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**NOTICE OF MOTION FOR PRESENTING AN ADDRESS TO
THE PRESIDENT OF INDIA FOR THE REMOVAL OF MR.
JUSTICE DIPAK MISRA, CHIEF JUSTICE OF INDIA, UNDER
ARTICLE 217 READ WITH 124 (4) OF THE CONSTITUTION
OF INDIA**

THIS HOUSE RESOLVES that an address be presented to the President of India for the removal of Mr. Justice Dipak Misra, from the office of Chief Justice of India, for his following acts of misbehaviour, detailed in the Explanatory Note annexed herewith:

- I. The facts and circumstances relating to the Prasad Education Trust case, show prima facie evidence suggesting that Chief Justice Dipak Misra may have been involved in the conspiracy of paying illegal gratification in the case, which at least warrants a thorough investigation.
- II. That the Chief Justice Dipak Misra dealt on the administrative as well as judicial side, with a writ petition which sought an investigation into a matter in which he too was likely to fall within the scope of investigation since he had presided over every bench which had dealt with this case and passed orders in the case of Prasad Education Trust, and thus violated the first principle of the Code of Conduct for judges.
- III. That the Chief Justice Dipak Misra appears to have antedated an administrative order dated 6th November 2017 which amounts to a serious act of forgery/fabrication.
- IV. That Chief Justice Dipak Misra acquired land while he was an advocate, by giving an affidavit that was

found to be false and despite the orders of the ADM cancelling the allotment in 1985, surrendered the said land only in 2012 after he was elevated to the Supreme Court.

- v. That Chief Justice Dipak Misra has abused his administrative authority as master of roster to arbitrarily assign individual cases of particular advocates in important politically sensitive cases, to select judges in order to achieve a predetermined outcome

**EXPLANATORY NOTE ON THE MOTION FOR
IMPEACHMENT OF MR. JUSTICE DIPAK MISRA, CHIEF
JUSTICE OF INDIA**

The present motion is presented for the impeachment of a sitting Chief Justice of India, namely Justice Dipak Misra, who was elevated as Judge of the Hon'ble Supreme Court on 10.10.2011 and was elevated as Chief Justice of India on 28.08.2017.

I. CHARGE NO. 1

The facts and circumstances relating to the Prasad Education Trust case, show prima facie evidence suggesting that Chief Justice Dipak Misra may have been involved in the conspiracy of paying illegal gratification in the case, which at least warrants a thorough investigation.

The facts and circumstances which create reasonable doubt about the role of the Chief Justice of India are as follows:

a) The manner in which the case of the Prasad Education Trust was dealt with by the Chief Justice of India, Justice Dipak Misra

1. The Chief Justice of India, Justice Dipak Misra presided over every Bench that heard the matter of this medical college which is the subject matter of the investigation in the FIR registered by the CBI. The facts and circumstances which raise reasonable doubt about the role of Justice Dipak Mishra in Prasad Education Trust matter are as follows:

- i. That by order dated 1.08.2017 the bench headed by Justice Dipak Misra in the Prasad Education Trust writ petition (no. 442/2017) which was tagged with Glocal Medical College and Super Speciality Hospital and Research Centre v. UOI (no. 411/2017), ordered that the government consider afresh the materials on record pertaining to the issue of confirmation or otherwise of the letter of permission granted to the petitioner colleges/institutions and that the Central Government would re-evaluate the recommendations of the MCI, Hearing Committee, DGHS and the Oversight Committee. This by itself was not extraordinary.

(A copy of the order dated 1.08.2017 is annexed as **Annexure P- 1**)

- ii. That on 24th August 2017, a Bench headed by Chief Justice Dipak Misra, granted leave to the Prasad Education Trust to withdraw the said writ petition and to approach the Allahabad High Court. This was certainly unusual, given the fact that Justice Dipak Misra was directly dealing with many other cases of similarly placed medical colleges to whom MCI had refused recognition. (A copy of the order dated 24.08.2017 is annexed as **Annexure P- 2**)
- iii. That on the 25th of August 2017 itself, the Allahabad High Court granted an interim order to the Prasad Education Trust, allowing them to proceed with counselling and directing the Medical Council of India not to encash their bank guarantee. That thereafter on 29th August 2017, in hearing the SLP filed by the Medical Council of India from the order of the

Allahabad High Court granting relief to the Prasad Education Trust, the Bench headed by Chief Justice Dipak Misra, directed that while the writ petition before the High Court shall be deemed to have been disposed of, liberty is granted to the Prasad Education Trust to again approach the Supreme Court under Article 32 of the Constitution of India. The granting of liberty to the college to approach the Supreme Court again in such circumstances was very unusual. This is compounded by the fact that the interim order of the High Court allowing counselling to continue and thereby admissions to continue, was not expressly set aside by this order disposing of the writ in the medical college in the High Court.

(A copy of the Allahabad High Court order dated 25.08.2017 is annexed as **Annexure P- 3**)

(A copy of the order in the SLP dated 29.08.2017 is annexed as **Annexure P- 4**)

- iv. Thereafter on 4th September 2017, Justice Dipak Misra issued notice on the new writ petition filed by the Prasad Education Trust (writ petition no. 797/2017). It is really surprising that notice should have been issued on this fresh writ petition of the college if indeed the matter stood concluded by disposing of the writ petition of the college in the High Court on the basis of Mr. Mukul Rohtagi's statement that he does not seek any relief other than non encashment of the bank guarantee. It is even more unusual because on 1st September 2017, the same bench had already given a judgment in the matter of a similar medical college

namely Shri Venkateshwara University (Writ petition no. 445/2017), by stating that,

"The renewal application that was submitted for the academic session 2017-2018 may be treated as the application for the academic session 2018-2019. The bank guarantee which has been deposited shall not be encashed and be kept alive".

2. This indeed became the basis of the final order in the Prasad Education Trust writ petition which is shown to be dated 18th September 2017. If the matter had to be disposed off mechanically by following the judgment of 1st September 2017, in the other medical college case, where was the occasion for first giving liberty and then entertaining the fresh petition of the college on 4th September 2017 and keeping it alive till at least the 18th of September 2017?
3. It is also important to note that officials of Venkateshwara college are mentioned in the CBI FIR,

"Information further revealed that Shri B P Yadav got in touch with Shri I M Quddusi, Retd. Justice of the High Court of Odisha and Smt. Bhawana Pandey r/o N-7, G.K. -1, New Delhi through Sh. Shudir Giri of Venkateshwara Medical College in Meerut and entered into criminal conspiracy for getting the matter settled."

(A copy of order dated 1.09.2017 in writ petition no. 445/2017 is annexed as **Annexure P- 5**)

(A copy of the order dated 4.09.2017 in writ petition no. 797/2017 of Prasad Educational Trust is annexed as **Annexure P- 6**)

(A copy of the order dated 11.09.2017 in writ petition no. 797/2017 of Prasad Educational Trust is annexed as **Annexure P- 7)**

(A copy of the order dated 18.09.2017 in writ petition no. 797/2017 of Prasad Educational Trust is annexed as **Annexure P- 8)**

4. That the order dated 18th September 2017, was not uploaded on the Supreme Court website till the 21st of September evening as is clear from the date stamp on the 18th September 2017 order. The order was uploaded 2 days after the registration of FIR by the CBI. This puts a question mark on whether indeed the order was dictated in open court that day or whether it was kept pending and dictated after the registration the FIR and the reporting of that in the media. Besides the order uploaded to the website has the date of 21st September 2017 stamped on it.
5. Finally the manner in which the Chief Justice of India has tried to ensure that the writ petition filed by the Campaign for Judicial Accountability and Reforms (writ petition no. 169/2017) not heard along with the writ petition no. 176/2017 filed by Ms. Kamini Jaiswal by the senior most 5 judges of this court while hastily constituting a 7/5 judge bench, himself presiding over that Bench, not recusing himself from the Bench even after being requested to do so, countermanding the order passed by Court No. 2 in Ms. Kamini Jaiswal's petition to list the case before the 5 senior most judges and thereafter constituting a bench of 3 relatively junior judges which included one judge who had been party to the order in the Prasad Education Trust case, are further

circumstances which raise serious doubt about his role in the Prasad Education Trust case, which is being investigated by the CBI.

b) Evidence available with the CBI

6. The CBI lodged an FIR on the 19th of September 2017, in the matters relating to criminal conspiracy and taking gratification by corrupt or illegal means to influence the outcome of a case pending before the Supreme Court. The FIR reveals a nexus between middlemen, hawala dealers and senior public functionaries including the judiciary. The case in which the FIR has been filed involves a medical college set up by the Prasad Education Trust in Lucknow. As it appears from the FIR lodged by the CBI, an attempt was being made to corruptly influence the outcome of the petition which was pending before the Supreme Court. The said petition was being heard by a bench headed by the Chief Justice of India.
7. The evidence with the CBI, before it registered this FIR, includes several tapped conversations between the middleman Biswanath Agarwala, Shri I.M. Quddussi, Retd. Judge of the Orissa High Court and the Medical College officers. The transcripts of some of these conversations dated 3.09.2017 and 4.09.2017, have been received by the Campaign from reliable sources and may be verified from the CBI.

(A copy of the transcript of conversation tapped by the CBI on the 3.09.2017 in Hindi original and translated into English is annexed as **Annexure P – 9**)

(A copy of the transcript of conversation tapped by the CBI on the 4.09.2017 in Hindi original and translated into English is annexed as **Annexure P - 10**)

8. It is important to note that the tapped conversation on 3.09.2017 between Shri Quddusi and Biswanath Agarawala (middleman), indicate that negotiations are on to get the matter of the Prasad Education Trust Medical College settled in the Apex Court. A relevant portion of the conversation from transcript dated 3.09.2017 is as follows:

V: Yes I think, in which is theirs, in which temple is it - Temple of Allahabad or Temple in Delhi

Q: No no it is not in any temple yet, now it needs to be

V: Yes yes yes! So now you can talk about it, he will do it. About that I have spoken about it there

Q: Has said for sure (pucca)

V: Yes yes. In that you see this one thing...100% this, our person who is our captain, it is being done through the captain, so what is the problem. Tell me?"

(V - Vishwanath Agarawala Q - Shri I.M. Quddussi)

9. It is relevant to note that the writ petition no. 797/2017 of the Prasad Education Trust was admitted a day later, on the 4.09.2017 by a Bench headed by the Chief Justice Dipak Misra, that issues notice on the new writ petition filed by the Prasad Education Trust. As quoted above and in the excerpt below, reference has been made in the conversations to the "Captain" who will get the matter favourably settled on the payment of the bribes.

"V - He knows that we people say 200 bahi. 500 bahi you tell them, 500 gamla! We will say 200 gamla there, 100 gamla we will give, 100 we will give later

V - 500 tell him to do..that work is very difficult work...we should also get, you and I

Q Alright, alright, alright

V Yes that will be done for sure. Have had a complete talk, there is no problem

Q Ok so tomorrow we will meet

V Now only one thing father is saying, one thing he is saying that, this captain of ours has ... all over India...whatever work there is, he is willing to do

(V - Vishwanath Agarawala Q - Shri I.M. Quddussi)

10. Further the tapped conversation from 4.09.2017 between Biswanath Agarwala, Shri I.M. Quddussi and Mr. BP Yadav (of Prasad Education Trust), refer to the said petition under article 32 being filed on 4.09.2017 and that the next date for hearing given by the Court being "Monday". The Monday after 4.09.2017 is 11.09.2017 when the matter of Prasad Education Trust was indeed listed and again heard by a bench headed by the Chief Justice of India that directs the matter to be further listed on the 18.09.2017.

"Q - They say they filed their petition. Today they have given a date for Monday. They are asking when- how much will it be and how and secondly how can they believe their work will be done for sure.

V - Are these those medical people?

Q - Yes yes

V - Ya so the date is listed for the coming Monday?

V - Yes so that is review ?

Q - No no it's a petition under art 32

V - Yes yes yes. There is no such assurance/guarantee. If they give the stuff work would be done 100%...

Yadav - So that day I had gone to the High Court because, see brother, that time on/in it money was stuck. No I spoke/said very clearly. That's why we went. From there they/he gave an order. After coming here, they dismissed it. They/he said to file a fresh petition. Under article 32 a fresh petition has been filed. It had a date set, the date was pushed to the 11th by them/him. So what we want is that tomorrow we make your ticket and for that sorry. Vishvanath Ji I will give it to you, now you get our work done for us.

V - No, the work is not even 100% but 500% guarantee. But the luggage will have to be given before and he/they is/are saying no to meeting because the government that is going on - Tea seller's government.

That is watching everyone, that is the problem...

Yadav - No Prasad will be needed. We will give the Prasad. We have to give the Prasad.

V - Work will be done 100%, but I wont go to speak tomorrow or day after. You keep the luggage/stuff ready... if given we people will get it done 100%

Yadav - Meaning advance will have to be given

V - Yes, advance has to be given to them/him. Otherwise why will they/he do it, you say. There is

no written- reading in these matters. All this runs on belief in this world. They/he will do it 100%.

Yadav - Tell me what has to be given. I have only one college I can't trust another.

V - Will get it done for 1.

Yadav - Tell me clearly, what will I have to give. We don't have much capacity. Make us speak, if boss/sir is there then make us speak, I will talk to boss/sir.

V - No there's no problem. We/I will get the work done.

V - No they/he said for 1. I had spoken for 1, they/he said three. 2.5 has to be given there, 50 will be kept with us.

Q - So how much advance has to be given

V - Advance now... They/he said at that time, for review petition give 100 people. If the review is allowed, then even you will get to know. Then we....

Q - Then you do one thing. You do one thing. His is listed for Monday, postpone the date by 3-4 days.

V - So we will send a few people. So 3-4...if you give 2 people then we will extend the date by 3-4 days.

V - On Monday we will finalize. They give us the luggage/stuff f(saamaan) - some 2-2.5; no problem some order will be given. Papa see here. Neither will it put you in a problem nor will it put me. Because there the association will talk. Won't reach, otherwise we will be stuck in a lot of problems. If we are not

able to do the work, then we will return the luggage/stuff (saamaan) that is here. There is no chance that work will not be done. There we have spoken clearly, that it will be allowed.

Q - Here, talk to them/him.

V - Yes, conversation was clear. Calculated as per three. They/he wont do it for less than 3.

Yadav - Hello

V - Yes, we had spoken last time also. Sir for 1 they were asking for 3. If 3 is given total will be allowed to those ask for prayers. I told him, he was talking about 5 at the time. They/he were speaking of 15 bricks, even last time they were speaking about that only.

Yadav - So all the money will go in advance.

V - Sir I don't want to take any risk there, because it's a 100% guarantee job. If you give it there, your work will be done 100% guarantee. No ifs and buts. Once work is done, sir will sit for 10-15 months. Get 14-15 jobs done, even you will believe it. He will do it 101%.

Yadav - So when should I give, tell me.

V - Date is 11th, so if it can reach us by 6-7th we will get it done. Your work will get done by the 11th.

Yadav - Do it within 2.5 yaar, my capacity is only till 2.5. get it done.

(V - Vishwanath Agarawala Q - Shri I.M. Quddussi)

11. This evidence available with the CBI, of the tapped conversations between Shri Quddussi, middlemen and the medical college officials, reveals that a conspiracy, planning and preparation was underway to bribe the judge/judges who were dealing with the case of this medical college. It further reveals that negotiations regarding the amount of bribes to be paid were still on while the matter was listed before a Bench headed by Chief Justice Dipak Misra on 4.09.2017 and 11.09.2017. The references in the conversations between the middleman Biswanath Agarwala from Orissa and the officers of Prasad Education Trust to "*Captain... has all over India*" and to "*sir will sit for 10-15 months*" seem to be referring to the Chief Justice. In light of the convoluted course that the case followed and in light of these tapped telephonic conversations, this matter needs an independent investigation to ascertain the veracity of the claims being made in the conversations, of the plans to allegedly pay bribes to procure favourable order in the case of the Prasad Education Trust in the Supreme Court and to also clear the doubt about the role of the present Chief Justice of India.

c. Denial of permission to the CBI to register an FIR against Justice Narayan Shukla of the Allahabad High Court

12. The most serious circumstance that has emerged, which further strengthens the doubt regarding the role of the Chief Justice of India in the Prasad Education Trust matter, is his denial of permission to the CBI to register a regular FIR against Justice Shukla of the Allahabad High Court, who presided over the Bench that gave the interim

order in favour of Prasad Education Trust. It is learnt from reliable sources that the CBI officers went to the Chief Justice of India on the 6th of September 2017, with the transcripts and other evidence recorded by them in the FIR and preliminary enquiry, showing almost conclusively the involvement of Justice Shukla in this conspiracy and his receiving gratification of at least one crore in the matter. The CBI Preliminary Enquiry report was registered on the 8th of September 2017 after the Chief Justice of India refused permission to register an FIR against Justice Shukla on the 6th of September 2017. The Preliminary Enquiry report obtained from reliable sources states as follows:

"Source also informed that Shri I.M. Quddusi and Shri B.P. Yadav met Hon'ble Justice Shri Narayan Shukla in the morning on 25.08.2017 at his residence in Lucknow regarding the matter and delivered illegal gratification. Source has further informed that on 25.08.2017, an order was passed in petition, Misc. Bench No. 19870 of 2017 filed by Prasad Education Trust, by a Bench, which included Hon'ble Justice Shri Narayan Shukla. The order directed that the petitioners college shall not be delisted from the list of colleges notified for counselling till the next date of listing, i.e. 31.08.2017. Further the encashment of bank guarantee was also stayed till the next date of listing. It was further clarified that on the basis of the order, the petitioners shall have no right to claim any admission of the students..."

Sources informed that Justice Shri Narayan Shukla assured Shri I.M. Quddusi that he will return a part of illegal gratification previously received by him shortly.

The aforesaid acts prima-facie reveal that Hon'ble Justice Shri Narayan Shukla of Lucknow Bench of the High Court of Allahabad in collusion with Shri I.M. Quddusi, Retired Justice of the High Court of Odisha; Smt. Bhawana Pandey; Shri B.P. Yadav

and Shri Palash Yadav of Prasad Education Trust and Shri Sudhir Giri of Venkateshwara Medical College and unknown others, committed gross misconduct while discharging duties as a public servant."

(A copy of the Preliminary Enquiry Report is annexed as **Annexure P 11**)

13. Even after being made aware of this extremely important and virtually conclusive evidence against Justice Shukla in accepting gratification, the Chief Justice of India refused permission to the CBI for registering even a regular FIR against Justice Shukla, without which further investigation against him cannot be done and he cannot be charge-sheeted. It is reliably learnt that the officers of the CBI have made a record of this denial of permission by the CJI in a notesheet. By preventing the registration of an FIR against Justice Shukla and later by dismissing the CJAR petition seeking a SIT probe into the allegation in the CBI FIR by a bench constituted by the Chief Justice, all investigation into the conspiracy to bribe judges for obtaining a favourable order has been virtually stalled. Ensuring that no further investigation is undertaken, into this serious charge of alleged judicial corruption, amounts to a serious abuse of power by the Chief Justice of India.
14. It has however subsequently been reported that the CJI has set up some in-house inquiry against Justice Narayan Shukla on the basis of some orders that he passed in another similar case of a Medical College. If this warranted an in-house inquiry, why was an in-house inquiry not ordered in the case of Prasad Education Trust where an identical interim order was passed by Justice

Shukla and which came up before Chief Justice Dipak Misra well before this. Also if this was serious enough for in-house inquiry why was permission denied to CBI to register an FIR particularly when the CBI had presented documentary evidence in the case. Therefore, the subsequent in-house inquiry ordered in this case appears to be an eye wash after this scandal became well publicized.

II. CHARGE NO. 2

That the Chief Justice Dipak Misra dealt on the administrative as well as judicial side, with a writ petition which sought an investigation into a matter in which he too was likely to fall within the scope of investigation since he had presided over every bench which had dealt with this case and passed orders in the case of Prasad Education Trust, and thus violated the first principle of the Code of Conduct for judges.

15. The Code of Conduct formulated in a Conference of all the Chief Justices in the country in 1997 which has been laid down in the '*Restatement of Values of Judicial Life*', says in the very first code:

"1. Justice must not merely be done but it must also be seen to be done. The behaviour and conduct of members of the higher judiciary must reaffirm the people's faith in the impartiality of the judiciary. Accordingly any act of the judge of the Supreme Court or a High Court, whether in official or personal capacity, which erodes the credibility of this perception has to be avoided."

16. The actions of Chief Justice Dipak Misra in dealing with this case in the manner detailed below, clearly violate this salutary Code of Conduct.

17. On Friday 10th November 2017, writ petition no. 169/2017, Campaign for Judicial Accountability and Reforms v. UOI & Anr, was listed before Court no. 6. When this petition was mentioned for urgent hearing on 8th November 2017 before Court no. 2, it was directed that this matter be listed before Court no. 2 on Friday the 10th November 2017. Thereafter the registry informed the petitioner's counsel Mr. Prashant Bhushan, that on account of the Chief Justice's administrative order, the case would not be listed before Court. no. 2 but in another court. On the 10th of November 2017, when this matter was taken up before Court no. 6, the court was informed that in a similar connected matter of Kamini Jaiswal the court had already directed it to be listed before a Constitution Bench of 5 senior most judges of the court and therefore this should be tagged with that related matter. The order of this court was to place the matter before the Chief Justice for appropriate directions. However at 2:45p.m. the petitioners counsel was telephonically informed that a 7 judge bench would sit in Court no. 1 and that he should come to Court no. 1 by 3p.m. Outside the court a notice had been put up mentioning the constitution of this bench as, Justice Dipak Misra, Justice A.K. Sikri, Justice R.K. Agrawal, Justice Arun Mishra, Justice Amitava Roy, Justice A.M. Khanwilkar and Justice Ashok Bhushan. However on going inside the court, it was found that of those 7 chairs put up initially, two chairs were hurriedly removed and a bench of 5 judges excluding Justice Sikri and Justice Bhushan sat at 3p.m.

18. The petitioners counsel was then told that the court was taking up the petition of the Campaign for Judicial Accountability and Reforms, wherein it had sought an independent SIT supervised by a former Chief Justice of India and monitored by the court, into a CBI FIR making allegations of conspiracy and preparation to pay bribes to procure a favourable order in the matter pending before the Supreme Court. It is relevant here to quote from the CBI FIR dated 19th September 2017:

"Information further revealed that Prasad Education Trust filed a Writ Petition (Civil) No 797/2017 in the Apex Court. Shri B. P Yadav, in furtherance of the said conspiracy requested Shri. I. M Quddusi and Smt. Bhawana Pandey who assured to get the matter settled in this Apex Court through their contacts and they further engaged Shri. Biswanath Agrawala, a private person R/o HIG-136, Phase 1, Kanan Vihar, Chandrashakerpur Bhuneneshwar, Odisha for getting the matter settled in the Apex Court Shri. Biswanath Agrawala claimed very close contact with the senior relevant public functionaries and assured that he would get the matter favourably settled. However, they demanded huge gratification for inducing the public servants by corrupt and illegal means in lieu of the aforesaid help."

(A copy of the CBI FIR dated 19th September 2017 is annexed as **Annexure P – 12**)

19. Further, the petitioners counsel requested the Chief Justice of India that it would be wholly improper for the Chief Justice to hear this matter in his judicial capacity or administrative capacity since this case involved an investigation which may extend to his conduct as well, since he had presided over every bench which had dealt with this case and passed orders in the case of Prasad Education Trust. However ignoring all this and the clear

principle of conflict of interest, the Chief Justice of India proceeded with the hearing and passed an order effectively nullifying the order of Court no. 2 in Ms. Kamini Jaiswal's case, where the matter was ordered to be listed before the senior 5 judges of the Supreme Court since it involved an issue of importance and sensitivity.

20. It is well settled that no person can be a judge in his own cause (*nemo judex in sua causa*) and accordingly no judge or administrative authority can deal with the case in which that person is himself interested or concerned.
21. In *Ranjit Thakur v Union of India* (1987) 4 SCC 611, this Hon'ble Court held:

"15. The second limb of the contention is as to the effect of the alleged bias on the part of Respondent 4. The test of real likelihood of bias is whether a reasonable person, in possession of relevant information, would have thought that bias was likely and is whether Respondent 4 was likely to be disposed to decide the matter only in a particular way.

