

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

Appeal No.02/2014

Dr. Manoj Tiwari and 40 other  
M.D.S. Students of People's Dental Academy, Bhopal  
and People's College of Dental Sciences and Research Centre,  
Bhopal.

Appellant.

**V E R S U S**

1. State of Madhya Pradesh Th'  
Department of Medical Education Mantralaya, Bhopal.
2. Madhya Pradesh Private University Regulatory Commission  
Th' its Secretary, Kaliyasot Dam, Bhopal
3. People's Dental Academy,  
Th' its Dean, Bhopal
4. People's College of Dental Sciences and Research Centre,  
Th' its Dean, Bhopal
5. Admission and Fee Regulatory Committee,  
Th' O.S.D.

Respondent

**ORDER  
(Date 02.03.2015 )**

1. This appeal case is registered under Section 36-A of the Madhya Pradesh Niji Vishwavidyalaya (Sthapana Avam Sanchalan) Second Amendment Act, 2013 against order No. 940 dated 22.07.2013 of Madhya Pradesh Private University Regulatory Commission ( MP PURC), Bhopal.

2. Respondents- People's Dental Academy (PDA), People's College for Dental Sciences and Research Centre, (PCDSRC), Madhya Pradesh Private University

Page 1 of 19



Regulatory Commission (MPPURC) and Admission and Fee Regulatory Committee (AFRC) were noticed and they have made written and oral submissions. State Government (Th' Deptt. of Medical Education) were noticed and have made a written submission. Appellants and respondents were heard.

**3. Brief summary of the case:**

(i) In 2013, 25 students and 37 students were admitted to PDA and PCDSRC respectively for 3 years' MDS course ( 2013-2016).

(ii) Dr. Manoj Tiwari and 40 other MDS students of PDA and PCDSRC filed W.P. No. 1624/2014 in the Hon'ble High Court of M.P., Jabalpur challenging the action of PDA and PCDSRC by which both the colleges had charged annual tuition fee of Rs. 4.15 lakhs whereas the Prospectus for Admission to MDS course mentioned an annual tuition fee of Rs. 3.35 lakhs only.

(iii) Hon'ble High Court of M.P. Jabalpur vide its order dated 22.08.2014 in W.P. No. 1624/2014 deemed it proper to -

“grant liberty to the petitioners to file a proper representation in the matter before the statutory Admission and Fee Regulatory Committee, which is empowered to take action in the matter of fixation of fee for such courses and it would be for the Regulatory Authority to consider the grievance of the petitioners after hearing all concerned, proceed in the matter in accordance with law.”

(iv) Dr. C.P. Agarwal and 14 others MDS students of batch 2013-16 of People's University (PU) filed application before the Appellate Authority on 19.09.2014. The applicants enclosed with their application, a copy of order dated 22.08.2014 of Hon'ble High Court of MP, Jabalpur in WP No. 1624/2014. Subsequently, on 27.12.2014, Dr. Manoj Tiwari and 40 other MDS students of PDA and PCDSRC submitted a further application reiterating their grievances.

**4. Appellants, in their written and oral submissions, have made the following submissions:**



(i) Association of Private Dental and Medical College (APDMC) Prospectus for Admission year 2013 for MDS course mentioned that the fee per year for PDA and PCDSRC would be Rs. 3.35 lakhs only. Subsequent to admission, PDA and PCDSRC had substantially increased the fee per year per student to Rs. 4.15 lakhs which constituted a very high and unreasonable increase of 24% over the fee mentioned in APDMC Prospectus for Admission. Both the colleges had coerced the appellants to deposit the excess fee amount. This action of PDA and PCDSRC was unjust, unreasonable and illegal and therefore, should be quashed.

(ii) MP PURC's order dated 22.07.2013 was passed after commencement of the admission process and also after most of the appellants had taken admission. Therefore, the fee increase could not be levied retrospectively.

(iii) Appellants were coerced by PDA and PCDSRC to submit an undertaking for acceptance of increase in fee. The likelihood of a very high increase of 24% over the fee of Rs. 3.35 lakhs mentioned in APDMC Prospectus for Admission was not made known to the appellants. Thus, the undertaking obtained by PDA and PCDSRC from the appellants was coercive and mala-fide.

