IN THE HIGH COURT OF SIKKIM : GANGTOK

(Writ Appellate Jurisdiction)

WA No. 02 of 2019

The Dean,
I.K. Gujral Punjab Technical University,
Near Pushpa Gujral Science City,
Ibban, Kapurthala-144603,
Distt. Kapurthala, Punjab.

... Appellant

Versus

1. Sikkim Students Welfare Association of Chandigarh,
Through its President, Mr. Karma Gyatso Bhutia,
S/o Mr. Karma Sonam Bhutia,
R/o Dhajay, Near Ranka Senior Secondary School,
P.O. & P.S. Gangtok, East Sikkim.

2. Sikkim Students Welfare Association of Chandigarh,
Through its General Secretary, Mr. Sujendra Rai,
S/o Shri Ashman Rai,
R/o Lower Wok,
P.O. Wok & P.S. Jorethang, South Sikkim.

3. Sikkim Students Welfare Association of Chandigarh,
Through its Treasurer, Mr. Gyurmee Bhutia,
S/o Mr. Passang Bhutia,
R/o Ghurpisey, Namchi,
P.O. & P.S. Namchi, South Sikkim.

4. State of Sikkim,
Through the Chief Secretary,
Government of Sikkim, Gangtok.

5. Secretary,
Social Justice Empowerment and Welfare Department,
Samaj Kalyan Bhawan-Bal Bhawan,
Lumsay, 5th Mile, Tadong, Gangtok,
Government of Sikkim,
Gangtok, East Sikkim.

6. Secretary,
Department of Social Justice Empowerment,
Room No. 721-A Wing,
Shastri Bhawan,
Dr. Rajendra Prasad Road,
Government of India.

7. The Principal,
I.T.F.T. Education Group,
SCO 1-2-3,
Level III, 17 D, Sector-17,
Chandigarh-160017,
Punjab.

8. Additional Chief Secretary,
Education Department,
Government of Sikkim,
Gangtok, East Sikkim.

9. Indira Gandhi National Open University,
Regional Centre, Gangtok,
5th Mile, Tadong,
P.O. Tadong, P.S. Gangtok, East Sikkim.

10. University Grants Commission,
Bahadur Shah Zafar Marg,
New Delhi, Pin-110002.

11. Secretary,
Ministry of Tribal Affairs,
Ground Floor, D Wing,
Shastri Bhawan, New Delhi,
Pin-110001.

… Respondents

BEFORE

HON'BLE MR. JUSTICE ARUP KUMAR GOSWAMI, CJ.
HON'BLE MR. JUSTICE BHASKAR RAJ PRADHAN, J.

For the appellant	:	Mr. A.K. Upadhyaya, Senior Advocate with Mr. D.K. Siwakoti and Mr. Sonam Rinchen Lepcha, Advocates.
For the respondent nos. 1, 2 and 3	:	Mr. Gulshan Lama, Advocate.
For the respondent nos. 4, 5 and 8	:	Mr. Sudesh Joshi, Addl. Advocate General, Sikkim with Mr. Sujan Sunwar, Asstt. Govt. Advocate.
For the respondent with nos. 6, 10 and 11	:	Mr. Karma Thinlay, Central Government Counsel Mr. Thinlay Dorjee Bhutia, Advocate.
For the respondent No. 9	:	Mr. Leonard Gurung, Advocate.
For the respondent No. 7	:	None.
Date of hearing	:	20.11.2020
Date of judgment	:	20.11.2020

JUDGMENT (ORAL)

(*Arup Kumar Goswami, CJ*)

This appeal under Rule 148 of the Sikkim High Court (Practice and Procedure) Rules, 2011, for short, the P.P. Rules, is preferred challenging

the orders dated 22.07.2019, 06.09.2019 and 18.10.2019 passed in W.P.(C) No. 60 of 2016 as well as order dated 03.09.2019 passed in Review Pet.(C) No. 01 of 2019 by which review of the order dated 22.07.2019 was prayed for. However, at the very outset, Mr. A. K. Upadhyaya, learned Senior Counsel appearing for the appellant submits that this appeal may not have been taken to be preferred against the orders dated 06.09.2019 and 18.10.2019.

