

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

Presided over by Justice Alok Verma.

I. (i)Appeal No.32/2019:

Sri Aurobindo College of Dentistry, Indore

... Appellant

V/s

Admission and Fee Regulatory Committee

.....Respondent

(ii)Appeal No.33/2019:

1.Dr. Drishti Pandey

2.Dr. Amit Choudhary

3.Dr.Neha Verma

4.Dr.Aachal Verma

5.Dr.Shabdika Baghel

6.Dr.Chinki Bardia

7.Dr.Ankit Mhaskar

8.Dr.Astha Vyas

9.Dr.Nidhi Pachore

10.Dr.Archita Gangwal

11.Dr.Aakrti Sarwan

12.Dr.Nikit Dixit

**13.Dr.Geet Chaddha – Students, Sri Aurobindo
College of Dentistry, Indore**

...Appellants

V/s

Admission and Fee Regulatory Committee

.....Respondent

II. (i) Appeal No.35/2019:

**Hitkarini Dental College
and Hospital, Jabalpur**

....Appellant

V/s

Admission and Fee Regulatory Committee

.....Respondent

(ii) Appeal No.38/2019:

- 1.Dr.Sukhada Arun Wagh
 - 2.Dr.Indrapal Singh
 - 3.Dr.Priyanka Mahawar
 - 4.Dr.Shubhra Malhotra
 - 5.Dr.Ankita Deo
 - 6.Dr.Aditi Yadav
 - 7.Dr.Souvik Singha
 - 8.Dr.Anshika Grover
 - 9.Dr.Reetesh Navani
 - 10.Subia Khan
 - 11.Dr.Neelam Jaiswal
 - 12.Dr.Ankita
 - 13.Dr.Jayati Trivedi
 - 14.Dr.Pratibha S. Kshirsagar
 - 15.Dr.Manish Baghel
 - 16.Dr.Vinay Jhariya
 - 17.Dr.Pranjali Dhimole
 - 18.Dr.Ankita Baheti
 - 19.Dr.Swarnam Pandey - Students, Hitkarini Dental College
and Hospital, Jabalpur
- ...Appellants**

V/s

Admission and Fee Regulatory Committee

.....Respondent

III. (i) Appeal No.45/2019:

**College of Dental Science &
Hospital, Rau, Indore**

...Appellant

V/s

Admission and Fee Regulatory Committee

.....Respondent

(ii)Appeal No.36/2019:

- 1. Dr. Sourabh Gupta**
- 2.Dr. Shorya Sahu**
- 3.Dr.Sudhanshu Tiwari**
- 4.Dr.Naushad Ali**
- 5.Dr.Siddharth Jain**
- 6.Dr.Mona Agrawal**
- 7.Dr.Parashar Desai**
- 8.Dr.Irfan Akbani**

**9.Dr.Sayali Jain - Students, College of Dental Science &
Hospital, Rau, Indore**

...Appellants

V/s

Admission and Fee Regulatory Committee.....Respondent

IV. (i)Appeal No.43/2019:

**Maharana Pratap College of
Dentistry & Research Centre, Gwalior**

...Appellant

V/s

Admission and Fee Regulatory Committee.....Respondent

(ii) Appeal No.39/2019:

**Dr. Mohit Arora, Student, Maharana
Pratap College of Dentistry & Research
Centre, Gwalior**

...Appellant

V/s

Admission and Fee Regulatory Committee.....Respondent

(iii)Appeal No.40/2019:

**Dr.Bhuwansh Kumar Sharma, Student,
Maharana Pratap College of Dentistry
& Research Centre, Gwalior**

...Appellant

V/s

Admission and Fee Regulatory Committee

.....Respondent

(iv)Appeal No.41/2019:

1. Dr. Monika Pandey
2.Dr. Rahul Tiwari
3.Dr.Shashank Soni
4.Dr.Kirti Mainali
5.Dr.Ashish Sharma
6.Dr.Kaushal Singh Sejwar
7.Dr.Neha Singh Sikarwar
8.Dr.Astha Singh – Students, Maharana Pratap College of
Dentistry & Research Centre, Gwalior **...Appellants**

V/s

Admission and Fee Regulatory Committee **.....Respondent**

V. (i)Appeal No.46/2019:

Rishiraj College of Dental
Science and Research Centre, Bhopal **...Appellants**

V/s

Admission and Fee Regulatory Committee **.....Respondent**

(ii)Appeal No.48/2019:

1. Dr.Abhilasha Mishra
2.Dr. Deepika Dhali
3.Dr. Archana Jalheria
4.Dr. Shweta Parmar
5.Dr. Vikalp Bansal
6.Dr. Anoop Kumar Srivas
7.Dr. Satyaprakash Nigam
8.Dr.Shweta Meshram – Students, Rishiraj College
of Dental Science and Research Centre, Bhopal **...Appellants**

V/s

Admission and Fee Regulatory Committee **.....Respondent**

VI. (i) Appeal No.47/2019:

Mansarovar Dental College, Bhopal

...Appellants

V/s

Admission and Fee Regulatory Committee

.....Respondent

(ii) Appeal No.49/2019:

1.Dr. Chandni Shrivastava

2.Dr.Paras Sonkar

3.Dr. S.K. Babul Salam

4.Dr.Pratibha Sharma

5.Dr. Vivek Chaudhary

6.Dr.Abhishek Saxena

7.Dr.Praveen Saxena

8.Dr. Hitesh Dilliwal

9.Dr.Chandni Mohan Das

10.Dr. Jay Mamotra

11.Dr.Shubham Gupta - Students,

Mansarovar Dental College, Bhopal

....Appellants

V/s

Admission and Fee Regulatory Committee

.....Respondent

VII. (i) Appeal No.37/2019:

Dr.Lalita Kakde,

Student, Modern Dental College, Indore

....Appellant

V/s

Admission and Fee Regulatory Committee

.....Respondent

(ii) Appeal No.42/2019:

1.Dr.Akanksha Nayak

2. Dr.Krishna Kumar Chitlangia

3.Dr.Shweta B. Shah

4.Dr.Bhawna Aidasani

5.Dr.Gautami Upadhyaya

6.Dr.Swai Nagar

7.Dr.Ayushi Agarwal
8.Dr.Namrata Sudhir Badlani
9.Dr. Poorva Goyal
10.Dr.Abhishek Singh Pathania
11.Dr. Pooja Bhutda - Students,
Modern Dental College, Indore

....Appellants

V/s

Admission and Fee Regulatory Committee

.....Respondent

(iii) Appeal No.44/2019:

Dr.Shubham Jain, Student, Modern Dental College,
Indore

....Appellants

V/s

Admission and Fee Regulatory Committee

.....Respondent

ORDER

(Date: 21st May, 2019)

1. These appeals are filed under Sec. 10 of Madhya Pradesh Niji Vyavasayik ShikshanSanstha (Pravesh Ka Viniyaman Avam Shulk ka Nirdharan), Adhiniyam, 2007 (hereinafter referred to as “the Act of 2007”) challenging order of the Admission and Fee Regulatory Committee (herein after referred to as “AFRC”) No. AFRC/Sectt/2019/425 dated 02/04/2019.
2. These appeals are filed by 83 students and six Institutes. The Institutes are located in the State of Madhya Pradesh. These institutes are running MDS course. These Institutes shall be referred to as “Appellant Institutes” and students shall be referred to as “Students Appellants” hereinafter.
3. The Students Appellants were admitted by the Appellant Institutes during the academic session 2016-17 onwards in their MDS Course. An interim order was passed by Hon’ble Supreme Court on 27th May, 2009 in a Writ Petition and in consonance with this interim order, an interim

arrangement was made in the State of Madhya Pradesh under which the State was permitted to admit 50% of students in pursuance to the examination conducted by Appellant Institutes which was known as DMAT and remaining 50% students were to be given admission as per the recommendation of State on the basis of inter-se merit, the students achieved, in a common entrance test called pre-medical test conducted by the State. Due to certain circumstances, in some years proceeding the academic session 2016-17, the State could not conduct pre-medical test and, therefore, names of 50% students were recommended on the basis of their inter-se merit they achieved in an All India Medical Test held for the purpose.

4. In the year 2016, a peculiar situation arose. According to the schedule prescribed by Dental Council of India Regulation 2007, the DMAT examination should have been completed by 15th of February each year. However, in the year 2016, DEMAT examination could not be conducted by the Appellant Institutions. Due to this peculiar situation that existed in 2016, the whole controversy arose.
5. The Dental Council of India which is the apex body governing education in dentistry issued two notifications exercising its power under section 20 of the Dentist Act, 1948 dated 31.5.2012. The constitutional validity of said notification was examined by the Hon'ble Supreme Court in Transfer Case (Civil) No.98/2012 and other connected matters. The Hon'ble Supreme Court passed the judgment dated 18.7.2013 and declared the notification as ultra vires the Article 19(1)(g), 25, 26(a), 29(1) and 30(1) of the Constitution of India. Aggrieved by this judgment, the Central Government and Medical Council of India approached the Supreme Court in a review petition No.21592-2268 of 2013. These review petitions were disposed of by Hon'ble Supreme Court by order dated 11.4.2016 and the order passed earlier dated 18.7.2013 was recalled. As a result of which,

the notifications dated 31.5.2012 came back to life. In accordance with the notifications, the admissions to BDS and MDS Courses were directed to be done through NEET. By another order dated 28.4.2016, the Hon'ble Supreme Court issued direction for conducting NEET for the academic session 2016-17. It was directed that AIPMT shall be treated as NEET-I and Central Board of Secondary Education (CBSE) shall conduct NEET-II on 24.7.2016, for admission to MBBS/BDS courses for academic session 2016-17 and, therefore, the NEET was made basis for admission to undergraduate courses of MBBS and BDS and this examination was not formed a basis for postgraduate courses like MD/ MS so far as academic session 2016-17 was concerned. From academic session 2017-18 onwards, examination was on the basis for admissions to under graduate as well as post graduate examinations.

6. Under the peculiar situation created in the year 2016, Modern Dental College and Research Centre, one of the Institutes which admitted appellant students, approached Hon'ble Supreme Court in interlocutory application No.83/15 in civil appeal No.4060/9. In this application following prayer was made:-

“a) Direct that for the academic session 2016-17, the admission for all the seats in the private colleges in Under Graduate & post Graduate Courses would be given only on the basis of the Common Entrance Test conducted by the APDMC i.e. SSET, DMAT and Pre PGDMAT.”

The H'ble Supreme Court made following observations:-

“That apart, we also find that as per the provisions of Post-Graduate Medication Education Regulations, 2000, as amended from time to time, examination for admitting students for post graduate studies should have been concluded before 15th

February, 2016. It is an admitted fact that no examination had been conducted by the applicants for the said purpose till date, though the last date of examination, i.e. 15th February, 2016, lapsed much earlier. Allowing the applicants to conduct the examination at this state will disturb the entire schedule of admission stipulated in the aforesaid regulations.

