

2026 LiveLaw (SC) 498

**IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION**

VIKRAM NATH; J., SANDEEP MEHTA; J.

SLP(Civil) No(s). 35075-35076 of 2015; MAY 14, 2026

SOUMYA RANJAN PANDA & ORS. versus SUBHALAXMI DASH & ORS.

Education Law – Relocation of Medical Students – Capitation and Fee Structure – Apportionment of Financial Liability - Constitution of India, 1950 – Article 142 – Recovery of Outstanding Fees of Relocated Medical Students – Sudden closing/denial of recognition to a medical college due to deficiencies creates an extraordinary situation putting the academic future of students in jeopardy - When students are relocated to other private medical colleges under judicial intervention via a State-supervised counselling mechanism, the resultant financial burden must be equitably apportioned. [Paras 4 – 6]

Contractual Liability vs. Unjust Enrichment – Students who initially consciously contracted to take admission in a private medical institution under a higher fee structure cannot be permitted to exclusively avail the benefit of highly subsidized Government-rate fees throughout the course duration under the garb of interim orders - Permitting students to undertake a full MBBS course at a pittance of what they would have originally paid amounts to unjust enrichment - Neither the students can be given an undue advantage or bonanza, nor can the defaulting institution be permitted to take benefit of its own follies. [Paras 33 - 50]

Legal Maxim – *Commodum ex injuria sua nemo habere debet* – No one should derive a benefit from their own wrong - Since the closure was occasioned due to the serious fundamental deficiencies of the defaulting institution in relation to infrastructure and teaching faculty, the primary brunt of liability must be fastened upon the defaulting management/trust - Amount secured by way of bank guarantees furnished by the defaulting Trust with the MCI/NMC along with the amount deposited before the Supreme Court Registry ordered to be released and distributed among the transferee private medical colleges in equal proportions - For the remaining shortfall, transferee colleges are permitted to represent to the National Medical Commission (NMC) to recover the deficit amount from the passed-out students based on the original fee structure of the defaulting college, while adjusting the amounts initially paid by them - Students complying with the determined fee liability shall be entitled to receive their academic and course-completion documents forthwith. [Relied on *Priya Gupta v. State of Chhattisgarh*, (2012) 7 SCC 433; Paras 27, 38 – 42, 44 - 54]

For Petitioner(s): Mr. Kedar Nath Tripathy, AOR

For Respondent(s): Mr. Pratap Venugopal, Sr. Adv. Mr. Amarjit Singh Bedi, Adv. Ms. Surekha Raman, Adv. Mr. Shreyash Kumar, Adv. M/S. K J John And Co, AOR Mr. Merusagar Samantaray, AOR Mr. Kanishk, Adv. Mr. Anurag Yadav, Adv. Mr. V. Giri, Sr. Adv. Mr. M. Gireesh Kumar, Adv. 1 Mr. Ankur S. Kulkarni, AOR Mr. Sanjay Singh, Adv. Mr. Ashok Kumar, Adv. Mr. Milind Kumar, AOR Mr. Kedar Nath Tripathy, AOR Ms. Aswathi M.k., AOR Mr. Anand Chandra Swain, Adv. Ms. Sunshine Anand Swain, Adv. Ms. Vaishnavi Sahoo, Adv. Mr. Janmejy Verma, Adv. Mr. Manish Chaurasia, Adv. Ms. Khushi Chhetri, Adv. Mr. Piyush Garg, Adv. Mr. S. K. Verma, AOR Mr. Siddhartha Chowdhury, AOR Mr. Anand Chandra Swain, Adv. Ms. Sunshine Anand Swain, Adv. Ms. Vaishnavi Sahoo, Adv. Ms. Akanksha Verma Chandok, Adv. Mr. Gauravh Sharma, Sr. Adv. Mr. Dhawal Mohan, Adv. Mr. Praeek Bhatia, AOR(NMC) Mr. Ashok Kr Parija, Sr. Adv. Mr. Gaurav Khanna, Adv. Mr. Avnish Kumar Sharma, Adv. Mr. Abhisek Dash, Adv. Mr. Ramendra Mohan Patnaik, AOR

J U D G M E N T

Mehta, J.