2. Learned counsel appearing for the parties submit that since all the parties are represented, save and except respondent no.7, who had not entered its appearance despite service effected pursuant to the notice issued in the application for condonation of delay, and since any order passed in this appeal will not in any way prejudice the respondent no.7, the appeal may be taken up for disposal at the admission stage.

3. In view of the submissions of the learned counsel for the parties and on being satisfied that having regard to the relief prayed for by the appellant any order passed in the appeal will not cause any prejudice to the respondent no.7, we dispense with notice to respondent no.7 and take up the appeal for disposal at the admission stage.

4. Mr. Upadhyaya submits that on 15.05.2019, a direction was given by the learned Single Judge directing respondent no. 4 (who is the appellant herein) to submit a fresh comprehensive representation to respondent no. 8 of the writ petition, University Grants Commission(UGC) by 20.05.2019, annexing a comparative chart of the syllabi of course in Bachelor in Airlines Tourism and Hospitality Management (B.Sc. ATHM) and a comparative chart for the course of Bachelor of Health and Spa and Resort Management (BHSRM) with the changes in their nomenclature. When the matter was taken up for consideration on 22.07.2019,

submissions were advanced on behalf of the appellant that necessary steps had been taken in terms of order dated 15.05.2019 but the learned Counsel appearing for UGC submitted that no representation had been received in terms of the order dated 15.05.2019. It is submitted that the learned counsel for the appellant did not have the copy of the representation on that day with him when the matter was taken up on 22.07.2019. On the basis of the submission of the learned Counsel appearing for UGC, it was construed that no action was taken by the appellant and accordingly, learned Single Judge directed the appellant to pay a sum of Rs.1.00 lakh each to each of the petitioners. Learned Senior Counsel submits that though references were made in the order dated 22.07.2019 to some previous orders, it would be apparent that the direction to pay a sum of Rs.1.00 lakh each to each of the students was on account of alleged non-compliance of the order dated 15.05.2019 and such alleged non-compliance was accepted by the Court only because of the incorrect submission made by the learned Counsel for UGC. It is submitted that though the writ petition was filed by the office bearers of Sikkim Students Welfare Association of Chandigarh through its President, General Secretary and Treasurer as petitioner nos. 1, 2 and 3, in the writ petition, a list of 236 students, shown to be affected students is enclosed and, therefore, amount payable by the appellant will be to the tune of Rs. 2.36 crores. It is submitted by him that amount directed to be paid, as would be evident from the order dated 22.07.2019, is by way of compensation, and that too, on a factually wrong premise.

5. Learned Senior Counsel submits that against the said order dated 22.07.2019, a review petition was filed being Review Pet.(C) No. 01 of 2019 enclosing thereto the representation dated 16.05.2019 submitted by the appellant before UGC which was also duly acknowledged on 20.05.2019

and accordingly, had prayed for review of the order. However, the review petition was also rejected. It is submitted that when the representation was filed by the appellant in terms of order dated 15.05.2019 was placed on record of the review petition, the learned Single Judge ought to have reviewed the order dated 22.05.2019 and failure to do so had occasioned irreparable loss and injury to the appellant.

6. He submits that pursuant to the representation dated 16.05.2019, in terms of the order of this Court dated 15.05.2019 a meeting was convened on 06.09.2019 by UGC. Subsequently, an order dated 25.09.2019 was issued by UGC, in effect, rejecting the prayer made in the representation as against which the appellant had filed a writ petition before the Punjab & Haryana High Court, registered as CWP No. 29701/2019. He has also submitted that against the orders dated 22.07.2019 and 06.09.2019 passed in Writ Petition (C) No. 60 of 2016 as well as order dated 03.09.2019 passed in Review Pet.(C) No. 01 of 2019, the appellant had filed a Special Leave Petition, which was registered as SLP(C) No. 22416 of 2019 and the same was listed on 30.09.2019. However, the said petition was withdrawn with liberty to approach the High Court and the Hon'ble Supreme Court had passed an order on 30.09.2019 dismissing the petition as withdrawn with liberty as prayed for.

