

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

(1)

LPA-216-2019 (O&M)

Punjab Unaided Technical Institution Association, SAS Nagar (Mohali) and
others

.... Appellants

Versus

State of Punjab and others

..... Respondents

(2)

LPA-178-2019 (O&M)

Vidya Rattan Polytechnic College, Khokhar, District Sangrur

.... Appellant

Versus

State of Punjab and others

..... Respondents

(3)

LPA-209-2019 (O&M)

SBCMS Polytechnic College, Attalgarh, Mukerian (Hoshiarpur) and
another

.... Appellants

Versus

State of Punjab and others

..... Respondents

(4)

LPA-252-2019 (O&M)

SSS Polytechnic & Pharmacy College, VPO Hayat Nagar Gurdaspur and
another

.... Appellants

Versus

State of Punjab and others

..... Respondents

(5)

LPA-534-2019 (O&M)

Aryan College of Engineering, Village Nepra/Thuha, Chandigarh-Patiala Highway and others

.... Appellants

Versus

State of Punjab and others

..... Respondents

(6)

LPA-567-2019 (O&M)

Guru Nanak Institute of Technology

.... Appellant

Versus

State of Punjab and another

..... Respondents

(7)

LPA-568-2019 (O&M)

Sardar Bahadur Captain Mehtab Singh Institute of Technology, Attalgarh (Mukerian)

.... Appellant

Versus

State of Punjab and another

..... Respondents

Reserved on : 07.11.2019
Date of decision : 04.12.2019

CORAM :- HON'BLE MR. JUSTICE RAVI SHANKER JHA, CHIEF JUSTICE
HON'BLE MR. JUSTICE RAJIV SHARMA

Present: Mr. Aminder Singh and Mr. P.S. Gugilani, Advocates,
for the appellants
in LPAs No. 178, 209, 216, 252 and 534 of 2019.

Mr. M.S. Atwal, Advocate,
for the appellants in LPAs No. 567 and 568 of 2019.

Mr. Anupam Gupta, Senior Advocate, with
Mr. Rajeev Kawatra, Mr. Ashok Kumar, and
Mr. Sukhpal Singh, Advocates,
for respondent-Punjab State Board of Technical Education.
* * *

RAJIV SHARMA, J.

1. Since common questions of law and facts are involved in these appeals, therefore, these are taken up together and being disposed of by a common judgment.

2. These appeals are instituted against the judgment dated 21.12.2018, rendered by the learned Single Judge in CWPs No. 25610, 26233, 28070 and 28071 of 2017, 29138 and 29148 of 2018, whereby the claim for admission in the polytechnic course after the cut off date of 15.08.2017 has been rejected. However, in order to maintain clarity, the facts of LPA No. 216 of 2019 and CWP-25610-2017 have been taken into consideration.

3. The brief facts necessary for adjudication of these appeals are that the common prospectus for the Academic Session 2017-18 was issued for admission in the institutions affiliated to the Punjab State Board of Technical Education and Industrial Training (hereinafter referred to as 'the Board') and located in the State of Punjab and Union Territory of Chandigarh. The last date for online registration was 15.06.2017. The admission to all regular diploma courses (except Diploma course in Aircraft Maintenance Engineering) was to be made on the basis of merit in the subjects of Maths, Science and English with overall pass status in the Matriculation examination, whereas the admission in Diploma course in Aircraft Maintenance Engineering was to be made on the basis of relative

merit in total marks obtained in Physics, Chemistry and Mathematics subjects of 10 + 2 (Non Medical) examination. The admission to first year of four year Part Time Diploma Courses was to be made on the basis of relative merit of total marks obtained in Math, Science and English subjects with overall pass in Matriculation examination. All the admissions were to be made as per the reservation policy of the Government of Punjab and Chandigarh Administration.

4. Part-I of the prospectus dealt with 'Admission Procedure'. The general eligibility criteria was as per the Punjab Government, Department of Technical Education and Industrial Training notifications No. 8/9/2017/4TE2/931699/1 dated 01.03.2017 for diploma level courses, and No. 8/9/2017/4TE2/931673/1 dated 01.03.2017 for Part Time Diploma Level Courses. National Informatics Centre (hereinafter referred to as 'NIC'), New Delhi, was entrusted with the task of implementing online off campus counseling. The following objectives for online off campus counseling were adopted :-

“The Board has adopted ON-LINE OFF CAMPUS counseling with following objectives :

1. To bring 100% transparency in seats allotment and admissions.
2. To build strong public interface to minimize travel burdens on the students and their parents for counseling.
3. To provide enough time to students for submission, change, delete, selection of multiple choices courses/ institutes from anywhere any time.
4. To make provide of required information, answers to queries, reports at different levels through the counseling website.

5. To organize centralized database and centralized monitoring.
6. To achieve paper-less counseling.
7. To make secured and controlled data access at every level.”

NIC was also entrusted to accomplish the task of Software development, testing and implementation of Web based online off campus counseling for admissions to all AICTE approved technical diploma level courses being run in all technical institutions in the State. NIC was successfully developing and implementing the online off campus counseling for AIEEE rank holders in the country for the last 7-8 years. In order to achieve the objectives, a website was to be launched by NIC, the premier Science & Technology organization of Government of India under Union Ministry of Information and Communication and Technology. The admission was to be made through online counseling by NIC, in collaboration with the Board. The detailed instructions for online admission procedure was made available on the Board's websites. In order to participate in online counseling, it was made mandatory for every candidate to register through counseling website www.psbte.gov.in as per the counseling schedule available on the website.

5. The admission to various Diploma courses web based online counseling was to be followed for the Academic year 2017-18. Therefore, physical presence of candidates for the counseling was not necessary. During the online counseling, candidate was to be given opportunity to exercise choice of institute/trade in centralized counseling and thereafter, the vacant seats, if any, were to be filled by the institute on the criteria of

admissions under management quota. There were two rounds of centralized counseling by the State Board of Technical Education, Punjab, Chandigarh. The following procedure was prescribed in the prospectus issued by the Board for online registration :-

“PROCEDURE FOR ONLINE REGISTRATION

1. A candidate should must register themselves on counseling website.
2. The candidates must register their correct educational and personal details as per certificates at the time of registration.
3. If all the details are correct as per requisite testimonials, click the submit option.
4. On successful submission of applicant data, registration details will be displayed on the screen.
5. After successful submission of applicant data, Login ID (Registration Number) is generated.
6. The candidate has to note down registration number/login ID and Password for further reference.
7. The candidate is required to pay registration fee through online payment only.
8. Candidate who has submitted all details and paid registration fees can download registration confirmation page, these candidates will be eligible to participate in online counseling.
9. Candidate must retain a copy of confirmation page along with proof of fee paid for further reference or correspondence.”

