

IN THE SUPREME COURT OF INDIA  
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO(S). 12683 OF 2017  
[@ SPECIAL LEAVE PETITION (C) NO. 15463 OF 2016]

AYURVED VIKAS MANDAL

Appellant(s)

VERSUS

STATE OF GUJARAT & ORS.

Respondent(s)

WITH

CIVIL APPEAL NOS. 12684-12685 OF 2017  
[ @ SPECIAL LEAVE PETITION (C) NOS. 35066-35067 OF 2016 ]

J U D G M E N T

KURIAN, J.

CIVIL APPEAL NO(S). 12683 OF 2017 [ @ SPECIAL LEAVE  
PETITION (C) NO. 15463 OF 2016 ]

1. Leave granted.
2. The appellant is before this Court, aggrieved by the Judgment dated 02.05.2016 passed by the High Court of Gujarat at Ahmedabad in Letters Patent Appeal No. 125 of 2016 in Civil Application No. 13039 of 2015. The issue pertains to absorption of 23 members of the staff of the 2<sup>nd</sup> respondent-institution. After hearing the learned counsel for some time, this court passed the following order on 31.07.2017 :-

*"The issue raised in these two petitions  
pertains to the fate of 23 teachers who  
had been working in an aided college.*

In 2012, it appears, there was a decision to convert the college to self-financing.

According to the learned counsel for the State, the condition was that the employees of the institution should be continued as such and only on that condition the permission was granted.

According to the employees, they have not been continued in the institution nor have they been absorbed in Government service, as directed by the High Court.

Learned counsel appearing for the State submits that in case the direction of the High Court is implemented that will set a wrong precedent and it will also affect the chances of direct recruits.

However, it is pointed out that in similar cases, the Government had agreed for absorption of such employees.

Be that as it may, we direct the State Government to get instruction as to whether the State would be in a position to absorb these 23 employees without the judgment being treated as a precedent.

List on 18.08.2017."

3. In response to the order, an affidavit has been filed on behalf of the State on 07.09.2017.

Paragraph 4 of the affidavit reads as follows :-

"I say and submit that the State Government has taken up the matter of accommodating 16 employees of the trust in the available vacancies of other Grant in Aid Ayurveda Colleges of the State and it has been finally decided by the government that the 16 employees of the trust shall be accommodated in the Grant in Aid Ayurveda Colleges situated at Surat and Jamnagar as 7 employees are already retired. This decision has been taken on the condition that the trust shall pay the Salaries and Allowances of all the 16 employees from the date on which the trust has stopped paying the salaries till the date on which the State will absorb the employees in other Grant in Aid Ayurveda Colleges while the salaries and allowances of 7 employees shall be paid by the trust from the date on which the trust has stopped paying the salaries till the date of retirement. The pension papers of these employees shall be prepared by the trust, if not prepared and shall be forwarded to the Petitioner No. 2 office who in turn shall take necessary actions to sanction the same. The Statement showing the details of 16 employees of the trust to be absorbed in other Grant in Aid Ayurveda Colleges and 7 employees of the trust who have retired is annexed herewith and marked as Annexure R/1 & R/2"

4. We find that the Government has taken a very fair stand, though Mr. Rakesh Khanna, learned senior counsel, has very vehemently contended that the second respondent will not be in a position to pay the arrears of salary, as stated in the Affidavit. Having submitted before the High Court that the Government will absorb the 23 employees, there is no point in turning round on that instruction furnished before the High Court; it is submitted.

5. Having heard Mr. Preetesh Kapoor, learned counsel appearing for the State, we find it difficult to appreciate the contentions advanced by him. True, the second respondent institution was a grant-in-aid college. However, it is on the request of the Management that the Government agreed to convert it into a self financing college, subject to certain conditions.

6. In that background, we are of the view that this case needs to be disposed of in terms of the affidavit, as extracted above, making it further clear that this Judgment is passed in the very peculiar facts of this case and the same shall not be treated as a precedent.

7. Mr. Rakesh Khanna, learned senior counsel, submits that in view of the paucity of funds for the Management, they may be permitted to sell/mortgage a portion of their land so as to comply with the directions regarding payment of arrears of salary of the 23 employees upto 31.10.2017 . In case, for payment of salary for the abovementioned 23 employees, if the Trust is required to mobilize funds by disposing of / mortgaging the property, it will be open to them to do so by completing the formalities as required under the Trust deed.

8. The appeal is, accordingly, disposed of with a further direction to the State to act in accordance with the affidavit, as above, and do the needful within four weeks from today.

9. The entire arrears, as required in the affidavit, to all the 23 employees shall be cleared within three months from today. We make it clear that there shall be no further extension of time for this purpose.

10. Within the said period of three months, the pension papers of 7 retired employees shall also be forwarded to the Government so as to enable the Government to process the sanction.

CIVIL APPEAL NOS. 12684-12685 OF 2017[@ SPECIAL LEAVE  
PETITION (C) NOS. 35066-35067 OF 2016]

1. Leave granted.
2. In view of the Judgment passed in Civil Appeal No. 12683 of 2017, as above, these appeals are disposed of.

.....J.  
[ KURIAN JOSEPH ]

.....J.  
[ R. BANUMATHI ]

New Delhi;  
SEPTEMBER 12, 2017.

ITEM NO.4

COURT NO.5

SECTION III

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 FOR SPECIAL LEAVE TO APPEAL (C) NO. 15463 OF 2016

AYURVED VIKAS MANDAL

Appellant(s)

VERSUS

STATE OF GUJARAT &amp; ORS.

Respondent(s)

(PERMISSION TO FILE ADDITIONAL DOCUMENTS)

WITH

SPECIAL LEAVE PETITION (C) NOS. 35066-35067 OF 2016 (III)

Date : 12-09-2017 These petitions were called on for hearing today.

CORAM : HON'BLE MR. JUSTICE KURIAN JOSEPH  
HON'BLE MRS. JUSTICE R. BANUMATHICounsel for the  
partiesMr. Rakesh Kumar Khanna, Sr. Adv.  
Mr. Neeraj K. Gupta, Adv.  
Mr. Sudhir Naagar, Adv.  
Mr. Ranjeet Singh, Adv.Mr. Harin P. Raval, Sr. Adv.  
Mr. Anirudh Sharma, AOR  
Mr. Abhaid Parikh, Adv.  
Ms. Divya Anand, Adv.  
Mr. Nipun Saxena, Adv.Mr. Preetesh Kapoor, Adv.  
Mrs. Hemantika Wahi, AOR  
Ms. Jesal Wahi, Adv.  
Ms. Puja Singh, Adv.  
Ms. Mamta Singh, Adv.UPON hearing the counsel the Court made the following  
O R D E R

Leave granted.

The appeals are disposed of in terms of the signed non-reportable Judgment.

Pending interlocutory applications, if any, stand disposed of.

(JAYANT KUMAR ARORA)  
COURT MASTER

(RENU DIWAN)  
ASSISTANT REGISTRAR

(Signed non-reportable Judgment is placed on the file)