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

Chirayu Medical College & Hospital, Bhopal	**Appeal No.129/2014**
R.D.Gardi Medical College, Ujjain	**Appeal No.130/2014**
Sri Aurobindo Instt. of Medical Sciences, Indore	**Appeal No.131/2014**
Index Medical College Hospital & Research Centre,Indore	**Appeal No.132/2014**
People's College of Medical Sciences & Research Centre, Bhopal	**Appeal No.133/2014**
L.N.Medical College & Research Centre, Bhopal	**Appeal No.134/2014**

Appellants.

V E R S U S

The Admission and Fee Regulatory Committee (AFRC)
Tagore Hostel-2, Shyamla hills,
Bhopal.

Respondent

ORDER
(Date 21.05.2015**)**

1 The following six appeal cases have been registered under Section 10 of Madhya Pradesh Niji Vyavsayik Shikshan Sanstha (Pravesh ka Viniyaman Avam Shulk ka Nirdharan) Adhiniyam 2007 as per details given below:

Appeal No.	Appellant Institute	AFRC order No./ Date
129/2014	Chirayu Medical College & Hospital, Bhopal	2189/26.07.2014
130/2014	R.D.Gardi Medical College, Ujjain	2197/26.07.2014
131/2014	Sri Aurobindo Instt. of Medical Sciences, Indore	2187/26.07.2014
132/2014	Index Medical College Hospital & Research Centre,Indore	2191/26.07.2014
133/2014	People's Medical College & Research Centre, Bhopal	2195/26.07.2014
134/2014	L.N.Medical College & Research Centre, Bhopal	2193/26.07.2014

2 Appellants and Respondents were heard.

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3 Since all the six appeals are with reference to AFRC's orders dated 26.07.2014 and involve common issues; these appeal cases are being disposed of by this common order hereunder.

4 In all these appeal cases, the appellants have submitted the following common grounds of appeal –

4.1 A large number of State quota seats fell vacant on 30.09.2013 owing to cancellation of admission by already admitted students. A few state quota seats were also vacant owing to non-reporting for admission by students allotted by Director Medical Education (DME) on 29.09.2013. Appellants could not have afforded to keep these seats vacant as it would have caused huge financial loss. Therefore, appellants held college level counselling after due notice and by following transparent procedure and admission was given to eligible students on the basis of merit. Hence, AFRC's conclusion that appellants failed to show requisite transparency and fairness, was not based on facts.

4.2 DME's letter dated 17.09.2013 directed all appellants to permit students allotted under first and second rounds of counselling to submit original documents latest by 23.09.2013. Thus, DME himself had permitted extension in the date of admission which was complied with by the appellants. Therefore, AFRC's conclusion that the appellants had not adhered to the scheduled date as prescribed by competent authority for admitting students was not based on facts.

4.3 Clause 4 (9) (c) (i) of Madhya Pradesh Niji Vyavsayik Shikshan Sanstha (Pravesh ka Viniyaman Avam Shulk ka Nirdharan) Sanshodhan Adhiniyam, 2013 provides for a fine upto Rs. 10 lakhs per institution. This section does not authorise AFRC to impose a fine per case of irregular admission.

5 On behalf of Respondent, OSD, AFRC submitted that AFRC had received a request letter from the Government of Madhya Pradesh through Director, Medical Education with regard to conducting enquiry in the matter of grant of admission to MBBS and BDS courses by private unaided medical institutions

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against state quota on their own during 2009-2013. AFRC had decided to first enquire into alleged irregularities in MBBS admission in 2013 and subsequently, if necessary into alleged irregularities in years 2009 to 2012. AFRC had sent a copy of the complaint to concerned appellant institution and had sought a detailed explanation from each appellant. In AFRC's meeting dated 25.07.2014, the written explanations submitted by each appellant institution were considered and the appellants were also given an opportunity of hearing. After due consideration of written and oral explanations by the appellants, AFRC had recorded minutes of meeting dated 25.07.2014. AFRC had found that in admission year 2013, appellant colleges had not adhered to the scheduled counselling process and the scheduled date for admitting students. AFRC had also found that appellants had admitted a large number of students on the last date of admission i.e. 30.09.2013 against the state quota seats on their own. Owing to these irregularities by appellants, AFRC had deemed it fit to impose fine against each appellant on the basis of irregular admission given by them. AFRC had also found that the Competent Authority (DME) had not followed the counselling schedule mandated by Hon'ble Supreme Court in Civil Appeal No. 4318 of 2012 (Priya Gupta Vs. State of Chhattisgarh & Ors.). AFRC had therefore, decided to recommend to the Competent Authority for corrective measures in the admission process including providing waiting list to the appellants in future.

