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IN THE HIGH COURT OF ORISSA AT CUTTACK

W.A. No. 2047 of 2024

Laba Kumar Rath, aged about 57 years, S/o. Babu Rath, At/P.O. Bhisimagiri, Dist-Ganjam, at present working as Peon in Ramjee Mohavidyalaya, Bhisimagiri, Dist-Ganjam.

...Appellant

-Versus-

1. **State of Odisha**, represented through the Secretary to Government, Higher Education Department, Secretariat Building, Bhubaneswar, Dist-Khurda.

2. **State of Odisha**, represented through the Commissioner-cum-Secretary to Government, School and Mass Education Department, Secretariat Building, Bhubaneswar, Dist-Khurda.

3. **Director, Higher Education, Odisha**, At-Heads of Department Building, Bhubaneswar, Dist-Khurda.

...Respondents

4. **Governing Body of Ramjee Mohavidyalaya**, Bhisimagiri, Dist-Ganjam, represented through the Principal-cum-Secretary, At/P.O. Bhisimagiri, Dist-Ganjam.

...Proforma Respondent

Advocates appeared in the case:

For the Appellant : Mr. Dillip Kumar Mohapatra, Advocate

For Respondents : Mr. Pitambar Acharya, Advocate General
Mr. D. Tripathy, Addl. Govt. Advocate



CORAM:
HON'BLE THE CHIEF JUSTICE
HON'BLE MISS JUSTICE SAVITRI RATHO
HON'BLE MR JUSTICE SIBO SANKAR MISHRA

JUDGMENT
17.12.2024

Chakradhari Sharan Singh, C.J.

This matter is taken up through Hybrid mode.

2. The present intra-court appeal has been preferred against a judgment/order dated 09.05.2024 passed by a learned Single Judge of this Court in FAO No.119 of 2024 filed under Section 24-C of the Orissa Education Act, 1969 (in short 'the Act').

3. When this appeal was taken up on 07.10.2024, its maintainability was questioned on behalf of the respondents on the ground that an intra-court appeal would not lie against an appellate order passed by a learned Single Judge of this Court under Section 24-C of the Act, relying on a Full Bench decision of this Court in case of *Mahammed Saud v. Dr. (Maj) Shaikh Mahfooz*, reported in *2008 SCC OnLine Ori 46 (AIR 2009 Ori 46)*, affirmed by the Supreme Court in *Mohd. Saud v. Dr. (Maj.) Shaikh Mahfooz: (2010) 13 SCC 517*.

4. Mr. Dillip Kumar Mohapatra, learned counsel appearing on behalf of the appellant, in response to the said submission on the point of maintainability, had relied on a Division Bench decision of



this Court in case of ***Prasanna Kumar Sahu v. State of Odisha and others*** dated 17.01.2024 passed in W.A. No.666 of 2023.

5. In case of ***Mahammed Saud (FB) (supra)***, the Full Bench of this Court has held in paragraph 46 as under:

“46. In view of the authoritative pronouncements of the Supreme Court we are of the view that after introduction of Section 100-A with effect from 1.7.2002, no Letters Patent Appeal shall lie against a judgment/order passed by a learned Single Judge in an appeal arising out of a proceeding under a Special Act.”

6. In ***Prasanna Kumar Sahu (supra)***, the Division Bench of this Court, after noticing an order passed by another Division Bench of this Court in case of ***Arabinda Panda and another v. The Director, Higher Education, Odisha and others*** (dated 29.09.2021 in W.A. No.143 of 2016), has held in paragraph 18 as under:

*“18. Having heard learned counsel for the parties and keeping in view the fact that the Coordinate Bench of this Court in W.A. No.143 of 2016, relying on the judgment of the Full Bench of this Court in ***Mahammed Saud v. Dr. (Maj) Shaikh Mahfooz, 2008(II) OLR (FB) 725***, has already entertained the writ appeal holding the same as maintainable, this Court is not inclined to take a different view than the one already taken. On a scrutiny of the decisions rendered in ***Rabindranath @ Rabindranath v. Bijay Kumar Bhuyan, 2016 (II) ILR CUT 283, Jyotshna Mohapatra v. State of Odisha, 2018 (I) ILR CUT 869 : 2018 (II) OLR 1 and Shradhakar Mohanty v. Management of Cuttack Municipal Corporation [W.A. No.122 of 2013, disposed of on 01.11.2023]*** on which reliance has been placed by learned counsel for respondent no.4-Sanjaya Kumar Nayak, it appears that the same have been rendered under the special statute, for which such*



decisions are distinguishable. Thus, in the considered opinion of this Court, the present writ appeals are maintainable and the preliminary objection raised by learned counsel for respondent no.4-Sanjaya Kumar Nayak with regard to maintainability, is accordingly rejected. Hence, the writ appeals shall be decided on merits.”

7. For the benefit of quick reference, we consider it apt to reproduce at this stage the orders dated 29.09.2021 and 27.09.2022 passed by the Division Bench of this Court in case of **Arabinda Panda** (*supra*), which read thus:

29.09.2021

“1. A preliminary objection has been raised by Mr. Das, learned counsel appearing for Respondent No.3 concerning the maintainability of the present appeal. He sought to argue on the strength of the judgment of the Full Bench of this Court in Mahammed Saud v. Dr. (Maj) Shaikh Mahfooz 2008 (II) OLR (FB) 725 that since the impugned judgment of the learned Single Judge setting aside an order dated 5th July 2003 of the State Education Tribunal was passed in a petition under Article 227 of the Constitution of India, no writ appeal would lie.

*2. It is seen from the opening page of the impugned judgment that below the number of the writ petition, it is clearly stated that “In the matter of an application under Article 226 and 227 of the Constitution of India.” Since this forms part of the judgment itself, it is not possible to countenance the submission that the petition in which the impugned judgment was passed was one exclusively under Article 227 of the Constitution and not Articles 226 and 227 of the Constitution. That being the position, even in terms of the judgment of the Full Bench of this Court in Mahammed Saud (*supra*), the present appeal would be maintainable.*



3. *The preliminary objection is accordingly rejected. As regards the merits of the main appeal, learned counsel for the Appellants seeks some time.*

4. *List for hearing on 31st January, 2022.”*

27.09.2022

“1. Learned counsel for the Appellants says that despite his writing letters to the Appellants they are not even responding to him, the Court finds that despite there being no stay order of the impugned judgment dated 24th February, 2016 of the learned Single Judge, it has not even been implemented by the Appellants.

2. In the circumstances, the Court sees no reason why this writ appeal should be entertained. It is dismissed.”

8. It may be noted that the decision in case of ***Mahammed Saud (FB)*** (*supra*) was challenged before the Supreme Court. Approving the said decision, the Supreme Court, in case of ***Mohd. Saud (SC)*** (*supra*), has held in paragraph 9 as under:

“9. The validity of Section 100-A CPC has been upheld by the decision of this Court in Salem Advocate Bar Assn. v. Union of India [(2003) 1 SCC 49 : AIR 2003 SC 189] . The Full Benches of the Andhra Pradesh High Court vide Gandla Pannala Bhulaxmi v. A.P. SRTC [AIR 2003 AP 458] , the Madhya Pradesh High Court in Laxminarayan v. Shivlal Gujar [AIR 2003 MP 49] , and of the Kerala High Court in Kesava Pillai Sreedharan Pillai v. State of Kerala [AIR 2004 Ker 111] have held that after the amendment of Section 100-A in 2002 no litigant can have a substantive right for a further appeal against the judgment or order of a learned Single Judge of the High Court passed in an appeal. We respectfully agree with the aforesaid decisions.”