The procedure for online counseling was also provided in the prospectus. It reads as under :-

“PROCEDURE FOR ONLINE COUNSELING

There shall be total two rounds in counseling. 1st round of counseling shall start from 3rd week of June. The procedure for counseling shall be as follows :

1. Counseling is for candidates desirous of taking admission in Diploma in Engg. courses. In 1st round of counseling candidate shall have to register him/her self on counseling website www.psbte.gov.in.
2. After registration, candidates shall be asked to exercise their choices for courses and institutes in order of preference. In 1st round of counseling all candidates from general category and all reserved categories and candidates from other states are eligible to participate, however the allotment of seats shall only be made in respective categories.
3. After the declaration of result of 1st counseling, candidates shall print the provisional allotment letter available on student's Login and shall be asked to deposit admission fee (as applicable) and report to the allotted institute in the stipulated time as per counseling schedule for verification of documents and confirmation of seat.
4. If a candidate wishes to participate in 2nd round of counseling for up gradation of course/institute he/she shall re register him/her self as per schedule of counseling.
5. Such candidates shall require to sign an online undertaking that
“Before participating in 2nd round of counseling I have understood that if I am allotted a seat in 2nd round of counseling, my allotment in first counseling shall automatically be cancelled and I shall have no claim on my previously allotted seat”
6. This is to further clarify that if candidate is allotted seat in 2nd round of counseling then his/her seat allotted in 1st

round is automatically cancelled and he shall have no right or claim on that seat of 1st round of counseling.

7. On declaration of result of 2nd round of counseling the candidate shall again be provided time as per schedule of counseling to deposit admission fee and physically report to the allotted institute for verification of documents and confirm the seat.”

The instructions for the applicant, as contained in the prospectus, also read as under :-

“INSTRUCTIONS FOR THE APPLICANT

1. **Registration** : It is must for all the candidates to register online for participating in the Online counseling. Fill all the fields as per the instructions on the registration page.
2. Candidate is required to enter his/her correct and accurate data of educational qualifications and personal details.
3. Registration fee shall be paid by online mode of payment only.
4. Print Confirmation of Registration.
5. Participate in online counseling as per Schedule.
6. Result of Online counseling.
7. Print Provisional Allotment Letter.
8. Deposit Admission Fee (Online mode of payment only).
9. Report at the allotted institute.
10. Get confirmation Letter from Institute.”

The counseling schedule as per the prospectus was as under :-

Counseling	Choice filling	Declaration of Result (Seat Allocation)	Reporting at Allocated Institute and Payment of Admission Fees
1 st counseling	19.06.2017 to 26.06.2017	28.06.2017 (5.00 PM)	29.06.2017 to 04.07.2017

Counseling	Choice filling	Declaration of Result (Seat Allocation)	Reporting at Allocated Institute and Payment of Admission Fees
2 nd counseling	05.07.2017 to 10.07.2017	12.07.2017 (5.00 PM)	13.07.2017 to 17.07.2017

6. The State Government also issued instructions as contained in the notification dated 01.03.2017. According to this notification, the process of online registration of vacant seats was to be completed by 15.08.2017 by all means and as per AICTE's notification No. Advt. No. Legal/12 (06) 2012, no admission was permissible after 15.08.2017. The Board had issued advertisement, notifying the schedule for online counseling – 2017. After the completion of second round of online counseling for admission to various Diploma courses, which was to be completed on 17.07.2017, the Board had also issued a letter dated 17.07.2017 under the caption “Filling up of vacant seats after closure of second round of online counseling of Diploma, LEET, PTD, LEET PTD, Aircraft Maintenance Engg. Diploma in Pharmacy and Modern Office Practice – regarding”. The letter reads as under :-

“The second round of online counseling for admission to various Diploma courses has completed on 17.07.2017 with the final reporting of selected candidates and thereafter confirmation by the concerned institutes.

The list of vacant seats available in different trades in different institutes has been compiled and made available to the institutes on the Institute portal website of NIC (www.intrapsbte.nic.in), where the institutes interact for confirmation of admissions.

As per the Govt. notification of 1st year Diploma vide Notification No. 8/9/2017-4TE2/931699/1 dated 1.3.2017,

Lateral Entry (LEET) vide notification No. 8/9/2017-4TE2/931376/1 dated 1.3.2017, Modern Office Practice (MOP) notification no. 8/9/2017-4TE2/930932/1 dated 28.02.2017 and Pharmacy Notification no. 8/9/2017-4TE2/931311/1 dated 1.3.2017, Part Time Diploma Notification no. 8/9/2017-4TE2/931673/1 dated 1.3.2017, Aircraft Maintenance Engg. Notification no. 8/9/2017-4TE2/980848/1 dated 18.5.2017, any vacant seats after the closure of central admissions shall be filled at the level of the institutions on the basis of guidelines issued for filling up the Management quota vide letter no. 13/129/2003-ITE2/1247 and 1892 dated 25.4.2008 and 20th June 2008 respectively. Further, any amendments/corrigendum/letter issued by Govt./DTE Punjab will be intimated time to time on Board's website. Accordingly the institutions have been permitted to fill the vacant seats as per guidelines mentioned below :-

1. The admissions will be made on the basis of merit (irrespective of the category) of qualifying examination for all streams after being duly advertised. While filling the seats preference shall be given to those candidates who have selected a particular institute during the 1st and 2nd online counseling but could not join the institute.
2. Students who are being admitted under the vacant seats shall be registered on the website www.intrapsbte.nic.in (The details of the admission procedure are attached herewith).
3. No separate Bar coded forms for this purpose shall be supplied by the Board.
4. The semester/admission fees (Registration fees, prospectus/application fees and processing fees) will remain same for all the streams as per previous years.

5. The third round of counseling will start from 21st July 2017.
6. As per AICTE Notification No. Advt. No. Legal/12 (06) 2012 the admission shall not be made after 15th August, 2017.

