

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 10872 OF 2010
(Arising out of SLP(C) No.27724/2008)

STATE OF U.P. AND ANR.		Appellant(s)
	:VERSUS:	
SATISH CHATURVEDI & ORS.		Respondent(s)
	WITH	
CIVIL APPEAL NO. 10873	OF	2010
(Arising out of SLP(C) No.29316/2008)		
CIVIL APPEAL NO. 10874	OF	2010
(Arising out of SLP(C) No.23558/2009)		

O R D E R

S.L.P.(C) No.27724/2008:

1. Leave granted.
2. This appeal emanates from the judgment and order dated 17.10.2008 passed by the High Court of Judicature at Allahabad in Civil Miscellaneous Writ Petition No.32844 of 1997.
3. Mr. Satish Chaturvedi, Advocate filed a public interest litigation petition before the High Court of Judicature at Allahabad with the following prayer:

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i) Issue a writ order or direction in the nature of mandamus directing the respondents to ensure constant and uninterrupted supply of electricity to the medical college and its hospital at Allahabad;

ii) Issue a writ order or direction in the nature of mandamus directing the respondents No.1 and 3 to ensure that costly equipments installed in the department of Radiology, Pathology, Microbiology and other departments may be maintained in proper

order and the same may be made available to the general public and the patients of the hospital without failure or excuse;

iii) To direct respondents to make arrangements for ensuring cleanliness of the Hospital, including removal of garbage daily;

iv) To direct respondents to ensure hygienic conditions in the Hospital to provide basic amenities and life saving drugs;

v) Issue such other writ order or direction as this Hon'ble Court may deem fit and proper.

4. The State of Uttar Pradesh is aggrieved by a

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series of High Court orders passed in the said petition. According to the appellants these orders have no co-relation with the prayers of the writ petition. The appellants are particularly aggrieved by the order dated 17.10.2008 which reads as follows:

"The Government order dated 22.08.2008 shall be stayed so far as the appointments on the technical posts of Group C and D in the Medical College are concerned. For the rest, the State Government will carry out the assessment expeditiously and give the status as requested in the Government order within two weeks."

5. The High Court also observed as under:

"The Medical College had advertised the vacant Class-III and IV posts to be filled up on priority basis. It is reported in the affidavit of Shri V.K. Srivastava, Personal Assistant in the office of Director General, Medical Education and Training, U.P., Lucknow that under the directions of the State Government dated 22.09.2008, the entire selection/ appointment process of Group 'C' posts has been postponed until a detailed report is received regarding surplus staff in every department. The

exceptions are given in paragraph-2 of the Government order. It is further reported that the State Government has decided to provide medical shops inside the Medical Colleges on certain conditions for availability of medicines to the patients."

6. The High Court further observed that it was informed by Dr. P.C. Saxena, Principal of the Medical College that since after the Medical College has returned under the management of the State Government, no Finance Controller has been appointed causing serious difficulties in the functioning of the Medical College and the Hospital. Dr. Saxena further reported that a Cath. Lab was sanctioned by the State Government and thereafter the University had also decided to establish a Cath. Lab and that the money was available but after the management had returned back to the State Government, no efforts were being made to provide a Cath. Lab to the Medical College. He also pressed the need for a Cobalt Lab. The State Government's decision to set up medical shops inside the campus of the medical colleges and hospitals was stayed by the Division Bench of the High Court.

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7. We fail to comprehend that in a writ petition which was filed as a public interest litigation to ensure constant and uninterrupted supply of electricity to the medical college and hospital and cleanliness of the hospital, how these orders could be passed by the High Court and otherwise also, no good reasons have been given by the High Court to support its order. The Government's decision dated 22.8.2008 which was primarily motivated to ensure that poor patients are able to get medicines in the

hospitals and medical colleges, ought not to have been stayed by the High Court. The State of U.P. aggrieved by the impugned judgment of the High Court has preferred this appeal.

8. This Court issued notice to the respondents but despite service of notice, respondent No.1 - Satish Chaturvedi or his counsel did not appear. This Court issued fresh notice for a fixed date to enable Satish Chaturvedi to appear before this Court. Despite service of notice, he is not present. In this view of the matter, we are compelled to decide this appeal without having the benefit of the submissions of respondent No.1 Satish Chaturvedi.

9. Learned counsel for the State of U.P. has drawn our attention to the various orders passed by the Division Bench of the High Court in this very public interest litigation filed by Mr. Satish Chaturvedi, which have no connection whatsoever with the prayer thereof. It may be pertinent to observe that this Court had to intervene on earlier occasions also. Learned counsel for the State of U.P. has placed reliance on the order dated 30.3.2007 passed by this Court (in C.A. No.1812/2007) which reads as under:

"We find that the High Court has been passing several orders relating to the College and the Hospital, in a writ petition totally unconnected with the issue, on certain assumptions, inferences and claims made by the University. The issue as to whether the College and the associated Hospital should continue merely as a constituent of State Government College affiliated to the University, or should be a University College belonging to the University, as also questions relating to its

administrative control, financing and other related issues shall be settled by the University, the State and the Union of India at the earliest having regard to the relevant statutory provisions. Till then, status quo, as on today, shall continue."