According to the aforesaid Regulations, the first round of counselling/admission has to be concluded between 4th to 15th April, 2016, which is the next step.

We may record that a fervent plea was made by the learned senior counsel for the applicants to extend the date of conducting the examination till 31st March, 2016. However, we feel that it would not be possible for the applicants to hold the examination in a fair and transparent manner in such a short period and to start the first round of counselling/admission by 4th April, 2016 and conclude the same by 15th April, 2016.

As per the interim arrangement made under the orders dated 27th May, 2009, the medical colleges of State of Madhya Pradesh are permitted to admit 50% of the students in pursuance to the examination conducted by the applicant association whereas 50% of the students are to be given admission as per the recommendation of the State. We are informed that for the last few years, the State of M.P. is sending the names of the candidates from the merit list prepared of those who appeared in All India Examination held for the purpose. Same procedure be adhered to for this year as well.

In so far as the All India Examination is concerned, it has already been held as per the stipulated time schedule and the result of the said examination has already been declared. Thus, a

list of successful candidates, who have passed the said examination is available at present.

In the aforesaid circumstances, we permit the applicants, to select candidates, on the basis of their inter-se merit, for admission to 2016-17 batch of post-graduate course from the aforesaid list of successful candidates.

The counselling shall be done by the State and fees which might be collected from the students by the State shall be paid by the State to concerned medical college.

In view of the above interim order, Interlocutory Application No.83 of 2015 stands disposed of.”

This order was passed on 17th March, 2016 and, thereafter, the State Government framed “Madhya Pradesh Private Medical and Dental Post Graduate Course Admission Rules 2016”, hereinafter referred to as “Rules 2016”.

7. At this stage, it may be mentioned here that at the relevant point of time, 85% seats were filled by candidates appearing in common admission test conducted by the State Government and appellant institutes. The remaining 15% seats were reserved for NRI students and filled by the institutes under NRI category.
8. The Rule 11 of Rules 2016 provides as under:-

“EXAMINATIONS:-

Qualifying marks obtained in AIPGMEE 2016 conducted by National Board of Examination, New Delhi. AIPGDEE-2016 organised by AIIMS New Delhi shall be the basis for admission in 85% seats of Private Medical/Dental College of the State of M.P., in compliance of Hon’ble Supreme Court of vide order dated

17.03.2016 in I.A.83/2015 in Civil Appeal No.4060/2009 order dated 27.5.2009."

The revised Post graduate MDS course regulation, 2007 framed by Dental Council of India also have bearing on this controversy. They provide the basis for selection of postgraduate students. The regulations provide as under:-

"SELECTION OF POSTGRADUATE STUDENTS:

- (1) Students for postgraduate dental courses (MDS) shall be selected strictly on the basis of their academic merit.*
- (2) For determining the academic merit, the university/institution may adopt any one of the procedures both the P.G. Diploma and MDS degree courses:*
 - (i) On the basis of merit as determined by a competitive test conducted by the State Government or by the competent authority appointed by the State Government or by the University/group of universities in the same state; or*
 - (ii) On the basis of merit as determined by a centralised competitive test held at the national level; or*
 - (iii) On the basis of the individual cumulative performance at the first, second, third & Final B.D.S. examinations, if such examinations have been passed from the same university; or*
 - (iv) Combination of (i) and (iii);*

Provided that wherever entrance test for Postgraduate admissions is held by a State Government or a university or any other authorized examining body, the minimum percentage of marks for eligibility for admission to postgraduate Dental courses shall be 50% for general

category candidates and 40% for the candidates belonging to Scheduled Castes and Scheduled Tribes.

Provided further that in non-Governmental institutions fifty percent of the total seats shall be filled by the competent authority and the remaining fifty percent by the management of the institution on the basis of merit.

9. After aforesaid rules 2016 came into force on 1st April, 2016, the State Government proceeded to undertake counselling for recommendation of names of the students to various colleges located in the State of Madhya Pradesh running MDS course. Admittedly, till 31st May, 2016, through counselling, only names of 21 students could be recommended for admission in various colleges. So far, these 21 students are concerned, there is no controversy. However, when till 31st May, 2016, the seats remained vacant in all the colleges, the appellant institutes then informed the DME, Bhopal about the vacant seats and requested to allow them to fill up the vacant seats in accordance with sub-clauses (iii) and (iv) of clause 2 of revised regulations, 2007. However, the DME did not respond. In such a situation, the appellant institutes proceeded to conduct college level counselling after 5:00 PM on 31st May and on the basis of sub-clauses (iii) and (iv) of clause 2 of revised Dental Regulation, 2007 quoted above, they proceeded to admit the student appellants in their institutions.
10. These admissions were challenged by Dr. Anand Rai in Writ Petition No.895/18 which was in the nature of public interest litigation. The Hon'ble High Court passed the following order and referred the matter to AFRC for taking final decision in respect of admission of students in postgraduate dental course in private unaided medical colleges:-

"The grievance of the petitioner in the public interest writ petition is that certain students have been admitted in the Post Graduate Dental College for the session 2016-17 who are not qualified. In the return filed on behalf of the State on 27.04.2018, it has been pointed out that Madhya Pradesh Niji Vyavasayik Shikshan Sanstha (Pravesh Ka Viniyaman avam Shulk ka Nirdharan) Adhniyam 2007 (for short "the Act") provides for constitution of Admission & Fee Regulatory Committee, whereas Sub Section (9)(a) of the said Act empowers such Committee to enquire into the admissions made contravention of the provisions contained in the Act and take corrective action in accordance with law. It is pointed out in return that the State Government has forwarded the report of University to Admission and Fee Regulatory Committee and that such committee is to take a final decision in terms of Act and regulations made thereunder. In view of the said fact, we dispose of the present petition with direction that the Admission and Fee Regulatory Committee constituted under the Act to take a final decision in respect of admission of the students in the Post Graduate Dental Course in the private medical colleges within a period of three months from today."

