

Devasmita Chakraborty and Others Vs. the State of West Bengal and Others

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Court : Kolkata

Decided On : May-16-2012

Judge : Pranab Kumar Chattopadhyay & Tarun Kumar Das

Appeal No. : M.A.T. 653 of 2012 With C.A.N. 3777 of 2012

Appellant : Devasmita Chakraborty and Others

Respondent : The State of West Bengal and Others

Judgement :

Pranab Kumar Chattopadhyay, J.

The appellants/petitioners herein are 77 students who were admitted in M.B.B.S. Course in the ICARE Institute of Medical Science and Research and Dr. Bidhan Chandra Roy Hospital, Haldia in terms of the orders passed by the Hon'ble Supreme Court of India in W.P. (Civil) No. 385 of 2011 on 16th September, 2011 and 28th September, 2011 respectively.

The academic career of the aforesaid students are really at stake at the present moment.

From the records available before this court we find that the Principal of the aforesaid Medical College published admission notice in various daily newspapers inviting applications for admission to first year M.B.B.S. Course of 2011-12. In the said admission notice, it was specifically mentioned that the College has been

permitted by the Medical Council of India vide its Letter No. MCI-34 (41)/2011-Med/20986 dt. 30-06-2011 for the academic year 2011-2012 to admit 100 students and is already affiliated to the "West Bengal University of Health Sciences, Kolkata.

After publication of the aforesaid admission notice in the various daily newspapers on 28th August, 2011, Special Secretary, Department of Health and Family Welfare, Govt. of West Bengal by the written communication dated 29th August, 2011 informed the Principal of the aforesaid Medical College not to proceed further in the matter. In the aforesaid written communication, Special Secretary also informed the Principal of the Medical College that the State Government has taken a serious view on account of the unilateral decision of the Medical College Authorities in declaring the Fee Structure of M.B.B.S. Students and the decision to hold the entrance examination on its own in contravention of the procedures laid down by the Hon'ble Supreme Court of India. The aforesaid written communication of the Special Secretary dated 29th August, 2011 is set out hereunder :-

"Government of West Bengal

Department of Health and Family Welfare

MERT Branch

Swasthya Bhawan, GN 29, Sector V,

Salt Lake City, Kolkata - 700 091

Memo. No. HF/O/MERT/1200/W-137/2011 dated 29th August, 2011

From : The Special Secretary to the Government of West Bengal

To: The Principal,

ICARE Institute of Medical Science and Research

Haldia, Purba Medinipur,

Fax No. 03224-269052

Sir,

It has been noted that advertisements have been published in various newspapers regarding admission to MBBS Course (1st year) in ICARE Institute of Medical Science and Research, Haldia for this academic session, 2011-12.

You are aware that in compliance with the order of the Hon'ble Supreme Court of India, such admissions have to be conducted under the aegis of the designated permanent committee, while the fee structure has to be finalized on the basis of the recommendations of yet another designated permanent committee (both headed by former High Court Judges) followed by appropriate government orders, before the admission process can start. In this case, formal orders are yet to be issued by the State Government on the basis of the recommendations of these two permanent committees.

Hence, such unilateral decision on your part to declare fee structure of MBBS students and the decision to hold Entrance Examination on your own are in contravention of the procedures laid down by the Hon'ble Apex Court and relevant instructions prevalent in this regard.

This State Government has taken a serious view on the issue and communicated the same to the Medical Council of India for looking into the matter and for passing such orders as may be necessary, so that the legal procedures set out by the Hon'ble Apex Court as well as relevant orders and guidelines issued by the Medical Council of India are upheld in letter and spirit.

You are, therefore, advised not to proceed further in the matter. You may also like to publicly clarify the position in order to ensure that the applicants are fully informed of these developments.

Yours faithfully,

Sd/-

[Prof. (Dr.) Utpal Kr. Datta]

Special Secretary"

The College Authorities thereafter filed a writ petition before the Hon'ble Supreme Court being W.P. No. (Civil) 385 of 2011 challenging the aforesaid notice dated 29th August, 2011 issued by the Special Secretary, Dept. of Health and Family Welfare, Govt. of West Bengal. On 16th September, 2011 Hon'ble Supreme Court of India passed an interim order permitting the aforesaid medical college to admit students in accordance with the merit list prepared by it with reference to the examination conducted by it upto 50% of the total seats.

