

**BEFORE THE APPELLATE AUTHORITY CONSTITUTED UNDER THE  
MADHYA PRADESH NIJI VYAVSAYIK SHIKSHAN SANSTHA (PRAVESH  
KA VINIYAMAN AVAM SHULK KA NIRDHARAN) ADHINIYAM, 2007, (AS  
AMENDED)**

**Presided over by Justice Alok Verma.**

**1. Appeal No. 51/2019**

- (i) Atul Pratap Singh**
- (ii) Pinki Saini** ..... Appellants

**V E R S U S**

- (i) Admission and Fee Regulatory Committee, Bhopal**
- (ii) M.P. Medical Sciences University, Jabalpur**
- (iii) Principal Secretary,  
Department of Medical Education** ..... Respondents

**2. Appeal No. 136/2019**

- (i) Dr. Tanuj Kumar Das**
- (ii) Dr. Pulkit Bist**
- (iii) Dr. Rohan Agrawal**
- (iv) Dr. Rajesh Kumar Jaiswal**
- (iv) Dr. Prachi Mehta**
- (v) Dr. Rohit Sangtani**
- (vi) Dr. Shipra Yadav**
- (vii) Dr. Ranu Yadav**
- (ix) Dr. Priya Roy**
- (x) Dr. Vinitha Jose** ..... Appellants

**V E R S U S**

- (i) M.P. Medical Sciences University, Jabalpur**
- (ii) Admission and Fee Regulatory Committee, Bhopal**

- (iii) **Principal Secretary, Department of Medical Education,  
Bhopal.**
- (iv) **Medical Council of India, New Delhi**
- (iv) **Index Medical College, Indore** ..... **Respondents**

**ORDER**  
**(Date: 4<sup>th</sup> October, 2019)**

1. This common order shall govern disposal of Appeal Nos. 51/2019 & 136/2019.
2. These appeals are filed under Sec. 10 of Madhya Pradesh Niji Vyavasayik Shikshan Sanstha (Pravesh Ka Viniyaman Avam Shulk ka Nirdharan), Adhiniyam, 2007 (hereinafter referred to as “Act of 2007”) against the communication of the Admission and Fee Regulatory Committee (AFRC for short) dated 23/04/2019, whereby the AFRC refused to enquire legality of admission given to the appellants in both of these appeals on the ground that the Hon’ble High Court issued no specific instruction in W.P. No. 18901/16 for making an inquiry into legality of these admission.
3. The background fact giving rise to these appeal are that the appellants were given admission in Index Medical College, Indore in the academic session 2016-17 in MD/MS course, then deposited requisite fees and have been pursuing the course since then. Now, the M.P. Medical Sciences University (Respondent No. 1) is not permitting the appellants to appear in MD/MS examination, due to which, they could not complete their MD/Ms course. Hence these appeals.
4. In the academic year 2016-17, Medical Council of India (M.C.I.) gave permission to Index Medical College, Indore, which was running

MD/MS course, to admit in all 66 students. Out of these 66 seats, 15% seats were reserved for NRI quota, which comes to 10 seats and remaining 56 seats were to be filled up by the counselling held by Director, Medical Education, Bhopal. Admittedly, the Director, Medical Education, conducted counselling to fill up 56 seats but could only get 35 students, whose names were recommended for admission to Index Medical College, Indore. The appellant in present appeals were directly admitted by Index Medical College, Indore, and therefore, they were not given enrolment by M.P. Medical Sciences University, Jabalpur (Respondent No 1).

5. Those students, whose names were recommended by Director, Medical Education for admission to Index Medical College, Indore, filed a writ petition before the Hon'ble High Court, which was registered as W.P. No. 18901/16. Subject matter of this writ petition was enhanced fees which had been demanded by Index Medical College. According to these students, at the time of their admission, the Index Medical College was affiliated to M.P. Medical Sciences University, Jabalpur (Respondent No 1). However, subsequently, management of Index Medical College registered a different University in the name and style of "Malwanchal University", Indore, and it was informed to the petitioners of that petition, that after creation of this new University, Index Medical College, Indore would now be affiliated to the newly created University and they claimed enhanced fees. The students complained to the AFRC which issued a direction to Index Medical College that fees fixed by it would be charged from the students and not the enhanced fees. The students filed the W.P. No. 18901/16. In this writ petition the Hon'ble High Court passed the following order on

28.04.2017:-

“WP-18901-2016

*(DR. KRISHNA PRATAP SINGH Vs THE STATE OF MADHYA PRADSEH*

28-04-2017

*Shri Arpan Pawar, learned counsel for the petitioners.*

*Shri Tabrez Sheikh learned counsel for the respondent no. 7.*

*Shri A.P. Shroti, learned counsel for the respondent no. 8.*

*Ms. Priyanka Mishra, learned counsel for the respondent no. 11.*

*The learned amicus curie appearing in the case informs that the process of enrolment/registration of the students of the respondent/college has not been completed till date and that tomorrow is the last date for completing the same.*