5. People's University (PU) have made written and oral submissions for PDA and PCDSRC. The following submissions have been made:

(i) PU submitted its fee proposal to MP PURC on 04.02.2013. MP PURC vide order dated 22.07.2013 approved the fee proposal. Fee charged by PDA and PCDSRC were, as approved by MP PURC's order dated 22.07.2013, and hence were legal and justified.

(ii) While APDMC Prospectus for Admission mentioned an annual fee of Rs. 3.35 lakhs for both PDA and PCDSRC, it was also mentioned in the Prospectus that fee revision, if any, by AFRC would be payable by students.



(iii) Appellants had executed an Undertaking, by which they had agreed to pay enhanced fee, if any, as approved by competent authority. Therefore, the appellants were bound by the Undertaking they had executed and could challenge the fee charged by the respondent colleges as approved by MP PURC.

6. (i) O.S.D., AFRC submitted that AFRC had fixed a fee of Rs. 3.35 lakhs per year for MDS course of PDA for academic sessions 2011-12, 2012-13 and 2013-14 vide its order dated 04.05.2011.

(ii) AFRC had fixed a fee of Rs. 3.35 lakhs per year for MDS course of PCDSRC for academic session 2010-11, 2011-12 and 2012-13 vide its order dated 07.08.2010.

(iii) AFRC had issued public notice No. 40 and 43 dated 21.01.2013 soliciting proposals for period 2013-14, 2014-15 and 2015-16 for fee fixation from private unaided institutions offering professional courses. All such institutions, including respondent colleges, were required to submit their proposals latest by 28.02.2013. This notice was also uploaded on AFRC's Web-site and was also advertised in leading newspapers.

AFRC vide its letter dated 13.03.2013 had also issued a reminder to PCDSRC for submission of proposal for fee for MDS course. However, no proposal was submitted by PCDSRC to AFRC.

(iv) AFRC was vested with the power to fix fee for all unaided private colleges and institutions offering professional education in MP under MP Niji Vyavsayik Shikshan Sanstha ( Pravesh Ka Viniyaman Avam Shulk Ka Nirdharan) Adhinyam, 2007. To clarify the respective jurisdiction of MP PURC and AFRC regarding fee fixation, Department of Higher Education, Government of M.P., being the Nodal Administrative Department for MP PURC, had issued order No. 1144/201/CC/12/38 dated 24.07.2012 which is addressed to Chairman, MP



PURC. Vide referred letter, Deptt. of Higher Education, Govt. of MP had clarified that AFRC would fix fee for professional courses offered by Private Universities and MP PURC would fix fee for courses other than professional courses offered by Private Universities. Medical Education Department, Govt. of M.P. vide letter No. 327/39/15/1/55 dated 04.02.2015 has also opined that AFRC and not MP PURC was the competent authority for the fixation of fees for PDA and PCDSRC.

(v) It is noteworthy that even after establishment of People's University on 04.05.2011, for academic sessions 2011-12 and 2012-13 both PDA and PCDSRC charged fee for MDS course as approved by AFRC. Neither had PDA appealed against AFRC's order dated 04.05.2011 concerning fee fixation for PDA, nor had PCDSRC challenged the authority of AFRC to fix fee for its MDS course for the year 2013-14. It is also noteworthy that for fixation/revision of fee for MDS course for Admission year 2011 and 2012, neither PU submitted to MP PURC any fee proposal for MDS course offered by PDA and PCDSRC, nor did MP PURC pass any order in this regard.

7. MP PURC has made the following written and oral submissions:

(i) MP PURC solicited information from all Private Universities vide its letter dated 22.01.2013.

(ii) People's University submitted fee proposals for various institutions under it on 22.2.2013. Complete and final clarification was submitted by P. U. to MP PURC on 08.07.2013. After due deliberations and review, MP PURC had issued order dated 22.07.2013 approving a fee of Rs. 4.15 lakhs per year for MDS course offered by PDA and PSDSRC.

(iii) MP PURC has stated that it did not 'fix' the fee, but only reviewed and approved fee proposed by P. U.



