SUPREME COURT OF INDIA

Asha

Vs.

B.D.Sharma University of Health Sciences

C.A.No.5055 of 2012

(Swatanter Kumar and Ranjan Gogoi,JJ.)

10.07.2012

JUDGMENT

Swatanter Kumar,J.

1. Leave granted.

2. Admission to the medical courses (MBBS and BDS) has been consistently a subject of judicial scrutiny and review for more than three decades. While this Court has enunciated the law and put to rest the controversy arising in relation to one facet of the admission and selection process to the medical courses, because of ingenuity of the authorities involved in this process, even more complex and sophisticated set of questions have come up for consideration of the Court with the passage of time. One can hardly find any infirmities, inaccuracies or impracticalities in the prescribed scheme and notifications in regard to the process of selection and grant of admission. It is the arbitrary and colorable use of power and manipulation in implementation of the schedule as well as the apparently perverse handling of the process by the concerned persons or the authorities involved, in collusion with the students or otherwise, that have rendered the entire admission process faulty and questionable before the courts. It is the admissions granted arbitrarily, discriminately or in a manner repugnant to the regulations dealing with the subject that have invited judicial catechism. With the passage of time, the quantum of this litigation has increased manifold.

3. Thus, it is both the need of the hour and the demand of justice that this Court clarifies its decision and states the principles with greater precision so as to ensure elimination of colorable abuse and arbitrary exercise of power in the process of selection and admission to these professional courses by all concerned.

4. Therefore, in our view, though the present appeal arises from very simple facts, yet it raises questions of considerable importance and application. These questions are bound to

arise repeatedly not only before this Court, but even before the High Courts. Therefore, it is imperative for us to formulate the questions and answer them in accordance with law.

5. The questions are:-

"a) Is there any exception to the principle of strict adherence to the Rule of Merit for preference of courses and colleges regarding admission to such courses?

b) Whether the cut-off date of 30th September of the relevant academic year is a date which admits any exception?

c) What relief the courts can grant and to what extent they can mould it while ensuring adherence to the rule of merit, fairness and transparency in admission in terms of rules and regulations?

d) What issues need to be dealt with and finding returned by the court before passing orders which may be more equitable, but still in strict compliance with the framework of regulations and judgments of this court governing the subject?

6. The appellant cleared her Secondary examination (medical stream) with 75% marks and was eligible for taking medical entrance examination as she fulfilled the requisite criteria to take that exam. Pt. B.D. Sharma University (for short 'the University') issued a notification/advertisement for the entrance examination for MBBS, BDS and BAMS to be held in the first week of May, 2011. The appellant applied for the same in the Backward Class 'B' (for short 'BCB') and dependent of Ex- Serviceman (ESM) category. Her application was accepted and roll number was issued to her. The date of the examination was fixed for 12th June, 2011 by the University. The appellant was declared successful in the entrance examination having secured 832 marks. The appellant was at serial number 13 of the ESM category. All concerned were informed that the first counseling for allotment of seats was to be held on 14th -15th July, 2011. In this counseling, the appellant was not admitted to MBBS Course as she was lower in merit. Consequently, she took admission in the BDS Course on that very day. Thereafter, a declaration was made by the respondents that the second counseling for allotment of seats in the MBBS course would be held on 20th September, 2011. The appellant again participated in the counseling but her name and roll number was not declared by the respondents for the said admissions. However, when the list of allocation of seats was displayed, it came to light that though the appellant had not been admitted to the MBBS Course, candidates who ranked below her in the merit list, including the respondent no.3, Vineeta Yadav, who had obtained 821 marks and was at serial number 14 of the ESM Category, had been given admission to the MBBS Course.

