

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

Petition(s) for Special Leave to Appeal (Civil) No(s).21612-
21613/2009

(From the judgement and order dated 07/01/2009 in CAW No. 52/2009
& WP No. 2701/2008 of The HIGH COURT OF BOMBAY AT NAGPUR)

JAIBHAVANI ADHYAPAK VIDHALAYA S.S.S.SAN.

Petitioner(s)

VERSUS

GANGADHAR & ORS.

Respondent(s)

(With office report)

WITH SLP(C) NO. 21614-21615 of 2009

(With office report)

SLP(C) NO. 21616-21617 of 2009

(With office report)

SLP(C) NO. 21618-21619 of 2009

(With office report)

SLP(C) NO. 21620-21621 of 2009

(With office report)

SLP(C) NO. 21622-21623 of 2009

(With office report)

SLP(C) NO. 21624-21625 of 2009

(With office report)

SLP(C) NO. 21626-21627 of 2009

(With office report)

SLP(C) NO. 21628-21629 of 2009

(With office report)

SLP(C) NO. 21630-21631 of 2009

(With appln.(s) for c/delay in filing SLP and exemption from filing
c/c of the impugned judgment and exemption from filing O.T. and
permission to file additional documents and office report)

SLP(C) NO. 21632-21633 of 2009

(With office report)

SLP(C) NO. 21634 of 2009

(With office report)

SLP(C) NO. 21648-21649 of 2009

(With office report)

Date: 19/07/2010 These Petitions were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE G.S. SINGHVI

HON'BLE MR. JUSTICE ASOK KUMAR GANGULY

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For Petitioner(s)

Mr.Arun R.Pedneker, Adv.

Mr. Shivaji M. Jadhav, Adv.

Mr.Sanjay Kharde, Adv.

For Mrs.Asha G.Nair, Adv.

Mr.Arvind V.Savant, Sr.Adv.

Mr.Sunil Kumar Verma, Adv.

Mr.Dilip Ao Taur, Adv.

Mr. Anil Kumar, Adv.

Ms. Anagha S.Desai, Adv.

Mr. Abhay Kumar, Adv.
Mr.Tenzing Tseing, Adv.

Mr.Sachin Patil, Adv.
Ms. Chandan Ramamurthi, Adv.

Mr.Amitesh Kumar, Adv.
Mr.Gopal Singh, Adv.

For Respondent(s)

Mr. K.N. Rai,Adv.

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

SLP(C)Nos.21612-21613 of 2009, SLP(C) NO. 21614-21615 of 2009,
SLP(C) NO. 21616-21617 of 2009, SLP(C) NO. 21618-21619 of 2009,
SLP(C) NO. 21620-21621 of 2009, SLP(C) NO. 21622-21623 of 2009,
SLP(C) NO. 21624-21625 of 2009, SLP(C) NO. 21626-21627,SLP(C) NO.
21628-21629 of 2009, SLP(C) NO. 21632-21633 of 2009, SLP(C) NO.
21634 of 2009,SLP(C) NO. 21648-21649 of 2009

Applications filed by the petitioners for permission
to file special leave petitions are allowed.

Delay in filing of the special leave petitions is
condoned.

The petitioners are aggrieved by orders dated 7.1.2009
and 16.1.2009 passed by the Division Bench of Bombay High
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Court, Nagpur Bench. The operative portion of order dated

7.1.2009 reads as under:

"47. In the premises this petition succeeds partly. The recognitions/permissions granted by the Council - WRC, Bhopal in its 104th to 109th meetings and pertaining to the State of Maharashtra for establishment of 291 new D.Ed. colleges/courses (as the case may be) are hereby quashed and set aside. The WRC, Bhopal shall submit a special report in respect of the pending applications as on 1/10/2007 from the State of Maharashtra (2045 applications as per the Kaul Committee Report) to the Council by taking into consideration the recommendations of the State Government as reflected vide its letter dated 30/8/2007. The Council, in turn, will complete the study on the demand and supply of teachers in the primary/higher primary schools in the State of Maharashtra with the assistance of/in collaboration with the Maharashtra State Council for Educational Research and Training at Pune before 30th April, 2009 and place the said study report before the Central Government through the Ministry of Human Resource Development at the earliest possible and seek further directions. Based on such directions under Section 29 of the NCTE Act to be issued by the Central Government the Council shall take further appropriate steps to

deal with such applications as pending on the day the directions are issued by the Central Government, for the recognitions/permissions for D.Ed. Course in the State of Maharashtra for the academic years 2009-10 onwards."