Issued for strict compliance.”

Step 1 regarding registration, provided in the guidelines for online admission of vacant seats and management quota, annexed with the said letter, reads as under :-

- “* Fill all the required data in the online Registration Form.
- * After successful submission of the data, Application number will be generated and it will be used to complete the remaining steps of the counseling and also required for all further correspondence.”

According to the said letter dated 17.07.2017 issued by the Board, the students who were being admitted under the vacant seats were to be registered on the website and three simple steps were to be followed to fill vacant and management quota seats. The first step was to fill the required data in the online Registration Form, and after successful submission of the data, application numbers were to be generated and these were to be used to complete the remaining steps of the counseling and were also required for all further correspondence.

7. The appellants filed CWP-25610-2017 seeking the following reliefs :-

- “i) issue a writ in the nature of mandamus summoning the records of the case;
- ii) issue a writ in the nature of mandamus directing the Punjab State of Technical Education Board to open its

website/online portal to upload the details of the petitioner students and issuance of direction to accept the examination forms sent by registered post/courier/e-mail and to issue admit cards to the petitioner students for the examination commencing tentatively from 21.11.2017 (practical examination);

- iii) any other suitable writ, order or direction as this Hon'ble Court may deem fit and proper in the facts and circumstances of the present case be issued;
- iv) filing of the certified copies, true typed copies and complete copies of Annexures attached with the writ petition may kindly be dispensed with and permission to file Photostat copies thereof may kindly be granted;
- v) Service of advance notice to the writ petition on the respondents may kindly be dispensed with."

The institutions also filed CWPs No. 26233, 28070 and 28071 of 2017, 29138 and 29148 of 2018, seeking same or similar reliefs, as sought in CWP-25610-2017.

8. According to the principal stand taken by the petitioners in CWP-25610-2017, there was no requirement of registering the students on the website of the Board by any particular date. No cut-off date for the purpose of online registration was given in the letter dated 17.07.2017. No admission was made after 15.08.2017. The colleges were running both Degree and Diploma level courses in Engineering. It was also averred that the cutoff date for admission to Engineering courses was extended by the Hon'ble Supreme Court from 15.07.2017 to 31.08.2017 vide order dated 08.08.2017. The Board vide letter dated 26.10.2017 had notified the schedule for holding examination for the academic session 2017-18. The examination was scheduled to commence from 21.11.2017. The students

were required to deposit the requisite forms with the Principal of the College along with the requisite fee. The last date for submission of examination forms by the students to the Institute and further online submission of the data by the Institutes to the Board, without late fee was from 30.10.2017 to 08.11.2017, and the last date for depositing fee by the Institute through online to the Board's account, without late fee was 13.11.2017. The last dates for the same with late fee was from 09.11.2017 to 14.11.2017; and 15.11.2017. The last date with very late fee was from 15.11.2017 onwards and the fee was to be deposited by the Institute directly in the Board's office. The date sheet was to be made available from 2nd week of November. The practical examinations were to commence from 21.12.2017. It was also averred that the online portal of the Board was only accepting the examination forms submitted by the students in the first and second online counseling, and was not accepting the examination forms of students admitted at the Institute level, as per the letter dated 17.07.2017 issued by the Board, against vacant seats. The petitioners - appellants and other similarly situated Colleges sent the examination forms of their respective students by registered post. The petitioners – appellants had sought direction to the Board to either open the online portal for registration of students admitted against the vacant seats at Institute level or accept the hard copy of the Forms, as submitted, and to issue roll numbers and admit cards to the students. It is, however, not disputed that the aggrieved students were all unregistered and that the list of candidates was not uploaded by 15.08.2017.

9. A detailed reply was filed by the Board on the affidavit of its

Director Academics, which is available on page 320 of the paper book of CWP-25610-2017. According to it, the order dated 08.08.2017 was not applicable in the present case. The admission procedure as given in the prospectus (Session 2017-18) clearly stipulated that all the candidates desirous of admission to Diploma courses were required to register their details on the counseling website to participate in the online counseling. NIC, New Delhi was entrusted with the task of implementing online off campus counseling for admission to all Diploma courses being run in technical institutions. This position was also clarified further vide instructions dated 01.03.2017. The letter dated 17.07.2017 also provides for registration. For online admission/counseling, online registration of students on the website before 15.08.2017 was *sine qua non*. Few of the students had registered their names on the portal of NIC/Board upto 15.08.2017 even at 11.58 PM. 33000 students were admitted in the counseling who had registered themselves.

10. Replication to the reply filed by the Board was also filed on behalf of the petitioners – appellants.

11. It was also contended before the learned Single Judge that the website was not operational. In other words, there was technical snag/glitch due to which the students could not get their names registered for counseling.

12. The learned Single Judge dismissed the writ petition by holding that the order of the Supreme Court dated 08.08.2017 was not applicable. The registration was must and there was no technical snag or glitch.

13. It would be apt at this stage to take note of various interim

orders passed by the learned Single Judge in CWP-25610-2017 from time to time. The learned Single Judge vide order dated 05.12.2017 had directed petitioners No.1 and 2 to ensure that the full particulars of the students who were petitioners, including the details of the qualifying examination, were submitted in the office of the Board by 10.00 AM on 06.12.2017 through e-mail and hard copy. It was made clear that taking of examination by the petitioners would not create any equity in their favour. It was also made clear that if it comes to light that the order of the Supreme Court was in fact limited to the applicants therein or that the students had not fulfilled the mandatory attendance or other eligibility criteria as mandated by the Supreme Court in the case of Parshavanath Charitable Trust and others vs. All India Council for Technical Education and others, 2013 (2) SCT 163, the petitions would be liable for dismissal. Thereafter, vide order dated 25.05.2018, the learned Single Judge permitted the petitioners – appellants to appear in the examinations from 28.05.2018 provisionally. Their result was ordered to be not pronounced till the decision of the main writ petition. This order was passed since similar order was passed in CWP-26233-2017 on 24.05.2018. A prayer was made by the petitioners – appellants seeking interim directions to permit them to appear in the respective examinations. This prayer was declined by the learned Single Judge on 26.11.2018. The judgment was reserved on 11.12.2018 and pronounced on 21.12.2018.