1. Heard.
2. Leave Granted.
3. Application(s) for impleadment/intervention are allowed.

Scope of the Present Controversy: -

4. These appeals, though arising out of special leave petitions challenging the judgment and order dated 18th November, 2015, and 9th December, 2015 passed by the High Court of Orissa¹, have, over the course of time, assumed a distinct and focused contour. What commenced as a challenge to the directions issued by the High Court concerning the relocation of students from Sardar Rajas Medical College, Hospital and Research Centre, Jaring, Kalahandi, Odisha² was subsequently shaped by a series of interim orders passed by this Court regulating the process of relocation and safeguarding the academic interests of the students. By order dated 8th January, 2016, this Court expressed reservations with the approach adopted by the High Court in directing relocation based strictly on quota distinctions. Thereafter, another order dated 12th January, 2016 was passed permitting the continuation of students in recognised private institutions and enabled the State authorities to carry out relocation in a manner consistent with maintaining academic continuity. Pursuant to these directions, the relocation process was undertaken through a State-supervised counselling mechanism, ensuring that the students were accommodated in recognised private medical colleges (transferee colleges) thereby preventing loss of an academic year.

5. During the course of these proceedings, the transferee private medical colleges, namely, Kalinga Institute of Medical Sciences (KIMS), Bhubaneswar, Institute of Medical Sciences & SUM Hospital, Bhubaneswar, and Hi-Tech Medical College & Hospital, Bhubaneswar³, have filed interlocutory applications being I.A. Nos. 73763 of 2019, 69514 of 2019 and 151684 of 2022, seeking issuance of appropriate directions/clarifications, *inter alia*, for payment/reimbursement of fees for the education imparted by them to the transferred students pursuant to the orders of this Court.

6. The present controversy is no longer centred around the validity of the impugned orders passed by the High Court but is focused on a fair resolution of the financial liabilities arising out of an extraordinary situation, where the academic trajectory of the students was preserved through judicial intervention, but the resultant financial burden remains to be equitably apportioned. In view of the subsequent developments and the directions issued by this Court, the *lis* now stands crystallised around the adjudication of the claims raised in the said interlocutory applications.

Background: -

7. The brief background facts are that two batches of students for the MBBS course were admitted in a college named SRMCH, which is under the control and management of the Selvam Educational and Charitable Trust⁴ (respondent No.76). The admissions pertain to the academic sessions 2013-2014 and 2014-2015. After the students had

¹ Hereinafter, referred to as the "High Court".

² For short, "SRMCH".

³ Hereinafter, referred to as the "transferee colleges".

⁴ Hereinafter, referred to as the "Selvam Trust".

undergone a few academic sessions, numerous deficiencies in infrastructure, facilities, and regulatory compliances were noticed in the college by the Medical Council of India⁵ during its inspections, resulting in denial of renewal of recognition to the institution. These developments, during the academic sessions 2013-2014 and 2014-2015, led to a situation wherein the academic future of the students admitted in these batches was placed in grave jeopardy.

8. Initially, the controversy was taken up by the High Court, which passed various directions in order to safeguard the interests of the students and accordingly ensured that the students be relocated/transferred from SRMCH to other recognized medical colleges within the State. The High Court, while directing relocation, had also observed that students admitted under Government quota could be accommodated in Government medical colleges, whereas students admitted under the management/private quota could be accommodated in private medical institutions, which led to further controversy regarding disruption of the admission framework in the Government colleges.

9. The said orders came to be challenged before this Court by way of the present appeals, *inter alia*, on the ground that such relocation, particularly to Government medical colleges, disturbed the existing admission framework and adversely affected other aspirants who, despite being higher in merit, would be deprived of opportunity to secure admission in the Government institutions.

10. While taking up the appeals, interim orders were issued by this Court from time to time to regulate the relocation and continuation of the students in other private medical institutions, keeping open the issue of fee liability and financial adjustment between the parties.

11. Consequent to these directions, the State Government relocated/transferred the students to three transferee private medical colleges (referred to *supra*), which have preferred the present interlocutory application(s) for intervention and seeking further directions for payment of the fees due to them on account of education imparted to the transferred students. A total of 124 students were affected by the relocation process, comprising admissions under both Government quota and Management/Private quota. As one student withdrew, 123 out of the total of 124 candidates were subjected to online counselling by the Director of Medical Education and Training, Odisha and 41 students each were allocated to the three applicant/transferee colleges; however, at this stage, one more candidate did not take admission, resulting in 122 provisional admissions. Ultimately, 41 students each were relocated to KIMS and IMS, and 40 to Hi-Tech Medical College, as is evident from the record.

