken are pending, the same would continue and the issue would be examined on merits and in accordance with law, without being influenced by the impugned judgment or the present interim order.

We also direct, by way of an interim order, that the observation made in the impugned judgment dealing with the submissions made on behalf of the APL Committee, to the effect, "*however, after hearing learned counsel for all the respondents,*

*submission made by Mr. Joy Saha does not commend to us", will not be treated as binding observations and findings which will operate as res judicata.*

(BABITA PANDEY)  
COURT MASTER (SH)

(RENU BALA GAMBHIR)  
COURT MASTER (NSH)