8. In light of the written and oral submissions by the Appellants and the Respondents, the following issues need to be examined and decided upon:

(i) Was MP PURC's order dated 22.07.2013 applicable retrospectively on the appellants, most of whom had already been admitted prior to 22.07.2013?

(ii) Did People's University (PDA and PSDSRC) act in good faith in requiring the appellants to execute an Undertaking to accept fee hike, if any, as approved by competent authority? Are the appellants debarred from challenging the increase in fee owing to execution of the referred Undertaking with the colleges?

(iii) In the matter of fixation of fee for MDS course offered by PDA and PCDSRC in 2013-14, was AFRC or MP PURC the competent authority? Is MP PURC's order dated 22.07.2013 approving fee of Rs. 4.15 lakhs per year for MDS course offered by PDA and PCDSRC valid and reasonable?

9. Each of the issues raised in Para 8 above, is examined in detail as under-

9 (i) The issue to consider is whether MP PURC's order dated 22.07.2013 could be applied retrospectively on the appellants. According to information submitted by PDA and PCDSRC, 50 (Fifty) appellants out of the total number of 62 (Sixty two) appellants of both colleges for MDS course had already taken admission prior to 22.07.2013. Thus, most of these appellants for MDS course (2013-16) had already taken admission prior to 22.07.2013. All the appellants had taken admission on the basis of APDMC Prospectus for Admission which mentioned a fee of Rs. 3.35 lakhs per year for the course. Fee revision, if any, by the competent authority must be done prior to the start of the admission process. Admission process commences with the issue of Prospectus, which in this case, was the Prospectus issued by APDMC in October 2012. If PDA and PCDSRC proposed to increase fee for admission year 2013, these colleges or People's University were at liberty to approach the competent authority in 2012



for fixation of fee for academic year 2013, so as to obtain the orders of the competent authority prior to start of the admission process. P.U. submitted its fee proposal to MP PURC on 04.02.2013/ 22.02.2013 (PU claims that it submitted the proposal on 04.02.2013 whereas MP PURC has submitted that it received the proposal on 22.02.2013). P.U. could have submitted its application to the competent authority in 2012 itself, so as to obtain fee fixation order prior to the start of the admission process. P.U. did not avail of this opportunity for reasons best known to itself. In fact, P.U. submitted its initial proposal to MP PURC, as claimed by it, only on 04.02.2013 and final proposal with full clarification only on 08.07.2013, as submitted by MP PURC.

There is no reason why the Appellants should be penalised for failure of P.U. to submit its fee proposal to competent authority well in time. MP PURC, in the impugned order dated 22.07.2013 has not given any reason or justification as to why the order should be applicable retrospectively to courses for which admission process had already commenced and was nearly completed with more than eighty percent of the total students already admitted. MP PURC had not considered this aspect and without application of mind and without considering the substantial adverse financial impact on Appellants had passed the impugned order dated 22.07.2013. Therefore, it is concluded that MP PURC's order dated 22.07.2013 could not be applied retrospectively on the appellants.

**09 (ii)(a)** The next issue to be examined is the implication of the Undertaking executed by the appellants. PDA and PCDSRC required each appellant at the time of admission to sign an Undertaking. Respondent colleges have submitted copies of a few such Undertakings. The relevant paras of the Undertaking are quoted below:

" 2. That I hereby sincerely and solemnly undertake and state that the fees being paid/paid by me for the academic session 2013-2014 is subject to



final decision by the Commission of MP Private Universities/the Courts or the competent Authority.

3. That I am aware of my obligation, I can afford and therefore, I agree to pay the fees as finally decided by Commission of MP Private Universities/the Courts or the competent Authority and such payment without any protest.

4. That I further undertake the difference of fees, in case a higher fees is decided by the Commission of MP Private Universities/the Courts or the competent authority shall be paid by me and no representation will be made by me or by anyone else on my behalf in any Court of Law against the management of the college.

5. That I also further undertake that in case if any interim direction for the academic session 20....20..is given by the Commission of MP Private Universities/the Courts or the competent authority in regard to the fees payable by me for my PG course commencing from the academic session 2013-14, I shall comply with it.

6. That I shall abide by the final decisions of the Commission of MP Private Universities/the Courts or the competent authority in regard to the fees payable by me for PG Course commencing from the academic session 2013-2014.

