

ITEM NOS.2+51

COURT NO.2

SECTIONS IX,X,XVI

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(s). 321 OF 2006

RISHIRAJ MEMORIAL EDUCATION & WEL.SOC.

Petitioner(s)

VERSUS

UNION OF INDIA & ANR.

Respondent(s)

(With appln(s) for ex-Parte stay and office report )

WITH W.P(C) NO. 358 of 2006

(With appln. for directions)

W.P(C) NO. 375 of 2006,W.P(C) NO. 395 of 2006,

W.P(C) NO. 335 of 2006,W.P(C) NO. 340 of 2006

W.P(C) NO. 350 of 2006,W.P(C) NO. 378 of 2006

W.P(C) NO. 390 of 2006,W.P(C) NO. 389 of 2006

W.P(C) NO. 370 of 2006,W.P(C) NO. 302 of 2006,

W.P(C) NO. 418 of 2006,W.P(C) NO. 420 of 2006

W.P(C) NO. 429 of 2006,W.P(C) NO. 573 of 2004,

W.P(C) NO. 447 of 2006, W.P.(C)No.345 of 2006,

W.P.(C)No. 372 of 2006

(With appln. for directions and office report)

W.P(C) NO. 366 of 2006

(With appln. for ex-parte stay and office report)

W.P(C) NO. 326 of 2006, W.P(C) NO. 397 of 2006,

W.P(C) NO. 391 of 2006,W.P(C) NO. 630 of 2006,

W.P(C) NO. 454 of 2006,W.P(C) NO. 461 of 2006

(With office report)

W.P(C) NO. 415 of 2006

(With appln. for interim relief)

W.P(C) NO. 372 of 2005,W.P(C) NO. 373 of 2005

(With appln. for stay and office report)

S.L.P(C) NO. 5867 of 2006

(With appln. for interim relief and office report)

C.A.No. 8209/2003 (For prel. Hearing)

W.P(C) No.227/2006

(With appln. for permission to place addl. Documents on record and office report)

AND WITH

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SLP(C) 15840/2006

(With appln. for ex-parte stay and with prayer for interim relief and office report)

Date: 22/09/2006 These Petitions were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE K.G. BALAKRISHNAN

HON'BLE MR. JUSTICE D.K. JAIN

For Petitioner(s)

Mr. Vivek K Tankha, Sr.Adv.

Mr. Rohan Thawani, Adv.

Ms. Pooja Dhar, Adv.

Mr. Joseph Pookkatt, Adv.

Mr. Prashant Kumar, Adv.

Mr.Harsha Pathak, Adv.

For M/S. Ap & J Chambers,Adv.

Mr.Arun Jaitley, Sr.Adv.

Mr. Jasbir Singh Malik, Adv.

For Mr. S.K. Sabharwal, Adv.

Mr. R.K. Jain, Sr. Adv.

Mr. Mukul Rohatgi, Sr. Adv.

Mr. Aseem Mehrotra, Adv.

For Mr. Abhijat P. Medh, Adv.

Mr. Vivek Tankha, Sr. Adv.

Mr. Romy Chacko. Adv.

Mr. A.K. Jha, Adv.

Ms. Sumita Hazarika, Adv.

Mr. Vipin Gogia, Adv.

Ms. Jaspreet Gogia, Adv.

Mr. K.K. Gogna, Adv.

Mr.Gurinder Pal Singh, Adv.

Mr. L.Nageshwar Rao, Sr. Adv.

Mr. Neeraj Shekhar, Adv.

Mr. Aseem Mehrotra, Adv.

Mr. Ashwani K. Dubey, Adv.

For Mr. Ambhoj Kumar Sinha, Adv.

Mr. Mukul Rohtagi, Sr. Adv.

Mr. Rudreshwar Singh, Adv.

Mr. Kaushik Poddar, Adv.

Mr. Kumar Ranjan, Adv.

Mr. Sanjay Jain, Adv.

Mr. Ajit Kumar Sinha, Adv.

Mr.Manish Kumar Saran, adv.

Mr. R.K. Jain, Sr. Adv.

Mr. Anshuman Sinha, Adv.

Mr. Vijay Kumar Pandey, Adv.

For Mr. M.K. Michael, Adv.

Mr. Arun Jaitley, Sr. Adv.

Mr. Raju Ramchandran, Sr. Adv.

Mr. Akhilesh Kumar Pandey, Adv.

Mr. Sudhanshu Saran, Adv.

Mr. Dushyant A. Dave, Sr. Adv.