12. The transferee colleges have stated that the students admitted in their institutions have paid only the Government-rate fee (approximately Rs.30,000/per annum) pursuant to interim directions of this Court, and that too for a limited period, and that a substantial portion of the academic fees payable for the courses imparted to these students remains outstanding and payable to these colleges as per their entitlement.

13. It is further submitted that the transferee colleges at the initial stage could not raise any protest regarding shortfall of fees, as the students were transferred to their institutions pursuant to the directions of this Court.

14. The transferee colleges have also placed on record charts indicating the fees due from each student, along with a comparative analysis of the fee structure prevailing in their

⁵ Hereinafter, referred to as the "MCI/NMC".

respective institutions vis-à-vis the fee chargeable at SRMCH. A comparative chart in respect of one such transferee college, namely, KIMS, is set out hereinbelow by way of illustration: -

KIMS

a. Batch of 2013-14. [Total 33 Students]

SEMESTER	FEE in KIMS	FEE in SRMCH
4th Semester	Rs.3,00,000/-	Rs.2,12,500/-
5th Semester	Rs.3,00,000/-	Rs.2,12,500/-
6th Semester	Rs.3,00,000/-	Rs.2,12,500/-
7th Semester	Rs.3,00,000/-	Rs.2,12,500/-
8th Semester	Rs.3,00,000/-	Rs.2,12,500/-
9th Semester	Rs.3,00,000/-	Rs.2,12,500/-
Total	Rs.18,00,000/-	Rs.12,75,000/-
Fee for 33 Students (2013-14 Batch) as per SRMCH		33 x 12,75,000/- = Rs.4,20,75,000/-

b. Batch of 2014-15. [Total 8 Students]

SEMESTER	FEE in KIMS	FEE in SRMCH
3rd Semester	Rs.3,00,000/-	Rs.2,12,500/-
4th Semester	Rs.3,00,000/-	Rs.2,12,500/-
5th Semester	Rs.3,00,000/-	Rs.2,12,500/-
6th Semester	Rs.3,00,000/-	Rs.2,12,500/-
7th Semester	Rs.3,00,000/-	Rs.2,12,500/-
8th Semester	Rs.3,00,000/-	Rs.2,12,500/-
9th Semester	Rs.3,00,000/-	Rs.2,12,500/-
Total	Rs.21,00,000/-	Rs.14,87,500/-
Fee for 8 Students (2014-15 Batch) as per SRMCH		8 x 12,75,000/- = Rs.1,19,00,000/-

c. 33+8 transferred students would have paid Rs.4,20,75,000/- + Rs.1,19,00,000/- = **Rs.5,39,75,000/-** as Fee in SRMCH.

15. The above figures clearly demonstrate that the fee structure of KIMS was substantially higher than that of SRMCH. Similarly, the fee structures of the other transferee colleges are also higher than that of SRMCH, though their detailed charts are not being reproduced herein for avoiding repetition.

16. We may also note here that pursuant to the order of this Court dated 19th April, 2016, the Selvam Trust, under whose aegis SRMCH was being run, had deposited a sum of Rs.2 crores with the Registry of this Court, which, along with accrued interest, now stands at Rs.3,58,69,331/-.

17. Furthermore, the Selvam Trust had furnished a sum of approximately Rs.10 crores, as recorded in the order of this Court dated 8th January 2016, with the MCI/NMC by way

of bank guarantees as security in connection with regulatory requirements relating to the establishment and functioning of the institution.

Submissions advanced on behalf of the Parties: -

18. The students (respondents before us), who were transferred to the aforesaid three colleges, have, *inter alia*, contended through Shri Pratap Venugopal, learned senior counsel, that they were admitted to SRMCH through a valid admission process and were subsequently compelled to shift to private medical institutions for no fault of theirs. It is submitted that they have already paid fees at Government rates in compliance with the interim directions of this Court and have since completed their medical courses after facing great hardship and uncertainty. It is, therefore, urged that these passed-out students should not be burdened with any additional financial liability at this belated stage.

19. The Selvam Trust, represented by Shri V. Giri, learned senior counsel, has contended that the findings regarding deficiencies in SRMCH are still under challenge before the competent forums. He submitted that the Trust is contesting the said findings by raising issues with the MCI/NMC and that the question of its liability cannot be conclusively determined in the present proceedings without due adjudication of such disputes. It is further urged that the students have already derived the benefits of continued education in other recognised medical institutions, which would be either equivalent to or even better than the institution in which they were originally admitted i.e. SRMCH, and therefore, the entire financial burden ought not to be saddled upon the Trust. It is emphatically contended that no additional liability should be fastened on the Trust without determining its defaults, *vis-à-vis*, the regulatory mechanism.