*The learned counsel appearing for the respondent/college after going through the instructions issued by the Medical University, specifically notes appended thereto which caste full responsibility upon the Principal/Dean of the college concerned to ensure that the students of the college are duly enrolled/registered with the University before the cut-off date submits and undertakes that the college shall ensure that the enrolment/registration of the students with the medical University is complete by the 30<sup>th</sup> of this month i.e. tomorrow.*

*The director Medical Education is also directed to see that all impediment in the aforesaid process if any are removed and the necessary steps are taken by tomorrow.*

*The learned amicus curie as well as respondent college shall inform the concerned students that they are required to appear before the concerned authority of the college who shall there after ensure that the registration of the students is complete before the end of this month.*

*In view of the aforesaid undertaking of the respondent/college list the case in the next week.*

*Also heard on 5701/2017 for correction of the typographical error that has crept into the order passed by this Court on 11.4.2017.*

*For the reasons mentioned therein, the application is allowed and the year of the batch of the students mentioned in the order as 2015-16 is directed to be read as 2016-17.*

*The aforesaid modification shall be read into the order passed by this Court on 11.4.2017.*

*A free typed copy of this order be given to amicus curie as well as respondent college for necessary compliance.”*

6. This writ petition W.P. 18901/16 was filed by those students, who were given admission by Index Medical College, Indore, on the basis of counselling held by Director, Medical Education Bhopal. Hon'ble High Court directed the institution, that is Index Medical College, Indore, and M.P. Medical Sciences University, Jabalpur, to enrol these students by completing formalities both by the institute and the University. By another order dated 11-04-2017, the Hon'ble High Court extended benefit of directions issued by it for enrolling the students by the University to all those students who were given admission by Index Medical College in the academic session 2016-17. Hon'ble High Court passed following order on 11-04-2017;-

**WP-18901-2016**

**(DR. KRISHNA PRATAP SINGH Vs THE STATE OF MADHYA PRADESH)**

**11-04-2017**

*Shri A.J. Pawar, learned counsel for the petitioners.*

*Shri Deepak Awasthi, learned G.A. for the State.*

*Shri Kapil Duggal, learned counsel for the respondent no. 7.*

*Shri A.P. Shrotri, learned counsel for the respondent no. 8.*

*The learned amicus curiae appointed by this court informs that the petitioners and other students who have been admitted by the respondents for the academic session 2015-16 and required to be treated as students of the Medical science University, have not been enrolled with the Medical Science University for which last date has been notified as 28<sup>th</sup> of April, 2017*

*The learned counsel for the Medical Science University informs that they have not been able to do so on account of the fact that the necessary forms, information and fees in this regard have not been received from the respondent/College.*

*The learned counsel appearing for the respondent/College submits that they will take all necessary steps in this regard as expeditiously as possible so as to ensure that all the students are enrolled by the Medical Science University before the last date notified by them.*

*It is made clear that the respondents/College shall not just confine the directions issued by this court to the petitioners alone but would also take up the case of all the students of the entire batch of 2015-16.*

*Necessary steps to enrol the petitioners and other students shall be taken by the Medical Science University on receiving forms, information and fees from the respondent/College.*

*List it in the week commencing 01.05.2017.”*

7. It seems that when question of enrolling the present appellants came before the University, it was found by them that they were given admission directly by Index Medical College, Indore and they did not come through counselling. According to the University their admission was not according with norms and conditions set down by Director, Medical Education, Bhopal, who was appropriate Authority under the Act of 2007;
8. M.P. Medical Sciences University, Jabalpur, wrote a letter, to the Chairman, AFRC Bhopal dated 16-04-2019 along with the letter, a letter, received from Index Medical College, Indore, was also attached. Apparently, through this letter the M.P. Medical Sciences University, Jabalpur requested the AFRC to conduct an enquiry into the legality of admissions given to the students especially the present appellants and give its findings. By the impugned communication dated 23-04-2019, the AFRC declined to conduct an enquiry on the ground that, there was not any specific instruction given by High Court in W.P. No. 18901/16 by order dated 28-04-2017. The impugned order may be quoted below;

“मध्य प्रदेश शासन  
प्रवेश एवं शुल्क विनियामक समिति  
सचिवालय

कार्यालय: टैगोर छात्रावास क्रमांक टी-2, भूतल, वार्ड विंग, श्यामला हिल, भोपाल-462002  
दूरभाष एवं फ़ैक्स : 0755-2660461, ई-मेल : [afrcmp@gmail.com](mailto:afrcmp@gmail.com), वेबसाईट- [www.afrcmp.org](http://www.afrcmp.org)

क्रमांक/सचि./ओएसडी/2019/  
प्रति,

कुलसचिव,

दिनांक -

मध्यप्रदेश आयुर्विज्ञान विश्वविद्यालय,  
एन.एस.सी.बी. मेडिकल कॉलेज कैम्पस,  
भेड़ाघाट रोड,  
जबलपुर (म.प्र.)