6 Brief facts of the case are as follows:

6.1 To fill 378 state quota seats in six appellant institutions, DME had allotted 655 students through four rounds of counselling. First round of counselling was held during 01.08.2013 to 10.08.2013 and second round of counselling was held during 13.09.2013 to 17.09.2013. Thereafter to fill left out seats, third round of counselling was held on 25.09.2013 and fourth round of counselling during 28-29.09.2013. Out of these 655 students, only 169 students had been admitted by appellant colleges upon closure of admission on 30.09.2013. Out of the remaining 209 (378-169) seats of the state quota, 11

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seats remained vacant at close of admission on 30.09.2013. Thus, 198 (209-11) state quota seats had been filled by the appellant colleges through students who were not amongst 655 students allotted by DME through four rounds of counselling for admission in the appellant colleges.

6.2 Out of 198 state quota seats which were filled on their own by appellants, 135 candidates were from PMT 2013 merit list and the remaining 63 were admitted on basis other than PMT 2013 merit list.

6.3 DME had instructed appellants vide his letter dated 17.09.2013 to permit students allotted through first and second rounds of counselling to submit original documents latest by 23.09.2013 and to submit report of vacant seats by 24.09.2013.

7. Following key issues need to be deliberated upon:

7.1 Did appellant colleges comply with provisions of Entrance Examination Rules, 2013? Did appellants comply with various directions of Hon'ble Supreme Court of India regarding admission procedure? Did appellants fill the state quota seats in 2013 in a fair and transparent manner and on the basis of merit?

7.2 Was AFRC competent to impose a fine of upto Rs. 10.00 lacs per case of irregular admission under Clause 4 (9) (c) (i) of the Madhya Pradesh Niji Vyavsayik Shikshan Sanstha (Pravesh Ka Viniyaman Avam Shulk Ka Nirdharan) Sanshodhan Adhiniyam, 2013?

7.3 Why did a large number of students decide only on the cut-off date i.e. 30.09.2013 to cancel their admission? Was there a nexus between such candidates and the appellants with a view to profiteering and facilitating discriminatory, non-merit based admission to state quota seats?

8. Issues mentioned in Para 7 above are considered hereinunder:

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8.1 Vide notification No. F5-58/2013/1/55 dated 10.05.2013, State Government had published Entrance Examination Rules, 2013 (E.E.Rules, 2013 for short) relating to entrance to undergraduate medical (MBBS) and dental (BDS) course in private unaided medical and dental colleges in the State of Madhya Pradesh. Rule 13.3 of E.E. Rules, 2013 provided that "*the claim of admission of a candidate who fails to join by the last date of joining or left after joining shall be forfeited and allotment/admission given to him/her shall be deemed to have been cancelled and will not be eligible to participate in the counselling again in the same year.*"

As per provisions of Rule 13.3 of E.E. Rules, 2013 and Counselling Schedule for 2013, candidates allotted by DME through first and second rounds of counselling were required to take admission by 24.08.2013 and 23.09.2013 respectively, failing which the allotments were to be rendered void.

Appellants have claimed that students allotted for admission by DME against state quota seats reported to appellant institutions and 'blocked' their seats without completing required formalities for admission. Appellants have further claimed that it was common and accepted practice to permit candidates allotted by DME for admission against state quota seats to complete formalities upto cut off date i.e. 30th September, since denial of extension of time would have deprived them of the opportunity to take admission. However, Entrance Examination Rules, 2013 did not provide for any intermediate stage in admission whereunder a student could be 'admitted' without completing required formalities for admission. There was no provision under which a student who had merely reported to the allotted college could be shown as admitted and could be allowed to 'block' or occupy a seat.