11. The AFRC considered the matter in its meeting dated 2.4.2019 and passed following impugned order:-

"4. On verification of the records furnished by Madhya Pradesh Medical Science University, Jabalpur of 80 candidates and 78 candidates furnished by the concerned Unaided Private Dental Colleges, the Committee found that the candidates have not participated in the Counselling Process conducted by

Counselling Authority of the State i.e. Director, Medical Education.

5. In addition to the number of candidates as per Madhya Pradesh Medical Science University, Jabalpur of 80 candidates and 78 candidates furnished by the concerned Unaided Private Dental Colleges, if any candidate is found to have been admitted in M.D.S. Course in 2016-17 will also be covered under this order.

6. Thus the Committee found that the admission done by the Unaided Private Dental Colleges without counselling process conducted by Counselling Authority of the State i.e. Director, Medical Education in M.D.S. Course in the year 2016-17 as invalid."

12. Aggrieved by this order, these appeals are filed by 83 students who were admitted by the appellant institutes. One of the institutes, Modern Dental College, Indore did not approach this Authority and did not file an appeal. However, the students admitted by this institute filed appeal Nos. 37/2019, 42/2019, 44/2019 before this Authority which are under disposal by this order.

13. The appellant institutes assailed the order passed by the AFRC on the ground, inter alia, that the AFRC failed to consider the fact that only 21 students took admission in accordance with rules framed by the DME for admission to MDS course in 2016. These were the students who qualified in AIPGDEE-16 and obtained 50% or more marks. After admitting these students, large number of seats remained vacant in all the institutions. The DME notified the rules on 1st April, 2016 and counselling started thereafter. Though, sufficient number of candidates did not apply for counselling, no action was taken by DME to invoke sub clauses (iii) and

(iv) of clause 2 of revised regulation 2007 of DCI. In such a situation, all the institutions gave intimation to DME on 31st March, 2016 of their intention to conduct college level counselling and fill the vacant seats from the available candidates. It is also case of the institutes that if candidates were not available, they were allowed to admit students under revised regulation 2007 by invoking sub-clauses (iii) and (iv) of clause 2. As no action was taken by DME to permit such students who fulfil the criteria under sub-clauses (iii) and (iv) of clause 2 of revised regulation 2007, they were constrained to conduct college level counselling and admit students.

14. So far as the merit is concerned, their contention is that even after admitting all the available students who were present in the institute on 31st May, 2016 after 5:00 PM, seats remained vacant in almost all the institutions and no student later on turned up to seek admission. In such a situation it cannot be said that in any way merits efforts due to their admitting students in above mention manner.
15. The common round taken by the student appellants, inter alia, was that most of the students did not appear in AIPGEE-16 which was held in December, 2015, because they were expecting that DMAT would be held by private collages before 15th February, 2016. According to them, they all wanted admission in private dental collages so they did not appear in AIPGDEE-16 examination.
16. Before evaluating their respective contentions, this authority sought response from DCI, DME and Medical University, Jabalpur. The DCI and Medical University, Jabalpur chose not to file any reply before this authority. The DME filed response which may be reproduced as under:-

"विषयांतर्गत संदर्भित पत्र के अनुक्रम में अवगत कराया जाता है कि वर्ष 2016-17 में एमडीएस पाठ्यक्रमों में शासकीय एवं निजी दंत चिकित्सा महाविद्यालयों की स्टेट कोटा की सीटों पर प्रवेश की कार्यवाही संचालनालय द्वारा संचालित काउंसलिंग से की गई

थी, जिसमें 21 अभ्यर्थियों को ही प्रवेश दिया गया था, इसके अतिरिक्त 83 अभ्यर्थियों को दिए गए प्रवेश की कार्यवाही निजी दंत चिकित्सा महाविद्यालयों द्वारा अपने स्तर पर की गई है, जो कि नियमानुसार वैध नहीं है इसी मत के साथ आपकी ओर आवश्यक कार्यवाही हेतु प्रेषित।'

17.The DCI, however, filed an affidavit before Hon'ble High Court of Madhya Pradesh in writ petition No.20932/18, the relevant portion may be quoted from the affidavit filed by the appellant institutions.

"That the admission of the daughter of Respondent No.6 at Hitkarni Dental College was governed by Dental Council of India revised MDS Course Regulations, 2007 as her admission was done in the Academic Session 2016-17. The admission of the daughter was done on the basis of the individual cumulative performance at the first, second, third & final BDS Examinations as she has passed from the same University i.e. Rana Durgawati University and has secured 67.50%. The admission on the basis of cumulative performance was permissible and was within the mandate of Dental Council of India Council of India revised MDS Course Regulations, 2007. A copy of the list of students admitted at Hitkarni Dental in the MDS Course for the Academic Session 2016-17 as forward to DCI is annexed herewith and marked as Annexure-9.

18.According to the respondent AFRC, since the admissions were not done in accordance with rules framed by DME 2016 for admission in MDS course in private colleges, the AFRC in the impugned order did not find the admissions valid and legal and, therefore, declared all of them as illegal.