14. The Division Bench vide order dated 07.02.2019 rendered in LPAs No. 178, 209, 216 and 252 of 2019 provisionally allowed 5200 students to attend classes of 4th and 6th semesters in their respective colleges.

Thereafter, vide order dated 30.04.2019, the examination forms of all 5200

students were ordered to be accepted by the respondents. It was ordered that they be issued roll numbers and permitted to appear in the ensuing examinations provisionally subject to the final outcome of the main appeals.

15. What emerges from the facts enumerated here-in-above is that the last date for online registration was 15.06.2017. The admissions were to be made through online off campus counseling. NIC, New Delhi, was entrusted with the task of implementing online off campus counseling. It was mandatory for every candidate to register through counseling website www.psbte.gov.in. The procedure for online registration as well for online counseling and instructions for the students have already been re-produced here-in-above. The first counseling was to be held between 19.06.2017 to 26.06.2017. Result was to be declared by 28.06.2017. The students were required to report at allocated Institutes and to pay admission fees between 29.06.2017 to 04.07.2017. The second counseling was to be held between 05.07.2017 to 10.07.2017. Result was to be declared by 12.07.2017 and the students were required to report at allocated Institutes along with fee between 13.07.2017 to 17.07.2017. According to the notification dated 01.03.2017, admission was to be over by 15.08.2017. The Board had issued letter dated 17.07.2017, whereby the procedure for filling up of vacant seats after closure of second round of online counseling was prescribed. The admissions were to be made on the basis of merit. The students to be admitted under the vacant seats were required to be registered on the website www.intrapsbte.nic.in. According to the guidelines for online admissions of vacant seats and management quota, annexed with the letter dated 17.07.2017, three simple steps were to be followed to fill vacant and

management quota seats. The Institutes were required to login on website www.intrapsbte.nic.in for filling up the vacant seats of the 1st and 2nd round of online counseling. The first step was to fill all the required data in the online Registration Form, and after successful submission of the data, application number was to be generated, which was to be used to complete the remaining steps of the counseling and for further correspondence.

16. We have been informed that 33000 students were registered between the last dates of second and third rounds of counseling, i.e. till 15.08.2017. Online registration of the students on the website was *sine qua non* for online admission/counseling. There is no merit in the contention of learned counsel for the appellants that due to technical snag, the students could not get themselves registered.

17. According to the notification dated 01.03.2017, the online registration was to be completed by 15.08.2017 by all means. The students, as per the letter dated 17.07.2017, who were to be admitted under the vacant seats, were to be registered on the website www.intrapsbte.nic.in. No admission could be made after 15.08.2017, as per this communication. It is reiterated that as per the guidelines, annexed with the letter dated 17.07.2017, the entire data was to be fed in the online Registration Form, and after such submission of the data, application number was to be generated and used. The scanned images of photograph, signature and other certificates, including the date of birth certificate as well as the qualifying exam Marks Sheet/certificate, were to be uploaded. The institutions were to select the candidate after entering his/her online generated application number, and thereafter to select the institute and course opted by the

candidate. The fee structure, as per the prospectus, was to be as per policy of the respective Governments. The admission fee was to be accepted through online mode of payment only.

18. In the instant case, the respondents have refused to grant admissions to the appellants as the terms and conditions of the prospectus, the notification dated 01.03.2017 and the communication dated 17.07.2017 have not been followed at all by the institutes as well as students, and as the cut off date of 15.08.2017 for completing admissions was over.

19. In Parshavanath Charitable Trust and others Vs. All India Council for Technical Education and others, (2013) 3 Supreme Court Cases 385, their Lordships of the Hon'ble Supreme Court have laid down the schedule for admission to AICTE approved technical Diploma level courses, which is final and binding upon all including the petitioners and has to be strictly followed. It reads as under :-

“41. The appropriate schedule, thus, would be as follows :-

Event	Schedule
Conduct of entrance examination (AIEEE/ State CET/Management quota exams, etc.)	In the month of May
Declaration of result of qualifying examination (12 th exam or similar) and entrance examination	On or before 5 th June
1 st round of counseling/admission for allotment of seats	To be completed on or before 30 th June
2 nd round of counseling for allotment of seats	To be completed on or before 10 th July
Last round of counseling for allotment of seats	To be completed on or before 20 th July

Event	Schedule
Last date for admitting candidates in seats other than allotted above	30 th July However, any number of rounds for counseling could be conducted depending on local requirements, but all the rounds shall be completed before 30 th July
Commencement of academic sessions	1 st August
Last date up to which students can be admitted against vacancies arising due to any reason (no student should be admitted in any institution after the last date under any quota)	15 th August
Last date of granting or refusing approval by AICTE	10 th April
Last date of granting or refusing approval by University/State Government	15 th May

While laying down the aforesaid admission schedule, their Lordships have held that the same should be strictly adhered to by all concerned and none of the authorities shall have the power or jurisdiction to vary these dates of admission. Their Lordships have further held as under :-

- “42. The admission to academic courses should start, as proposed, by 1st August of the relevant year. The seats remaining vacant should again be duly notified and advertised. All seats should be filled positively by 15th August after which there shall be no admission, whatever be the reason or ground.
43. We find that the above Schedule is in conformity with the affiliation/recognition schedule aforenoticed. They both can co-exist. Thus, we approve these admission dates and declare it to be the law which shall be strictly

adhered to by all concerned and none of the authorities shall have the power or jurisdiction to vary these dates of admission. Certainty in this field is bound to serve the ends of fair, transparent and judicious method of grant of admission and commencement of the technical courses. Any variation is bound to adversely affect the maintenance of higher standards of education and systemic and proper completion of courses.

x x x x x x x x x

46.1 Both grant/refusal of approval and admission schedule, as aforesaid, shall be strictly adhered to by all the authorities concerned including AICTE, the University, the State Government and any other authority directly or indirectly connected with the grant of approval and admission.

