

SECRETARIAT
Admission and Fee Regulatory Committee
(A statutory body established through an Act of Government of Madhya Pradesh)
Office: Tagore Hostel No. T-2, Ground Floor-Left Wing, Shyamla Hills,
Bhopal – 462002 Phone and Fax No. (0755) – 2660461
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No.Sectt/Appeal/191/2019/692

Date: 31/07/20

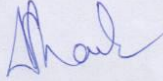
To,
✓ The Chairman/Secretary/Director,
Sakshi Medical College & Research Centre,
A.B. Road, Myana,
Distt. Guna (M.P.)

Sub: Order passed in Appeal No. 191/2019.

.....

I am directed to send you a copy of the order dated 24.07.2020 in above appeal, passed by the Appellate Authority for your information & necessary action.

Encl:- as above


(Dr. Alok Chaube)
Secretary/O.S.D.

Endt. No.Sectt/ Appeal/191/2019/

Date:

Copy to: (1) Hon'ble Appellate Authority, AFRC, Bhopal for kind information.

(2) Commissioner, Medical Education, 6th Floor, Satpuda Bhawan, Arera Hills,
Bhopal (M.P.) -462004- along with a copy of order dt.24.07.2020.

(3) Director, Medical Education, 6th Floor, Satpuda Bhawan, Arera Hills, Bhopal
(M.P.) -462004- along with a copy of order dt.24.07.2020.

(4) The Secretary, Medical Council of India, Dada Dev Mandir Road, Dwarka Phase-1,
Pocket 14, Sector 8, Dwarka, New Delhi-110077- along with a copy of order
dt.24.07.2020.

(5) The Registrar, Madhya Pradesh Medical Science University, Medical College
Campus, Jabalpur-482003- along with a copy of order dt.24.07.2020.

(6) The Chairman/Secretary/Director, R.D. Gardi Medical College, Agar Road,
Village Surasa, Ujjain-456001 – along with a copy of order dt. 24.07.2020.

(7) The Chairman/Secretary/Director, People's Medical College, Ayodhya Bypass Road, Peoples' Campus, Bhanpur, Bhopal-462037 – along with a copy of order dt. 24.07.2020.

(8) The Chairman/Secretary/Director, L.N. Medical College, Sector-C, Shri Rameshwaram, Shirdipuram, Kolar Road, Bhopal- 462042– along with a copy of order dt. 24.07.2020.

(9) The Chairman/Secretary/Director, Index Medical College, Index City, Gram-Morodhat, NH-59A, Nemawar Road, Indore- 452001– along with a copy of order dt. 24.07.2020.

(10) The Chairman/Secretary/Director, Chirayu Medical College, Bhopal-Indore Highway, Bhainsakheda, Bairagarh, Bhopal-462030– along with a copy of order dt. 24.07.2020.

(11) Office Copy- AFRC Secretariat- along with a copy of order dt.24.07.2020.

Sdr
(Dr. Alok Chaube)
Secretary/O.S.D.

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

Presided over by Justice Alok Verma.

Appeal No. 191/2019

Sakshi Medical College & Research Centre,
Guna

..... Appellant

V E R S U S

The Admission and Fee Regulatory Committee,
Bhopal

..... Respondent

- (i) R.D. Gardi Medical College,
Agar Road, Village Surasa, Ujjain-456001.
- (ii) People's Medical College,
Ayodhya by-pass Road, Peoples' Campus,
Bhanpur, Bhopal- 462037.
- (iii) L.N. Medical College,
Sector-C, Shri Rameshwaram, Shirdipuram,
Kolar Road, Bhopal- 462042.
- (iv) Index Medical College,
Index City, Gram- Morodhat, NH-59A,
Nemawar Road, Indore- 452001.
- (v) Chirayu Medical College,
Bhopal-Indore Highway, Bhainsakheda,
Bairagarh, Bhopal-462030.