7. The writ petitioners as respondent nos.1 to 3 had filed an affidavit in the appeal. It is submitted on the basis thereof by Mr. Gulshan Lama, learned Counsel for the respondent nos. 1, 2 and 3 that the appellant is adopting dilatory tactics to the detriment of the writ petitioners. It is contended that various orders reflected in the order dated 22.07.2019 will go to show the callous conduct of the appellant. He submits that as the appellant had been negligent in complying with various directions issued from time to time, on an earlier occasion, cost of Rs.1 lakh was imposed on

the appellant. He has submitted that when the welfare of the students was involved, the appellant not only ought to have produced the representation but also ought to have filed a compliance report. He submits that there is no merit in the appeal and therefore, no interference is called for with the orders of the learned Single Judge and the appeal deserves to be dismissed.

8. Mr. Sudesh Joshi, learned Additional Advocate General, Sikkim appearing for respondent nos. 4,5 and 8 supports the contentions of the learned counsel for the appellant and submits that but for the wrong submission of learned Counsel for UGC, no occasion would have arisen for direction to make payment of compensation amounting to Rs.2.36 crores. He further submits that when the incorrect submission made by the learned Counsel appearing for UGC was pointed out by the appellant by filing a review petition enclosing thereto the copy of the representation dated 16.05.2019, the order dated 22.07.2019 ought to have been reviewed.

9. Mr. Karma Thinlay, learned Senior Counsel appearing for respondent no. 6 as well as UGC submits that he was not instructed by UGC that it had received a copy of the representation dated 16.05.2019 submitted by the appellant and therefore, he had made the submission as noted in the order dated 22.07.2019. He has further submitted that even though the appellant may have submitted the representation on 16.05.2019, the appellant had not pursued the matter and therefore, there was laches and negligence on the part of the appellant. He further submits that if the appellant had produced the representation, then there would have been no occasion for passing the order dated 22.07.2019.

10. Mr. Leonard Gurung, learned Counsel appearing for respondent no. 9 submits that he does not have much to offer in the present proceedings.

11. Though none of the respondents had raised the plea of maintainability of the appeal and no such plea had also been taken by the respondent nos. 1 to 3 in the affidavit filed in the writ appeal, we had entertained some doubts about the maintainability of the appeal against the two orders dated 22.07.2019 and 03.09.2019 and had accordingly, sought for the response of Mr. Upadhyaya.

12. Mr. Upadhyaya, learned Senior Counsel, responding to the question posed by the Court, submits that the direction to pay Rs.1.00 lakh each to each of the students is by way of compensation and therefore, such a direction as contained in the order dated 22.07.2019 being a judgment within the meaning of Rule 148 of the P.P. Rules, the appeal is maintainable. He submits that the appeal is also maintainable against rejection of the prayer for review. He has further submitted that the orders dated 22.07.2019 and 03.09.2019 have worked serious injustice to the appellant for its no fault. He has placed reliance in the cases of ***Shah Babulal Khimji vs Jayaben D. Kania And Anr. ,*** reported in ***(1981) 4 SCC 8*** and ***Midnapore Peoples' Coop. Bank Ltd. & Ors. vs. Chunilal Nanda & Ors.,*** reported in ***(2006) 5 SCC 399***.

13. Rule 148 (1) of the P.P. Rules reads as under: -

> "148. Letters Patent Appeals:- (1) An appeal shall lie to the Division Bench, not being a judgment passed in the exercise of appellate jurisdiction in respect of a decree or order made by a Court subject to the superintendence of the High Court, and not being an order made in the exercise of revisional jurisdiction, and not being sentence or order passed or made in exercise of Criminal jurisdiction of a Judge of the High Court sitting singly."