10. Learned counsel for the State of U.P. has further drawn our attention to an order dated 24.7.2009 passed by the High Court of Judicature at Allahabad in the same public interest litigation i.e. Civil Miscellaneous Writ Petition No.32844 of 1997 filed by Satish Chaturvedi, in which it is stated that the Medical Council of India issued show cause notice to Moti Lal Nehru (for short "MLN") Medical College as to why the recognition of MBBS Degree may not be withdrawn under Section 19 of the Indian Medical Council Act, 1956, because on an inspection it was found that there was shortage of teaching faculty, which was only 46.15% and many other deficiencies. The High Court, therefore, directed the Project Manager and other officers of C & D Unit, Uttar Pradesh Jal Nigam, Allahabad, the Project Manager (Electricity), Uttar Pradesh Rajkeeya Nirman Nigam, Pannalal Park, Varanasi to

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show cause as to why these projects were being delayed. It was further directed that they will also show cause as to why poor quality building material is being used as in the past also various complaints have been made for poor quality of work inside the hospital and it was reported that these agencies not even utilized 50% of the cost of the project in the constructions and labour charge.

11. The High Court also expressed concern about the discrimination in the pay-scales of the resident

doctors. The Court observed that whereas the Junior Residents of Chhatrapati Shahuji Maharaj University, Lucknow are getting a salary of Rs.32,553/- per month, the similarly situated Junior Residents of MLN Medical College, Allahabad are getting only Rs.24,720/-.

12. Learned counsel appearing for the State of U.P. has also drawn our attention to the order dated 17.12.2004 passed by the High Court in the same public interest petition whereby the Senior Superintendent of Police, Allahabad was directed to replace all the police personnel posted at the outpost of S.R.N. Hospital and depute a fresh staff of at least six policemen and one Sub Inspector, including two lady constables. It was also directed that the Senior Superintendent of Police shall also enquire into the allegations made against three constables, who are posted at present and the police personnel shall also be required to check the unauthorized persons and ensure that the relatives of the patients do not enter the Hospital campus with the fire arms and shall assist the Hospital staff in removing unauthorized encroachments inside the premises of the Hospital.

13. The Court in this very public interest litigation also directed the U.P. Public Service Commission to show cause as to why the Principal and other teaching staff have not been appointed though recommended for appointments for the last many years and also the steps which have been taken in this regard.

14. The Horticulture Department was directed to maintain the gardens inside the Hospital as the gardens had become places for dumping the garbage.

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In this order it is also indicated that the Principal of the College issued a circular to all the teaching staff, who are required to attend clinical duties on the assigned days, to attend the Hospital between 8.00 a.m. to 2.00 p.m. The Court expressed its serious concern over the absence of the clinical staff on the appointed dates in the Hospital. The Court observed that we again appeal to all the teaching staff to attend their clinical duties on the days and hours assigned to them. For this purpose, the Principal has assured that she will reach in the Hospital premises every day at 9.00 a.m. She shall also maintain the attendance register to be signed by the teaching staff for clinical duties, giving the date and time both at 8.00 a.m. and 2.00 p.m. on the assigned dates. The Chief Medical Superintendent was also directed to provide fresh name plates giving duties hours of each of the doctors and to display the same on the notice board, and also put sign boards giving directions for all medical facilities for the convenience of the patients.

15. The Court also directed the shops selling meat

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and poultry, to clean and remove a large number domestic as well as stray animals from the hospital premises. The Court also gave direction to shift mortuary and post-mortem departments. Several such other directions have been given by the High Court from time to time.

16. Learned counsel for the State of U.P. submits that since these directions were in the larger public interest, they were complied with by the State of U.P. Undoubtedly, all these directions have been passed with good intention and in the larger public interest, but all these directions are much beyond the prayers in the petitions filed in the public interest and the Court ought to have been careful about the ambit and scope of the public interest litigation. The directions which are not judicially manageable, ought not to have been passed.

