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W.P(C)No. 19 OF 2004

ITEM NO.101(PH)

COURT NO.1

SECTION PIL

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

WRIT PETITION (CIVIL) NO. 19 OF 2004

YASHPAL & ANR.

Petitioner(s)

VERSUS

STATE OF CHHATTISGARH & ORS.

Respondent(s)

(With appln(s) for exemption from filing OT and with office report)

with

C.A. No. 5161/2004 (with appln.(s) for permission to place additional documents on record and with prayer for interim relief),
C.A. No. 5185/2004 (with appln.(s) for directions and with office report),
W.P.(C) No. 295/2004 (with appln.(s) for stay),
C.A. No. 5171/2004 (with appln.(s) for exemption from filing OT and with prayer for interim relief),
C.A. No. 5172/2004 (with appln.(s) for intervention and with prayer for interim relief),
C.A. No. 5174/2004 (with prayer for interim relief),
C.A. No. 5175/2004 (with prayer for interim relief),
C.A. No. 5146/2004 (with prayer for interim relief),
C.A. No. 5180/2004 (with prayer for interim relief and office report),
W.P.(C) No. 299/2004 (with appln.(s) for stay and with office report),
C.A. No. 5184/2004,
C.A. No. 5188/2004 (with prayer for interim relief and office report),
C.A. No. 5189/2004 (with prayer for interim relief and office report),
C.A. No. 5190/2004 (with prayer for interim relief),
C.A. No. 5191/2004 (with prayer for interim relief and office report),
C.A. No. 5197/2004 (with prayer for interim relief),
C.A. No. 5198/2004 (with prayer for interim relief and office report),
W.P.(C) No. 525/2004 (with appln.(s) for stay)

WITH

W.P.(C) No. 565/2003

with W.P.(C) No. 346/2004 (with appln.(s) for stay and with office report).

Date: 03/11/2004 These Petitions were called on for hearing today.

CORAM :

HON'BLE THE CHIEF JUSTICE
HON'BLE MR. JUSTICE G.P. MATHUR
HON'BLE Mr. JUSTICE P.K. BALASUBRAMANYAN

For Petitioner(s)/

Appellant(s)

in WP 19/04Dr. Rajeev Dhavan, Sr. Adv.

Mr. Vivek Singh, Adv.

Mr. Lakshmi Raman Singh, Adv.

Mr. Ravi Prakash, Adv.

Mr. Chandra Prakash, Adv.

in CA 5161/04Mr. L.N. Rao, Sr. Adv.(NP)

Mr. Ravindra Srivastava, Sr. Adv.(NP)

Mr. Prakash Srivastava, Adv.

Mr. M K Choudhary, Adv.

Mr. Kunal Verma, Adv.

Ms. Rashmi Rai, Adv.

in CA 5185/04Mr. P K Ray, Adv.
Mr. Raj Kumar Mehta, Adv.

in WP 295/04Mr. Chandra Shekhar, Adv.
Mr. S K Verma, Adv.

in CA 5171/04, WP 525/04Mr. Prakash Srivastava, Adv.

in CAs 5172,5174,5175,
5146, 5180/04Mr. Shakil Ahmed Syed, Adv.

in WP 299 & CA 5189/04Mr. J K Soni, Adv.
Mr. Seeraj Bagga, Adv.
Ms. Sureshta Bagga, Adv.

in CA 5184/04Mr. Arvind Kumar, Adv.
Ms. Laxmi Arvind, Adv.
Ms. Jaya Sinha, Adv.
Ms. Poonam Prasad, Adv.

in CA 5188, 5190/04Mr. Himinder Lal, Adv.

in CA 5191, 5197/04Mr. Sunil Kumar, Adv.
Mr. Himanshu Shekhar, Adv.
Mr. Manik Vedsen, Adv.

in CA 5198/04Mr. Kamal Mohan Gupta, Adv.
Mr. Ansar Ahmad Chaudhary, Adv.
Mr. S. Borthakur, Adv.

in WP 565/03Mr. Dinesh Kumar Garg, Adv.

in WP 346/04Mr. Raj Kumar Mehta, Adv.

For Respondent(s)

State of Chhattisgarh &Mr.Ravi Shankar Prashad, Sr. Adv.(NP)
Regulatory CommissionMr. Ravish Chandra Agarwal, Adv.Genl.
Ms. Suparna Srivastava, Adv.
Ms. Rajesh Srivastava, Adv.
Ms. Deepti Singh, Adv.

University GrantsMr. Amarendra Sharan, ASG
CommissionMr. Amitesh Kumar, Adv. Mr. E C Vidya Sagar, Adv.