19.It is also the case of AFRC that Hon'ble Supreme Court in the writ petition filed Modern Dental College and Research Centre, Indore, Civil Appeal No.6040/2009 and interlocutory application No.83/15 in order

dated 17th March, 2016 allowed admission only through the All India Examination i.e. AIPGDEE and therefore, no other basis can be adopted.

20. In the light of above rival contentions it has to be seen, whether in view of the order passed by the Hon'ble Apex Court, in case of Modern Dental College (Supra), any admission on the basis of sub-clauses (iii) and (iv) of clause 2 of revised regulation 2007 would be illegal. In considered opinion of this authority, Hon'ble Apex Court allowed admission to be done firstly on the basis of list of successful candidates available then. However, the validity of revised rule 2007 of DCI was not under challenge and in the order it was not said that such rules could not be applied. However, when DME framed the rules, it confined itself to the observations made by Hon'ble Apex Court and only basis for admission was made was common admission test conducted in All India level and i.e. AIPGDEE-16. In such a situation, it is apparent that it was opened to DME to resort to sub-clauses (iii) and (iv) of clause 2 of revised regulation 2007, but it failed to do so.
21. The DME notified the rules on 1st April, 2016 and thereafter, counselling started. Probably by 3rd week of April or at most by last week, the DME must have realised that sufficient candidates were not available to fill up all the available seats in all private dental colleges. However, no action was taken by DME, and therefore, the institutes were constrained to admit available students on 31st May after 5:00 PM.
22. By not facing a common counselling conducted by DME, the possibility of flouting of merit base criteria was definitely there. However, in the instant case all the colleges had shown that even after admitting all the available students there were many seats vacant. For example, there were six seats remained vacant in Mansarovar Dental College, Bhopal. And also it may be noted that after 2016, not a single complaint was filed with AFRC claiming that more meritorious the candidate was denied admission

in any of the dental institutions in Madhya Pradesh. In such a situation, so far as the present case is concerned, there appears to be no sacrifice of merit. However, this observation may not be taken as supporting the action on the part of the private dental institutions, in conducting college level counselling by passing the counselling conducted by DME.

23. In such a situation, reading the direction of the Apex Court in case of Modern Dental College (Supra), revised regulation 2016 of DCI and rules framed by DME, it is apparent that those candidates who passed from any University situated in Madhya Pradesh their BDS course are eligible to be admitted by private dental institutions in Madhya Pradesh. This is so, because in Madhya Pradesh before 2016, a common state level Medical University was established, and thereafter, it was compulsory to all the institutions to affiliate themselves for MD/MS and MDS courses and this university became the successor of the all other Universities situation in Madhya Pradesh. In such a situation in condition prescribed by sub-clauses (iii) and (iv) of clause 2 of the regulation 2007 was fulfilled when the candidate had done the BDS course on any universities located in Madhya Pradesh.
24. The argument put forth by the students also have force. The rules framed by the DME and notified on 1st April, 2016 form the basis for the admission to MDS course a common All India test i.e. AIPGDEE-16 held in December, 2015. Those students who were not aware that DMAT would be not be held by the institutes before the scheduled date of 15th February, 2016 and who were otherwise eligible for admission to MDS course on the basis of sub-clauses (iii) and (iv) of clause 2 regulations 2007. As such, while framing the rule and confining admissions on the basis of AIPGDEE-16, the state government deprived the students who were otherwise eligible and while considering the fate of students who

were admitted in 2016, this aspect should have also been taken into consideration.

25. Therefore, on above discussion, it may be said that those candidates who passed from any University situated in Madhya Pradesh their BDS course were eligible for taking admission MDS course on basis of cumulative performance of three year in accordance with the view expressed by DCI in the affidavit submitted before Hon'ble High Court. Secondly, merit was not sacrificed, and therefore, admission of such candidate as above may be validated.

26. In light of above criteria fixed, we may now proceed to examine the appeals filed by various student appellants to see admission of how many of them can be validated.

27. Appeal No.32/2019,& 33/2019.

Appeal No.32/2019 was filed by Sri Aurobindo College of Dentistry, Indore, while Appeal No.33/2019 is filed by 13 students who were admitted by the institute. In this institute in all 13 students whose names were mentioned in the title of this appeal. Out of these 13 students, according to the student wise description filed by the institute, appellant No.1 to 9, 11,12 done their BDS course from Devi Ahilya Vishwa Vidyalaya, Indore and appellant No. 10 done BDS course from Barkatullah University, Bhopal. Appellant No.13 Dr. Geet Chaddha however, done her BDS course from Maharashtra University of Health Science, Nasik, and therefore, applying criteria laid done above except appellant No.13 who did her BDS from a University outside the state, admissions of all those who completed their BDS course from a University located in Madhya Pradesh can be held valid in view of the opinion expressed by DCI in its affidavit filed before Hon'ble High Court and quoted above. Accordingly, the appeal filed appellants 1 to 12 in appeal No.33/2019 are allowed. The order passed by AFRC in respect of

these appellants is set aside and it is declared that their admission in MDS course in 2016 was done in accordance with revised regulation 2007 of DCI and therefore valid.

However, in case of appellant No.13 Dr Geet Chadha, her appeal is dismissed and order passed by AFRC is affirmed. Appeal No.32/19 filed by the institute is partly allowed and partly dismissed.