Appellants' contention that DME's letter dated 17.09.2013 permitted students, allotted through first and second rounds of counselling to complete formalities by 23.09.2013 is correct. However, the last date for admission for students allotted through first round of counselling was 24.08.2013. Hence,

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such students who had been allotted through first round of counselling but had not completed admission formalities had necessarily to forfeit their right to admission after 24.08.2013. It is necessary to highlight that DME's letter dated 17.09.2013 had not yet been issued, therefore on 25.08.2013, appellants were duty-bound to report to DME names of all such students who had not completed all formalities for admission and therefore those seats had necessarily to be reported as vacant. Appellants had not submitted such report. Therefore, appellant's alibi that DME's subsequent letter dated 17.09.2013 provided extension of date of admission does not hold good. Students allotted by DME through second round of counselling were required to take admission by 23.09.2013. By virtue of DME's letter dated 17.09.2013 students allotted through second round of counselling as well as first round of counselling were permitted to complete admission formalities latest by 23.09.2013. Therefore, the appellants were duty-bound to report to DME the status of completed admissions on 24.09.2013. The appellants were required to comply with provisions of E.E. Rules, 2013 and report to DME that a large number of students allotted through first and second round of counselling had not completed all formalities of admission such as deposit of original documents and fees and therefore, appellants were obliged to report these students as not admitted and these state quota seats had to be reported as vacant. Applicants had chosen not to submit such report. Thus, the appellant colleges were guilty of providing unwarranted and undeserved extension to students allotted through first and second rounds of counselling and thereby, depriving other meritorious students further down in the PMT merit list from availing of the legitimate opportunity to take admission against vacant state quota seats in the appellant institutions.

In fact, the so-called sympathy shown to candidates to block the seats till the cut-off date appears to be a clever ploy to create artificial scarcity of state quota seats. It is highly probable that such artificial scarcity was created deliberately and with malafide intention of using such artificial scarcity for exploitative practices. Thus, prima facie, the appellants, in the garb of being

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sympathetic to students allotted by DME appear to have deliberately, wilfully and with malafide motives allowed a large number of students who had not completed all formalities of admission to occupy state quota seats till 30.09.2013. This was a blatant and wilful violation of Rule 13.3 of E.E. Rules, 2013. Thereafter at 5.00 PM on 30.09.2013 a large number of so called 'admitted' students who had been permitted by appellants to illegally occupy state quota seats cancelled their admission, there-by facilitating appellants to go ahead with college level counseling and admit students on discretionary basis through non-transparent and non-merit based admission process with ulterior motives.

8.2 Upon finding that appellants had already filled 341 out of 378 state quota seats by 28.09.2013, DME had made fourth and final allotment of 37 students to appellant institutions on 29.09.2013 as per details given below:

S.No.	Name of private medical colleges	Total State Quota seats	Total state quota seats reported as filled by 28.09.2013 by private medical colleges	No. of students allotted by DME on 29.09.2013
1	Chirayu Medical College & Hospital, Bhopal	63	60	03
2	R.D.Gardi Medical College, Ujjain	63	50	13
3	Sri Aurobindo Instt. of Medical Sciences, Indore	63	59	04
4	Index Medical College Hospital & ResearchCentre,Indore	63	61	02
5	People's Medical College & Research Centre, Bhopal	63	55	08
6	L.N.Medical College & Research Centre, Bhopal	63	56	07
	Total	378	341	37

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Appellants have claimed that a large number of seats in state quota felt vacant owing to cancellation of admission on 30.09.2013 by already 'admitted' students. Appellants have contended that these students had waited for up-gradation to Government medical colleges and had decided to cancel their admission only on 30.09.2013. Withdrawal of such a large number of candidates on the cut-off date of admission i.e. 30.09.2013 could not be a normal occurrence and was certainly suspicious. Ordinarily, a student who had been admitted to a college would withdraw his/her admission only if he/she was upgraded for admission to a preferred college or a government college. There is nothing on record to suggest that these candidates claimed by appellant to have been already admitted, withdrew from the admission process because of such up-gradation. Appellants had permitted such students who had not completed all formalities of admission to occupy or block State quota seats. Thus, the extension permitted to these students by appellants to complete admission formalities by 30.09.2013 was certainly malafide and with a view to creating artificial scarcity of seats under State quota. Because of intentional and wilful misreporting by appellants regarding status of admissions on 28.09.2013, DME could make allotment of only 37 students on 29.09.2013. Remaining eligible candidates for State quota seats had thus been given to understand that all 378 state quota seats had already been filled. In this situation, there was no reason why remaining eligible students in PMT merit list would have gone to one or more of the appellant institutions to explore the possibility of admissions after 5.00 PM on 30.09.2013.