7. That I also undertake to be subject to any action that may taken against me by the management of the college in case if I fail to comply with any of the aforesaid assurances. ”

**9 (ii)(b)** The question to examine is, whether the Undertakings required and obtained by both the respondent colleges, were in good faith. It is noteworthy that in the Undertaking, it is nowhere mentioned that PDA and PCDSRC have submitted a proposal to MP PURC for enhancement of fee to Rs. 4.15 lakhs per year. The question is why did the respondent colleges choose to withhold this vital piece of information from appellants taking admission in the colleges. The bonafide of respondent colleges would have been vindicated, had they unambiguously mentioned in the undertaking that while APDMC Prospectus mentioned a fee of Rs. 3.35 lakhs per year, the respondent colleges had proposed to enhance the fee to Rs. 4.15 lakhs per year subject to the final decision of MP





PURC. As per the APDMC Prospectus, seven colleges offered MDS course for 2013 of which only one college i.e. Sri Aurobindo College of Dentistry, Indore charged a fee of Rs. 3.70 lakhs per year whereas the remaining six colleges, including the respondent colleges, charged a fee of Rs. 3.35 lakhs per year. If the appellants were informed by the respondent colleges of the proposal to increase the fee substantially to Rs. 4.15 lakhs per year, the appellants could have exercised their option to seek admission in other dentistry colleges in the state which charged much less fee for the same course. Omission of this vital piece of information tantamounts to acting in bad faith. Respondent colleges not only withheld this very important information from the appellants, but they also deliberately kept them in the dark so that appellants took admission in the respondent colleges and could be later coerced on the basis of the Undertaking, to pay a higher fee. Particular reference must be made to **Para 3 of the Undertaking** which mentions "that I am aware of my obligation, I can afford and therefore, I agree to pay fee as finally decided by Commission of MP Private University....." The appellants had no idea about the extent of the proposed increase in fee. Hence, there was no way they could have accepted and confirmed their ability to pay whatever fee was approved by MP PURC. It is clear that respondent colleges had drafted the Undertaking to suit their own purpose and had coerced the appellants to sign the Undertaking which provided unfair advantage to respondent colleges. MP PURC's order was issued on 22.07.2013. Thereafter, when respondent colleges informed the appellants of their liability to pay enhanced fee as approved by MP PURC, the appellants did no longer have the option to seek admission in any other private dental college since the admission session was nearly over.

In light of the above examination, it is found that the Undertaking obtained by the respondent colleges, was non-transparent, coercive and biased in favour of the colleges to the disadvantage of appellants. Therefore,

Page 9 of 19



the appellants are at liberty to challenge MP PURC's impugned order as well as action of respondent colleges for recovery of higher fees from appellants. Further, Hon'ble High Court of M.P. in its order dated 22.08.2014 in W.P. NO. 1624/2014 has already granted liberty to appellants to challenge the action of respondent colleges. Hence, the contention made by PDA and PCDSRC, that appellants having signed the Undertaking were debarred from challenging fee increase, is untenable and is rejected.

9 (iii)(a) Next for examination is the issue mentioned at Para 8 (iii) above.

MP PURC had issued order dated 22.07.2013 under Sec. 36(10)(b) of MP Niji Vishwavidyalaya (Sthapana Avam Sanchalan) Adhiniyam, 2007 which provides that it shall be the 'general duty' of the Regulatory Commission:

"notwithstanding anything contained in any other law for the time being in force, to ensure that private universities collect only such fees and other charges, which cover the cost of education imparted by them and also give a reasonable surplus to enable them to maintain assets and carry out further expansion."

MP Niji Vishwavidyalaya ( Sthapana Avam Sanchalan), Adhiniyam, 2007 came into effect with notification in Gazette Extra Ordinary on 25.05.2007. Subsequently, MP Niji Vyavsayik Shikshan Sanstha ( Pravesh Ka Viniyaman Avam Shulk Ka Nirdharan) Adhiniyam, 2007 came into effect on 04.08.2007, the date on which it was notified in Gazette Extra Ordinary.