20. The transferee colleges, being the intervenors, have contended that they undertook the burden of accommodating the transferred students pursuant to the directions of this Court, without a demur, and provided them the requisite infrastructural and logistic facilities and high-quality education by facing significant challenges. It is also submitted that only a meagre proportion of actual fees calculated at Government rates was paid by the students, and that too for a limited duration, and that a substantial amount towards the fees chargeable by the colleges remains outstanding. Not only this, but these students were also paid stipends as per the course module. It is further urged that these institutions, having been burdened with additional students, suffered unprecedented financial loss, and are entitled to receive the difference of fees and stipend amounts applicable to their respective institutions and cannot be compelled to impart education at Government-rate fees which are highly subsidised. It is urged that the colleges ought to be fully compensated for the cost of the education imparted, along with appropriate interest for the delayed payment.

21. The Medical Council of India (now the National Medical Commission), represented by Shri Gaurav Sharma, learned senior counsel, has taken a stand that the fee structure is required to be determined in accordance with the applicable statutory and regulatory framework. It is submitted that the admission categories ought to be classified on a quota-based system, whereby students admitted under the Government quota would be liable to pay fees at Government rates, whereas those admitted under the management quota would be liable to pay higher fees as applicable to such category.

22. Shri Gaurav Sharma has further submitted that the bank guarantee of Rs.10 crores furnished by the Selvam Trust with the MCI/NMC ought not to be adjusted towards the dues of the private medical colleges, as the said amount may be subject to regulatory disposition, including possible transfer to the State Government.

23. The State of Odisha has contended that the admissions to SRMCH were conducted through a valid admission process undertaken by the State authorities. It is submitted that, before determining the issue of payment of fees to the transferee colleges (applicants), it would be apposite to examine the question of quota classification and then decide the applicable rate of fees reimbursable to the transferee colleges.

Discussion and Findings: -

24. We have considered the submissions advanced at Bar and have gone through the material placed on record.

25. In our opinion, the only controversy surviving in the present *lis* is as to how the issue of fee liability is to be resolved, keeping in mind the following probable scenarios: -

(a) Whether the students transferred to private medical colleges are liable to pay fees at Government rates or at the rates applicable to private medical colleges;

(b) How the differential liability, if any, is to be apportioned between the students and the Selvam Educational and Charitable Trust;

(c) Whether the State of Odisha and/or the MCI/NMC should be directed to make good the deficiency.

(d) Whether the entire liability should be fixed on the Selvam Education and Charitable Trust.

26. We are of the view that the issue regarding classification of the transferred students against Government/private/management quota does not arise for consideration because there is no material on record to show that any of the three transferee colleges had any vacant seats against the Government quota. Needless to state that the question of admitting students against Government quota seats would only arise if there were any vacancies of such quota in the transferee colleges. In the absence of material to indicate such vacancies, we need not delve into the question as to whether any of the transferee students could have been adjusted against the Government quota. Hence, it is to be presumed that all the students were accommodated against private/management quota seats and the fee structure applicable to such seats would have to be applied for deciding the issues of liability and entitlement.

27. As per the material available on record, during the academic year 2014-15, when inspections were carried out, they revealed the existence of serious fundamental deficiencies in the defaulting institution (SRMCH), particularly in relation to infrastructure, availability of teaching faculty, and other essential requirements mandated by law and procedure for imparting medical education.

28. In view of these crucial deficiencies, the Executive Committee of MCI/NMC, upon due consideration, recommended to the Central Government that renewal of permission for admission of the second batch of 100 MBBS students for the academic year 2014-15 ought not to be granted. The said recommendation was duly communicated and accepted by the Competent Authority, resulting in denial of renewal to SRMCH. The said decision was assailed by the medical college before this Court by way of Writ Petition (C) No. 681 of 2014⁶. However, by order dated 8th August, 2014, the said writ petition was dismissed *in limine*. The dismissal of the said writ petition lends credence to the findings and allegations of MCI/NMC regarding inadequate infrastructure, faculty, and other essential facilities at SRMCH during the relevant years, thereby affirming that the institution was not compliant with the prescribed standards. Manifestly, the decision not to continue the

⁶ *Sardar Rajas Medical College v. UoI.*

recognition had a cascading effect on the 2013-2014 batch of students as well. However, we make it clear that these observations may not be construed to be prejudicing the rights of the defaulting institution, i.e., SRMCH, in appropriate proceedings, if any.