.... Noticees

ORDER

(Date: 24th July, 2020)

1. This appeal is filed under Sec. 10 of Madhya Pradesh Niji Vyavasayik Shikshan Sanstha (Pravesh Ka Viniyaman Avam Shulk ka Nirdharan), Adhinyam, 2007 (hereinafter referred to as "Act of 2007") against the

order passed by the Admission and Fee Regulatory Committee (AFRC for short) dated 07/12/2019, whereby the AFRC ordered as under:-

“6. Thus as decided and directed by the Committee, Sakshi Medical College, Guna is hereby ordered to refund the IInd and IIIrd year advance fees collected from the students within 15 days to the concerned students as per the provisions of the Act mentioned above. The list of advance fees paid by the students to Sakshi Medical College, Guna as consolidated by AFRC Secretariat on the basis of proof and affidavit is enclosed as Annexure-I.”

2. The facts relevant for disposal of this appeal are that the appellant institution known as Sakshi Medical College & Research Centre, located at A.B. Road, Myana, District- Guna, M.P. was granted permission to admit students in the academic session 2016-17 by Medical Council of India and Government of India, for M.B.B.S. course. In subsequent academic sessions, however, the assessment committee of Medical Council of India, found that the institute lacks the basic facilities, essential for running of a medical college, and therefore, recommended that the institute may not be permitted to admit students in subsequent academic sessions. After so many rounds of litigations before Medical Council of India/Government of India/High Court of Delhi/ High Court of M.P. and also before Supreme Court of India, permission was not granted to admit students due to lack of facilities.
3. The 125 students, who were admitted in the academic session 2016-17 pursued their studies in the institute for the first year but in the second year, since facilities were not there, the Government of Madhya Pradesh, through Director, Medical Education with consent of Medical Council of India, directed to reallocate 150 students in other recognized private medical colleges in M.P. The appellant institution charged fees for second year and 3rd year from the students, and therefore, reallocated students filed a Writ Petition on before of Hon'ble High Court, in which the petitioner were directed to pursue their remedy before AFRC. Accordingly, the matter came before AFRC and finally the AFRC passed the order, reproduced above.

4. Aggrieved by the aforesaid order, this appeal is filed on following grounds:-

I. The students pursued almost two parts of second year of M.B.B.S. course in the college of appellant and only studied third part in the college, they were shifted to, and therefore, the appellant claim apportionment of fees between appellant institute and the institute, where students were transferred to.

II. The appellant institution in the Para 20 of the memorandum of appeal regarding the fees of 3rd year, do not challenge the order passed by AFRC and are ready to return the amount of fee.

5. Accordingly, in this appeal the only matter is whether the appellate institution is entitled to apportion the amount of fees that they charged for second year M.B.B.S. course.

6. Before proceeding to consider, whether the appellant institution is entitled to apportion the amount of fee, they charged for second year of M.B.B.S. course, it is pertinent to mention here that the appellant institution was granted too many opportunities to pay back the amount, they charged as fee for 3rd year, but in spite of availing many opportunities including the lockdown period, from March to may 2020 they failed to refund the money.

7. Reverting back to consider issue of apportionment of fees for second year of M.B.B.S. course, the matter was referred to M.C.I informing them that the appellant institution claimed that most of the students, shifted to other colleges, pursued 1st and 2nd terms of second year in appellant institution and only for the third term studied at the other colleges, to which they were shifted to. They appeared in second year examination from the new institution. It was claimed by the appellants that apportionment of fees of the second year, between appellant institution and other institutions may be allowed. On this ground, the response was sought from M.C.I., on point of apportionment of fee as claimed by the appellant. The relevant portion of letter dated 14.01.2020, written to M.C.I. is quoted below:-

“The appellant before the Appellate Authority claims that most of the students shifted to other colleges pursued 1st and 2nd terms of 2nd

year in appellant institution and only in 3rd term they studied in the College where they were shifted to. The appellant claims apportionment of fee between appellant institution and the other institution on this ground.

