

(2000) 03 KAR CK 0064

In the Karnataka High Court

Case No : Writ Petition No's. 45301 to 45342 of 1999 connected with W.P. No's. 21821 to 21867, 22298, 22299, 22775 to 22782, 23026 to 23028, 23391 to 23409, 24708 to 24739, 25406, 26700 to 26707, 27339, 27514 to 27516, 23967 to 23991, 31361 to 31363, 31953, 31954

B.N. Vijay and others

APPELLANT

Vs

State of Karnataka and others

RESPONDENT

Date of Decision : 30-03-2000

Acts Referred:

Constitution of India, 1950 — Article 14, 141, 32
University Grants Commission Act, 1956 — Section 12 A (2)

Citation : (2001) ILR (Kar) 213 : (2001) 1 KarLJ 269

Hon'ble Judges : A.V. Srinivasa Reddy, J

Bench : Single Bench

Advocate : Sri D.S. Ramachandra Reddy, Sri M. Aswathanarayana Reddy, Sri T.S. Venkatesh, Sri Prasanna Kumar, Sri Pradeep Naik K., Sri B.C. Muddappa, Sri B. Veerabhadrapa, Sri Ashok R. Kalyanshetty, Smt. B.V. Nagarathna, Ms. M. Jyoti, Sri S. Vasantha Kumar, Sri N. Devdass, Sri B.G. Tejaswini, Sri C.M. Nagabushana, M/s. Kamath and Kamath, Sri K. appa Rao, Sri Shivakumar Kallor, Sri K.V. Narasimhan, Sri V.V. Upadhyaya, Sri R. Sridhar Hiremath, Sri S.R. Shiva Prakash, Sri Madhusudan R. Naik, Sri Victor Mandharan, Sri G. Balakrishna Shastri and Sri Ravi B. Naik, for the Appellant; Sri K. Vishwanath, A.G.A., Sri Ashok Haranahalli, Sri S.A. Nazeer, Sri G. Gangireddy, Ms. Madhumita Bagchi, Sri M.R. Naik, Sri Zahedulla Meccai, Sri N.R. Bhaskar, Central Government Standing Counsel, Sri Kaleemulla Sheriff, Sri C.R. Goulay, Sri B.S. Patil, Sri N.B. Bhat, Sri D.V. Shylendra Kumar, Sri Vedachala, Ms. M.R. Tara, Sri N.P. Singri, Government Pleader, Sri R.H. Chandangoudar, Sri Seshachala, Sri K.S. Pinnappa, Central Government Standing Counsel and Sri Ashok B. Hinchigeri, for the Respondent

Judgement

1. These writ petitions are filed by the students of medical and dental courses of various colleges in the State of Karnataka and also the Karnataka Private Medical Colleges Association, for a declaration that the communication bearing No. 18018/35/97-ME (P), dated 26-3-1999 issued by the Government of India, Ministry of Health and Family Welfare, is illegal and unenforceable and for a

further direction to the Government of India to reconsider the fixation of fee in place of the impugned Government of India order dated 26-3-1999. In addition to quashing the Government of India order dated 26-3-1999, in all these writ petitions, some of the writ petitions filed on behalf of payment category students also pray for a declaration that the definition of "free seat" as given in Regulation 3(f) of the Medical Council of India Regulations, notified on 21-12-1994, is discriminatory and violative of Article 14 of the Constitution of India.

2. Though, in these writ petitions, the main prayer is to quash the impugned communication, stated supra, in some of the writ petitions certain prayers adjunct to the main relief are also sought for. A broad categorisation of the cases in terms of the various reliefs sought for is made so that, it would facilitate immediate and easy reference. The cases where the only prayer is for quashing of fee structure are, W.P. Nos. 45031 to 45342 of 1999, 22775 to 22782 of 1999, 23391 to 23409 of 1999, 31361 to 31363 of 1999, 31953 to 31954 of 1999, 22405 to 22431 of 1999, 22214 to 22222 of 1999, 21141 to 21473 of 1999, 19961 to 20018 of 1999, 42972 of 1999 and 20725 to 20738 of 1999; the cases where quashing of fee structure along with refund is sought for are W.P. Nos. 8231 and 8232 of 1999 and 21821 to 21867 of 1999; cases where quashing of fee structure and quashing of notices issued in pursuance of the fee structure for payment of the balance of fees sought for are, W.P. Nos. 22298 and 22299 of 1999, 27514 to 27516 of 1999, 23967 to 23991 of 1999; cases where quashing of fee structure and quashing of notice issued for payment of enhanced fee along with the plea of refund is sought for are 27339 of 1999, 4226 to 4232 of 2000; cases where fee structure and its applicability is challenged are 24708 to 24739 of 1999, 30154 to 30178 of 1999, 44282 to 44330 of 1999, 26700 to 26707 of 1999; cases where fee structure is challenged with a prayer for re-fixation of the fee structure are 25406 of 1999, 24143 to 24188 of 1999, 30369 of 1999 and in W.P. No. 23026 to 23028 of 1999 fee structure is challenged with other reliefs. In addition to the above writ petitions, the Karnataka Private Medical Colleges Association has also filed W.P. No. 39717 of 1999. W.P. No. 4256 of 2000 is by the M.R. Medical College and the H.K.E. Society.