28. Appeal No.35/2019,&38/2019.

Appeal No.35/2019 was filed by Hitkarni Dental College and Hospital, Jabalpur, while appeal No.38/2019 filed by 19 students who were admitted by the institute. Out of these 19 students, two students Dr. Manish Baghel and Dr. Vinay Jhariya filed the appeal under a mistaken belief that their admission was also under clout. However, as per the record available with AFRC, their names were included in the list of 21 candidates who were admitted on the basis of counselling conducted by DME in accordance with rules framed by it in 2016. They appeared in AIPGDEE-16 and obtained more than 50% marks in accordance with condition, and therefore, their appeal is misconceived and filed by mistake. Accordingly their appeal is disposed of with an observation that their admissions are not involved in the controversy, and therefore, no order is required by this authority.

Out of remaining 17 students appellant No.1 Dr. Sukhada Arun Wagh, appellant No.7 Dr. Souvik Singha, appellant No.12 Dr. Ankita, Appellant No.14. Dr.Pratibha S. Kshirsagar and appellant No.18 Dr. Ankita Baheti,(total 5) did their BDS course from a University located outside the State. Some of these students appeared in AIPGDEE-16 but could not obtained 50% qualifying marks. Therefore, this do not give them any benefit. The remaining students did their BDS course from a University located in the State of Madhya Pradesh. Admission of all those who completed their BDS course from a University located in Madhya

Pradesh can be held valid in view of the opinion expressed by DCI in its affidavit filed before Hon'ble High Court and quoted above. Accordingly, appeal filed by the appellant No.2 to 6, 8 to 11, 13, 17 & 19 (Total 14) are allowed. The order passed by AFRC in respect of these appellants is set aside, and it is declared that their admission in MDS in 2016 was done in accordance with revised regulation, 2007 of DCI, and, therefore, valid.

However, the appeals filed by appellant No.1 Dr. Sukhada Arun Wagh, appellant No.7 Dr. Souvik Singha, appellant No.12 Dr. Ankita, Appellant No.14. Dr.Pratibha S. Kshirsagar and appellant No.18 Dr. Ankita Baheti, (total 5) are dismissed and order passed by the AFRC is affirmed. Appeal No.35/2019 filed by the institute is partly allowed and partly dismissed.

29. Appeal No.45/2019 & 36/2019.

Appeal No.35/2019 was filed by College of Dental Science & Hospital, Rau, Indore, while appeal No.36/2019 filed by 9 students who were admitted by the institute. Out of these 9 students, appellant No.7 Dr. Parashar Desai, appellant No.8 Dr. Irfan Akbani, appellant No.9 Dr. Sayali (total 3) did their BDS course from a University located outside the State. The remaining students did their BDS course from a University located in the State of Madhya Pradesh. Admission of all those who completed their BDS course from a University located in Madhya Pradesh can be held valid in view of the opinion expressed by DCI in its affidavit filed before Hon'ble High Court and quoted above.

Accordingly, appeal filed by the appellant No.1 to 6 (Total 6) are allowed. The order passed by AFRC in respect of these appellants is set aside and it is declared that their admission in MDS in 2016 was done in accordance with revised regulation 2007 of DCI and therefore valid.

However, appeals filed by the appellant No.7 Dr. Parashar Desai, appellant No.8 Dr. Irfan Akbani, appellant No.9 Dr. Sayali (total 3) are

dismissed and order passed by the AFRC is affirmed. Appeal No.45/2019 filed by the institute is partly allowed and partly dismissed.

31. Appeal No.43//2019, 39/2019,40/2019 & 41/2019

Appeal No.43/2019 was filed by Maharana Pratap College of Dentistry & Research Centre, Gwalior while appeal No.39/2019, 40/2019 and 41/2019 filed by 10 students who were admitted by the institute. Out of these 10 students, appellant No.4 Dr. Kirti Mainali and appellant No.6 Dr. Kaushal Singh Sejwar (total 2) did their BDS course from a University located outside the State. The remaining students did their BDS course from a University located in the State of Madhya Pradesh. Admission of all those who completed their BDS course from a University located in Madhya Pradesh can be held valid in view of the opinion expressed by DCI in its affidavit filed before Hon'ble High Court and quoted above. Accordingly, appeal No. 39/2019 filed by the appellant Dr. Mohit Arora, Appeal No.40/2019 filed by Dr.Bhuwanshi Kumar Sharma and appeal No.41/2019 No.1 to 3, 5 and 7, 8 (Total 8) are allowed. The order passed by AFRC in respect of these appellants is set aside and it is declared that their admission in MDS in 2016 was done in accordance with revised regulation 2007 of DCI and therefore valid.

However, the appellant No.4 Dr. Kirti Mainali, appellant No.6 Dr. Kaushal Singh (total 2) is dismissed and order passed by the AFRC is affirmed. Appeal No.43/2019 is partly allowed and partly dismissed.

32. Appeal No.46/2019& 48/2019

Appeal No.46/2019 was filed by Rishiraj College of Dental Science and Research Centre, Bhopal while appeal No. 48/2019 filed by 08 students who were admitted by the institute. Out of these 08 students, appellant No.3 Dr. Archana Jalheria and appellant No.8 Dr. Sheta Meshram (total 2) did their BDS course from a University located outside the State. The remaining students did their BDS course from a University

located in the State of Madhya Pradesh. Admission of all those who completed their BDS course from a University located in Madhya Pradesh can be held valid in view of the opinion expressed by DCI in its affidavit filed before Hon'ble High Court and quoted above. Accordingly, appeal filed by the appellant No.1 and 2 and 4 to 7 (Total 6) are allowed. The order passed by AFRC in respect of these appellants is set aside and it is declared that their admission in MDS in 2016 was done in accordance with revised regulation 2007 of DCI and therefore valid.

