ROYAL COMMISSION INTO INSTITUTIONAL RESPONSES
TO CHILD SEXUAL ABUSE

Case Study 21

SATYANANDA YOGA ASHRAM (MANGROVE MOUNTAIN)

Submissions on behalf of Dr Sandra Smith

1. These submissions are in response to the submissions of counsel assisting the Royal Commission in this case study (“the submissions”).

2. The relevant ‘available findings’ suggested by counsel assisting are set out at paragraphs F17 to F20 (p.136) and F17 to F20 (p.191) in the submissions. In particular, it is the ‘available finding’ set out at F20 at pages 136 and 191 of the submissions about which issue is taken. It is submitted by counsel assisting that “In 1984 there was no legal obligation on Dr Smith to disclose an allegation of sexual abuse to authorities, however, Dr Smith was a practising psychiatrist and she did not respond to ensure the safety of the young person. Dr Smith did not report Joyti’s disclosure to police to allow it to be independently investigated”

3. It is respectfully submitted that the Royal Commission would not accept that Dr Smith, in all of the circumstances, had done anything, or failed to do anything that would suggest negligence, or acting unprofessionally, or that she was ‘morally wrong’ in any way for not reporting the matter to police at that time.

4. A small number of factual matters referred to by counsel assisting in the submissions need to be corrected, or commented upon. Whilst it is not suggested that these factual matters significantly alter the overall picture of the evidence, it is submitted that, if only for the sake of accuracy, some comment should be made about them.

5. The submissions (at paragraph 149) state that Joyti was 16 years of age when the sexual abuse by Akhandananda began. It is submitted that it would appear from Joyti’s evidence that she may have been 17 years of age when the abuse began.

6. Although Joyti’s birthdate has not been published, it appears that it falls in the first half of the year. It is noted that in her statement of 23 November 2014, Joyti refers at paragraph 7 that she had gone to the Mangrove Mountain ashram in the early months of 1981 “just before I turned 16”. It is also noted that at paragraph 33 Joyti refers to it being “very early 1984….I was getting close to 19 years old at the time”
when she left the Mangrove Mountain ashram and returned to her parents’ home in Melbourne to live.

7. Joyti goes on in her statement to say that she stayed at her parents’ home for a few months, then went to stay with the person Jeff and his wife. From there she went to the Gosford ashram and (at paragraph 37) there told Ramtirtha of the abuse she had suffered. Joyti states that it was someone at the Gosford ashram who suggested that she speak with Sandra Smith.

8. If the meeting with Dr Smith was “about eighteen months” after the last sexual abuse (see Joyti’s evidence at p. 10922 line 44), that would suggest that the meeting with Dr Smith was in mid 1984. That conclusion is based on the sexual abuse commencing in November 1982 and apparently concluding sometime in early 1983.

9. Although Joyti’s evidence is that the meeting with Dr Smith took place in March 1984, the evidence referred to above would suggest that the meeting may have taken place a little bit later in the year, but perhaps nothing turns upon the precise date of the meeting, other than her age at the time of meeting Dr Smith. It is submitted that Joyti was possibly 19 years of age at the time of the meeting, rather than 18.

10. Joyti states that the sexual abuse began during the trip to Canberra in November 1982, and that would suggest that she was 17 years of age at the time. Again, it is not suggested that the fact that she was 17, and not 16, at the time of the sexual abuse commencing is of great moment, but it is only noted in an endeavour to accurately reflect the evidence.

11. Clearly, Joyti was either 18 or 19 years of age at the time she spoke to Dr Smith.

12. Whilst it is correct to say that there was no legal requirement in 1984 for Dr Smith to have reported what Joyti told her to any person in authority, it is submitted that even after the commencement of the Children (Care and Protection) Act 1987 in January 1988, there would not have been any such obligation upon Dr Smith had she had a reasonable belief that abuse had occurred in 1982 or 1983.

13. Section 22 of that act created a requirement to notify in situations where a child has been, or is in danger of being abused. It is further submitted that the obligation would only arise under the 1987 Act if the complainant or suspected victim was under the age of 18 years at the time that the doctor (or other relevant professional) formed a reasonable belief that a child had been abused. The legislation enacted in 1987 was designed to ensure that certain professionals, such as doctors, were required to inform authorities of any such beliefs because the person in question was not an adult at that time, and thus not necessarily capable of making a direct complaint to police on their own.

14. When counsel assisting refers in her submissions to Joyti being a “vulnerable young person” (see F20) at the time of speaking to Dr Smith, it is submitted that that is not an accurate description of Joyti at that time.
15. Whilst accepting that Joyti was only 18 or 19 years of age at the time she spoke with Dr Smith, she was nonetheless an adult.

16. It is noted that, as at 1984, Joyti was no longer a member or visitor to the Mangrove Mountain ashram, nor did she appear to be under the influence of Akhandananda any longer. Whilst there is no doubt that she had been seriously physically and emotionally abused in 1982 and 1983, and would take an enormous time to recover from that abuse, there is no suggestion in the evidence that as at 1984 she could be fairly described as “vulnerable”. It is submitted that the expression ‘young adult’ may be more appropriate to describe Joyti as at the time she met Dr Smith.

17. Dr Smith’s evidence was that she thought Joyti was in her late teens or early twenties at the time she met Joyti (paragraph 37 of Dr Smith’s statement of 19 November 2014).

18. Counsel assisting states (at F20) that “Dr Smith did not report Joyti’s disclosure to police to allow it to be independently investigated.” It would appear that Counsel assisting is suggesting that Dr Smith should have reported the matter to police, notwithstanding that there was no legal requirement to do so.

19. It is noted that there is no suggestion in Joyti’s evidence that she wanted the matter reported to police. Without her cooperation with police there would have been no investigation into the matter.

20. Dr Smith did not dismiss the abuse allegations, but confronted Akhandananda about them. At the time she was in the company of Ramtirtha, who was described by Joyti as a “good friend” of hers and a swami at the Gosford ashram. It would appear that both Dr Smith and Ramtirtha were sufficiently persuaded by Akhandananda and Shishy that the allegations were false to not take any further action in the matter.

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