(Underscored for emphasis)



9. Being of the *prima facie* view that the Division Bench, in case of **Prasanna Kumar Sahu** (*supra*) does not lay down a correct law on the question of maintainability of an intra-court appeal against an order passed under Section 24-C of the Act, in view of the said Full Bench decision in **Mahammed Saud (FB)** (*supra*), a Division Bench of this Court, by an order dated 07.10.2024 has referred the matter to a larger bench for an authoritative pronouncement on the following questions of law:

(i) Whether an intra-court appeal shall lie against a judgment/order passed by a learned Single Bench of this Court in an appeal under Section 24-C of the Orissa Education Act, 1969?

(ii) Whether the view taken by the Division Bench of this Court in the case of Prasanna Kumar Sahu (supra) is a legally correct view on the point of maintainability of an intracourt appeal, placing reliance on another Division Bench order dated 29.09.2021 passed in W.A. No.143 of 2016?

(iii) Whether an intra-court appeal shall lie against an order passed by a learned Single Judge of this Court exercising the appellate jurisdiction under a Special Act?

10. This is in brief the background in which the matter has been placed today before the full bench.

11. We have heard Mr. Dillip Kumar Mohapatra, learned counsel appearing on behalf of the appellant. We have also heard Mr. Pitambar Acharya, learned Advocate General assisted by Mr. D. Tripathy, learned Additional Government Advocate (AGA) appearing on behalf of the State-respondents.



12. Mr. Acharya, learned Advocate General reiterating the objection of maintainability of the present intra-court appeal has, at the outset, taken us to the provisions under Sections 24-A, 24-B and 24-C of the Act, which read thus:

“24-A. Constitution of Tribunal- (1) *The State Government may, by notifications constituted one or more Tribunals having such local jurisdiction as may be specified in the notifications.*

(2) *The Tribunal shall consist of one person only to be appointed by the State Government from among the officers of the Odisha Superior Judicial Service (Senior Branch).*

(3) *The Tribunal shall have the power to call for the records of all proceedings relating to the dispute and shall, after giving the parties concerned a reasonable opportunity of being heard, dispose of the appeals preferred to it.*

(4) *In disposing of an appeal, the Tribunal may make such consequential orders and issue such directions as it may deem necessary for giving effect to its decision.*

(5) *The decision of the Tribunal shall be final and binding on all parties and shall not be called in question in any Court of law.*

(6) *The order passed by the Tribunal shall be enforced under the Code of Civil Procedure, 1908 in the same manner as if it were a decree of the Civil Court.*

24-B. Adjudication by Tribunal – (1) *The Tribunal shall have jurisdiction, power and authority to adjudicate all disputes and differences, between the Managing Committee or, as the case may be, the Governing body of any private educational institution and any teacher or employee of such institution or the State Government or any officer or authority of the said*



Government, relating to or connected with the eligibility, entitlement, payment or non-payment of grant-in-aid.

(2) Any person, aggrieved by an order pertaining to any matter within jurisdiction of the Tribunal, may make an application to the Tribunal for the redressal of his grievance.

(3) On receipt of an application under Sub-section (2), the Tribunal shall, if satisfied after such inquiry as it may deem necessary that the application is a fit case for adjudication by it, admit such application, but where the Tribunal is not so satisfied, it may summarily reject the application after recording its reasons:

Provided that no application before the Tribunal seeking a claim of grant-in-aid against the State Government or any officer or authority of the said Government shall be admitted, unless the applicant has served a notice on the State Government or concerned officer or authority furnishing the details of the claim and a period of two months has expired from the date of receipt of the said notice by the State Government or, as the case may be, the concerned officer or authority.

(4) The Tribunal shall not admit an application under Sub-section (2), unless it is made within one year from the date of expiry of the period of two months referred to in Sub-section (3).

(5) The Tribunal shall not be bound by the procedure laid down in the Code of Civil Procedure, 1908, but shall be guided by the principles of natural justice and, subject to any rules made by the Government, shall have power to regulate its own procedure.