You are requested to appear before the Appellate Authority or submit your response on 27/01/2020 on point of apportionment of fee as claimed by the appellant."

8. In response to aforesaid query, the M.C.I. filed their reply dated 05.05.2020. The relevant portion of the response of the M.C.I. is as under:-

"It is submitted that the issue of fee is a matter outside the purview of Council therefore MCI has no role in the matter. It is further submitted that the conditional Letter of Permission to Appellant College was issued by Central Government on 20.08.2016 and the Essentiality Certificate was cancelled by Medical Education Department, Government of Madhya Pradesh Mantralaya, Bhopal vide order no. F5-23/2018/1/55 dated 03.11.2018. Therefore, the college was functional from 20.08.2016 to 03.11.2018 i.e. the time period during which the Essentiality Certificate was in vogue."

9. Response was also sought from five institutions, where 125 students were shifted to, by sending them notices and asking them to appear before this Authority or file written responses. In response thereof, all the 5 institutions, either appeared before this Authority or file their written response. They opposed apportionment of fees for second year of M.B.B.S. course. They were also heard in detail by this Authority.

10. From the response received from M.C.I., it is apparent that the appellant institution was started on 20.8.2016 and it was finally closed on 3rd November, 2018, and also that the students, who were admitted in academic session 2016-17, pursued their studies for first year. Sometime in 2017, most of them completed their first year, except only those who failed to pass the 1st year examination. Then in the year 2017-18, they must have pursued their second year of M.B.B.S course, therefore, they must have studied for some time in appellant institution in 2nd year of M.B.B.S. course as claimed by the appellant. From the record, it is apparent that students were shifted from the appellant institution in academic session 2018-19 only, and in this background, it is apparent that the college was run up to 3.11.2018, and must have taught a part of curriculum to the students in second year of the course. In this view of the

matter, it is reasonable to allow the appellant institution some apportionment of fees for second year of M.B.B.S. course.

11. Accordingly, in the considered view of this Authority, it is reasonable that the appellant institution should be allowed to obtain $\frac{2}{3}$ rd of the fee of the second year of M.B.B.S. course. While the new institutions, where the students were shifted, should charge $\frac{1}{3}$ rd of the fees. From 3rd year onwards, the new institutions are entitled to claim fees at the rate as decided by the Government of Madhya Pradesh/AFRC. Needless to say, that the new institutions where students are studying now, are not entitled to recover $\frac{2}{3}$ rd of the second year fees from the shifted students.
12. Since, the appellant institution has failed to return amount of fees they had charged for 3rd year of M.B.B.S. course and $\frac{1}{3}$ rd of second year M.B.B.S. course, as directed by AFRC, a Revenue Recovery Certificate (R.R.C.) should be issued to Collector, Guna, for recovering the amount and depositing the same in the account of AFRC. The AFRC shall distribute the amount to the students, according to the amount they deposited with appellant institution.
13. Accordingly, this appeal is disposed off with following modification/directions in the impugned order passed by AFRC:-
 - I. The amount of fees, charged by appellant institution from the students for second year of M.B.B.S. shall be apportioned in ratio of 2:1, between the appellant institution and the new institutions, where the students were shifted to. The appellant institution is entitled to keep 2 parts of fees, while 1 part shall be refunded to the students.
 - II. The Secretariat of AFRC is directed to issue Revenue Recovery Certificate (R.R.C.) to Collector, Guna, to specifying amount to be recovered from the appellant institution. The collector may be requested to recover the amount from appellant institution and deposit the same in account of AFRC. The AFRC shall disburse the amount to the students, according to the amount they deposited with appellant institution.
 - III. The noticee institutions are directed to adjust any amount which they received from student shifted to their institutes, over and above

1/3rd of fee for second year of M.B.B.S. course against fees of incoming academic sessions. In case, the amount is in excess of total fee to be charged for the whole course, they should return it back to the students.

With such directions and modifications, the appeal stands disposed off.

(Justice Alok Verma)
Appellate Authority