

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.A. No. 277 of 2017 and W.A. No.278 of 2017

W.A. No.277 of 2017

Sarat Kumar Mohanty

Appellant

Mr. T.K. Pattanayak, Advocate

-versus-

State of Odisha and Others

Respondents

Mr. Debakanta Mohanty, Addl. Govt. Advocate (State)

Mr. A.P Bose, Advocate (Caveator)

Mr. P.K. Rath, Advocate (Intervener)

AND

W.A. No.278 of 2017

Satyabhusan Sahu and Another

Appellants

Mr. J. Biswal, Advocate

-versus-

State of Odisha and Others

Respondents

Mr. Debakanta Mohanty, Addl. Govt. Advocate

Mr. P.K. Rath, Advocate

CORAM:

THE CHIEF JUSTICE

JUSTICE CHITTARANJAN DASH

Order No.

ORDER
17.10.2022

06. 1. The challenge in the present writ appeals is to a common order dated 18th July, 2017 passed by the learned Single Judge disposing of writ petitions i.e. W.P.(C) Nos.5336 and 4717 of 2013 filed by the present Appellants. The subject matter of challenge was to

resolutions of the Health and Family Welfare Department, Government of Odisha framing guidelines regarding constitution of governing body of Ayurveda Medical College and the subsequent orders dated 19th February, 2013 and 2nd March, 2013 of the Government constituting such governing body in the college in question i.e. Sri Sri Nrusinghanath Ayurveda College and Research Institute, At/P.O. Paikmal, Dist-Bargarh.

2. The admitted position is that the said private Ayurveda College and Research Institute falls in category C2 i.e. it is a private body receiving grant-in-aid from the government. The learned Single Judge has declined to interfere with the guidelines. It has been noted in the impugned order that it was the second round of litigation with earlier writ petitions having been disposed of with directions to the Government to constitute the governing body after giving the Appellants opportunity of being heard. While declining to interfere with the decision of the Government, the learned Single Judge has accepted the plea of the present Appellants that while constituting the governing body the Government “shall not insist on prior consultation of the Collector as far as nominations of such five members, who are to be nominated by the concerned NGO/Trust from amongst its members, are concerned.”

3. While issuing notice in the present writ appeals, on 13th September, 2019 this Court had directed status quo to be maintained in respect of the functioning of the governing body. A notification issued in the meanwhile on 19th August, 2019 by the Health and

Family Welfare Department constituting of the governing body was also directed to be kept in abeyance by this Court. That stay order has continued over three years now. As a result, the existing governing body as on the date of the interim order continued. In the meanwhile many of the members of the governing body have completed their respective terms.

4. It is obvious that any fresh exercise of constituting the governing body in the said private Ayurveda Educational Institution has to abide by the guidelines already issued by the Government for that purpose.

5. Learned counsel for the Appellant submitted that they would submit fresh proposals which would then be considered by the Government in accordance with the guidelines.

6. Mr. P.K. Rath, learned counsel appearing for the erstwhile Governing Body submits that there may not be any need for any fresh proposal as such to be submitted by the institute.

7. Be that as it may, it appears that it is agreed by all parties that the governing guidelines on the issue have to be scrupulously adhered to by all parties including the government. As pointed out by the learned Single Judge, as far as the members to be nominated on behalf of the NGOs/Trusts are concerned, there shall be no prior consultation with the Collector. It is clarified that while undertaking the fresh exercise, strictly adhering to the guidelines, the members

proposed under category 2(6) and 2(7) by the institution will be taken into account and the exercise will be a consultative exercise.

8. While vacating the status quo order, the Court directs that the fresh exercise strictly to be undertaken in terms of the guidelines forthwith and be completed within a period of two months from today.

9. The writ appeals are accordingly disposed of. An urgent certified copy of this order be issued as per rules.



(Dr. S. Muralidhar)
Chief Justice

(Chittaranjan Dash)
Judge

S.K. Jena/Secy.