

A

MEDICAL COUNCIL OF INDIA

v.

CHRISTIAN MEDICAL COLLEGE VELLORE & ORS.

(Review Petition (C) Nos. 2159-2268 of 2013 etc.)

B

APRIL 11, 2016

[ANIL R. DAVE, A.K. SIKRI, R.K. AGRAWAL, ADARSH
KUMAR GOEL AND R. BANUMATHI, JJ.]

C

Review: Review petition before Supreme Court for recalling decision passed in Christian Medical College Case – Held: Judgment delivered in Christian Medical College needs reconsideration – Reasons not stated in detail at this stage so that it does not prejudicially affect the hearing of the matters – For the purpose, observations made in Sheonandan is relevant that if the review bench of the apex court were required to give reasons, the review bench would have to discuss the case fully and elaborately and expose what according to it constitutes an error in the reasoning of the original bench and would inevitably result in pre judgment of the case and prejudice its re hearing – In Christian Medical College case some binding precedents were not considered and more particularly there was no discussion among the members of the bench before the pronouncement of the judgment – Therefore, review petition allowed and Christian Medical College Case recalled with direction to hear the matter afresh.

D

E

F

Christian Medical College Vellore & Ors. vs. Union of India & Ors. 2013 (7) SCR 908 : (2014) 2 SCC 305; Kamlesh Verma vs. Mayawati and Others 2013 (11) SCR 25 : (2013) 8 SCC 320; Union of India vs. Namit Sharma 2013 (13) SCR 96 : (2013) 10 SCC 359; Sheonandan Paswan vs. State of Bihar and others 1987 (1) SCR 702 : (1987) 1 SCC 288 – referred to.

G

Case Law Reference

2013 (7) SCR 908 referred to Para 1

2013 (11) SCR 25 referred to Para 4

H

2013 (13) SCR 96 referred to **Para 4**

A

1987 (1) SCR 702 referred to **Para 4**

CIVIL APPELLATE JURISDICTION : Review Petition (C) Nos. 2159-2268 of 2013 and Review Petition (C) Nos. 2048-2157 of 2013 in Transferred Case (C) Nos. 98-105, 107-108, 110-139, 142, 144-145 of 2012 & 1-5, 7-25, 28-49, 53, 58-73, 75-76, & 107-108 of 2013.

B

WITH

Review Petition (C) No. 1956 of 2013 in T.C. (C) No. 101 of 2012

From the Judgment and Order dated 18.07.2013 of the Hon'ble Court in T. C. (C) NO. 98 OF 2012.

C

Vikas Singh, Sr. Adv., Gaurav Sharma, Ms. Deepeika Kalia, Dhawal Mohan, Ms. Amandeep Kaur, Prateek Bhatia, Kapeesh Seth, Ms. Vara Gaur, Prashant Bhushan, Advs. for the Petitioner.

Ms. Pinky Anand, ASG, K.K. Venugopal, Shashi Kiran Shetty, Dr. Rajeev Dhawan, Rakesh Dwivedi, B. Adi Narayana Rao, V. Giri, Subramonium Prasad, Ajit Kumar Sinha, Sr. Advs., Ms. Rekha Pandey, Ajay Sharma, R.K. Rathore, R.S. Nagar, Amit Sharma, S.S. Rawat, Karan Seth, Sanchit Kumar, Akash Jindal, (For D.S. Mahra), Sharan Thakur, Vijay Kumar Paradeshi, Ms. Fara Fathima, (For Ramesh Babu M.R.), Ranjit B. Raut, (For Ms. Bina Gupta), Ms. Hetu Arora Sehi, Naveen R. Nath, Ms. L.M. Bhat, Krishna Srinivasan, E.R. Kumar, Ms. Geethi Aara, Abhinay, Ms. S. Lakshmi Iyer, Ms. Apoorva Garg, Ms. Sansriti Pathak, (For M/s. Parekh & Co.), Rakesh K. Sharma, Ms. Iyengar Sheekharanjani A., Ms. Sangita Chauhan, B. Balaji, Utkarsh Srivastava, Ashmeet Singh, Sharan Thakur, Vijay Kumar Paradeshi, Ms. Fara Fathima, (For Dr. Sushil Balwada), Ashwarya Sinha, Tara Chandra Sharma, Ms. Neelam Sharma, Rajeev Sharma, Nishant R. Katneshwarkar, Arpit Rai, V.G. Pragasam, S. Prabhu Ramasubramanian, Abdhesh Choudhary, Rajiv Ranjan Dwivedi, C.S.N. Mohan Rao, A. Ramesh, Syed Ahmad Naqvi, Ms. Shilpi Gupta, Lakshmi Raman Singh, Guntur Prabhakar, Anil Kumar Mishra-I, Ravindra Keshavrao Adsure, K.K. Mani, Nirnimesh Dubey, G.B. Sathe, P.N. Puri, Advs. for the Respondents.

