

ITEM NO.8

COURT NO.1

SECTION XI

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). 3608/2005

(Arising out of impugned final judgment and order dated 23/12/2004 in WP No. 4160/2004 passed by the High Court Of Judicature at Allahabad, Lucknow Bench)

MANENDRA NATH RAI & ANR.

Petitioner(s)

VERSUS

CHIEF SECRETARY, U.P. GOVT. & ORS.

Respondent(s)

Date : 21/04/2016 This petition was called on for hearing today.

CORAM :

HON'BLE THE CHIEF JUSTICE
HON'BLE MRS. JUSTICE R. BANUMATHI
HON'BLE MR. JUSTICE UDAY UMESH LALIT

For Petitioner(s)

Ms. Mahalakshmi Pavani, Sr. Adv.
Mr. G. Balaji, Adv.
Ms. Shiva Vijaya Kumar, Adv.

Petitioner-in-person, Adv.

For Respondent(s)

Mr. Dushyant Dave, Sr. Adv.
Mr. Gaurav Mehrotra, Adv.
Mr. Nadeem Murtaza, Adv.
Mr. Piyush Kant Roy, Adv.
Ms. Gauri Geo Rampal, Adv.
Mr. Gaurav Dhingra, Adv.

Dr. Abhishek Manu Singhvi, Sr. Adv.
Mr. Amit Bhandari, Adv.
Ms. Supriya Juneja, Adv.
Mr. Aditya Singla, Adv.
Mr. Mehaak Jaggi, Adv.
Mr. Apoorv Kurup, Adv.

(State of U.P.)

Mr. Harish N. Salve, Sr. Adv.
Mr. Sidharth Luthra, Sr. Adv.
Mr. Rohit Alex, AAG
Mr. C.D. Singh, Adv.

Ms. Sakshi Kakkar, Adv.
Mr. Nitin, Adv.
Ms. Sylona, Adv.

Mr. Arvind Varma Sen, Adv.
Mr. Shivali Chaudhary, Adv.
Mr. Gaurav Dhama, Adv.
Mr. Gaurav Agarwal, Adv.

Mr. N. Hariharan, Sr. Adv.

Mr. S.P.H. Tripathi, Adv.

Mr. Gaurav Mehrotra, Adv.

Mr. Gaurav Jain, Adv.

Mr. Ram Avtar Sharma, Adv.

Mr. Dinesh Kumar Garg, Adv.

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

We had by our order dated 02.03.2016 directed respondent No.4 and 5 to file their affidavits and also to place on record certain documents mentioned therein. The said respondents have not only filed their affidavits but also the documents referred to in our order. Having heard learned counsel for the parties at some length we are of the view that the relevant documents showing composition of the society as in the years 2003 onwards would also assume relevance for the disposal of this case. We accordingly direct respondent No.6-Society to file relevant documents showing composition of the society as from the year 2003 onwards. We also direct the respondent No.5 to file copies

of the audited balance sheets of the society for the year 2002 onwards till 2006. Balance sheets from the year 2006 onwards have already been filed by the society which are taken on record.

Although the respondents have filed copies of the audit objections, a complete note about the said objections is not available on record. We therefore deem it appropriate to direct that the Comptroller and Auditor General (CAG) shall through the Accountant General file a copy of the report/reports of the CAG with regard to the Shiksha Parisar Samiti, Chaudhary Charan Singh, Degree College-respondent No.6 in so far as the said Samiti has received from the State of Uttar Pradesh financial grants or assistance in the nature of constructed structures at the State's expense. Mr. H.N.Salve, learned senior counsel appearing for the the respondent-State submits that according to his instructions the immovable assets created out of the funds provided by the State Government and made available to the Samiti are State properties. The affidavit filed on behalf of the State Government has not however specifically made any such claim. Mr. Salve, seeks time to file additional affidavit stating whether or not the State treats the assets so created as State's assets and if so whether any such claim/assertion or declaration is found any where in any official record of the State

Government. If so, copy of all such records where such a claim, declaration or assertion has been made shall be filed along with the affidavits. Learned counsel appearing for respondent No.6 is not very sure whether the society has filed income tax returns and whether assets created with the State's financial support are being declared by the society as its assets in such returns. He seeks time to file details of income tax returns of the society if not filed by them for the year 2002 onwards. In case no such income tax returns have been filed the said respondents shall file affidavit stating whether the society has treated the assets created with the help of the State's financial assistance as its own assets and whether the audited balance sheet which refers to immovable assets actually refers to the assets created with the help of State's assistance. Copies of the affidavit already filed and those that may be filed in future shall be furnished to the petitioner in person as also to Ms. Mahalakshmi Pavani, learned senior advocate who is assisting us as amicus curiae in the matter. The petitioner shall be free to file rejoinder affidavit. Affidavits by the respondents in terms of the above directions shall be filed within four weeks. Rejoinder within two weeks thereafter. Mr. Salve submits that according to his understanding of G.O. dated 31.12.2003 the property created with the help of State's

financial assistance is State's property. Mr. Salve shall however file an affidavit to that effect. The affidavit shall also include with it a gazetted copy of the Government Order referred to above if the same has been published. Mr. Salve may also keep the relevant official files regarding the composition to grant financial assistance and release of the assistance to the society for perusal of the Court.

(Ashok Raj Singh)
Court Master

(Veena Khera)
Court Master