MCIMr. Maninder Singh, Adv.
Ms. Pratibha M Singh, Adv.
Mr. Angad Mirdha, Adv.
Mr. Saurabh Mishra, Adv.

AICTEMr. Chava Badri Nath Babu, Adv.
Mr. Bimal Roy Jad, Adv.

NCTEMr. V K Rao, Adv.
Ms. Madhu Sikri, Adv.
Mr. Jainendra Maldahiyar, Adv.
Mr. Saket Sikri, Adv.
Mr. Satish Kumar, Adv.

BCIMr. Sanjeev Sachdeva, Adv.
Ms. Priya Puri, Adv.

Respondent No. 83 in-person.

(in WP 19/04)

Mr. V Shekhar, Adv.
Mr. S Ganesh, Adv.
Ms. Manjusha Narain, Adv.

Mr. Rakesh Shrouthi, Adv.
Mr. B K Satija, Adv.

Mr. A K Ganguli, Sr. Adv.
Ms. Hetu Arora, Adv.
Mr. Naveen R Nath, Adv.
Ms. Lalit Mohini Bhat, Adv.
Ms. Anitha Shenoy, Adv.

Mr. P Venkat Reddy, Adv.
Mr. Anil Kumar Tandale, Adv.

Mr. J K Soni, Adv.
Mr. Seeraj Bagga, Adv.
Ms. Sureshta Bagga, Adv.

Mr. Dipak Kumar Jena, Adv.
Mr. Ghanshyam Joshi, Adv.
Ms. Minakshi Jena, Adv.

Mr. Avik Datta, Adv.
Mr. V K Monga, Adv.

Mr. Ashok A Desai, Sr. Adv.
Mr. Satyajit A Desai, Adv.
Mr. Venkateswara Rao Anumolu, Adv.

Mr. Sunil Kumar, Adv.
Mr. P N Jha, Adv.
Mr. Himanshu Shekhar, Adv.

Ms. B Vijayalakshmi Menon, Adv.

Mr. Rakesh K Sharma, Adv.

Mr. Himinder Lal, Adv.

Mr. Y Raja Gopala Rao, Adv.
Ms. Sasmita Tripathy, Adv.
Mr. Y Ramesh, Adv.

Mr. Shakil Ahmed Syed, Adv
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Mr. Kamal Mohan Gupta, Adv.

Mr. L N Rao, Sr. Adv.(NP)
Mr. Ravindra Srivastava, Sr. Adv.(NP)
Mr. Prakash Srivastava, Adv.
Mr. M.K. Choudhary, Adv.
Mr. Kunal Verma, Adv.
Ms. Rashmi Rai, Adv.
Dr. S K Verma, Adv.

Mr. Nikilesh Ramachandran, Adv.

Mr. A Deb Kumar, Adv.
Mr. Sudarsh Menon, Adv.
Mr. B S Sharma, Adv.

Mr. Arvind Kumar, Adv.
Ms. Laxmi Arvind, Adv.
Ms. Jaya Sinha, Adv.
Ms. Poonam Prasad, Adv.

Mr. Raj Kumar Mehta, Adv.

Ms. Rakhi Ray, Adv.

Ms. Bina Gupta, Adv.
Ms. Divya Roy, Adv.

Mr. Yash Pal Dhingra, Adv.

For Applicant(s) in Mr. M T George, Adv.
intervention appln.
in CA 5172

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

Mr. Arvind Kumar, learned counsel resumed his arguments at 3.10 P.M. and concluded at 3.40 P.M. Thereafter, Mr. A K Ganguli, learned senior counsel commenced his arguments and was on his legs when the Court rose for the day leaving the matters as part-heard.

(AJAY KR. JAIN) (RADHA R. BHATIA)
COURT MASTER COURT MASTER

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ITEM NO. 101(P.H.)COURT NO. 1DATE: 04.11.2004

CORAM & APPEARANCE : SAME AS ON 03.11.2004

Mr. A K Ganguli, learned senior counsel resumed his arguments at 10.40 A.M. and concluded at 12 Noon. Thereafter, Mr. Ravish Chandra Agarwal, learned Advocate General for the State of Chhattisgarh made his submissions for 40 minutes. Thereafter, Mr. Ashok A Desai, learned senior counsel argued for 10 minutes followed by Mr. Y Raja Gopala Rao, learned counsel who made his submissions for some time.

Thereafter, Mr. Amarendra Sharan, learned Additional Solicitor General appearing for U.G.C. made his further submissions from 2.10 P.M. to 2.50 P.M.

Thereafter, Dr. Rajeev Dhavan, learned senior counsel made his submissions in rejoinder till rising of the Court.