On behalf of the State Government, an interlocutory application being I.A. No. 5 was filed in connection with the aforesaid writ petition being W.P. (Civil) No. 385 of 2011 before the Hon'ble Supreme Court of India where upon the Hon'ble Supreme Court of India by the order dated 27th September, 2011 directed the respondent University to file affidavit disclosing certain information. The Hon'ble Supreme Court of India also directed the Medical Council of India to investigate the matter and file a report before the Hon'ble Supreme Court of India. The Medical College was also directed by the Hon'ble Supreme Court of India to file a list of fifty students who have already been admitted in the Management Quota in pursuance of the earlier interim order passed by the Hon'ble Supreme Court of India on 16th September, 2011. Subsequently, on 28th September, 2011 the Hon'ble Supreme Court of India passed further order in the matter with regard to admission of all the students in the said Medical College subject to certain conditions. The aforesaid order dated 28th September, 2011 passed by the Hon'ble Supreme Court of India is set out hereunder :-

“UPON hearing counsel the Court made the following

ORDER

One of the issues raised is whether the petitioner- Institution has separate campus/building for Medical College and for Dental College as per norms. The Pro-Vice-Chancellor of the West Bengal University of Health Sciences which gave the affiliation to this college in the year 2010 and renewed the affiliation on 18.8.2011 on the basis that there is a separate campus for Medical College, has now filed an affidavit stating that at the time of inspection by him before granting affiliation, he went on the basis of certain representations made by the College.

Having regard to the fact that the affiliation was granted twice, after inspection by an University team consisting of Prof. (Dr.) Prabir Kumar Sur with others, it is difficult to accept the statement now made by Prof. Prabir Kumar Sur without independent corroboration.

By order dated 27.9.2011 we have already directed MCI to inspect the petitioner Institution and file a report as to whether the Medical College has a separate building and facilities. Mr. Nidhesh Gupta, learned senior counsel appearing for MCI submits that as the issue is whether the buildings and facilities are relatable to Medical College or Dental College, the MCI would prefer to do the inspection jointly with the representatives of Dental Council of India so that the issue can be sorted out.

We, therefore, direct the Dental Council of India (DCI) to be impleaded as respondent No. 7. Cause title to be amended today itself and petitioner to serve notice to respondent No. 7 - DCI. The petitioner to serve a copy of the petition on Mr. Prashant Kumar, the standing counsel of DCI, in addition to taking steps for service by dasti.

MCI will get in touch with DCI and arrange for a joint inspection after due notice to the University and the College.

MCI and DCI to file a joint inspection report within two weeks.

By order dated 27.9.2011, we had recorded the statement of Mr. Mukul Rohatgi, learned senior counsel appearing for the State that State is prepared to allot 50% students to the College today or if necessary even allot 100% students. However, after taking instructions, Mr. Mukul Rohatgi, learned senior counsel appearing for the State submits that in view of the uncertainty with reference to the College, the State does not want to jeopardize the careers by sending students from its list and therefore, the State is not willing to send any student to the petitioner college.

In view of the said submission, the Petitioners, if they so desire, are permitted to fill the entire 100% seats subject to the following conditions :

(a) Any admissions will be subject to final result of this petition.

(b) Each of the student who is admitted should be intimated in writing about the pendency of this case.

(c) The College shall take an undertaking from each student admitted that he/she will not claim any equities on the basis of being admitted in pursuance of these orders, if ultimately it is found that they are not entitled to continue.

Affidavit filed by Prof. (Dr.) Prabir Kumar Sur and affidavit filed by the petitioner is taken on record. List on 12.10.2011.”

Thereafter several investigations and joint inspections were conducted in respect of the affairs of the Medical College and ultimately the Health and Family Welfare Department, Govt. of West Bengal withdrew the essentiality certificate by the order dated 16th September, 2011. The Registrar, West Bengal University of Health Sciences also informed the College Authorities by the written communication dated 28th November, 2011 that the affiliation issued on 13th August, 2010 and renewed on 18th August, 2011 in favour of the aforesaid Medical College has been rescinded with immediate effect. The Board of Governors in supersession of Medical Council of India by the written communication dated 9th December, 2011 revoked the letter of permission issued to the Society with regard to establishment of Medical College at Haldia in the name of ICARE Institute of Medical Science and Research. The College Authorities filed an application in connection with the pending writ Petition before the Hon'ble Supreme Court of India being I.A. No. 8 wherein following prayers were made.