3. In order to briefly narrate the facts of the case, I deem it necessary to extract the relevant facts from the W.P. Nos. 24708 to 24739 of 1999. Since common questions of fact and law arise in all these writ petitions, they have been clubbed together and the common order is passed.

4. The Karnataka Legislature with a view to eliminate capitation fee enacted the Karnataka Educational Institutions (Prohibition of Capitation Fee) Act, 1984. Purporting to regulate the tuition fee under the said Act, the Government of Karnataka prescribed the fee that could be charged and collected from the students by the private medical colleges in the State. In a petition under Article 32 of the Constitution of India one. Miss Mohini Jain had challenged the notification issued by Karnataka State Government permitting the private medical colleges to charge tuition fees prescribed by it. In the said case of Miss.

Mohini Jain Vs. State of Karnataka and others, , the Supreme Court struck down the aforesaid notification. It is not disputed that some time thereafter the Apex Court in Unni Krishnan, J.P. and others Vs. State of Andhra Pradesh and others etc. etc., , while considering Section 3-A of the Andhra Pradesh Educational Institution (Regulation of Admission and Prohibition of Capitation Fee) Act, 1983, has evolved a scheme in the nature of guidelines which the appropriate Government and other authorities were to implement in addition to such other conditions and stipulations in the matter of admission to professional colleges. Under the said scheme at least 50% of the seats in every professional college was to be filled up by the nominees of the Government or University, as the case may be, which are referred as Tree seats". The said students ought to be selected on the basis of merit determined by a common entrance examination where it is held or in the absence of an entrance examination, by such criteria as may be determined by the competent authority or the appropriate authority as the case may be. The remaining 50% seats namely, "payment seats" had to be filled up by those candidates who are prepared to pay the fee prescribed thereof and who had complied with the instructions regarding deposit and furnishing of cash security/bank guarantee for the balance of the amount. It is also not in dispute that the Apex Court by various orders had fixed the tuition fee payable by the various categories of the students of medical and dental courses from the academic year 1994-95 to 1996-97. Ultimately the Apex Court directed the authorities concerned to fix the fee from the academic year 1997-98.

5. Prior to the Central Government Circular bearing No. 1018 of 1975, dated 26-3-1999 the State Government by its order dated 22-10-1997 fixed the tuition fee chargeable on candidates admitted to the medical and dental colleges in the State. That order of the State Government was challenged in W.P. No. 33056 of 1997 and connected writ petitions. A learned Single Judge of this Court (Tirath S. Thakur, J.) allowed the said batch of writ petitions holding that:

"(1) Karnataka State Government Order dated 22nd of October, 1997 insofar as the same prescribes fee for private Medical and Dental Colleges in the State of Karnataka shall stand quashed as incompetent. The said order shall however remain effective insofar as the same fixes the tuition fee for Government Medical and Dental Colleges and makes the same payable by all candidates irrespective of the year of his admission.

(2) Central Government Orders dated 15th and 16th May, 1997 prescribing the upper limits for the payment and free seats and delegating the fixation of the actual fees to the State Committee shall also stand quashed insofar as the same pertain to private Medical and Dental Colleges in the State of Karnataka.

(3) The Central Government shall within a period of two months from today fix the fee structure for payment and merit seats in private Medical and Dental Colleges in the State of Karnataka taking into consideration the representation and the material, if any, produced along with the same by the petitioners provided such representations are received by the Central Government within

three weeks from today.