29. It is equally pertinent to note that, in a separate proceeding being W.P.(Civil) No. 469 of 2014 titled ***Hind Charitable Trust & Ors. v. Union of India & Ors.***, this Court, by an interim order dated 18th September, 2014, permitted admissions to MBBS courses in certain private medical colleges, including those whose renewal of recognition was either pending or denied, subject to compliance with specified conditions. Subsequently, by order dated 25th September, 2014, this Court directed that the fees chargeable from such students shall be at par with the fees applicable in Government medical colleges and that admissions shall be made through a common State list, without any distinction between Government and management quota. These directions had a direct bearing on the admissions made in SRMCH for the academic sessions 2013-2014 and 2014-2015.

30. The Court further directed that the Government-rate fee shall continue to be applicable till the students so admitted complete their course. Thus, under the interim arrangement made by this Court, the entire course duration of the students admitted in the academic session 2014-2015 was governed by this subsidised fee structure. Both the orders stated above are reproduced hereinbelow for ease of reference:

Order dated 18th September, 2014

“Heard the learned senior counsel appearing for both the sides. Looking at the peculiar facts and circumstances of the case and, especially, when several seats for medical admission are likely to remain vacant for the academic year 2014-15, we are of the view that these matters require urgent consideration and we are giving these interim directions under the provisions of Article 142 of the Constitution of India.

There is one more reason for passing this interim order. We are conscious of the fact that number of physicians in our country is much less than what is required and because of nonrenewal of recognition of several medical colleges, our citizens would be deprived of a good number of physicians and therefore, we are constrained to pass this order, whereby at least there would be some increase in the number of physicians after five years. We are running against time because the last date for giving admissions to MBBS Course for the academic year 2014-15 is 30th September, 2014.

We also desire to reconsider the directions given by this Court in the judgment of ***Priya Gupta v. State of Chhattisgarh*** [(2012) 7 SCC 433], but at this juncture, as we do not have sufficient time to decide all these petitions finally, we are passing this interim order and the matter with regard to reconsideration of the aforesaid judgment would be considered while finally disposing of this group of petitions.

It has been submitted on behalf of the learned senior counsel appearing for all the petitioners/respondents, who are managing medical colleges, that the defects which had been recorded at the time of the last inspection by the representatives of the Medical Council of India have been duly rectified and at present, the defects pointed out in the reports do not exist. The said fact can be ascertained only by having a fresh Compliance Verification/Inspection. However, the stand taken by the Central Government and the Medical Council of India is to the effect that no such inspection can be undertaken in the present academic session because of paucity of time and it would violate the time schedule laid down by this Court in the case of *Priya Gupta* (supra).

The learned senior counsel appearing for the Medical Council of India has also submitted that the petitioners do not have any legal right for getting renewal of the recognition, especially in view of the fact that the Verification/Inspection Reports are not available for the period in question. The learned senior counsel has relied upon some of the Judgments to substantiate his case and

according to him, it would not be just and proper to permit the said medical colleges to take fresh batch of students.

Looking at the peculiar facts of the case and the circumstances stated hereinabove, we direct the petitioners to file undertakings by President/Chairman and Secretary of the petitioners' institutions running medical colleges within 10 days from today, to the effect that there is no defect in the medical colleges run by them and they would also state that their deposit with the MCI, which is around Rs.10 crores, be forfeited by way of penalty if the statement made in the undertaking is found to be incorrect at the time of the next inspection. A draft undertaking has been given to this Court. A copy of the undertaking, which might be filed by the institutions, shall be served upon the office of the Medical Council of India as well as to the Ministry of Health and Family Welfare, Govt. of India, New Delhi.

We also record the fact that in the recent past, the Medical Council of India has renewed recognition of Government Medical Colleges on the basis of undertakings and therefore, we see no reason not to permit the private colleges to admit students on the basis of undertakings given by their office bearer as a special case.

