

**SUPREME COURT OF INDIA**

VNS College of Physical Education

Vs.

State of Madhya Pradesh & Ors.

C.A.No.13353 of 2015

(M.Y.Eqbal and C.Nagappan,JJ.,)

06.11.2015

**JUDGMENT**

**[M.Y. Eqbal, J.,**

1. Leave granted.

2. Heard Mr. Vikas Singh, learned senior counsel appearing for the appellants/writ petitioner and Mr. Arjun Garg, learned counsel appearing for the respondents.

3. In all these applications the appellants/petitioner, private recognized institutions are aggrieved by the impugned orders passed by the High Court of Madhya Pradesh refusing to pass an interim order directing these institutions for conducting counseling and admission to the students possessing minimum eligible marks. In other words, these appellants/petitioner seek permission to conduct college level counseling to fill up the left over vacant seats. The grievance of the appellants/petitioner is that because of the alleged arbitrary decision of Higher Education Department seats in these institutions have been left vacant.

4. It appears that by the impugned decision taken by the Department of Higher Education, admission to students have been restricted to only those students who have appeared in the entrance examination conducted by Vyapam and is not open for all students possessing the minimum eligibility marks from the qualifying examination and also opposed the request for college level counseling.

5. The contention of the appellants/petitioner are that the counseling by the respondent Department is being conducted in complete derogation of various mandatory provisions of Admission Rules 2008 framed by the State Government itself under the provisions of Madhya Pradesh Niji Vyavsayik Shikshan Santhan Adhiniyam 2007 where under it is provided that if after two rounds of counseling, the seats are left vacant in the private unaided colleges then the admission process would be open for all the students having minimum eligibility criteria and having minimum marks in the qualifying examination. It is pleaded

that it further provides that “College level counseling” shall also be permitted to be carried out by the concerned college itself for filling its vacant seats.

6. It has further been contended by the appellants that despite almost more than 50% seats are lying vacant in their institutions, the respondent authorities have till date restricted the admissions to only those students who have appeared in the entrance examination conducted by Vyapam and not opened for all students possessing the minimum eligibility marks from the qualifying examination and have also proposed no program for college level counseling. Although respondent authorities have conducted almost three round of counseling, the seats are lying vacant in their institutions. Our attention was drawn to the decision dated 26.9.2014 of this Court passed in Civil Appeal No.5914 of 2011 and connected writ petitions and pleaded that this Court had directed the State Government of Uttar Pradesh to conduct the Counseling and allot students to the vacant seats.

7. The contention of the respondent-State of Madhya Pradesh is that the State Government has issued circular for counseling for admission in B.Ed., M.Ed. etc. courses in private institutions. The entrance examination for such examination is conducted by the Professional Examination Board. For the academic session 2015-16, 63406 students participated in the examination conducted by Vyapam. It has been further submitted that under the Guidelines for admission framed by the State, an online registration is compulsory for all students who desired to participate in the counseling which was to be conducted after the entrance test. The Registration for first round counseling was held from 18.5.2015 to 28.5.2015 and three rounds of counseling were completed between 9.6.2015 to 29.6.2015. Thereafter, additional round of counseling was also conducted in July, 2015, for which all students were allowed/permitted to get the online registration subject to the only condition that they have participated in the entrance examination. According to the respondents, against total seats of 53,865 in the State of Madhya Pradesh for B.Ed. course, 63,406 students were allowed online registration. Despite four rounds of counseling, seats in the appellant colleges are remaining vacant, which means that the students are not interested in getting admission in these colleges. It has been further submitted that the entire pool of students who had participated in the Vyapam examination has been exhausted, and as such, no further counseling can be permitted now.

8. In the background of all these facts, we do not find any reason to grant any interim relief to the appellants/petitioner to conduct a college level counseling and admit the students who have not even appeared in the entrance test. These applications are, therefore, dismissed.