Sec. 11 of MP Niji Vyavsayik Shikshan Sanstha (Pravesh Ka Viniyaman Avam Shulk Ka Nirdharan) Adhiniyam, 2007 provides as follows:

" The provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force or in any instrument having effect by virtue of any law other than this Act."



Thus, Sec. 36 (10) (b) of MP Niji Vishwavidyalaya (Sthapana Avam Sanchalan) Adhiniyam 2007, did not specifically require or empower MP PURC to "fix" fee for professional course offered by respondent colleges. Even if it be construed that by exercise of its general duty and supervisory role, MP PURC had authority to approve fee proposed by the respondent colleges; in view of the overriding effect of Sec. 11 of MP Niji Vyavsayik Shikshan Sanstha ( Pravesh ka Viniyaman Avam Shulk Ka Nirdharan) Adhiniyam, 2007, AFRC was the only competent authority vested with the power to fix fee for the respondent colleges in 2013 and not MP PURC.

**9(iii)(b)** MP Niji Vyavsayik Shikshan Sanstha ( Pravesh ka Viniyaman Avam Shulk Ka Nirdharan) Adhiniyam, 2007 was enacted to provide for "**the regulation of admission and fixation of fee in private professional educational institutions in the State of Madhya Pradesh .....**" In the said Act under Sec. 3(n), 'professional educational institution' means "a college or a school or an institute by whatever name called, imparting professional education, affiliated to a State University, **including a private university established or incorporated by an Act of the State Legislature or constituent unit of a deemed to be university**, under Sec. 3 of the University Grants Commission Act, 1956 (3 of 1956) and approved or recognised by the competent statutory body regulating professional education." Chapter IV of the said Act provides for the procedure for fixation of fee by AFRC. Thus, AFRC was competent to fix appropriate fee for private unaided professional colleges, including private universities, as on 22.07.2013. Subsequently, vide gazette notification dated 12th Sept. 2013, Sec. 3(n) of MP Niji Vyavsayik Shikshan Sanstha ( Pravesh ka Viniyaman avam Shulk Ka Nirdharan) Adhiniyam, 2007 was amended to delete 'private universities' from jurisdiction of the said Act. As per Sec. 3 of MP Niji Vyavsayik Shikshan Sanstha ( Pravesh ka Viniyaman avam Shulk Ka Nirdharan) Sansholdhan Adhiniyam, 2013, the amended section 3(n) reads as under:



"Professional educational institution' means a college or a school or a department or an institution by whatever name called, imparting professional education approved or recognized by an appropriate authority and which is affiliated to or is a constituent unit of an University established or incorporated by an Act of the State Legislature or a deemed to be university under section 3 of the University Grants Commission Act, 1956 (3 of 1956)."

Thus, it is clear that fixation of fee for professional courses offered by private universities was under the jurisdiction of AFRC till 12.09.2013, the date of notification of the MP Niji Vyavsayik Shikshan Sanstha ( Pravesh Ka Viniyaman Avam Shulk Ka Nirdharan) Sanshodhan Adhiniyam, 2013.

**9(iii)(c)** MP PURC had not disagreed with the clarification issued by Department of Higher Education, Government of MP vide its order No. 1144/2011/cc/12/48 dated 24.07.2012, nor had it challenged the clarification. It is also pertinent to note that Deptt. of Higher Education's clarification dated 24.07.2012 has not even been referred to in MP PURC's impugned order dated 22.07.2013. MP PURC has not mentioned any reason or justification, as to why it chose to act contrary to Provision of MP Niji Vyavasayik Shikshan Sanstha (Pravesh Ka Viniyaman Avam Shulk Ka Nirdharan) Adhiniyam, 2007 and contrary to State Government's specific direction in the matter.

