

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

CONTEMPT PETITION(C)NO. 347 OF 2010 IN SLP(C) 20558/2009

HARIT KUMAR DWIVEDI & ORS.

Petitioner(s)

VERSUS

PRADEEP KUMAR SHUKLA & ORS.

Respondent(s)

(With appln(s) for exemption from filing O.T. and intervention and impleadment, permission to file additional documents)

WITH

Part-Heard

CONMT.PET.(C) NO. 3 of 2011 in SLP(C)No.20558/2009

C.P. (C) No.8/2011 in SLP (C) No.20774/2009 (FOR PREL. HEARING)

C.P. (C) No.29/2011 in SLP (C) No.20774/2009 (FOR PREL. HEARING)

C.P. (C) No.32/2011 in SLP (C) No.22114/2009 (FOR PREL. HEARING)

C.P. (C) No.36/2011 in SLP (C) No.20558/2009 (FOR PREL. HEARING)

C.P. (C) No.37/2011 in SLP (C) No.32977/2009 (FOR PREL. HEARING)

C.P. (C) No.73/2011 in SLP (C) No.20558/2009 (FOR PREL. HEARING)

C.P. (C) No.92/2011 in SLP (C) No.20558/2009 (FOR PREL. HEARING)

(With appln.(s) for impleadment and impleadment)

C.P. (C) No.104/2011 in SLP (C) No.20558/2009 (FOR PREL. HEARING)

C.P. (C) No.107/2011 in SLP (C) No.22732/2009 (FOR PREL. HEARING)

C.P. (C) No.283/2011 in SLP (C) No.20774/2009 (FOR PREL. HEARING)

C.P. (C) No.349/2011 in SLP (C) No.20774/2009 (FOR PREL. HEARING)

C.P. (C) No.350/2011 in SLP (C) No.20774/2009 (FOR PREL. HEARING)

C.P. (C) No.385/2011 in SLP (C) No.22732/2009 (FOR PREL. HEARING)

C.P. (C) NO. 65 of 2012 in SLP(C)No.20774/09 (FOR PREL. HEARING)

C.P.(C) NO. 66 of 2012 in SLP(C)No.20774/09 (FOR PREL. HEARING)

C.P.(C) NO. 205 of 2012 in SLP(C)No.20774/09 (FOR PREL. HEARING)

C.P.(C)NO. 206 of 2012 in SLP(C)No.20774/09 (FOR PREL. HEARING)

C.P.(C) NO. 204 of 2012 in SLP(C)No.22732/09 (FOR PREL. HEARING)

C.P.(C) NO. 263 of 2012 in SLP(C)No.20558/09 (FOR PREL. HEARING)

C.P.(C) NO. 269 of 2012 in SLP(C)No.20558/09 (FOR PREL. HEARING)

C.P.(C) NO. 270 of 2012 in SLP(C)No.20774/09 (FOR PREL. HEARING)

C.P.(C) NO. 271 of 2012 in SLP(C)No.20774/09 (FOR PREL. HEARING)

Date: 14/08/2012 These Petitions were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE ALTAMAS KABIR

HON'BLE MR. JUSTICE J. CHELAMESWAR

For Petitioner(s)

Mr. Naushad Ahmad Khan, Adv.

Mr. Mukesh K.Giri, AOR.

In C.Ps.347/10,3 &
36 OF 2012

Mr. Mehbubul Hassan Laskar, Adv.

in C.Ps.3,36 & Mr. Mukesh K.Giri, AOR.
269 of 12

in C.P.263/12

Ms. Sunita Pandit, Adv.

Ms. Asha Gopalan Nair, AOR.

In C.P.287/12

Mr. Shail Kumar Dwivedi, Adv.

Mr. Gunnam Venkateswara Rao, AOR.

In C.P.65/12 Mr. P.N. Misra, Sr. Adv.
Mr. Mukesh Verma, Adv.
Mr. Pawan Shukla, Adv.
Mr. Pravesh Thakur, Adv.
Mr. Yash Pal Dhingra, AOR

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Mr. Pravesh Thakur, Adv.
Mr. Yash Pal Dhingra, AOR

IN C.P.32/11 Mr. D.N. Dubey, Adv.
Mr. K.L. Janjani, AOR

Mr. Pankaj Kumar Singh, Adv.
Mr. K.L. Janjani, AOR

In CP Nos.8,29, Mr. Mukesh Verma, Adv.
283,349,350/11,etc. Mr. Pawan Shukla, Adv.
Mr. Pravesh Thakur, Adv.
Mr. Yash Pal Dhingra, AOR

Mr. T. Mahipal, AOR.