7. On the above facts, the learned Single Judge of the High Court of Punjab and Haryana at Chandigarh, observed that according to the respondents, the 'appellant left the counseling place' without appearing before the Counseling Board. Resultantly, her candidature was not considered for admission to the MBBS course under the ESM category and the candidate next in merit was given the admission. It was the opinion of the Court that it would be too far fetched to accept that the appellant, though was physically present at the time of taking of attendance, thumb impressions and photography, did not respond to the call for counseling at the relevant time. Further, the Court observed that no reason whatsoever could be seen for absence of the appellant at the relevant moment from the record before the Court. In view of the fact that the appellant had filed the writ petition within a week of the second counseling, the Court accepted the facts averred in the writ petition and directed the respondents to admit the appellant to the MBBS course while further directing that it would be open for the respondents to see that admission of other students lower in merit is not cancelled, if so permissible and possible under the relevant Rules.

8. Upon appeal, the Division Bench of that Court upset the judgment of the learned Single Judge and held as under:-

> "We find that such directions could not have been issued on the basis of possibilities. In view the process of counseling, we find that the writ petitioner herself has failed to appear before the counseling board at the relevant time. It is not that she has not got admission. She is pursuing BDS course at Rohtak whereas, the other two candidates are pursuing their courses at PGI Rohtak and Medical College Agroha. At this stage, to disturb the entire admission process would not in the interest of academics when there is no substantive allegation in respect of admission process."

9. The Division Bench also noticed the contention of the respondents that the appellant was a student of the same college and other candidates were even outstation, thus it was possible that the appellant was not present when the call for her name was made, may be due to her negligence or carelessness.

10. The Court also observed that since there was no allegation of mala fides against any member of the Counseling Board and there also being no allegations of misconduct and favoritism, the conclusion arrived at by the learned Single Judge was not sustainable in law.

11. The moot question which falls for consideration of this Court in view of the divergent views taken by the Single Judge and the Division Bench of the High Court is whether the decision of the learned Single Judge is based on inferences or assumptions or whether it was

a reasonable conclusion which the Court could arrive at in view of the pleadings of the parties and the relevant rules in force.

12. Notification for the second counseling was issued on 26th August, 2011. The second counseling was to be held for admission to MBBS and BDS courses in Government Aided Medical Dental Colleges in the State of Haryana on 20th September, 2011 in the Office of the Director, Pandit B.D. Sharma University of Health Sciences, PGI, Rohtak, as per the schedule given therein.

13. The notification inter alia also stated:-

"Date |Reporting Time |Category Rank 20.09.2011 8.00 A.M. General 01 to 704 |Common Merit |List) SC |01 to 65 BCA 01 to 144

BCB |01 to 150 |PH |01 ESM |01 to 30 |FF |01 "

14. In furtherance to this notification, there is no dispute to the fact that the appellant, who was at Sr. No. 13 of ESM category, had appeared before the authorities and marked her attendance in the attendance sheet on 20th September, 2011. It is interesting to note that the same sheet had been signed by the candidates to mark their presence even on 15th July, 2011, when the first counseling was held. The appellant had also signed on 15th July, 2011 and, as already noticed, was given admission to the BDS course.

15. Another important aspect which needs to be noticed at this stage is the original merit list which has been produced before us. This merit list relates to the date of first counseling, i.e., 15th July, 2011. According to the respondents, the appellant had been given admission to the BDS course but in this merit list the column for signature in front of her name is empty. This document does not have any of the members of the Board or any candidate specifying the date of this counseling. Therefore, we would take it that this document is dated and relates to the proceedings of 15th July, 2011. If that be so, it is difficult to understand as to how the appellant was given admission to the BDS course on 15th July, 2011 when nothing is noted in front of her name. It does not even say, whether she was given admission to MBBS or BDS course. Interestingly, in the remark column, the members of the Board have noted the candidates who have already been given admission to a college or who were not interested in BDS course or who had vacated the seat of BDS. The merit list for admission dated 20th September, 2011 has not been placed on record. There is no explanation available from the records produced before us, as to why this has not been done. It has also not been clarified in the affidavit filed on behalf of respondent Nos. 1 and 2.