“I. stay the operation of the letter bearing No. HF/O/MERT/1850/W-137/2011 dated 16.11.2011 of Respondent No. 1 withdrawing the Essentiality Certificate dated 06.08.2010 issued to Petitioner No. 1-College (Annexure A-9 hereto);

II. direct Respondent No. 5-University not to withdraw the affiliation of Petitioner No. 1 - College based on the inspection conducted by its inspectors on 30.09.2011;

III. direct Respondent No. 5- University to accept registration forms and fees of the 87 students studying in 1 year MBBS Course in Petitioner No. 1-College for the

academic year 2011-12;

IV. direct Respondent No. 6-MCI to submit its decision on Petitioner No. 1-College taken pursuant to the show cause notice dated 31.10.2011 to this Hon'ble Court ;

V. pass ex parte ad-interim orders in terms of prayer clauses I to IV above; and

VI. pass such other or further orders as this Hon'ble Court may deem fit and proper in the facts and circumstances of the case and in the interest of justice.”

The College Authority however, decided to withdraw the aforesaid application being No. I.A. 8 and the Hon'ble Supreme Court of India by the order dated 23rd November, 2011 granted permission to withdraw the aforesaid application. The order passed by the Hon'ble Supreme Court of India on 23rd November, 2011 granting permission to withdraw the aforesaid application is set out hereunder :-

“UPON hearing counsel the court made the following

ORDER

Taken on board.

Dr. Rajeev Dhavan, learned senior counsel appearing for the applicant, after arguing the matter for some time, may be unknowing the mind of the court, seeks permission of the Court to withdraw the applications. Permission sought for is granted and the applications are disposed of as withdrawn.”

The College Authorities, thereafter filed another application before the Hon'ble Supreme Court of India praying for leave to withdraw the writ petition and the Hon'ble Supreme Court of India by the order dated 9th January, 2012 granted the aforesaid leave to withdraw the aforesaid writ petition. The order passed by the Hon'ble Supreme Court of India in this regard on 9th January, 2012 is set out hereunder:-

“UPON hearing counsel the court made the following

ORDER

1. Learned counsel for the petitioners has filed an application on 02/04.01.2012 seeking withdrawal of the writ petition.

2. In the said application, he has claimed the following main reliefs :

“a) grant the petitioners leave to withdraw the present writ petition before this Hon’ble Court with liberty to approach the appropriate Court for relief in respect of order dated 16.11.2011 of respondent no. 1 withdrawing Essentiality Certificate dated 06.08.2010, order dated 28.11.2011 of respondent no. 5 withdrawing consent of Affiliation and order dated 09.12.2011 of respondent no. 6 revoking letter of permission;.....”

3. Learned counsel for the respondents has opposed the request made in the application.

4. However, after going through the averments made in the application, we are of the opinion that the request of the petitioners appears to be reasonable and if it is granted, the same will not prejudice the case of the respondents in any manner whatsoever. Accordingly, the prayer made in the application is allowed. The Writ Petition is disposed of as withdrawn.

5. Ordered accordingly.”

The students of the aforesaid Medical College namely, the appellants/writ petitioners thereafter filed a writ petition before this Court since the University Authorities refused to accept the registration forms of the said students. The learned Single Judge upon hearing the parties passed an order on 13th March, 2011 directing the respective parties to file affidavits in connection with the said writ petition. Since no interim order was passed by the learned Single Judge, present appeal has been filed by the writ petitioners. In connection with the said appeal, an application has also been filed by the said writ petitioners.

Mr. Arunava Ghosh, learned counsel representing the writ petitioners submitted that the students cannot suffer any prejudice due to the subsequent decision of the respondent authorities regarding withdrawal of the essentiality certificate by the State Government and the cancellation of the affiliation by the University or

revocation of the permission in respect of the Institution by the Medical Council of India. Mr. Ghosh Submitted that the essentiality certificate issued by the State Government and the affiliation granted by the University concerned and furthermore, the permission granted by the Medical Council of India were valid and operative at the time of admission of the appellant students in the aforesaid medical college. Mr. Ghosh also submitted that an appropriate interim order should be passed by this court directing the West Bengal University of Health Sciences to accept the Registration Forms with Fees from the appellant students in order to allow them to participate in the First Year M.B.B.S. Final Examination which may be held in the month of July, 2012.