**9(iii)(d)** AFRC vide its order dated 04.05.2011 had fixed fee of Rs. 3.35 lakhs per year for MDS course of PDA for academic sessions 2011-12, 2012-13 and 2013-14. AFRC vide its order dated 07.08.2010 had fixed fee of Rs. 3.35 lakhs per year for MDS course of PCDSRC for academic sessions 2010-11, 2011-12 and 2012-13. Thus, AFRC's order dated 04.05.2011 fixing fee of 3.35 lakhs for MDS course of PDA for academic session 2013-14 continued to be in force when MP PURC issued its order dated 22.07.2013. AFRC's referred order dated 04.05.2011 had not been revised by AFRC nor had it been annulled by any superior court. MP PURC had no competence or authority to overrule or invalidate the impugned



order dated 04.05.2011 of AFRC, which is a statutory body, and had passed the impugned order under MP Niji Vyavsayik Shiksha Sanstha (Pravesh Ka Viniyaman Avam Shulk Ka Nirdharan) Adhiniyam, 2007. Similarly, MP PURC failed to take note of the fact that AFRC had solicited fee proposal from PCDSRC vide its letter dated 13.03.2013. Thus, MP PURC has examined and approved fee proposal from PDA while AFRC's order dated 04.05.2011 fixing fee of Rs. 3.35 lakhs for academic year 2013-14 for PDA was still in force. MP PURC has also reviewed and approved fee proposal of PCDSRC for 2013-14 while AFRC, being the competent authority, had also initiated due process for fixation of fee for MDS course of PCDSRC for academic session 2013-14.

P.U. was constituted on 04.05.2011. PDA and PCDSRC are constituents of P.U. If it were the view of PDA and PCDSRC and PU that subsequent to PU being notified as a Private University; MP PURC was the competent authority to approve or fix fee for PDA and PCDSRC; then PDA and PCDSRC and PU would have submitted application to MP PURC in 2011 itself for fixation of fee. However, PDA, PCDSRC and PU, for admission year 2011 and 2012 charged fee as approved by AFRC. These institutions submitted no application to MP PURC in 2011 or 2012. Thus, PDA, PCDSRC and PU were well aware that AFRC was the competent authority for fixation of fee for MDS course offered by respondent colleges. PDA, PCDSRC and PU were also well aware of their obligation to charge fee as approved by the competent authority, AFRC.

P.U. was constituted on 04.05.2011. If it were the view of MP PURC that it was vested with the power to review and approve fee for PDA and PCDSRC, subsequent to 04.05.2011; then MP PURC would have solicited proposal from PDA, PCDSRC and PU in 2011. MP PURC did not solicit any proposal from PU in 2011. MP PURC also did not solicit any proposal from PU in 2012. Thus, MP PURC was also aware that AFRC was the competent authority to fix fee for PDA and



PCDSRC. MP PURC was also aware of the clarification issued by Higher Education Deptt., Govt. of M.P. on 24.07.2012.

Thus, the fact that neither MP PURC solicited any fee proposal from PDA, PCDSRC and PU in 2011 and 2012, and also the fact that PDA, PCDSRC and PU submitted no fee proposal to MP PURC in 2011 and 2012 and in fact charged fee as approved vide AFRC's impugned orders, indicate that both MP PURC and PU were well aware that for fee fixation for PDA and PCDSRC for admission year 2013, AFRC was the competent authority.

**9(iii)(e)** To sum up, for Admission year 2013, AFRC was vested with the power to fix fee for private unaided professional colleges including the respondent colleges and private universities. MP PURC was in receipt of Department of Higher Education, Government of MP order No. 1144/201/cc/12/38 Dated 24.07.2012, clarifying that AFRC would fix fee for professional courses offered by private universities and that MP PURC would fix fee for **non-professional courses** offered by private universities. Thus, MP PURC's order dated 22.07.2013 was issued in contravention of provisions of MP Niji Vyavsayik Shikshan Sanstha (Pravesh Ka Viniyaman Avam Shulk Ka Nirdharan) Adhiniyam, 2007; and also in contravention of Deptt. of Higher Education's clarification dated 24.07.2012.

**9(iii)(f)** Hon'ble High Court in W.P. NO. 1624/2014 in its order dated 22.08.2014 has already held that AFRC is the competent authority in this matter. Hon'ble High Court of M.P. Jabalpur vide its order dated 22.08.2014 in W.P. No. 1624/2014 deemed it proper to -

"grant liberty to the petitioner to file a proper representation in the matter before the statutory Admission and Fee Regulatory Committee, which is empowered to take action in the matter of fixation of fee for such courses and it would be for the Regulatory Authority to consider the grievance of the petitioners after hearing all concerned, proceed in the matter in accordance with law."