Arguments concluded.

Judgment reserved.

(AJAY KR. JAIN)(D.P. WALIA) (RADHA R. BHATIA)
COURT MASTERCOURT MASTER COURT MASTER

Later on

Looking to the importance of the issues arising for decision and the far-reaching implications involved, we would like to hear Shri Rakesh Dwivedi, Sr. Advocate, as Amicus Curiae. List for the purpose on 29.11.2004 at 2.00 P.M.

A copy of this order be delivered to Shri Rakesh Dwivedi, Sr. Advocate.

All the learned counsel appearing for the parties be also informed.

(AJAY KR. JAIN)(D.P. WALIA) (RADHA R. BHATIA)
COURT MASTERCOURT MASTER COURT MASTER

LIST OF BOOKS

WP(C) NO. 19/2004 ETC.ETC. (Chhattisgarh Universities matters)

C.A.V. ON 04.11.2004

Constitution of India

In compilation of Shri Ravindra Srivastava, Sr. Adv.

Chhattisgarh Niji Kshetra Viswavidyalaya (Sthapana Aur Viniyaman) Adhinyam, 2002.

Chhattisgarh Niji Kshetra Viswavidyalaya (Sthapana Aur Viniyaman) Adhinyam, 2002 (as amended in 2004).

University Grants Commission Act.

UGC (Establishment of and Maintenance of Standards in Private Universities) Regulation, 2003.

UGC (Fitness of Certain Universities for Grants) Rules, 1975.

Chhattisgarh Niji Kshetra Viswavidyalaya Rules, 2004.

Chhattisgarh Niji Kshetra Viswavidyalaya (Sthapana Aur Viniyaman) Adhinyam, 2001 (with Statement of Objects & Reasons)
(submitted by Mr. Ravi Shankar Prasad, Sr. Adv.)

Chhattisgarh Niji Kshetra Viswavidyalaya (Sthapana Aur Viniyaman) Sansodhan Adhinyam, 2004.
(submitted by Mr. Ravi Shankar Prasad, Sr. Adv.)

UGC (Regulation of Admission and Fees in Private Non-Aided Professional Institutions) Regulations, 1997.
(submitted by Mr. Ravi Shankar Prasad, Sr. Adv.)

UGC Act and Rules & Regulations under the Act.
(submitted by Mr. Ravi Shankar Prasad, Sr. Adv.)

Madhya Pradesh Vishwavidyalaya Adhinyam, 1973.

U.P. State Universities Act.

1994 (5) SCC 479

1957 SCR 874, 930 (Chamarbaughwala)

1967 (2) SCR 650

AIR 1971 Delhi 1

1963 (Supp. 1) SCR 112 (Gujarat University)

1986 (2) SCC 667 (AP Christian Medical College)

2003 (3) SCC 321 (St. John Teachers)

1951 (1) All.ER 559 (St. David College)

1968 (1) SCR 833 at 848 (just referred)

1979 (1) SCC 137 (Avinder Singh)

2003 (7) SCC 151, paras 25/49/51 (just referred)

2001 (8) SCC 676 (Bharatidasan)

1987 (4) SCC 671 (Osmania University) (in compilation-p.12 of Mr. Sharan)

2003 (9) SCC 564 (K Purushottam Reddy) (in compilation-p.79 of Mr. Sharan)

1983 (4) SCC 45, para 90 (just referred)

1959 (Supp.2) SCR 601 at 616, 618-619 (just referred)

2002 (5) SCC 202, paras 26/28 (just referred)

1994 (Supp. 3) SCC 516 (University of Delhi)
(in compilation-p.27 of Mr. Sharan)

1984 (2) SCR 883 (Prem Chand Jain) (in compilation-p.1 of Mr. Sharan)

1951 SCR 747 (Delhi Laws Act)

1995 (4) SCC 104 (Adhinyaman Educational & Research Institute)
(in compilation-p.47 of Mr. Sharan)

G.P. Singh's Interpretation of Statutes, 8th Ed., p.763-765

1961 (1) SCR 341 at 346 (Vasantlal Maghanbhai) (just referred)

1959 (Supp.1) SCR 489 (Ram Narain Medhi) (just referred)

1959 (Supp.1) SCR 792 at 801 (D.S. Garewal) (just referred)

1968 (3) SCR 251 at 268,272, 274 (Municipal Corp.) (just referred)

JT 2004 (7) SC 371 (H.P. vs. Shivalik)

2004 (1) SCC 225, paras 34 to 45 (Vam Organics)

1975 (1) SCC 509, para 14 (just referred)

1981 (4) SCC 391, para 29 (just referred)

2001 (3) SCC 482, paras 30 & 38 (just referred)

1963 (Supp.1) SCR 112 (Gujarat University) (just referred)

1964 (6) SCR 368 (R. Chitralkha) (just referred)

1999 (7) SCC 120 (Preeti Srivastava)

2002 (8) SCC 481, paras 20,21,54,55,57 (TMA Pai) (just referred)

1963 (3) SCR 837 at 856 (Re: Sidhasbhai)

AIR 1956 SC 676 (Tika Ram)

1998 (7) SCC 26 (SIEL Ltd.)