Notwithstanding any direction given in the case of Priya Gupta (supra), if undertakings as stated hereinabove are filed by the institutions managing medical colleges for the academic year 2014-15, admissions shall be given to the students from the merit list prepared by the States and they shall be charged fees prescribed by the Government Medical Colleges of their respective States. The State Authorities, i.e., the Directorate of Medical Education & Research, of the respective States shall send students, in order of their merit, to the medical colleges run by the petitioners, which are situated within their States, within one week from the date of receipt of a copy of this order and the said students shall be admitted to the MBBS Course in accordance with the rules and regulations of the MCI and also regulations dated 16.04.2010 framed by the Medical Council of India, provided undertakings as mentioned above are filed on behalf of the concerned institutions.

It is also clarified that there would be no further counselling in respect of the students who are to be given admission, even if it might result into some heart burning among other students, but in the peculiar facts of the case, we give this direction.

In no case, the admission shall be given after 30th September, 2014. This order shall also apply to all the institutions which had filed their petitions earlier for renewal of their recognition for the academic year 2014-15, but their petitions were rejected or withdrawn for whatever reason, provided undertakings as stated hereinabove are filed by President/Chairman and the Secretary of those institutions. All those petitions shall be deemed to have been revived and this order shall be deemed to have been passed in those cases also. This order shall only be in respect of renewal of recognition and not for creation of additional seats or for new colleges. We also record that the Union of India has supported the petitioners in the interest of students.

We also direct the Union of India to give wide publicity to this order in print as well as electronic media in the interest of the concerned students.

It is directed that the list of students getting admission in pursuance of this order shall be placed on record of this Court by 1st October, 2014 by the concerned institutions and a copy thereof shall also be sent to the MCI.

These matters shall be treated as part-heard and shall be notified for further hearing in the month of December, 2014.”

Order dated 24th September, 2014

“After hearing the learned counsel for the parties we deem it appropriate to issue following clarifications with regard to our earlier order dated 18th September, 2014. These clarifications shall be read into the said order as if they were always part thereof : -

1. The order dated 18th September, 2014 shall also apply to cases where colleges or institutions were seeking increase in intake capacity and in the current year have been denied permission to admit students after first or second or third or fourth renewal/inspection. In our view such institutions where Renewal/Inspection with respect to increase in capacity were conducted in the present academic year are also entitled to the benefit under the order dated 18th September, 2014.
2. We also clarify that fees chargeable from the students admitted pursuant to our order dated 18th September, 2014 shall be at the same rates as applicable to the students in Government medical colleges in respective States and such fees shall be at the same levels as that of the Government medical colleges till the students so admitted pass out from the private medical colleges or institutions.
3. Our order shall also apply to all similarly situated institutions irrespective of the fact whether any petitions were or are pending in this Court or in any of the High Courts or even if they had not approached any court at all. This order shall also apply even in cases where there were orders of stay in favour of the Medical Council of India restraining the colleges from admitting students for the current academic session.
4. The order shall not apply to colleges or institutions which have been disqualified by the Medical Council of India and/or the Central Government and have been prohibited from making any admissions for the current academic year 2014-15.
5. In cases where two separate lists are prepared and sent by the State agencies one relating to State quota and the other relating to management quota in private institutions, we clarify that for the current academic year there shall be only one list and that shall be the "State quota" alone. There shall not be any management quota list to be sent to the private colleges or institutions taking the benefit under our order dated 18th September, 2014. The Management quota shall also be filled through the State list and the fees chargeable for the management quota shall also be charged at the same levels and rates as applicable to State quota list.
6. We further clarify that private institutions taking benefit under our order dated 18th September, 2014 shall have to take students only from the State agencies and at fees chargeable for students in Government medical colleges as stated above, regardless of their status or claim as Minority Institutions or Deemed Universities."

[Emphasis supplied]

31. It is further borne out from the letter dated 20th January, 2015 written by Directorate of Medical Education & Training, Odisha that Sardar Rajas Medical College (SRMCH) had already collected fees @ of Rs.4,25,000/- per student. However, since only Rs.30,000/- per student, being the fee applicable to Government medical colleges, was permissible in terms of the aforesaid directions, the competent authorities directed the college to refund the excess amount of Rs.3,95,000/- per student.

32. It may be further noted that the payment of fees at Government rates by the students of 2014-2015 batch was in pursuance of the interim directions issued by this Court in the present proceedings. In addition, insofar as the students admitted in the academic session 2014–2015 are concerned, the said position also stood reinforced by the directions issued by this Court in **Hind Charitable Trust (supra)**, whereby it was mandated that such students would be liable to pay fees at rates applicable to Government medical colleges. However, clearly this direction was in the nature of an interim arrangement devised in order to tide over the prevailing exigencies arising from the non-renewal of recognition of the concerned institution(s) by the MCI/NMC and the attendant issues relating to Government and management quota admissions.