16. It is the essence of a judgment that it is made after due observance of the judicial process; that the court or tribunal passing it observes, at least the minimal requirements of natural justice; is composed of impartial persons acting fairly and without bias and in good faith. A judgment which is the result of bias or want of impartiality is a nullity and the trial "coram non-judice."

17. As to the tests of the likelihood of bias what is relevant is the reasonableness of the apprehension in that regard in the mind of the party. The proper approach for the Judge is not to look at his own mind and ask himself, however, honestly, "Am I biased?"; but to look at the mind of the party before him.

18. Lord Esher in Allinson v. General Council of Medical Education and Registration, said:

"The question is not, whether in fact he was or was not biased. The court cannot inquire into that. . . . In the administration of justice, whether by a recognised legal court or by persons who, although not a legal public court, are acting in a similar capacity, public policy requires that, in order that there should be no doubt about the purity of the administration, any person who is to take part in it should not be in such a position that he might be suspected of being biased."

22. In *Inderpreet Singh Kahlon v. State of Punjab*, (2006) 11 SCC 356: this Hon'ble Court held,

"81. We also fail to understand as to why two Senior judges who had headed the Committee should have been made part of the Bench. It was not a case where the doctrine of necessity was required to be invoked. It may be that the counsel appearing on behalf of the judicial officers did not object to the learned judges who were members of the Committee to hear the matter.

82. There is no quarrel with the proposition that the allegation of bias may be capable of being waived. [See *G. Sarana (Dr.) v. University of Lucknow* 22.] However, in this case, bias as regards the subject-matter on the part of the members of the Committee who heard the writ petition is apparent on the face of the record.

85. The writ petitioners, thus, might have waived their right to raise a contention as regards bias on the part of the Hon'ble judges but the same would not mean that this Court would ignore such a vital fact. It was clearly a case where the Hon'ble judges should have recused themselves from hearing the matter. It was for them to remind themselves that justice is not only done but manifestly seen to be done."

23. In *Pinochet, In re* [1999] UKHL 1; [2000] 1 AC 119; [1999] 1 All ER 577; [1999] 2 WLR 272, the House of Lords in appeal held,

"The fundamental principle is that a man may not be a Judge in his own cause...In such a case, once it is shown that the Judge is himself a party to the cause, or has a relevant interest in its subject-matter, he is disqualified without any investigation into whether there was a likelihood or suspicion of bias. The mere fact of his interest is sufficient to disqualify him unless he has made sufficient disclosure...."

24. In *P.D. Dinakaran (1) v. judges Inquiry Committee, (2011)*

8 SCC this Hon'ble court further held,

*62. In India, the courts have, by and large, applied the "real likelihood test" for deciding whether a particular decision of the judicial or quasi-judicial body is vitiated due to bias. In *Manak Lal v. Dr. Prem Chand Singhvi* it was observed: (AIR p. 429, para 4)*

"5. ... every member of a tribunal that [sits to] try issues in judicial or quasi-judicial proceedings must be able to act judicially; and it is of the essence of judicial decisions and judicial administration that judges should be able to act impartially, objectively and without any bias. In such cases the test is not whether in fact a bias has affected the judgment; the test always is and must be whether a litigant could reasonably apprehend that a bias attributable to a member of the tribunal might have operated against him in the final decision of the tribunal. It is in this sense that it is often said that justice must not only be done but must also appear to be done."

25. In this case clearly the CBI FIR makes allegations that the entire conspiracy and planning was to bribe and influence the apex court judges who are dealing with the case of Prasad Education Trust. This bench was clearly headed by Chief Justice Dipak Misra. In these circumstances, he was an interested party and could not have dealt with this case either on the judicial or even on

the administrative side by way of assigning a particular bench to hear this case.

26. Further against all principles of natural justice and in a clear case of conflict of interest, the Chief Justice Dipak Misra constituted a three judge Bench to hear Ms. Kamini Jaiswal's related petition, with Justice Khanwilkar as a part of the Bench. This despite the fact that Justice Khanwilkar was part of every hearing in the Prasad Education Trust matter. The judgment of this Bench in Kamini Jaiswal petition says that the Chief Justice can still exercise his power as master of the roster and constitute benches even when he is involved in the case. It further says that asking a judge to recuse from a case amounts to contempt of court. It is submitted that these two propositions are both in violation of settled law by this court by larger benches and have been given by a bench where one of the members had a conflict of interest and had been expressly asked to recuse himself. Therefore, this order is clearly in violation of the principles of natural justice and therefore, void and can be ignored by any court of authority.
27. The law on recusal has been settled in a large number of cases, both in India as well as abroad. The principle in all these cases is clear, that no judicial or administrative authority can deal with a case, even if it had a remote connection with that case. In this case the connection was direct, since CJAR's petition sought an independent investigation into a matter, where the allegation was that attempt was made to procure a favourable order in a petition regarding recognition of medical college which

case was being heard by a bench which included the Chief Justice of India and Justice Khanwilkar. The apparent acts of Justice Dipak Misra, in hearing this case, asserting authority by assigning benches to hear this case, preventing or trying to prevent a Constitution bench of 5 senior most judges to hear this case and fixing it before a bench of junior judges, constitute a gross violation of natural justice, abuse of authority and gross misconduct.

III. CHARGE NO. 3

That the Chief Justice Dipak Misra appears to have antedated an administrative order dated 6th November 2017 which amounts to a serious act of forgery/fabrication

28. That on 9th November 2017 while the hearing of a writ petition no. 176/2017, Kamini Jaiswal v. UOI & Anr was in progress before Court no. 2, the registrar brought an administrative note to the court which was thereafter ordered to be annexed to the order passed by the court on 9th November 2017.

(A copy of the order dated 9th November is annexed as **Annexure P -13** and a copy of the note annexed to the order is annexed as **Annexure P -14**)

29. This note is purportedly dated 6th November 2017 but appears to be antedated and appears to have been prepared and issued on 9th November 2017 itself. This seems to be the case from the following facts and circumstances:

- i. That at the end of para one of the note it is stated that:

"Your Lordship has been pleased to direct that in future whenever such directions are issued, the matter(s) be listed before the Bench presided over by Hon'ble Chief Justice of India at 3p.m. or at such time as may be indicated by Your Lordship, on the same day or before such Bench as directed by the Hon'ble Chief Justice of India."

30. If there were already pre-existing orders of the Chief Justice of India on this issue, what was the occasion for the Chief Justice to call for, and for the registrar to put up a fresh note on the 6th November 2017?
- ii. If this note was indeed issued on 6th November 2017, why was it not communicated earlier to Court no. 2 which was to hear the urgent mentionings while the Chief Justice of India was sitting in the Constitution Bench? Why was it only communicated in a hurry while the hearing of Ms. Kamini Jaiswal's petition was in progress?
- iii. The Constitution Bench presided over by the Chief Justice of India in a highly unusual manner, arose at noon on 9th November 2017 after Court no. 2 had ordered Ms. Kamini Jaiswal's petition to be taken up at 12:45p.m. in Court no. 2. The Chief Justice thereafter reportedly told lawyers when the bench resumed at 2p.m. that he had risen early prior to lunch to attend to some family matters.
31. It appears from the above-mentioned circumstances that this administrative note dated 6th November 2017 was in fact hurriedly prepared between noon of 9th November 2017 when the Constitution Bench was made to rise and

12:45p.m. when Court no. 2 was to take up Ms. Kamini Jaiswal's matter and has been apparently antedated to 6th November 2017. Antedating of a document of this kind is a serious act of forgery and fabrication and amounts to serious misconduct.

IV. CHARGE NO. 4

That Chief Justice Dipak Misra acquired land while he was an advocate, by giving an affidavit that was found to be false and despite the orders of the ADM canceling the allotment in 1985, surrendered the said land only in 2012 after he was elevated to the Supreme Court

32. That in the year 1999, two years after being enrolled as an advocate in Orissa, Justice Dipak Misra had applied for and was allotted 2 acres of agricultural land from the government, purportedly for raising a fodder farm. For seeking this allotment he gave a false affidavit that neither he nor his family owns any agricultural land. However in an earlier lease application for this land he had stated that his family owns 10 acres of land.

(A copy of the affidavit in lease case no. 588 of 1979 is annexed as **Annexure P - 15**)

(A copy of the lease application is Annexed as **Annexure P - 16**)

33. Thereafter in an enquiry by the Additional District Magistrate (ADM), Cuttak, it was found that this allotment was illegal and ordered to be cancelled. The ADM's order held:

"I am satisfied that the lessee has obtained lease by misrepresentation and fraud."

(A copy of the ADM's order in Lease Revision Case no. 238 of 1984 In the Matter of the Orissa Govt. Land Settlement Act, 1962 & In the Matter of St vs Sri Deepak Mishra, 1985, s annexed as **Annexure P - 17**)

34. That despite cancellation of allotment it was learnt that Justice Dipak Misra did not surrender possession of plot for many years after and the record of rights was corrected only on 6.01.2012, a year after he was elevated to the Supreme Court in 2011. It is noteworthy that in this case and other similar illegal land allotments, the Orissa High Court had ordered a CBI investigation. The CBI had thereafter submitted a status report in 2013 but it appears there is no final report prepared by CBI and the matter is still pending investigation. The PIL in which this order directing CBI enquiry was passed, has apparently been listed before the bench of Justice Inderjit Mani for years and has been adjourned many times. In the CBI status report it is stated:

"In this case, Shri Dipak Mishra s/o Raghunath Mishra, Vill-Tulsipur, P.S. - Lalbagh, Cuttack & permanent R/o Banpur, Puri was sanctioned 2 acres of land by the then Tahsildar Mr. J. A. Khan on 30.11.1979 at Plot No. 32 Khata no. 330, Mouja - Bidyadharpur.

The allotment order of Tahasildar was cancelled by ADM cuttack vide Order 11.02.1985. But record was corrected only on 6.01.12 as per the order passed by the Tahasildar, Cuttack only after 6.01.2012."

(A copy of the CBI status report is annexed as **Annexure P - 18**).

35. The act of Justice Dipak Misra in seeking this allotment as a lawyer for raising a fodder farm, is itself improper. As a lawyer, under the bar council rules, he is not allowed to conduct any business. Moreover, seeking the allotment by filing a false affidavit is even more serious misconduct. Finally keeping possession of the plot for many years even after cancellation of the allotment is even more serious misconduct.
36. This case of Chief Justice Dipak Misra's alleged land allotment fraud, relates to a period when he was still a lawyer. It is important here to point out that in the case of Justice Soumitra Sen of the Calcutta High Court, the in-house inquiry committee held him guilty of misappropriation of large sums of money which he received in his capacity as receiver appointed by the High Court of Calcutta, when he was still a lawyer. Though he had paid back the money, the in-house committee had noted in its February 6, 2008 report to the Chief Justice of India that *"mere monetary recompense under the compulsion of judicial order does not obliterate breach of trust and misappropriation of receiver's funds for his personal gain"*. The in-house committee had concluded: *"The conduct of Soumitra Sen had brought disrepute to the high judicial office and dishonour to the institution of judiciary, undermining the faith and confidence reposed by the public in the administration of justice."* Justice Soumitra Sen gave in his resignation after the Rajya Sabha passed the motion for his impeachment and before it was placed before the Lok Sabha.

V. CHARGE No. 5

That Chief Justice Dipak Misra has abused his administrative authority as master of roster to arbitrarily assign individual cases of particular advocates in important politically sensitive cases, to select judges in order to achieve a predetermined outcome

37. It is a principle that has been settled by judicial pronouncements and conventions of the Hon'ble Supreme Court that the Chief Justice of India is the master of the roster and has the authority to allocate cases to different benches/judges of the Supreme Court. Adherence to this principle is essential to maintain judicial discipline and decorum and for the proper and efficient functioning of the Court. The power to exercise such authority cannot be used in such a manner as to assert any superior authority by the Chief Justice. It is a well settled principle of jurisprudence that the Chief Justice is only the first among equals.
38. Though the Chief Justice of India is the master of roster and has the administrative authority to determine benches to hear cases, it does not mean that such power can be exercised in an arbitrary or malafide manner or to the exclusion of senior judges in sensitive cases. This power is reposed with the Chief Justice of India and must be exercised by him in good faith. The main object of such power of master of roster being with the Chief Justice is that there must be some fair, transparent and rational way of deciding how cases will be listed before particular courts and to ensure ease of business. The power of the Chief Justice in assigning cases can only

mean that benches would be assigned by subject matter, and if there is more than one bench dealing with a particular matter, cases would be assigned by random computerised allocation. Any other way of construing the powers of the Chief Justice as master of roster would lead to a situation where the Chief Justice himself controls the entire court rather than be the first among equals.

39. In a stark departure from this practice and raising questions about the Chief Justice of India's accountability, there have been various instances where Chief Justice Dipak Misra has abused his authority as master of roster and exercised this power in a malafide and arbitrary manner. From the instances of cases given in the table below it appears that the Chief Justice has directed the registry to place before him cases filed by particular advocates or PILs involving the government and other matters of importance, for individual allocation to particular judges, which is arbitrary. If such allocation of important PIL's is made only to particular favoured benches, then such allocation becomes malafide as well since it is done to achieve a particular outcome.
40. There is a clear pattern visible in the manner in which the Chief Justice of India has allocated and in many cases withdrawn cases from particular benches and placed them before other particular judges, which shows that this authority is being exercised in an arbitrary and malafide manner. This is a dangerous pattern of the Chief Justice abusing his power as the master of roster in selectively assigning important and politically sensitive cases to particular benches of junior judges of his choice,

in an arbitrary manner, without any rational basis. This would have a serious long term impact on democracy and the future of our republic. It is also clear that the assignment of such cases to certain junior judges has been for achieving a particular result, which in most cases can be seen to be in tune with the wishes of the government.

41. On the 12th of January 2018, four of the senior most Judges of the Hon'ble Supreme Court, brought to the notice of the public this very malady in the administrative functioning of the Supreme Court.
42. The letter released to the media by the four senior most judges states:

"..with great anguish and concern that we... highlight certain judicial orders passed by this court which has adversely affected the overall functioning of the justice delivery system and the independence of the high courts, besides impacting the administrative functioning of the office of Hon'ble the Chief Justice of India."

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The convention of recognising the privilege of the Chief Justice to form the roster and assign cases to different members/benches of the Court is a convention devised for a disciplined and efficient transaction of business of the Court but not a recognition of any superior authority, legal or factual of the Chief Justice over his colleagues.

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There have been instances where case having far-reaching consequences for the Nation and the institution had been assigned by the Chief Justices of this Court selective to the benches "of their preference" without any rationale basis for such assignment. This must be guarded against at all costs."

43. The judges went on to say that,

"we are not mentioning details only to avoid embarrassing the institution but note that such departures have already damaged the image of the institution to some extent."

(A copy of the Letter by the four senior most Judge of the Hon'ble Supreme Court to the Chief Justice of India is annexed as **Annexure P 19**)

44. There are numerous instances of such abuse of the power of the master of roster by Chief Justice Dipak Misra. A few of the cases, other than the Memorandum of Procedure matter already mentioned in the letter of the four judges, where such abuse has taken place, are listed in the table below.

A few important instances of abuse of the power of master of roster by Chief Justice Dipak Misra

1. W.P. (Criminal) 169 of 2017 Campaign for Judicial Accountability and Reforms v UOI & Anr. (Writ Petition seeking SIT investigation into allegations in CBI FIR relating to conspiracy to bribe in order to obtain a favourable judgment in the case of a Medical College that was pending before the Hon'ble Supreme)
 - i. On 8.11.2017 after the writ petition was numbered, this case was mentioned for urgent listing before court number 2 (since this is the court where mentionings for urgent listing were being taken up and also because it would not be appropriate for the Chief Justice to deal with this matter in his judicial and administrative capacity in view of the fact that he had dealt with the case of the medical college throughout

on the judicial side). On mentioning, J. Chelameswar's bench ordered it to be listed before him on Friday, 10th November. However during lunch the petitioner's counsel was informed by the Registry that in the light of an order by the Chief Justice this case is assigned to another bench and therefore would be coming up on Friday not before Court 2 but before the other bench. On 10.11.2017, the matter was heard by a bench headed by Justice Sikri. The same afternoon the matter was suddenly heard by a Constitution Bench headed by Chief Justice Dipak Misra and junior judges hand picked by him. This was then referred to a bench headed by Justice R. K. Agarwal. Judgement of 1.12.2017, dismissed the Writ Petition imposing a cost of 25 lakhs on the petitioner. Review petition filed on 4.01.2018 and has not yet been listed.

2. Writ Petition (Civil) No. 1088/2017 in the matter of Common Cause v Union of India. (Involving a challenge to the appointment of the Special Director CBI)
 - ii. This matter was listed on 13.11.2017 when this Hon'ble Court comprising of Hon'ble Mr. Justice Ranjan Gogoi and Hon'ble Mr. Justice Navin Sinha passed the following order: *"List the matter on Friday i.e. 17th November, 2017 before a Bench without Hon'ble Mr. Justice Navin Sinha."* On 17th November 2017 matter was listed before Hon'ble Mr. Justice R. K

Agrawal and Hon'ble Mr. Justice Abhay Manohar Sapre in complete contravention of Supreme Court Handbook on Practice and Procedure. On 17.11.2017 Hon'ble Mr. Justice Navin Sinha was not sitting with Hon'ble Mr. Justice Gogoi and accordingly matter ought to have been listed before the Bench presided by Hon'ble Mr. Justice Gogoi.

3. Civil Appeal No.10660/2010 Centre for Public Interest Litigation v Union of India. (The 2G case)
 - iii. This matter came up before Court Number 2 on 01.11.2017 and was to come up on 06.11.2017 before the said Court. However it was deleted and upon mentioning ordered for listing before appropriate Bench as per roster. The matter was thereafter listed before Court No. 1 on 13.11.2017 and upon recusal by Hon'ble Mr. Justice A. M Khanwilkar and Hon'ble Mr. D.Y. Chandrachud, the matter was placed before the Bench presided by Hon'ble Mr. Justice Arun Mishra on 17.11.2017, even though other Benches of senior Hon'ble Judges were available.
4. Writ Petition (Civil) 20/2018 Bandhuraj Sambhaji Lone Petitioner Versus Union of India with Writ Petition (Civil) 19 of 2018 Tehseen Poonawalla v Union of India (The Judge Loya death investigation case)

- iv. This matter upon being mentioned before the Chief Justice on 11.01.2018 was surprisingly ordered to be listed before Court No. 10 on 12.01.2018 and 16.01.2018. Subsequently the matter was mentioned perhaps without notice to the others on 19.01.2018 before the Hon'ble Chief Justice's Bench and it was ordered that the same be listed before "appropriate Bench as per roster." It is submitted that as on date the only published information by the Registry of the Supreme Court was "Supreme court of India list of revised subject category and it does not appear that any other Court Roster was published or if it was at all in existence. PILs were being heard by several courts in this Hon'ble Court. Yet, on 22nd January 2018 the matter was listed before Court No. 1 which heard the matter.
- 5. Special Leave to Appeal (Criminal) No 8937 of 2017
Dr. Subramanian Swamy v Delhi Police through
Commissioner of Police (Involving the M.P. Shashi
Tharoor)
 - v. The matter was listed before Court No. 10 on 29.01.2018 and adjourned to satisfy on maintainability. Subsequently on 23.02.2018 the Bench issued notice keeping the question of maintainability open
- 6. Special Leave to Appeal (Criminal) No. 1836 of 2018
Rohini Singh v State of Gujarat

- vi. This matter involving Shri. Jay Shah, son of Shri. Amit Shah was also listed before Court No. 1 while several other courts have been authorized to hear criminal matters under the Roster
7. Writ Petition (Civil) No. 494 of 2012 (Aadhar case)
- vii. The matter was heard initially by a Bench presided by Hon'ble Mr. Justice Chelameswar. Subsequently it was referred to a larger Bench which was constituted on 18.07.2017 by Hon'ble Chief Justice Khehar and which included Hon'ble Mr. Justice Chelameswar and Hon'ble Mr. Justice Bobde amongst others. The question whether privacy is a fundamental right arising out of the same was referred to a Bench of 9 Hon'ble Judge which included the above Hon'ble Judges. However subsequently the Bench came to be reconstituted and does not comprise of Hon'ble Justice Chelameswar, Hon'ble Justice Bobde and Hon'ble Justice Nazeer.
8. SLP(C) No. 033869 - / 2017 Energy Watchdog V Union of India (ONGC) Challenge to the appointment of BJP Spokesperson Sambit Patra as Independent Director, ONGC and the appointment of tainted officer Shashi Shankar as CMD, ONGC
- viii. Matter listed before Justice R.K. Aggarwal and Justice Manohar Sapre on 04.01.2018 when they adjourned the matter to 08.01.2018. On 08.01.2018, one of the judges recused. The

matter was thereafter listed before Justice Sikri and Bhushan in Court 6 on 5.03.20

9. SLP(C) 28662-28663/2017 R.P. Luthra v. Union of India & Anr. (The petition which sought an explanation from the Centre for the delay in finalizing the memorandum of procedure (MOP) for appointment of judges to the Supreme Court and High Courts and which also questioned continuing appointments even when the MOP had not been finalised. On 27.10.2017, the bench of Justices Goel and Lalit heard the matter and scheduled the next hearing for November 14. However, on 8.11.2017, the case was listed before a new Bench of CJI Misra, Justices A.K. Sikri and Amitava Roy. The three judges bench headed by CJI recalled the 27 October order.
10. The three Judge Bench of the Supreme Court in Pune Municipal Corp. v. Harakchand Misirimal Solanki 2014(3)SCC183 had held that unless the compensation amount is deposited in the concerned Court it would not be treated paid in terms of Section 24(1) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013, Act and therefore, non-deposit of such compensation would result in a lapse of acquisition proceeding under Section 24(2) of the Act. The correctness of this law was doubted by a two judge bench of the Supreme Court headed by Justice Arun Mishra vide dated 07.12.2017 in Civil Appeal No. 20982 of 2017, Indore Development

Authority v. Shailendra (Dead) Through LRs, and therefore, the same was referred to the larger bench. In Indore Development Authority, a three judge bench headed by Justice Arun Mishra by a majority of 2:1 vide order dated 08.02.2018 held that the judgment in Pune Municipal Corporation was per incuriam. One of three judges was of the view that a three judge bench cannot hold judgement of another three judge bench per incuriam. Meanwhile, a similar land acquisition matter came up for consideration before another three judge bench headed by Justice Madan B. Lokur on 21.02.2018. This three judge bench, while considering the submission made by the counsels appearing for the farmers, whether a bench of three Learned Judges could have held decision rendered by another bench of three Learned Judges as per incuriam, without referring it to a larger bench and therefore whether this matter should be referred to a larger bench, vide order dated 21.02.2018, made a request to the concerned benches of the Supreme Court dealing with the similar matters to defer the hearing until a decision is rendered one way or the other and listed the matter on 7.03.2018 to hear the State. On 22.02.2018 that is the very next day 2 similar matters were listed before two different two judge benches of the Supreme Court, headed by Justice Arun Mishra and Justice Goel respectively who were part of the judgement holding Pune Municipal per incuriam. Both the two judge benches of the Supreme Court instead of simply adjourning the matter referred their respective cases to the Chief Justice of India to list them before the appropriate

bench. The Chief Justice of India without waiting for the hearing before Justice Lokur on 7.03.2018, listed the matters refereed by two other benches on 06.03.2018 before a 5 judge bench presided by himself, when an Order was passed that this bench shall consider all the issues including the correctness of the decision rendered in Pune Municipal Corporation as well as the judgment rendered in Indore Development Authority.

