

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).5317/2009

(From the judgement and order dated 06/02/2009 in RP No. 226/2006 & LPA No. 360/2004 of The HIGH COURT OF DELHI AT N. DELHI)

SUSHMITA PATHY

Petitioner(s)

VERSUS

ALL INDIA INST.OF MED.SCIENCES & ORS.

Respondent(s)

(With prayer for interim relief and office report)

Date: 08/12/2010 This Petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE B. SUDERSHAN REDDY
HON'BLE MR. JUSTICE SURINDER SINGH NIJJAR

For Petitioner(s)

Mr. Dinesh Dwivedi, Sr.Adv.
Ms. Geetanjali Mohan, Adv.
Mr. K.K. Mohan, Adv.
Mr. Manish Shanker Srivastava, Adv.
Mr. Abhishek Kumar Singh, Adv.

For Respondent(s)

For RR-4

Mr. Devendra Singh, Adv.

For RR1-3

Mr. Mukul Gupta, Sr.Adv
Ms. Suruchi Aggarwal, Ad.
Mr. Som Prakash, Adv.
Mr. Sanjeev Joshi, Adv.

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

Leave granted.

This appeal is disposed of in terms of the signed
order.

(Sukhbir Paul Kaur)
Court Master

(Renuka Sadana)
Court Master

(Signed Order is placed on the file)
IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO.10353 OF 2010
(Arising out of S.L.P.(C) No.5317 of 2009)

SUSHMITA PATHY

Appellant(s)

Versus

ALL INDIA INSTITUTE OF MEDICAL SCIENCES &
ORS.

Respondent(s)

O R D E R

We have heard learned senior counsel appearing on behalf of the parties.

Leave granted.

By the impugned order, the High Court allowed the review petition filed by Respondent No. 4 herein and accordingly set aside the judgment rendered in L.P.A. No. 360 of 2004 dated 6.2.2006. In the operative portion of the judgment, the Division Bench having allowed the review application observed that the appeal is required to be heard afresh and "considered in the light of the Governing Body's Resolution dated 15.1.1997, in respect of the decision to accept recommendations concerning weightage to expert evaluation in selection processes in AIIMS."

Learned senior counsel for the appellant in this appeal inter alia submitted that the Governing Body's Resolution dated 15.1.1997 itself is not a valid one and not applicable to the facts on hand and therefore, the High

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Court committed an error in observing that the L.P.A. is required to be considered in the light of that resolution dated 15.1.1997.

The High Court having allowed the Review Petition, in our considered opinion, ought to have heard the L.P.A. on merits of all the issues instead of restricting its consideration only in the light of the Governing Body's Resolution dated 15.1.1997. The High Court as well could have left open the question as to the validity of the notification and its applicability to the fact situation on hand since it is the contention of the appellant that the Governing Body's Resolution dated 15.1.1997 was not the subject matter of debate at any stage of the proceedings.

In the circumstances, it would be appropriate to leave the question as regards the validity of the Governing Body's Resolution as well as its applicability to be gone

into by the High Court together with other issues that may arise for its consideration for the purposes of disposal of the L.P.A. We make it clear that it shall be open to the appellant herein to canvass as regards the validity of the Governing Body's Resolution dated 15.1.1997 and its applicability to the case on hand. The question is accordingly left open as the same is required to be gone into by the High Court after hearing the parties.

The impugned order under appeal shall accordingly stand modified to this extent. But we make it clear that we

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have not expressed any opinion whatsoever on any of the issues that arise for consideration by the High Court.

Having regard to the facts and circumstances of the case, we request the High Court to hear the L.P.A. and dispose of the same as expeditiously as possible preferably within six months. It is needless to observe that the L.P.A. shall be heard on its own merits uninfluenced by any of the observations made in the impugned order.

The order of status quo granted by this Court on 3rd March, 2009 shall continue to be in operation until disposal of the L.P.A. by the Division Bench of the High Court.

The impugned order is accordingly modified to the limited extent as indicated hereinabove.

The appeal

is accordingly disposed of without any order as to costs.

.....J.

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(B. SUDERSHAN REDDY)

New Delhi,
.....J.
December 8, 2010

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(SURINDER SINGH NIJJAR)