Mr. Arun Jaitley, Sr. Adv.

Dr. Rajeev Dhawan, Sr. Adv.

Mr. Mukul Rohtagi, Sr. Adv.

Mr. Krishnan Venugopal, Adv.

Mr. S. Udaya Kumar Sagar, Adv.

Ms. Bina Madhavan, Adv.

For M/s. Lawyer's Knit & Co., Adv.

Mr. Mukul Rohatgi, Sr. Adv.

Mr. M.R. Calla, Sr. Adv.

Mr. M.P. Jha, Adv.

Mr. Ram Ekbal Roy, Adv.

Mr. Harshvardhan Jha, Adv.

Mr. L. Nageshwar Rao, Sr. Adv.

Mr. Amit Kumar, Adv.

Ms. Rekha Bakshi, Adv.

Ms. Poonam Sinha, Adv.

Mr. Kapil Saxena, Adv.

Mr. K.P. Gautam, Adv.

Mr. Jana Kalyan Das, Adv.

Mr. Avijeet Bhujabal, Adv.

Mr. A.K. Ganguli, Sr. Adv.

Mr. V. Ramasubramanian, Adv.

Mr. Dushyant Dave, Sr. Adv.

Mr. Mukul Rohatgi, Sr. Adv.

Mr. Haris Beeran, Adv.

For Mr. Radha Shyam Jena, Adv.

Mr.F.S.Nariman, Sr.Adv.

Mr.U.U.Lalit, Sr.Adv.

Mr.Satyajit Saha, Adv.

Mr.Prasenjit Keswani, Adv.

For Mrs.V.D.Khanna, Adv.

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For Respondent(s)DCI/MCI

Mr. Maninder Singh,Adv.

Mrs.Prathibha M.Singh, Adv.

Mr. Gaurav Sharma, Adv.

UOI

Mr. Gopal Subramaniam, ASG

Mr.Amarjeet Singh, ASG

Mr.T.Srinivasa Murthy, Adv.

Ms.Sandhya Goswami, Adv.

For Ms. Sushma Suri ,Adv

Mr. R.S. Suri, Adv.

Mr. S.K. Choudhary, Adv.

Mr. Rajnish, Adv., Mr. Avnish, Adv.

For Mr. Aniruddha P. Mayee, Adv.

Mr.R.K.Adsure, Adv.

Mr. Gopal Singh, Adv.

Mr. Nishakant Pandey, Adv.

Mr.Arun Jaitley, Sr.Adv.

Mr. Akhilesh Kumar Pandey, Adv.

Mr.Sudhanshu Saran, Adv.

Mr.Santosh Paul, Adv.

Mr.M.J.Paul, Adv.

Mr.Abishek Rao, Adv.

Mr.Praji, K.J., Adv.

UPON hearing counsel the Court made the following

O R D E R

W.P.(C)No.302/2006 & 420/06:

Learned Additional Solicitor General submitted that pursuant to the report given by the

Dental Council of India, the Union of India has already taken a decision granting permission to these two

colleges and the same has been intimated to the said colleges. The colleges may go-ahead with admission

of the students and complete the admission process at the earliest, in accordance with law.

The writ petitions are disposed of accordingly.

W.P.(C)No.350/06:

Heard learned Additional Solicitor General for the Union of India and counsel for the

Petitioner.

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Learned A.S.G. submitted that pursuant to the recommendation of the Dental Council of

India, the Union of India has already granted permission to the college to admit 100 students, though the

recommendation of the Dental Council of India was for only 50 seats. The said decision has been

communicated to the petitioner. In view of the statement, the college may go-ahead with the admission

of the students in accordance with law.

The writ petition is disposed of accordingly.

W.P.(C)NO.418/06:

The learned Additional Solicitor General submits that pursuant to the qualified positive

recommendation of the Dental Council of India, the Union of India has granted permission to start the

college with a student strength of 50. Learned Counsel for the petitioner College, however, submits that

since all deficiencies, as pointed out, have been made good and requisite staff strength to cope with the

enhanced strength is available, the college should be permitted to admit 100 students, otherwise the

working of the college itself would not be viable. Our attention was drawn to the recommendations by

the Dental Council of India and also to the order passed by the Union of India. The college may go-

ahead with the admission of 50 students for this year.

However, we make it clear that the question with regard to the seats of the next year would

be decided separately along with other pending writ petitions.

Tag with connected matter.