Information compiled by AFRC indicates that as many as 174 already admitted students decided to cancel their admission on 30.09.2013. What is significant is that the magnitude of this unusual and exceptional exodus of 174 students was known only to concerned appellant institutions and not to anybody else. This information regarding a sudden vacancy of 174 state quota seats on 30.09.2013 at 5.00 PM could not have been known to candidates who aspired for admission against these seats. Appellant colleges had given

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admission through college level counseling on 30.09.2013 at 5.00 PM to such candidates who were physically present at that time in appellant colleges. It is abundantly clear that admissions made by appellant colleges after 5.00 PM on 30.09.2013 through college level counseling were entirely discretionary, non-transparent and not based on inter se merit. Therefore, the likelihood of appellant colleges resorting to exploitative practices and granting admission to non-deserving candidates for extraneous consideration could not be ruled out.

In Civil Appeal Case No. 4318/2012(Priya Gupta Vs. State of Chattisgarh) Hon'ble Supreme Court had severely deprecated the practice of admitting a large number of students on the cut off date. In this regard, AFRC was directed to submit a report on admission given by appellant colleges against state quota seats on the cut off date i.e. 30th Sept. in academic years 2010,2011,2012 and 2013. The information compiled by AFRC regarding the manner in which State quota seats have been filled in previous years is as follows:

Admission year	Total State quota seats	Students admitted by private medical colleges out of students allotted by DME	Students admitted by private medical colleges through college level counselling On 30th Sept.
2010	306	206	100 (32.68%)
2011	437	270	167 (38.22%)
2012	412	156	256 (62.14%)
2013	378*	169	198 (52.38%)
Total	1533	801 (52.3%)	721 (47%)

*11 seats remained vacant upon closure of admission on 30.09.2013 (378- 11=367 [169 + 198]).

From the above-mentioned table, it is clear that every year during 2010, 2011, 2012 & 2013, private medical colleges had filled a large number of state quota seats on the cut off date i.e. 30th September through college level counselling and had admitted candidates other than those allotted by DME through counselling. During these 4 years, out of 1533 State quota seats, as

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many as 721 (47%) admissions had been given by private medical colleges on the basis of college level counselling and by admitting candidates other than those allotted by DME through counselling.

In SLP (C) No.13111/2009 (Modern Dental College & Others Vs. State of Madhya Pradesh & Others), Hon'ble Supreme Court passed interim order dated 27.05.2009 wherein the following direction was given:

"We, therefore, direct that the admissions in the private unaided medical/dental colleges in the State of Madhya Pradesh will be done by first excluding 15% N.R.I. seats which can be filled up by the private institutions as per para 131 of Inamdar's case), and allotting half of the 85% seats for admission to the under-graduate and post-graduate courses to be filled in by an open competitive examination by the State Government and the remaining half by the Association of the Private Medical and Dental Colleges. Both the State Government as well as the Association of Private Medical and Dental colleges will hold their own separate entrance examination for this purpose."

Further, in Civil Appeal No.4318 of 2012(arising out of SLP(C)No.27089/2011) Priya Gupta Vs. State of Chattisgarh and Others. Order passed on 08.05.2012, Hon'ble Supreme Court had directed that –

" the admission to the medical or dental colleges shall be granted through the respective entrance test conducted by the competitive authority in the State or the body of the private colleges. These two are the methods of selection and grant of admission to these courses.

It is clear that the above-mentioned directions given by Hon'ble Supreme Court in SLP (C) No.13111/2009 (Modern Dental College & Others Vs. State of Madhya Pradesh & Others) and in C.A. No. 4318 of 2012 (arising out of SLP(C)No.27089/2011) Priya Gupta Vs. State of Chattisgarh and Others) were not complied with by appellants in admission year 2013; and also in admission years 2010, 2011 and 2012.

The appellants have submitted that no student had complained regarding denial of admission by appellants. Therefore, AFRC's conclusion regarding irregularity in admission process was not based on complaint by any stake-

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holder. As has been already deliberated above, all candidates who were eligible to be considered for admission in appellant colleges under state quota seats had not been informed by appellants regarding college level counseling on 30.09.2013 after 5.00 PM. The eligible candidates were not privy to the number of admissions given by appellants through college level counseling on 30.09.2013. Nor were they privy to the rank and qualifications of candidates who were given admission. Therefore, they were not in a position to submit any complaint. Appellants had given admission to 198 candidates without adopting a fair, transparent and merit-based admission process. Thus, these 198 candidates were beneficiaries of such discretionary and non-merit based admission given by the appellants. Therefore, the question of any of the 198 beneficiaries submitting a complaint would not arise. It is, therefore, concluded that mere absence of complaint by candidates does not validate the sanctity of admissions given by appellants on 30.09.2013 through college level counseling.