In CP 37/11 Mr. Sanjay Mani Tripathi, Adv.
Ms. Anu Gupta, AOR

Mr. Shree Pal Singh, AOR

In CP 92/11 Dr. Sumant Bhardwaj, Adv.
Ms. Mridula Ray Bharadwaj, AOR

in IA 7&9 in C.P.
347/10 Mr. Jasbir Singh Malik, Adv.
Ms. Manju Jana, Adv.
Mr. Varun Punia, Adv.
Mr. Shree Pal Singh, AOR

For Respondent(s):

in C.P.347/10 Mr. Irsha Ahmad, AAG.
Mr. Abhishth Kumar, AOR.
Ms. Archana Singh, Adv.

Mr. Santosh Kumar Tripathi, AOR.

Mr. C.L. Sahu, AOR

Mr. Vipin Kumar Jai, AOR.

Mr. Rajiv Ranjan Dwivedi, AOR

UPON hearing counsel the Court made the following

O R D E R

1. CONTEMPT PETITION(C)NO. 347 OF 2010 along with 24 other contempt petitions, being CONMT.PET.(C) NO. 3 of 2011,C.P.(C) No.8/2011, C.P.(C) No.29/2011,C.P. (C) No.32/2011,C.P.(C) No.36/2011,C.P.(C)No.37/2011,C.P.(C)No.73/2011, C.P.(C) No.92/2011,C.P.(C) No.104/2011,C.P.(C) No.107/2011,C.P.(C)No.283/2011, C.P.(C) No.349/2011,C.P.(C) No.350/2011, C.P.(C) No.385/2011, CONMT.PET.(C)NO. 65 of 2012, CONMT.PET.(C)NO. 66 of 2012, CONMT.PET.(C)NO. 205 of 2012, CONMT.PET.(C)NO. 206 of 2012, CONMT.PET.(C)NO. 204 of 2012, CONMT.PET.(C)NO. 263 of 2012, CONMT.PET.(C)NO. 269 of 2012, CONMT.PET.(C)NO. 270 of 2012 and CONMT.PET.(C) NO. 271 of 2012, have been filed complaining of wilful and deliberate violation

by the alleged contemnors and the State of Uttar Pradesh in not complying with the directions contained in the judgment passed by this Court on 3rd August, 2010, in SLP(C)No.20558 of 2009 and other connected Special Leave Petitions, as well as the order dated 27th March, 2012, making certain clarifications in respect of earlier orders passed by this Court.

2. It may be recorded that in the judgment of this Court dated 3rd August, 2010, reference had been made to the Direct Recruitment of Group 'C' Posts (Outside the Purview of Public Service Commission)(First Amendment) Rules, 2003, and the relevant Service Rules in force with regard to educational qualifications and other conditions of service. Reference had also been made to Rule 15(2) of the 1980 Rules framed by the State Government and we had ultimately held that on account of a deliberate decision by the State Government, the private respondents were left out of the zone of consideration for appointment as Pharmacists in order to accommodate those who had obtained their diplomas earlier. We had thereupon observed that the decision taken by the State Government at that time to accommodate the diploma holders in batches against their respective years could no doubt be discontinued at a later stage, but not to the disadvantage of those who had been denied appointment by virtue of the same Rules. We had further observed that the concept of merit selection could be introduced after the private respondents and those similarly situated, had been accommodated.

3. Based on the aforesaid observations, we had chosen not to interfere with the decision of the Division Bench of the High Court and had dismissed the Special Leave Petitions filed by the State of U.P. and had indicated that the petitioners would be entitled to the same benefits as those Diploma holders governed by the 1980 Rules, having obtained their Diplomas in Pharmacy prior to 1998.

4. In these contempt petitions it has been alleged that the aforesaid directions had been wilfully and deliberately violated in order to deprive the petitioners of the benefits of the orders passed by this Court on 3rd August, 2010 and 27th March, 2012.

5. During the hearing of these petitions, our order of 27th March, 2012, was brought to our notice, where we had made it clear that the judgment passed by this Court on 3rd August, 2010 in SLP(C)No.20558 of 2009, was not confined only to 766 vacancies. We had indicated that the directions, which we had given earlier were to be in respect of those persons who were similarly situated as the private respondents in the Special Leave Petitions.

6. Despite the above, we are informed that steps have not yet been taken to fill up the large number of vacancies, which exist even today. The affidavit filed on behalf of the contemnor No.4, shows that at least 1476 vacancies are available, although, it has also been submitted on behalf of the contemnors that today vacancies amount to 1824.

7. Be that as it may, the intention in our judgment of 3rd August, 2010, and the order of 27th March, 2012, was very clear on the point that those persons who had earlier been deprived on account of the Rules then extant, had to be accommodated first before other candidates could be considered. We once again reiterate the said direction and give the alleged contemnors eight weeks time to comply with the same.

8. Let these matters stand over till 9th October, 2012, for filing of compliance report.

9. Liberty to apply.

|(Sheetal Dhingra)
|COURT MASTER

|(Juginder Kaur)
|Assistant Registrar