14. In ***Shah Babulal Khimji*** (supra), the Hon'ble Supreme Court was considering Clause 15 of the Letters Patent of the High Court of Bombay. It was observed that the concept of a judgment as defined by Code of Civil Procedure,1908(CPC) seems to be rather narrow and the limitations engrafted by Section 2(2)CPC cannot be physically imported into the definition of the word "judgment" as used in Clause 15 of the Letters Patent because the Letters Patent has not used the term "order" or "decree" and accordingly, observed that intention, therefore, of the givers of the Letters Patent was that the word "judgment" should receive a much wider and more liberal interpretation than the word "judgment" used in the CPC. It was also cautioned that at the same time it cannot be said that any order passed by a trial judge would amount to a judgment as otherwise there will be no end to the number of orders which would be appealable under the Letters Patent. The Hon'ble Supreme Court held that a judgment can be of three kinds, namely, a final judgment, a preliminary judgment and an intermediary or interlocutory judgment. A final judgment is one which decides all the questions or issues in controversy so far as the trial judge is concerned and leaves nothing else to be decided. This would mean that by virtue of the judgment, the suit or action brought by the plaintiff is dismissed or decreed in part or in full. Such an order passed by the trial judge indisputably and unquestionably is a judgment within the meaning of the Letters Patent and even amounts to a decree so that an appeal would lie from such a judgment to a Division Bench. A preliminary judgment may take two forms – where the trial judge by an order dismisses the suit without going into the merits of the suit but only on a preliminary objection raised by the defendant or the party opposing on the ground that the suit is not maintainable. In such an event in any case the suit is finally decided in one way or the other. The other kind of preliminary judgment would be where the trial judge passes an order after hearing preliminary objections

raised by the defendant relating to maintainability of the suit, e.g. bar of jurisdiction, *res judicata,* a manifest defect in the suit, absence of notice under Section 80 CPC and the like, and these objections are decided by the trial judge against the defendant. In such an event the suit is not terminated but continues and has to be tried on merits but the order of the trial judge rejecting the objections doubtless adversely affects a valuable right of the defendant who, if his objections are valid, is entitled to get the suit dismissed on preliminary grounds. Thus, such an order even though it keeps the suit alive, undoubtedly decides an important aspect of the trial which affects a vital right of the defendant and must, therefore, be construed to be a judgment so as to be a appealable to a larger Bench. So far as intermediary or interlocutory judgment is concerned it was observed that most of the interlocutory orders which contain the quality of finality are clearly specified in clauses (a) to (w) of the Order 43 Rule 1 CPC which had already been held to be judgments. There would be interlocutory orders though not covered under Order 43 (1) CPC, which also possess the characteristics and trappings of finality in that the orders may adversely affect a valuable right of the party or decide an important aspect of the trial in an ancillary proceeding but such adverse effect on the party concerned must be direct or immediate rather than indirect or remote. It was held that every interlocutory order cannot be regarded as a judgment but only those orders would be judgments which decide matters of moment or affect vital and valuable rights of the parties and which works serious injustice to the party concerned.

15. In paragraph 103, the Hon'ble Supreme Court quoted as follows:-

> "**103.** ……We might mention here that under clause (w) of Order 43 Rule 1 an order granting an application is appealable. On a parity of reasoning, therefore, an order dismissing an

application for review would also be appealable under Letters Patent being a judgment though it is not made appealable under Order 43 Rule 1."

16. Hon'ble Supreme Court at paragraph 115 observed that every interlocutory order cannot be regarded as judgment but only those orders would be judgments which decide matters of moment or affect vital and valuable rights of the parties and which work serious injustice to the party concerned.

17. At paragraph 120, the Hon'ble Supreme Court laid down some of the principles for guidance in deciding whether an order passed by the trial judge amounts to a judgment within the meaning of the Letters Patent. Paragraph 120 reads as follows: -

"120. Thus, these are some of the principles which might guide a Division Bench in deciding whether an order passed by the trial Judge amounts to a judgment within the meaning of the letters patent. We might, however, at the risk of repetition give illustrations of interlocutory orders which may be treated as judgments:

(1) An order granting leave to amend the plaint by introducing a new cause of action which completely alters the nature of the suit and takes away a vested right of limitation or any other valuable right accrued to the defendant.

(2) An order rejecting the plaint.

(3) An order refusing leave to defend the suit in an action under Order 37, of the Code of Civil Procedure.

(4) An order rescinding leave of the trial Judge granted by him under clause 12 of the letters patent.

(5) An order deciding a preliminary objection to the maintainability of the suit on the ground of limitation, absence of notice under Section 80, bar against competency of the suit against the defendant even though the suit is kept alive.