However, the appellant No.3 Dr. Archana Jalheria appellant No.8 Dr. Shweta Meshram (total 2) is dismissed and order passed by the AFRC is affirmed. Appeal No.46/2019 filed by the institute is partly allowed and partly dismissed.

33. Appeal No.47/2019 & 49/2019

Appeal No.47/2019 was filed by Mansarovar Dental College, Bhopal while appeal No. 49/2019 filed by 11 students who were admitted by the institute. Out of these 11 students, appellant No.3 Dr. S.K. Babul Salam, appellant No.9 Dr. Chandni Mohan Das, appellant No.10 Dr. Jay Mamotra and appellant No.11 Dr. Shubham Gupta (total 4) did their BDS course from a University located outside the State. The remaining students did their BDS course from a University located in the State of Madhya Pradesh. Admission of all those who completed their BDS course from a University located in Madhya Pradesh can be validated in view of the opinion expressed by DCI in its affidavit filed before Hon'ble High Court and quoted above. Accordingly, appeal filed by the appellant No.1 to 2 and 4 to 9 (total 7), are allowed. The order passed by AFRC in respect of these appellants is set aside and it is declared that their admission in MDS in 2016 was done in accordance with revised regulation 2007 of DCI and therefore valid.

However, the appellant No.3 Dr. S.K. Babul Salam, appellant No.9 Dr. Chandni Mohan Das, appellant No.10 Dr. Jay Mamotra and appellant No.11 Dr. Shubham Gupta (total 4), are dismissed and order passed by the AFRC is affirmed. Appeal No.47/2019 filed by the institute is partly allowed and partly dismissed.

34. Appeals filed by students of Modern Dental College, Indore.

(i) Appeal No.37/2019

Appeal No.37/2017 was filed by Dr. Lalita Kakde. According to her, she shifted to Madhya Pradesh after her marriage to a boy who was living in Madhya Pradesh. Her maternal home is in state of Punjab, where she was granted a caste certificate showing that she belongs to scheduled caste. However, she shifted to Bhopal, such certificate was not recognized. She appeared for counselling before DME, however, she was not allowed to take part in the counselling as her marks in AIPGDEE - 16 were below 50%. She argues that her marks were sufficient if she was treated as belonging to scheduled caste. However, since her certificate was not recognized and her marks were below 50%, she was not allowed to take part in counselling. So she appeared in college level counselling held by Modern Dental College, Indore and she was granted admission. She further said that in the next year in the academic session, 2017-18, she appeared for All India Common Test and secured more than 50% marks. However, this year again, the Modern Dental College refused to part with her original testimonials, and therefore, she could not appear, for want of original testimonials in the counselling held by DME. Under this situation, she prayed, her admission may be declared as valid.

However, looking to the criteria fixed by this authority, and also the fact that in academic session 2016-17, she was not eligible to be considered in the category of scheduled caste, she does not fulfil the

criteria laid down by sub-clauses (iii) and ((iv) of clause 2 of Regulation 2007 and, as such, this appeal deserved to dismiss and dismissed accordingly.

35.(ii)Appeal No.42/2019 & 44/2019

Appeals No.42/2019 & 44/2019 were filed by 12 students who were admitted by the Modern Dental College, Indore. Out of these 12 students, appellant No.1 Dr. Akanksha Nayak, appellant No.3 Dr. Shweta B. Shah, appellant No.7 Dr. Ayushi Agrawal, appellant No.8 Dr. Namrata Sudhir Badlani, appellant No.10 Dr. Abhishek Singh Pathania and appellant No.11 Dr. Pooja Bhutda (total 6) did their BDS course from a University located outside the State. The remaining students did their BDS course from a University located in the State of Madhya Pradesh. Admission of all those who completed their BDS course from a University located in Madhya Pradesh can be validated in view of the opinion expressed by DCI in its affidavit filed before Hon'ble High Court and quoted above. Accordingly, appeal filed by the appellant No.2,4,5,6,9, of appeal No.42/2019 (Total 6) are allowed. The order passed by AFRC in respect of these appellants is set aside and it is declared that their admission in MDS in 2016 was done in accordance with revised regulation 2007 of DCI and therefore valid.

In the Appeal No.44/2019, the appellant Dr. Shubham Jain did his BDS from Barkatulla University, Bhopal and, therefore, his admission can be held valid in view of the opinion expressed by the DCI in its affidavit filed before the Hon'ble High Court and quoted above. Accordingly, this appeal is allowed and order passed by AFRC in respect of Dr. Shubham Jain is set aside.