Neither the respondent colleges, nor PU, nor MP PURC have challenged Hon'ble High Court's order in this regard. Hence, Hon'ble High Court's impugned order dated 22.08.2014 is binding on PDA, PCDSRC, PU, MP PURC, State Government and AFRC.

**10(i)** In view of the above mentioned facts and circumstances and reasons, it is concluded that MP PURC's order dated 22.07.2013 was issued without competence and jurisdiction; in contravention of provisions of MP Niji Vyavsayik Shikshan Sanstha (Pravesh Ka Viniyaman Avam Shulk Ka Nirdharan) Adhiniyam, 2007; in contravention of clarification and directive of the State Government regarding jurisdiction of AFRC and MP PURC; and without application of mind. Hence, MP PURC's impugned order dated 22.07.2013 by which an yearly fee of Rs. 4.15 lakhs was approved for MDS course offered by PDA and PCDSRC for admission year 2013, is quashed.

**10(ii)** It is further noted that MP PURC vide its order dated 22.07.2013, approved fee proposal of PU for 15 different courses, including MDS Course. Prima-facie, it appears that MP PURC had jurisdiction to approve fees for only 3 non-professional courses out of 15 courses – the courses being (1) DGNM (Diploma), (2) Degree (Para-medical course) and (3) Diploma (Para medical). For remaining 12 courses including MDS, AFRC was the competent authority to fix fee for admission year 2013. However, since there is no appeal against the fee fixed by MP PURC for the remaining courses, there is no need at present to interfere with the fee approved by MP PURC vide their impugned order for the courses other than MDS. AFRC is directed to submit a report to the Appellate Authority regarding the fee approved by AFRC for 2013-14 for such of the courses mentioned in MP PURC'S order dated 22.07.2013 for which AFRC had the authority to fix fee. The status report in this regard is to be submitted by OSD AFRC by 31.03.2015. Upon receipt of the status report from AFRC, concerned



parties would be given opportunity of hearing and order as under law provided, would be made by Appellate Authority.

**10(iii)** It is further noted that MP PURC vide the impugned order dated 22.07.2013 had also laid down Executive Principles for scrutiny and review of fee proposals submitted by Private Universities. There is no reason to interfere with that part of the order. Hence, it is clarified that only that part of MP PURC's impugned order dated 22.07.2013 which pertains to approval of yearly fee of Rs. 4.15 lakhs for MDS course offered by PDA and PCDSRC, is quashed.

**11.** The next question to consider is what would be a reasonable fee for the respondent colleges to charge from the appellant. The factual position is that both PDA and PCDSRC have already charged and recovered fee of Rs. 4.15 lakhs per year from the appellants for years 2013-14 and 2014-15. It is presumed that fee for 2015-16 is yet to be charged and recovered.

**11(i)** For MDS course run by PDA, AFRC by its order dated 4.5.2011 had fixed fee of Rs. 3.35 lakhs per year for academic sessions 2011-12, 2012-13 and 2013-14. Since this order of AFRC had neither been challenged by PDA nor had it been annulled by order of appellate or any other court; AFRC's impugned order dated 04.05.2011 was valid, in force and applicable to appellants admitted to PDA in 2013 for MDS course (2013-16). Hence, an yearly fee of Rs. 3.35 lakhs will be payable by these appellants during 2013-16. Since PDA have already charged and recovered fee of Rs. 4.15 lakhs for academic sessions 2013-14 and 2014-15, the appellants will be required to pay during 2015-16 only Rs. 1.75 lakhs per student, as per following calculation:

Total cost of course is (3.35 lakhs X 3 years) = 10.05 lakhs  
Amount already paid (4.15 lakhs X 2 years) = 8.30 lakhs  
Balance payable in 2015-16 = 1.75 lakhs per student





