

Appeal No.MPPURC-03/2019, Appeal No.MPPURC-04/2019 & Appeal No.MPPURC-05/2019

Date	Proceeding	Remarks
<p>03.04.2019</p>	<p>Shri Arun Arora for Malwanchal University (Appeal No.MPPURC-03/2019)</p> <p>Shri Dharmendra Gupta, Executive Director alongwith Shri Anupam Chouksey, Secretary for LNCT University (Appeal No.MPPURC-04/2019)</p> <p>Shri M.D. Nair, Chief Law Officer alongwith Shri Navin Vijayavargiya, Chartered Accountant for Peoples University (Appeal No.MPPURC-05/2019)</p> <p>Shri S.D. Singh, CEO, MPPURC and Shri S.K. Mishra, Accounts Officer, AFRC for the respondent</p> <p>This common order shall govern the disposal of Appeal No(s) MPPURC-03/2019, MPPURC-04/2019 & MPPURC-05/2019.</p> <p>These appeals are filed against the order passed by the MPPURC dated 26.3.2019 and consequential amount of fees shown by the Director, Medical Education, in its publication on its website dated 28.3.2019.</p> <p>The facts relevant to the appeals are that the appellants are Private Universities, working in the State of Madhya Pradesh, running various technical courses in its constituent units. The MPPURC passed an order dated 26.3.2019, which is under challenge in these appeal, ascertaining the amount of fee to be charged</p>	

by the appellant which was based on the fee as decided by the MPPURC for academic session 2018-19.

The appellants' submission is that MPPURC had not given them any notice before reviewing/fixing fees for 2019-20. They further submit that the proposal for reviewing/fixing the fees was earlier called for and date was extended up to 15th April, 2019. Meanwhile, the impugned order was passed without giving them an opportunity for hearing. They were not given an opportunity to present their case in respect of the fee to be charged from such students and, therefore, it is prayed on behalf of the appellants that the matter may be remanded back over to either MPPURC or Admission and Fee Regulatory Committee (AFRC).

The appellant also argued that presently counselling for admission for the session 2019-20 is going on and is being conducted by the Director, Medical Education. During such counselling, the students were informed about the fees to be charged by the institution. The MPPURC fixed the fee without hearing them and the Director, Medical Education uploaded the figures on their website for information of students and, therefore, it would be difficult for them to recover the amount if the amount is changed by the authority fixing the fee.

Shri S.D. Singh, Chief Executive Officer, appearing on behalf of respondent MPPURC submits that proposals were called from all the Private Universities for fixing of their fees. However, not

many Universities applied and submitted their proposal. Therefore, keeping the base of the fees that was allowed to be charged for the academic session 2018-19, the same was continued for the academic session 2019-20 to facilitate the process of counselling. However, he failed to show the Appellate Authority any document to ascertain that the appellant was given information of fixing of fees.

There also appears to be some difference of opinion as to which authority would fix/review the fees of late. According to the respondent, M.P. Private Universities Act, provides for review of fees on the basis of proposal submitted by the appellants. However, section 3(n) of Madhya Pradesh Niji Vyavasyik Shikshan Sanshtha (Pravesh ka Viniyaman Avam Shulk ka Nirdharan) Ahiniyam, 2007, (herein after called as “Act of 2007”) the definition of “professional educational institution” has been revised by amendment in 2013 and now it includes “a School or an Institution”..... “by whatever name called””imparting professional education”.....”.... “and which is affiliated to or is a constituent unit of an University established or incorporated by an Act of State Legislature.” This provision of law read with section 11, which contains non –obstante clause, of Act of 2007, indicates that after 2013 amendment, the fee to be charged by Private Universities running a technical course should be fixed by AFRC and by harmonious construction it may be deducted that after

fixing of fees by AFRC, it would be reviewed, in a sense that the University should not be allowed to charge more than the fee fixed by AFRC for a particular academic session.

This apart, there is no corresponding provision in M.P. Private Universities Act, analogous to s. 9 of the Act of 2007. This is also indicative of view of the legislature.

In this view of the matter, in the present case, the amount of fee to be charged for the academic session 2019-20 should have been fixed by AFRC and in fact Shri Mishra appearing on behalf of AFRC has informed the Appellate Authority that this year, the AFRC has called proposals from various Private Universities for fixing of fees. This view is expressed here merely with an intention to find out a temporary solution to the state of confusion that has been prevailing for sometimes and to find out a via media to facilitate the ongoing process of counselling. This view is subject to any finding given by any judicial or quasi-judicial body in future after hearing all the parties concern.

In such a situation, due to the fact that no opportunity was given to the appellant before deciding the amount of fees to be charged by the Private Universities from their students and without taking consideration of their financial data, the order appears to have been passed without following the rules of natural justice.

Accordingly, this appeal is allowed. The impugned order passed by MPPURC dated 26.3.2019 is set aside. So far as it relates to the appellants. The appellants are directed to approach the AFRC with their financial data for fixing of fees to be charged by them for academic session 2019-20 onward from the students admitted under NRI quota and also from those students under non NRI category under various quotas.

The Appellate Authority has been informed that the process of counselling is going on and, therefore, it is directed that the Secretariat should inform the Director, Medical Education that ascertaining of amount of fee to be charged by the appellants is under consideration and fee to be charged from the students admitted through counselling shall be subject to the final amount arrived at by AFRC/Appellate Authority as the case may be. Whatever amount shown in the website of DME, shall be considered provisional as of now.

Copy of this order may also be uploaded on the website of AFRC.

Sd/-
(Justice Alok Verma)
Appellate Authority