(6) All the proceedings before the Tribunal shall be deemed to be judicial proceedings within the meaning of Sections 193, 219 and 228 of the Indian Penal Code, 1860.



24-C. Appeal to High Court- Any person aggrieved by an order or decision or judgment of the Tribunal may prefer an appeal before the High Court within a period of sixty day's from the date of such order or decision or judgment.”

(Underscored for emphasis)

13. Mr. Acharya has submitted, on conjoint reading of Sections 24-A and 24-B of the Act that Section 24-A of the Act provides for constitution of a Tribunal having jurisdiction, power and authority to adjudicate all disputes and differences between the managing committee or as the case may be, the Governing body of any private educational institution and any teacher or employee of such institution or the State Government or any officer or authority of the said Government, relating to or connected with the eligibility, entitlement, payment or non-payment of grant-in-aid.

14. Section 24-B(2) of the Act provides that any person aggrieved by an order pertaining to any matter within the jurisdiction of the Tribunal can make an application to the Tribunal for the redressal of his grievance, he argues.

15. He has further contended, referring to sub-Section 5 of Section 24-A of the Act that the decision of the Tribunal under the Scheme of the Act is to be final and binding on all parties which cannot be called in question in any Court of law. Laying emphasis on the language used in sub-Section 6 of Section 24-A of the Act, he has submitted that an order passed by the Tribunal dealing with the disputes as mentioned in Section 24-B of the Act is enforceable under the Code of Civil Procedure (CPC), 1908 in the same manner



as if it were a decree of the Civil Court. Such order of the Tribunal, thus, has the trappings of a decree under the CPC, he contends.

16. He has submitted that Section 24-C of the Act enables a person aggrieved by an order or decision or judgment of the Tribunal to prefer an appeal before the High Court within a period of sixty days from the date of such order or decision or the judgment.

17. He has, thereafter, taken us to sub-Rule 1 of Rule 2 under Chapter VIII of the Rules of the High Court of Orissa, 1948, which reads as under:

“Rule-2(1)- Subject to Article 12 of the Orissa High Court Order, 1948 every appeal to the High Court under Article 4 thereof, read with clause 10 of the Letters Patent constituting the High Court of Judicature at Patna from the judgment (not being a judgment passed in the exercise of appellate jurisdiction in respect of a decree or order made in the exercise of appellate jurisdiction by a Court subject to the Superintendence of the High Court and not being an order made in the exercise of revisional jurisdiction, and not being a sentence or order passed or made in the exercise of criminal jurisdiction) of one Judge of the High Court or one Judge of any Division Court pursuant to Article 225 of the Constitution, shall be presented to the Registrar within thirty days from the date of the judgment appealed from unless a Bench in its discretion, on good cause shown, shall grant further time. The Registrar shall endorse on the memorandum the date of presentation and after satisfying himself that the appeal is in order and is within time shall cause it to be laid before a Bench for orders at an early date. It shall be accompanied by a certified copy of the judgment appealed from together with a neatly typed second copy thereof.”



18. He has argued that the language of sub-Rule 1 of Rule 2 under Chapter VIII of the Rules of the High Court of Orissa, 1948 is unambiguous and accordingly, no intra-court appeal can be maintained against an order passed by a learned Single Judge of this Court exercising appellate jurisdiction under a special statute or supervisory jurisdiction of the High Court under Article 227 of the Constitution of India.