2004 (4) SCC 513 (Tamilnadu vs. S.V. Bratheep)

1962 (Supp.3) SCR 10 (Calcutta Gas Co. case)

2002 (9) SCC 232 (ITC Ltd.)

1989 (3) SCC 709

1979 (2) SCC 196, para 22 (Atlas) (just referred)

1967 (3) SCR 557 (Devi Das vs. Punjab)

List of Papers filed in Court

1.List of Dates in CA 5161/2004

2.Comparative Chart of the Powers of the Regulatory Commission
vis-a-vis the University Grants Commission

3. Statement re: Inspection Reports on Non-Existent Private Universities in Chhattisgarh.
4. Statement re: Inspection Reports on Infrastructure of Existing Universities in Chhattisgarh.
5. Definition of University - Concise Oxford Dictionary and World Book Millennium.
(submitted by Mr. J K Soni, Adv.)
6. Re: University etc. - Encyclopedia Europa.
(submitted by Mr. J K Soni, Adv.)
7. Notes on Submissions (submitted by Mr. Ganguli, Sr. Adv.)
8. Notification issued by UGC (submitted by Mr. Ganguli, Sr. Adv.)
9. UGC (Minimum Standards of Instruction for the Grant of the First Degree through Formal Education) Regulations, 2003.
(submitted by Mr. Ganguli, Sr. Adv.)
10. Written Submissions on behalf of State of Chhattisgarh (by Mr. Ravish Chandra Agarwal, Adv. Genl.)
11. Reg: University - from Britannica (submitted by Mr. Ravish Agarwal).
12. Comparative Chart of Old & New Acts. (Submitted by Mr. Ravish Agarwal)
13. Addl. Propositions by Mr. A. Sharan, ASG on behalf of UGC
14. Report of the Committee on Model Act for Universities-Kothari (submitted by Mr. A Sharan, A SG)
15. The UGC Bill in the Parliament (submitted by Mr. A Sharan, ASG)
16. List of Recognised Universities (submitted by Mr. Amitesh Kumar learned counsel appearing for UGC)
17. Relevant pages from G.P. Singh's Principles of Statutory Interpretation (submitted by Dr. Dhavan)
18. Comparative Chart of the Act 2002 with Amendment Act of 2004.
(submitted by Dr. Dhavan).
19. On the word "University" - submitted by Mr. Arvind Kumar, Adv.

List of Papers filed in Court by Mr. A K Ganguli, Sr. Adv.

1. Notes on Submissions.
2. Notification issued by UGC
3. UGC (Minimum Standards of Instruction for the Grant of the First Degree through Formal Education) Regulations, 2003.

List of Papers filed in Court by Mr. Ravish Agarwal, Adv. Genl.
Chhattisgarh.

1. Written Submissions on behalf of State of Chhattisgarh.
- 2.Reg: University - from Britannica
- 3.Comparative Chart of Old & New Acts.

List of Papers filed in Court by Dr. Rajeev Dhavan, Sr. Adv.

1. Relevant pages from G.P. Singh's Principles of Statutory Interpretation
- 2.Comparative Chart of the Act 2002 with Amendment Act of 2004.
- 3.Comparative Chart of the Powers of the Regulatory Commission vis-a-vis the University Grants Commission.

List of Papers filed in Court (Misc.)

- 1.List of Dates in CA 5161/2004
2. On the word "University" - submitted by Mr. Arvind Kumar, Adv.

List of Papers filed in Court by Mr. Amarendra Sharan, ASG on behalf of UGC

1. Compilation of Case Law (separate volume)
- 2.Addl. Propositions.
- 3.Report of the Committee on Model Act for Universities-Kothari
- 4.The UGC Bill in the Parliament
5. List of Recognised Universities (submitted by Mr. Amitesh Kumar, counsel assisting Mr. Sharan)
6. Statement re: Inspection Reports on Non-Existent Private Universities in Chhattisgarh.
7. Statement re: Inspection Reports on Infrastructure of Existing Universities in Chhattisgarh.