46.2 No person or authority shall have the power or jurisdiction to vary the schedule prescribed hereinabove.”

20. Their Lordships of the Hon'ble Supreme Court in Priya Gupta Vs. State of Chhattisgarh and others, (2012) 7 Supreme Court Cases 433

have held that in case prescribed schedule is not adhered to, its adverse consequences would be : (a) principle of admission on merit would be defeated and meritorious students would not get colleges/course of their choice and preference; (b) midstream admission and extension of periods of admission would delay commencement of course and thus lower standard of education and given scope for adopting impermissible practices; (c) inequities would be created which would be prejudicial to both students and

colleges; and (d) highly competitive standards for admission to such colleges would stand frustrated. Their Lordships have held as under :-

“72. Balancing of equities by the Court itself is inequitable. Some party or the other would suffer a set back or adverse consequence from the order of the Court. On the one hand, if admissions are cancelled, the students who have practically completed their MBBS course would lose their professional education as well as nearly five years of their life spent in such education. If their admissions are protected, then the standard of education, the merit of the candidates and the desirability of the persons of higher merit becoming doctors is negated. The best solution to such problems is strict adherence to the time schedule, procedure for selection/admission and strict observance of the Medical Council of India Regulations, by all concerned. Once these factors are adhered to, not only would such situation not arise, but also it will prevent avoidable litigation before the courts. The persons who violate the time schedule to grant admissions in an arbitrary manner and by colourable exercise of power, who are not adhering to the Medical Council of India Regulations and the judgments of this Court, should be dealt with strictly by punishment in accordance with law, to prevent such mischief from repeating.”

21. Having heard, the online registration was an integral part of admission process to fill vacant posts as per the notification dated 01.03.2017 read in conjunction to letter dated 17.07.2017. The contention

of learned counsel for the appellants that there was no requirement of online registration merits rejection. Once the procedure has been prescribed, the same has to be followed in that manner alone. All the instructions issued vide notification dated 01.03.2017 and the letter dated 17.07.2017 were mandatory and imperative. The appellants have not challenged the vires or any of the conditions of prospectus issued for the academic session 2017-18, as well as the terms and conditions enumerated in notification dated 01.03.2017 and the letter dated 17.07.2017.

22. The learned Single Judge has rightly held that the IAs have been filed at different points of time and pertaining to different academic sessions and in each I.A. the particular institute/State had portrayed its own peculiar circumstances and problems before the Hon'ble Supreme Court for extending the last date for admissions. The time for admission/counseling was then extended by various orders passed in different IAs, including the order dated 08.08.2017. Admittedly, no application for extension was or has been filed by the appellants before the Supreme Court. The time schedule laid down by the Hon'ble Supreme Court in Parshavanath Charitable Trust's case (supra) is mandatory and can not be violated.

23. The learned Single Judge has correctly distinguished the judgment rendered by the Rajasthan High Court in Rajasthan Engineering Colleges Society Vs. State of Rajasthan and others decided on 24.11.2017. The judgment of the Division Bench of this Court rendered in Ajay Kumar Thakur and ors. Vs. State of Haryana and another, LPA No.765 of 2017, decided on 30.10.2018 is also distinguishable on facts as well as law. In that case, the learned Division Bench has considered the copy of counseling

forms, application forms etc. Moreover, fee etc. of the students could not be accepted before their registration.

24. It appears that in the instant case, the appellants' Colleges had filled number of seats itself after 15.08.2017 without registration. It cannot be believed that 33000 students were registered but details of 5200 students could not be uploaded on the web portal for registration and ancillary purposes. The learned Single Judge had called upon the Senior counsel for the Board to furnish the details/data pertaining to admissions done by private polytechnics/institutions as also registration on the web portal over the last four days prior to the cut-off date. The relevant extract of the data reads as under :-

<i>Date of Admission</i>	<i>Engineering (Diploma Course)</i>	<i>LEET</i>
12/08/17	1778	1049
13/08/17	498	518
14/08/17	2607	1571
15/08/17 (12 AM-5PM)	2607	1760
15/08/17 (5 PM-7 PM)	329	389
15/08/17 (7 PM-10 PM)	191	127
15/08/17 (10PM-11PM)	52	24
15/08/17 (11PM-12PM)	83	29
Total	8145	5467

It is duly established that there was no technical snag which prevented the appellant colleges/institutions to upload details of the students on or before 15.08.2017. The entire process was entrusted to NIC as per the prospectus.

25. The appellant - students were only permitted to appear in the examinations provisionally by the learned Single Judge, as per interim order dated 05.12.2017 as well as orders dated 24.05.2018 and 25.05.2018. The Division Bench had only permitted the appellant – students to attend the classes provisionally and they were permitted to appear in the examinations provisionally. There is no order granting provisional admissions to the students and, therefore, they have not been admitted till date. The fact of the matter is that the State refused to grant admissions as they were not in accordance with law. The selection for admissions made by the appellant – institutes was rejected and not approved by the State as it was contrary to the prospectus as well as notification dated 01.03.2017 and the letter dated 17.07.2017. There was no technical snag in uploading the information as well as for registration. The appellant – students could not be admitted to various courses without being registered and, therefore, the respondents have rightly rejected the same.

26. The students were required to register themselves. Thereafter, the counseling was to be held leading to admission. The candidates were required to give choice of their course as well as institute. None of these steps has been taken by the students.

27. The admitted and undisputed facts that emerge are that the first and second round of counseling for granting admission to polytechnic courses took place on 28.06.2017 and 12.07.2017; that 5000 candidates

were granted admissions in the first and second round of counseling; that the third round of counseling/college level counseling was held between 21.07.2017 and 15.08.2017; that the last date for granting admission in the college level counseling, as per the schedule fixed by the Supreme Court in the Parshavanath's case (supra) was 15.08.2017; that in the third/ college level counseling, the procedure that was to be followed by the Colleges was clearly notified and specified, which required registration of the candidates and thereafter, allotment of seats; that as many as 33000 candidates were allotted seats and granted admission in the third round of counseling that ended on 15.08.2017; that none of the appellant - students either got themselves registered in the third/college level counseling nor the process of allotment of seats was completed by the appellant - colleges or students by 15.08.2017; that the names of the appellant - students were admittedly and undisputedly not mentioned in any list relating to registration or on the computers by the Institutions; that on account of all this illegality, the authorities did not accept the list of candidates who were purportedly allotted seats without registration and whose names were not uploaded by the Institutions by 15.08.2017; that as many as 8145 Engineering candidates and 5467 LEET candidates were allotted seats during the third/college level counseling between 12.08.2017 and 15.08.2017, and therefore, there was no breakdown of the system, as alleged by the appellant - Institutions preventing them from uploading the list of candidates or registering them online; that the entire admissions in respect of the appellant - students, as conducted by the appellant - Institutions, is in violation of the rules and the guidelines, and is, therefore, illegal; that the appellant - students have not

been admitted on account of this illegality nor is there any interim order in the present LPAs, granting them provisional admission and the order only relates to permitting the students to provisionally attend the classes; that there is no order interim or otherwise, directing the authorities to declare the result of the appellant - students, who were provisionally permitted to attend the classes.