16. We may notice that in the writ petition before the High Court the appellant had specifically averred that she was present in the second counseling at the time of attendance

and even subsequent thereto. However, despite such presence, her name and roll number were not declared by the respondents for the purpose of admission to the MBBS course. However, the list of successful candidates revealed that candidates of merit lower to her had been admitted to the MBBS course. According to her, she instantly raised her claim and even submitted a representation upon the respondents but to no avail. Paragraphs 7 to 9 of the writ petition read as follows:

"7. That the respondents have decided to take second counseling and the date for second counseling was fixed for 20.09.2011. The petitioner again participated in the second counseling but her name and roll number was again not declared by the respondents for the said admission in the MBBS course.

8.That after the date of second counseling, the petitioner was shocked to know that one Vinita Yadav daughter of Sh. Arvind Kumar Yadav Roll No. 126038 having the same category i.e. BCB- ESM and having 821 marks which is lower then the marks secured by the petitioner got admission in MBBS Course conducted by the respondents. The petitioner has visited the office of the respondent just after getting the information that a candidate who is lower in merit/marks got admission in MBBS Course and requested the respondents that this is totally illegal and discriminatory on the part of them that they are giving admission to a candidate who is having lesser marks than the petitioner but the respondents have not considered her genuine claim and legal rights and willfully ignored the request of the petitioner.

9.That the petitioner has not continuously visited the office of the respondents and raised her voice for her genuine claim for the admission in MBBS Course and she has specifically mentioned that a candidate having lesser marks as compared to the petitioner has got admission in MBBS course but in vain. The petitioner submitted a representation before the respondents mentioning everything about the incident but the respondents have not considered her request. A true typed copy of the representation is attached herewith as Annexure P-3."

17. In the reply filed on merits by the respondents, these paragraphs were dealt with in a most casual manner and no specific denial was made. Paragraphs 7 to 9 of the reply read as under:-

"7. That in reply to Para No. 7 of the petition averments made in Para No. 3 and 4 of the preliminary submissions are reiterated here.

8. That in reply to Para No. 8 of the petition it is submitted that since the Petitioner left the counseling place without appearing before the counseling board her candidature was not considered for admission to MBBS course under ESM category and the Respondent No. 3

who was next in merit than the Petitioner got the admission in MBBS course under ESM category. Averments made in Para No. 3 and 4 of the preliminary submissions are also reiterated here.

9. That Para No. 9 of the writ petition is wrong and denied. The Petitioner has never approached to the answering Respondents with regard to her admission in MBBS course after 2nd counseling as claimed in this para. However, in any case she is not entitled for admission to MBBS Course under ESM category in present circumstances in view of facts mentioned in Para No. 2, 3 4 of the preliminary submissions."

18. From a bare reading of the reply filed by the respondents, it is clear that there is no specific denial of the above-noted averments made by the appellant. It is a settled principle of the law of pleadings that an averment made by the appellant is expected to be specifically denied by the replying party. If there is no specific denial, then such averment is deemed to have been admitted by the respondent. In the present case, it is evident that the above-noted averments in the writ petition were relevant and material to the case. In fact, the entire case of the appellant hinged on these three paragraphs of the writ petition. It was thus, expected of the respondents to reply these averments specifically, in fact to make a proper reference to the records relevant to these paragraphs. In view of the omission on part of the respondents to refer to any relevant records and failure to specifically deny the averments made by the appellant, we are of the considered view that the appellant has been able to make out a case for interference.

19. Not only this, if the averments made in paragraph 9 are correct and the appellant had instantaneously raised her claim before the respondents, followed by making of the representation, we see no reason why the claim of the appellant could not be settled at that time or in any case in the subsequent counseling held on 30th September, 2011, where the appellant was admittedly present. The attendance sheet produced before us shows that the appellant was present on all the three days. Even the records produced by the respondents before the Court support the case of the appellant.

