

ITEM NO.2

COURT NO.9

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 (Civil) No(s).4245/2006

(From the judgement and order dated 17/01/2006 in MC No.1136 of 2005 in OJC No. 11935/2001 of The

HIGH COURT OF ORISSA AT CUTTACK)

SAROJ KUMAR BALABANTARAY

Petitioner(s)

VERSUS

STATE OF ORISSA &amp; ORS.

Respondent(s)

(With appln(s) for permission to file additional documents and directions and under order 47 rule 6

SCR, 1966 and for permission to file additional documents on record and with prayer for interim relief

and office report)

With Cont.Pet.(C)No.147/2006 in SLP(C)No.4245/2006

Date: 22/08/2006 This Petition was called on for hearing today.

CORAM :

HON'BLE Dr. JUSTICE AR. LAKSHMANAN

HON'BLE MR. JUSTICE TARUN CHATTERJEE

For Petitioner(s)

Mr.P.P.Rao, Sr.Adv.

Mr.R.K.Dash, Sr.Adv.

Mr. Raj Kumar Mehta,Adv.

Ms.Suman Kukrety, Adv.

For Respondent(s)

For RR-1 &amp; 2

Mr.S.Panda, Adv.

Mr. Radha Shyam Jena,Adv.

For RR-3 Mr.C.B.N.Babu, Adv.

Mr. Bimal Roy Jad,Adv.

For RR-6 Mr.P.N.Missra, Sr.Adv.

Mr. Abhishth Kumar,Adv.

Mr.R.M.Patnaik, Adv.

UPON hearing counsel the Court made the following

O R D E R

Heard learned senior counsel for petitioner, learned senior counsel for respondent No.6,

learned counsel for AICTE (respondent No.3) and learned counsel for the State of Orissa (respondent

No.1).

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We passed a detailed Order on 04.08.2006 directing the parties to file further affidavit in

regard to the progress made in the Institution and also file a report in regard to the compliance of the

deficiencies which have been pointed out by AICTE. Pursuant to our directions, AICTE filed the

following report :-

"Report on the extension of approval to Satya Sai Engineering College, S1/12

& S1/13, Industrial Estate Bangana, Balasore -756001 for the academic year 2006-07.

Date of visit : 14.08.2006

The Expert Committee consisted of the following :

1. Prof.Ramesh Garg, E&ECE Deptt.

IIT Kharagpur

Kharagpur - 721302.



is also further observed that laboratory space needs to be increased and books titles and journals

which are now available are inadequate. An affidavit dt.21.08.2006 on behalf of respondent No .6 was

filed. It is stated that the area to labs have been enhanced as per the requirements of AICTE and

that as regards the built up area of the Institute, a completely new floor has been added to the

existing structure so as to enhance the built up area to 40,000 sq.fe et of area which is as per the

AICTE norms.

It is also stated in para 12 that a well-furnished library having more than 5200 books and

journals on different subjects has also been provided for the Institute for use by the student s. It is

also submitted that as per the AICTE norms, the total number of books required to be maintai ned

at the library is 4000 and, therefore, the library of the Institute co ntains much more books than

required as per the AICTE norms. That besides the aforesaid 5200 books and journals, the Inst itute

had also further ordered for 526 books and journals but the same could not reach the Institute before

14.08.2006 when the Expert Committee had visited the Institute and the s ame were received on

16.08.2006. True copies of the letter of the Principal, list of books available and brought, their

invoices and money receipts and photographs of the library books as anne xures have filed

collectively. In these circumstances, it is submitted by respondent No.6 that the Institute h as rectified

all the defects as mentioned in the AICTE's letter dt.16.06.2006.

In para 13, it is stated that pursuant to the direction of this Court dt.04.08.20 06, wherein

the AICTE had also been directed to submit the Expert Committee's report, it is submitted that the

respondent Institute deposited a sum of Rs.40,000/- with the AICTE for the expenses of AICTE

Expert Committee, pursuant to which the AICTE had sent an Expert Committee comprising of

Professors from IIT Kharagpur, Yadavpur University and headed by Chief Advisor to AICTE to

verify as to whether the Institute had rectified the deficiencies as stipulated in its letter dt.16.06.2006.