17. Learned counsel for the State of U.P. has drawn our attention a recent judgment of this Court in the State of Uttaranchal vs. Balwant Singh Chauhal and Ors., (2010) 3 SCC 402. He has,

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particularly, invited our attention to paragraph 181 of the said judgment wherein this Court observed that it is the bounden duty of the Courts to properly formulate rules for encouraging genuine public interest litigation and discouraging public interest litigations filed with oblique motives and passed the following directions:

- (i) The courts must encourage genuine and bona fide PIL and effectively discourage and curb the PIL filed for extraneous considerations.
- (ii) Instead of every individual judge devising his own procedure for dealing with the public interest litigation, it would be appropriate for each High Court to properly formulate rules for encouraging the genuine PIL and discouraging the PIL filed with oblique motives. Consequently, we request that the High Courts which have not yet framed the rules, should frame the rules within three months. The Registrar General of each High Court is directed to ensure

that a copy of the Rules prepared by the High Court is sent to the Secretary General of this court immediately thereafter. (iii) The courts should prima facie

verify the credentials of the petitioner before entertaining a P.I.L.

(iv) The court should be prima facie satisfied regarding the correctness of the contents of the petition before entertaining a PIL.

(v) The court should be fully satisfied that substantial public interest is involved before entertaining the petition.

(vi) The court should ensure that the petition which involves larger public interest, gravity and urgency must be given priority over other petitions.

(vii) The courts before entertaining the PIL should ensure that the PIL is aimed at redressal of genuine public harm or public injury. The court should also ensure that there is no personal gain, private motive or oblique motive behind filing the public interest litigation.

(viii) The court should also ensure that the petitions filed by busybodies for extraneous and ulterior motives must be discouraged by imposing exemplary costs or by adopting similar novel methods to curb frivolous petitions and the

petitions filed for extraneous considerations.

18. We have been told that the Allahabad High Court has now framed rules for dealing with the petitions filed in the public interest. We hope and

trust that henceforth the Courts would pass orders within the ambit and framework of the High Court Rules while keeping in view the prayers of the petitions.

19. Learned counsel for the State of U.P. has also relied on the decision of this Court in State of

West Bengal and Anr. vs. West Bengal Registration

Copywriters Association and Anr., (2009) 14 SCC 132,

wherein this Court has held that the pleadings and

reliefs have to be taken into consideration while

granting reliefs. No doubt, the Court has the power

to mould the reliefs in an appropriate case but

rules of pleadings cannot be totally ignored.

20. On consideration of the totality of the facts

and circumstances of this case, we deem it

appropriate to set aside the impugned judgment

passed by the Division Bench of the High Court.

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21. Since the public interest litigation filed

before the High Court is pending since 1997, we

request the Division Bench of the High Court to

dispose of the same as expeditiously as possible, in

any event, within six months from the date of

communication of this order.

22. The appeal filed by the State of U.P. is

allowed leaving the parties to bear their respective

costs.

S.L.P.(C) Nos. 29316/2008 and 23558/2009:

23. Leave granted.

24. In view of the order passed by us in the Civil

Appeal arising out of SLP(C) No.27724/2008 above,

these appeals are also disposed of in terms of that

order.

.....J
(DALVEER BHANDARI)

.....J
(DEEPAK VERMA)

New Delhi;
December 15, 2010.

ITEM NO.5

COURT NO.4

SECTION XI

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

Petition(s) for Special Leave to Appeal (Civil) No(s).27724/2008

(From the judgement and order dated 17/10/2008 in CMWP
No.32844/1997 of the HIGH COURT OF JUDICATURE AT ALLAHABAD)

STATE OF U.P.& ANR.

Petitioner(s)

VERSUS

SATISH CHATURVEDI & ORS.

Respondent(s)

(With appln(s) for permission to place addl. documents on record
and with prayer for interim relief and office report)
(FOR FINAL DISPOSAL)

WITH

SLP(C) NO. 29316 of 2008
(With prayer for interim relief and office report)

SLP(C) NO. 23558 of 2009
(With prayer for interim relief and office report)

Date:15/12/2010 These Petitions were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE DALVEER BHANDARI
HON'BLE MR. JUSTICE DEEPAK VERMA

For Petitioner(s) Mr. Shail Kr. Dwivedi,AAG
Mrs. Niranjana Singh,Adv.
Mrs. Prema Singh,Adv.
Mr. Upendra Nath Mishra,Adv.
Ms. Vandana Mishra,Adv.

Mr. Rana Ranjit Singh,Adv.

For Respondent(s)

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

S.L.P.(C) No. 27724/2008:
Leave granted.

The impugned judgment passed by the Division Bench of the High Court is set aside and the appeal filed by the State is allowed in terms of the signed order, leaving the parties to bear their respective costs.

S.L.P.(C) Nos. 29316/2008 and 23558/2009:

Leave granted.

In view of the order passed in the Civil Appeal arising out of SLP(C) No.27724/2008 above, these appeals are also disposed of in terms of that order.

(A.S. BISHT)
COURT MASTER

(NEERU BALA VIJ)
COURT MASTER

(Signed order is placed on the file)