(4) The fee structure prescribed by the fresh orders that the Central Government may pass shall be applicable for the academic session 1997-98 onwards regardless of the year of admission of the students covered by the same.

(5) Pending fresh orders by the Central Government, the managements of the institutions shall be entitled to charge only such fee as was prescribed for the immediate past year, i.e., 1996-97. Any such payment or recovery shall however be subject to the fee structure that may eventually be notified by the Central Government entitling the managements and the students to claim additional amounts or refunds, as the case may be, depending upon whether the fee prescribed by the Government is higher or lower than what has already been received or paid by them.

(6) Writ petitions filed by students undergoing Medical and Dental courses in Government Medical Colleges shall however stand dismissed and the parties left to suffer their own costs".

The said decision of the learned Single Judge is in Nishanth Hiremath Vs. Dr. B.R. Ambedkar Medical College and Others, . Thereafter, the Central Government has determined the fee payable under the present impugned order. Not satisfied with the determination of the fee payable, both the students as well as the managements are before this Court in the present batch of writ petitions.

6. While these writ petitions were pending consideration, the Students' Parents Association of Sri Siddhartha Medical College, Tumkur have filed a public interest petition in Sri Siddhartha Medical College Students' Parents Association, Tumkur v Union of India and Others, challenging the very Government Order which is impugned in the present batch of writ petitions questioning the competence of Government of India to fix the fee structure for students admitted to medical and dental colleges as sought to be done under the impugned orders dated 26-3-1999 in the purported exercise of powers under Clause 8(B) of Medical Council of India (Norms and Guidelines for Fee and Guidelines for Admissions in Medical Colleges) Regulations, 1994 and Clause 8(B) of the Dental Council of India (Norms and Guidelines for Fees and Guidelines for Admissions in Dental Colleges) Regulations, 1994. The Division Bench consisting of G.C. Bharuka and Mohamed Anwar, JJ., by order dated 28th February, 2000 have held that having regard to the regulations framed under the University Grants Commission Act and the regulations framed under Medical Council of India Act and Dentist Act, it is only the University Grants Commission which has the Parliamentary sanction to specify the fee structure chargeable by the affiliated colleges and deemed universities imparting the medical and dental courses in State, after exhaustively considering the various provisions of the Act and Regulations of University Grants Commission Act, Indian Medical Council Act and Dentist Act and have held that:

"65 (a) In the present statutory set up, it is only the University Grants Commission, which has the Parliamentary sanction, to specify the fee structure

chargeable by the affiliated colleges and deemed Universities imparting any specialised course of study.

(b) The above power of specifying the scale of fees and related matters has to be exercised by the U.G.C. itself since U.G.C. Act has not permitted re-delegation of the said power.

(c) The above power can be exercised by the U.G.C. only after consultations with the Universities concerned as provided u/s 12-A(2) of the U.G.C. Act and by following the consultative process evolved by the Supreme Court in Unnikrishnan's case, supra.

(d) The fee structure devised by the U.G.C. can be enforced only through Regulations to be published in the Official Gazette.

(e) Keeping in view the time constraint and the procedural requirements, the U.G.C. can prescribe provisional fee structure for the professional colleges for the academic year 2000-2001 before 1-6-2000 and can determine the same finally as soon as possible thereafter but before the end of current calendar year with clear stipulation for adjustment of excess payments or the short-falls therein.

(f) It will be advisable if the relevant materials on the basis of which the U.G.C. decides to fix the scale of fees relating to specified courses of study, is hosted on the internet to ensure transparency of the process.

(g) Since, the law on the subject was still in fluid state, therefore, we are not inclined to disturb the scale of fees which has been prescribed by the respective authorities for the academic year upto 1999-2000".

7. Though this order of the Division Bench came to be pronounced during the pendency of these writ petitions, nevertheless, the learned Counsel for the petitioners still contend that this Court can go into those questions raised in these writ petitions and not decided by the Division Bench and decide them. They have also relied on certain decisions of the Apex Court for the proposition that this Court is competent to decide the questions that have not been decided by the Division Bench.

8. Therefore, the only point that arises for my consideration, in the facts and circumstances of the case, is:

Whether, in the light of the Division Bench judgment, can it be said that there exists, legally speaking, a fee structure whose correctness or otherwise could be gone into in these proceedings?