विषय— इंडेक्स मेडिकल कॉलेज, इन्दौर में MD/MS पाठ्यक्रम सत्र 2016-17 में प्रवेशित विद्यार्थियों के संबंध में।

संदर्भ— आपका पत्र क्रमांक/म.प्र.आ.वि.वि./परीक्षा/2019/618 दिनांक 16.04.2019.

\*\*\*

उपरोक्त विषयांतर्गत अधिष्ठाता, इंडेक्स मेडिकल कॉलेज, इन्दौर में MD/MS पाठ्यक्रम सत्र 2016-17 में प्रवेशित विद्यार्थियों के संबंध में माननीय उच्च न्यायालय, जबलपुर में दायर याचिका क्रमांक डब्ल्यू पी. नं. 18901/2016 में पारित निर्णय दिनांक 28.04.2017 में प्रवेश एवं शुल्क विनियामक समिति को कोई निर्देश नहीं हैं।

उक्त के नामांकन के संबंध में कार्यवाही आपके एवं संस्था के स्तर पर की जानी है। अतः प्रकरण मूलतः आपकी ओर संलग्न प्रेषित है।

(डॉ. आलोक चौबे)  
सचिव/विशेष कर्तव्यस्थ अधिकारी  
दिनांक—

पृ. क्रमांक/सचि./ओएसडी/2019/

प्रतिलिपि—1. माननीय अध्यक्ष महोदय, प्रवेश एवं शुल्क विनियामक समिति को सादर सूचनार्थ प्रेषित।

2. अध्यक्ष/सचिव/अधिष्ठाता, इंडेक्स मेडिकल कॉलेज, एन.एच.-59-ए, नेमावर रोड, इन्दौर को सूचनार्थ प्रेषित।

(डॉ. आलोक चौबे)  
सचिव/विशेष कर्तव्यस्थ अधिकारी

9. Aggrieved by refusal of the AFRC, the appellants, who were denied permission to appear in the examination of the MD/MS course, filed these appeals praying that matter be remanded back to AFRC, with direction to conduct an enquiry and to give a specific finding in respect of legality of admission given to the appellants.
10. Shri Chaube, appearing on behalf of AFRC vehemently opposes the prayer made by the appellants and submits that no specific directions were issued by Hon'ble High Court. The AFRC does not normally conduct the enquiry into the legality of any admission, unless any complaint is received by AFRC.
11. The question to be decided in these appeals is, whether AFRC is the sole appropriate Authority to conduct an enquiry and giving findings

regarding legality of admission, if any doubt has been raised regarding admission given to the students. In this regard, section 4(9) of Act of 2007 may be reproduced here;

*““The committee may hear complaints with regards to admission in contravention of the provisions contained herein, collecting of capitation fee or fee in excess of fee determined or profiteering by any institution, and if the Committee after enquiry finds that there has been any violation of the provisions for admission on the part of the unaided professional colleges or institution, it shall make appropriate recommendations for returning any excess amount collected to the person concerned, and also recommend to the Government for imposing a fine upto rupees ten lakhs, and the Government may or receipt of such recommendation, fix the fine and collect the same in the case in the case of each such violation or decide any other course of action as it deem fit and the amount so fixed together with interest thereon shall be recovered as if it is an arrear of land revenue, and the committee may also declare admission made in respect of any or all seats in a particular college or institution to be de hors merit and therefore invalid and communicate the same concerned university, and on the receipt of such communication, the University shall debar such candidates from appearing in the examination and cancel the results of examination already appeared for.””*

12. This apart, the definition of appropriate Authority is given in section 3(a) of Act of 2007 which is under;

*“““appropriate authority” means a Central or State authority established by the Central or the state Government for laying down norms and donditions for ensuring standards of professional education;””*

13. From this definition, it is apparent that function of appropriate Authority is to lay down norms and conditions for ensuring standards of professional education. The appropriate Authority for our purpose here is Director, Medical Education, Bhopal, whose, function is to lay down norms and conditions to ensure standards of professional education



including medical education. Thereafter, in case any dispute arises regarding admission given by unaided private medical college to any student in contravention of norms and conditions fixed by Competent Authority, then as per section 4(9) of Act of 2007, appropriate authority for conducting an enquiry and giving a finding is AFRC. Since in this case appellants were admitted directly by Index Medical College, they are to be heard and AFRC is under a statutory obligation to conduct an enquiry and give its findings whether the admission was legal or not.

14. In this way of the matter, this appeal deserved to be allowed. As the communication dated 23-04-2019 was not in line with provisions of Act of 2007, and therefore, the matter deserved to be remanded back to AFRC for its reconsideration.

15. As a result, this appeal is allowed the communication dated 23-04-2019 is set aside. The AFRC is directed to give specific finding regarding legality of admissions given to the appellants after hearing them. The response filed by Director, Medical Education before this Authority be sent to AFRC for its consideration.

With aforesaid direction to AFRC this appeal stands disposed off.

Sd/-  
**(Justice Alok Verma)**  
**Appellate Authority**