11. CITIZENS FOR JUSTICE vs. THE STATE OF GUJARAT SLP(Crl) No. 006754 - 006756 / 2011 came to be listed before the bench presided by Justice Arun Mishra. The aforesaid SLP came to be withdrawn.
12. Also the new roster system is highly questionable as all the important political matters/PIL's/Writ Petitions/Election matters are exclusively heard by the Chief Justice of India whereas rest other matters can be heard by other courts.
45. These above-mentioned charges against the Chief Justice of India, have brought the judiciary into disrepute. In view of these serious charges and explanatory note on each charge, it is apparent that there is sufficient prima facie evidence for initiation of impeachment proceedings against Mr. Chief Justice Dipak Misra.

REPORTABLEIN THE SUPREME COURT OF INDIA
CIVIL ORIGINAL JURISDICTIONWRIT PETITION (C) NO. 411 OF 2017GLOCAL MEDICAL COLLEGE AND SUPER
SPECIALITY HOSPITAL & RESEARCH
CENTRE

....PETITIONER

VERSUS

UNION OF INDIA AND ANOTHER

....RESPONDENTS

WITH

W.P. (C) NOS. 430, 432, 437, 436, 438, 441, 442, 445, 448, 450,
468, 477, 511, 496, 511, 514, 515, 525 and 533 of 2017.JUDGMENTAMITAVA ROY, J.

In assailment is the order dated 31.05.2017 of the Government of India, Ministry of Health and Family Welfare (Department of Health and Family Welfare) whereby the conditional permission for the establishment of the medical colleges, involved herein with number of seats as mentioned, for the academic year 2016-17, granted on the basis of the approval of the Supreme Court Mandated Oversight Committee (for short, hereinafter to be referred to as "Oversight Committee")

has been cancelled and the colleges have been debarred from admitting students in the next two academic years i.e. 2017-18 and 2018-19. Thereby, the Medical Council of India, (for short, hereinafter to be referred to as "MCI/Council") has also been authorised to encash the bank guarantees submitted by the colleges/institutions, as required for availing the conditional permission as above. The colleges/institutions have been directed not to admit students in the MBBS Course in the academic years 2017-18 and 2018-19.

2. We have heard M/s. Salman Khurshid, S.G. Hasnain, Gurukrishna Kumar, A. Sharan, P.S. Patwalia, Kapil Sibal, V. Giri, Nidhesh Gupta, R. Basant, Raju Ramachandran, Sanjay R. Hegde, Dr. Rajeev Dhawan, C.A. Sundaram, Vikras Singh, Maninder Singh, Ajit Kumar Sinha, Senior Advocates and Mr. Mishra Saurabh, learned counsel for the parties.

3. It is submitted across the Bar that the foundational facts, which constitute the essence of the dissension, are identical so much so that the sequence of events, if drawn from any of the petitions would suffice to comprehend the issues to be addressed. Having regard to the striking likeness of the factual

framework of the cases in hand, for the sake of brevity and convenience, facts in bare minimum as available in the pleadings of W.P. (C) No. 411 of 2017 – ***Glocal Medical College and Super Specialty Hospital and Research Centre vs. Union of India and Another*** and W.P.(C) No. 436 of 2017 – ***Gayatri Vidya Parishad Society & Another vs. Union of India and Another*** would be adverted to.

4. The colleges/institutions in this batch had, as required under Section 10A of the Indian Medical Council Act, 1956 (for short, hereinafter to be referred to as “the Act”) and the Establishment of Medical College Regulations, 1999 (for short, hereinafter to be referred to as “Regulations”) framed thereunder duly submitted schemes for grant of letter of permission to establish new medical college with annual intake of MBBS students, as mentioned in their individual applications, from the academic year 2016-17. As ordained in law, the Council caused an inspection of the colleges to be made by its Council of Assessors on 11th and 12th December, 2015, whereafter the assessment report was laid before the Executive Committee of the MCI, which in its meeting dated 28.12.2015, on a

consideration of the deficiencies pointed out, forwarded its recommendation to the Central Government disapproving the schemes for the academic year 2016-17 on 31.12.2015.

5. The Central Government in its turn, by letter dated 05.02.2016 consequently disapproved as well, the schemes of the petitioner colleges/institutions for the academic year 2016-17.

6. Shortly thereafter, this Court by its judgment and order dated 02.05.2016 rendered in *Modern Dental College and Research Centre & Anr. vs. State of Madhya Pradesh & Ors.*¹ constituted the Oversight Committee, amongst others to oversee the functioning of the Council under the Act. As the records demonstrate, the Oversight Committee intervened in the process as reportedly many colleges/institutions did complain of denial of opportunity to submit their compliance write up, to the deficiencies pointed out by the assessors and by its communication dated 22.06.2016 permitted those colleges/institutions to submit their compliance inputs afresh to the Ministry of Health and Family Welfare and further directed the Council to conduct compliance verification inspection of

1 (2016)7SCC 353

those colleges/institutions and submit the inspection report to the Central Government.

7. Subsequent thereto, the Oversight Committee by its communication dated 11.8.2016 addressed to the Central Government, Ministry of Health and Family Welfare, for the reasons recorded, granted conditional approval to the colleges/institutions, as mentioned therein, subject to the following conditions:

"(i) An affidavit from the Dean/Principal and Chairman of the Trust concerned, affirming fulfillment of all deficiencies and statements made in the respective compliance report submitted to MHFW by 22 June, 2016.

(ii) A bank guarantee in the amount of Rs. 2 crore in favour of MCI, which will be valid for 1 year or until the first renewal assessment, whichever is later. Such bank guarantee will be in addition to the prescribed fee submitted along with the application.

3.2(a) OC may direct inspection to verify the compliance submitted by the college and considered by OC, anytime after 30 September, 2016.

(b) In default of the conditions (i) and (ii) in para 3.2 above and if the compliances are

found incomplete in the inspection to be conducted after 30 September, 2016, such college will be debarred from fresh intake of students for 2 years commencing 2017-18."

8. Accordingly, the Central Government vide letter No. U-12011/13/2016-ME-I dated 20.8.2016, in deference to the above directions of the Oversight Committee, issued the letter of permission subject to the above conditions, initially for a period of one year and renewable on yearly basis also subject to the verification of the achievement of annual targets, as indicated in their schemes and re-validation of the performance bank guarantees. It was mentioned as well that the next batch of students of MBBS Course for the academic session 2017-18 would be admitted in the colleges only after obtaining permission from Central Government and on fulfilling the conditions laid down by the Oversight Committee, as stipulated hereinabove.

9. The petitioners assert that on being intimated of the above order, they accordingly, through their authorised representatives, as directed submitted the affidavits of

compliance affirming that they had rectified all the deficiencies pointed out in the inspection conducted by the Council on 11/12.12.2015 and also had furnished the bank guarantees, as required. The communications to this effect are on 30.8.2016 and 1.9.2016. The colleges/institutions, as have been mentioned in course of the arguments, have meanwhile, acting on this conditional letter of permission, admitted students to the academic year 2016-17.

10. The MCI caused another inspection of the colleges/institutions to be made by its Council of Assessors on 21/22.12.2016, whereafter on a consideration of the report submitted by its assessors, in its meeting held on 13.1.2017 did record, a number of persisting deficiencies. It was thus of the view that the colleges/institutions had failed to abide by the undertaking given by them to the Central Government that there was no deficiency as per clause 3.2(1) of the communication dated 11.8.2016 of the Oversight Committee and as a consequence, recommended in terms of paragraph 3.2(b) of the above communication that the said colleges/institutions be debarred from

admitting students in the MBBS Course for the two academic years i.e. 2017-18, 2018-19 and further that the bank guarantees furnished by them be encashed. As per the decision taken, a copy of the recommendations to the above effect was forwarded to the Central Government and the Oversight Committee.

11. The Central Government in turn, by its communication dated 2.2.2017, addressed to the petitioner colleges/institutions informed that an opportunity of personal hearing would be granted on 17.1.2017 and 8.2.2017 on the issue of the recommendation of the MCI for debarment of the colleges for two academic sessions, as above and for encashment of their bank guarantees. The colleges/institutions were instructed to depute their authorised representatives to present their case vis-a-vis the recommendations of the MCI along with the requisite information in the prescribed format to be laid before the committee concerned.

12. In response, the petitioner colleges/institutions in time submitted their reply maintaining that almost all the

deficiencies pointed out in the inspection carried on 11/12.12.2015 had been rectified and that the deficiencies noted in the subsequent inspection were not the same and further were at best minor in nature.

13. Item-wise replies with clarifications were furnished by the colleges vis-a-vis the deficiencies pointed out in the inspection held on 21st and 22nd December, 2016. The colleges/institutions claimed that in fact there was no deficiency and that they were making all efforts to overcome, if there be any, and prayed that the minor deficiencies be condoned and the conditional LOP (Letter of Permission) be confirmed.

14. A hearing was provided to the institutions/colleges by a Hearing Committee of the Central Government on 17.1.2017 and 8.2.2017 and the comments of the Hearing Committee along with the recommendations/comments of the Director General of Health Services in respect of the colleges mentioned therein, were forwarded to the Central Government on 23.3.2017. As would be evident from this document, it contained four columns and the third and

fourth thereof did set out the comments of the Hearing Committee and recommendations/comments of Director General of Health Services (for short "DGHS") respectively. It may be noted in the passing that whereas the comments of the Hearing Committee in respect of most of the colleges/institutions was "No satisfactory evidence available", the recommendations/comments of the DGHS disclosed that the said authority on noting the deficiencies highlighted did suggest some relaxation in the approach thereto, to be brought to the notice of the Oversight Committee and also recommended that the Oversight Committee may take necessary initiatives in this regard. As this document would also reveal, the recommendations of the MCI and the comments of the Hearing Committee and the DGHS were forwarded to the Central Government be submitted for further directions/comments from the Oversight Committee.

15. A lull followed and it was only on 5.5.2017 that the Central Government forwarded the aforementioned recommendations dated 23.3.2017 to the Oversight

Committee. As this communication would reveal, the Hearing Committee/DGHS had granted personal hearing to the colleges on 17.1.2017 and 8.2.2017. Noticeably, however though the contents of the proceedings dated 23.3.2017 of the Hearing Committee/DGHS were set out in that letter dated 5.5.2017, the column containing the recommendations/comments of the DGHS did not find place therein. In other words, as is patent, only a truncated version of the document dated 23.3.2017 was forwarded by the Central Government to the Oversight Committee. The letter mentioned that the observations of the Hearing Committee constituted by the DGHS, be construed to be the views of the Ministry of Health and Family Welfare.

16. The letter No. OC/UG/2016-16 (Conditional Approvals) 258 dated 14.5.2017 of the Oversight Committee followed in response. As this letter would evince, the Oversight Committee on a detailed consideration of the factual backdrop and on an in-depth analysis of the deficiencies pointed out by the assessors of the MCI, the views of the Hearing Committee and of the Central

Government, by recording reasons, dismissed the deficiencies enumerated and recommended confirmation of the conditional letter of permission earlier granted to the colleges/institutions concerned.

17. The impugned decision conveyed by the letter No. UI2012/27/2016-ME-I [FTS.30844749] dated 31st May, 2017, as referred to hereinabove was thereafter issued. Thereby to reiterate, the decision of the Central Government to debar the petitioner colleges/institutions from admitting students in the next two academic years 2017-18 and 2018-19 and also to authorise the MCI to encash the bank guarantees was communicated. Directions were also issued to the concerned colleges/institutions not to admit students in the MBBS course in the said academic years.

18. The quintessence of the contrasting contentions next needs to be outlined. It has been insistently urged on behalf of the petitioners that in the pronounced backdrop of facts outlining the march of events, the impugned decision is on the face of it, unsustainable being bereft of any reason or relevant consideration. It has been argued that the

Oversight Committee having being constituted by this Court by its judgment and order dated 02.05.2016 in **Modern Dental College Research Centre** (supra) authorizing it to oversee all statutory functions under the Act and leaving it at liberty to issue appropriate remedial directions, the impugned order is in the teeth of the recommendations of the said Committee, as communicated in its letter dated 14.05.2017 overruling the deficiencies on the basis of which purportedly, the petitioner colleges/institutions are being sought to be debarred from admitting students in the academic session for the years 2017-18 and 2018-19 and their bank guarantees are ordered to be encashed. It has been emphatically asserted that having regard to the status of the Oversight Committee and the role assigned to it by this Court, its recommendations/views, as conveyed by its letter dated 14.05.2017, by no means could have been disregarded. It has been stoutly canvassed that not only the Central Government in acting only on the recommendations of the MCI had proceeded in a manner which is grossly unfair and unreasonable vis-à-vis the petitioner

institutions/colleges, the manner in which the impugned decision has been taken tantamounts to denial of hearing to them, as mandated by Section 10A(4) of the Act. It has been urged as well that the action of forwarding the incomplete proceedings of the Hearing Committee/DGHS to the Oversight Committee betrays inexplicable prejudice and a predetermined disposition against the petitioner colleges/institutions, rendering the impugned decision non est in law.

19. As against this, it has been argued in emphatic refutation on behalf of the respondents that the Central Government being the final decision making authority under the Act on the issue of grant or refusal of permission/renewal of permission, there is no embargo on it to take a decision thereon, more so there being no mandate that it would be bound by the recommendations of the Oversight Committee. It has been contended that the views expressed by the Oversight Committee in its communication dated 14.05.2017 are contrary to its directives earlier issued in its letter dated 11.08.2016, recommending grant of

conditional LOP to the petitioner institutions/colleges. It has been insisted that not only the petitioner institutions/colleges had failed to provide the minimum teaching, clinical, infrastructural and other facilities in the colleges as divulged in the successive inspections, they have been found to be non-compliant of the undertakings given by them to the Central Government as well. It has been argued that the impugned decision, in the attendant facts and circumstances, is unassailable and does not merit any interference.

20. After hearing the learned counsel for the parties and on a consideration of the materials on record, to the extent essential, we are of the considered opinion that the impugned decision cannot be sustained in law as well as on facts. Significantly, the authenticity and correctness of the documents referred to by the parties are not disputed and form part of the records.

21. A bare perusal of the letter dated 31.05.2017 would demonstrate in clear terms that the same is de hors any reason in support thereof. It mentions only about the grant

of conditional permission on the basis of the approval of the Oversight Committee, and an opportunity of hearing vis-à-vis the recommendations of the MCI in its letter dated 15.01.2017 highlighting the deficiencies detected in course of the inspection undertaken on 21st and 22nd December, 2016, but is conspicuously silent with regard to the outcome of the proceedings of the Hearing Committee, the recommendations recorded therein both of the Committee and the DGHS and more importantly those of the Oversight Committee conveyed by its communication dated 14.05.2017, all earlier in point of time to the decision taken. This assumes importance in view of the unequivocal mandate contained in the proviso to Section 10A(4) of the Act, dealing with the issue, amongst others of establishment of a medical college. The relevant excerpt of sub-section 4 of Section 10A of the Act for ready reference is set out hereinbelow:

“(4) The Central Government may, after considering the scheme and the recommendations of the Council under sub-section (3) and after obtaining, where necessary, such other particulars as may be considered necessary by it from the person or college concerned, and having regard to the

factors referred to in sub-section (7), either approve (with such conditions, if any, as it may consider necessary) or disapprove the scheme and any such approval shall be a permission under sub-section (1);

Provided that no scheme shall be disapproved by the Central Government except after giving the person or college concerned a reasonable opportunity of being heard:"

22. Though as the records testify, a hearing was provided to the petitioner colleges/institutions through the Hearing Committee constituted by the DGHS (as mentioned in the proceedings dated 23.3.2017) qua the recommendations of the MCI contained in its letter dated 15.01.2017, as noted hereinabove, the proceedings of the Hearing Committee do reflect varying views of the Hearing Committee and the DGHS, the latter recommending various aspects bearing on deficiency to be laid before the OC for an appropriate decision. The Central Government did forward, albeit a pruned version of the proceedings of the Hearing Committee to the Oversight Committee after a time lag of almost six weeks. The reason therefor is however not forthcoming. The

Oversight Committee, to reiterate, though on a consideration of all the relevant facts as well as the views of the MCI and the proceedings of the Hearing Committee as laid before it, did cast aside the deficiencies minuted by the MCI and recommended confirmation of the letters of permission of the petitioner colleges/institutions, the impugned decision has been taken by the Central Government which on the face of it does not contain any reference whatsoever of all these developments.

23. As a reasonable opportunity of hearing contained in the proviso to Section 10A(4) is an indispensable pre-condition for disapproval by the Central Government of any scheme for establishment of a medical college, we are of the convinced opinion that having regard to the progression of events and the divergent/irreconcilable views/recommendations of the MCI, the Hearing Committee, the DGHS and the Oversight Committee, the impugned order, if sustained in the singular facts and circumstances, would be in disaccord with the letter and spirit of the prescription of reasonable opportunity of hearing to the

petitioner institutions/colleges, as enjoined under Section 10A(4) of the Act. This is more so in the face of the detrimental consequences with which they would be visited. It cannot be gainsaid that the reasonable opportunity of hearing, as obligated by Section 10A(4) inheres fairness in action to meet the legislative edict. With the existing arrangement in place, the MCI, the Central Government and for that matter, the Hearing Committee, DGHS, as in the present case, the Oversight Committee and the concerned colleges/institutions are integral constituents of the hearing mechanism so much so that severance of any one or more of these, by any measure, would render the process undertaken to be mutilative of the letter and spirit of the mandate of Section 10A(4).

24. Having regard to the fact that the Oversight Committee has been constituted by this Court and is also empowered to oversee all statutory functions under the Act, and further all policy decisions of the MCI would require its approval, its recommendations, to state the least, on the issue of establishment of a medical college, as in this case,

can by no means be disregarded or left out of consideration. Noticeably, this Court did also empower the Oversight Committee to issue appropriate remedial directions. In our view, in the overall perspective, the materials on record bearing on the claim of the petitioner institutions/colleges for confirmation of the conditional letters of permission granted to them require a fresh consideration to obviate the possibility of any injustice in the process.

25. In the above persuasive premise, the Central Government is hereby ordered to consider afresh the materials on record pertaining to the issue of confirmation or otherwise of the letter of permission granted to the petitioner colleges/institutions. We make it clear that in undertaking this exercise, the Central Government would re-evaluate the recommendations/views of the MCI, Hearing Committee, DGHS and the Oversight Committee, as available on records. It would also afford an opportunity of hearing to the petitioner colleges/institutions to the extent necessary. The process of hearing and final reasoned decision thereon, as ordered, would be completed

peremptorily within a period of 10 days from today. The parties would unfailingly co-operate in compliance of this direction to meet the time frame fixed.

26. Let these matters be listed on 24.8.2017.

.....J.
[Dipak Misra]

.....J.
[Amitava Roy]

.....J.
[A.M. Khanwilkar]

New Delhi;
August 1, 2017.

WP(C) 411/17

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ITEM NO.12

COURT NO.2

SECTION X

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

- Writ Petition (Civil) No.411/2017

GLOCAL MEDICAL COLLEGE AND SUPER
SPECIALITY HOSPITAL AND RESEARCH CENTRE

Petitioner(s)

VERSUS

UNION OF INDIA & ANR.

Respondent(s)

WITH W.P.(C) No. 438/2017 (X)

(With appln.(s) for ex-parte stay and clarification/direction)

W.P.(C) No. 437/2017 (X)

(With appln.(s) for ex-parte stay and clarification/direction)

W.P.(C) No. 432/2017 (X)

(With appln.(s) for clarification/direction and prayer for interim relief)

W.P.(C) No.430/2017

(With appln.(s) for appropriate orders/directions)

W.P.(C) No.436/2017 (X)

(With appln.(s) for appropriate orders/directions)

W.P.(C) No.442/2017 (X)

(With appln.(s) for appropriate orders/directions and clarification/direction)

W.P.(C) No.441/2017 (X)

(With appln.(s) for appropriate orders/directions)

W.P.(C) No.450/2017 (X)

(With appln.(s) for appropriate orders/directions)

W.P.(C) No.445/2017 (X)

(With appln.(s) for appropriate orders/directions and clarification/direction)

W.P.(C) No.448/2017 (X)

(With appln.(s) for appropriate orders/directions)

W.P.(C) No.468/2017 (X)

(With appln.(s) for stay and appropriate orders/directions)

W.P.(C) No.477/2017 (X)

(With appln.(s) for appropriate orders/directions)

W.P.(C) No.511/2017 (X)

(With appln.(s) for ex-parte stay and permission to file additional documents)

W.P.(C) No.496/2017 (X)

(With appln.(s) for stay)

W.P.(C) No.514/2017 (X)

(With appln.(s) for ex-parte stay and appropriate orders/directions)

W.P. (C) No. 515/2017 (X)

(With appln. (s) for appropriate orders/directions)

W.P. (C) No. 525/2017 (X)

(With appln. (s) for appropriate orders/directions)

W.P. (C) No. 533/2017 (X)

(With appln. (s) for stay and clarification/direction)

Date : 24-08-2017 These matters were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE DIPAK MISRA

HON'BLE MR. JUSTICE AMITAVA ROY

HON'BLE MR. JUSTICE A.M. KHANWILKAR

For Petitioner(s) Mr. S.G. Hasnain, Sr. Adv.
Mohd. Zahid Hussain, Adv.
Mr. Kamal Mohan Gupta, AOR

Mr. Mukul Rohatgi, Sr. Adv.
Mr. Amit Kumar, AOR
Mr. Avijit Mani Tripathi, Adv.
Mr. Atul Kumar, Adv.
Mr. Shaurya Sahay, Adv.
Ms. Rekha Bakshi, Adv.
Ms. Vidisha Kumar, Adv.
Mr. Abhishek Vashisht, Adv.
Mr. Ayush Chaurasia, Adv.

Mr. V.K. Vishwanathan, Sr. Adv.
Mr. Amit Kumar, AOR
Mr. Avijit Mani Tripathi, Adv.
Mr. Atul Kumar, Adv.
Mr. Shaurya Sahay, Adv.
Ms. Rekha Bakshi, Adv.
Ms. Vidisha Kumar, Adv.

Mr. R. Basant, Sr. Adv.
Mr. A. Ramesh, Adv.
Mr. Amit Kumar, AOR
Mr. Syed Ahmad Naqvi, Adv.
Mr. Shaurya Sahay, Adv.
Ms. Shilpi Gupta, Adv.

Mr. Mukesh Rohatgi, Sr. Adv.
Mr. G. Umapathy, Adv.
Mr. Rakesh K. Sharma, AOR
Mr. A. Leo G. Rozario, Adv.

Mr. Aditya Singh, Adv.

Mr. V. Giri, Sr. Adv.

Mr. G. Umapathy, Adv.

Mr. Rakesh K. Sharma, AOR

Mr. A. Leo G. Rozario, Adv.

Mr. Aditya Singh, Adv.

Mr. Kapil Sibal, Sr. Adv.

Mr. Gaurav Bhatia, AOR

Mr. Utkarsh Jaiswal, Adv.

Mr. Abhishek Singh, Adv.

Dr. Rajeev Dhawan, Sr. Adv.

Mr. Ranjan Kumar Pandey, AOR

Mr. K.P. Gautam, Adv.

Mr. Sandeep Bisht, Adv.

Mr. Anshuman Bhadur, Adv.

Mr. Raju Ramachandran, Sr. Adv.

Mr. Amitesh Kumar, Adv.

Mr. Shashank Shekhar Singh, Adv.

Ms. Priti Kumari, Adv.

Ms. Babita Kushwaha, Adv.

Mr. Mritunjay Kumar Sinha, AOR

Mr. C.A. Sundaram, Sr. Adv.

Mr. Amitesh Kumar, Adv.

Mr. Shashank Shekhar Singh, Adv.

Ms. Priti Kumari, Adv.

Mr. Mritunjay Kumar Sinha, AOR

Mr. Rohit Bhat, Adv.

Mr. V. Shyamohan, AOR

Mr. Surya Prakash, Adv.

For Respondent(s)

Mr. Maninder Singh, ASG

Mr. Ajit Kumar Sinha, Sr. Adv.

Mr. R.K. Rathore, Adv

Mr. Vibhu Shanker Mishra, Adv.

Mr. Gurmeet Singh Makker, AOR

Mr. Vikas Singh, Sr. Adv.

Mr. Gaurav Sharma, AOR

Ms. Amandeep Kaur, Adv.

Mr. Prateek Bhatia, Adv

Mr. Dhawal Mohan, Adv.

