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C.A. No.3380/09 etc.

ITEM NO.101 COURT NO.10 SECTION IV

SUPREME COURT OF INDIA
RECORD OF PROCEEDINGS

CIVIL APPEAL NO(s). 3380 OF 2009

ACHARYA VIDYA SAGAR TECH.EDUN.STY. Appellant (s)

VERSUS

STATE OF M.P.& ORS. Respondent(s)

(With appln(s) for vacating stay and prayer for interim relief and office report)
WITH Civil Appeal NO. 3381 of 2009
(With prayer for interim relief and office report)
Civil Appeal NO. 3382 of 2009
(With Appln.(s) for directions and exemption from filing O.T. and
for directions and with prayer for interim relief and Office Report)
Civil Appeal NO. 3383 of 2009
(With appln.(s) for directions, prayer for interim relief and office report)
Civil Appeal NO. 3384 of 2009
(With appn.(s) for further direction, exemption from filing O.T., prayer for interim relief and
office report)
Civil Appeal NO. 3385 of 2009
(With appln.(s) for exemption from filing O.T. and with prayer
for interim relief and office report)
Civil Appeal NO. 3386 of 2009
(With appln.(s) for transposing respondents as petitioners)
Civil Appeal NO. 3387 of 2009
(With appn.(s) for directions, exemption from filing O.T., prayer for interim relief and offic
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report)
Civil Appeal NO. 3388 of 2009
(With appn.(s) for directions, exemption from filing O.T., prayer for interim relief and offic
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report)
Civil Appeal NO. 3389 of 2009
(With appn.(s) for directions, prayer for interim relief and office report)
Civil Appeal NO. 3390 of 2009
(With appn.(s) for directions, prayer for interim relief and office report)
W.P(C) NO. 246 of 2008
(With appln.(s) for directions and office report)
Civil Appeal NO. 3391 of 2009(With office report)
Civil Appeal NO. 3392 of 2009
(With appln.(s) for deletion of the name of respondent and directions
and impleadment/directions and clarification/direction and with prayer
for interim relief and office report)

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C.A. No.3380/09 etc.

Civil Appeal NO. 3393 of 2009
(With Appln.(s) for vacating stay and directions and with prayer for
interim relief and office report)
Civil Appeal NO. 3394 of 2009
(With prayer for interim relief and office report)

Date: 06/08/2009 These Appeals were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE MARKANDEY KATJU
HON'BLE MR. JUSTICE V.S. SIRPURKAR

For Appellant(s) Mr. B.K.Satija, Adv.
Mr. Siddharth Gupta, Adv.

Mr. Mohan Pandey, Adv.

in CA 3392/09 Dr. Rajeev Dhawan, Sr.Adv.
Mr. Jasbir Singh Malik, Adv.
Mr. S.K. Sabharwal, Adv.

in IAs in CA 3392/09 Mr. Vivek Tankha, Sr.Adv.
Mr. Jasbir Singh Malik, Adv.
Mr. S.K. Sabharwal, Adv.

in CA 3393/09 Mr. Anoop George Choudhary, Sr.Adv.
Ms. June Choudhary, Sr.Adv.
Mr. Syed Ahmad Saud, Adv.
Mr. M. Moonis Abbasi, Adv.
Mr. Prabhat K. Rai, Adv.
Mr. Shakil Ahmed Syed, Adv.

in CA 3380-86/09 Mr. Triloki Nath Razdan, Adv.
Ms. Smriti Razdan, Adv.

For Respondent(s) CA 3380,3392 & 3393 of 2009 Mr. S.K. Gambhir, Sr. Adv.
Mr. M.P. Jha, Adv.
Mr. Ram Ekbal Roy, Adv.
Mr. Harshvardhan Jha, Adv.

State of M.P. Ms. Praveena Gautam, Adv.
Mr. B.S. Banthia ,Adv

for Board Mr. Annam D.N. Rao, Adv.

For NCTE Mr. Yatish Mohan, Adv.
Ms. Vinita Y. Mohan, Adv.
Mr. Shekhar Prit Jha, Adv.

for UOI Ms. Indra Sawhney, Adv.
Ms. Sadhana Sandhu, Adv.
Mr. D.S. Mahra, Adv.
Ms. Sushma Suri, Adv.

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UPON hearing counsel the Court made the following

ORDER

There was a controversy as to whether the students who were permitted to appear for the first year examination of D.Ed. Course by orders of this Court dated 16.05.2008 and 30.05.2008 whether their result should be allowed to be declared or not.

On 29.05.2009, this Court passed the following order.

"This Court had granted an interim order allowing the students to appear before the examinations. These orders were passed on 16.05.2008 and 30.05.2008. The Court directs that the result of all these students shall be declared within 15 days from today. The declaration of result shall be provisional subject clearly to the final outcome of these appeals. The declaration of the result shall not create any rights in the students nor in the institutions. All the matters shall then be placed for final hearing in the opening week after summer vacation."

We are told at the Bar that the result of Shri Vaishnav Institute of Technology & Management, Gwalior (M.P.) has not been declared.

We feel that under the circumstances which were explained to us by counsel on both the sides, result of Shri Vaishnav Institute of Technology & Management, Gwalior (M.P.) should also be declared. Accordingly, we direct

that the result of Shri Vaishnav Institute shall now be declared. However, we make it clear that the Board shall not be held responsible in any manner for not declaring the result of the said Institute.

Now, the question is as to whether those students who on the basis of their attendance prior to the declaration of their result of D.Ed. first year examination should be allowed to appear in the supplementary examination to be held in September, 2009 for D.Ed. IInd year.

In our opinion, this is not possible. A student's attendance in any class before his result was declared has to be ignored. In that view we refuse the request on behalf of the appellants that these students who had attended D.Ed. IInd year classes even before their result of D.Ed. Ist year was declared should be allowed to appear in the D.Ed. IInd year supplementary examination. We make it clear that before taking the D.Ed. IInd year examination, each

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student shall have to complete his/her attendance of 180 days after passing of the D.Ed. Ist year examination. Only such students who have completed 180 days of attendance after passing of D.Ed. Ist year examination shall be allowed to sit in the D.Ed. IInd year examination to be held as per the schedule fixed by the Board.

We had directed in our earlier order that these appeals shall be listed for final hearing in the opening week after summer vacation because we had specifically held that the declaration of the result shall be provisional subject clearly to the final outcome of these appeals. Since the D.Ed. Ist year result has been declared and the students are to attend classes for the IInd year, these appeals shall now be placed for final hearing in the month of November, 2009.
C.A. No. 3394/2009

It is submitted by learned counsel appearing for the appellant that this appeal pertains to the B.Ed. Degree course and has been wrongly tagged with this batch of appeals.

In view of the statement of learned counsel for the appellant, C.A. No. 3394/2009 is delinked from this batch and be listed separately.

(Ajay Kr. Jain)
Court Master

(Indu Satija)
Court Master