33. It cannot be denied that admissions to private medical colleges, particularly under the management/private quota would carry a substantially higher fee structure than that applicable to Government Medical Colleges. The students had initially taken admission in SRMCH, which indisputably was a private medical institution operating under a public-private partnership framework within the State of Odisha, wherein admissions were conducted through the State counselling process, comprising both Government quota and management quota seats. Thus, these students had consciously contracted to pay at the higher fee standards charged by the private medical college. Possibly, on their own merit, these students may not have got admission into the Government medical colleges.

34. Be that as it may, on account of subsequent developments and the intervention of this Court, they continued their education and completed the same in the three transferee colleges.

35. In this scenario, what arises for consideration is whether the students, who had initially taken admission in a private medical college having a higher fee structure, can be permitted to continue to avail the benefit of Government-rate fees on account of the interim directions issued by this Court even though in the first place, they had not qualified for the Government colleges in the admission process conducted for this purpose.

36. This, in our opinion, would amount to unjust enrichment of these transferee students while being conscious of the fact that they had to face a chaotic situation of being transferred to different medical colleges mid-session. However, all interests of these students were duly protected by this Court ensuring that they cleared the medical course without losing a single academic year. Thus, neither the students can be given undue advantage or bonanza nor can the defaulting institution, i.e., the SRMCH/Selvam Trust, be permitted to take benefit of its own follies.

37. Undeniably, the finding of deficiencies taken note of by the MCI/NMC during inspection of the infrastructure/faculty of the SRMCH is no longer under debate, as the SRMCH/Selvam Trust failed to maintain the requisite standards for imparting MBBS course to the students admitted by it by charging much heavier fees than what is applicable in Government colleges. The Writ Petition (C) No.681 of 2014, filed by the college having been dismissed, these findings of deficiencies stood firmly affirmed.

38. The situation at hand is well defined by the latin maxim *Commodum ex injuria sua nemo habere debet* i.e., no one should derive a benefit from their own wrong. While the admitted students had undertaken to pay the prescribed fees to SRMCH, it is equally true that, upon payment of such fees, they were entitled to complete their course without any hitch or difficulty. However, what transpired subsequently, as noted in the preceding paragraphs, presents an entirely different picture. Owing to the deficiencies in SRMCH, its recognition was not renewed, resulting in the students being subjected to a very tumultuous and volatile situation, putting their future in grave risk.

39. Hence, the core question which arises for consideration pertains to the manner in which the resultant financial liability is to be apportioned between the parties while balancing the equities.

40. It is indicated from the record that, despite directions issued to SRMCH to refund the excess fee collected from the students admitted in the academic session 2014-2015, the said amount has not been paid till date and SRMCH/Selvam Trust continues to retain the same.

41. A bank guarantee to the tune of approximately Rs.10 crores was furnished by the Selvam Trust with the MCI/NMC. A further sum of Rs.2 crores was deposited by the Trust

with the Registry of this Court pursuant to the order dated 19th April, 2016. The charts placed on record by the transferee colleges indicate that the fee structure prevailing in these institutions was substantially higher than that being charged by SRMCH.

42. However, since the students were transferred and admitted to these colleges pursuant to the directions of this Court in exceptional circumstances, the primary brunt of liability must be fastened upon SRMCH/Selvam Trust, subject to such adjustments as may be permissible in law.

43. It has not been demonstrated before this Court that the MCI/NMC has an overriding charge or exclusive lien over the amount of Rs.10 crores secured by way of bank guarantee furnished by the Selvam Trust. Even otherwise, assuming that any such claim exists, the MCI/NMC, being a statutory regulatory authority vested with powers relating to recognition and de-recognition of medical institutions, would be at liberty to take appropriate steps in accordance with law to recover applicable levies, if any, from the defaulting institution.

Disbursal of amounts deposited by the SRMCH/Trust: -

44. We, therefore, direct that the amount of approximately Rs.10 crores furnished by the Selvam Trust by way of bank guarantees with the MCI/NMC, along with the amount of Rs.2 crores deposited before this Court, together with accrued interest thereupon, shall be payable to the three transferee colleges.