Ms. Deepeika Kalia, Adv.

Mr. Himanshu, Adv.

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

W.P. (C) No. 411/2017

Let the matter be listed after three weeks.

In the meantime, the bank guarantee shall not be encashed. However, the same shall be kept alive.

W.P. (C) No. 438/2017

Heard Mr. Mukul Rohatgi, learned senior counsel for the petitioner, Mr. Maninder Singh, learned Additional Solicitor General for the Union of India and Mr. Vikash Singh, learned senior counsel for the Medical Council of India.

Hearing concluded.

Judgment reserved.

In the meantime, the bank guarantee shall not be encashed. However, the same shall be kept alive.

W.P. (C) No. 437/2017 & W.P. (C) No. 441/2017

Mr. Maninder Singh, learned Additional Solicitor General shall file an affidavit/reply within two weeks hence. Needless to say, the Medical Council of India is at liberty to file the reply.

List the matter after two weeks.

In the meantime, the bank guarantee shall not be encashed. However, the same shall be kept alive.

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W.P. (C) No.432/2017

Issue notice.

As Mr. Maninder Singh, learned Additional Solicitor General and Mr. Vikas Singh, learned senior counsel has entered appearance on behalf of the respondents, no further notice need be issued.

List the matter along with Writ Petition (C) No.450 of 2017.

In the meantime, the bank guarantee shall not be encashed. However, the same shall be kept alive.

W.P. (C) No.430/2017 & W.P. (C) No.436/2017

Learned counsel appearing for the petitioners submits that the Central Government has passed an order dated 10th August, 2017, in favour of the petitioner-Institution.

In view of the aforesaid, nothing survives to be adjudicated in these writ petitions. The same are, accordingly, disposed of.

Writ Petition (C) No.442/2017

Mr. Amit Kumar, learned counsel appearing for the petitioners seeks leave of this Court to withdraw the writ petition to approach the High Court. The writ petition is permitted to be withdrawn.

W.P. (C) No.450/2017

In the course of hearing, Mr. Mukul Rohatgi, learned senior counsel appearing for the petitioner has submitted

that the deficiencies that has been pointed out in the case of the petitioner-Institution is absolutely marginal and there was no justification not to accept the shifting of patients to Oncology department because of short circuit. Additionally, he has drawn our attention to the decision dated 31st May, 2017 of the Central Government in respect of Mayo Institute of Medical Sciences, Barabanki. He has also drawn our attention to the letter dated 7th July, 2017, which has been written by the Medical Council of India to the Secretary to the Government of India, Ministry of Health & Family Welfare. It is propounded by him that there has been deficit with regard to the occupancy and many other defects. The said institution had been extended the benefit of permission. It is also urged that similar benefit has been given to thirty other institutions.

Mr. Maninder Singh, learned Additional Solicitor General for the Union of India shall file an affidavit of the Secretary, Ministry of Health and Family Welfare, Government of India, within two weeks hence, stating as to how the Letter of Permission was granted, so that the basis on which the said benefit was extended to the said Institutions, shall also be extended to the petitioner-Institution herein.

List the matter after two weeks.

In the meantime, the bank guarantee shall not be encashed. However, the same shall be kept alive.

W.P. (C) No. 448/2017

Heard Mr. P.S. Patwalia, learned senior counsel for the petitioner, Mr. Maninder Singh, learned Additional Solicitor General for the Union of India and Mr. Vikash Singh, learned senior counsel for the Medical Council of

India.

Hearing concluded.

Judgment reserved.

In the meantime, the bank guarantee shall not be encashed. However, the same shall be kept alive.

W.P. (C) No.468/2017

Heard Dr. Rajeev Dhawan, learned senior counsel for the petitioner, Mr. Maninder Singh, learned Additional Solicitor General for the Union of India and Mr. Vikash Singh, learned senior counsel for the Medical Council of India.

Hearing concluded.

Judgment reserved.

In the meantime, the bank guarantee shall not be encashed. However, the same shall be kept alive.

Writ Petition (C) No.477/2017

Heard Mr. R. Basant, learned senior counsel for the petitioner.

Having heard learned counsel for the petitioner, we do not perceive any merit in this writ petition and the same is, accordingly, dismissed.

Writ Petition (C) No.511/2017

Learned counsel for the petitioner submits that the Central Government has already granted the permission to the petitioner-Institution.

In view of the aforesaid, nothing remains to be adjudicated in this writ petition. The writ petition is, accordingly, disposed of. There shall be no order as to costs.

The bank guarantee submitted to the Medical Council of India, if not encashed, shall be returned to the petitioner and in case it has been encashed, a bank draft of the same amount shall be refunded within two weeks hence.

Writ Petition (C) Nos. 445/2017, 496/2017, 514/2017, 515/2017, 525/2017 & 533/2017

Let these matters be listed on 28th August, 2017.

(Chetan Kumar)
Court Master

(H.S. Parasher)
Assistant Registrar

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HIGH COURT OF JUDICATURE AT ALLAHABAD, LUCKNOW BENCH

Court No. - 2

Case :- MISC. BENCH No. - 19870 of 2017

Petitioner :- Prasad Education Trust, Lucknow Thru. Its Chairman & Anr.

Respondent :- Union Of India Thru. Its Secretary, Min. Of Health & Family We

Counsel for Petitioner :- Rishabh Kapoor, Atul, Dr. L. P. Mishra

Counsel for Respondent :- C.S.C., A.S.G., Gyanendra Kumar Srivastav, Sanjay Bhasin

Hon'ble Shri Narayan Shukla, J.

Hon'ble Virendra Kumar-II, J.

Heard Dr. L.P. Mishra, learned counsel for the petitioner, Mr. Gyanendra Kumar Srivastava, learned counsel for the respondent No.2 as well as Mr. S.B. Pandey, learned Assistant Solicitor General of India. The writ petition has been taken on Board on the request of Dr. L.P. Mishra, learned counsel for the petitioners being urgent one. It has been submitted that the last date of Mop-up counseling would be held on 27.08.2017, therefore, if this application is not taken up today it would become infructuous. The petitioners have assailed the order dated 10.08.2017 passed by the Ministry of Health and Family Welfare, whereby Government of India on the recommendations of the Hearing Committee has debarred the petitioners' College from admitting students for the period of two years i.e. from 2017-18 and 2018-19 and Medical Council of India to encash the Bank Guarantee of Rs.2 crores. The learned counsel for the petitioner, Dr. L.P. Mishra, has submitted that the Oversight Committee had examined the report submitted by the Medical Council of India and found that there was no discrepancy warranting disapproval, thus, confirmed LOP whereas by means of order impugned, the same very report has been made basis to debar the petitioner from admitting the students and the Medical Council of India has been permitted to encash the bank guarantee.

We are informed that the similar matters are engaging attention of the Hon'ble Supreme Court which are listed on 30 August 2017 before the Supreme Court. In the meanwhile the last date of popup counseling would be expiring on 27.08.2017. The learned counsel for the petitioner has submitted that if the petitioners' college is permitted to be delisted from the list of Colleges notified for counselling even after succession in the writ petition, he shall be no where to get the admission of students particularly for the current academic sessions.

Regard being had to the aforesaid submissions, we hereby direct to list this matter on 31.08.2017, in the meanwhile, the petitioners' college shall not be delisted from the list of colleges notified for counselling till the next date of listing i.e. 31. August 2017. Further the encashment of Bank Guarantee is also stayed till the next date of listing. It is clarified that on the basis of this order the petitioners shall have no right to claim any admission of the students.

List on 31.08.2017.

Order Date :- 25.8.2017

A.K. Singh

(Virendra Kumar-II, J.) (Shri Narayan Shukla, J.)

Let a certified copy of this order be provided to the learned counsel for the petitioners on payment of usual charges today itself.

Order Date :- 25.8.2017 A.K. Singh

(Virendra Kumar-II, J.) (Shri Narayan Shukla, J.)

SLP(C) 22427/17

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ITEM NO. 44

COURT NO. 1

SECTION XI

SUPREME COURT OF INDIA
RECORD OF PROCEEDINGS

Petition(s) for Special Leave to Appeal (C) No. 22427/2017

(Arising out of impugned final judgment and order dated 25-08-2017 in MB No. 19870/2017 passed by the High Court of Judicature at Allahabad, Lucknow Bench)

MEDICAL COUNCIL OF INDIA

Petitioner(s)

VERSUS

PRASAD EDUCATION TRUST & ORS.

Respondent(s)

Date : 29-08-2017 This petition was called on for hearing today.

CORAM :

HON'BLE THE CHIEF JUSTICE-
HON'BLE MR. JUSTICE PRAFULLA C. PANT
HON'BLE DR. JUSTICE D.Y. CHANDRACHUDFor Petitioner(s) Mr. Gaurav Sharma, AOR
Ms. Amandeep Kaur, Adv.
Mr. Prateek Bhatia, Adv.
Mr. Dhawal Mohan, Adv.

For Respondent(s) Mr. Mukul Rohatgi, Sr. Adv.

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

Heard Mr. Gaurav Sharma, learned counsel for the Medical Council of India and Mr. Mukul Rohatgi, learned senior counsel, who has entered caveat on behalf of the respondent-Trust.

Validity unknown
Digitally signed by
CHITRAKANT
Date: 2017.08.29
16:05:56
Reason:

It is submitted by Mr. Rohatgi that the respondent-Trust does not claim any benefit from the order passed by the High Court, except that the Medical Council of

India is not to encash the bank guarantee. We appreciate the fair submission of Mr. Rohatgi and direct that the bank guarantee shall not be encashed. As the present order is passed by us, the writ petition filed before the High Court shall be deemed to have been disposed of. Liberty is granted to the respondent to approach this Court under Article 32 of the Constitution of India.

The special leave petition is disposed of.

(Chetan Kumar)
Court Master

(H.S. Parasher)
Assistant Registrar

WP(C) 445/2017

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ITEM NO.1501
(For Judgment)

COURT NO.1

SECTION X

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 SWrit Petition (Civil) No.445/2017

SHRI VENKATESHWARA UNIVERSITY & ANR.

Petitioner(s)

VERSUS

UNION OF INDIA & ANR.

Respondent(s)

Date : 01-09-2017 These matters were called on for pronouncement
of Judgment today.For Petitioner(s) Mr. Gaurav Bhatia, AOR
Mr. Utkarsh Jaiswal, Adv.
Mr. Abhishek Singh, Adv.For Respondent(s) Mr. Maninder Singh, ASG
Mr. Ajit Kumar Singh, Sr. Adv.
Mr. Vipin Kumar, Adv.
Mr. G.S. Makker, Adv.Mr. Gaurav Sharma, Adv.
Mr. Dhawal Mohan, Adv.
Mr. Prateek Bhatia, Adv.
Ms. Amandeep Kaur, Adv.Hon'ble the Chief Justice pronounced the judgment of
the Bench comprising His Lordship, Hon'ble Mr. Justice
Amitava Roy and Hon'ble Mr. Justice A.M. Khanwilkar.In terms of the signed reportable judgment, the
following directions were passed:-Validity Unknown
Digitally signed by
CHETAN KUMAR
Date: 2024.09.01
12:32:00
+05'30'"Though we have so held, yet we think it
appropriate that the students who have been
admitted in the Institution for the academic

session 2016-2017, shall continue their studies. The MCI shall send the inspecting team to the Institution within a period of two months. After the report is filed, the MCI shall apprise the Institution with regard to the deficiencies and give a date for removal of the same so that the Institution would be in a position to do the needful. We may hasten to add that the inspection that will be carried out and the further follow up action shall be done for the academic session 2018-2019.

As we intend to appreciate the inspection report and the deficiencies and the action taken up thereon by the Institution, list the matter on 15th November, 2017. The renewal application that was submitted for the academic session 2017-2018 may be treated as the application for the academic session 2018-2019. The bank guarantee which has been deposited shall not be encashed and be kept alive.

(Chetan Kumar)
Court Master

(H.S. Parasher)
Assistant Registrar

(Signed reportable judgment is placed on the file)

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

Writ Petition (Civil) No.797/2017

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PRASAD EDUCATION TRUST & ANR.

Petitioner(s)

VERSUS

UNION OF INDIA & ANR.

Respondent(s)

Date : 04-09-2017 This petition was called on for hearing today.

CORAM :

HON'BLE THE CHIEF JUSTICE
HON'BLE MR. JUSTICE A.M. KHANWILKAR
HON'BLE DR. JUSTICE D.Y. CHANDRACHUD

For Petitioner(s) Mr. P.S. Patwalia, Sr. Adv.
Mr. Amit Kumar, AOR
Mr. Avijit Mani Tripathi, Adv.
Mr. Shaurya Sahay, Adv.
Ms. Rekha Bakshi, Adv.

For Respondent(s) Mr. Maninder Singh, ASG
Mr. R. Balasubramanian, Adv.
Mr. Prabhas Bajaj, Adv.
Mr. Akshay Amritanshu, Adv.
Ms. Aarti Sharma, Adv.
Mr. Santosh Kr. Pandey, Adv.

Mr. Vikas Singh, Sr. Adv.
Mr. Gaurav Sharma, Adv.
Ms. Amandeep Kaur, Adv.
Mr. Prateek Bhatia, Adv.
Mr. Dhawal Mohan, Adv.
Ms. Deepeika Kalia, Adv.

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

Let a copy of the petition be served on Mr. Gaurav Sharma, learned counsel for the Medical Council of India and Mr. R.K. Rathore, learned counsel for the Union of India.

List the matter on 11th September, 2017.

The bank guarantee shall not be encashed in the meantime.

Signature Not Verified
Digitally signed by
CHETAN KUMAR
Date: 2017.09.05
12:18:07 IST
Reason: —

(Chetan Kumar)
Court Master

(Shakti Parkash Sharma)
Assistant Registrar

SUPREME COURT OF INDIA
RECORD OF PROCEEDINGS

Writ Petition(s) (Civil) No(s). 797/2017

PRASAD EDUCATION TRUST & ANR.

Petitioner(s)

VERSUS

UNION OF INDIA & ANR.

Respondent(s)

Date : 11-09-2017 This petition was called on for hearing today.

CORAM : HON'BLE THE CHIEF JUSTICE
HON'BLE MR. JUSTICE A.M. KHANWILKAR
HON'BLE DR. JUSTICE D.Y. CHANDRACHUDFor Petitioner(s) Mr. P.s. Patwalia, Sr. Adv.
Mr. Amit Kumar, AOR
Mr. Avijit Mani Tripathi, Adv.
Mr. Kumar Abhishek, Adv.

For Respondent(s)

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

Let the matter be listed on 18.9.2017.

(Gulshan Kumar Arora)
Court Master(Shakti Parkash Sharma)
Assistant Registrar

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ITEM NO.42

COURT NO.1

SECTION X

SUPREME COURT OF INDIA
RECORD OF PROCEEDINGSWrit Petition (Civil) No.797/2017

PRASAD EDUCATION TRUST & ANR.

Petitioner(s)

VERSUS

UNION OF INDIA & ANR.

Respondent(s)

Date : 18-09-2017 This petition was called on for hearing today.

CORAM :

HON'BLE THE CHIEF JUSTICE
HON'BLE MR. JUSTICE A.M. KHANWILKAR
HON'BLE DR. JUSTICE D.Y. CHANDRACHUDFor Petitioner(s) Mr. P.S. Patwalia, Sr. Adv.
Mr. Amit Kumar, AOR
Mr. Shaurya Sahay, Adv.For Respondent(s) Mr. Maninder Singh, ASG

Mr. Vikas Singh, Sr. Adv.
Mr. Gaurav Sharma, Adv.
Mr. Dhawal Mohan, Adv.
Mr. Prateek Bhatia, Adv.
Ms. Amandeep Kaur, Adv.UPON hearing the counsel the Court made the following
O R D E R

Heard Mr. P.S. Patwalia, learned counsel for the petitioners, Mr. Maninder Singh, learned Additional Solicitor General for the Union of India and Mr. Vikas Singh, learned senior counsel along with Mr. Gaurav Sharma, learned counsel for the Medical Council of India.

This Court on 1st September, 2017, in Shri Venkateshwara University and Another vs. Union of India and

Another in W.P.(C) No.445 of 2017, had passed the following directions:-

"Though we have so held, yet we think it appropriate that the students who have been admitted in the Institution for the academic session 2016-2017, shall continue their studies. The MCI shall send the inspecting team to the Institution within a period of two months. After the report is filed, the MCI shall apprise the Institution with regard to the deficiencies and give a date for removal of the same so that the Institution would be in a position to do the needful. We may hasten to add that the inspection that will be carried out and the further follow up action shall be done for the academic session 2018-2019. The renewal application that was submitted for the academic session 2017-2018 may be treated as the application for the academic session 2018-2019. The bank guarantee which has been deposited shall not be encashed and be kept alive."

In view of the aforesaid, we direct that there shall be no renewal for academic session 2017-2018. That apart, it is necessary to mention that Medical Council of India shall send the inspecting team to the Institution as per the schedule for consideration of grant of LOP for the academic year 2018-2019. The bank guarantee which has been deposited shall not be encashed and be kept alive.

The writ petition is, accordingly, disposed of.

(Chetan Kumar)
Court Master

(Shakti Parkash Sharma)
Assistant Registrar

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Q	हाँ हम कह रहे हैं कि वो तो बात छोड़ो, उसको तो अभी रहने दो, बताएँगे लेकिन main ये है कि उससे हमारी बात हुई थी जिसका तुम बता रहे थे दूसरा	
V	हाँ जी	
Q	दूसरे वाले कि बात हुई थी हमारी	
V	यादव वाला	
Q	हाँ	
V	हाँ उसमे, उनका कहा कौनसा मंदिर में है इलाहाबाद का मंदिर में है, दिल्ली का मंदिर में है	
Q	नहीं नहीं मंदिर में किसी के नहीं है अभी तो होना है	
V	हाँ हाँ हाँ ! तो उसका अब कर लीजिये बात वो तो कर देंगे, वो तो मेरा बात हुआ था वहाँ पर	
Q	कहा है पक्का	
V	हाँ हाँ उसमे आप एक काम अभी देखिये ना hundred percent ये तो, जो हमारा captain है captain का through में हो रहा है तो problem क्या है बोलिये	
V	नहीं नहीं नहीं नहीं ! हम लोग कोई experiment लेंगे क्या आपके उमर, ये उमर में भी experiment लेंगा न, में लेंगा आपको तकलीफ़ में डालूंगा, हमारा ऐसा नहीं है न न ! वो आप ले लीजिये सामान वो तुरंत करवा देंगे, उसमे जो भी कोई problem नहीं है	
V	कोई प्रॉब्लम है भी तो वो खुद ही बोल रहे हैं कि, अभी कल वो ये जो इसका बात किये थे वो बोल रहे कि सौ आदमी दे देंगे रिव्यु allow कर देंगे, फिर बाकी का एक कंपनी का डाई दे देंगे, तीन आप ले जायेंगे, पचास आप लोग रखिये, ऐसा बोल रहे थे, जितना दो तीन कंपनी है कर देंगे	
Q	ठीक है ठीक है	
V	सौ आदमी पहले दे देंगे तो वो जो रिव्यु है allow हो जायेगा	
V	इनका जो है दूसरा वाला जो बोल रहे थे	

Q	कितनी, कितनी books होगी करीब अंदाज़ा
V	कितना बेईमान है वो आप उनका अंदाज़ा , यहाँ पर सौ <u>बही</u> देंगे बाकि बही आपके पास रखेंगे , होने के बाद forward करेंगे
Q	अच्छा
V	ये आपका कितना बही में राज़ी हो रहे हैं देखिये पांच सौ बही , चार सौ बही
Q	<u>आप बताये ना तो उसको बात करे फिर</u>
V	उन्हें पता है वह हम लोग दो सौ बही बोलते हैं पांच सौ बही इनको बोल दीजिये , पांच सौ गमला ! हम लोग दो सौ गमला बोलगे वहाँ पर , सौ गमला देंगे सौ गमला बाद में देंगे
V	पांच सौ कहिये कीजिये वो जो काम है बहुत ही difficult है काम है हम लोगो को भी मिलना चाहिए , आपको हमको
Q	ठीक है ठीक है ठीक है
V	हाँ वो पक्का होगा पूरा बात हुआ है कोई प्रॉब्लम नहीं है
Q	ठीक है तो कल हमारी मुलाकात
V	अभी एक ही चीज़ पापा बोल रहे हैं एक ही चीज़ वो बोल रहे की अभी जो हमारा captain है ना उनका all over India है जो भी काम है वो जो वो कर दे , करने के लिए तैयार है
V	हाँ हाँ हाँ पक्का करवाएंगे हम

Q = Quddussi

V= Vishwanath

TRANSLATED TRANSCRIPT.

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Date: 03.09.2017

Q	Yes I am saying, leave that bit aside, leave that right now, I will tell but the main thing is this that I spoke to him who you were referring to, that other
V	Yes
Q	We talked about the other one
V	The Yadav one
Q	Yes
V	Yes I think, in which is theirs, in which temple is it – Temple of Allahabad or Temple in Delhi
Q	No no it is not in any temple yet, now it needs to be
V	Yes yes yes! So now you can talk about it, he will do it. About that I have spoken about it there
Q	Has said for sure (pucca)
V	Yes yes. In that you see this one thing...100% this, our person who is our captain, it is being done through the captain, so what is the problem. Tell me?
V	No No No No! Will we experiment at your age, at this age also I will not experiment. If I do, I will put you in a problem. We don't have like this. No no. If you take the stuff, he will get it done immediately, there will be no problem in that.
V	Even if there is a problem he is himself saying, what he talked about yesterday, he said, 100 people will give...review will be allowed, then for the rest for one company they will give 2.5, 3 you will take, 50 you people keep, he was saying like this, whatever two or three companies are there, he will do
Q	Ok ok
V	If 100 people give first, then that review will be allowed
V	This other one of his...which he was saying...
Q	How many, about how many books will there be, around, approximately?
V	How dishonest he is, that you can guess here he will give 100

	books,(bahi) the rest books(bahi) he will keep with you, after it is done, will forward it
Q	Alright
V	In how many books (bahi) is he becoming willing, see...500 books or 400 books (bahi)
Q	You tell then will speak to him again [or] you tell otherwise speak to him again
V	He knows that we people say 200 books (bahi). 500 books (bahi) you tell them, 500 gamla! We will say 200 gamla there, 100 gamla we will give, 100 we will give later
V	500 tell him to do. That work is very difficult work...we should also get, you and I
Q	Alright, alright, alright
V	Yes that will be done for sure. Have had a complete talk, there is no problem
Q	Ok so tomorrow we will meet
V	Now only one thing father is saying, one thing he is saying that, this captain of ours has ... all over India...whatever work there is, he is willing to do
V	Yes yes yes, for sure we will get it done

Q = Quddussi.

V = Vishwanath.