20. The appellant filed the writ petition before the High Court without any undue delay and on 4th November, 2011, the judgment by the court was passed in her favor. The cumulative effect of the above factual matrix, the pleadings of the parties and the expeditious manner in which the appellant had taken action before the authorities and then before the court and pursued her remedies, persuade the Court to believe that the case of the appellant is truthful. The cases of the present kind are not required to be tested by us on the touchstone of stringent principles of burden of proof applicable to criminal jurisprudence. As already mentioned, it was the obligation of the respondents to specifically deny the averments made by the

appellant and to produce the relevant records to show that the stand taken by them is worthy of credence. Having failed to do so, they cannot shift the burden upon the appellant and expect this Court to believe that a student of the same college, would disappear at the relevant time of counseling after having marked her presence at the counseling.

21. It is not necessary for the appellant to plead and prove mala fides, misconduct or favoritism and nepotism on the part of the parties concerned. Failure to do the same could be an error, intentional or otherwise, but in either event, we see no reason why the appellant should be made to suffer despite being a candidate of higher merit.

22. At this stage, we may refer to certain judgments of the Court where it has clearly spelt out that the criteria for selection has to be merit alone. In fact, merit, fairness and transparency are the ethos of the process for admission to such courses. It will be travesty of the scheme formulated by this Court and duly notified by the states, if the Rule of Merit is defeated by inefficiency, inaccuracy or improper methods of admission. There cannot be any circumstance where the Rule of merit can be compromised. From the facts of the present case, it is evident that merit has been a casuality. It will be useful to refer to the view consistently taken by this Court that merit alone is the criteria for such admissions and circumvention of merit is not only impermissible but is also abuse of the process of law. Ref. *Priya Gupta Vs. State of Chhatisgarh Anr[1]decided on 8th May, 2012], Harshali v. State of Maharashtra and Others[2]Pradeep Jain v. UOI[3]Sharwan Kumar and Others v. Director of Health Services and Another[4]Preeti Srivastava v. State of MP[5]Guru Nanak Dev University v. Saumil Garg and Others[6]AIIMS Students' Union v. AIIMS and Others[7].*

23. It is true that the notification dated 26th August, 2011 had clearly stated that the candidate should appear before the second Counseling Board well in time along with all the original documents and that the photograph and thumb impression of the candidate would be taken at the time of the counseling. The notification stated the reporting time as 8.00 a.m. The exact time when the candidates of each category i.e. General, SC, PH (MS), EMS and FF were to be present was nowhere stated. In other words all candidates were required to be present at 8.00 a.m.. It cannot be disputed that the appellant was present at that time and undisputedly she had marked her presence in the attendance register. She admittedly participated in the photography and taking of thumb impressions held by the concerned authority. However, her absence at the crucial time of counseling is the essence of dispute in the present case.

24. Adherence to the schedule is the obligation of the authorities and the students both. The prescribed schedule is to be maintained stricto sensu by all the stakeholders because if one party adheres to the schedule and others do not or there is some kind of lack of

communication or omission to make proper announcements and maintain proper records for such counseling, disastrous results can follow, of which the present case is an apt example.

25. The Court cannot ignore the fact that these admissions relate to professional courses and the entire life of a student depends upon his admission to a particular course. Every candidate of higher merit would always aspire admission to the course which is more promising. Undoubtedly, any candidate would prefer course of MBBS over BDS given the high-competitiveness in the present times, where on a fraction of a mark, the admission to course could vary. Higher the competition, greater is the duty on the part of the concerned authorities to act with utmost caution to ensure transparency and fairness. It is one of their primary obligations to see that a candidate of higher merit is not denied seat to the appropriate course and college, as per his preference. We are not oblivious of the fact that the process of admissions is a cumbersome task for the authorities but that per se cannot be a ground for compromising merit. The concerned authorities are expected to perform certain functions, which must be performed in a fair and proper manner i.e. strictly in consonance with the relevant rules and regulations.