D

E

F

G

H

A The following Order of the Court was delivered

ORDER

B 1. These review petitions have been filed against the judgment of this Court dated 18th July, 2013 passed in Christian Medical College Vellore & Ors. Vs. Union of India & Ors. reported in (2014) 2 SCC 305. The review petitions were placed before a Three-Judge Bench and notices were issued on 23rd October, 2013 and thereafter, it was brought to the notice of the Bench that Civil Appeal No.4060/2009 and connected matters involving an identical issue, had been referred to a Five-Judge Bench. Accordingly, on 21st January, 2016, these review petitions were
C ordered to be heard by a Five-Judge Bench.

2. On 21st January, 2016, notice was ordered to be served through substituted service and in pursuance of the said order, necessary publication was made in two newspapers and proof thereof was filed on
D 15th February, 2016. Thereafter, we have heard the matters.

3. Civil Appeal No.4060/2009 and its connected matters have been heard and order has been reserved on 16th March, 2016.

E 4. We have heard the counsel on either side at great length and also considered the various judgments cited by them, which include judgments cited by the non-applicants on the scope of review in Kamlesh Verma vs. Mayawati and Others (2013) 8 SCC 320, Union of India vs. Namit Sharma (2013) 10 SCC 359 and Sheonandan Paswan vs. State of Bihar and others (1987) 1 SCC 288.

F 5. After giving our thoughtful and due consideration, we are of the view that the judgment delivered in Christian Medical College (supra) needs reconsideration. We do not propose to state reasons in detail at this stage so as to see that it may not prejudicially affect the hearing of the matters. For this purpose we have kept in mind the following observations appearing in the Constitution Bench judgment of this Court in Sheonandan Paswan (supra) as under:
G

H “.... If the Review Bench of the apex court were required to give reasons, the Review Bench would have to discuss the case fully and elaborately and expose what according to it constitutes an error in the reasoning of the Original Bench and this would inevitably result in pre-judgment of the case and prejudice its re-hearing. A

reasoned order allowing a review petition and setting aside the order sought to be reviewed would, even before the re-hearing of the case, dictate the direction of the re-hearing and such direction, whether of binding or of persuasive value, would conceivably in most cases adversely affect the losing party at the re-hearing of the case. We are therefore of the view that the Review Bench in the present case could not be faulted for not giving reasons for allowing the Review Petition and directing re-hearing of the appeal. It is significant to note that all the three Judges of the Review Bench were unanimous in taking the view that “any decision of the facts and circumstances which ... constitutes errors apparent on the face of record and my reasons for the findings that these facts and circumstances constitute errors apparent on the face of record resulting in the success of the review petition, may have the possibility of prejudicing the appeal which as a result of my decision has to be re-heard....”

A

B

C

D

6. Suffice it is to mention that the majority view has not taken into consideration some binding precedents and more particularly, we find that there was no discussion among the members of the Bench before pronouncement of the judgment.

7. We, therefore, allow these review petitions and recall the judgment dated 18th July, 2013 and direct that the matters be heard afresh. The review petitions stand disposed of as allowed.

E

Devika Gujral

Review disposed of