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Q	हम कह रहे हैं हमारे पास एक है आए हैं पहले से हैं जान पहचान
Q	वे कह रहे हैं उन्होंने अपना पिटीशन डाला था आज तो सोमवार की डेट लगाई है उन्होंने तो ये कह रहे हैं की कितना क्या होगा और कैसे होगा और दूसरी चीज की हमें कैसे विश्वास होगा की हाँ हमारा काम पक्का पक्का होगा ये भी बात है
V	ये मेडिकल वाले हैं क्या
Q	हाँ हाँ
V	हाँ तोह वो कमिंग मंडे को लगा है
V	हाँ तोह वो रिट्यु है ना
Q	न न, वो petition है article 32 का
V	हाँ हाँ हाँ! विश्वास तो मिलता नहीं है सामान देंगे तो काम तोह 100% हो जाएगा
Q	नहीं वो कह रहा है की पैसा हो तोह साथ जाये कि घर के नहर जाये कोई घर के अंदर जाये कोई घर के अंदर जाए कोई बात करे
V	नहीं वो सही बात ही लेकिन वो ठीक नहीं है वो जब आपको विश्वास नहीं कर रहा है हमको तो
Q	नहीं नहीं हमारा विश्वास तो कर रहे हैं लेकिन वो कह रहे हैं न कि दूसरा थर्ड पर्सन के पास मामला होगा तोह कैसे होगा क्यू कि वो कह रहे हैं कि अगर हम हमारा काम नहीं हुआ तो तब तो बिल्कुल ही एक दम ही खराब हो जायेगी स्थिति हमारी
V	नहीं नहीं काम तो होगा, नहीं तो हम लोग क्या हम लोग को क्यू मने आग में कूदने के लिए इच्छा हो रहा है क्या बोलिये काम 100% होगा तभी तो इसको मदद कर रहा है
Q	हाँ देखिये देखलो आप ये बात हा हा हा
V	हाँ हाँ काम 100% हो जाएगा वहाँ पर हम लोग का अभी क्या बोलते हैं जो उनसे कुछ बात हुआ है तभी तो आपलोग को बोल रहे हैं नहीं तो क्यू बोलते हम लोग
Yadav	हाँ अच्छा भाई साहब वैरी वैरी सोरी मैं उस दिन चला गया मैं हाईकोर्ट चला गया था
V	हाँ जी जी जी
Yadav	मुझे पहचाना मैं डी पी यादव बोल रहा हूँ
Yadav	तोह उस दिन हम हाईकोर्ट इस लिए गए थे कि भाई देखिये उस समय उसपे पैसे फसे थे नहीं मैंने क्लियर कट बात करी

Yadav	है ना तो इस लिए चले गए थे तो अब वहाँ से तो उन्होंने आदेश किया आप पे आके इनहोने खारिज कर दिया तो हम फिर से <u>खारिज</u> कर दिया इनहोने कहा फ्रेश पिटीशन डालो आर्टिकल 32 में फ्रेश पिटीशन डाला है उसकी डेट थी उसको उन्होंने बढ़ा के 11 तारीक कर दिया है तो हम का चाहते है कि कल हम आपका टिकट बनवा देते है और उस वार का सॉरी विस्वनाथ जी दूंगा मे आपको हूँ अब ये काम हमारा करा दोगे आप
V	नहीं काम तो 100 क्या 500 % गारंटी है लेकिन सामान तो पहले देना होगा और वो मिलने को मना कर रहे है क्यू कि जो सरकार चल रहा चाय वाले का वो सबको नज़र कर रखा है वो प्रॉब्लम हो जायेगा
Yadav	हम मिलायेगे नहीं हम मिलना नहीं चाहते
V	हाँ मिलाने कि नहीं कि वो गर में जायेगे वो बोले कि वो सब दिखने का विश्वास नहीं कि काम तो 100 % कर देंगे तब बात हुआ था तो तभी तो हम दौड़ के गया था दौड़ के आया था जी
Yadav	नहीं नहीं ठीक है अग्रवाल जी तो हम आपकी टिकट भिजवा देते है कल आप आ जायेगे हाँ आप बताये तो कल हम आपको
Yadav	अरे मैं पहले से ही चाहता हो कन्फर्म हो जाए बभूत सारे लोग है तो तो मैं चाहता हो कि जज साहब से हमारे सम्बन्ध अच्छा है तो जज सबह कि बातों पे हम ज्यादा भरोसा करते है
V	नहीं नहीं हम तो कन्फर्म कर देंगे नहीं तो हम बोलते भी नहीं क्यू कि हम लोग यह काम रेस्टो जी देखिये ये मने कि ट्रेड के लिए जरूरत ही जरूरत है मेडिकल का आदमी कि जरूरत तो इसमें करने में कोई प्रॉब्लम नहीं है लेकिन कुछ क्या ही वहाँ पर कुछ वो लोग उनका वहा बिना प्रसाद लगाए कुछ नहीं होगा
Yadav	नहीं प्रसाद तो लेगेगा प्रसाद तो देंगे प्रसाद तो देना ही है
V	काम तो 100 % हो जायेगा लेकिन हम कल परसो बोलने नहीं जायेगे । वो आप सामान तैयार कीजिये दे देंगे तो हम लोग करवा देंगे100 % करवा देंगे .. कोई प्रोलेम नहीं है माल व तभी तो बोलेंगे
Yadav	मतलब एडवांस रखना पड़ेगा
V	हाँ एडवांस उनको देना पड़ेगा । नहीं तो वो क्यू करेंगे आप बोलिये । इसमें तो कोई चीज़ कि लिखा पढ़ी नहीं होती । ये सब विश्वास में चलता है दुनिया । वो करेंगे 100 %

Yadav	बताइये क्या देना पड़ेगा !! मेरा एक ही कॉलेज है मे दूसरे का भरोसा नहीं कर सकता हूँ
V	एक का करवा दूंगा
Yadav	साफ़ से बता दो क्या दें पड़ेगा! हमारी ज्यादा कपैती तो नहीं है। बात कराओ अब साहब है तो बात कराओ ! बात करते हैं साहब से
V	नहीं कोई प्रॉब्लम नहीं है ! हम करवा देंगे काम।
V	नहीं वो तो एक का बोले ! एक का तो हम बात किये थे वो तो बोले तीन ! 2.5 वहाँ देना है 50 अपना रखना है
Q	तोह एडवांस कितना देना है
V	एडवांस तो अब.... वो रिव्यु पिटीशन का उस समय बोले कि 100 आदमी दे दो ! रिव्यु अलो हो जाएगा तो आपको भी मालूम हो जाएगा ! फिर हम ...
Q	तो एक काम करलो न आप!! आप एक बात करलो इनका सोमवार का लगा है ! 3-4 दिन कि डेट आगे बढ़ा दो
V	तो कुछ आदमी भेज देंगे तो 3-4.... 2 आदमी दे दे तो 3-4 दिन का डेट बढ़ा देंगे
V	सोमवार को फाइनल ही करवा देंगे ! ये अपने को दे सामान कुछ ..2-2.5 ... प्रॉब्लम नै है कुछ आर्डर करवा देंगे. पापा देखिये ना इधर का.. ना आपको प्रॉब्लम में डालेंगे ना मेरे को.. क्युकी वहाँ समा बात कर लेंगे नहीं पहीचेगा ना तो हमको बहुत प्रॉब्लम में फस जायेगा.... काम अगर नहीं कर पाएंगे तो इधर का सामान लौटा देंगे! काम नहीं करने का कोई चांस नहीं ! हमारा वहाँ क्लियर बात हुआ है कि अलो कर देंगे!
Q	तो बात करो इनसे
V	हाँ क्लियर बात हुआ है वो 3 का हिसाब से ! वो 3 से काम में करेंगे नहीं
Yadav	हेलो
V	हाँ जी वो हमलोग का लत टाइम भी बात हुआ था सर वो एक क लिए 3 मांग रहे थे! 3 देने से टोटल अलो कर देंगे जो प्रेयर मांगेंगे मे उनको बोले था वो 5 क उसस टाइम बात कर रहे थे क ईटो 15 क बात वो कर रहे थे लास्ट टाइम भी वही बात कर रहे थे
Yadav	तो पूरा पैसा एडवांस में जाएगा
V	सर मे वहाँ पे कोई रिस्क नहीं लेना चाहता हूँ क्यू कि वो 100% गारंटी

	काम है आप वहाँ दे देंगे ना आपका काम 100% गारंटी हो जायेगा.. किन्तु परन्तु कुछ नै ही नै! क काम हो जाएगा तो उसके बाद मैं सर 10-15 महीने बैठेंगे 14-15 काम करवाइये आपको भी विश्वास हो जाएगा! वो 101% कर देंगे.
Yadav	तो कब मे दे दूँ ! बताओ
V	११ तारीक को है तो हम अभी ७-८ तारिक को पहुंच सकता हो करवा देंगे आपका ११ तारिक को काम ही खतम हो जायेगा
Yadav	२.५ तक करवा दो न यार २.५ तक मेरी कैपेसिटी है करवा दो
V	सर आपको हम झूठ नहीं बोलते ५ क १८ से से बात हुआ था फिर लास्ट मैं ३ के हिसाब से १५ से बात हुआ था वो हम उनको कन्विंस क करवा कि और चार आएंगे
Yadav	सुनिए आप हमसे २ अभी ले लीजिये और जैसे ही आर्डर मिल जायेगा एडमिशन कर लगे हम जज साहब के यहाँ १ करोड पहुंचा देंगे आपके यहाँ कुदसी साहब के यहाँ इस तरह से करवा दीजिये
V	सर मैं बात करके सुबह आपको कन्फर्म करता हो उनसे बात करके हम नहीं बोलोगे
Yadav	क्यू कि हमारे पास अभी पैसे क तकलीफ है २ हम अभी दे देंगे और १ रुपये ५ -७ दिन ८ दिन क समय दे दीजिये एडमिशन शहुर हो जायेगा हम पहुंचा देंगे साहब के यहाँ साहब हमम् इतनी गारंटी ले लगे आप पाँच लीजिये
V	मैं उनसे बात कर लेता हो सुबह आपको कन्फर्म कर डोगा
Yadav	हाँ हेलो
V	हाँ पाप मैं उसको बोलें कि सुबह आपसे बात करता हो वह बोले कि २ अभी दे देंगे और एक कुछ नहीं तो हम बोलो कि

TRANSLATED TRANSCRIPT.

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Date: 04.09.2017

Quddussi	I am saying that I have someone I know from before <i>or</i> I am saying that someone I know from before has approached me
Q	They say they filed their petition. Today they have given a date for Monday. They are asking when- how much will it be and how and secondly how can they believe their work will be done for sure.
Vishwanath	Are these those medical people?
Q	Yes yes
V	Yes, so the date is listed for the coming Monday?
V	Yes so that is review ?
Q	No no it's a petition under art 32
V	Yes yes yes. There is no such assurance/guarantee. If they give the stuff work would be done 100%.
Q	No he's is saying that if money is there then someone should go inside the house, someone should talk.
V	No that is right, but it is not ok when he is not trusting us.
Q	No no they are trusting us, but they are saying if the matter is with a third person, then how will it be done. Because they are saying if our work is not done our situation would become very bad.
V	No no work will be done. Otherwise are we people who want to jump into fire. Tell them work will be done 100% that's why he/they are being helped.
Q	Yes, you see, you this thing. Hahaha
V	Yes, yes work would be done 100%. There we people spoke to them and that's why we are speaking to you, otherwise we wouldn't be saying this
Yadav	Yes, sir, very very sorry, I left that day. I had gone to the High Court
V	Ha, yes, yes, yes
Yadav	Recognize me? This is DP Yadav speaking.
Yadav	So that day I had gone to the High Court because, see brother, that time on/in it money was stuck. No I spoke/said very clearly. That's why we went. From there they/he gave an order. After coming here,

	they dismissed it. They/he said to file a fresh petition. Under article 32 a fresh petition has been filed. It had a date set, the date was pushed to the 11 th by them/him. So what we want is that tomorrow we make your ticket and for that sorry. Vishvanath Ji I will give it to you, now you get our work done for us.
V	No, the work is not even 100% but 500% guarantee. But the luggage will have to be given before and he/they is/are saying no to meeting because the government that is going on - Tea seller's government. That is watching everyone, that is the problem
Yadav	I wont make him meet. I don't want to meet.
V.	Yes not for meeting. That they/he will go home, they/he said that they/he don't believe they will see everything/ does not believe everything he sees. That the work will be done 100%, the conversation happened then. So that's why I went running and came running.
Yadav.	No no its ok. Agrawal Ji so we will send send your ticket. Tomorrow you come. Okay you tell us tomorrow
Yadav	Arey, I wanted from first that confirmation happens. Every one is weird. So I want that we have good relations with the judge. So that we trust the judge's words more.
V	No no we/I will confirm it. Otherwise we/I wouldn't say it, because we are doing this work -(Resto ji?) It is very necessary for the trade. Medical people are necessary, there is no problem in that. But the people there, nothing will happen if Prasad is not give.
Yadav.	No Prasad will be needed. We will give the Prasad. We have to give the Prasad.
V	Work will be done 100%, but I wont go to speak tomorrow or day after. You keep the luggage/stuff ready... if given we people will get it done 100%
Yadav	Meaning advance will have to be given
V	Yes, advance has to be given to them/him. Otherwise why will they/he do it, you say. There is no written- reading in these matters. All this runs on belief in this world. They/he will do it 100%.
Yadav	Tell me what has to be given. I have only one college I can't trust another.

V	Will get it done for 1.
Yadav	Tell me clearly, what will I have to give. We don't have much capacity. Make us speak, if boss/sir is there then make us speak, I will talk to boss/sir.
V	No there's no problem. We/I will get the work done.
V	No they/he said for 1. I had spoken for 1, they/he said three. 2.5 has to given there, 50 will be kept with us.
Q	So how much advance has to be given
V	Advance now... They/he said at that time, for review petition give 100 people. If the review is allowed, then even you will get to know. Then we....
Q	Then you do one thing. You do one thing. His is listed for Monday, postpone the date by 3-4 days.
V	So we will send a few people. So 3-4...if you give 2 people then we will extend the date by 3-4 days.
V	On Monday we will finalize. They give us the luggage/stuff(saamaan) - some 2-2.5; no problem some order will be given. Papa see here. Neither will it put you in a problem nor will it put me. Because there the association will talk. Won't reach, othwerwise we will be stuck in a lot of problems. If we are not able to do the work, then we will return the luggage/stuff (saamaan) that is here. There is no chance that work will not be done. There we have spoken clearly, that it will be allowed.
Q	Here, talk to them/him.
V	Yes, conversation was clear. Calculated as per three. They/he wont do it for less than 3.
Yadav	Hello
V	Yes, we had spoken last time also. Sir for 1 they were asking for 3. If 3 is given total will be allowed to those ask for prayers. I told him, he was talking about 5 at the time. They/he were speaking of 15bricks, even last time they were speaking about that only.
Yadav	So all the money will go in advance.
V	Sir I don't want to take any risk there, because it'sa 100% guarantee job. If you give it there, your work will be done 100% guarantee. No ifs and buts. Once work Is done, sir will sit for 10-15 months. Get 14-

	15 jobs done, even you will believe it. He will do it 101%.
Yadav	So when should I give, tell me.
V	Date is 11 th , so if it can reach us by 6-7 th we will get it done. Your work will get done by the 11 th .
Yadav	Do it within 2.5 yaar, my capacity is only till 2.5. get it done.
V	Sir I don't lie. First it was 5 for 18, then after talking, in the end it came to calculation 3 for 15. We convinced him that 4 more would come.
Yadav	Listen, you take 2 from us now and as the order is given. We will get the admission; we will send 1 crore to the judge. Your place, Quddussi sir's place, do it this way.
V	Sir I will talk and confirm it in the morning.
Yadav	Because even now we have a money problem. 2 we will give now and 1 rupee give me 5-6 or 7 days. When admission starts we will send it to sir's place. Sir we will take this guarantee, you take 5.
V	I will talk to him, confirm it to you in the morn.
Yadav	Yes hello
V	Yes, pap. I told him I will talk to you in the morning. He said they will give 2 now and 1 (end).

Q = Quddussi.

V = Vishwanath.

Further information has been received that Shri B.P. Yadav and Shri Palash Yadav are managing the affairs of Prasad Education Trust, Lucknow, who are the Prasad Institute of Medical Sciences, Sachin Shrivastava, Banbhara, Kanpur Road, Lucknow. UP. Source has informed that the aforesaid college is among the 10 colleges which have been barred by the Government from admitting medical students for the next 1 or 2 years because of substandard facilities and non-compliance with required norms.

Source has informed that Shri B.P. Yadav and Shri Palash Yadav have been pursuing the matter by having regular meetings in New Delhi and had challenged the department in the Hon'ble Apex Court vide Writ Petition (C) No. 412/2017. The Apex Court in W.P.(C) No. 411 of 2017 and connected writs, vide its combined order dated 01.08.2017, directed the Government to consider afresh the materials on record pertaining to the issue of confirmation or otherwise of the letter of permission granted to the petitioner colleges/institutions. In compliance thereof, the Government afforded an opportunity of hearing to the petitioner college and thereafter passed a reasoned decision dated 10.04.2018 to debar the college from admitting fresh students for the 2 years i.e. 2017-18 and 2018-19 and also nullified the Medical Council of India (MCI) to release the Bank Guarantee of Rs. 2 Crores.

Source also informed that the above mentioned order of the Government was challenged in the ensuing hearing in the aforesaid petition. Source has further informed that Shri B.P. Yadav got in touch with Shri J. K. Choudhary, Bench Judge of the Court of Odisha and Smt. Bhawana Pandey through Shri Sachin Shrivastava, Prasad Medical College in Meerut for getting the matter referred to the Hon'ble Court and get it ruled from the Hon'ble Court.

the Supreme Court and get it signed in the first round of April 2017.

Source has informed that Shri M. V. Srinivasan approached the Justice Shri
M. V. Srinivasan, High Court of Allahabad at Lucknow bench for reviewing the
order of the Allahabad High Court dated 14.04.2017 and Shri D. P. Yadav met him on
14.04.2017 at his residence in
Lucknow regarding the matter and delivered illegal gratification. Source has further
informed that on 15.04.2017, another was filed in petition, M. V. Srinivasan, High
Court, Allahabad, Prasad, Lucknow bench, by a bench, which included Hon'ble Justice
Shri M. V. Srinivasan. The order directed that the petitioner's college shall not be
deleted from the list of colleges notified for counselling till the next date of listing,
i.e. 31.08.2017. Further, the encashment of bank guarantee was also stayed till the
next date of listing. It was further clarified that on the table of the order, the
petitioner shall have to sign and submit any application of the student.

Source further informed that M. V. Srinivasan filed an application for stay of the
order of the Allahabad High Court dated 14.04.2017 and the order was stayed on
14.04.2017. The petitioner's submission was that the respondent does not object and request
the order passed by the Allahabad High Court dated 14.04.2017. The petitioner's
submission was that the respondent does not object and request the order passed by the
Allahabad High Court dated 14.04.2017. The petitioner's submission was that the respondent
does not object and request the order passed by the Allahabad High Court dated 14.04.2017.

[illegible]

The following is a list of the names of the persons who have been appointed to the various positions in the Department of the Interior, under the act of March 3, 1879, for the term of four years, to-wit:

Commissioner of the General Land Office Fred. S. Henshaw	Commissioner of the Bureau of Reclamation John W. Powell
Commissioner of the Bureau of Indian Affairs John W. Powell	Commissioner of the Bureau of Fish and Game John W. Powell
Commissioner of the Bureau of Geology John W. Powell	Commissioner of the Bureau of Land Surveying John W. Powell
Commissioner of the Bureau of Mineral Lands John W. Powell	Commissioner of the Bureau of Public Lands John W. Powell
Commissioner of the Bureau of Surveying John W. Powell	Commissioner of the Bureau of Waterways John W. Powell

The following is a list of the names of the persons who have been appointed to the various positions in the Department of the Interior, under the act of March 3, 1879, for the term of four years, to-wit:

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Commissioner of the Bureau of Mineral Lands John W. Powell	Commissioner of the Bureau of Public Lands John W. Powell
Commissioner of the Bureau of Surveying John W. Powell	Commissioner of the Bureau of Waterways John W. Powell

The above and other particulars reveal that Hon'ble Justice Shri Narayan Dada Chitambar, Clerk of the High Court at Allahabad in collusion with Shri K. S. Chaudhary, Retired Justice of the High Court of Calcutta, Smt. Dwarika Pandey, a Lawyer and Shri Pabon Yadav of Pread Education Trust and Shri Siddhant Chandra Chaturvedi Medical College and unknown others committed a gross illegal and corrupt transaction in a public servant.

Reliable source information has been received that Shri B.P. Yadav and Shri Palash Yadav are managing the affairs of Prasad Education Trust, Lucknow, which runs the Prasad Institute of Medical Science, Sarai Shahzadi, Banthara, Kanpur Road, Lucknow, UP. Source has informed that the aforesaid college is among the 46 colleges, which have been barred by the Government from admitting medical students for forthcoming 1 or 2 years because of substandard facilities and non-fulfillment of the required criteria.

Source has informed that Shri B.P. Yadav and Shri Palash Yadav have been pursuing this matter by having regular meetings in New Delhi and had challenged the debarment in the Hon'ble Apex Court vide Writ Petition (C) No. 442/2017. The Apex Court in WP(C) No. 411 of 2017 and connected writs, vide its combined order dated 01.08.2017, directed the Government to consider afresh the materials on record pertaining to the issue of confirmation or otherwise of the letter of permission granted to the petitioner colleges/institutions. In compliance thereof, the Government afforded an opportunity of hearing to the petitioner college and thereafter passed a reasoned decision dated 10.08.2017 to debar the college from admitting fresh students for the 2 years i.e. 2017-18 and 2018-19 and also authorized the Medical Council of India (MCI) to encash the Bank Guarantee of Rs. 2 Crores.

Source also informed that the above mentioned order of the government was challenged in the ongoing hearing in the aforesaid petition. Source has further informed that Shri B.P. Yadav got in touch with Shri I.M. Quddusi, Retired Justice of the High Court of Odisha and Smt. Bhawana Pandey through Shri Sudhir Giri of Venkateshwara Medical College in Meerut for getting the matter settled. Source informed that they colluded with each other to get the matter withdrawn from the Hon'ble Supreme Court and get it settled from the High Court of Allahabad.

Source has informed that Shri I.M. Quddusi approached Hon'ble Justice Shri Narayan Shukla, High Court of Allahabad at Lucknow bench for managing the matter. Source also informed that Shri I.M. Quddusi and Shri B.P. Yadav met Hon'ble Justice Shri Narayan Shukla in the morning on 25.08.2017 at his residence in Lucknow regarding the matter and delivered illegal gratification. Source has further informed that on 25.08.2017, an order was passed in petition, Misc. Bench No. 19870 of 2017 filed by Prasad Education Trust, by a Bench, which included Hon'ble Justice Shri Narayan Shukla. The order directed that the petitioner's college shall not be delisted from the list of colleges notified for counseling till the next date of listing, i.e. 31.08.2017. Further, the encashment of Bank Guarantee was also stayed till the next date of listing. It was further clarified that on the basis of the order, the

petitioners shall have no right to claim any admission of the students.

Source further informed that MCI approached the Hon'ble Supreme Court by way of SLP No. 22427 of 2017 against the aforesaid order, which was disposed on 29.08.2017 on the respondents submitting that the college does not claim any benefit from the order passed by the High Court. Further, as the said order was being passed by the Hon'ble Apex Court, the writ petition filed before the High Court shall be deemed to have been disposed of. The respondent was granted liberty to approach the Apex Court further in this regard.

Source has further informed that after the aforesaid developments, Shri B.P. Yadav has been pursuing Shri I.M. Quddusi and Smt. Bhawana Pandey to get back the illegal gratification paid to Justice Shri Narayan Shukla. Source has further informed that Shri I.M. Quddusi further contacted Justice Shri Narayan Shukla for the return of the amount of illegal gratification earlier paid to him. Source informed that Justice Shri Narayan Shukla assured Shri I.M. Quddusi that he will return a part of illegal gratification previously received by him shortly.

The aforesaid acts prima facie reveal that Hon'ble Justice Shri Narayan Shukla of Lucknow Bench of the High Court of Allahabad in collusion with Shri I.M. Quddusi, Retired Justice

of the High Court of Odisha; Smt. Bhawana Pandey; Shri B.P. Yadav and Shri Palash Yadav of Prasad Education Trust and Shri Sudhir Giri of Venkateshwara Medical College and unknown others, committed gross misconduct while discharging duties as a public servant.

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प्रथम सूचना प्रतिवेदन (धारा 154 द. प्रक्रिया संहिता के अन्तर्गत)
FIRST INFORMATION REPORT (Under Sec. 154 Cr.P.C.)

क्रि.सं. नं. II
S.P.F.C.-II

क्रि.सं. 11
Serial No

जिला :
District PS Year FIR No Date
New Delhi AC III 2017 10(A) 19/09/2017

1 (1) विषय :
Subject Sections

(2) विषय :
Subject Sections
PC Act 1982 8

(3) विषय :
Subject Sections
IPC 120-B

(4) विषय :
Subject Sections
IPC Act 1982

(5) विषय :
Subject Sections
Criminal Conspiracy, taking
part therein by corrupt or illegal means by officers
(a) a public servant

(6) दिनांक :
Date Time

(7) दिनांक :
Date
2017

(8) दिनांक :
Date

(9) दिनांक :
Date Time
19/09/2017 5.00 PM

(10) दिनांक :
Date
19/09/2017

Source

धारा 154 द. प्रक्रिया

Place of Information

New Delhi

दिनांक : 19/09/2017

समय : 5.00 PM

N/A

क्रि.सं. / Beat No.