26. Strict adherence to the time schedule has again been a matter of controversy before the courts. The courts have consistently taken the view that the schedule is sacrosanct like the rule of merit and all the stakeholders including the concerned authorities should adhere to it and should in no circumstances permit its violation. This, in our opinion, gives rise to dual problem. Firstly, it jeopardizes the interest and future of the students. Secondly, which is more serious, is that such action would be ex- facie in violation of the orders of the court, and therefore, would invite wrath of the courts under the provisions of the Contempt of Courts Act, 1971. In this regard, we may appropriately refer to the judgments of this Court in the cases of Priya Gupta (supra), *State of Bihar v. Sanjay Kumar Sinha Ors*[8]*Medical Council of India v. Madhu Singh Ors*[9]*GSF Medical and Paramedical Association v. Association of Management of Self Financing Technical Institutes and Anr*[10]*Christian Medical College v. State of Punjab and Others*[11].

27. The judgments of this Court constitute the law of the land in terms of Article 141 of the Constitution and the regulations framed by the Medical Council of India are statutorily having the force of law and are binding on all the concerned parties. Various aspects of the admission process as of now are covered either by the respective notifications issued by the State Governments, prospectus issued by the colleges and, in any case, by the regulations framed by the Medical Council of India. There is no reason why every act of the authorities be not done as per the procedure prescribed under the Rules and why due records thereof be not maintained.

28. This proposition of law or this issue is no more res integra and has been firmly stated by this Court in its various judgments which may usefully be referred at this stage. Ref. *State of M.P. v. Gopal D. Tirthani and Others*[12]*State of Punjab v. Dayanand Medical College Hospital and Ors*[13]*Bharati Vidyapeeth v. State of Maharashtra and Another*[14]*Chowdhury Navin Hemabhai and Others v. State of Gujarat and Others*[15]*Harish Verma and Others v. Ajay Srivastava and Another*[16].

29. In the prospectus issued by the respondents, Chapter 9 dealt with the method of selection and admission. Clause 3.1 stated that it was mandatory for the qualified candidates to appear before the Counseling Board in person. No relaxation was to be given to the candidates who were unable to appear before the Counseling Board on the fixed dates. Further, it was stated in the prospectus that at the time of the counseling, the candidates would be required to exercise their choice for the institution and the course. The allotment of the seats would be made according to the merit and preference exercised by the candidates at the time of counseling. During the subsequent counseling the Course/Institution would be allotted as per the merit of the candidates depending on the availability of seats.

30. All these clauses are in accordance with the regulations framed by the Medical Council of India or the notifications issued by the concerned State Government. Relaxation of the Rule of Merit for reason of non-appearance is not permissible. In the present case, there is no dispute that the appellant was present at the place and on the date of the second counseling but the dispute relates to her absence at the particular time when her name was called out for the purpose of counseling. As far as this issue is concerned, we have already expressed the opinion that there is no substance in the defence taken by the respondents and the appellant should be entitled to the relief prayed for. However, the question that immediately follows is whether any mid-term admission can be granted after 30th September of the concerned academic year, that being the last date for admissions. The respondents before us have argued with some vehemence that it will amount to a mid-term admission which is impermissible, will result in indiscipline and will cause prejudice to other candidates. Reliance has been placed upon the judgments of this Court in *Medical Council of India v. Madhu Singh and Others*[17]Ms. *Neelu Arora and Another v. Union of India and Others*[18] *Aman Deep Jaswal v. State of Punjab and Others*[19]*Medical Council of India v. Naina Verma and Others*[20]*Mridul Dhar and Another v Union of India and Others*[21]*Medical Council of India v Madhu Singh and Others*[22].

31. There is no doubt that 30th September is the cut-off date. The authorities cannot grant admission beyond the cut-off date which is specifically postulated.