28. The respondents and the learned Single Judge have rejected the claim of the appellants in view of the aforesaid admitted and undisputed facts and we find no illegality or infirmity in the conclusion recorded by the learned Single Judge.

29. Learned counsel for the appellants have vehemently argued that since the appellant – students have been permitted to appear in the examinations, therefore, their result may be declared and their admissions may be regularised. We cannot accept the plea raised by the appellants for the simple reason that the very admission of the appellant – students is against law. Regularising such admissions would destroy the purity of the admission process and would also defeat the very purpose for which the Supreme Court has prescribed the schedule in Parshavanath's case (supra). There is no equity in favour of the students.

30. Learned counsel for the appellants have relied upon a decision of the Hon'ble Supreme Court in Foundation for Organizational Research and Education (Fore) School of Management through its Director Vs. All India Council for Technical Education through the Member Secretary, 2019 (7) SCC 168. The facts of this case are distinguishable. In the above case, admissions, though rightly made, were beyond the sanctioned seats

and were permitted. It is in these circumstances, equities were balanced. In the present case, the appellant – students were not even registered, and their selection for admission was absolutely illegal.

31. Their Lordships of the Hon'ble Supreme Court in Rohilkhand Medical College and Hospital, Bareilly Vs. Medical Council of India and another, (2013) 15 Supreme Court Cases 516 have held that he who seeks equity must do equity. In this case, the students were admitted on 10.7.2013, though counselling was to start after 15.07.2013. Their Lordships held that once the medical council finds that the sanction had been obtained on the basis of fake and forged documents, Regulation 8 (3) (1) (d) of the 1999 Regulations kicks in and the fraud unravels everything. Thus, the students were not given any relief. Their Lordships have held as under :-

“35. We are also not impressed by the argument raised by Mr. Amarendra Sharan, learned Senior Counsel appearing for the students that they have already joined the course on 10.7.2013. The information brochure issued by the UPCMET refers to two important dates. The important dates are the date of results declaration as 15.6.2013 and counseling would start after 15.7.2013. If that be so, we fail to see how students could be admitted on 10.7.2013. The counsel, however, made reference to the newspaper *Dainik Jagran* where it is indicated that the first counselling would be on 5.7.2013. We cannot give sanctity to that news item compared to the information brochure published by the U.P. Unaided Medical Colleges Welfare Association for the conduct of UPCMET. Even otherwise, in our view, once the

medical council finds that the sanction had been obtained on the basis of fake and forged documents, Regulation 8(3)(1)(d) of the 1999 Regulations kicks in and the fraud unravels everything. We make it clear that the criminal case charge-sheeted by CBI will, however, be disposed of uninfluenced by observations, if any, made by us in this judgment.

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41. We, therefore, find no good reason to invoke Article 32 of the Constitution of India and none of the fundamental rights guaranteed to the petitioners stand violated. The petition, therefore, lacks merits and is dismissed.”

32. Their Lordships of the Hon'ble Supreme Court in Chandigarh Administration and another Vs. Jasmine Kaur and others, (2014) 10 Supreme Court Cases 521 have held that under exceptional circumstances, court can give a direction to admit a candidate, if there has been a violation of right to equality, the candidate was not at fault in pursuing legal remedies expeditiously and the time schedule for admission has not expired. However, if the scope for granting admission is lost due to eclipse of time schedule, the court may consider grant of appropriate compensation to offset the loss caused, if any. The court cannot direct telescoping of unfilled seats of one year with permitted seats of the subsequent year, nor the court can give a direction to increase the number of seats. Their Lordships have held as under :-

“33. Having noted the various decisions relied upon by the appellant in SLP (C) No. 18099 of 2014 and the contesting respondent, we are able

to discern the following principles :

33.1 The schedule relating to admissions to the professional colleges should be strictly and scrupulously adhered to and shall not be deviated under any circumstance either by the courts or the Board and midstream admission should not be permitted.

33.2 Under exceptional circumstances, if the court finds that there is no fault attributable to the candidate i.e. the candidate has pursued his or her legal right expeditiously without any delay and that there is fault only on the part of the authorities or there is an apparent breach of rules and regulations as well as related principles in the process of grant of admission which would violate the right to equality and equal treatment to the competing candidates and the relief of admission can be directed within the time schedule prescribed, it would be completely just and fair to provide exceptional reliefs to the candidate under such circumstance alone.

33.3 If a candidate is not selected during a particular academic year due to the fault of the institutions/authorities and in this process if the seats are filled up and the scope for granting admission is lost due to eclipse of time schedule, then under such circumstances, the candidate should not be victimised for no fault of his/her and the court may consider grant of appropriate compensation to offset the loss caused, if any.

33.4 When a candidate does not exercise or pursue his/her rights or legal remedies against his/her non-selection expeditiously and promptly,

then the courts cannot grant any relief to the candidate in the form of securing an admission.

33.5 If the candidate takes a calculated risk/chance by subjecting himself/herself to the selection process and after knowing his/her non-selection, he/she cannot subsequently turn around and contend that the process of selection was unfair.

33.6 If it is found that the candidate acquiesces or waives his/her right to claim relief before the court promptly, then in such cases, the legal maxim *vigilantibus et non dormientibus jura subveniunt*, which means that equity aids only the vigilant and not the ones who sleep over their rights, will be highly appropriate.

33.7 No relief can be granted even though the prospectus is declared illegal or invalid if the same is not challenged promptly. Once the candidate is aware that he/she does not fulfill the criteria of the prospectus he/she cannot be heard to state that, he/she chose to challenge the same only after preferring the application and after the same is refused on the ground of eligibility.

33.8 There cannot be telescoping of unfilled seats of one year with permitted seats of the subsequent year i.e., carry forward of seats cannot be permitted how much ever meritorious a candidate is and deserved admission. In such circumstances, the courts cannot grant any relief to the candidate but it is up to the candidate to re-apply in the next academic year.

33.9 There cannot be at any point of time a direction given either by the court or the Board to

increase the number of seats which is exclusively in the realm of the Medical Council of India.

