

**IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION**

CIVIL APPEAL NO.3189 OF 2012

STATE OF ORISSA

..APPELLANT

VERSUS

**ORISSA PRIVATE LAW COLLEGE
TEACHERS ASSOCIATION & ORS.**

..RESPONDENTS

O R D E R

1. The appeal is directed against the judgment and order passed by the High Court of Orissa whereby the High Court while disposing of the writ application has directed the State Government to extend the benefits of grant-in-aid to private recognized law colleges.

2. A writ petition was filed before the High Court in the year 1993 by the Orissa Private Law Colleges Teachers' Association with a prayer to direct the State Government to extend the privilege of grant-in-aid and sanction other financial assistance to the Private Law Colleges existing in the State of Orissa and to equate the salary of teachers of private law colleges with that of their counterparts serving in other colleges. The State opposed the same on the ground that in view of the provisions made in section 7(C) of the Orissa Education (Amendment) Act, 1994 private colleges imparting education in law are not entitled to get the benefit of the grant in aid. The High Court by the impugned judgment and order has directed to release grant-in-aid to the recognized private law colleges. Aggrieved thereby, the

State is before us in the appeal.

3. The question as to the admissibility of grant-in-aid under the Order of 1994 has been gone into by this Court in its judgment and order dated 16.9.2019 in “*State of Odisha & Anr. v. Anup Kumar Senapati & Anr.*” passed in Civil Appeal No.7295 of 2019. The vires of section 7(C) of the Orissa Education Act, 1969 which had been questioned before the High Court, has not been decided.

4. The release of grant-in-aid depends upon various factors. The College should have qualified teachers, duly appointed employees, number of students obtaining instructions, performance of the college etc. Several factors have to be considered for release of grants-in-aid under various orders issued from time to time by the State Government. The Order of 1994 has been repealed in 2004 and thereafter further orders were made for releasing grant-in-aid. They do not cover the grant-in-aid for professional colleges. Besides, the economic capacity of the State Government has to be taken into consideration, and how many institutions are required in a particular area, is also to be taken into account. The High Court has issued a blanket direction without considering the various aspects and also the question whether grant-in-aid can be claimed as of right. Grant-in-aid has to be within the framework to be provided by the State Government and depend upon various factors which had been taken into consideration by this Court in C.A. No.7295/2019 – *State of Odisha & Anr. v. Anup Kumar*

Senapati & Anr. decided on 16.9.2019. The High Court has simply proceeded on the basis of the recommendation of the Committee formed by the State Government that by itself, may not be determinative of the various factors to be considered. Thus, we set aside the judgment and order passed by the High Court and remit the case back to it in order to decide the matter *de novo* considering the various aspects in accordance with law.

5. All the questions are left open to be agitated by the parties before the High Court in accordance with law.

6. The appeal is, accordingly, disposed of.

7. Pending interlocutory application(s), if any is/are disposed of.

.....J.
[ARUN MISHRA]

.....J.
[VINEET SARAN]

.....J.
[S. RAVINDRA BHAT]

NEW DELHI;
SEPTEMBER 26, 2019.

ITEM NO.109

COURT NO.4

SECTION XI-A

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

Civil Appeal No(s). 3189/2012

STATE OF ORISSA

Appellant(s)

VERSUS

ORISSA PRIVATE LAW COLLEGE TEACHERS ASSOCIATION & ORS.Respondent(s)

(FOR APPROPRIATE ORDERS/DIRECTIONS ON IA 50133/2017, IA No. 50133/2017 - APPROPRIATE ORDERS/DIRECTIONS, IA No. 102977/2018 - PERMISSION TO FILE ADDITIONAL DOCUMENTS/FACTS/ANNEXURES)

Date : 26-09-2019 This matter was called on for hearing today.

CORAM : HON'BLE MR. JUSTICE ARUN MISHRA
HON'BLE MR. JUSTICE VINEET SARAN
HON'BLE MR. JUSTICE S. RAVINDRA BHAT

For Appellant(s) Mr. Sibor Sankar Mishra, AOR
Mr. Niranjana Sahu, Adv.
Mr. Ashok Kumar, Adv.

For Respondent(s) Mr. Ashok Panigrahi, Adv.
Mr. Anmol Tayal, Adv.
Mr. Nabab Singh, Adv.

Mr. Rutwik Panda, AOR
Ms. Anshu Malik, Adv.
Ms. Nikhar Berry, Adv.

Caveator-in-person, AOR

Mr. Gopal Singh, AOR

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

The appeal is disposed of in terms of the signed order.

Pending interlocutory application(s), if any, is/are disposed of.

(JAYANT KUMAR ARORA)
COURT MASTER

(JAGDISH CHANDER)
BRANCH OFFICER

(Signed order is placed on the file)