But where no fault is attributable to a candidate and she is denied admission for arbitrary reasons, should the cut-off date be permitted to operate as a bar to admission to such students particularly when it would result in complete ruining of the professional career of a meritorious candidate, is the question we have to answer. Having recorded that the appellant is not at fault and she pursued her rights and remedies as expeditiously as possible, we are of the considered view that the cut-off date cannot be used as a technical instrument or tool to deny admission to a meritorious students. The rule of merit stands completely defeated in the facts of the present case. The appellant was a candidate placed higher in the merit list. It cannot be disputed that candidates having merit much lower to her have already been given admission in the MBBS course. The appellant had attained 832 marks while the students who had attained 821, 792, 752, 740 and 731 marks have already been given admission in the ESM category in the MBBS course. It is not only unfortunate but apparently unfair that the appellant be denied admission. Though there can be rarest of rare cases or exceptional circumstances where the courts may have to mould the relief and make exception to the cut-off date of 30th September, but in those cases, the Court must first return a finding that no fault is attributable to the candidate, the candidate has pursued her rights and legal remedies expeditiously without any delay and that there is fault on the part of the authorities and apparent breach of some rules, regulations and principles in the process of selection and grant of admission. Where denial of admission violates the right to equality and equal treatment of the candidate, it would be completely unjust and unfair to deny such exceptional relief to the candidate. [Refer *Arti Sapru and Others v. State of J K and Others*[23]*Chavi Mehrotra v. Director General Health Services*[24]*and Aravind Kumar Kankane v. State of UP and Others*[25].

32. We must hasten to add at this stage that even if these conditions are satisfied, still, the court would be called upon to decide whether the relief should or should not be granted and, if granted, should it be with or without compensation.

33. This brings us to the last phase of this case as to what relief, if any, the appellant is entitled to. Having returned a finding on merits in favour of the appellant, the Court has to grant relief to the appellant even, if necessary, by moulding the relief appropriately and in accordance with law. This Court must do complete justice between the parties, particularly, where the legitimate right of the appellant stands frustrated because of inaction or inappropriate action on the part of the concerned respondents. In fact, normally keeping in view the factual matrix of this case, we would have directed the admission of the appellant to the MBBS course in the academic year 2011-2012 and would further have directed the respondents to pay compensation to the appellant towards the mental agony and expense of litigation and the valuable period of her life that stands wasted for failure on the part of the respondents to adhere to the proper procedure of selection and admission process. May be the

Court would have granted this relief subject to some further conditions. However, we are unable to grant this relief to the appellant in its totality for reason of her own doing. She has completely faulted in pursuing her academic course in accordance with the Rules and like a diligent student should do. In the reply filed on behalf of respondent Nos.1 and 2, it has been stated that as per the Dental Council of India Norms, minimum required attendance is 75 per cent in Theory as well as in Practical of each subject individually for issuance of roll numbers in the BDS course. Undoubtedly, the appellant was admitted to the BDS course and she was expected to complete her academic course in terms of the Norms of Dental Council of India. It is also not disputed before us and, in fact, was confirmed to us on behalf of the Medical Council of India and the respondent University that the course for the first year of both, BDS and MBBS, is more or less the same. Except one paper of Anatomy, rest of the subjects and papers are more or less similar particularly for the first six months. If the appellant had pursued the BDS course to which she was admitted diligently and had attended all the lectures, she might have been eligible to pursue her MBBS course in continuation thereto. We are not recording any finding in this behalf as, in our opinion, the appellant is not entitled to this particular relief, as already indicated, and for the same she has to blame none else but herself.