Mr. Ghosh further submitted that in view of specific condition mentioned in the essentiality certificate issued by the Govt. of West Bengal, State Government is under an obligation to take over the responsibility of the students already admitted in the aforesaid medical college. Mr. Ghosh also invited our attention to Section 56 (3) of the West Bengal University of Health Sciences Act, 2002 which provides as hereunder :-

“56. (3) The Executive Council shall, having regard to the interest of students studying in the affiliated colleges or recognised institutions, recommended to the Vice- Chancellor the action to be taken in this behalf and the Vice-Chancellor shall, thereafter, proceed to implement the recommendations.”

Mr. Kalyan Bandopadhyay, learned senior counsel representing the University Authorities strongly opposed the prayers made on behalf of the appellants/writ petitioners and submitted that the said appellants/writ petitioners cannot be regarded as the students of the medical college since their admissions in the aforesaid medical college became invalid and non-est in the eye of law. Mr. Bandopadhyay further submitted that the appellants/writ petitioners were admitted to the Medical College pursuant to an interim order passed by the Hon'ble Supreme Court of India in the writ petition filed by the college authorities subject to specific condition that the said admission would be subject to the final result of the aforesaid writ petition. Therefore according to Mr. Bandopadhyay, due to the withdrawal of the writ petition admission of the students had become non-est in the

eye of law.

Mr. Bandopadhyay further submitted that in the present case, State Government has no liability and/or responsibility in respect of the students namely, the appellants/writ petitioners who took admission in the medical college pursuant to the interim order passed by the Hon'ble Supreme Court of India in the writ petition filed by the college authorities which was subsequently withdrawn.

Mr. Bandopadhyay further submitted that the College Authorities while withdrawing the writ petition from the Hon'ble Supreme Court of India obtained leave to challenge the validity and/or legality of the withdrawal of the essentiality certificate by the State Government and withdrawal of affiliation by the West Bengal University of Health Sciences as well as the revocation of the permission by the Medical Council of India. According to Mr. Bandopadhyay no leave was obtained by the College Authorities to protect the interests of the students who were admitted pursuant to the interim order passed by the Hon'ble Supreme Court of India while withdrawing the writ petition.

The learned counsel of the other respondents excepting the respondent nos. 13 and 14 virtually adopted the arguments advanced by Mr. Bandopadhyay. Mr. Bandopadhyay also submitted that no interim order can be passed even on the ground of sympathy in favour of the appellant students in the facts of the present case. Mr. Bandopadhyay relied on the following decisions in support of his arguments :

1. Sunil Oraon (Minor) Through Guardian and Ors. Vs. CBSE and Ors., reported in (2006) 13 SCC 673-Paras 16-20.
2. State of Maharashtra Vs. Vikas Sahebrao Roundale and Ors., reported in (1992) 4 SCC 435 -Para 12.
3. A. P. Christians Medical Education Society Vs. Government of Andhra Pradesh and Anr. With Alice Manoranjani M. and Ors. Vs. Government of Andhra Pradesh and Anr., reported in (1986) 2 SCC 667 - Para 10.

The learned counsel representing the society which established the Medical College and also the Medical College authorities namely, the respondent nos. 13 and 14 however, supported the claims of the appellants/writ petitioners.

Referring to the decision of the Supreme Court in the case of Medical Council of India Vs. Rajiv Gandhi University of Health Sciences, reported in (2004) 6 SCC 76 Para - 12, Mr. Bandopadhyay submitted that this court should not issue any interim order specially when the affiliation of the Institution has been withdrawn by the University and the M.C.I. has also passed an order revoking the permission granted earlier to establish the medical college.

Having heard the learned counsel of the respective parties and considering the available records and also going through the impugned order under appeal passed by the learned Single Judge, we are of the opinion that the principal question which is to be decided in the present appeal is whether any interim order should be passed in favour of the appellants/writ petitioners. In other words, whether an interim order should be passed by this court directing the respondent authorities including the University Authorities to allow the appellants/writ petitioner to appear in the First Year M.B.B.S. Final Examination to be held in the month of July, 2012 upon granting registration certificate pending the disposal of the writ petition filed by the appellants herein.

Undisputedly, the appellants/writ petitioners were admitted in the M.B.B.S. Course of the concerned Medical College pursuant to the interim order passed by the Hon'ble Supreme Court of India in the writ petition which was subsequently, withdrawn by the writ petitioners namely, the college authorities. It is also not in dispute that the admissions of the appellants/writ petitioners were subject to certain conditions which have been specifically mentioned in the order dated 28th September, 2011 passed by the Hon'ble Supreme Court of India. The aforesaid conditions are quoted hereunder :-

“(a) Any admissions will be subject to final result of this petition.