33.10 Each of these above mentioned principles should be applied based on the unique and distinguishable facts and circumstances of each case and no two cases can be held to be identical.

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35. Admittedly, the contesting respondent was not eligible under the first category of the NRI quota prescribed under Para 2 of the prospectus for academic session of 2013-14. She was, however, eligible under the second category of NRI quota. At this juncture, it must be stated that under the second category though her name was first in the list, as the eligible candidates in the first category got selected for all the seats under NRI quota, she did not get the opportunity. The prospectus was issued by the Chandigarh Administration and the Government Medical College as early as in the month of April, 2013. The contesting respondent filed the application before the last date, namely, 24.06.2013 claiming admission under the first category or in the alternate, in the second category. The Chandigarh Administration, by Letter dated 02.07.2013, informed the contesting respondent that unless she enclosed a certificate issued by the DC-cum-Estate Officer or Municipal Corporation of Chandigarh about the fulfillment of the condition relating to ownership of immovable property, her application cannot be considered under the first category of NRI quota. The writ petition was filed by her on 05.07.2013. A list of eligible candidates

was finalized on 12.07.2013. The first counselling was scheduled on 19.07.2013 insofar as NRI candidates were concerned. There was an interim order of the High Court passed on 29.07.2013 directing the administration to receive the contesting respondent's application under the first category of NRI quota, making it clear that at a later point of time, she cannot claim any equity on that basis. Subsequently, by another order dated 08.08.2013, the High Court directed the administration to permit her to participate in the second counselling. The writ petition was ultimately disposed of by the learned Single Judge on 27.09.2013. As was noted earlier, the learned Single Judge while upholding the challenge made by the contesting respondent as to the validity of the condition imposed in order to be eligible to fall under the first category of NRI quota, declined to grant any relief to the contesting respondent holding that she failed to challenge the eligibility criteria before submitting her application for MBBS course after taking note of the fact that she secured admission in the Dental course.

36. After the learned Single Judge delivered the judgment on 27.09.2013, the contesting respondent filed the letters patent appeal on 15.11.2013 and after rectification of certain defects it was re-filed on 06.12.2013. The letters patent appeal was heard by the Division Bench and was disposed of by order dated 13.01.2014. As the direction issued by the Division Bench for creation of an additional seat could not be

complied with by the Chandigarh Administration and the Government Medical College on the ground that the MCI declined to grant permission for creation of an additional seat, at the instance of Chandigarh Administration, the review came to be filed in which the present impugned order came to be passed by the Division Bench on 21.02.2014.

37. When we analyze the above sequence of events, we find that the contesting respondent knew full well when the prospectus was issued in April 2013 that she did not fulfill the criteria for making an application under the first category of NRI quota as prescribed in Para 2 of the prospectus. But yet there was no immediate challenge to the said provision before the High Court. Knowing full well that she was ineligible under the said category after waiting almost till the last date for filing the application, namely, 24.06.2013, she filed the application on 21.06.2013 claiming admission under the first category and thereafter, waited till the Chandigarh Administration called upon her to fulfill the criterion of submitting a certificate for proof of ownership of immovable property by the DC-cum-Estate Officer, which she could not have produced even as on April, 2013. Therefore, the contesting respondent cannot be heard to say that the filing of the writ petition on 05.07.2013, challenging the validity of the prescription contained in Para 2 of the prospectus relating to the first category of NRI quota was made diligently or at least within a reasonable time.

When we test the said conduct of the contesting respondent in not having approached the Court at the appropriate time in challenging the said provision, it will have to be stated that the Chandigarh Administration and the Government Medical College having received the applications for admissions for different categories including the category under the NRI quota was processing the applications segregating the different categories and by the time the writ petition filed on 05.07.2013, the process of finalizing the eligible candidates was also nearing completion and by 12.07.2013 the same was also concluded. If the said factor is noted, it should be stated that the conduct of the contesting respondent in having fixed her own time limit for approaching the Court, in particular, with reference to the challenge to the eligibility criteria with which she had every grievance right from the very first date when the prospectus was issued in April, 2013, it will have to be stated that there was total lack of diligence on the part of the contesting respondent in her decision to work out her remedies in the Court of law.

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43. As time and again such instances of claiming admission into such professional courses are brought before the Court, and on every such occasion, reliance is placed upon the various decisions of this Court for issuing necessary directions for accommodating the students to various courses claiming parity, we feel it appropriate to state that unless such claims of

exceptional nature are brought before the Court within the time schedule fixed by this Court, court or Board should not pass orders for granting admission into any particular course out of time. In this context, it will have to be stated that in whatever earlier decisions of this Court such out-of-time admissions were granted, the same cannot be quoted as a precedent in any other case, as such directions were issued after due consideration of the peculiar facts involved in those cases. No two cases can be held to be similar in all respects. Therefore, in such of those cases where the court or Board is not in a position to grant the relief within the time schedule due to the fault attributable to the candidate concerned, like the case on hand, there should be no hesitation to deny the relief as was done by the learned Single Judge. If for any reason, such grant of relief is not possible within the time schedule, due to reasons attributable to other parties, and such reasons are found to be deliberate or mala fide the court should only consider any other relief other than direction for admission, such as compensation, etc. In such situations, the court should ensure that those who were at fault are appropriately proceeded against and punished in order to ensure that such deliberate or malicious acts do not recur.”

33. In Medical Council of India Vs. Harshitha and others, (2016) 9 Supreme Court Cases 437, their Lordships of the Hon'ble Supreme Court have held that the students who had not passed NEET could not be granted admission to MBBS course. Their Lordships also held that the direction

issued by the High Court for accommodation of affected students in other medical colleges was unwarranted. Their Lordships have held as under :-

“3. In the aforementioned circumstances, the students concerned do not have any right to continue their studies in the same college or to get admission in any other college. Moreover, many of them have not passed the requisite examination of NEET, which is very much necessary to get admission to MBBS course. Needless to say that it would be open to those students, who are qualified to get admission on the basis of their performance in NEET, to get admission elsewhere and they must have participated in the counselling.

4. In the aforesaid circumstances, in our opinion, the High Court ought not to have given any direction for accommodating the students in any other college and therefore, the impugned order giving direction to the government authorities to accommodate the students in other medical colleges is neither fair nor legal and therefore, the impugned order is set aside.”