34. In the reply, the respondents have specifically explained by the figures on record that the appellant had attended only 28 per cent to 42 per cent lectures (minimum being 28% and maximum 42%) instead of the required 75 per cent and as such she has not even pursued her BDS course properly. The table given in the reply reads as under:

> "|S.No. |Name of Deptt. |Practical |Theory | | | |Lect. |Lec. |%age |Lect. |Lec. |%age | | | |Deliv. |Attnd. | |Deliv. |Attnd. | | |1. |Prosthodontics |95 |22 |23% |Nil |Nil |Nil | |2. |Dental Anatomy |93 |31 |33% |95 |28 |29% | |3. |Dental Material |Nil |Nil |Nil |35 |13 |37% | |4. |Anatomy 1125 |39 |31% |86 |25 |29% | |5. |Physiology |30 |09 |30% |94 |27 |28% | |6. |Biochemistry |32 |12 |37% |59 |25 |42% |"

35. From the above data, it is clear that the appellant has miserably failed to pursue her BDS course in accordance with Rules and, thus, she has not fulfilled even the pre-requisites for MBBS course, assuming that the BDS and MBBS courses are similar for the first six months. In these circumstances and finding that the appellant is at fault to this limited extent, we are of the considered view that the only relief the appellant can be granted in the present appeal is a direction to the respondents to give the appellant admission to the MBBS course not in the academic year 2011-12 but in the current academic year i.e. 2012-2013, that too, subject to the condition that she will pursue her MBBS course right from the beginning without any advantage of her course in the BDS. If any examinations have been held in the meanwhile, it shall be deemed that she had not appeared in those examinations and be treated as such for all

intent and purpose. While giving her admission to the MBBS course, preferably and if it is permissible, admission of none of the other candidates to the MBBS course may be disturbed. If for whatever reasons, it is not possible to do so, in that event, the candidate last in the merit who has been granted admission to the MBBS course shall be transferred to the BDS course and appellant shall be admitted to the MBBS course. We also direct that such candidate would not be required to commence her/his BDS course from the beginning provided the candidate has satisfied the attendance requirements of the Dental Council of India.

36. Now, we shall proceed to answer the questions posed by us in the opening part of this judgment.

Answers

"a) The rule of merit for preference of courses and colleges admits no exception. It is an absolute rule and all stakeholders and concerned authorities are required to follow this rule strictly and without demur.

b) 30th September is undoubtedly the last date by which the admitted students should report to their respective colleges without fail. In the normal course, the admissions must close by holding of second counseling by 15th September of the relevant academic year [in terms of the decision of this Court in Priya Gupta (supra)]. Thereafter, only in very rare and exceptional cases of unequivocal discrimination or arbitrariness or pressing emergency, admission may be permissible but such power may preferably be exercised by the courts. Further, it will be in the rarest of rare cases and where the ends of justice would be subverted or the process of law would stand frustrated that the courts would exercise their extra-ordinary jurisdiction of admitting candidates to the courses after the deadline of 30th September of the current academic year. This, however, can only be done if the conditions stated by this Court in the case of Priya Gupta (supra) and this judgment are found to be unexceptionally satisfied and the reasons therefore are recorded by the court of competent jurisdiction.

c) Wherever the court finds that action of the authorities has been arbitrary, contrary to the judgments of this Court and violative of the Rules, regulations and conditions of the prospectus, causing prejudice to the rights of the students, the Court shall award compensation to such students as well as direct initiation of disciplinary action against the erring officers/officials. The court shall also ensure that the proceedings under the Contempt of Courts Act, 1971 are initiated against the erring authorities irrespective of their stature and empowerment.

Where the admissions given by the concerned authorities are found by the courts to be legally unsustainable and where there is no reason to permit the students to continue with the course, the mere fact that such students have put in a year or so into the academic course is not by itself a ground to permit them to continue with the course.

37. With all humility, we reiterate the request that we have made to all the High Courts in Priya Gupta's case (supra) that the courts should avoid giving interim orders where admissions are the matter of dispute before the Court. Even in case where the candidates are permitted to continue with the courses, they should normally be not permitted to take further examinations of the professional courses. The students who pursue the courses under the orders of the Court would not be entitled to claim any equity at the final decision of the case nor should it weigh with the courts of competent jurisdiction.