9. The learned Counsel on both sides are unanimous in their view that the judgment of the Division Bench holding that the U.G.C. alone is competent to fix the fee structure can neither be questioned before me nor could I examine the correctness of that view as held by the Division Bench. Their endeavour was to convince me of the need to examine the correctness or otherwise of the fixation of the fee structure by the Central Government as, according to them, that was

not an issue before the Division Bench and, therefore, the decision of the Division Bench would not constitute a binding precedent and the field is still open for this Court to consider that issue and decide it. On the contrary, the lone dissenting argument is advanced by Mr. Ashok Haranahalli, learned Central Government Standing Counsel, that such a procedure if adopted by this Court would not be conducive to judicial discipline as the Division Bench decision goes to the root of the matter. Let me now see whether the Division Bench judgment leaves any leeway for this Court to take recourse to the arguments advanced by the learned Counsel for the petitioners and examine the correctness or otherwise of the fee structure as fixed by the Central Government.

10. In *State of U.P. and Another Vs. Synthetics and Chemicals Ltd. and Another*, , on which learned Counsel for the petitioners placed heavy reliance, the Apex Court had occasion to deal with the principles of *per incuriam* and *sub silentio*. The Apex Court after making a brief reference to the earlier decisions laid down the principle thus:

"A decision which is not express and is not founded on reasons nor it proceeds on consideration of issue cannot be deemed to be a law declared to have a binding effect as is contemplated by Article 141. Uniformity and consistency are core of judicial discipline. But that which escapes in the judgment without any occasion is not *ratio decidendi*".

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"Any declaration or conclusion arrived without application of mind or preceded without any reason cannot be deemed to be declaration of law or authority of a general nature binding as a precedent. Restraint in dissenting or overruling is for sake of stability and uniformity but rigidity beyond reasonable limits is inimical to the growth of law".

11. But in the instant case there was an issue before the Division Bench and it proceeded to consider that issue and on due application of mind has laid down the *ratio decidendi* which is fundamental to the question in issue in these writ petitions. Therefore, the principle laid down by the Apex Court in the aforesaid decision would not apply to the facts of this case.

12. Sri M.R. Nayak contended that under the impugned order there is no fixation of fee for a merit student and the Division Bench decision has not considered that aspect. The colleges are required to refund the fee paid by the merit students in excess of fee of RS. 8,000/- and, therefore, to that extent the right of judicial review of the order of Division Bench is permissible. Mr. Veerabhadrappe, learned Counsel for the petitioner-college also relied on the judgment referred to *supra*, and contended that the previous fixation of Rs. 13,000/- for a merit seat not having been set aside by anybody, there cannot be any refund of the excess fee collected and this question as to whether the excess fee has to be repaid is still open to be gone into in these writ petitions.

13. Mr. Ramachandra Reddy, learned Counsel for some of the petitioners, contended that the Division Bench had no jurisdiction to decide the question that is in issue in these petitions. The writ petition as filed is not a public interest litigation and the Division Bench could not have entertained the writ petition when it was not a public interest litigation. He relied on the observations made by the Apex Court in *Raval and Co. Vs. K.G. Ramachandran and Others*, , wherein the Supreme Court observed that any general observations cannot apply in interpreting the provisions of an Act unless this Court has applied its mind to and analysed the provisions of that particular Act. It is his contention that the Division Bench having not gone into the correctness or otherwise of the fixation of the fee structure by the Central Government, its decision would not amount to a ratio decidendi but only an obiter dictum.

14. Sri Aswathanarayana Reddy appearing for the petitioners placed reliance on *Rajput Ruda Meha and Others Vs. State of Gujarat*, and *Prakash Amichand Shah Vs. State of Gujarat and Others*, . In both these cases the Apex Court has held that a decision often takes its colour from the questions involved in the case in which it is rendered and that the scope and authority of a precedent should never be expanded unnecessarily beyond the needs of a given situation. The Apex Court has also laid down that mere "pondering over the issue in depth, would not be a binding precedent".