(ग) पता:

(h) Address

N.A.

(न) पटनास्थल अग्न थाता क्षेत्राधिकार में है तो थाता

(o) In case outside the limit of this Police Station, then

पुलिस थाता का नाम

Name of PS

जिला

District

Source

6. अर्पयोगी - मुख्यतः
(Complainant / Informant)

(क) नाम

(a) Name

(ख) पिता / पति का नाम

(b) Father's / Husband's Name

(ग) जन्म तिथि

(c) Date of Birth

(न) राष्ट्रियता:

(d) Nationality

(ए) पासपोर्ट नं.

(e) Passport No

जारी दिनांक

Date of Issue

जारी होने का स्थान

Place of Issue

(घ) व्यवसाय

(f) Profession

(ग) पता

(g) Address

7. ज्ञात / संदेही / अज्ञात / आरोपी का पूर्ण विवरण :

Details of known / suspected / unknown accused with full particulars

(यदि आवश्यक हो तो अलग से पन्ना संलग्न करें)

(Attached separate sheet if necessary)

(1)

(2)

(3)

1. Shri I M Quidusi, Retd. Justice of the High Court of Odisha.
2. Smt. Bhawana Pandey r/o N-7, G.K.-1, New Delhi (Private person)
3. Shri B P Yadav (Private person)
4. Shri Palash Yadav (Private person)
5. Shri Sudhir Giri (Private person)
6. Shri Biswanath Agrawala r/o HIG-136, Phase-1, Kanan Vihar, Chandrashakerpur, Bhubaneshwar, Odisha (Private person)
7. other unknown public servants and private persons

8. परिचय / सूचनाओं को देने में देरी का कारण क्या है?
Reasons for delay in submitting the requested information

N/A

9. संपत्ति / संपत्तियों का विवरण (यदि आवश्यक हो तो अलग से पन्ना संलग्न करें)
Particulars of properties (Attach separate sheet if required)

N/A

10. संपत्ति / संपत्तियों का कुल मूल्य
Total value of property given

N/A

11. रिपोर्ट / अन्वेषण रिपोर्ट का संलग्न प्रमाण
Request Report / File case no. and

N/A

12. प्रथम सूचना विवरण (यदि आवश्यक हो तो अलग से पन्ना संलग्न करें)
First information contents (Attach separate sheet if required)

Report to be attached as Annexure A

INFORMATION

Available information further revealed that Shri B. P. Yadav and Shri Palash Yadav are managing the Prasad Education Trust, Lucknow which runs the Prasad Institute of Medical Science, Sara Shahzadi, Banthara, Kanpur Road, Lucknow. U.P. Information revealed that the aforesaid college is among 46 colleges who have been barred by the Government from admitting medical students for the forthcoming 2017-18 academic year on account of non-fulfilment of the required criteria.

Information further revealed that Shri B. P. Yadav and Shri Palash Yadav have been pursuing this matter by having regular meetings in New Delhi and had challenged the department in the Apex Court in Writ Petition (C) 442/2017. The Apex Court in W.P. (C) No. 411 of 2017 and connected writs vide its combined order dated 01st August 2017 had directed the Government to consider the materials on record already pertaining to the issue of confirmation or otherwise of the letter of permission granted to the petitioner colleges/institutions. In compliance thereof, the government afforded an opportunity of hearing to the petitioner college and thereafter passed a reasoned decision dated 10th August 2017 to debar the college from admitting fresh students for the 2 years 2017-18 and 2018-19 and also authorized MCI to encash the bank guarantee of Rs. 2 crores.

Information further revealed that Shri B. P. Yadav got in touch with Shri I. M. Qudus, Retd. Justice of the High Court of Odisha and Smt. Bhawana Pandey, N-7, G K-1, New Delhi, through Sh. Sudhir Giri of Venkateshwara Medical College, Mysore and entered into an agreement for getting the matter settled. Information further revealed that the above mentioned order of the government was immediately challenged in the ongoing hearing in the aforesaid petition in the Apex Court by the Prasad Education Trust.

Information further revealed that on the advice of Shri I. M. Qudus, the petition was withdrawn from the Apex Court and on 25.08.2017 Misc Bench 1987 of 2017 was filed by Prasad Education Trust in Allahabad High Court. The Allahabad Bench in its order dated 25.08.2017 directed that the petitioners' college shall not be debarred from the list of colleges notified for counselling till the next date of listing i.e. 31st August 2017. Further the encashment of Bank Guarantee was also stayed.

the next date of listing. It was further clarified that on the basis of the order, the petitioners shall have no right to claim any admission of the students.

Information further revealed that the MCI approached the Hon'ble Supreme Court by way of GIL 2014/2015 against the aforesaid order which was disposed off on 18 August 2017, on the respondents submitting that the college does not claim any benefit from the order passed by the High Court. Further, as the current order was being passed by the apex Court, the writ petition filed before the High Court shall be deemed to have been disposed of. The respondent was granted liberty to approach the Apex Court for further relief.

Information further revealed that Prasad Education Trust filed a Writ Petition (Civil) No. 107/2017 in the Apex Court. Shri B. P. Yadav in furtherance of the said conspiracy requested Shri I. M. Qudusi and Smt. Bhawana Pandey who assured to get the matter settled.

Shri Biswanath Agrawala is a private person, No. HIG 136, Phase-1, Kanari, Gurgaon, Haryana. Shri Biswanath Agrawala claimed very close contact with senior relevant public functionaries and assured that he would get the matter favourably settled. However, he demanded huge gratification for inducing the public servants by corrupt and illegal means in lieu of the aforesaid help.

Information further revealed that in pursuance of the aforesaid criminal conspiracy, Shri B. P. Yadav and Shri Palash Yadav along with Shri I. M. Qudusi, Smt. Bhawana Pandey, Sh. Sudhir Giri, are likely to meet Shri Biswanath Agrawala for delivering the agreed 'bribe/gratification' to Shri Biswanath Agrawala at 10th

The above mentioned information discloses commission of offences punishable under section 8 of the Prevention of Corruption Act, 1988 and section 173 B of the IPC against Shri I. M. Qudusi, Smt. Bhawana Pandey, Shri B. P. Yadav, Shri Palash Yadav, Sh. Sudhir Giri, Shri Biswanath Agrawala and other unknown public servants and private persons. Therefore, a Regular Case, is registered against Shri I. M. Qudusi, Smt. Bhawana Pandey, Shri B. P. Yadav, Shri Palash Yadav, Sh. Sudhir Giri, Shri Biswanath Agrawala and other unknown public servants.

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Page No. "A"

and private persons for the said offences and entrusted to Smt Neelam Singh DSP
CBI AC III New Delhi for investigation

[Signature]
(R Gopala Krishna Rao)
Superintendent of Police
CBI/AC.III/New Delhi

Endst. No. 3/10(A)/2017-AC.III/ 4565

Dated 19.09.2017

1. The Special Judge for CBI Cases, New Delhi
2. AD CBI New Delhi
3. HoZ/ACI-Q1 CBI New Delhi
4. Smt Neelam Singh DSP CBI AC III New Delhi

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13. कार्यवाही जो की गई : चूँकि उपरोक्त विवरण क्रमांक 2 में उल्लिखित धारा(ओं) के अंतर्गत घटने वाले अपराध को उद्घाटित किया है

Action taken: Since the above information reveals commission of offence(s) u/s as mentioned at Item No. 2

- (1) मामला पंजीकृत किया गया एवं जांच प्रारंभ हुआ अथवा
Registered the case and took up the investigation of

RC.10(A)/2017-AC.III registered.

- (2) निर्देशित (जांच अधिकारी का नाम)
Directed (Name of IO)

रेक. नं. जांच हेतु लिया गया
Rank No Took up for investigation

Smt. Neelam Singh

Dy. Supdt. of Police,

- (3) जांच से जांच के नाम पर
Refused investigation due to

संयोजक
or

N/A

- (4) पुलिस थाना को स्थानांतरित किया गया
Transferred to PS

जिला क्षेत्राधिकार के आधार पर
District on point of jurisdiction

N/A

अभियोगी / सूचनाकर्ता को प्र.म. पत्र पढ़ाकर / पढ़कर सुनाया गया, जिन्होंने सही-सही अभिलिखित होना स्वीकार किया। इसको तब तक अभियोगी / सूचनाकर्ता को नि:शुल्क प्रदान की गई।

FIR read over to the complainant/informant, admitted to be correctly recorded and a copy given to the complainant/informant, free of cost

पढ़ कर सुनाया व सही स्वीकृत होना पाया।

R O A C

14. अभियोगी / सूचनाकर्ता के हस्ताक्षर
Signature/Thumb impression
of the complainant/informant

थाना अधिकारी के हस्ताक्षर
Signature of Officer in-charge
Police Station

नाम / Name

(पद) / Rank

(R Gopala Krishna Rao)
Superintendent of Police
CBI, AC.III, New Delhi

15. न्यायालय को भेजने का दिनांक एवं समय
Date and time of despatch to the court

(प्रभारी अधिकारी के हस्ताक्षर तारीख सहित)

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FIRST INFORMATION REPORT
(Under Sec. 154 Cr.P.C.)

S.P.E.C.-II

Book No. 1064

Serial No. 11

1.

District	P.S.	YEAR	FIR No.	Dated
New Delhi	AC.III	2017	10(A)	19.9.2017

2. (1) Act: Sections:
 (2) Act: PC Act 1988 Sections: 8
 (3) Act: IPC Sections: 120-B
 (4) Other Acts & Sections
3. (a) Suspected Offences: Criminal conspiracy, taking gratification by corrupt or illegal means to influence a public servant.

(b) Day Date Time
 2017

(c) Information received at PS : Date

Entry No.	Date	Time
05	19.9.2017	5.00 PM

4. Type of information: Written/Oral

Source

5. Place of Occurrence

New Delhi

(a) Direction & Distance from PS : N/A

Beat No.

(b) Address: N/A

(c) Name of PS District

Source

6. Complainant/Informant

(a) Name

(b) Father's/Husband's Name

(c) Date of Birth

(d) Nationality

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(e) Passport No. _____ Date of Issue _____ Place of Issue _____

(f) Profession

(g) Address

7. Details of known/suspected/unknown accused with full particulars:

1. Shri I.M. Quddusi, Retd. Justice of the High Court of Odisha.
2. Smt. Bhawana Pandey R/o N-7, G.K.-1, New Delhi (Private Person)
3. Shri B.P. Yadav (Private Person)
4. Shri Palash Yadav (Private Person)
5. Shri Sudhir Giri (Private Person)
6. Shri Biswanath Agrawala R/o HIG-136, Phase-1, Kanan Vihar, Chandrashakerpur, Bhubaneshwar, Odisha (Private person)
7. Other unknown public servants and private persons

8. Reasons for delay in reporting by the complainant/informant

N/A

9. Particulars of properties stolen (attach separate sheet, if necessary)

N/A

10. Total value of property stolen

N/A

11. Inquest Report/U.D. case No., if any

N/A

12. First information contents (attach separate sheet, if required)

Separate sheet attached as Annexure 'A'

INFORMATION

A reliable information has been received that Shri B.P. Yadav and Shri Palash Yadav are managing the affairs of Prasad Education Trust, Lucknow, which runs the Prasad Institute of Medical Science, Sarai Shahzadi, Banthara, Kanpur Road, Lucknow, UP. Information revealed that the aforesaid college is among 46 colleges who have been barred by the Government from admitting medical students for the forthcoming 1 or 2 years because of substandard facilities and non fulfilment of the required criteria.

Information further revealed that Shri B.P. Yadav and Shri Palash Yadav have been pursuing this matter by having regular meetings in New Delhi and had challenged the debarment in the Apex Court in Writ Petition (C) No. 442/2017. The Apex Court in WP(C) No. 411 of 2017 and connected writs, vide its combined order dated 01st August, 2017, had directed the Government to consider the materials on record afresh, pertaining to the issue of confirmation or otherwise of the letter of permission granted to the petitioner colleges/institutions. In compliance thereof, the Government afforded an opportunity of hearing to the petitioner college and thereafter passed a reasoned decision dated 10th August, 2017 to debar the college from admitting fresh students for the 2 years 2017-18 and 2018-19 and also authorized the Medical Council of India (MCI) to encash the bank guarantee of Rs. 2 crores.

Information further revealed that Shri B.P. Yadav got in touch with Shri I.M. Quddusi, Retd. Justice of the High Court of Odisha and Smt. Bhawana Pandey r/o N-7, G.K. - 1, New Delhi, through Sh

Sudhir giri of Venkateshwara Medical College in Meerut and entered into criminal conspiracy for getting the matter settled. Information further revealed that the above mentioned order of the government was initially challenged in the ongoing hearing in the aforesaid petition in the Apex Court by the Prasad Education Trust.

Information further revealed that on the advice of Shri I.M. Quddusi, the petition was withdrawn from the Apex Court and on 25.08.2017, Misc Bench 19870 of 2017 was filed by Prasad Education Trust in Allahabad High Court. The Allahabad High Court passed an order directing that the petitioners' college shall not be delisted from the list of colleges notified for counseling till the next date of listing i.e. 31st August, 2017. Further the encashment of Bank Guarantee was also stayed till the next date of listing. It was further clarified that on the basis of the order, the petitioners shall have no right to claim any admission of the students.

Information further revealed that the MCI approached the Hon'ble Supreme Court by way of SLP No. 22427 of 2017 against the aforesaid order, which was disposed on 29th August, 2017 on the respondents submitting that the college does not claim any benefit from the order passed by the High Court. Further, as the current order was being passed by the Apex Court, the writ petition filed before the High Court shall be deemed to have been disposed of. The respondent was granted liberty to approach the Apex Court further in this regard.

Information further revealed that Prasad Education Trust filed a Writ Petition (Civil) No. 797/2017 in the Apex Court. Shri B.P. Yadav

in furtherance of the said conspiracy requested Shri I.M. Quddusi and Smt. Bhawana Pandey who assured to get the matter settled in the Apex Court through their contacts and they further engaged Shri Biswanath Agrawala, a private person, r/o HIG-136, Phase-1, Kanan Vihar, Chandrashakerpur, Bhubaneswar, Odisha for getting the matter settled in the Apex Court. Shri Biswanath Agrawala claimed very close contact with senior relevant public functionaries and assured that he would get the matter favourably settled. However, he demanded huge gratification for inducing the public servants by corrupt and illegal means in lieu of the aforesaid help.

Information further revealed that in pursuance of the aforesaid criminal conspiracy, Shri B.P. Yadav and Shri Palash Yadav along with Shri I.M. Quddusi, Smt. Bhawana pandey, Sh Sudhir Giri, are likely to meet Shri Biswanath Agrawala for delivering the agreed illegal gratification to Shri Biswanath Agrawala at Delhi shortly.

The above mentioned information discloses commission of offences punishable under section 8 of the Prevention of Corruption Act, 1988 and section 120-B of the IPC against Shri I.M. Quddusi, Smt. Bhawana Pandey, Shri B.P. Yadav, Shri Palash Yadav, Shri Sudhir Giri, Shri Biswanath Agrawala and other unknown public servants and private persons. Therefore, a Regular Case is registered against Shri I.M. Quddusi, Smt. Bhawana Pandey, Shri B.P. Yadav, Shri Palash Yadav, Shri Sudhir Giri, Shri Biswanath Agrawala and other unknown public servants and private persons for the said offences and entrusted to Smt. Neelam Singh, DSP, CBI, AC. III, New Delhi for investigation.

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Sd/-
(R Gopala Krishna Rao)
Superintendent of Police
CBI/AC.III/New Delhi.

Endst. No. 3/10(A)/2017-AC.III/4565 dated 19.09.2017

1. The Special Judge of CBI Cases, Tis Hazari, Delhi.
2. AD, CBI, New Delhi.
3. HoZ/AC (HQ), CBI, New Delhi.
4. Smt. Neelam Singh, DSP, CBI, AC III, New Delhi.

13. Action taken: Since the above information reveals
commission

of offence(s) u/S as mentioned at item No. 2.

(1) Registered the case and took up the investigation or

(2) Directed (Name of IO) Rank No. Took up for
Investigation

Smt. Neelam Singh Dy. Supdt of Police

(3) Refused investigation due to: Or

(4) Transferred to PS District N/A
On point of jurisdiction

N/A

FIR read over to the complainant/informant, admitted to be
correctly recorded and a copy give to the complainant/
informant, free of cost.

R.O.A.C.

14. Signature/Thump impression Signature of Officer in-charge
Of the complainant/informant Police station

Sd/-
Name: (R Gopala Krishna Rao)
Rank: Superintendent of Police
CBI, AC.III, New Delhi.

15. Date and time of dispatch to the court

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ITEM NO.14

COURT NO.2

SECTION PIL-W

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

Writ Petition(s) (Criminal) No(s). 176/2017

KAMINI JAISWAL

Petitioner(s)

VERSUS

UNION OF INDIA & ANR.

Respondent(s)

Date : 09-11-2017 This petition was called on for hearing at
12.45 p.m. today.

CORAM :

HON'BLE MR. JUSTICE J. CHELAMESWAR
HON'BLE MR. JUSTICE S. ABDUL NAZEER

For Petitioner(s) Mr. Dushyant Dave, Sr. Adv.
Mr. Rohit Kumar Singh, Adv.
Mr. Abhimanue Shrestha, AOR
Ms. Rani Mishra, Adv.
Mr. Jatinder Pal Singh, Adv.
Ms. Shruti Dutt, Adv.

For Respondent(s)

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

Issue notice.

Dasti, in addition, is permitted.

This matter was taken on Board upon being mentioned in the morning at 10.30 a.m. On an inquiry from the Bench regarding the urgency in the matter, it was brought to the notice of the Court that a certain case is registered by the Central Bureau of Investigation against a retired High Court Judge of this country containing serious allegations implicating the said Judge, shown as accused in the FIR No. 10(A) under Section 8 and Section 120 B of the Prevention of Corruption Act, 1988. The FIR contained certain allegations which are disturbing. The allegations pertain

Valid Unknown

to the functioning of this Court. On perusal of the FIR which was placed before us in the morning, we thought it necessary and proper to take up the matter immediately.

Therefore, permission was granted to move the matter today at 12.45 p.m. before this Court. Accordingly the papers are placed before us at 12.45 p.m.

Mr. Dushyant Dave, learned senior counsel makes submissions highlighting various aspects of the matter, the details of which we do not propose to make in this order. But, at the same time, we are also duty bound to place the developments that when the hearing of the matter was in progress, the Officer of the Registry placed a xerox copy of the proceedings purportedly issued by Hon'ble the Chief Justice of India, a copy of which is annexed to this Order.

Having regard to the totality of the circumstances, we deem it appropriate that this matter be heard by the Constitution Bench of the first five Judges in the order of seniority of this Court. Having regard to the importance of the matter, we also deem it appropriate that the matter be listed on Monday, the 13th November, 2017.

Having regard to the nature of the case, it is also necessary to make an interim order regarding the custody of the case diary and all the materials collected by the second respondent during the course of the investigation of the above-mentioned crime. We, therefore, deem it appropriate to direct the second respondent to produce the entire material collected by the CBI in the course of

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the investigation of the crime and keep it in a sealed cover and produce the same before the Constitution Bench on Monday, the 13th November, 2017.

Communicate this order to the second respondent forthwith.

(DEEPAK MANSUKHANI)
AR CUM PS

(RAJINDER KAUR)
BRANCH OFFICER

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SUBMITTED TO HON'BLE THE CHIEF JUSTICE OF INDIA

As directed, this note is submitted seeking Your Lordship's direction regarding listing of the matters which after oral mentioning are required to be listed on the same day.

Respectfully, it is submitted that oral mentioning is done before the Hon'ble Chief Justice of India. In case Hon'ble the Chief Justice of India is sitting in the Constitution Bench oral mentioning is permitted before the Court presided over by the next Hon'ble Senior Judge. In the recent past when Your Lordship has presided over a Constitution Bench, upon oral mentioning directions have been issued to list the matter(s) before the appropriate Bench on the same day. In some cases it was found that the Bench before which the matter was to be listed was unavailable and in some cases fresh directions were required to be sought from Hon'ble the Chief Justice of India. In these cases due to short time available for seeking directions from Hon'ble the Chief Justice of India as also due to prior appointments of Hon'ble the Chief Justice of India during the intervening period, it became difficult to seek directions. Your Lordship has been pleased to direct that in future whenever such directions are issued, the matter(s) be listed before the Bench presided over by Hon'ble the Chief Justice of India at 3:00 p.m. or at such time as may be indicated by Your Lordship, on the same day or before such Bench as directed by the Hon'ble Chief Justice of India.

In view of the above, directions of Your Lordship are solicited on the following:-

(A) When Hon'ble the Chief Justice of India is in the Constitution Bench and any matter(s) upon oral mentioning is directed to be listed on the same day before the appropriate Bench, such matter(s) be listed, with an appropriate office report, before the Bench presided over by Hon'ble the Chief Justice of India on the same day at 3:00 p.m. or at such time as may be indicated by Hon'ble the Chief Justice of India or before such Bench as directed by the Hon'ble Chief Justice of India.

OR

(B) Any other direction as Your Lordship may deem fit to pass.

06.11.17
Kapil Mehta
Registrar J-II

Singh
Chirag Bhanu Singh
Registrar J-I

Ld. Secretary General

Hon'ble the Chief Justice of India

Respectfully submitted on A & B above
on 6.11.17

6-11-17

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IN THE COURT OF THE MAGISTRATE FIRST CLASS, CUTTACK.

Lease Case No. 583 of 1979.

AFFIDAVIT.

I, Sri Deepak Misra, aged _____ years, son of
Sri Raghunath Misra, Tulsipur, Cuttack, P.S.
Bolangir, District- Cuttack, do hereby solemnly affirm
and state as follows :-

1. That I am Brahmin by caste and the extent
of landed properties held by me including all the
members of my family is nil.
2. I am the owner of the properties
in case No. 583 of 1979.
3. That for the first time I have applied for
sanction of the lease properties.
4. That the facts stated above are true to the
best of my knowledge and belief.

Identified by
H

Deponent.

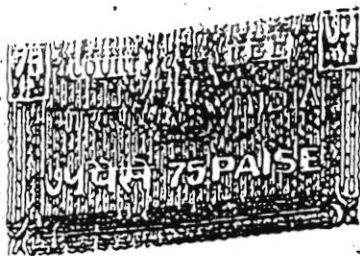
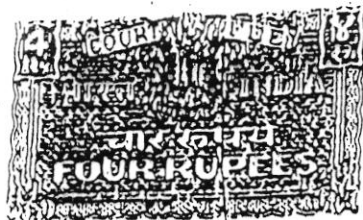
sworn at.

The above named deponent being identified by _____
_____ Magistrate, Cuttack,
solemnly affirms and states before me that the facts
stated above are true to the best of his knowledge
and belief.



Magistrate 1st. Class,
Cuttack.

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FORM No. J
APPLICATION FOR SETTLEMENT OF LAND

To: The Tahsildar, Samsi, Cuttack

1. Name of the applicant. Sri. Deepak Mishra
2. Father's name Sri. Kishan Chandra Mishra
3. (a) Present residential address. C/o Sri Rangamati Mishra, Talsipat, Cuttack
- (b) Permanent home address. Talsipat, Dist. Puri, if any.
4. Caste whether Sch. Caste/Tribal Others No.
5. Number of family members Six
6. Whether belongs to joint family. Joint family member of a number of single family.
7. Annual Income.
 - (a) From Agriculture
 - (b) From other sources Rs. 1000/- on personal income
8. Extent of land owned by him in his name or in the name of other member of his family. Nil in own name. About 15 acres of family land.
9. Occupations. Farmer.
10. Detailed particulars of land applied for.
 - (a) Name of the village P. J. Patra Pura Mahara
 - (b) Holding No. if any
 - (c) Plot No. if any
 - (d) Land applied for. Interested in making a small pond on which the land should be used for agriculture.