(b) Each of the student who is admitted, should be intimated in writing about the pendency of this case.

(c) The College shall take an undertaking from each student admitted that he/she will not claim any equities on the basis of being admitted in pursuance of these orders, if ultimately it is found that they are not entitled to continue.”

Mr. Ghosh, learned counsel representing the appellants/writ petitioners submitted that the admission of the students was allowed by the Hon’ble Supreme Court subject to final result of the said writ petition and the bar against seeking equity on the basis of such admission in the college is only if ultimately it is found that the said students were not entitled to continue.

Mr. Ghosh however, submitted that the word ‘result’ and the expression “if ultimately it is found that they are not entitled to continue” clearly indicate the mind of the Court that the students will not have any right or equity only if it is “found” ultimately that the students so admitted pursuant to the Court’s orders are not legally eligible to continue their course of studies.

Mr. Ghosh therefore, submitted that the court would nullify the admission only upon arriving at the specific conclusion that the students were not entitled to be admitted in the medical college. According to Mr. Ghosh, Hon’ble Supreme Court of India never arrived at the conclusion that the students namely, the appellants/writ petitioners were not entitled to be admitted in the Medical College and therefore, this court pending final adjudication of the Writ Petition filed by the appellants/writ petitioners should pass an interim order in order to protect the interests of the said students. We are, however, not inclined to accept the aforesaid submissions of the learned counsel of the appellants/writ petitioners. The Hon’ble Supreme Court of India by the order dated 28th September, 2011 specifically directed the college authorities to intimate in writing about the pendency of the case before the Supreme Court and also directed the college authorities to take an undertaking from each students admitted in the said medical college. Therefore, the students were very much aware about the pendency of the proceeding before the Hon’ble Supreme Court of India and also in respect of the interim orders which authorized the college authorities to admit the students namely, the appellants/writ petitioners. The aforesaid admission of the appellant students were no doubt conditional admission as the same was subject to the

result of the writ petition filed by the college authorities before the Hon'ble Supreme Court of India. The college authorities also filed an interim application praying for specific direction upon the University Authorities for accepting Registration Forms with Fees of the students namely, the appellants/writ petitioners. The said interim application was however, subsequently withdrawn by the college authorities for the reasons best known to them. Hon'ble Supreme Court of India while granting permission to withdraw the aforesaid application specifically recorded that the learned senior counsel appearing for the applicant, after arguing the matter for some time, may be unknowing the mind of the court sought permission for withdrawing the application. The learned counsel of the appellants/writ petitioners submitted that specific observations of the Hon'ble Supreme Court of India "may be unknowing the mind of the court" should be read and understood that the court was inclined to grant relief to the petitioners namely, the college authorities and without realising the same, college authorities withdrew the said application. We, however, cannot give the aforesaid meaning to the order passed by the Hon'ble Supreme Court of India. The order passed by the Hon'ble Supreme Court of India should be understood from the very language of the order and not otherwise. Therefore, in the instant case we are unable to hold that the Hon'ble Supreme Court of India was really inclined to grant relief to the college authorities including the students who are appellants herein and such relief could not be granted in view of the withdrawal of the interim application by the said college authorities.

The college authorities thereafter again filed an application for withdrawal of the main writ petition with liberty to approach the appropriate court for relief in respect of the order dated 16th November, 2011 passed by the Govt. of West Bengal withdrawing the essentiality certificate and the subsequent order dated 28th November, 2011 passed by the West Bengal University of Health Sciences withdrawing the affiliation of the college as well as the order dated 19th December, 2011 revoking the permission by the M.C.I.

The respondent authorities strongly opposed the aforesaid prayer made before the Hon'ble Supreme Court of India by the College Authorities and Hon'ble Supreme Court of India while granting the prayer of the college authorities to withdraw the