(A) As a result, the appeals filed by following appellants are dismissed and order passed by AFRC is affirmed:-

(i): Sri Aurobindo College of Dentistry, Indore - Appeal No.33/2019:

Appellant No.13 Dr. Geeta Chaddha

(ii) Hitkarni Dental College and Hospital, Jabalpur- Appeal No.38/21: Appellant No.1.Dr.Sukhada Arun Wagh, Appellant No.7.Dr.Souvik Singha, Appellant No 12.Dr.Ankita, Appellant 14.Dr.Pratibha S. Kshirsagar, 18. Appellant Dr.Ankita Baheti

(iii) College of Dental Science & Hospital, Rau, Indore- Appeal No.36/2017: Appellant No.7.Dr.Parashar Desai, Appellant No.8.Dr.Irfan Akbani, Appellant No.9.Dr. Sayali Jain

(iv) Maharana Pratap College of Dentistry & Research Centre, Gwalior-Appeal No.41/2019: Appellant No.4 Dr. Kiriti Mainali, Appellant No.6 Dr. Kaushal Singh Sejwar

(v) Rishiraj College of Dental Science and Research, Center, Bhopal – Appeal No.48/2019: Appellant No.3. Archana Jalheria, Appellant No.8 Shweta Meshram

(vi) Mansarovar Dental College – Appeal No.49/2019: Appellant No.3. Dr. S.K. Babul Salam, Appellant No.9 Dr.Chandni Mohan Das, Appellant No.10. Dr.Jay Mamotra, Appellant No.11. Dr.Shubham Gupta

(vii) Modern Dental College – Appeal No.37/2019: Appellant No.Dr.Lalita Kakde, Appeal No.42/2019 – Appellant No.1. Dr. Akanksha Nayak, Appellant No.3 Dr. Shweta B. Shah Appellant No.7 Dr. Ayushi Agarwal, Appellant No.8 Dr.Namrata Sudhir Badlani, Appellant No.10 Dr. Abhishek Singh, Appellant No.11 Dr. Pooja Bhutda

(B) Following appeal is disposed of being misconceived and filed under mistaken belief:-

(i) Hitkarni Dental College and Hospital, Jabalpur - Appeal No.38/2019

Appeals filed by Appellant No.15. Dr. Manish Baghel Appellant No. 16. Dr. Pranji Dhimole. These appeals are misconceived and filed by mistake. Accordingly, their appeals are disposed of with an observation that their admissions are not included in the controversy, and therefore, no order is required by this authority.

(C) Following Appeals are allowed and the order passed by the AFRC is set aside:-

(i) Sri Aurobindo College of Dentistry- Appeal No.33/2019: 1.Dr. Drishti Pandey ,2.Dr. Amit Choudhary ,3.Dr.Neha Verma 4.Dr.Aachal Verma,5.Dr.Shabdika Baghel,6.Dr.Chinki Bardia 7.Dr.Ankit Mhaska, 8.Dr.AsthaVyas,9.Dr.NidhiPachore,10.Dr.ArchitaGangwal,11.Dr.Aakrti Sarwan,12.Dr.Nikit Dixit

(ii) Hitkarini Dental College and Hospital, Jabalpur- Appeal No.38/2019:

2.Dr.Indrapal Singh, 3.Dr.Priyanka Mahawar, 4.Dr.Shubhra Malhotra, 5.Dr.Ankita Deo, 6.Dr.Aditi Yadav, 8.Dr.Anshika Grover, 9.Dr.ReeteshNavani,10.Dr.SubiaKhan,11.Dr.NeelamJaiswal, 13.Dr.Jayati Trivedi,17. Dr.Pranjali Dhimole,19.Dr.Swarnam Pandey

(iii) College of Dental Science & Hospital, Raw, Indore – Appeal No.36/2019:

1. Dr. Sourabh Gupta,2.Dr. Shorya Sahu,3.Dr.Sudhanshu Tiwari, 4.Dr.Naushad Ali, 5.Dr.Siddharth Jain and 6.Dr.Mona Agrawal

(iv) Maharana Pratap College of Dentistry & Research Centre, Gwalior - Appeal No.39/2019: Dr. Mohit Arora,
Appeal No.40/2019: Dr.Bhuwansh Kumar Sharma

Appeal No.41/2019:

1. Dr. Monika Pandey, 2. Dr. Rahul Tiwari, 3. Dr. Shashank Soni,
5. Dr. Ashish Sharma, 7. Dr. Neha Singh Sikarwar, 8. Dr. Astha Singh

**(v) Rishiraj College of Dental Science and Research Centre,
Bhopal- Appeal No.48/2019**

1. Dr. Abhilasha Mishra, 2. Dr. Deepika Dhali, 4. Dr. Shweta Parmar,
5. Dr. Vikalp Bansal, 6. Dr. Anoop Kumar Srivas, 7. Dr. Satyaprakash
Nigam

(vi) Mansarovar Dental College, Bhopa; Appeal No.49/2019:

1. Dr. Chandni Shrivastava, 2. Dr. Paras Sonkar, 4. Dr. Pratibha Sharma
5. Dr. Vivek Chaudhary, 6. Dr. Abhishek Saxena, 7. Dr. Praveen Saxena
8. Dr. Hitesh Dilliwal

(vii) Modern Dental College, Indore - Appeal No.42/2019:

2. Dr. Krishna Kumar Chitlangia, 4. Dr. Bhawna Aidasani, 5. Dr. Gautami
Upadhyaya, 6. Dr. Swai Nagar, 9. Dr. Poorva Goyal

Appeal No.44/2019: Dr. Shubham Jain

(D) Appeals filed by the institutes are partly allowed and partly dismissed. Accordingly, these appeals stand disposed off. The institutes are directed to refund amount of fee paid by those students whose appeals are dismissed by this authority. The AFRC is at liberty to take appropriate action against the institutes as they deem fit.

Before parting with this order, this authority would like to clarify that it was not an intention of this authority to justify the action taken by the institutes in conducting college level counselling without a valid permission from the State Government. However, this was only to take a beneficial view in favour of the students in the background of the peculiar situation and circumstances that arose in the year 2016, and to find a best possible solution therefor.

Sd/-
(Justice Alok Verma)
Appellate Authority