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7- 30/12/20

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 ৪. ১৯৪৭ খ্রিঃ ১০/১১/৪৭
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 ৮. ১৯৪৭ খ্রিঃ ১০/১১/৪৭
 ৯. ১৯৪৭ খ্রিঃ ১০/১১/৪৭
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1. 1947, 1948, 1949

10/10/1917

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ବିଶାଳ ପ୍ରସ୍ତର

ନିକଟରେ ପୋଲିସ୍ ଥାନା ବସିବ

ମାତ୍ର ଶାଳା

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Annexure - 01

HIGHER SUB. C. NAVAL AND DISTRICT MAGISTRATE, CUTTACK

ALL INFORMATION CONTAINED HEREIN IS UNCLASSIFIED

DATE 01/01/2014 BY 1000

The Govt. Land Settlement Act, 1962

AND

In the matter of

S. Late Venu, son of Durgak Mishra,
son of Smt. Radhanath Mishra,
at, Durgak Mishra, Block, P.O.

Versus

1. This is to certify that the order of the District Magistrate, Cuttack, dated 11.11.79, in the matter of S. Late Venu, son of Durgak Mishra, son of Smt. Radhanath Mishra, at, Durgak Mishra, Block, P.O., is hereby confirmed.

2. The District Magistrate, Cuttack, has directed the order of the District Magistrate, Cuttack, dated 11.11.79, in the matter of S. Late Venu, son of Durgak Mishra, son of Smt. Radhanath Mishra, at, Durgak Mishra, Block, P.O., is hereby confirmed.

3. The District Magistrate, Cuttack, has directed the order of the District Magistrate, Cuttack, dated 11.11.79, in the matter of S. Late Venu, son of Durgak Mishra, son of Smt. Radhanath Mishra, at, Durgak Mishra, Block, P.O., is hereby confirmed.

[illegible]

74. The case is not about that Tammara has given an order to effect so that he leave the DPT without conditions and therefore, he should be asked to leave home by 27/05. 00 hours why leave should not be cancelled.

The instructed Haverhill Inspector not to realize that the license (O.P.) The crew records were not shown if any show could was issued or any instructions issued to the Inspector not to realize that no action was taken until the (or cancellation of) license. The (theft) of the (theft) of the

NOTICE of land on 39.13.79 and also on 17.8.80
cause on 17.8.80 was not on the map and did not have any effect on the map. It was not
recorded to the map and had no effect on the map.

SECRET

THE UNIVERSITY OF CHICAGO
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DEPARTMENT OF CHEMISTRY
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BEFORE SHRI C. NAYAK, ADDL. DISTRICT MAGISTRATE:
CUTTACK

Revision No. 238 of 1984

In the matter of:

The Orissa Govt. Land Settlement Act, 1962

And

In the matter of:

State Vr. Sri Deepak Mishra,

S/o Sri Raghunath Mishra

At /R.O: Danpur, Dist. Puri..... Opp. Party.

ORDER

1. This suomoto revision u/S 7(A) 3 of the Orissa Govt. Land Settlement Act, 1962 is directed against the order dated 30.11.79 of Tahasildar, Cuttack who in lease case 500 of 79 has settled Govt. land with an area of Ac. 2-00 (two acres) in village, Bidyadharpur with Opp. Party.

2. The lease case record was examined and several defects were noticed. O.P. was asked to show cause why the settlement of land should not be cancelled. The notice calling upon the Opp. Party to show cause was duly served. The O.P. did not appear nor showed cause in response to the show cause notice. Several dates were fixed for hearing. After five dates, the Opp. Party appeared through his lawyer. He showed cause and was heard.

3. Opp. Party in his application without date and without giving particulars of land applied for settlement of about 3 acres of land in village - Bidyadharpur on the ground that he was interested in raising a farm. He gave his present address at Tulasipur, Cuttack town and permanent residential address at Danapur, Puri District. He stated that he had a joint family of six members and held no land in his name, but about ten acres held by his family members. His annual income from agriculture was Nil and from other sources Rs. 3,000/- (Three thousand) which was termed as personal income. Against the column occupation he stated that he was an Advocate practicing. The application does not bear the signature of Tahasildar or any of his office staff. It is strange that a recommendation was given by the local Revenue Inspector dtd. 7.8.79 on the reverse of the lease application which reads "The applicant may be given Ac.3-00 for cultivation".

4. A lease case was started on 20.9.79 and the case was assigned No. 500 of 1979. The first order stated that Tahasildar perused the report of Revenue Inspector on the petition of Sri Deepak Misra and that applicant had applied for lease of land with an area of Ac. 2-00 from plot No. 34 of Khata No. 300 of Bidyadharpur. In fact, the applicant had applied for lease of about three acres of land in village Bidyadharpur without furnishing the Khata and plot No. of the Govt. land he intended to take on lease. Tahasildar ordered to

issue notice inviting objection and give a copy of the notice to local Grampanchayat. No date was fixed for the case to take up as is the usual procedure in a lease-proceeding.

5. On 20.9.79 an affidavit sworn in before Magistrate First Class was filed by the Opp. Party before Tahasildar stating that extent of land held by him and his family members was Nil, that he was in possession of the land relating to lease case No. 500 of 1979. This affidavit is dt. 19.9.79. The case was registered on 20.9.79 and number was assigned on that date. It is really intriguing how the applicant know the case number on 19.9.79. The statement made in this affidavit are materially different from that made in lease application. In lease application, Opp. Party stated that his family hold 10 acres of land while in affidavit he stated that land held by his family was Nil. In lease application, the Opp. Party stated that he wanted about three acres of land and could not furnish khata and plot No. of the land applied for lease whereas in Affidavit he stated that he was already in possession of the land. The Annexure-I is the copy of the lease application and Annexure-II is the copy of the affidavit.

6. Tahasildar issued order dated 20.9.79 for issue of notice inviting public objection and to give a copy of the notice to the Grampanchayat in relation to Khata No. 330 and plot No. 34. The notice was issued on 20.9.79. it contains name of

applicant's father as Raghunath Misra and Khata No. 330 and plot no. 34. The address as given as Tulasipur, Cuttack.

The notice as published in the village on 4.11.79 and the Nazir received it on 30.11.79. On 30.11.79, Tahasildar passed final order settling Ac.2.00 from plot no. 34 treating the applicant as a landless person in accordance with G.O. No. 60792 dt. 20.10.72. Patta was issued on 30.11.79. On 14.1.80, order was passed for correction of Record of Right and issue of intimation slip as appeal period was over. On 18.1.80, the R.O.R. was corrected. But by this time, curiously patta had already been issued on 30.11.79.

There is a map of the leased out land according to which area the demarcated is Ac.2-00 from plot no. 30 in area Ac. 1.59 and plot No. 34 in area Ac. 0-41 total Ac. 2-00. But patta was issued for plot no. 34 in extent Ac. 2-00 only. There is nothing on record to explain this discrepancy. The basis of settlement must be held to be wrong.

7. The case record shows that Tahasildar has passed an order on 17.5.80 that is learnt that O.P. was not landless and therefore, he should be asked to show cause by 27.5.80 why lease should not be cancelled. He instructed Revenue Inspector not to realize rent from the lessee (O.P.). The case record does not show if any show cause was issued or any instructions issued to Revenue Inspector not to realize rent.

No action was taken until 1984 for cancellation of lease. The Tahasildar who passed order for settlement of land on 30.11.79 and also orders to show cause on 17.5.80 was relieved on transfer on 17.9.80 he did not take any action to review his own order or submit the case record to higher authorities for cancellation of lease. This is clear that order for issue of show cause notice was recorded after a long time, may be, after his relief to save himself from the impending disciplinary action.

8. It is an admitted fact that land has been settled with O.P. as he was a landless person in accordance with G.O. No. 60792 dt. 20.10.72. This G.O. specifically provides vide paragraph 4 that a landless person is one who and his family members do not hold land more than two acres and who have no profitable means of livelihood other than agriculture. It is stipulated in the said G.O. that land upto a limit of Ac. 2-00 could be settled and the land already held by the family of the applicant will be computed for the purpose of settlement. To give an example if the family of the applicant has one acre of land, he can at best be settled with one acre of Govt land to reach the limit of Ac. 2-00. Government have emphasized in G.O. No. 10699 dt.6.4.74 how to identify person who have profitable means of livelihood other than agriculture. According to the statement of applicant in his lease application, he had no land in his name and the family

consisting six persons held Ac. 10-00 and has income from sources other than agriculture, presumably from legal practice was Rs. 3,000/- per annum. The Tahasildar should have caused an inquiry as to the eligibility of the applicant for settlement of land. The usual practice is that Revenue Inspector is asked to inquire and report. Tahasildar himself can take up inquiry. In this case, O.P. had stated that he was a resident of Danapur in Puri District and hold ten acres of land without giving details of land such as location, khata, plot no. etc. Tahasildar should have asked Tahasildar Danapur to inquire and report on the extent of land and other sources of income of the of the family of the O.P. The Revenue Inspector Ramdaspur in whose jurisdiction the village Bidyadharpuris, was asked to inquire and report. He has simply recommended in one sentence that applicant may be given Ac. 2-00 of land for cultivation. Therefore, no inquiry has been taken up which amounts to deliberate suppression of materials fact which are necessary to decide the of eligibility of a person for settlement of land for agricultural purpose. The explanation of O.P. that the satisfaction of Tahasildar that he was landless person was enough, is not acceptable.

Therefore, I am satisfied that Opp. Party was not a landless person and as such he was not eligible for settlement

of Govt. land for agricultural purpose. On this ground alone, the lease is liable to be cancelled.

10. Admittedly, O.P. is not a resident of village Bidyadharpur. Govt have powers given under the Act and Rules to reserve Govt. land for various purposes and to determine the limit upto which land could be reserved. According to G.O. No. 60792 dt. 20.10.72 of which mention has been made by the Tahasildar in his final order, after meeting the requirements of landless persons residing in the village in which land is situated, the requirement, of landless persons of the neighbouring village cold be considered. Tahasildar has not given a finding to this effect. He has, thus, violated the Govt. instructions.

11. As laid down in G.O. No. 4810 (illegible) dt. 20.10.66, the Tahasildar must draw up reservation proceeding of the village indicating reservation of land for various public purposes such as (illegible), village for st, communal purposes, Development purposes, future house site, play ground etc. This is necessary in order to arrive at the extent of Govt. land available for settlement with the individuals. The records do not show that the Tahasildar had drawn up reservation proceeding of the village or if he had, it was taken into consideration by him before settlement of this land with Opp. Party. Thus, the Tahasildar did not take the public interest to

consideration while settling the Govt. land with a private person.

12. Under section 3(2) of the O.G.L.S. Act 1962 the Tahasildar has to reserve 70% of the available leasable land in a village for settlement with the scheduled tribe and scheduled caste persons in proportion to their respective population in the village and the remaining land with other persons not belonging to the aforesaid categories. This statutory provision to safeguard the interest of the weaker section of the community has been ignored by the Tahasildar. The Tahasildar has not recorded a finding that he has reserved the land for the S.C./S.T. residents of the village.

13. Under section 3(3) of the O.G.L.S. Act, the Tahasildar will settle land on the basis of the order that the Tahasildar has settled the land with O.P. according to the order of priority laid down under the Act.

14. As per rule 3 of the O.G.L.S. Rules, 1974 proclamation inviting public objection shall be published and the said proclamation shall contain particulars of the applicant and particulars of the land applied for such as name of the village, khata, plot, status, kism of land etc. The proclamation shall be published by beat of drum and a copy of the same be affixed in Tahasil office board. A copy of notice shall be sent to the concerned Grampanchayat. The proclamation notice is

not numbered and dated. Kisam of the land which is very vital to identify the land by the general public and Grampanchayat has not be deliberately furnished. The records do not show if the notice was published by beat of drum and it was affixed in the notice board of the Tahasil office. The concerned Panchayat has not received notice, notice was served on the Panchayat through affixture. It cannot be believed that Sarpanch after going through the notice declined to receive the same. It is, therefore, proved that proclamation has not been published properly and adequately according to law.

15. It appears from the records that the land has been settled free of salami. But it was incumbent on the part of the Tahasildar to enquire in detail to the economic condition of the lessee, i.e the extent of land held by the family and whether he had any profitable means of livelihood. Such an enquiry has not been made.

16. The O.P.'s contention that this court has no jurisdiction and exercise of suomoto powers is arbitrary, is not tenable on the ground that specific powers have been vested under the law to take up suomoto proceedings on any of the grounds set out therein.

17. I am satisfied that the lessee has obtained lease by misrepresentation and fraud. The Tahasildar has committed material irregularity in the procedure for which the public

interest has suffered. It is common knowledge that many poor villagers, particularly, weaker section of the community have no means of livelihood and the land available in a village should be made available to them to enable them to earn their livelihood and give them a sense of economic security which is the declared policy of the State.

18. I, therefore, set aside the order passed by the Tahasildar in settling the Govt. land with O.P. Consequently the patta is cancelled. Tahasildar, Cuttack is hereby ordered to make necessary correction of the R.O.R. and other records maintained in his office and in the office of the concerned Revenue Inspector and take possession of the land.

Pronounced in the open court this day the 11th February, 1985.

Sd/-
(C. Nayak)
Addl. Dist. Magistrate, Cuttack

Land Schedule:

Bidyadharpur,

Khata No. 300

Plot No. 34,

Area - Ac.2 (two acres)

Typed to my dictation and

Corrected by me.

ADM

W.P.(C) No. 4136/09 137

IN THE HON'BLE HIGH COURT OF ORISSA
AT CUTTACK

FINAL STATUS REPORT IN CBI/SCB/KOLKATA
CASE NO. PE 1/S/2012-Kol

Introduction

PE.1(S)/2012/CBI/SCB/Kolkata was registered on the basis of orders dated 18.01.2012 of Hon'ble High Court of Orissa, Cuttack passed in Writ Petition (Crl) No.4136 of 2009, filed by one Chittaranjan Mohanty, resident of Plot No.2-F/854, Sector-XI, Adarsh Nagar, Abhinab Bidanasi Project Area, CDA, Cuttack wherein the petitioner had initially sought for direction to the Cuttack Development Authority and Cuttack Municipal Corporation for constructing a wide road of 120 feet on the west side of Petanala behind Rotary Eye Hospital up to end of Sector 10 of Abhinab Bidanasi Project Area, C.D.A., Cuttack for better traffic management.

That an affidavit was filed by the Executive Engineer, Cuttack, R&B Division stating therein that lands over which the road proposed to be constructed by the side of Petanala from Satichaura/Ashiwini Hospital to Sector 10 of CDA Abhinaba Bidanasi Housing Project Area, have been unauthorisedly encroached by several persons, and thus, unless the unauthorised encroachments were removed and encroachment free lands were made available, the proposed road cannot be constructed. The detailed survey and plan were prepared by the State Survey Department. The Hon'ble High Court directed the State to furnish the details of unauthorised construction in the area in question so also the detail of the unauthorised occupants and the recognised basti.

3. That the Hon'ble High Court, in its order dated 17.11.2011 in Writ Petition (C) No. 4136/2009, issued directions to the Secretary, Revenue and Public Works Department and other officials for demarcation of the land and removal of encroachment so that the area where the road in question was to be constructed was free within a period of fifteen days.

4. That in pursuance to the above order, as the authorized persons demarcated the land for the construction of road, one Madhabanand Prusty and 2 others who were resident of the area where the land was demarcated for the proposed construction of road filed a Writ Petition vide WP (C) No.31318/2011, seeking directions from the Hon'ble High Court of Orissa, Cuttack for not evicting them for the construction of road as they will be deprived of the lands on the proposed road as well as other lands which according to them were in their occupation for a long period.

5. That Shri Chittaranjan Mohanty, petitioner of WP (Crl) no. 4126/2009 filed another application registered as M.C. No. 19330 of 2011 wherein he alleged that land mafias and land grabbers have deliberately dismantled the concrete pillars put up by the R. & B Department on both side of the demarcated land and are trying to stall the road work and some land mafias are also instigating the unauthorized encroachers not to vacate the lands in their possession. It was also alleged that major portion of the lands in B. danasi belonging to the Govt have been sold by the land mafias to needy persons at a very high rate and huge extent of land in the area has been unauthorisedly occupied by several persons and the land mafias are in total control over such lands. That apart, Govt. lands in the area have been recorded illegally and

forged documents have been created by the mafias and Revenue officials are involved in creation of such forged land records. Accordingly, the petitioner prayed for direction to CBI to enquire and investigate into the matter. It was submitted by the advocate on behalf of the petitioner during the hearing that encroachment of Govt. land has not been made by the real poor, landless or needy persons but by land mafias and land grabbers, who have in an organized way grabbed the Govt. lands and sold the same to a large number of persons at a very high rate as a result of which poor and needy persons have become the victims at the hands of such mafias.

6. That subsequently, Madhabananda Prusty and 2 others filed an application registered as M.C. No. 198/2012 to allow them to intervene in the WP (C) No. 4136/2009 on the ground that they would be affected by the road proposed to be constructed in terms of the direction of Hon'ble High Court on the land which is in their occupation for a long period. The prayer for intervention was allowed by the Hon'ble Court.

7. That considering the petition of Chitraranjan Mohanty filed in WP(C) No.4136/2009 and M.C. No.198/2012, the Hon'ble High Court of Orissa on 18.01.2012 directed CBI, Special Crime Branch, Kolkata to enquire and investigate into the following aspects:

- i) Circumstances leading to occupation of the Govt. lands and whether there is any transaction made for occupation of the lands by the unauthorised occupants with unscrupulous persons or manipulation of Govt. records?
- ii) Whether any Govt. officials/public servants or private persons are involved in unauthorised encroachment/occupation of the Govt. lands and deal made therefor?
- iii) The persons claiming to be owners of the Govt. lands and the manner in which they occupy such lands shall be enquired into.

iv) The CDI shall also examine the culpability of the persons and/or public servants in the land deal and in case the CBI finds any prima facie case, it will be open to them to institute cases against such persons/public servants in accordance with law.

v) The CBI shall submit periodical reports before this Court regarding the progress made in the investigation.

8. That on the same date i.e. 18.01.2012 in- WP (C) No. 31318/2011 the Hon'ble High Court vide another order issued directions to the CBI, Special Crime Branch, Kolkata that apart from the investigation as directed in WP(C) No.4136/2009, the CBI Authorities should also enquire and investigate into the following-

i) Whether the petitioners are in actual possession of the land?

ii) Whether the acquisition of the rights of the petitioners are legal or based on any fraudulent transactions?

iii) Whether there is any fraud or fraudulent deals made between the petitioners and any official of the Government?

9. Based on the two separate orders of the Hon'ble High Court, the CBI had registered two Preliminary Enquiries as detailed below:

(a) PE 1(S)/2011 for probing into the alleged unauthorised encroachment of entire Government Land at Bidanasi Area of Cuttack District comprising of 13 mouzas viz. Bidyadharpur, Bentakarpada, Ramgarh, Tangarhuda, Brajabiharipur and Unit I to Unit 8.

(b) PE 2(S)/2012 for probing into the encroachment made by 149 encroachers on the Petanai Side of Bidanasi Area in the Bidyadharpur and Bentakarpada Mouza where the proposed road connecting Ashwani Hospital, Sati Chaura to Sector X CDA was to be constructed.

Result of Enquiry of PE. 2(S)/2012:

10. That enquiry of PE.2/S/12-Kol has since been completed and a Status Report has already been filed in the Hon'ble High Court of Orissa informing therein that out of the 149 occupants found residing on the

13. Lease Case No.587/1979

155. In this case, the applicant Sri Krishna Chandra Nanda, son of Late Handibandhu Nanda, resident of Srinibasapur, P.O.-Banpur, Dist.-Puri was leased out 2.000 acres of land vide khata No.330, plot No.34 of Mouza-Bidyadharpur on dt.30.11.1979 by the then Tahasildar, Cuttack. This matter was reviewed by the Additional District Magistrate, Cuttack vide revision No.236 of 1984 who vide his order dt.11.02.1985, straight way set-aside the order passed by the Tahasildar in leasing out the land in favour of Sri Krishna Chandra Nanda. The Tahasildar, Cuttack was directed to make necessary correction of the R.O.R. and other records maintained in his office and the concerned Revenue Inspector was also directed to take possession of the land. However, effect to the aforesaid order was not given till 06.01.2012 and the ROR was corrected after another order was passed by the Tahasildar on 06.01.2012.

 14. Lease Case No.588/79

156. In this case, Sri Dipak Mishra S/o Raghunath Mishra, Vill-Fulsipur, P.O. - Labagh, Cuttack & permanent R/o, Banpur, Puri was sanctioned 2 acres of land by the then Tahasildar Mr. A.A.Khan on 30.11.1979 at Plot No.34, Khata No.330, Mouza - Bidyadharpur.

The allotment order of Tahasildar was cancelled by ADM Cuttack vide Order 11.02.1985. But the record was corrected only on 06.01.12 as per the order passed by the Tahasildar, Cuttack only after 06.01.2012.

20. Lease case No.721 of 1979

157. In this case, Smt. Kumadani Das C/o. Sh. Krishna Chandra Das of Srinibasapur, Cuttack, was settled Govt. land of 104 dec. in Khata No 330

the note. However, from the note dated 03.05.1986, it is revealed that, the Collector had given sanction of 3.000 acre of land from Mouza-Bidyadharpur. The connecting papers are not available in the file, as a result of which it is difficult to ascertain the reason for re-sanction of 3.000 of land from the same Mouza. Further, from the patta form issued to G.C. Lenka on 03.11.1981 reveals that, Sri G.C. Lenka was a Commandant in C.I.S.F., Rourkela. Even from the khatiyani (ROR), it is revealed that, 3.000 acre of land in Mouza-Bidyadharpur stands recorded in the name of G.C. Lenka.

29. Lease Case No. 338/1981

In this case, the application, report of R.I. entire orders-sheet of the Tahasildar regarding request submitted by S.C. Mahalik, and subsequent settlement of land in his favour by the Tahasildar is not available in the file. The file only contains the patta form issued by the Tahasildar and R.O.P. As per the order sheet dt.15.05.1985, a representation has been made to the Collector, Cuttack by S.C. Mahalik relating to allotment of land from 3 acres to Ac.0.50. The Collector, Cuttack vide his order No.2499, dt.15.04.1985 has confirmed the allotment of only Ac.0.50 in favour of S. Mahalik. The Tahasildar had further ordered that, the remaining land of 2.50 acres may be kept under the Govt. control. Enquiry has revealed that as per Khatiyani the land of Ac.0.50 Dec was recorded in the name of Shri S.C. Mahalik who subsequently had sold all the land leased out to him.



Irregularities noticed in the sanction of lease relating to Bidyadharpur Mouiza

67. The following irregularities have been noticed in the grant of lease in the lease cases of Bidyadharpur Mouiza.

(a) In Lease Case No.300/77 relating to Prafulla Behera who has been settled with 1.38 acres of government land, Mr. J.A.Khan the then Tahasildar who had sanctioned lease had found that the applicant was not landless and on 17.05.80 directed for issuance of show cause notice for cancellation of lease but no show cause notice was subsequently issued and the directions remained inoperative, as a result the lease had applications recorded in the name of Shri Prafulla Behera.

(b) The ADM (Revenue) had cancelled a number of lease cases but the records were corrected only after 6.1.12. In some cases the directions for correction of ROR has not been marked to anyone. The non correction of records has resulted in the sale of the cancelled government land and also occupation by the cancelled lease holders. In one Lease Case 403/79 (Sadhu Charan Mohanty), it is observed that the cancelled lease holder has been occupying the leased land and paying rent regularly. Similar cases cannot be ruled out.

(c) The ADM (Revenue) has cancelled most of the lease cases on the ground of fraud and misrepresentation but no action against the concerned Revenue Staff is available.

(d) In Lease Case No.233/78, the ADM(R) had asked for filing of appeal by the Sub Collector but no action seems to have been taken.