19. He has submitted that the decision in case of *Prasanna Kumar Sahu* (*supra*) does not lay down the correct law for two reasons. Firstly, in case of *Prasanna Kumar Sahu* (*supra*), reliance has been placed on an order passed by a Division Bench of this Court in case of *Arabinda Panda* (*supra*). The said order in case of *Arabinda Panda* (*supra*) had arisen out of an order passed by a learned Single Judge of this Court in a proceeding under Article 226/227 of the Constitution of India. The said order does not reflect that the concerned intra-court appeal, i.e., W.A. No.143 of 2016 was preferred against an order passed by a learned Single Judge of this Court exercising appellate jurisdiction under Section 24-C of the Act. He has secondly submitted that the opinion formed by the Division Bench in case of *Prasanna Kumar Sahu* (*supra*) does not duly take note of the Full Bench decision rendered by this Court in case of *Mahammed Saud (FB)* (*supra*) which came to be subsequently affirmed by the Supreme Court in *Mohd. Saud (SC)* (*supra*).

20. *Per contra*, Mr. Mohapatra, learned counsel appearing on behalf of the appellant has reiterated his submission that the present



writ appeal is maintainable and that the Division Bench in case of **Prasanna Kumar Sahu** (*supra*) has taken a correct view. He has further submitted that the legal question as to whether a writ appeal is maintainable or not against an order passed by a learned Single Judge in exercise of power under Section 24-C of the Act is pending consideration before the Supreme Court. He has, however, not brought to our notice any issue on this point framed by the Supreme Court in any order, though he has produced before us an order dated 20.09.2024 passed in SLP(C) Diary 39994 of 2024 (**Sanjaya Kumar Nayak v. State of Odisha and others**) whereby notices have been issued in the petition seeking special leave to appeal against the order dated 20.06.2024 passed in RVWPET Nos.40 and 39 of 2024 (arising out of order dated 17.01.2024 passed in W.A. Nos.650 and 666 of 2023).

21. After having heard Mr. Pitambar Acharya, learned Advocate General, raising the issue of the maintainability of the present intra-court appeal and Mr. Dillip Kumar Mohapatra, learned counsel appearing on behalf of the appellant, we are of the considered opinion that in the light of the law clearly laid down by a Full Bench of this Court in case of **Mahammed Saud (FB)** (*supra*), an intra-court appeal against an appellate order passed under Section 24-C of the Odisha Education Act, which is a Special Act, is not maintainable.

22. In case of **Mahammed Saud (FB)** (*supra*), the Full Bench of this Court relied on a Supreme Court's decision in case of **Kamal Kumar Dutta v. Ruby General Hospital Ltd.** (2006 AIR SCW



4594) wherein it has been held that the Parliament while amending Section 100-A of the Code of Civil Procedure by Amendment Act 22 of 2002 with effect from 01.07.2002 took away the Letters Patent power of the High Court in the matter of appeal against an order of a learned Single Judge to the Division Bench. In case of **Mahammed Saud (FB)** (*supra*), the Full Bench of this Court, noticing the provision under Section 100-A of the CPC, has held in paragraphs 45 to 47 as under:

“45. We have already noticed that the newly incorporated S. 100-A, CPC in clear and specific terms prohibits further appeal against the decree and judgment or order of a learned single Judge to a Division Bench notwithstanding anything contained in the Letters Patent. The Letters Patent which provides for further appeal to a Division Bench remains intact, but the right to prefer a further appeal is taken away even in respect of the matters arising under the special enactments or other instruments having the force of law — be it against original/appellate decree or order heard and decided by a learned single Judge. It has to be kept in mind that the special statute only provide for an appeal to the High Court. It has not made any provision for filing appeal to a Division Bench against the judgment or decree or order of a learned single Judge.

46. In view of the authoritative pronouncements of the Supreme Court we are of the view that after introduction of S. 100-A with effect from 1-7-2002, no Letters Patent Appeal shall lie against a judgment/order passed by a learned single Judge in an appeal arising out of a proceeding under a Special Act.

47. We have learned counsel for the parties patiently, noted the citations carefully, perused the materials meticulously and considered the submissions



pragmatically and for the discussions made above, we have arrived at the following conclusions:—

(1) After introduction of S. 100-A in the Code of Civil Procedure by 2002 Amendment Act, no Letters Patent Appeal is maintainable against a judgment/order/decree passed by a learned single Judge of a High Court.

