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W.P(C)No. 19 OF 2004

ITEM No.1

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.19/2004

YASHPAL & ANR.

Petitioner (s)

VERSUS

STATE OF CHHATTISGARH & ORS.

Respondent (s)

(With Appln(s). for exemption from filing O.T. and directions and effecting substituted service and impleading party and office report)

with

W.P.(C) No. 295/2004 (All Higher Edu. Upliftment Society & Anr. vs. State of Chhattisgarh & Anr.) (with appln.(s) for stay and directions)
(FOR DIRECTIONS)

Date : 06/10/2004 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)Mr. Vivek Singh, Adv.
Mr. Ravi Prakash, Adv.
Mr. Chandra Prakash, Adv.
Mr. Lakshmi Raman Singh,Adv.

Mr. Chandra Shekhar, Adv.
Mr. S K Verma, Adv.

For Respondent (s)Mr. Amarendra Sharan, ASG
Mr. Amitesh Kumar, Adv.
Mr. E.C. Vidya Sagar,Adv.
(for University Grants Commission)

Ms. Suparna Srivastava, Adv.
Mr. Rajesh Srivastava, Adv.
Ms. Deepti Singh, Adv.
(for State of Chhattisgarh)

Mr. V. Shekhar,Adv.

Mr. Rakesh Shrouti, Adv.
Mr. B.K.Satiya,Adv.
(for respondent No. 74)

Mr. Naveen R Nath, Adv.

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

Mr. Seeraj Bagga, Adv.
Mrs.Sureshta Bagga,Adv.

Mr. Ghanshyam Joshi, Adv.

Mr. Deepak Kr. Jena, Adv.

Mr. Sanjiv Saxena, Adv.

Mr. Partha Sil, Adv.

(for respondent No. 6)

Mr. Avik Datta, Adv.

Mr. V.K. Monga, Adv.

(for respondent No. 68)

Mr. Venkateswara Rao Anumolu, Adv.

Mr. P N Jha, Adv.

Mr. Himanshu Shekhar, Adv.

(for respondent No. 15)

Ms. B. Vijayalakshimi Menon, Adv.

Mr. Rakesh K. Sharma, Adv.

Mr. Himinder Lal, Adv.

Mr. Y. Raja Gopala Rao., Adv.

Mr. Mohd. Taiyab Khan, Adv.

Mr. Shakil Ahmed Syed, Adv.

(for respondents Nos. 22, 41 and 58)

Mr. Kamal Mohan Gupta, Adv.

Mr. S.K. Verma, Adv.

Mr. Nikilesh Ramachandran, Adv.

Mr. A Deb Kumar, Adv.

Mr. Sudarsh Menon, Adv.

(for respondents Nos. 26 and 61)

Mr. Arvind Kumar, Adv.

Ms. Laxmi Arvind, Adv.

Ms. Jaya Sinha, Adv.

Ms. Poonam Prasad, Adv.

(for respondent No. 94)

Mr. Raj Kumar Mehta, Adv.

(for respondents Nos. 9 and 81)

Mr. Prakash Srivastava, Adv.

Mr. M K Choudhary, Adv.

Mr. Kunal Verma, Adv.

(for respondent No. 78)

Respondent No. 83 in-person. (NP)

Mr. C B N Babu, Adv.

Mr. Bimal Roy Jad, Adv.

(for AICTE)

UPON hearing counsel the Court made the following

O R D E R

There are a number of writ petitions/civil appeals which are on board for hearing.

W.P.(C) No. 19/2004 is a public interest litigation laying challenge to the vires of Chhattisgarh Niji Kshetra Vishwavidyalaya (Sthapana Aur Viniyaman) Adhiniyam, 2002 and the Amending Act . The State of Chhattisgarh, the University Grants Commission and 92 other Universities have

been impleaded as respondents. Some of the Universities filed their own writ petitions in the Chhattisgarh High Court wherein an interim order was passed, feeling aggrieved whereby some of the Universities have filed special leave petitions in this Court. Transfer petitions have also been filed for transferring some writ petitions which are pending in the High Court. There is an element of urgency involved, inasmuch as the Universities have been de-recognised and a large number of students are facing uncertainty. Looking at the urgency of the matters and as urged by the learned counsel for the parties, we have directed the matters to be listed for early hearing and all these matters are coming up for hearing on 12th October, 2004. In W.P.(C) No. 19/2004, 50 Universities have been served and 42 are not served. The learned counsel for the petitioners has filed a chart containing six tables showing the service position which is taken on record.

In Table IIA, the names of 5 Universities are shown which are not served. However, their own civil appeals or writ petition are pending in this Court and the learned counsel appearing for those Universities have volunteered to take notice. Service on these University is treated as complete.

In Table V, the list mentions 19 Universities which are not served. However, we find that 52 Universities represented by the Association of Private Universities have filed their own transfer petitions registered as T.P.(C) Nos. 586-589/2004. Some of the Universities are represented through the Association therein and Mr. Raj Kumar Mehta, learned counsel appearing for the Association has taken notice in this petition i.e. W.P.(C) No. 19/2004.

Table III sets out names of 9 Universities who were not granted viability certificate. Similarly, Table IV mentions names of 9 Universities which according to the inquiry held and survey carried out by University Grants Commission have been found to be non-traceable or non-existent. Notice to these Universities is dispensed with.

However, notices have been sent to all the Universities through Regd. A/D post on their addresses given by such Universities to the State Government and University Grants Commission.

Inasmuch as we find that the interest of the Universities in contesting this petition is common and they have come into existence consequent upon viability certificates having been given by the State which is respondent No. 1, their existence depends on the vires of the Act and the viability certificates issued by the State. The State is already represented.

Inasmuch as all the Universities arrayed as respondents have common interest and most of them are represented, in the interest of justice we direct the matter to be set down for final hearing.

List these matters and batch on 12th October, 2004.

W.P.(C) No. 19 of 2004 and C.A. Nos. 5161 and 5185 of 2004 will be treated as lead cases.

(D.P. WALIA)
COURT MASTER

(RADHA R. BHATIA)
COURT MASTER