An undertaking had also been given by respondent No.6 in para 14 of the present affidavit. It is

stated that if, in case, the AICTE points out any shortcomings in compliance with their approval

order dt.16.06.2006, the respondent-Institute undertakes to comply with the same within time, either

to be fixed by the AICTE or by this Court.

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It was argued that since the Institute has successfully rectified the deficiencies as pointed

out by the AICTE, the Institute should now be permitted to admit the students so that their classes

may also be started at the earliest and that many of the students recommended after counselling have

come forward for their admission in the Institution.

An application (I.A.No.6 of 2006) was filed by the petitioner on 21.08.2006 seeking

permission to place additional facts and documents on record. Our attention was drawn to two

important aspects which is stated in para 5.3.1 which relates to the hostel facility provided. The said

para reads as follows :-

No.6 has  
to  
other

"No hostel facility has been created in the college. The Respondent submitted to AICTE photographs of staff quarters belonging to Telecommunication Department of Government of India and some buildings as the photographs of Hostel."

Again in para 5.5.1 it is stated as under :-

site at  
q.feet.  
shed  
cupying

"The total area of the land in occupation of the college at its temporary Industrial Estate, Balasore is 0.975 acres which is equivalent to 42,412 sq. feet. On the above there are four Industrial sheds out of which one Industrial is in unauthorised occupation of the College. Besides, College is also occupying some vacant land unauthorisedly."

In para 5.5.3 it is stated as under :-

construction  
d  
ittings  
It is not

"That the initial built up area was 9500 Sq.ft. Additional comprising of two floors (Ground+1st Floor) with RCC Roofing with unfinished brick walls of the ground floor only without flooring, plastering and door fittings is 14,426 Sq.ft. The total built up area thus comes to 23926 Sq.ft.approx. adequate/sufficient built up area for 180 students"

of 2006

Since the statement of respondent No.6 is disputed in I.A.No.6 filed by the petitioner, it requires further verification as to whether hostel facilities have been provided and that

the total area of the land in occupation of the college and also of the total built up area available for

the Institution. For the said purpose, we appoint Mr.Sushil Kumar Jain, a practicing advocate of

this Court as Advocate Commissioner to inspect only in respect of the above three aspects, i.e.,

referred to in paras 5.3.1, 5.5.1 and 5.5.3. In the meanwhile, we need not stay the hands of

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respondent No.6 from admitting the students. We, therefore, permit respondent No.6 to admit the

students so that their classes may also be started at the earliest. The respondent No.6 shall also

comply with the undertaking given by him in regard to enhancing the space of laboratories and

books titles and journals if there is any deficiency. The Advocate Commissioner may also verify the

same and submit his report.

The Advocate Commissioner before inspection shall give notice to the petitioner, AICTE

and respondent No.6 and inspect the Institution and shall submit the report within three weeks from

today. Mr.Jain says that he will visit the Institution on Saturday, the 2nd of September, 2006. All the

expenses of Mr.Sushil Kumar Jain will be borne by the Institute. The Institute will pay a sum of

Rs.35,000/- to Mr. Jain as initial remuneration. In the initial stage, respondent No.6 will pay the

remuneration to Mr.Sushil Kumar Jain from his pocket which will be adjusted later on from the

bank account of the Institute.

The Registry is directed to supply one set of paper books to Mr. Sushil Kumar Jain,

advocate forthwith.

AICTE will also submit an independent report after the inspection

n made by Mr.Sushil

Kumar Jain, advocate.

The permission now granted to admit the students will be subject to the final report to be

submitted by AICTE and the Advocate Commissioner.

List the matters after four weeks.

( Satish K. Yadav )

Court Master

( Phoolan Wati Arora )

Court Master