W.P.(C)NO.326/06:

We have heard learned A.S.G. as well as learned counsel for the petitioner. It is submitted

on behalf of Union of India that in view of the positive recommendation by the MCI, a decision has been

taken to grant permission to the college and the same has already been intimated to the college. The

college may go-ahead with the admission of the students in accordance with law.

The writ petition is disposed of accordingly.

W.P.(C)No.372/06:

The learned Additional Solicitor General submitted that the negative recommendation of

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the MCI has been accepted by the Union of India and accordingly permission to admissions for the year

2006-07 has been declined to the college.

The writ petition is disposed of accordingly.

W.P.(C)No.321/06:

It is submitted by learned A.S.G. That though the Medical Council of India had pointed out

certain deficiencies regarding the college, but later the college curing the said deficiencies, the Union of

India has been pleased to grant permission to the college to admit 50 students. Counsel for the petitioner

college, however, submitted that the petitioner has sufficient infrastructure to admit 100 students. This

question shall be considered for the next academic year in the pending writ petitions. The college may

go-ahead with the admission of 50 students for this year.

Tag with connected matter.

W.P.(C)No.335/2006:

The petitioner college has sought permission to start the Dental college with a prayer to

admit 100 students. Learned A.S.G. Has submitted that though the Dental Council of India has made a

negative recommendation, but the Union of India has been pleased to grant permission to this college to

admit total 50 students for the year 2006-07. Learned counsel for the petitioner submitted that the

college is sufficient facilities to admit 100 students. It will be open to the petitioner to take appropriate

permission for increase in seats for the next year, subject to the pending writ petitions.

Tag with connected matter.

W.P.(C)Nos.378 and 390/06:

Adjourned to 29th September, 2006.

In the meanwhile, the Union of India shall verify the recommendation of DCI and submit a report.

W.P.(C)No.573/04:

The learned Additional Solicitor General submitted that pursuant to the recommendation

by the Dental Council of India, the Union of India has granted permission to start the college for

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admission of 40 students for the academic year 2006-07, subject to annual review. The college may go-

ahead with the admission process in accordance with law.

The writ petition is disposed of accordingly.

W.P.(C)Nos.227/06, 372/05 & 373/05:

The Additional Solicitor General submitted that keeping in view the fact that for all these

three colleges, the Mithila University had conducted the examinations and the students were admitted in

these colleges, based on orders passed by this Court and also the orders passed by the High Court of

Patna, the government has decided to recognize the BDS Degree in respect of students who have studied

in these three colleges up to 2000-01, as a one time measure. In view of the statement, no orders are

called for.

The writ petitions are disposed of accordingly.

W.P.(C)Nos.340, 345, 358, 366, 370, 375, 389, 391, 395, 397, 415, 429, 447, 454, 461, 630/06 and SLP(C)

Nos.15840/06 and 5867/06:

Heard learned Additional Solicitor General for the Union of India, learned counsel for the

Dental Council of India and learned counsel for respective colleges.

There were several application by various educational institutions to start the Dental and

Medical colleges in the academic year 2006-07. In some of the colleges, the Union of India, pursuant to

the recommendation by the Dental Council of India has granted permission to start the colleges for the

year 2006-07. For the remaining colleges, the Union of India has received recommendations from the

Dental Council of India but as the recommendations were not favourable for these colleges, the Union of

India has declined permission for starting the colleges for the academic year 2006-07. However, learned

counsel representing various educational institutions submitted that they have not been given any

opportunity by the Union of India to contest the negative recommendations made by the Dental Council

of India. It is asserted that some of the defects pointed out in the recommendations were subsequently

cured and some other alleged defects are not of serious nature and could be cured at any time. Learned

counsel thus, submit that all these institutions may be granted one opportunity of hearing before a final

decision is taken in the matter.

Having regard to the grievance made, we feel just and proper that these institutions be

given an opportunity to represent their cases before the Union of India. Shri Gopal Subramaniam has

very fairly conceded to the request and submits that he will advise the authorities concerned to do the

needful.

Under the above circumstances, we direct that these colleges may submit their

representations, within two days from today, in the office of the Secretary, Ministry of Health,

Government of India or any other person designated by him. The Secretary or the officer designated by

him may hear the petitioners/their representatives on 26th and 27th September, 2006 and convey the

decision to the colleges concerned.

Post all these cases on 29th September, 2006.

It is clarified that this privilege is extended only in those cases where the Dental Council of

India has already submitted its recommendations and the Union of India has taken the decision thereon.

C.A.No.8209/03:

Delinked. Adjourned.

(G.V.Ramana)

(Veera Verma

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Court Master

Court Master

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