45. It is accordingly ordered that the amount of approximately Rs.10 crores covered by the bank guarantee furnished by the Trust with the MCI/NMC, shall be made available for distribution amongst the three transferee colleges in equal proportions. The MCI/NMC shall ensure that the said amount is released and paid to the three colleges in their respective bank accounts within a period of three months from today.

46. The amount of Rs.2 crores deposited by the Trust with the Registry of this Court, along with accrued interest thereupon, shall also be divided into three equal portions and disbursed to the transferee colleges.

47. The bank details of the respective colleges shall be furnished before the Registry by their respective AOR within a period of two weeks from today, upon which the Registry shall take necessary steps for disbursement.

Liability of Students: -

48. An interim arrangement was made by this Court whereby the students were permitted to deposit fees in the private medical colleges at Government rates. The said fee was approximately one-eighth of the fee being charged by SRMCH per semester. However, owing to the prevailing circumstances and pursuant to the directions issued by this Court, the students were transferred to the applicant colleges, where they continued their studies and completed the courses, *albeit* without loss of an academic year save for exceptions. Additionally, these students were paid stipends by transferee colleges as and where applicable. An argument has been advanced that the students did not pay all tranches of the Government fees also. However, it would be difficult for this Court to verify the said assertion at this belated stage.

49. Going by the chart of calculations prepared by the three applicant colleges and placed for perusal of this Court, the students transferred to these colleges would have paid approximately Rs.5,39,75,000/- to each college, if the fee structure prevailing at SRMCH were to be applied. The fee structure of the transferee colleges is slightly higher but the learned counsel representing the colleges fairly conceded on instructions that they

would be satisfied by reimbursement of due fees at the rates being charged by SRMCH. Thus, in aggregate, the total amount payable to the three colleges would work out to approximately Rs.16.2 crores. This amount is significantly lower than the fee ordinarily chargeable by the transferee colleges from their own students at private rates and does not account for the interest which would have accrued in the intervening period. The total amount secured by way of bank guarantees furnished by the Trust, together with the amount deposited before this Court along with accrued interest, would aggregate to approximately Rs.14 crores. Even upon applying the fee standards of SRMCH, the transferee colleges would still face a shortfall in the recovery of their lawful dues.

50. We may note that the students who have passed out from the transferee colleges have virtually undertaken the full MBBS course by paying the fees at the Government rates, which would be only a pittance of what they would have paid to the SRMCH under normal circumstances.

51. The factual situation available on record is not clear on the aspect as to the number of students originally admitted in SRMCH under the Government quota and those admitted under the private quota/management quota.

52. It is also borne out from the record that the transferee colleges had obtained undertakings from the transferred students at the time of issuance of course-completion documents/certificates, wherein the students acknowledged that the issue relating to fee liability was pending consideration before this Court and undertook to abide by the final directions passed herein. Thus, the passed-out students cannot be allowed the benefit of a windfall or a bonanza merely by dint of the interim orders passed by this Court, which was in form of an emergent measure in order to tide over the situation where the students faced imminent risk of losing their entire careers. Now that, by virtue of the orders passed by this Court, the students have completed the medical courses, it is the right time when they should be asked to make good their outstanding fee obligations.

53. The present status of these passed out students is not available to the Court. Thus, looking to the piquant situation, we permit the transferee colleges to make representations to the MCI/NMC with details of the exact shortfall of the fee due from each student (applying SRMCH rates) for recovery of their remaining dues, if any. It is expected that, upon such representations being made, the NMC shall provide due redressal to the colleges for recovery of the deficit amount, if any, from these passed out students. Excess amount, if any, received from the students may be utilized to recoup the amount of bank guarantee (Rs. 10 Crores) which we have directed MCI/NMC to pay to the applicant colleges. Furthermore, at the time of evaluation, the MCI/NMC shall take into account and adjust the amount initially paid by these students at the time of admission to SRMCH. We further provide that observations made in this order shall not prejudice the claims/defences, if any, of the Selvam Trust or SRCMH in appropriate proceedings, if any.

54. For the sake of clarification and in view of the directions issued hereinabove, it is provided that the students who comply with the fee liability determined in terms of the present judgment shall be entitled to forthwith receive such academic and course completion documents, certificates and other consequential records, which are ordinarily issued upon completion of the course and are required by the students, in accordance with the applicable rules/regulations.

55. I.A. Nos.73763 of 2019, 69514 of 2019, and 151684 of 2022 (applications for direction/clarification) are disposed of as above. Other pending application(s), if any, shall also stand disposed of.

56. The appeals are closed and consigned to the record.

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