(6) An order rejecting an application for a judgment on admission under Order 12 Rule 6.

(7) An order refusing to add necessary parties in a suit under Section 92 of the Code of Civil Procedure.

(8) An order varying or amending a decree.

(9) An order refusing leave to sue in forma pauperis.

(10) An order granting review.

(11) An order allowing withdrawal of the suit with liberty to file a fresh one.

(12) An order holding that the defendants are not agriculturists within the meaning of the special law.

(13) An order staying or refusing to stay a suit under Section 10 of the Code of Civil Procedure.

(14) An order granting or refusing to stay execution of the decree.

(15) An order deciding payment of court fees against the plaintiff."

18. At paragraphs 15 and 16 of ***Midnapore Peoples' Coop. Bank Ltd.*** (supra), the Hon'ble Supreme Court laid down as follows:

"15. Interim orders/interlocutory orders passed during the pendency of a case, fall under one or the other of the following categories:

(*i*) Orders which finally decide a question or issue in controversy in the main case.

(*ii*) Orders which finally decide an issue which materially and directly affects the final decision in the main case.

(*iii*) Orders which finally decide a collateral issue or question which is not the subject-matter of the main case.

(*iv*) Routine orders which are passed to facilitate the progress of the case till its culmination in the final judgment.

(*v*) Orders which may cause some inconvenience or some prejudice to a party, but which do not finally determine the rights and obligations of the parties.

16. The term "judgment" occurring in clause 15 of the Letters Patent will take into its fold not only the judgments as defined in Section 2(9) CPC and orders enumerated in Order 43 Rule 1 CPC, but also other orders which, though may not finally and conclusively determine the rights of parties with regard to all or any matters in controversy, may have finality in regard to some collateral matter, which will affect the vital and valuable rights and obligations of the parties. Interlocutory orders which fall under categories (*i*) to (*iii*) above, are, therefore, "judgments" for the purpose of filing appeals under the Letters Patent. On the other hand, orders falling under categories (*iv*) and (*v*) are not "judgments" for the purpose of filing appeals provided under the Letters Patent."

19. In ***Central Mine Planning and Design Institute Ltd. vs. Union of India and another***, reported in ***(2001) 2 SCC 588***, which was noted in ***Midnapore Peoples' Coop. Bank Ltd.*** (supra), Clause 10 of the Letters Patent of Patna High Court was considered. In the aforesaid case, an award of the Industrial Disputes Tribunal directing reinstatement and partial payment of back wages was challenged in a writ petition. The workmen had

claimed interim relief under Section 17-B of the Industrial Disputes Act, 1947. The learned Single Judge directed the employer to pay full wages to the workmen during the pendency of the writ petition. This order being challenged in a Letters Patent appeal, it was held by the Division Bench that the appeal was not maintainable as the order directing payment by the Single Judge was not a judgment. However, the Hon'ble Supreme Court held that an interlocutory order passed in a writ proceeding directing payment under Section 17-B of the Industrial Disputes Act, 1947 was a final determination affecting vital and valuable rights and obligations of parties and therefore, would fall under the category of intermediary or interlocutory judgment against which Letters Patent appeal would lie.

20. It will be relevant to take note of the order dated 15.05.2019 and accordingly, the same is extracted herein below:

> "It is submitted by learned Senior Counsel for Respondent No. 4 that they have submitted another representation to the University Grants Commission (UGC), Respondent No. 8, duly annexing a comparative chart of the syllabus for the courses offered in their University in Bachelor in Airlines, Tourism and Hospitality Management (B.Sc. ATHM) the nomenclature of which was changed to Bachelor of Management (Airlines, Tourism and Hospitality Management) and also a comparative chart for the courses of Bachelor in Health, Spa & Resort Management (BHSRM) changed to Bachelor of Management (Health, Spa & Resort Management).
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> Learned Additional Advocate General submits that eight weeks time may be afforded to the Respondent No. 4 and Respondent No. 8 to take steps in the matter.

Learned Counsel for the Petitioner submits that five representatives of the Petitioner-Association also be allowed to be present before the Respondent No. 8 when the matter is being taken up by the said Respondent.

Considered submissions.