The relevant portions of order dated 16.1.2009 by which some corrections were made in order dated 7.1.2009 read as under:

"1. This is an application for speaking to minutes fixed by the Writ Petitioners.

2. The figure and description "101" appearing in line No.3 in paragraph 47 of judgment dated 7th January 2009 was bound to be "104" if the reference and context is seen. Correction in the judgment to that effect is sought.

3. We have heard learned Advocate Mr.C.S. Kaptan
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for respondents No.3 and 4 so also Mr. Mirza for respondents No.6, 7, 32, 34, 36 and 37 and Mr. Ghuge for respondents No.29, 30, 31 and 41 on this point. The prayer for correction sought is not opposed.

4. We, therefore, direct that the figure "104" be substituted to the figure "101" in 3rd line of paragraph 47 of the judgment.

5.The application is disposed of."

The petitioners were granted recognition by Western Regional Committee of the National Council for Teacher Education under Section 14(3)(a) of the National Council for Teacher Act, 1993 (for short, 'the Act'). Paragraphs 6 to 8 of the Recognition Orders, which are common in all the cases read as under:

"6. The institution shall make admission only after it obtains affiliation from the examining body in terms of clause 8(12) of the NCTE (Recognition Norms & Procedure) Regulations, 2007.

7. The institution shall ensure that the required number of academic staff for conducting the course is always in position.

8.Further, subject to the provision of NCTE Act 1993, The institution shall fulfill all such other requirements as may be prescribed by other regulatory bodies like UGC, affiliating University/ Body, the State Government etc, applicable."

In the writ petition filed before the High Court, it was

prayed by the teachers and permanent residents of District Chandrapur, State of Maharashtra that a mandamus be issued to the State of Maharashtra to make a need based assessment and prepare a master plan for opening of new D.Ed. Colleges

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within the State and a mandamus be issued to NCTE to act according to the recommendations made only by the State Government and then grant permission to new D.Ed. Colleges.

After taking note of the pleadings of the parties, relevant provisions of the Act and Regulations framed thereunder, letters written by the functionaries of the State of Maharashtra against the opening of new D.Ed. colleges, mushroom growth of such Colleges, the Division Bench of the High Court passed the impugned order. The petitioners are

not shown to have taken concrete steps in terms of Clauses 6

to 8 of the Recognition Orders.

Therefore, they are not

entitled to complain against the direction given by the Division Bench of the High Court and we do not see any reason to entertain their prayer for setting aside the impugned order.

The special leave petitions are accordingly dismissed.

However, it is made clear that the students who were admitted for the Session 2009-2010 pursuant to the interim order passed by this Court shall not be affected by the dismissal of the special leave petitions.

This would be

subject to the condition that their admissions were in conformity with the relevant provisions of the Act, the regulations framed thereunder and the instructions issued by NCTE and protection extended by this Court shall not apply to those whose admissions were not consistent with the relevant statutory provisions.

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The petitioners may, after complying with all the requirements of law (legislative instruments as well as subordinate legislation) approach the State Government for allotment of students selected by centralized counseling .

However, it is made clear that the State Government or any other competent authority shall not allot the students for admission to the petitioner colleges unless it is satisfied that all the conditions enumerated in the 1993 Act and other relevant statutory provisions have been complied with.

SLP(C) NO. 21630-21631 of 2009

Learned counsel for the petitioner states that the petitioner's case is not similar to these batch of petitions.

In view of the statement made by the learned counsel, order dated 07.08.2009 is recalled insofar as the petitioner is concerned.

List the cases on 23.07.2010.

(Satish K.Yadav)
Court Master

(Phoolan Wati Arora)
Court Master