In light of the above-mentioned deliberations, it is clear that the admission process in 2013 was manipulated and vitiated by appellants with a view to enabling unmeriting students to gain admission, facilitating discretionary admission by appellant institutions and depriving other meritorious students of PMT 2013 select list from admission against state quota seats.

8.3 In Civil Appeal Case No. 4318/2012(Priya Gupta Vs. State of Chattisgarh) Hon'ble Supreme Court had given clear and unambiguous direction that admissions must be granted through a fair, transparent and merit-based process. Hon'ble Supreme Court had also directed that state quota seats would be filled through an entrance test conducted by the State Government. In the present case, appellants had filled state quota seats by giving admission to several candidates who were not even in the PMT 2013 merit list. Appellants had also given admission to lower-ranked PMT qualified candidates without giving due opportunity to higher-ranked PMT qualified candidates. Thus, appellant colleges had clearly violated the directions given by Hon'ble

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Supreme Court. By conducting college level counselling after 5.00 PM on 30.09.2013, appellants had severely restricted participation of eligible candidates and had deprived a large number of meritorious candidates; who had qualified in the PMT merit list, were higher up in rank and had also given their choice for admission in appellant colleges; from participation in admission process.

Since each appellant college held college level counselling on 30.09.2013 after 5.00 PM; only those candidates who were physically present at the appellant institution at that point of time, could have participated in the college level counselling. Thus, it is clear that no opportunity was given to all the candidates who had qualified in PMT 2013 merit list and had registered for counselling for admission to state quota seats in appellant colleges.

Filling state quota seats by admitting just any candidate who had qualified in PMT 2013 did not meet the criteria of admission on the basis of inter se rank and merit. It is noted that a total number of 6474 candidates had qualified in PMT 2013 out of which 1842 candidates had registered for counselling for admission in private medical colleges under state quota seats. To fill 378 state quota seats in appellant institutions, DME had allotted 655 candidates of whom only 169 candidates were finally admitted. Thus the remaining 209 state quota seats were available for admission to 1187 (1842-655) candidates who had qualified for PMT 2013 and had also registered for counselling for admission in appellant institutions against State quota seats. These candidates had the first right to be considered for admission against 209 state quota seats which fell vacant in appellant institutions on 30.09.2013. This opportunity was not made available to these candidates. Therefore, even though appellants had admitted on 30.09.2013 some candidates who were among PMT 2013 qualified students, such admissions were on discretionary basis and not on the basis of inter se merit.

Thus, admission given by appellants on their own even to students who had qualified in PMT merit list, failed the criteria of merit-based admission. By

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conducting college level counselling after 5 PM on 30.09.2013, the appellant colleges deprived participation to a large number of PMT qualified students. Such last minute counselling had allowed the appellant colleges to offer discretionary and non-merit based admission.

It is significant to note that Association of Private Dental & Medical Colleges (APDMC for short) had advertised in Dainik Bhaskar, dated 28.09.2013 that centralised counselling will be held on 29th and 30th of Sep. 2013 in L.N.Medical College, Bhopal to fill vacant MBBS and BDS seats in appellant colleges under DMAT quota. For reasons best known to themselves, APDMC and appellants did not deem it necessary to hold similar centralised counselling to fill vacant state quota seats through PMT qualified students and instead preferred to hold college level counselling separately in each appellant institution. Therefore, it is concluded that college level counselling held by appellants after 5 PM on 30.09.2013 was in bad faith, without due notice and opportunity to all PMT qualified students and hence was vitiated.

8.4 Appellants have questioned the competence of AFRC to impose a fine of upto Rs. 10 lakhs per admission. MP Niji Vyavsayik Sikshan Sanstha (Pravesh Ka Viniyaman and Shulk Ka Nirdharan) Sansodhan Adhiniyam, 2013, 4 (9) (c) (i) reads as follows:

> " *If as a result of the enquiry the Committee finds that there has been any violation by such institution of the provisions of the Act or rules and regulations made there under regarding admission or fees, it may take one or more of the following actions against such institution :*
>
> *Impose a fine up to ten lac rupees on the institution together with interest thereon at the rate of 12 percent per annum which may be recovered as if an arrear of land revenue; ……."*

It is clear from perusal of AFRC meeting minutes dated 25.07.2014 and impugned order dated 26.07.2014 that AFRC had concluded that each admission in violation of the provisions of the Act or Rules and Regulations, had been considered as an individual violation. Therefore, a penalty had been

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imposed for each case of irregular admission. However, AFRC had made a distinction and had imposed a penalty of Rs. Five lacs for such cases where admission was granted to candidates who figured in PMT merit list and Rs. Ten lacs for admission where candidate was not in the PMT merit list.