38. Besides providing the above answers to the questions, we also issue the following directions to put the matters to rest beyond ambiguity and to ensure that the authorities act in accordance with law:

"(a)From the records of this case, it is clear that two different records are being maintained at the time of counseling. Firstly, the attendance register and thereafter photography and thumb impressions are taken and, secondly, the Committee maintains a record of the counseling where the students are actually given a specific college/course of his/her preference. We direct that the second set of records shall be maintained more accurately. It shall not only contain the signatures of the candidate and the Committee members but also the date and time when the candidate is given a seat and it shall also be signed by the candidate with the course clearly written by the Committee and signed by the candidate in the remarks column.

(b) The essence of all the judgments dealing with this issue is to nurture discipline, fairness and transparency in the selection and admission process and avoid prejudice to any of the stake-holders. Thus, while we expect the authorities to be perfect, fair and transparent in the discharge of their duties, we make it clear that the students who adopt malpractices in collusion with the authorities or otherwise for seeking admissions and if their admissions are found to be irregular or faulty in law by the courts, they shall normally be held responsible for paying compensation to such other candidates who have been denied admission as a result of admission of the wrong candidates.

(c) The law requires adherence to a settled protocol in the process of selection and grant of admission. None should be able to circumvene or trounce this process, with or without an ulterior motive. The courts are duty bound to ensure that litigation relating to academic courses, particularly, professional courses should not be generated for want of will on the part

of the stake holders to follow the process of selection and admission fairly, transparently and without exploitation.

(d) Keeping in mind the hard reality that there are number of petitions filed in each High Court of the country, on the one hand challenging the admissions on varied grounds while, on the other, praying for grant of admission on merit to the respective professional courses of MBBS/BDS, the Court cannot lose sight of the fact that the career of the meritorious youth is at stake. These are matters relating to adherence to the rule of merit and when its breach is complained of, the judiciary may be expected to deal with the said grievances preferentially and effectively. The diversity of our country and the fact that the larger population lives in rural areas and there being demand for consistent increase in the strength of qualified medical practitioners, we are of the considered view that such cases, at least as of now and particularly for a specific period of the year require higher priority in the heavy business of court cases. We are not oblivious of the fact that the Hon'ble Judges of the High Court are working under great pressure and with some limitations. However, we would still make a request to the Hon'ble Chief Justices of the respective High Courts to direct listing of all medical admission cases before one Bench of the Court as far as possible and in accordance with the Rules of that Court. It would further be highly appreciable if the said Bench is requested to deal with such cases within a definite period, particularly during the period from July to October of a particular year. We express a pious hope that our request would weigh with the Hon'ble Chief Justices of the respective High Courts as it would greatly help in serving the ends ofjustice as well as the national interest."

39. For the reasons afore-recorded and with the directions as mentioned above, we direct the respondents to grant admission to the appellant to the MBBS course in the current academic year subject to the condition that she will pursue her MBBS course right from its beginning and to the conditions afore-noticed. However, in the facts and circumstances of the case, we award no costs.

40. Appeal is disposed of accordingly.

Judgment Referred

[1]*CA @ SLP(C) No. 27089 of 2011*
[2]*(2005) 13 SCC 0464*
[3]*1984 (3) SCC 0654*
[4]*1993 Supp (1) SCC 0632*
[5]*(1999) 7 SCC 0120*
[6]*20O5 (13) SCC 0749*
[7]*(2002) 1 SCC 0428*

[8](1990) 4 SCC 0624
[9](2002) 7 SCC 0258
[10]2003 (12) SCC 0414
[11](2010) 12 SCC 0167
[12](2003) 7 SCC 0083
[13]AIR 2001 SC 3006
[14](2004) 11 SCC 0755
[15](2011) 3 SCC 0617
[16](2003) 8 SCC 0069
[17](2002) 7 SCC 0258
[18](2003) 3 SCC 0366
[19](2006) 9 SCC 0597
[20](2005) 12 SCC 0626
[21](2005) 2 SCC 0065
[22](2002) 7 SCC 0258
[23](1981) 2 SCC0484
[24](1994) 2 SCC 0370
[25](2001) 8 SCC 0355