

ITEM NO.27

COURT NO.8

SECTION XV

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

Petition for Special Leave to Appeal (C) No.18679/2023

(Arising out of impugned final judgment and order dated 16-08-2023 in SBCWP No. 10867/2023 passed by the High Court of Judicature for Rajasthan at Jodhpur)

NATIONAL MEDICAL COMMISSION &amp; ANR.

Petitioner(s)

VERSUS

TIRUPATI BALAJI EDUCATIONAL TRUST,  
BHILON KA BEDLA, UDAIPUR, RAJASTHAN & ORS.

Respondent(s)

(IA No.170417/2023-EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT)

Date : 01-09-2023 This petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE S. RAVINDRA BHAT  
HON'BLE MR. JUSTICE ARAVIND KUMAR

For Petitioner(s)

Mr. Gaurav Sharma, AOR  
Mr. Prateek Bhatia, Adv.  
Mr. Dhawal Mohan, Adv.  
Mr. Paranjay Tripathi, Adv.

For Respondent(s)

Mr. Neeraj Kishan Kaul, Sr. Adv.  
Mr. Maninder Singh, Adv.  
Ms. Bina Madhavan, Adv.  
Mr. S. Udaya Kumar Sagar, Adv.  
Mr. Tushar Singh, Adv.  
For M/s. Lawyer S Knit & Co, AOR

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

1. Application seeking exemption from filing certified copy of the impugned order is allowed.
2. The National Medical Commission has filed this Special Leave Petition aggrieved by the interim order dated 16-08-2023 passed by the High Court of Judicature for Rajasthan at Jodhpur.

3. It is contended that the interim order was made by suppressing the material facts.

4. Learned Additional Solicitor General appearing for the petitioners relies upon a report of the Medical Assessment and Rating Board (MARB). The report lists several irregularities and omissions. It is contended that this Report was not seen by the High Court which proceeded on the assumption that the affected college was not provided opportunity and that the procedure under Section 38 of the National Medical Commission Act, 2019 was violated.

5. It is argued on behalf of the Caveator – College that the learned Single Judge, made the impugned order did so based upon the material on the record which pointed lack of opportunity and infraction of law. It is also stated that after the impugned order was made, the inspection took place by Medical Assessment and Rating Board on 21-08-2023 and 22-08-2023, which shows those dates there was no deficiency. The Report is, however, not on the record. Learned counsel for the Caveator sought to rely upon a copy of that report.

6. Having considered the submissions of the parties, this Court is of the considered opinion that the interim order is unusual, having regard to the circumstances in that it permits the college to admit students albeit provisionally. The Court notices that no condition was imposed.

7. Having regard to the totality of the circumstances, the impugned order is modified to the extent that if any admissions are to be made, they would be subject to final outcome of the Writ Petition; every student admitted shall be mandatorily required to furnish an undertaking that she/he would not claim any equities and in the event of dismissal of the Writ Petition, no claim would be made, for admission or adjustment.

8. Learned Single Judge seized of the proceeding – Writ Petition No.10867/2023 is requested to hear and decide the matter

expeditiously – preferably within two weeks from the date of receipt of a copy of this order. In case that course is not possible, the Court may pass an order on the interim application itself, since the impugned order is by way of ad-interim relief.

9. The Special Leave Petition is disposed of in above-terms.

(VISHAL ANAND)  
ASTT. REGISTRAR-cum-PS

(BEENA JOLLY)  
COURT MASTER (NSH)