

ITEM NO.2

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) No(s). 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

SLP(C) No. 35212/2015

(With Interim Relief and Office Report)

Date : 12/01/2016 These petitions were called on for hearing today.

CORAM : HON'BLE MR. JUSTICE DIPAK MISRA
HON'BLE MR. JUSTICE N.V. RAMANA

For Petitioner(s) Mr. Jitender Kumar Mahapatra, Adv.
Mr. Ajay Sharma, AOR
Mr. Rajeev Sharma, Adv.
Mr. Bibhu Tripathi, Adv.
Ms. Neelam Sharma, Adv.

Mr. Ashok Kumar Mohapatra, Sr. Adv.
Mr. Kedar Nath Tripathy, AOR
Mr. M.A. Aleem Majid, Adv.

Mr. Avijit Patnaik, Adv.
Mr. Amarjit Singh Bedi, Adv.
Mr. Srisatya Mohanty, Adv.

For Respondent(s) Mr. Tushar Mehta, ASG
Mr. Gaurav Sharma, Adv.
Mr. Pratap Bhatia, Adv.

Mr. Asim Amitabh Dash, Adv.
Mr. Sanjeeb Panigrahi, AOR
Mr. L. Nidiram Sharma, Adv.
Mr. Abhishek Tripathi, Adv.

Mr. C.U. Singh, Sr. Adv.
Mr. Pratap Venugopal, Adv.
Ms. Surekha Raman, Adv.
Mr. Purushottam K. Jha, Adv.
Ms. Niharika, Adv.
For M/s. K. J. John & Co.

Mr. V. Giri, Sr. Adv.
Mr. M. Gireesh Kumar, Adv.
Mr. Sriram P., Adv.
Mr. A.S. Kulkarni, Adv.

Mr. Milind Kumar, Adv.

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

This Court on 08.01.2016, after referring to its earlier order dated 05.01.2016, had passed an order analysing the factual scenario in entirety. The relevant part of the said order is reproduced below :-

"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 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 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."

Today, we have heard Mr. Tushar Mehta, learned Additional Solicitor General for the Medical Council of India, Dr. Ashok Mahapatra, learned senior counsel for the petitioner, Mr. Pratap Venugopal, appearing for 33 students and Mr. Sanjiv Panigrahi, learned counsel appearing for rest of the students, Mr. V. Giri, learned senior counsel appearing for the Sardar Rajas Medical College, Hospital and Research Centre and the Selvam Educational Trust and Mr. Ashok Panigrahi, learned counsel for the State. Considering the submissions, we issue the following directions :-

- (i) The 124 students who had been prosecuting their studies in Sardar Rajas Medical College, Hospital and Research

Centre shall be transferred and be admitted in three private medical colleges, namely, Hi-tech Medical College and Hospital, Bhubaneswar, KIMS, Bhubaneswar and IMS & Sum Hospital.

- (ii) The students shall be admitted within a week hence and shall pay the fees meant for the Government colleges for the present.
- (iii) The liability of Selvam Educational Trust shall be considered on the next date of hearing.
- (iv) Whether the private colleges will be entitled to get further fee will be dependent upon our adjudication on the liability of Selvam Educational Trust and also the concept of equity in such a situation.
- (v) The students who had been admitted in Sardar Rajas Medical College, Hospital and Research Centre under the NRI quota, if required, may be dealt with in a separate manner in the next hearing.
- (vi) The students of all the three Government medical colleges and all the three private medical colleges shall behave appositely and if there will be any strike or misconduct, this Court may think of directing the administration to take harsh steps against them.
- (vii) The State Government shall see to it that each college, as mentioned hereinbefore, gets at least 41 students as that will be in proportion to the students who are being transferred.
- (viii) All private colleges shall impart appropriate education so that there is no inadequacy in the said sphere.

Liberty is granted to Mr. Avijit Patnaik, learned counsel to file an application for impleadment in respect of the 24 students.

Having issued the aforesaid directions, we must note the anxious submission of Mr. V. Giri, learned senior counsel appearing for the Selvam Educational Trust, that the trust is not on fault. The said issue shall be addressed to at a later stage when we proceed to assess the culpability of the trust.

Needless to say, as we are hearing the matter, the writ petition pending before the High Court is deemed to have been disposed of.

Let the matter be listed on 14.03.2016.

(Gulshan Kumar Arora)
Court Master

(H.S. Parasher)
Court Master