

ITEM NO.24

COURT NO.4

SECTION XIA

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.35075-35076/2015

(Arising out of impugned final judgment and order dated 18/11/2015 in WPC No. 12224/2015,09/12/2015 in WPC No.12224/2015 passed by the High Court Of Orissa at Cuttack)

SOUMYA RANJAN PANDA AND ORS

Petitioner(s)

VERSUS

SUBHALAXMI DASH AND ORS

Respondent(s)

(With appln. (s) for exemption from filing c/c of the impugned judgment and interim relief and office report)

WITH S.L.P.(C) No.35212/2015

(With appln.(s) for interim relief and office report)

Date: 08/01/2016 These petitions were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE DIPAK MISRA
HON'BLE MR. JUSTICE SHIVA KIRTI SINGH

For Petitioner(s)

Mr. Shyam Divan, Sr. Adv.
Mr. Jitender Kumar Mahapatra, Adv.
Mr. Ajay Sharma, AOR
Mr. Rajeev Sharma, Adv.
Ms. Neelam Sharma, Adv.

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Dr. Ashok Mahapatra, Sr. Adv.
Dr. Kedar Nath Tripathy, AOR

For Respondent(s)

Mr. Tushar Mehta, ASG
Mr. Gaurav Sharma, Adv.

Signature Not Verified

Mr. Prateek Bhatia, Adv.

Digitally signed by
Gulshan Kumar Arora

Date: 2016.01.09
12:47:15 IST

Mr. Dhawal Mohan, Adv.

Reason:

Mr. C.U. Singh, Sr. Adv.
Mr. Pratap Venugopal, Adv.
Ms. Surekha Raman, Adv.

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Mr. Purushottam K. Jha, Adv.
Ms. Niharika, Adv.
for M/s. K. J. John & Co.

Mr. Asim Amitabh Dash, Adv.
Mr. Sanjeeb Panigrahi, AOR
Mr. L. Nidhiranl S., Adv.

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

In pursuance of our order dated 5th January, 2016, Mr. Tushar Mehta, learned Additional Solicitor General has appeared along with Mr. Gaurav Sharma, learned counsel for the Medical Council of India. It is urged by Mr. Mehta that a conscious decision has been taken that the students who were admitted in Sardar Rajas Medical College, Hospital and Research Centre on government quota should be admitted to the Government colleges and the rest of the students should be admitted to three private recognized colleges. Mr. Mehta has drawn our attention to the directions issued by the High Court of Orissa. The relevant part of it reads as follows:

"Therefore insofar as Clause-(b) & (c) are concerned since adequate infrastructure and academic teaching staff are available at least at two Government medical colleges in which seats increase is sought for from the Medical Council of India there is no justifiable reason as to why the students who have been admitted in Government quota at Sardar Rajas Medical College cannot be accommodated either at VIMSAR Burla or MKCG Medical College Berhampur whichever may be suitable. Insofar as the other students admitted under management quota is concerned the State is at liberty to offer them seats at any other private medical

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college.

We are of the considered view that rather than raising disputes between the State and Medical Council of India the focus ought to be on the future educational needs of the students and keeping with such spirit the aforesaid order has been directed. Therefore, we are of the further view that the revised proposal of the State of Odisha pending before the Executive Committee of the Medical Council of India need not be considered in view of our aforesaid direction. The State Government may take expeditious steps to comply with this direction preferably within a period of two weeks from today and report thereof be filed within a further period of one week therefrom apart from intimating the Medical Council of India as to the institutions where these students have been accommodated."

On the last occasion, we had taken note of the submission with regard to the anomaly that is likely to be caused as regards the admission regard being had to the marks obtained in the entrance examination. It is submitted by

Mr. C.U. Singh, learned senior counsel appearing along with Mr. Pratap Venugopal that certain students have more marks than the students who are studying in the Government colleges and have also more marks than the students who have got admission in other private medical colleges.

Having heard Mr. Tushar Mehta, learned Additional Solicitor General, Mr. Shyam Divan, Dr. Ashok Mohapatra and Mr. C.U. Singh, learned senior counsel, we are, prima facie, of the view that the 124 students who were prosecuting their

studies in Sardar Rajas Medical College, Hospital and
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Research Centre, should be adjusted in three recognized medical colleges, namely, Hi-tech Medical College and Hospital, Bhubaneswar, KIMS, Bhubaneswar and IMS & Sum Hospital. We are inclined to think so as that would avoid all kinds of confusion. The students who are prosecuting

their studies in private medical colleges should prosecute their studies there. In ordinary course of things, the students who were admitted in Sardar Rajas Medical College, Hospital and Research Centre would have continued their studies over there. However, as a peculiar situation has arisen, the issue of adjustment has emanated. The High Court

has been guided by the factum that the students who are admitted in Government quota should go to the Government colleges and rest should go to the private colleges. As advised at present, we are of the view that the said approach may not be correct as the students were studying in private colleges having obtained permission from the Medical Council of India. A norm has to be followed.

At this juncture, to entertain the stand of those students that they can enter into the Government colleges

would likely to cause immense disturbance. It is obligatory
on the part of the State to see that the said 124 students
are allocated to the three private colleges. As regards the
plea of fees raised by the students of Hi-tech College or
other private colleges, the same shall be determined when we
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hear the Selvam Educational Trust, the respondent No.76
herein. We have been apprised by Mr. Mehta that Selvam
Educational Trust has given approximately bank guarantee of
Rs.10 crores in favour of the Medical Council of India. We
will address to the equities on a later occasion.

Let notice be issued to Selvam Educational Trust by
e-mail. Let a copy of the special leave petition be served
on Mr. Ashok Panigrahi, learned counsel, who ordinarily
appears for the State of Orissa. The Registry is directed to
reflect the name of Mr. Ashok Panigrahi in the Cause List on
the next date of hearing.

In the meantime, the interim order passed on the
earlier occasion, shall remain in force. It is also further
directed that the High Court shall not proceed with the
matter forming the subject matter of W.P.(C) No.12224 of 2015
or any other matter connected with the lis that is pending
before this Court.

Call on 12th January, 2016.

(Chetan Kumar)
Court Master

(H.S. Parasher)
Court Master