(2) The decision of a Division Bench of this Court in Birat Ch. Dagara case (supra) has not laid down the correct position of law. On the other hand, the conclusions arrived at by Division Benches of this Court in V.N.N. Panicker and Ramesh Ch. Das cases (supra) are held to be good law and are confirmed.

(3) A writ appeal shall lie against the judgment/orders passed by a learned single Judge in a writ petition filed under Art. 226 of the Constitution of India. In a writ application filed under Arts. 226 and 227 of the Constitution, if any order/judgment/decree is passed in exercise of jurisdiction under Art. 226, a writ appeal will lie, whereas no writ appeal will lie against judgment/order/decree passed by a single Judge exercising powers of superintendence under Art. 227 of the Constitution.

(4) No Letters Patent Appeal shall lie against judgment/order passed by a learned single Judge in proceedings arising out of Special Acts.

(Emphasis supplied)

23. As has been noticed, the Supreme Court in case of **Mohd. Saud (SC)** (*supra*), while affirming the Full Bench decision of this Court in case of **Mahammed Saud (FB)** (*supra*), has ruled in paragraph 9 as under:



“9. The validity of Section 100-A CPC has been upheld by the decision of this Court in *Salem Advocate Bar Assn. v. Union of India* [(2003) 1 SCC 49 : AIR 2003 SC 189] . The Full Benches of the Andhra Pradesh High Court vide *Gandla Pannala Bhulaxmi v. A.P. SRTC* [AIR 2003 AP 458], the Madhya Pradesh High Court in *Laxminarayan v. Shivilal Gujar* [AIR 2003 MP 49] , and of the Kerala High Court in *Kesava Pillai Sreedharan Pillai v. State of Kerala* [AIR 2004 Ker 111] have held that after the amendment of Section 100-A in 2002 no litigant can have a substantive right for a further appeal against the judgment or order of a learned Single Judge of the High Court passed in an appeal. We respectfully agree with the aforesaid decisions.”

24. We are of the considered view that the Division Bench in case of *Prasanna Kumar Sahu* (*supra*) could not have taken a view contrary to the law laid down by a Full Bench of this Court in case of *Mahammed Saud (FB)* (*supra*), subsequently, affirmed by the Supreme Court. In our considered opinion, after having noticed the Full Bench decision in case of *Mahammed Saud (FB)* (*supra*) the division bench in case of *Prasanna Kumar Sahu* (*supra*) had no other option but to follow the law laid down in no uncertain terms in case of *Mahammed Saud (FB)* (*supra*).

25. We find force in the submission advanced by Mr. Acharya, learned Advocate General that the order in case of *Arabinda Panda* (*supra*) had not arisen out of an appellate order passed by a learned Single Judge of this Court exercising appellate power. From the order itself it appears that the intra-court appeal had arisen out of a writ proceeding, which was filed under Article 226/227 of the Constitution of India. In the said background, the Division Bench,



in case of *Arabinda Panda* (*supra*), had rejected the challenge on the point of maintainability since in the petition “Article 226” was also mentioned.

26. In any view of the matter, the order in case of *Arabinda Panda* (*supra*) does not dilute in any manner the effect of law clearly laid down by the Full Bench of this Court in case of *Mahammed Saud (FB)* (*supra*). If the Division Bench, in case of *Prasanna Kumar Sahu* (*supra*), was inclined to entertain the writ appeal rejecting the objection of maintainability, the proper course ought to have been to refer the matter to a larger bench as has been laid down in catena of decisions of the Supreme Court.

