

ITEM NO.12

COURT NO.4

SECTION XIA

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

Petition(s) for Special Leave to Appeal (C) Nos.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 appropriate orders and impleadment as party respondent and interim relief and office report)

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

(With interim relief and office report)

Date : 19/04/2016 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. Ajay Sharma, AOR

SLP 35212/15

Mr. Kedar Nath Tripathy, AOR

For Respondent(s)

Mr. Soli J. Sorabjee, Sr. Adv.

Mr. Radhakanta Tripathy, Adv.

Mr. Susant Kumar Mallik, Adv.

Mr. Y.P. Dhingra, AOR

Mr. V. Giri, Sr. Adv.

Mr. M. Gireesh Kumar, Adv.

Mr. Sriram P., Adv.

Mr. Ankur S. Kulkarni, AOR

Mr. Jaganath Patnaik, Sr. Adv.

Mr. Avijit Patnaik, Adv.

Mr. Srisetya Mohanty, Adv.

Mr. Amarjit Singh Bedi, AOR

Mr. Ashok Panigrahi, AOR

Mr. Gaurav Sharma, AOR
Mr. Prateek Bhatia, Adv.
Mr. Dhawal Mohan, Adv.
Ms. Amandeep Kaur Ahuja, Adv.

Mr. Asim Amitabh Das, Adv.
Mr. Alok Pathak, Adv.
Mr. Sanjeeb Panigrahi, AOR

Mr. Pratap Venugopal, Adv.
Ms. Surekha Raman, Adv.
Mr. Purushottam Kumar Jha, Adv.
Mr. Anuj Sarma, Adv.
Ms. Niharika, Adv.
Mr. Aman Shukla, Adv.
for M/s. K. J. John & Co.

Mr. R.K. Rathore, Adv.
Mr. R.S. Nagar, Adv.
Mr. D.S. Mahra, Adv.

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

I.A. Nos.7 and 8 of 2016, filed on behalf of the respondent Nos.18, 30 and 31 in the special leave petitions, for appropriate orders, are disposed of.

This Court on 12th January, 2016, after hearing the learned counsel for the parties and referring to the earlier order dated 8th January, 2016, issued series of directions. In pursuance of the directions, the students who were prosecuting their studies in Sardar Rajas Medical College, Hospital and Research Centre, have been transferred and admitted in three private medical colleges, namely, Hi-tech Medical College and Hospital, Bhubaneswar, KIMS, Bhubaneswar and IMS & Sum Hospital. It was also directed that the State Government shall see to it that each college as mentioned herein-above, gets at least forty-one students as that will be in proportion to the students who have been

transferred. Additionally, it was directed that the private colleges shall impart appropriate education so that there is no inadequacy in the said sphere.

On that day, many an issue were left open to be debated afterwards. One such issue was liability of the Selvam Educational Trust as it was *prima facie* felt by the Court that the said Trust should compensate the students as they were compelled to travel from the sphere of certainty of the Institution to the realm of uncertainty. An argument has been advanced on behalf of the Trust by Mr. V. Giri, learned senior counsel that the liability of the Trust can only be fixed if its cavil with the Medical Council of India is put to rest. To elucidate, if eventually the Court comes to the conclusion that there was no justification for closure of the college and the hospital, the said Trust would not be liable. We intend to make it absolutely clear that if the Trust has any kind of cavil with the Medical Council of India, that will be determined in a different litigation, if the Trust thinks it appropriate to enter into the said arena. That should not be the subject matter of the present case; and that cannot be a condition precedent for the purpose of granting compensation to the students. If in the ultimate eventuality, the Trust would be in a position to establish in a court of law and advisedly in a petition preferred under Article 32 of the Constitution, that the action taken by the Medical Council of India was totally unwarranted and uncalled for, the Medical Council of India may be given appropriate directions, but the students who are prosecuting their studies after being transferred to different colleges should not suffer due to the *lis in embryo* between the Trust and the Medical Council of India.

Regard being had to the aforesaid facet, we direct the Selvam Education Trust to deposit a sum of Rs.2 crores

(Rupees two crores only) before the Registry of this Court within two weeks hence. The Registry is directed that the amount so deposited shall be kept in a short term fixed deposit in the UCO Bank, Supreme Court Compound, New Delhi, so that interest can be accrued on the same.

At this juncture, Mr. Soli J. Sorabjee, learned senior counsel appearing for some of the newly impleaded parties/students, has submitted that the students are not treated properly in the transferred colleges and they are not given library and other facilities. Having noted the submission, we command the said colleges to maintain an atmosphere of harmony in the colleges as far as the students are concerned and provide similar facilities, including the library, proper seating, education, etc. Mr. Ashok Panigrahi, learned counsel appearing for the State of Odisha, shall instruct the Secretary, Health and Family Welfare of the State of Odisha to see to it that the order of this Court is carried out in letter and spirit and a report be submitted before this Court within two weeks hence.

At this stage, Mr. Pratap Venugopal, learned counsel appearing for some of the respondents/students, has submitted that the students are apprehensive that their degrees might not be recognized and they might be treated as students of lower batch. Mr. Gaurav Sharma, learned counsel appearing for the Medical Council of India, we must appreciably state, has submitted that their degrees shall be recognized by the Medical Council of India because they have been admitted in the said colleges in pursuance of the order of this Court, and they shall be treated as in the same batch wherefrom they have been transferred so that they will not lose one year and the Medical Council of India shall intimate the educational institutions accordingly.

The parties are at liberty to file affidavits and additional documents.

Let the matters be listed on 9th May, 2016.

(Chetan Kumar)
Court Master

(H.S. Parasher)
Court Master