11(ii) For PCDSRC, AFRC vide its order dated 07.08.2010, had fixed fee of Rs. 3.35 lakhs per year for academic sessions 2010-11, 2011-12 and 2012-13. For academic session 2013-14, AFRC had solicited fee proposal from PCDSRC vide its letter dated 17.03.2013. However, PCDSRC did not submit any fee proposal to AFRC. Instead, People's University on behalf of PCDSRC submitted its fee proposal to MP PURC on 04.02.2013/22.02.2013. People's University in its fee proposal submitted to MP PURC, did not mention that AFRC had solicited fee proposal from PCDSRC for year 2013-14. It was obligatory for PCDSRC to submit its fee proposal to AFRC, well in time to seek AFRC's order for fixation of fee for academic session 2013-14. However, PCDSRC neither submitted the fee proposal nor did it challenge the authority and competence of AFRC to fix fee for MDS course offered by it for the year 2013-14. Therefore, for appellants admitted to PCDSRC in 2013 for MDS course (2013-16), fee of Rs. 3.35 lakhs per year would be payable. Since PCDSRC has already recovered a fee of Rs. 4.15 lakhs per year for 2013-14 and 2014-15 from the appellants, each student will be liable to pay the balance fee of Rs. 1.75 lakhs for academic session 2015-16 after adjusting the excess recovery of fee by the respondent college in years 2013-14 and 2014-15 as calculated below:

Total cost of course is (3.35 lakhs X 3 years)	= 10.05 lakhs
Amount already paid 4.15 lakhs X 2 years)	= 8.30 lakhs
Balance payable in 2015-16	= 1.75 lakhs per student

12. Since MP PURC order dated 22.07.2013 by which an yearly fee of Rs. 4.15 lakhs for MDS course offered by PDA and PCDSRC for admission year 2013 is quashed under para 10 above, the question arises as to what will be the fee payable by students admitted to MDS course of PDA and PCDSRC in 2014 and what will be the fee for students seeking admission to MDS Course of PDA and PCDSRC in 2015? It is noted that APDMC's prospectus 2014 for PG course



mentioned that yearly fee payable for MDS course offered by PDA and PCDSRC would be Rs. 4.15 lakhs per year. Students who took admission in PDA and PCDSRC in 2014 were thus clearly informed of the cost of the course offered by PDA and PCDSRC. No objection, petition or appeal has been received from MDS students admitted in 2014 to PDA and PCDSRC. Therefore, there is no reason to interfere with the fee charged by PDA and PCDSRC for students admitted in 2014. APDMC's Prospectus for admissions in 2015 to MDS course mentions yearly fee of Rs. 4.88 lakhs for both PDA and PCDSRC. Prima-facie, fee structure of Rs. 4.88 lakhs per year for PDA and PCDSRC has not been approved by the competent authority. It appears that APDMC has mentioned a fee of Rs. 4.88 lakhs per year for PDA and PCDSRC on the basis of information provided by People's University. Since a yearly fee of Rs. 4.88 lakhs for PDA and PCDSRC has not been approved by the competent authority, an interim yearly fee of Rs. 4.15 lakhs for admission to MDS course in 2015 in PDA and PCDSRC is fixed. After giving an opportunity of hearing to MP PURC, P.U., and APDMC; further order as appropriate, in this regard will be passed. MP PURC, PU and APDMC are directed to comply with this Interim order and publicise it through print media and on their Web sites also.

13. To avoid unnecessary hardship to students in future, the following direction is given to MP PURC and AFRC in the matter of fixation of fee:

(i) AFRC must fix fee for colleges and courses for which it is vested with the authority to fix fee before the start of admission process for the course. It is clarified here that the issue of prospectus/brochure for admission to college or course is the start of admission process. Similarly, MP PURC will solicit proposal from Private Universities and review the proposed fee and issue necessary orders before the start of admission process.



(ii) AFRC and MP PURC are directed to prescribe appropriate time frame for submission of proposal by colleges and universities for scrutiny and evaluation and for final order.

(iii) MP PURC and AFRC are directed to prominently display on their web-site the prevalent approved fee for such courses of all colleges and universities under its respective jurisdiction. MP PURC and AFRC would also prominently display on their web-site against each college, university and course, the proposed fee increase, if any, submitted by concerned college or university, which is under consideration of MP PURC and AFRC.

(iv) If, due to any unavoidable circumstances, proposal for fee increase is pending with MP PURC or AFRC, the prospectus issued by college or university, will not only mention the currently approved fee but also the fee proposed by them and under consideration of the competent authority.



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(P.K.Dash)  
Appellate Authority