(e) In some lease case files, affidavits are not available and also in some cases, applications and RI reports are not available.

(f) In Lease Case No.1469/78, lease was sanctioned to a Tahasildar (Gazetted Officer) which was subsequently cancelled by the ADM(R).

(g) In Lease Case No.1650/78, source of income has not been mentioned properly.

(h) In Lease Cases 585/79, 586/79 & 587/79, lease has been sanctioned in an irregular manner.

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examined. Around 2907 occupants were examined and documents in the form of RORs, Sale Deeds, Electricity Bills, Voter Cards, Encroachment notices collected from them were scrutinised.

93. Following is the summary of findings based on scrutiny of documents produced by the occupants of the houses surveyed during the enquiry.

1. Bidyadharpur:

94. The Settlement Operations of this Mouza was conducted from 1964 and settlement ROR was published in 1973. The details of Government land in the aforesaid mouza which comes under the Bidanasi Triangle is as under:-

Sl. No.	Khat No.	Plot No.	Area
	330	3	Ac. 42.72
		11	Ac. 2.72
		10	Ac. 2.75
		12	Ac. 17.55 (P).
	431	1	Ac. 77.65 (P)
	321	6/1838	Ac. 16.42
		6/1841	Ac. 0.92
		4/1844	Ac. 2.38
		4/1842	Ac. 2.38
Total	3	9 plots	Ac. 165.470

95. During survey of this Mouza, 1081 nos. of houses/places were surveyed. Plot No. 6 which was a private plot has also been surveyed as the same has been alienated to the Cuttack Development Authority. The detailed survey report incorporating therein the plot no, quantum of land occupied, name of the occupant, type of construction noticed, amenities available like electricity, voter cards, house plate nos., water, ration cards, BPL & APL cards etc. was prepared which is enclosed separately.

in Annexure "I". Out of 1081 nos. of houses/places surveyed, it is revealed that 831 occupants as per Annexure "A" enclosed were found to be encroachers in occupation of government land without any valid documents:

97. As regards the status of the remaining occupants it is revealed that 243 nos. of occupants are in possession of Sale Deeds/ROR etc, out of which 18 occupants have also encroached upon government land in addition to the land possessed by them. During survey 17 occupants who were occupying land despite their lease being cancelled were also identified. The status of 37 occupants are not known as the land is lying vacant and their owners could not be located.

Bentakarpada:

98. The Settlement Operations of this Mouza was last concluded in 1973 and Settlement Records of Rights (ROR) were published. Thereafter from 1978 Consolidation operations were started and Consolidation ROR was published in 1983. The details of Government land in the aforesaid mouza which comes under the Bidanasi Triangle is as under:

Sl. No.	Khata No.	Plot No	Area
	56	1	A0.48 dec
		2	A0.15
		3	A0.33
		4	A0.89
		5	A0.50
		6	A0.84
		9	A0.15
		10	A0.54
		11	A0.05
		12	A0.22

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	13	A0.13
	14	A0.12
	17	A0.20
	18	A0.13
	19	A0.24
	20	A0.65
	22	A1.00
	24	A0.03
	25	A0.41
	26	A0.15
	28	A0.52
	29	A0.28
	30	A1.34
	32	A0.81
	33	A4.30
	34	A0.02
	35	A0.12
	39	A0.21
	43	A0.05
	44	A0.16
	45	A0.04
	47	A0.18
	48	A0.16
	49	A0.17
	50	A0.18
	51	A0.13
	52	A1.12
	53	A0.41
	54	A1.76
	55	A4.80
57	59	A5.70 (Nala)
58	16	A0.06
	31	A0.50
	36	A0.05
50	41	A1.00
Total	4	45

133. Enquiry has thus revealed that encroachments have not come up overnight but encroachment had occurred over a period of time which got momentum after the formation of the Bidanasi Triangle Project in 1963 and the acquisition of land for Cuttack Development Authority (CDA) in 1983 & 1984. Once notification for acquisition of land for CDA was issued, the encroachment of land by the local villagers of Bidanasi intensified and due to their local influence and physical presence they were able to sell the encroached land to the needy persons on payment. The CDA on their part could not take possession of the notified land for years together, resulting in escalation in the payment of compensation to the private land holders and rampant encroachments on government land by the local villagers and land mafia who in turn sold the same to various needy people. On the recommendation of the CDA the Government had issued denotification of around 227.890 acres of land in the designated Sector V and the ground for withdrawal by CDA was that there were encroachments, land settled under OGLS, Land coming under Ring Road and river embankment, land coming under Gramya Jungle etc. Though there have been allegations with regard to the nature of acquisition and subsequent denotification due to political pressure, this matter has not been enquired into detail as CBI has not been specifically asked to enquire into the land acquired by CDA/notified for acquisition by CDA.

134. Enquiry has also revealed that all the senior revenue functionaries were in the knowledge of rampant encroachments in the Bidanasi area and despite their knowledge, the encroachments swelled day-by-day and no effective measures were taken to safeguard the govt. land which the local mafias openly sold. No steps have been taken to arrest the

encroachers from the govt. land. Encroachment are still going on in the area. It was noticed during the course of CBI enquiry. The illegal occupants comprises of the local village people who have still in their possession a large chunk of govt. land, serving and retired govt. servants belonging to the Police Department, Court Staff of both High Court and Lower Court, Revenue officials, Advocates of Higher & Lower Judiciary, Excise officials, Education Department, Nurses, officials of C.M.C., C.D.A., C.E.S.I. etc. who are totally well off but, still they had knowingly purchased/occupied govt. land knowing very well that, it was a govt. land. There are only few needy persons who have encroached govt. land and the Hon'ble High Court had rightly observed that, the encroachments have not been made by the real needy. All these encroachers have been enjoying amenities/facilities from various government agencies despite their encroachment status and the govt. officials have willingly provide them with various facilities like roads, drainage system, electrical substations, street lighting, roads, sweeping by the C.M.C. staff, leave alone other facilities like ration cards/BPL/APL Cards, Voter I-card/Aadhar cards, Electricity connection, Water connection etc. Majority of the encroachers have stated that they have been residing at the present area for a long time and while constructing pucca houses no revenue official or any other government official at any point of time had raised any objections with regard to the constructions made except recently when the Tahasildar had issued notices. In one of the cases, one Revenue Inspector, Hrudananda Palai (now retired) who was posted as R.I. of the Ramdaspur Circle which looks after the Bidyadharpur and Bentkarpada Mouzas is also staying permanently in the Bentkarpada Mouza by constructing a house on a govt. plot unauthorisedly. Similarly one retired sector officer from the Board of Revenue Shri Madhu Sudhan Mallick has

also constructed a double storeyed building unauthorisedly on the ceiling surplus land which has been taken over by the Government.

135 Enquiry as such revealed that though there have been encroachments prior to 1983 as has been pointed by the Revenue Divisional Commissioner in his report, but as per the survey conducted and documents collected from the encroachers it is revealed that most of the encroachers are occupying the plots/houses only after 2000 and not from 1980s as has been pointed by the Amin Balukeswar Sahu in his report to the Tanasildar when an enquiry was ordered by the ADM(R) with regard to the encroachments made on Government Land in 2001 on four mouzas/Units viz. Bidyadharpur, Bentakarpada, Unit I & Unit II. This fact can be gauged from the various amenities provided to the encroachers as aforesaid. Only a few occupants are in possession of amenities after 1990s.



(X) OBSERVATIONS ON IRREGULARITIES IN SETTLEMENT OPERATIONS:

136 During enquiry it was not possible to look into the settlement proceedings in respect of the all the mouzas in absence of any specific information about irregularity to verify the same. However, during course of survey and measurement of Unit I & Plot No.1 Bidyadharpur Mouza, it came to notice that some occupants on Government Plots in Unit I were actually in possession of Sale Deeds relating to Plot No.2 of this Mouza. Enquiry in this regard revealed that Plot No.2, a 15 acre land which was hitherto a Government Land was settled in the name of Budhi Dei W/o.Late Kangali Behera during the 1974 settlement. During enquiry it was discreetly revealed that out of this 15 acres of land, the legal heirs of

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many instances the Courts have given in favour of the unauthorised occupants. In some cases ex-parte orders have been given and the Revenue Department instead of appealing against the said ex-parte orders have settled land in the favour of encroachers.

12. The machinery of Revenue Department to check encroachment of Government land has been found to be completely ineffective. Even when our survey was being conducted fresh constructions on government land were noticed.

XX. SUMMARY OF FINDINGS WITH REFERENCE TO SPECIFIC DIRECTIONS OF HON'BLE HIGH COURT:

191. The enquiry with regard to the specific directions given by the Hon'ble High Court has revealed as under:

(i) That with regard to the point "*circumstances leading to occupation of the Govt. lands and whether there is any transaction made for occupation of the lands by the unauthorised occupants with unscrupulous persons on manipulation of govt. records*", it is revealed that occupation of government land may be due to encroachments and legal/illegal settlements by the Settlement Authority/Consolidation Authority/Tahasildar.

192. Enquiry has already revealed certain instances of irregular leasing out of government land to ineligible beneficiaries by the Tahasildar, Cuttack Sadar during the period 1977 to 1980 in Bidyadharpur Mouza. Though some of the cases of irregular lease were cancelled by the ADM (Revenue) on review but the lease holders had not vacated the said land. Even the records were corrected after 6.1.2012 even though the lease was cancelled during 1984-85. CBI could also establish that in around

13 cases, though lease were cancelled, but the lease holders had sold the said land to the present occupants by executing agreements. Enquiry has further revealed that land was also leased out to private persons in Bentakarpada Mouza during the pendency of Consolidation Proceedings which was quite irregular and the records appears to have been manipulated but due to non availability of these lease records, this fact could not be enquiry into. Similarly as already brought out land has been settled in Bidyadharpur and Bentakarpada Mouza on the basis of Hath-Pattas genuineness of which could not be checked due to non availability of Ekpada and Tenancy Register. The role of the Settlement Officer and Consolidation Officer in the recording of large chunk of Government Land in favour of private persons in an irregular manner in some of the cases have already been brought out in the enquiry conducted by the CBI. Enquiry has further revealed that large patches of land in different mouzas were recorded to be in illegal possession of various occupants, but no serious efforts beyond issuance of encroachment notice in some cases have been made to take back the land in illegal possession. As a result these illegal occupants were able to either sell most of the land to prospective buyers or construct houses for renting them out. These cases have been elaborately discussed by the CBI in this report at appropriate places. Enquiry has already revealed that the encroachment in the Bidanasi Area rampantly increased after the formation of the CDA for which land were acquired and as the value of land increased it further prompted unscrupulous elements to occupy government land. CBI had identified around 2867 encroachers and had also examined most of them and it is revealed that some of the occupants had paid various amounts to local elements to taking possession of the area and also constructing dwelling house thereon.

From the survey so conducted it is also seen that proper plotting has been done on the government land by unscrupulous elements with roads and thereafter sold to the buyers. Though majority of the encroachers have paid money for taking possession of the land but did not reveal the names of the persons out of fear of severe reprisal from the local toughs to whom the amount was paid but only some of them have confirmed having paid amounts to unscrupulous elements viz. Dhadi Pradhan, Gunga Behera, Kalendi Behera, Ganesh Nayak, Babaji Behera, Bipin Das, Kartik Behera, Sahdeb Nayak, Pramod Kumar Patra without receipts. The type of constructions made by the encroachers indicate that the Tahsil staff were either involved in this deal or chose to remain silent as most of the encroachers have stated that none of the Tahsil Staff have at any point of time had stopped them from constructing the dwelling house. The rampant encroachment is still going on as was noticed during the course of survey. As regards manipulation of government records, during our enquiry none of the encroachers came up with forged documents of entitlement of land but 63 persons have been found to have submitted forged patta documents to CESU for obtaining electricity connections. Though there may be manipulation of records during grant of lease in Bentakarpada Mouza but the same could not be enquired into due to non availability of lease files, Ekpada, Tenant Ledger etc.

(II) That with regard to the second query as to "**whether any Govt. Officials/public servants are involved in unauthorised encroachment/occupation of Government Land and the deal made therefore**" enquiry has revealed that a lot of government servants both in service and retired who are either working/worked with Police Department, Court Staff of both High Court and Lower Courts,

Revenue officials, Advocates of High Court, Excise officials, Education Department, Nurses, officials of C.M.C., C.D.A., CESU etc. and who are totally well off. The role of Shri Ramakant Mohapatra, Asstt. Consolidation Officer and Shri Braja Kishore Mishra, Asstt. Settlement Officer in the irregular recording land during the Consolidation and Settlement Operations respectively has come to notice. As regards the involvement of the Tahsil Staff in the unauthorised encroachment/occupations of government land enquiry has revealed that no documentary evidence could be adduced to show that the Tahsil staff were involved in the encroachment, however, the way massive encroachments have taken place under the nose of the Tahsil Staff, the fact, the Tahsil Staff turning a blind eye to the ongoing encroachment and illegal constructions cannot be ruled out. The fact that examined occupants have stated that no one has objected to their occupying and construction of house on government land and the type of constructions made on the government land indicate the connivance of the Tahsil Staff. The role of Tahsil staff and other revenue officials in granting irregular lease rights and irregular settlement has already been pointed out hereinbefore. Except issuing encroachment notices often, nothing fruitful has been done by the Tahsil Staff. The details of Revenue Officials including Tahsildars who remained posted in the Tahsil is enclosed as Annexure "XV". From the records collected, it is seen all the functionaries right from the Tahsil Office to the Revenue Secretary were aware about the encroachment and in 2001 an enquiry was conducted and a report was prepared by the Tahsildar Cuttack Sadar through his Amin on the directions of then ADM (Revenue) and around 100 encroachments and encroachers viz. Bidyadharpur, Bentakarpada, Unit I and Unit II were identified. No effective action was however, taken

thereafter. The encroachers on their part had also knocked the doors of various Courts for relief against encroachment/eviction and have been mostly successful in obtaining relief. The findings of the enquiry and the fact that no encroachment removal was undertaken in the area before 2012 when Hon'ble High Court intervened in the matter are a telling indicator of the fact that the machinery of the Revenue Department, both at the cutting edge and supervisory levels, has been thoroughly ineffective in protecting the government land. As regards the role of private persons in aiding the encroachment, enquiry has clearly brought out the role of some of the private persons viz. Dhadi Pradhan, Gunga Behara, Lalendi Behera, Ganesh Nayak, Babaji Behera, Bipin Das, Kartik Behera, Sahdeb Nayak, Pramod Kumar Patra in the selling of government land to private persons.

(iii) That with regard to the third point *"that the persons claiming to be owners of government land and the manner in which they occupy such lands shall be enquired into"*, it is stated that during course of enquiry a comprehensive survey and measurement of land in all the 13 mouzas/units of Bidanasi area was got conducted by CBI with the help of Revenue Officials. Around 4868 houses were surveyed, out of which 2867 occupants were found to be encroachers illegally occupying government land without any valid land documents, except possession of election cards, electricity connections, water connections, House Plates, rations cards, native certificates etc obtained by them from different government agencies. Majority of the recent encroachers have paid some amount or the other to unscrupulous elements for getting possession of the government land but they have no receipts of such payments. These unscrupulous elements have also

helped them in getting the houses constructed. Further some of the occupants occupy the government land on the basis of unregistered agreements executed by the earlier occupant of the government land for consideration. Some of the lease holders whose lease was cancelled also continue occupying the cancelled lease land and some of the cancelled lease holders have also sold their land to the present occupants. The remaining illegal occupants occupy the land on the basis of registered sale deed executed between the recorded owners in whose name land was recorded either during settlement operations, consolidations operations (on the basis of Hath Pattas issued by ex-intermediary) or by the Tahasildar in the form of lease. Some of the occupants especially of village Belpur occupy the land as their ancestral property.



(iv) That with regard to the point that the *"CBI shall also examine the culpability of the persons and/or public servants in the land deal and in case the CBI finds any prima facie case, it will be open to them to institute cases against such persons/public servants in accordance with law"*, it is to be stated that due to the constraints of manpower, time and non availability of all relevant records, reasonable prima facie evidence could not be collected during the enquiry to institute cases criminal cases against the delinquent public servants. However, specific instances where gross irregularities have been noticed on the part of revenue department officials have been mentioned at appropriate places in this report and further fact finding enquiry in such instances by the competent officials of the Board of Revenue is recommended.



XXI. FINAL RECOMMENDATIONS:

193. In view of the above facts and circumstances, the following recommendations are made:

4) The CBI has been able to point out glaring irregularities in the recording of land during Settlement Operations of Bidhyadharpur Mouza and Settlement Operations of Bentakarpada Mouza. Going into each and every case settled during settlement operations is a resource intensive affair and CBI is handicapped due to shortage of adequate manpower and technical expertise and experience in dealing with complicated land matters. However, during this enquiry, CBI has been able to suggest a modality to address the core issue which needs to be carried on by the competent officers of Revenue Department. Hon'ble High Court may in such issue direct for constitution of a committee comprising of experienced and capable officers of the Settlement, Consolidation and Revenue Department to look into the remaining cases settled during Settlement Operations as well as issues related to grant of lease in Bidyadharpur Mouza and other mouzas in Bidanasi Area and for suitable follow up action by the competent state government authorities.

5) CBI is forwarding entire survey list to the Board of Revenue, Government of Odisha. Hon'ble High Court may as such direct Board of Revenue for taking appropriate action against the erring revenue officials entrusted with the task of preventing encroachment of government land and also to stop ongoing illegal constructions on government land and also to take follow up action mainly with regard to the vacant plots.

c) Hon'ble High Court may issue directions for referring the observations of CBI on the following cases to the Board of Revenue, Govt. of Orissa for taking appropriate follow up action at their end including referral to the DGP, Orissa if deemed fit:

(I) Settlement of 15 acres of land in favour of Budhi Dei in Plot No.2, Bidyadharpur Mouza.

(II) Changing Status of land relating to 42.19 acres in plot no.139 during consolidation proceedings and illegally recording the same in the name of various persons.

(iii) Mutation case of Mr. RA Hutchins who was leased out 5 acres of land at Bidhyadharpur Mouza.

iv) Sale of land in Plot No.2, Bidyadharpur Mouza and giving possession on adjacent government land.

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(c) Change of status of land relating to 42.19 acres in plot no. 139 khata No. 27, Bentakarpada Mouza and grant of lease and recording the same in the name of private persons by the Tahasildar, Sadar Cuttack during the pendency of the consolidation operations.

(d) A self contained Note is being sent by CBI to the CESU authorities for taking appropriate action with regard to the sanction of electrical connections to the encroachers and also for taking necessary action against the illegal occupants of government land who had submitted forged documents of ownership for obtaining electricity connection.

(e) CBI is also sending a Self Contained Note to the Chief Secretary, Government of Odisha on the following issues on the measures to check encroachment

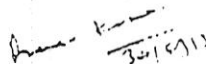
1. Large patches of government land lying vacant should be immediately fenced and signboards should be put up.

2. There are also some patches of land lying vacant inside the mouzas which are in illegal possession. Modalities should be worked out to take back the excess land which is in illegal possession of the encroachers as some of them have also been granted lease from the government. Efforts should also be made to evict the occupants who have been sold part of the land from the encroached land to the present encroachers.

3. Take back the excess land occupied by the patta holders.

4. Bring out a stringent law to check encroachment of government land as the OPLE Act has outlived its requirement. There should be proper co-ordination between the revenue officials and police.

Submitted please.


(Pranav Kumar)
Supdt. of Police & HOB
CBI, SCB, Kolkata

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Dear Chief Justice,

It is with great anguish and concern that we have thought it proper to address this letter to you so as to highlight certain judicial orders passed by this Court which has adversely affected the overall functioning of the justice delivery system and the independence of the High Courts besides impacting the administrative functioning of the Office of the Hon'ble the Chief Justice of India.

From the date of establishment of the three chartered High Courts of Calcutta, Bombay and Madras, certain traditions and conventions in the judicial administration have been well established. The traditions were embraced by this Court which came into existence almost a century after the above mentioned chartered High Courts. These traditions have their roots in the anglo saxon jurisprudence and practice.

Once of the well settled principles is that the Chief Justice is the master of the roster with a privilege to determine the roster, necessity in multi numbered courts for an orderly transaction of business and appropriate arrangements with respect to matters with which member/bench of this Court (as the case may be) is required to deal with which case or class of cases is to be made. The convention of recognizing the privilege of the Chief Justice to form the roster and assign cases to different members/benches of the Court is a convention devised for a disciplined and efficient transaction of business of the Court but not a recognition of any superior authority, legal or factual of the Chief Justice over his colleagues. It is too well settled in the jurisprudence of this country that the Chief Justice is only the first amongst the equals - nothing more or nothing less. In the matter of the determination of the roster there are well-settled and time honoured conventions guiding the Chief Justice, be the conventions dealing with the strength of the bench which is required to deal with a

particular case or the composition thereof.

A necessary corollary to the above mentioned principle is the members of any multi numbered judicial body including this Court would not arrogate to themselves the authority to deal with and pronounce upon matters which ought to be heard by appropriate benches, both composition wise and strength wise with due regard to the roster fixed.

Any departure from the above two rules would not only lead to unpleasant and undesirable consequences of creating doubt in the body politic about the integrity of the institution. Not to talk about the chaos that would result from such departure.

We are sorry to say that off late the twin rules mentioned above have not been strictly adhered to. There have been instances where case having far-reaching consequences for the Nation and the institution had been assigned by the Chief Justices of this Court selectively to the

benches "of their preference" without any rationale basis for such assignment. This must be guarded against at all costs.

We are not mentioning details only to avoid embarrassing the institution but note that such departures have already damaged the image of this institution to some extent.

In the above context, we deem it proper to address you presently with regard to the Order dated 27th October, 2017 in R.P. Luthra vs. Union of India to the effect that there should be no further delay in finalizing the Memorandum of Procedure in the larger public interest. When the Memorandum of Procedure was the subject matter of a decision of a Constitution Bench of this Court in Supreme Court Advocates-on-Record Association and Anr. vs. Union of India [(2016) 5 SCC 1] it is difficult to understand as to how any other Bench could have dealt with the matter.

The above apart, subsequent to the decision of the Constitution Bench, detailed

discussions were held by the Collegium of five judges (including yourself) and the Memorandum of Procedure was finalized and sent by the then Hon'ble the Chief Justice of India to the Government of India in March 2017. The Government of India has not responded to the communication and in view of this silence, it must be taken that the Memorandum of Procedure as finalized by the Collegium has been accepted by the Government of India on the basis of the order of this Court in "Supreme Court Advocates-on-Record Association (Supra)". There was, therefore, no occasion for the Bench to make any observation with regard to the finalization of the Memorandum of Procedure or that that issue cannot linger on for an indefinite period.

On 4th July, 2017, a Bench of seven Judges of this Court decided In Re, Hon'ble Shri Justice C.S. Karnan [(2017) 1 SCC 1]. In that decision (referred to in R.P. Luthra), two of us observed that there is a need to revisit the process of appointment of judges and to set up a mechanism for corrective measures other than

impeachment. No observation was made by any of the seven learned judges with regard to the Memorandum of Procedure.

Any issue with regard to the Memorandum of Procedure should be discussed in the Chief Justices' Conference and by the Full Court. Such a matter of grave importance, if at all required to be taken on the judicial side, should be dealt with by none other than a Constitution Bench.

The above development must be viewed with serious concern. The Hon'ble Chief Justice of India is duty bound to rectify the situation and take appropriate remedial measures after a full discussion with the other members of the Collegium and at a later stage, if required, with other Hon'ble Judges of this Court.

Once the issue arising from the order dated 27th October, 2017 in R.P. Luthra vs. Union of India, mentioned above, is adequately addressed by you and if it becomes so necessary, we will apprise you specifically of the other

judicial orders passed by this Court which would
require to be similarly dealt with.

With kind regards,

....., J
[J. CHELAMESWAR]

....., J
[RANJAN GOGOI]

....., J
[MADAN B. LOKUR]

....., J
[KURIAN JOSEPH]

SIGNATURES OF MEMBERS OF PARLIAMENT, RAJYA SABHA

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