writ petition with liberty to approach the appropriate court for relief in respect of the orders passed by the Govt. of West Bengal regarding withdrawal of the essentiality certificate, order dated 28th November, 2011 passed by the respondent authorities withdrawing the affiliation of the college as well as the order dated 9th December, 2011 passed by the M.C.I. revoking the permission in respect of the medical college specifically observed that the same will not prejudice the case of the respondents in any manner whatsoever. The respondent authorities all along resisted any admission in the aforesaid medical college and also highlighted various irregularities and/or illegalities committed by the college authorities. Therefore, the Hon'ble Supreme Court of India by the order dated 9th January, 2012 while granted leave to the college authorities to withdraw the writ petition with liberty to approach the appropriate court in future made it clear that the same will not prejudice the case of the respondent authorities since the liberty granted to the college authorities to approach the appropriate court in future was only restricted to the decision of the Govt. of West Bengal regarding withdrawal of the essentiality certificate, decision of the University Authorities regarding withdrawal of the affiliation of the medical college and also the revocation of the permission by the M.C.I. No order was passed with regard to the fate of the students who were admitted pursuant to the interim order passed earlier by the Hon'ble Supreme Court of India in the aforesaid writ petition filed by the college authorities. The college authorities also did not approach the Hon'ble Supreme Court of India to protect the interests of the students who were admitted pursuant to the interim orders of the Hon'ble Supreme Court of India. The appellant students were admitted to the medical college without following the procedures laid down by the Hon'ble Supreme Court of India in the case of Islamic Academy of Education vs. State of Karnataka, reported in (2003) 6 SCC 697 although pursuant to the aforesaid order a committee headed by a retired Judge of the High Court was constituted for supervision of the admission test in the Medical Colleges in West Bengal.

Another committee was also constituted headed by a former Judge of this Court for fixation of Fee Structure in the Medical College. The appellants/writ petitioners were admitted in the medical college pursuant to the interim order passed by the Hon'ble Supreme Court of India. The State Government from the very beginning

opposed the admission of the students in the Medical College. Therefore, at this stage it is difficult for us to issue any direction upon the State Government for taking over the responsibility of the students who were admitted in the concerned medical college pursuant to the interim orders of the Hon'ble Supreme Court of India although the essentiality certificate issued by the State Government, affiliation granted by the University and permission granted by the M.C.I. were valid and operative at the time of the admission of the appellant students.

The appellants/writ petitioners could have, if so advised, approached the Hon'ble Supreme Court of India in order to protect their rights. The students concerned namely, the appellants/writ petitioners also did not even apply before the Hon'ble Supreme Court of India for necessary clarification of the order after withdrawal of the Writ Petition and the connected Interim Application by the college authorities in order to protect their rights to continue the studies in the medical college pending disposal of the subsequent litigation initiated by the college authorities.

The students concerned, in our opinion, could have applied before the Hon'ble Supreme Court of India for necessary clarification and/or appropriate order for protection of their rights as the students of the medical college were admitted pursuant to the interim order passed by the Hon'ble Supreme Court of India and at the time of the withdrawal of the writ petition attention of the Hon'ble Supreme Court of India was not invited for protecting the academic career of the students who were admitted pursuant to the earlier interim order passed by the Hon'ble Supreme Court of India in the writ petition filed by the college authorities.

For the aforementioned reasons in spite of our best sympathy, we find it difficult to grant any relief to the appellants/writ petitioners by issuing any interim order since in our opinion the same will complicate the matter further specially when the validity and/or legality of the admission of the appellants/writ petitioners have been seriously questioned by the respondent authorities due to the withdrawal of the writ petition from the Hon'ble Supreme Court of India.

However, in our opinion, the writ petition filed by the students namely, the appellants herein should be decided expeditiously. Unfortunately, the respondent authorities did not file affidavit-in-opposition in compliance with the order passed

by the learned Single Judge. On the prayer of the learned counsel representing the respondents, time to file affidavit-in-opposition in connection with the writ petition filed before this High Court is extended till 6th June, 2012 as a last chance. The writ petitioners will also be at liberty to file affidavit-in-reply in answer to said affidavit-in-opposition within 13th June, 2012. The parties herein will be at liberty to apply before the Regular Bench for early hearing of the writ petition.

Considering the fate of Seventy Seven students, we also request the learned Single Judge to hear out the writ petition as early as possible and preferably on or before 30th June, 2012, if possible. With the aforesaid observations and directions, we dispose of both the appeal and the application upon treating the said appeal as on days' list. Let it also be on record that any observation made by us hereinbefore is confined only in respect of the present appeal and the same will have no effect on the pending writ petition.

In the facts of the present case, there will be however no order as to costs.

Let urgent Xerox plain copy of this judgment and order duly countersigned by the Assistant Registrar (Court) be supplied to the learned Advocate of the respective parties on usual undertaking to apply for certified copy of the same.

Tarun Kumar Das , J.

I agree.

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