The Respondent No. 4 shall submit a fresh comprehensive representation to the Respondent No. 8 by 20.05.2019 duly annexing a comparative chart of the syllabi of the courses as detailed supra with their change in nomenclature.

The Respondent No. 8 is directed to consider the representation filed by Respondent No. 4 in the joint presence of the representatives of the Respondent No. 4 as also five representatives of the Petitioner-Association and shall dispose of the matter within eight weeks from today with a reasoned order.

Costs of travel, boarding and food for the five representatives of the Petitioner-Association shall be borne by the Respondent No. 4 from the date that they embark on the journey till the time they are required by Respondent No. 8. The modalities on this aspect shall be worked out between the Petitioners and the Respondent No. 4.

List on 22.07.2019."

21. A perusal of the above order dated 15.05.2019 goes to show that appellant was required to submit a fresh comprehensive representation to UGC by 20.05.2019 duly annexing a comparative chart of the syllabi of the courses as indicated with their change in nomenclature and UGC was directed to consider the representation filed by the appellant in the joint presence of the representatives of the appellant as also five representatives

of the petitioner-Association and UGC was to dispose of the matter within eight weeks with a reasoned order. The expenses for the meeting to be attended by the five representatives of the petitioner-Association, was to be borne by appellant.

22. Paragraphs 5, 6, 7, 8, 9, 10 and 13 of the order dated 22.07.2019 read as follows:

> "5. Despite clear and unambiguous directions of this Court dated 15-05-2019 which for brevity is not being reiterated, the Respondent No.4 has failed to take any steps in compliance thereof. This is evident from the fact that neither did the Respondent No.4 inform the Petitioners of the date that was being fixed by them to appear before the Respondent No.8, while the unequivocal submissions of Counsel for the Respondent No.8 lends credence to the fact that infact no steps have been taken by the Respondent No.4 before them, nor was any representation filed.
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> 6. The records of the case reveal that as far as back in 28-09-2018 the Respondent No.4 voluntarily undertook to take steps with the Respondent No.8, the University Grants Commission (UGC), as remedial measures for recognition of the Degrees in controversy, i.e., Bachelor in Airlines, Tourisms and Hospitality Management (B.Sc. ATM) and Bachelor in Health, Spa and Resort Management (BHSRM), for the years 2011 to 2014 and 2012 to 2015.
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> 7. The records also reveal that on 12-10-2018 letter was issued by the Registrar of the Respondent No.4 to the Respondent No.8 requesting them to take steps for recognition of the Courses.

> 8. The Order dated 02-11-2018 observes the callous attitude adopted by Respondent No.4 towards the circumstance in the Writ Petition and due to their inaction the Respondent No.4 had been directed to pay total costs of Rs.1,00,000/- (Rupees one lakh) only, to the Petitioners.
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> 9. Subsequent thereto, on 14-11-2018 this Court had observed that the Orders of the Court are being flouted by the Respondent No.4 and treated callously and not given the seriousness it deserves.
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> 10. Thereafter, an Order followed on 29-11-2018 wherein the Respondent No.4 submitted that their representative had met the Additional Secretary of the UGC, Respondent No.8 on 16-10-2018, sans documentary proof of such meeting. Consequently, the Respondent No.4 sought time to take steps. The Respondent No.4 was warned that should they fail to take steps as required they shall compensate each of the students.
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> x x x
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> 13. In view of the non-action of the Respondent No.4 despite directions of this Court they are directed to pay a sum of Rs.1,00,000/- (Rupees one lakh) only, each to the each of the Petitioner Students by 31-08-2019 without fail and submit report before the next date fixed."

23. A reading of the aforesaid order would go to show that the learned Single Judge was led to believe that the appellant had not taken steps in compliance of the order dated 15.05.2019 as the respondent no.4 (appellant) had not informed the writ petitioners of the date that was fixed for them to appear before UGC, which belief was further bolstered by the submission of the learned Counsel for UGC that no steps had been taken by

the appellant and that no representation was also filed. After recording the above conclusion, the learned Single Judge referred to the previous orders as noticed hereinabove.

