

Medical Council Of India vs Christian Medical College Vellore & Ors on 11 April, 2016

Equivalent citations: AIR 2016 SUPREME COURT 1774, 2016 (2) AJR 629, (2016) 2 SCT 523, 2016 (4) SCC 342, (2016) 4 SCALE 72, (2016) 2 JCR 270 (SC), (2016) 3 ALL WC 2371, (2016) 3 CAL HN 15, (2016) 122 CUT LT 398, (2016) 4 SERVLR 391, (2016) 1 WLC(SC)CVL 728, 2016 (2) KCCR SN 214 (SC), (2016) 3 BOM CR 809

Bench: R.Banumathi, Adarsh Kumar Goel, R.K. Agrawal, A.K. Sikri, Anil R. Dave

REPORTABLE

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

REVIEW PETITION (C) NOS.2159-2268 OF 2013
AND

REVIEW PETITION (C) NOS.2048-2157 OF 2013
IN

TRANSFERRED CASE (C) NOS.98-105, 107-108, 110-139,
142, 144-145 OF 2012 & 1-5, 7-25, 28-49, 53, 58-73,
75-76 & 107-108 OF 2013

MEDICAL COUNCIL OF INDIA

... PETITIONER(S)

VS.

CHRISTIAN MEDICAL COLLEGE VELLORE & ORS. ... RESPONDENT(S)

WITH

R.P.(C) NO.1956 OF 2013 IN T.C.(C) NO.101 OF 2012

O R D E R

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

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

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

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

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

“.... If the Review Bench of the apex court were required to give reasons, the Review Bench would have to discuss the case fully and elaborately and expose what according to it constitutes an error in the reasoning of the Original Bench and this would inevitably result in pre-judgment of the case and prejudice its re-hearing. A reasoned order allowing a review petition and setting aside the order sought to be reviewed would, even before the re- hearing of the case, dictate the direction of the re-hearing and such direction, whether of binding or of persuasive value, would conceivably in most cases adversely affect the losing party at the re-hearing of the case. We are therefore of the view that the Review Bench in the present case could not be faulted for not giving reasons for allowing the Review Petition and directing re-hearing of the appeal. It is significant to note that all the three Judges of the Review Bench were unanimous in taking the view that “any decision of the facts and circumstances which ... constitutes errors apparent on the face of record and my reasons for the findings that these facts and circumstances constitute errors apparent on the face of record resulting in the success of the review petition, may have the possibility of prejudicing the appeal which as a result of my decision has to be re-heard....” Suffice it is to mention that the majority view has not taken into consideration some binding precedents and more particularly, we find that there was no discussion among the members of the Bench before pronouncement of the judgment.

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

.....J. [ANIL R. DAVE]J. [A.K. SIKRI]J. [R.K. AGRAWAL]
.....J. [ADARSH KUMAR GOEL]J. [R.BANUMATHI] New Delhi;

April 11, 2016.