Each appellant college had 63 state quota seats which were required to be filled through PMT merit list and on the basis of inter se merit list of such PMT qualified candidates who had registered for counseling for admission in state quota seats. The appellants have argued that whether the appellant college made one irregular admission or irregular admission to all 63 state quota seats, maximum penalty that AFRC was competent to impose was Rs. 10 lacs only. This argument is not acceptable. It is reasonable to impose penalty keeping in view the magnitude of irregularity committed by an appellant college in providing admission in violation of directions of Hon'ble Supreme Court and in violation of Entrance Examination Rules, 2013. Therefore, the penalty imposed by AFRC on appellant colleges is reasonable and appropriate.

9. In light of the above-mentioned deliberations, it is found that appellants admitted only 169 students against state quota seats out of 655 students allotted by DME through counselling. As many as 198 seats were filled by them by admitting such students who were not in the allotment list given by DME. It is clear, therefore, that 198 admissions given by appellants against state quota seats on 30.09.2013 were discretionary, non-merit based and therefore, not fair and transparent.

10 It is necessary now to highlight the irregularity in admission process adopted by each appellant institution in admission year 2013. The table below shows the scale and magnitude of non-transparent, discretionary and non-merit based admission through college level counselling on 30.09.2013 by each appellant.

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Name of the Institute	Total No. of state quota seats.	No. of students finally admitted by the institute out of students allotted by DME through all rounds of counselling.	No. of students admitted by the institute on its own through college level counselling on 30.09.2013 admitting students who were not amongst students allotted by DME for admission against state quota seats.
Chirayu Medical College & Hospital Bhopal	63	18	45
R.D.Gardi Medical college,Ujjain	63	56	7
Sri Aurobindo medical college, Indore	63	55	8
Index Medical college, Indore	63	6	57
People's college of Medical Science,Bhopal	63	15	40 (8 seats remained vacant)
L.N.Medical College, Bhopal	63	22	41

In the above-mentioned table, it is seen that maximum number of admissions through college level counselling on 30.09.2013 were done by Index Medical college (57), Chirayu Medical college & Hospital (45), L.N.Medical college (41) and People's college of Medical Science (40). Admissions given through college level counselling on 30.09.2013 were fewer in Sri Aurobindo medical college (8) and R.D.Gardi Medical college (7).

A brief summary is given hereunder regarding irregularities in admission procedure adopted by each appellant college for admitting students through college level counselling on 30.09.2013.

(1) Chirayu Medical College & Hospital, Bhopal: Cancellation of admission by as many as 45 already "admitted" students on 30.09.2013 was certainly unusual, suspicious and require further detailed enquiry. These 45 state quota seats were filled by appellant college on 30.09.2013 through college level counselling. Appellant had issued an advertisement in "Pradesh Today" newspaper on 30.09.2013 under which "students who are in merit in PMT" were notified to report for admission in the college before 4.00

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PM. on 30.09.2013. However, this advertisement omitted to mention that spot admission through college level counselling would be provided strictly in order of merit in PMT 2013 and by giving preference to students who had registered for counselling with DME against state quota seats. Thus, the institution had failed to maintain required transparency which prevented meritorious students in PMT merit list 2013 from participating in college level counselling held by appellant on 30.09.2013.

In light of the above mentioned deliberation, it is concluded that appellant had filled 45 state quota seats through college level counselling on 30.09.2013 through an admission process which was neither fair nor transparent nor merit-based. Therefore, AFRC's conclusion regarding irregularity committed by appellant in admission process was correct.

(2) **R.D.Gardi Medical College, Ujjain:** R.D.Gardi Medical College had filled 7 out of 63 state quota seats through college level counselling on 30.09.2013. Appellant's submission that there was a factual error in Minutes drawn by AFRC of its meeting dated 25.07.2014 is correct. AFRC had mentioned in the minutes that 7 vacancies arose owing to failure to report for admission by 7 students allotted by DME in the first stage of counselling. The factual position is that on 28.9.2013, R.D.Gardi Medical college had reported to DME that 13 state quota seats were vacant on the basis of which DME allotted 13 students on 29.09.2013. Out of these 13 students, 6 students reported and were admitted by R.D.Gardi Medical college, Ujjain. Seven students failed to report and hence against these vacant seats, appellant had admitted students on 30.09.2013 on the basis of college level counselling.