27. In this context, we consider it useful to refer to the observations made by the Supreme Court in the case of *Dr. Vijay Laxmi Sadho v. Jagdish*, reported in (2001) 2 SCC 247, paragraph 33 of which reads thus:

“33. As the learned Single Judge was not in agreement with the view expressed in Devilal case [Election Petition No. 9 of 1980] it would have been proper, to maintain judicial discipline, to refer the matter to a larger Bench rather than to take a different view. We note it with regret and distress that the said course was not followed. It is well-settled that if a Bench of coordinate jurisdiction disagrees with another Bench of coordinate jurisdiction whether on the basis of “different arguments” or otherwise, on a question of law, it is appropriate that the matter be referred to a larger Bench for resolution of the issue rather than to leave two conflicting judgments to operate, creating confusion. It is not proper to sacrifice certainty of law. Judicial decorum, no less than legal propriety forms the



basis of judicial procedure and it must be respected at all costs.”

28. Further, in the case of ***Pradip Chandra Parija v. Pramod Chandra Patnaik***, reported in (2002) 1 SCC 1, the Supreme Court has held that where a Bench consisting of Two Judges does not agree with the judgment rendered by a Bench of Three Judges, the only appropriate course available is to place the matter before another Bench of Three Judges and in case of Three-Judge Bench also concludes that the judgment concerned is incorrect then the matter can be referred to a Larger Bench of Five Judges.

29. The said decisions in the cases of ***Dr. Vijay Laxmi Sadho*** (*supra*) and ***Pradip Chandra Parija*** (*supra*) have been noticed with approval and relied on by the Supreme Court in the case of ***State of Bihar v. Kalika Kuer Alias Kalika Singh and others***, reported in (2003) 5 SCC 448. It is trite that the law laid down in a decision delivered by a Bench of larger strength is binding on any subsequent Bench of lesser or equal strength.

30. Taking a different course would be detrimental not only to rule of discipline and the doctrine of binding precedents but it will also lead to inconsistency in the decisions on the point of law; consistency and certainty in the development of the law and its contemporary status- both would be immediate casualty; [see ***Pradip Chandra Parija*** (*supra*)].

31. In the case of ***U.P Gram Panchayat Adhikari Sangh and others v. Daya Ram Saroj and others***, reported in (2007) 2 SCC



138, the Supreme Court made the following significant observation in paragraph 26 :-

“26. Judicial discipline is self-discipline. It is an inbuilt mechanism in the system itself. Judicial discipline demands that when the decision of a coordinate Bench of the same High Court is brought to the notice of the Bench, it is to be respected and is binding, subject of course, to the right to take a different view or to doubt the correctness of the decision and the permissible course then open is to refer the question or the case to a larger Bench. This is the minimum discipline and decorum to be maintained by judicial fraternity.”

32. Considering the law laid down by the Supreme Court, we are of the definite opinion that the Full Bench judgment in the case of ***Mahammed Saud (FB)*** (*supra*) is required to be followed by the Bench of lesser strength.

33. In view of the above noted discussions, we answer the questions referred to the Full Bench as under:

(i) An intra-court appeal shall not lie against a judgment/order passed by a learned Single Judge of this Court on an appeal under Section 24-C of the Odisha Education Act, 1969 which is a Special Act.

(ii) We respectfully disagree with the view taken by the Division Bench of this Court in case of ***Prasanna Kumar Sahu*** (*supra*) which is not a legally correct view on the point of maintainability of an intra-court appeal. The Division Bench order in case of ***Arabinda Panda*** (*supra*) (dated 29.09.2021 passed in W.A. No.143 of 2016) does not indicate that a writ appeal is maintainable against



an order passed by a learned Single Judge of this Court exercising appellate power under a Special Act.

(iii) We accordingly hold that an intra-court appeal shall not lie against an order passed by a learned Single Judge of this Court exercising appellate jurisdiction under a Special Act.

34. After having answered the questions as above, we hold that this intra-court appeal is not maintainable and dismiss it.

(Chakradhari Sharan Singh)
Chief Justice

(Savitri Ratho)
Judge

(S.S. Mishra)
Judge

A Nanda/S. Behera