

# SUPREME COURT OF INDIA

Gsf Medical And Paramedical Association

Vs.

Association of Management of Self Financing Technical Institutes

(S.R. Babu and G Mathur JJ.)

15.12.2003

## ORDER

1. In TMA Pai Foundation v. State of Karnataka, , this Court indicated the manner in which admissions to professional and non-professional colleges could be regulated depending upon whether they are aided or non-aided institutions or whether they are the minority or non-minority institutions and several guidelines were set out therein. Medical Council for India sent a letter on 11<sup>th</sup> February, 2003 drawing attention of the Educational Institutions, Medical Colleges and Universities as well as Government of India to the decision in Civil Appeal No. 5166 of 2001 [MCI v. Madhu Singh and Ors.] as to the necessity of commencement of the academic session on 1<sup>st</sup> August of each year and admissions should be completed by 30<sup>th</sup> September of the concerned year and no admission shall be made by the admitting agency beyond 30<sup>th</sup> September of the concerned year. The Government of Gujarat formed a Joint Admission Committee on 3<sup>rd</sup> May, 2003. The Government of Gujarat permitted the management of respective colleges to fill up 80% of the seats as indicated in Clause (3) in respect of self-finance institutes by stating that in private self-finance medical, dental or physiotherapy institutes 80% of sanctioned seats will be filled up by the Central Admission Committee, as per merit-cum-preference basis on the basis of consensus arrived among the self-finance institutes. The management of self finance institutes will admit the students on the remaining seats on transparent basis, on merit, as per the scheme to be declared in advance in line with the judgment of this Court as per the consensus of self-finance institutes. It is stated that the managements admitted certain students on the basis of this resolution. There is, however, dispute as to whether they fulfill the condition of merit as per the scheme but we need not examine that aspect at this stage of the proceedings, if such students otherwise fulfil the requirements of Medical Council in case of Medical Colleges and similar body in case of other colleges. Thereafter the Government passed a resolution prescribing fee structure on 28.5.2003. Several petitions were filed before this Court challenging the action of the Government and this Court by a decision in Islamic Academy of Education and Anr. v. State of Karnataka and Ors. , apart from giving certain directions in relation to the fee structure also indicated the manner in which the students can be admitted in the colleges. It emphasises that the admission even in the quota of management should be strictly on the basis of merit. However, in the State of Gujarat no separate entrance test is conducted by the Government or by the Association of self-financed colleges. The merit considered by the State Government on the marks at the examination of

12<sup>th</sup> standard for the year 2003-2004. Therefore, the self financed institutes also adopted this procedure.

The order of the Government fixing the mode in which fee structure has to be regulated or admissions are to be made was called in question before the Court. A learned single judge made an interim order apart from giving directions regarding the fee structure gave further directions in regard to the admissions of the students.

2. The matter was carried in appeal on the letters patent side and a civil-application was filed and the Division Bench by an interim order stayed the orders of the Government dated 6<sup>th</sup> May, 2003 and 1<sup>st</sup> July, 2003 subject to certain conditions. So far as the admission is concerned, the interim directions given by the learned Single Judge stood affirmed subject to the following two conditions:

"a) The concerned institute/college shall forward the applications for admission received by it directly from the students on management quota to the joint Admission Commission for Professional Courses by tomorrow.

b) The applications which may be forwarded by the management Committee, as indicated above, shall be considered by the Joint Admission Committee for Professional Course for admissions on the available seats.

3. It is now urged before us that Islamic Academy of Education's case (supra) provided for an arrangement to fill seats by the Government and the Private Colleges on 50-50% basis. They contend that some of the colleges had admitted the students to the extent of 50% of their total intake capacity out of those nominated by the Government on the basis of the result of such students in the XII<sup>th</sup> Standard Examination in science and English subjects and the Government nominated further students to the extent of 30% after the order was made by this Court on 15.9.2003 and 6.10.2003 and the colleges have not granted admission to the students and, therefore, sought for admissions balance of 30% management seats for which provisional admissions are given. This Court by an order made on 22.9.2003 directed status quo shall be continued until further orders.

4. The stand of the State is that students have to be admitted in terms of the directions issued by this Court in Islamic Academy of Education & Anr.'s case (supra) and thereby they have an option to get 50% of the students. Inasmuch as a Joint Admission Committee has been constituted and that a Joint Admission Committee is making the recommendations not only on behalf of the Government but also on behalf of the Management, the entire admission can be done by them.

5. In the working of directions regarding the admissions to professional or other colleges as fall out in the TMA Pai Foundation's case (supra), clarifications were sought from the Court in Islamic Academy of Education's case (supra). By the time Islamic Academy of Education's case (supra) decided certain directions had been issued by the Government pursuant to which 20% seats have already been filled up by the Government. If these seats

have already been filled up pursuant to the Government order dated 9<sup>th</sup> May, 2003 it would not be appropriate to disturb their admissions if such students are otherwise qualified as per the standard prescribed by the Medical Council for India in medical colleges or any other such or similar body prescribing standard for admission in respect of other institutions. No entrance examination has been held in the State of Gujarat and students are being admitted on the basis of the marks obtained in the 12<sup>th</sup> standard examination and of course subject to the standard prescribed by the relevant medical or technical education council or some other similar body and particularly in view of the fact that this Court has allowed the Management to fill up the seats upto 50% of the seats. It must be stated that the admissions can be made by the Management upto 50% but it will of course include the 20% seats which they have already admitted, that means, their quota left out will be only 30%. If nominations have been made either by the Management or by the Joint Admission Committee before 30<sup>th</sup> September, 2003 the same shall be treated as having complied with the directions issued by this Court in MCI v. Madhu Singh case to which reference has already been made and admissions shall be completed on that basis. No fresh admissions shall be made until the disposal of the proceedings before the High Court. These petitions shall stand disposed of on the basis of these directions. We have not specifically gone into the merits of the case inasmuch as the proceedings arise out of the interim orders made by the High Court and the matters are still pending before the High Court and they are to be decided by the High Court appropriately after examining all aspects and any expression or opinion of this aspect will not be in the interest of justice. These petitions shall stand disposed of accordingly.