

ITEM NO.46

COURT NO.8

SECTION XI

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 (C) No(s). 17003/2022

(Arising out of impugned final judgment and order dated 12-09-2022 in WC No. 19316/2020 passed by the High Court of Judicature at Allahabad, Lucknow Bench)

MTV BUDDHIST RELIGIOUS AND CHARITABLE TRUST (FORMERLY KNOWN AS SUBHARTI KKB CHARITABLE TRUST) & ANR. Petitioner(s)

VERSUS

THE STATE OF UTTAR PRADESH & ORS.

Respondent(s)

(FOR ADMISSION and I.R. and IA No.143542/2022-EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT and IA No.143543/2022-EXEMPTION FROM FILING O.T.

IA No. 143542/2022 - EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT

IA No. 143543/2022 - EXEMPTION FROM FILING O.T.

IA No. 145710/2022 - EXEMPTION FROM FILING O.T.

IA No. 145709/2022 - PERMISSION TO FILE ADDITIONAL DOCUMENTS/FACTS/ANNEXURES)

Date : 20-10-2022 These matters were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE B.R. GAVAI

HON'BLE MRS. JUSTICE B.V. NAGARATHNA

For Petitioner(s) Mr. K.V. Vishwanathan, Sr. Adv.
Mr. Vivek Singh, AOR
Mr. Sivagnanam K., Adv.
Mr. Amartya Ashish Sharan, Adv.
Mr. Antariksh Singh, Adv.
Mr. Purnendu Bajpai, Adv.
Ms. Eish Sharan, Adv.

Respondent(s) Mr. Garima Prasad, AAG
Mr. Vishnu Shankar Jain, AOR

Mr. Gaurav Sharma, Adv.

Mr. Prateek Bhatia, Adv.
Mr. Dhawal Mohan, Adv.
Mr. Mitushi Goyal, Adv.

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

The petition challenges the order dated 12.09.2022, vide which the petition of the petitioners has been rejected.

The petitioner No.2/College has been granted minority status by the National Commission for Minority Education Institution vide order dated 26.04.2018. It will be relevant to note that the Secretary of the Higher Education Department vide communication dated 18.05.2016 has stated that the jurisdiction to grant minority status is with the National Commission of Minority. Since the petitioner No.2/College was not being given benefit of minority status for admitting the students from the Buddhist religious minority, the petitioners had filed the petition before the High Court. The said petition was disposed of with liberty to the petitioner(s) to make a representation to the State Government. The said representation was rejected by the State Government. Hence, Writ Petition No.19316/2020 was filed by the petitioner(s), which is dismissed.

We have heard Mr. K.V. Vishwanathan, learned senior counsel appearing for the petitioners, Mrs. Garima Prasad, learned Additional Advocate General appearing for the respondents No.1 to 3 and 5 and Mr. Gaurav Sharma, learned counsel appearing for respondent No.6.

Mrs. Prasad, learned AAG, submits that the communication dated 18.05.2016 would only bind the higher and technical education department of the State. She further submits that the Department of Minority Education vide Office Memorandum dated 26.07.2018 has already rejected the prayer of the petitioner(s). She submits that the communication issued by the Higher and Technical Education Department would not bind the Medical Education Department. In any case, she submits that a period of almost four years has passed from the date on which the O.M. dated 26.07.2018 was passed.

Undisputedly, the petitioner No.2/College has been given

minority status by the order of the National Commission for Minority Education Institutions, which is the competent authority for the said purposes. It cannot be heard that the petitioner(s) would have a minority status insofar as the institutions coming under Higher and Technical Education Department of the State and will not have a minority status insofar as the institution coming under the Medical Education Department of the State.

In any case, as fairly stated by Mr. Gaurav Sharma, learned counsel appearing for National Medical Commission/respondent No.6, that even the minority seats will have to be filled through counseling made by the State Government, however, from the minority category. Insofar as the fees to be payable by the students are concerned, the same are also subject to the regulatory provisions under the State enactment which has been made in furtherance to the directions issued by this Court from time to time.

In that view of the matter, we are inclined to grant interim relief in terms of prayer clause 'a' in the petition, until further orders.

The respondent(s) would get liberty to file counter affidavit.
List after ensuing Diwali vacation.

(NARENDRA PRASAD)
ASTT. REGISTRAR-cum-PS

(ANJU KAPOOR)
COURT MASTER (NSH)