

ITEM NO. 4

COURT NO.8

SECTION IX

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)...../2010
CC 10205/2010

(From the judgement and order dated 23/06/2010 in WP No. 1109/2010
of The HIGH COURT OF BOMBAY)

MAH.STATE SE.& HIGHER SEC.EDUCATION.PUNE Petitioner(s)

VERSUS

STATE OF MAHARASHTRA & ORS. Respondent(s)

(With appln(s) for permission to file SLP,exemption from filing
the certified/plain copy of the impugned order and with prayer
for interim relief)

WITH S.L.P.(C)...CC NO. 10215 of 2010
(With appln(s) for permission to file SLP,exemption from filing
the certified/plain copy of the impugned order and intervention
and with prayer for interim relief)

S.L.P.(C)...CC NO. 10559 of 2010
(With appln(s) for permission to file SLP,exemption from filing
the certified/plain copy of the impugned order and with prayer
for interim relief)

S.L.P.(C)...CC NO. 10560 of 2010
((With appln(s) for permission to file SLP,exemption from filing
the certified/plain copy of the impugned order and with prayer
for interim relief)

S.L.P.(C)...CC NO. 10540 of 2010
(With appln. For permission to file SLP and office report)

Date: 13/07/2010 These Petitions were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE V.S. SIRPURKAR
HON'BLE MR. JUSTICE CYRIAC JOSEPH

For Petitioner(s)
CC 10205

Mr. Harish Salve, Sr. Adv.
Mr. C.U. Singh, Sr. Adv.
Mrs. Deepa Chavan, Adv.

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Mr. G.P. Pal, Adv.
Ms. Kiran Gandhi, Adv.
Ms. Jayasree Singh, Adv. for
M/S Fox Mandal & Co.

CC No. 10559 Mr. Vinay Navare, Adv. for
Ms. Abha R. Sharma, Adv.

CC NO. 10560 Mr. Pradeep Kumar Bakshi, Adv.
Mr. H.S. Jaggi, Adv.

CC No. 10215 Mr. Sanjay V. Kharde, Adv.

Mr. Nitin Deshpande, Adv. for
Ms. Asha Gopalan Nair, Adv.

CC No.10540

Mr. Arvind Gupta, Adv. for
Mr. Harish Pandey, Adv.

For Respondent(s)

CC 10215, 10205

Mr. Soli J. Sorabjee, Sr. Adv.
Mr. Mukul Rohtagi, Sr. Adv.
Mr. F.E. Devitre, Adv.
Mr. Gourav Joshi, Adv.
Mr. E.C. Agrawala, Adv.
Mr. Mahesh Agarwal, Adv.
Mr. Nikhil Rohatgi, Adv.

Cc No. 10205
10560, 10540

Ms. Indu Malhotra, Sr. Adv.
Mr. Jaideep Bedi, Adv.
Ms. D. D. Devi, Adv. for
Mr. Vikas Mehta, Adv.
Mr. Kush Chaturvedi, Adv.

CC 10215
for intervenor

Mr. M.P. Rao, Sr. Adv.
Mr. Sidaarath Shinde, Adv.
Mr. Rahul Narwekar, Adv.
Mr. Viraj Kadam, Adv.
Ms. Pinaki Addy, Adv.
Mr. Chiraranjan Addey, Adv.

CC No. 10215

Mrs. Deepa Chavan, Adv.

UPON hearing counsel the Court made the following

O R D E R

We have heard learned counsel appearing for the parties at length.

Permission to file Special Leave Petitions is granted.

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Leave granted

Application for intervention is allowed.

Six weeks' time is granted to the respondents to file counter-affidavit. Three weeks' time thereafter is granted to the appellants to file rejoinder-affidavit.

Liberty is also granted to file additional documents within six weeks.

List these appeals for hearing in the month of October, 2010.

INTERIM ORDER:

By way of interim order, we issue the following directions:

1. There shall be stay of the operation of the impugned

judgment insofar as the unconstitutionality regarding the impugned Resolution dated 25.2.2010 and corrigendums dated 14th & 16th June, 2010 are concerned.

2. The Division Bench has directed by way of its operative order in the following terms:

"The impugned Government Resolution/order dated 25th February, 2010 and the Corrigendum dated 14th and 16th June, 2010 issued by respondent No. 1 State are quashed and set-aside. In view of the fact that we have quashed and set-aside the Government Resolution dated 25th February, 2010 and Corrigendum dated 14th and 16th June, 2010, the respondent Nos. 1 to 4 are

directed to forthwith commence the admission process (online admission and admission process) without adherence to the best of five policy as set out in the Government Resolution dated 25th February, 2010 and the Corrigendums thereto. Needless to state that the online admission process will commence and shall be completed without in any manner applying Rule 8 as set out in the Brochure which is issued by the State of Maharashtra and particularly Respondent No. 1. Further needless to add that respondent Nos. 1 to 4 shall make the necessary modification/changes in the mark list of the examination of the SSC students held in March-April, 2010. Rule accordingly made absolute in the aforesaid terms. In view of the disposal of the Writ Petition, nothing survives in Notice of Motion No. 325 of 2010 and the same is disposed of accordingly."

3. It is, therefore, apparent that the on-line admission process is directed to be proceeded without adherence to the best five rule in case of students who have appeared for SSC examination in March-April, 2010. Further, it has been directed that the fresh process will start without the application of Rule 8 as set out in the Brochure issued by the State of Maharashtra-respondent No.1 herein.

4. Taking into consideration the welfare of vast number of students who have appeared for the examination, which is reported to be about 16 lakhs, as also the students who have appeared for the examination conducted by the Council for Indian School Certificate Examinations (for short as "ICSE"), we deem it fit to direct that the best five rule

shall be made applicable to the students passing the present examination of SSC for admission to junior college. However, this direction will be subject to the rider that the same best five rule shall also be made applicable even in the case of students passing ICSE examination. In their case, the best five rule shall be restricted to the subjects in Groups-1 and II only (as per their curriculum) and not for the Group-III subjects. There shall be a further rider that if the concerned student feels that he should also get the advantage of subjects of Group-III, he shall have an option to proceed on the basis of average of all the seven subjects without applying the best five rule. Thus, in case he exercises that option, his percentage shall be calculated by arriving at the average of all the seven subjects.

5. Because of these directions, it shall not be necessary for the appellant-board to cancel the format of mark-sheets granted in case of SSC students. While proceeding with the admissions generally as also by on-line process, care shall be taken to see that the options given by the ICSE students are properly honoured and meticulous care will be taken in that respect.

(Pardeep Kumar)
Court Master

(Shashi Bala Vij)
Court Master