24. In paragraph 10, it was noted that on 29.11.2018 it was observed that if the respondent no. 4 (appellant) failed to take steps as required, they should compensate each of the students. Non-action of the respondent no. 4 (appellant), as is referred to in paragraph 13 of the order dated 22.07.2019 relates to failure of the respondent no. 4 (appellant) to take steps in compliance of the order dated 15.05.2019.

25. Reading of paragraphs 10 and 13 of the order dated 22.07.2019 leaves no manner of doubt that the direction to pay a sum of Rs.1.00 lakh each to each of the petitioner students was by way of compensation.

26. The direction to make payment of compensation by the order dated 22.07.2019 attaches finality so far as that issue is concerned. Such direction for compensation could not have been passed on presumption. It will be relevant to note that in the writ petition, the writ petitioners, amongst others, had prayed for compensation for the affected students. It was a collateral issue arising out of perceived violation of direction of this Court, which was evidently not a subject matter of the writ petition. In ***Midnapore Peoples' Coop. Bank Ltd.*** (supra), the Hon'ble Supreme Court had observed that an interlocutory order which finally decides a collateral issue or question which is not a subject matter of the main case is a judgment for the purpose of filing appeal under the Letters Patent. As noted earlier, in ***Shah Babulal Khimji*** (supra), the Hon'ble Supreme Court had also held that an order dismissing an application for review, being a judgment, will also be appealable under Letters Patent. We are satisfied that this appeal is maintainable.

27. At this juncture, we would like to make it clear that this Court has not made any comment on merits with regard to the case of the writ petitioners or of the respondents in the writ petition. We have confined ourselves only to the correctness or otherwise of the order dated 22.07.2019 so far as direction to pay compensation to the students is concerned and the order dated 03.09.2019 passed in Review Pet.(C) No. 01 of 2019.

28. Materials on record, without any ambiguity, demonstrate that a representation was submitted by the appellant on 16.05.2019 and receipt of the said representation was duly acknowledged on 20.05.2019. On 20.06.2019, the Registrar of the appellant had written a letter to the Secretary, UGC to fix a date in terms of the order of this Court dated 15.05.2019 so that the petitioner-Association may be informed and the case may be disposed of within eight weeks from 15.05.2019. IA No. 5 of 2019 filed in the writ petition, which is also annexed with the writ appeal, goes to show that the meeting was scheduled by UGC on 06.09.2019.

29. Mr. Gulshan Lama had submitted that not only the appellant should have produced a copy of the representation submitted by the appellant before the Court on 22.07.2019, but also should have filed a compliance report. So far as submission of filing of compliance report is concerned, it is noticed there was no direction for filing of compliance report in the order dated 15.05.2019. If there was any such direction for filing a compliance report, certainly it would have been obligatory on the part of the appellant to have filed a compliance report. It is not the requirement in law that for each and every direction that may be given during the course of a writ proceeding, a party to whom a direction is issued must necessarily file a compliance report. However, as the interest of the students is involved, it

would have been appropriate for the appellant to have furnished a copy of the representation to the learned Counsel so that he could have produced the same before the court, if so required.

30. There was no basis for the learned Single Judge to accept the submission of learned Counsel appearing for the UGC and at the same time, to reject the submission of learned Counsel for the appellant. Learned Single Judge also presumed that because no date for meeting is given, the same is evidently a pointer to the fact that the appellant had not taken steps. It has come to light that the submission of learned Counsel appearing for the UGC was not factually correct and he had made the submission without any basis. It has also transpired that despite being aware of the order of this Court, no date for meeting was given by UGC within a period of eight weeks and the meeting finally took place only on 06.09.2019. It was UGC which had not complied with the order of this Court dated 15.05.2019 in letter and spirit.

31. It is evident that the order dated 22.07.2019 was based on a mistaken fact going to the root of the matter. In our considered opinion, when the representation submitted by the petitioner was brought to the notice of the Court by way of filing a review petition, it should have been taken as a sufficient reason in the facts and circumstances of the case to review the order dated 22.07.2019.

32. In view of the above discussions, impugned orders dated 22.07.2019 and 03.09.2019 are set aside and quashed.

33. Resultantly, the appeal is allowed. No cost.

(Judge) (Chief Justice)

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