It is noted that appellant had issued advertisement in newspaper informing MP PMT merit list students to report for college level counselling on 30.09.2013.

However, this advertisement omitted to mention that spot admission through college level counselling would be provided strictly in order of

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merit in PMT 2013 and by giving preference to students who had registered for counselling with DME against state quota seats. Thus, the institution had failed to maintain required transparency which prevented meritorious students in PMT merit list 2013 from participating in college level counselling held by appellant on 30.09.2013.

In light of the above-mentioned deliberation, it is concluded that appellant had filled 7 state quota seats through college level counselling on 30.09.2013 through an admission process which was neither fair nor transparent nor merit-based. Therefore, AFRC's conclusion regarding irregularity committed by appellant in admission process was correct.

(3)Sri Aurobindo Institute of Medical Sciences, Indore: Out of 63 state quota seats, Sri Aurobindo Instt. had filled 8 seats through college level counselling on 30.09.2013. The question to consider is whether the appellant adopted a fair and transparent procedure for college level counselling held on 30.09.2013. It is noted that no advertisement was issued by appellant in news papers to inform all PMT qualified candidates regarding college level counselling on 30.09.2013. Thus, all the PMT qualified candidates who were eligible for admission against state quota seats in appellant college were deprived of the opportunity to seek admission against 8 vacant seats which arose on 30.09.2013. Only those few candidates who were physically present in appellant college on 30.09.2013 at 05.00 PM could participate in college level counselling and got the opportunity to seek admission to vacant seats. Thus, the procedure adopted by appellant for offering admission through college level counselling on 30.09.2013 was neither fair, nor transparent nor merit-based.

In light of the above-mentioned deliberation, it is concluded that appellant had filled 8 state quota seats through college level counselling on 30.09.2013 through an admission process which was neither fair nor transparent nor merit-based. Therefore, AFRC's conclusion regarding irregularity committed by appellant in admission process was correct.

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(4)Index Medical college hospital & Research Centre, Indore: Cancellation of admission by as many as 57 already "admitted" students on 30.09.2013 was certainly unusual, suspicious and require further detailed enquiry. These 57 state quota seats had been filled by Index Medical College on 30.09.2013 through college level counselling.

The question to consider is whether the appellant adopted a fair and transparent procedure for college level counselling held on 30.09.2013. It is noted that no advertisement was issued by appellant in news paper to inform all PMT qualified candidates regarding college level counselling on 30.09.2013. Thus, all the PMT qualified candidates who were eligible for admission against state quota seats in appellant college were deprived of the opportunity to seek admission against 57 vacancies seats which arose on 30.09.2013. Only those few candidates who were physically present in appellant college on 30.09.2013 at 05.00 PM could participate in college level counselling and got the opportunity to seek admission to vacant seats. Thus, the procedure adopted by appellant for offering admission through college level counselling on 30.09.2013 was neither fair, nor transparent nor merit-based.

In light of the above-mentioned deliberation, it is concluded that appellant had filled 57 state quota seats through college level counselling on 30.09.2013 through an admission process which was neither fair nor transparent nor merit-based. Therefore, AFRC's conclusion regarding irregularity committed by appellant in admission process was correct.

(5) People's College of Medical Sciences & Research Centre, Bhopal: Cancellation of admission by as many as 40 already "admitted" students on 30.09.2013 was certainly unusual, suspicious and require further detailed enquiry. These 40 state quota seats had been filled by People's college of Medical Sciences, Bhopal on 30.09.2013 through college level counselling.

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The appellant has submitted that *"it did its best to inform the aspirants for admission after close of office hours on 30.09.2013 and accorded admission on merit basis to those who were present and approached the appellant institution and deposited the requisite fees....."*. Appellant's submission is facetious and unacceptable.

It is noted that no advertisement was issued by appellant in news papers to inform all PMT qualified candidates regarding college level counselling on 30.09.2013. Thus, all the PMT qualified candidates who were eligible for admission against state quota seats in appellant college were deprived of the opportunity to seek admission against 40 vacancies seats which arose on 30.09.2013. Only those few candidates who were physically present in appellant college on 30.09.2013 at 05.00 PM could participate in college level counselling and got the opportunity to seek admission to vacant seats. Thus, the procedure adopted by appellant for offering admission through college level counselling on 30.09.2013 was neither fair, nor transparent nor merit-based.