15. Mrs. Nagarathna, learned Counsel for some of the petitioners, contended that the writ petitions would still survive for consideration despite the Division Bench judgment because the fixation was done under M.C.I. Regulations which came into force on 21-2-1994 whereas the U.G.C. Regulations came into force on 5-5-1998. She also contended that the U.G.C. Regulations are general in nature whereas the M.C.I. Regulations are subject specific and, therefore, it is the M.C.I. Regulations that would hold the field. She placed reliance on *A.R. Antulay Vs. R.S. Naik and Others*, , wherein the Apex Court held that a Division Bench on finding that a Constitutional Bench decision is erroneous and requires to be reconsidered, granting special leave to appeal and issuing an interim order of stay while referring the matter involving constitutional issues to a Constitutional Bench, does not violate the rules of judicial discipline. It is her contention that if this Court disagrees with the decision of the Division Bench it is always open to me to grant stay of the said order and refer the matter to a larger Bench.

16. Per contra Sri Ashok Haranahalli and Mr. Ponnappa, learned Central Government Standing Counsel, submitted that the Division Bench decision goes to the root of the matter and the writ petitions would not survive for consideration in the light of the Division Bench decision. He relied on *Forward Construction Co. and Others Vs. Prabhat Mandal (Regd.)*, *Andheri and Others*, , for the proposition that the principle of *res judicata* applies to a public interest litigation and the onus of proving the want of bona fides in respect of the previous litigation is on the party seeking to avoid the decision.

17. At the very outset I have to mention that this Court has no quarrel with the

principles enunciated in the various decisions cited by the respective learned Counsel. But it is well-settled by now that a decision is only an authority to what it actually decides and must be read as applicable to the particular facts proved in a given case since the generality of expressions would not amount to expositions of law of a binding nature unless it is shown that the case being decided is governed or qualified by facts similar to those which led to such expression of law. A decision takes its colour from the facts involved in the case and the issues raised therein. The question is, whether in the present facts and circumstances of the case could it be argued by the learned Counsel for the petitioners, successfully, on the strength of the various decision cited by them, that the decision of the Division Bench would not be a binding precedent.

18. Before the Division Bench the challenge was to the legislative competence of M.C.I. to prescribe a fee structure. The Division Bench held that the U.G.C. alone has the statutory sanction to prescribe the fee structure. However, before parting with the case the Division Bench observing that the law on the subject is still in fluid state, did not disturb the scale of fees prescribed by the respective authorities for the academic year upto 1999-2000. The question that I have to pose for myself is what should happen to the impugned fee structure. Would it survive for purposes of examining its correctness or otherwise? Though the Division Bench has left the fee prescribed upto 1999-2000, which would definitely include the impugned fee structure, undisturbed on the ground that the law on the subject was still in fluid state, the inescapable eventuality of the decision of the Division Bench is that the impugned fee structure gets obliterated from the scene. In law, therefore, there does not exist any fee structure as at present that could be impugned in these writ petitions. The impugned fee structure having been fixed by an authority other than U.G.C. which alone had the legislative competence to fix the fee structure, becomes non est in law. It would be futile to undertake the purported exercise of examining the correctness or otherwise of the impugned fee structure when its very genesis is illegal. The Division Bench judgment cuts at the very root of the matter in that it nullifies the entire challenge in these writ petitions founded as they are on the impugned fee structure which itself, legally speaking, is non est. The ratio decidendi laid down by the Court in its judgment decides an issue which is fundamental to the questions involved in these writ petitions. The questions involved in these writ petitions cannot be considered and decided overlooking the decision of the Division Bench which has the effect of totally non-suiting the petitioners. It amounts to a law declared and judicial discipline calls for strict adherence by a Single Judge to such a law laid down by a larger Bench. To put it more bluntly, the challenge to the impugned fee structure would not survive in law when the impugned fee structure itself no longer survives. All the arguments advanced by the petitioners overlook this vital aspect of the case.

19. In *S.I. Rooplal and Another Vs. Lt. Governor Through Chief Secretary, Delhi and Others*, , the Apex Court had occasion to deal with the question of judicial discipline and had this to say:

"12. At the outset, we must express our serious dissatisfaction in regard to the manner in which a Coordinate Bench of the Tribunal has overruled, in effect, an earlier judgment of another Coordinate Bench of the same Tribunal. This is opposed to all principles of judicial discipline. If at all, the subsequent Bench of the Tribunal was of the opinion that the earlier view taken by the Coordinate Bench of the same Tribunal was incorrect, it ought to have referred the matter to a larger Bench so that the difference of opinion between the two Coordinate Benches on the same point could have been avoided. It is not as if the latter Bench was unaware of the judgment of the earlier Bench but knowingly it proceeded to disagree with the said judgment against all known rules of precedents. Precedents which enunciate rules of law form the foundation of administration of justice under our system. This is a fundamental principle which every Presiding Officer of a Judicial Forum ought to know, for consistency in interpretation of law alone can lead to public confidence in our judicial system. This Court has laid down time and again precedent law must be followed by all concerned; deviation from the same should be only on a procedure known to law. A subordinate Court is bound by the enunciation of law made by the superior Courts. A coordinate Bench of a Court cannot pronounce judgment contrary to declaration of law made by another Bench. It can only refer it to a larger Bench if it disagrees with the earlier pronouncement. This Court in the case of *Tribhuvandas Purshottamdas Thakur Vs. Ratilal Motilal Patel*, , while dealing with a case in which a Judge of the High Court had failed to follow the earlier judgment of a larger Bench of the same Court observed thus (para 11 of AIR).--

"The judgment of the Full Bench of the Gujarat High Court was binding upon Raju, J. If the learned Judge was of the view that the decision of Bhagwati, J., in *Pinjare Karimbhai Dedubhai Vs. Shukla Hariprasad Manishankar*, and of Macleod, C.J., in *Harida*"s case, did not lay down the correct law or rule of practice, it was open to him to recommend to the Chief Justice that the question be considered by a larger Bench. Judicial decorum, propriety and discipline required that he should not ignore it. Our system of administration of justice aims at certainty in the law and that can be achieved only if Judges do not ignore decisions by Courts of coordinate authority or of superior authority. Gajendragadkar, C.J., observed in *Shri Bhagwan and Another Vs. Ram Chand and Another*, .-

"It is hardly necessary to emphasise that consideration of judicial propriety and decorum require that if a learned Single Judge hearing a matter is inclined to take the view that the earlier decisions of the High Court, whether of a Division Bench or of a Single Judge, need to be reconsidered, he should not embark upon that enquiry sitting as a Single Judge, but should refer the matter to a Division Bench, or in a proper case, place the relevant papers before the Chief Justice to enable him to constitute a larger Bench to examine the question. That is the proper and traditional way to deal with such matters and it is founded on healthy principles of judicial decorum and propriety" ".

20. As stated earlier in this order, the Division Bench judgment has laid down the law touching an aspect which is fundamental to the question involved in these writ petitions. The decision of the Division Bench cannot be lightly brushed aside or ignored. The question of referring the matter to a Full Bench also does not arise in this case as there is no conflict of decisions between two coordinate Benches. What is overruled by the Division Bench is the order of the learned Single Judge. As on today for the purposes of determining the issue raised in these writ petitions the decision of the Division Bench would hold the field and it is not open for me, sitting singly, to either disagree with or avoid it. Having taken the view as aforesaid there is no need to address myself to the various other contentions advanced by the learned Counsel for the petitioners-

21. In *Panchaxari Shidramappa Yeligar Vs. Shiggaon Taluka Shikshana Samithi and Others*, , Raveendran J., had extensively dealt with the question of judicial discipline and held.--

"The Full Bench, a Division Bench and a Bench of Single Judge form three tiers in the High Court. While the words "Court below" or "Court in the lower tier" can be used with reference to a smaller Bench vis-a-vis a larger Bench, the said words cannot be used in regard to any Judge of the Court vis-a-vis another Judge of the Court".

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"A Single Judge of the High Court cannot hold that a decision of the Supreme Court, or a Full Bench or Division Bench of the same Court has been rendered per incuriam. A Court can say that a decision has been rendered per incuriam only in regard to a decision rendered by a coordinate Bench, and not of a larger Bench or a Court above".

22. But, then, something remains still and that is the direction of the Division Bench which left the fee structure upto 1999-2000 undisturbed. The reason for such a step is also forthcoming from the order of the Division Bench itself. It has observed that the law still being in a fluid state the fee structure upto 1999-2000 is not disturbed. I cannot, sitting singly, go into the correctness or otherwise of the said direction. The proper remedy is always open to an aggrieved party and this Court cannot hear any complaints against the direction of the Division Bench if not for any other reason but for the fact that the direction of the Division Bench is not an issue before me. I have merely referred to it in the course of this judgment as a lot of argument was advanced by the learned Counsels on either side touching the said direction.

23. In the result, for the reasons stated above, the writ petitions do not survive for consideration and are, accordingly, dismissed.