In light of the above-mentioned deliberation, it is concluded that appellant had filled 40 state quota seats through college level counselling on 30.09.2013 through an admission process which was neither fair nor transparent nor merit-based. Therefore, AFRC's conclusion regarding irregularity committed by appellant in admission process was correct.

(6)L.N.Medical college & Research Centre, Bhopal : Cancellation of admission by as many as 41 already "admitted" students on 30.09.2013 was certainly unusual, suspicious and require further detailed enquiry. These 41 state quota seats had been filled by L.N.Medical college on 30.09.2013 through college level counselling. The question to consider is whether the appellant adopted a fair and transparent procedure for college level

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counselling held on 30.09.2013. It is noted that no advertisement was issued by appellant in news papers to inform all PMT qualified candidates regarding college level counselling on 30.09.2013. Thus, all the PMT qualified candidates who were eligible for admission against state quota seats in appellant college were deprived of the opportunity to seek admission against 41 vacancies seats which arose on 30.09.2013. Only those few candidates who were physically present in appellant college on 30.09.2013 at 05.00 PM could participate in college level counselling and got the opportunity to seek admission to vacant seats. Thus, the procedure adopted by appellant for offering admission through college level counselling on 30.09.2013 was neither fair, nor transparent nor merit-based.

In light of the above-mentioned deliberation, it is concluded that appellant had filled 41 state quota seats through college level counselling on 30.09.2013 through an admission process which was neither fair nor transparent nor merit-based. Therefore, AFRC's conclusion regarding irregularity committed by appellant in admission process was correct.

11. On the basis of above-mentioned detailed deliberations regarding common grounds of appeal and specific instances of irregularity in admission process by each appellant institution; the decision of AFRC regarding irregularity in admission process by appellant colleges, is found to be correct and the fines imposed by AFRC vide its order dated 26.07.2014 on appellant colleges are found be to appropriate and reasonable.

Hence, Appeal No.129/2014 of Chirayu Medical College & Hospital, Bhopal, Appeal No.130/2014 of R.D.Gardi Medical College, Ujjain, Appeal No.131/2014 of Sri Aurobindo Instt. of Medical Sciences, Indore,Appeal No.132/2014 of Index Medical College Hospital & Research Centre,Indore, Appeal No.133/2014 of People's College of Medical Sciences & Research Centre, Bhopal and Appeal No.134/2014 of

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L.N.Medical College & Research Centre, Bhopal are found to be without merit and hence rejected.

12 Appellants, in appeal memos and in personal hearing, had alleged that the failure of Competent Authority (DME) to comply with directions of Hon'ble Supreme Court regarding timely completion of counselling and admission had led to a situation under which appellants were constrained to offer admission through college level counselling on 30.09.2013.

In this regard, it is notable that in 2013, DME held four rounds of counselling as detailed in Para 6 (i). DME had submitted that the third and fourth rounds of counselling were required to fill left-out seats. However, the fact remains that counselling was conducted by DME during a long duration of two months, commencing on 01.08.2013 and concluding only on 29.09.2013. It is further noted that there was a very long gap between first and second counselling and a further gap between second and third counselling. Such gaps in counselling schedule were avoidable.

Could the counselling and allotment of candidates have been completed by DME as per schedule mandated by Hon'ble Supreme Court? Prima facie, the answer is yes. AFRC is directed to scrutinise the counselling schedule during 2009 to 2013 and suggest measures for timely and time-bound counselling and allotment in strict compliance of Hon'ble Supreme Court's directions.

The next issue is the large scale cancellation by already admitted students on 30th Sept. 2013. Did such cancellation in large numbers take place every year during 2009 to 2013? If yes, was the Competent Authority unaware of such cancellation? Did the Competent Authority ever review how many admissions were finally given by private unaided medical colleges from amongst students allotted by DME through counselling and how many students were admitted by such colleges on 30th Sept. by admitting students other than those who were allotted by DME. Did the

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Competent Authority take up this serious matter of large scale admission by private medical colleges against state quota seats on their own during 2009 to 2013? AFRC while conducting enquiry into the alleged irregularity in admission during 2009 to 2013 is directed to consider these aspects also.

13 AFRC is directed to complete enquiry into alleged irregularities in admissions during 2009, 2010, 2011 & 2012 and take action as provided under the Madhya Pradesh Niji Vyavsayik Shikshan Sanstha (Pravesh Ka Viniyaman avam Shulk Ka Nirdharan) Sanshodhan Adhiniyam 2013.

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(P.K.Dash)
Appellate Authority