34. Their Lordships of the Hon'ble Supreme Court in Rishabh Choudhary Vs. Union of India and others, (2017) 3 Supreme Court Cases 652 have held that the colleges could not have conducted counselling and given admissions in view of its examinations having been declared illegal by order dated 11.04.2016 in (2016) 4 SCC 342. The college and State Government should have adhered to rule of law and should have adhered to discipline laid down by MCI, which they did not. The petitioner also took a gamble by not appearing in NEET exam when other similarly placed

persons did appear. The admission of petitioner and similarly situated persons was held to be illegal. Relief was not granted in equity contrary to the law. Their Lordships have held as under :-

“13. We have considered the submissions made by learned counsel appearing on behalf of the petitioner and the College supporting him but are not inclined to accept them. It is quite clear that the examination CGMAT-2016 was conducted by the College on 3.4.2016 contrary to the schedule prescribed by the Medical Council of India (and approved by this Court) for holding the MBBS entrance examinations. The question is not of any impropriety in the conduct of the examination but the question is really one of adhering to a particular discipline laid down by the Medical Council of India and approved by this Court.

14. Furthermore we find that counselling was carried out insofar as the petitioner is concerned on 19.4.2016 which is after the decision of this Court on 11.4.2016 recalling the decision dated 18.7.2013. There was absolutely no occasion for the College to have conducted the counseling after the recall order passed by this Court on 11.04.2016. The effect of the recall order, as mentioned above, was that the notification issued by the Medical Council of India on 21.12.2010 effectively stood revived in the sense that NEET was the only option available for admission to the MBBS course. The College and the State of Chhattisgarh ought to have been aware of these facts, but seem to have turned a blind eye not only to the orders of this Court but to the notifications

issued by the Medical Council of India.

15. The question before this Court is not who is to be blamed for the present state of affairs - whether it is the students or the College or the State of Chhattisgarh. The question is really whether the rule of law should prevail or not. In our opinion, the answer is unambiguously in the affirmative. The College and the State of Chhattisgarh have not adhered to the law with the result that the petitioner became a victim of circumstances giving him a cause of action to proceed against the College and the State of Chhattisgarh being a victim of their maladministration. The plight of the petitioner is unfortunate but it cannot be helped.

16. We were told during the course of submissions that some similarly placed students participated in NEET and qualified in the examination. Those students like the petitioner who did not participate in NEET and placed their trust only in the College and the State of Chhattisgarh took a gamble and that gamble has unfortunately not succeeded. While our sympathies may be with the petitioner and similarly placed students, we cannot go contrary to the orders passed by this Court from time to time only for their benefit.

17. Under the circumstances, we find that no ground has been made out for granting relief to the petitioner. There is no merit in this writ petition and it is accordingly dismissed. However, we make it clear that the petitioner is at liberty to proceed against the College and the State of

Chhattisgarh in any appropriate manner.”

35. In Nidhi Kaim and another Vs. State of Madhya Pradesh and others, (2017) 4 Supreme Court Cases 1, their Lordships of the Hon'ble Supreme Court have held that the appellants, who had participated in a well thought out and meticulously orchestrated fraudulent plan to get MBBS admissions/degrees, were not entitled to any relief in exercise of extraordinary power. Their admissions and results in MBBS examinations were held to be rightly cancelled. Their Lordships have held as under :-

“76. We have given our thoughtful consideration to the submissions advanced on behalf of the rival parties. Before we deal with the contentions, we may record that there is logic and legitimacy in the submissions advanced on both sides. But only one out of them, can be accepted. The one which has to be accepted should be based on legality supported by reasons. Our consideration and reasons are as follows.

77. During the course of hearing, the learned counsel were asked to assist this Court, on the likely public perception, in case this Court decided to exercise its jurisdiction in favour of the appellants under Article 142. In response, it was pointed out that public perception could never be homogenous. It was submitted that public perception had inevitably to be heterogeneous, as the society itself was heterogeneous. According to learned counsel, perception of the public would depend on the section of the society to which the query was addressed. Each section of the public could have a different view on the matter. This assertion

made by the learned counsel was sought to be substantiated by placing reliance on *E.M. Sankaran Namboodripad v. T. Narayanan Nambiar*, (1970) 2 SCC 325, and *People's Union for Civil Liberties v. Union of India*, (2005) 5 SCC 363.

78. In view of the position expressed by this Court, in the above judgments, it was submitted that public perception should not be allowed to weigh so heavy in the mind of a court as would prevent it from rendering complete justice. According to the learned counsel taking into consideration public perception would render effectuating justice extremely difficult. It was pointed out that by sheer experience gained by the Judges, they were fully equipped to determine at their own whether or not the facts of a case required to be dealt with differently, under Article 142 – so as to render complete justice.

79. It was also the contention of the learned counsel that public perception was usually not based on a complete data of the dispute. And, unless the public was provided with the complete facts and was required to consciously take a call on the matter, the perception entertained by the public would be fanciful and imaginative and it would be full of deficiencies and inadequacies and it may also be an opinion based on lack of rightful understanding.

80. We are of the view that public perception despite being of utmost significance cannot be sought except after an onerous exercise. And that, any opinion, without the benefit of the entire

sequence of facts may not be a dependable hypothesis. It is also true that disseminating full facts for seeking public opinion would be an immeasurably daunting task. An endeavour which was unlikely to yield any reasoned response based on logic and rationale. We are accordingly of the view that the suggestion of the learned counsel needs to be respected, and we should attempt a consideration at our own based on our experience and training in adjudicating disputes of unlimited variety ... and of inestimable proportions. Our determination is as follows.

81. During the course of hearing, it could not be seriously disputed at the hands of the learned counsel for the appellants that the appellants' admission to the MBBS course was based on established deception and manipulation. All the same, we will expressly deal with the instant aspect of the matter and the extent of the appellants' involvement in the following paragraph. It was also not disputed at the hands of the learned counsel that the cause and effect of fraud was determined by the Court of Appeal in *Lazarus Estates, Ltd. v. Beasley, (1956) 1 All ER 341*. The consequences of fraud, as determined by the Court of Appeal (in the above judgment), have been repeatedly approved by this Court. In the above judgment Denning, L.J. had observed as under :

“We are in this case concerned only with this point : can the declaration be challenged on the ground that it was false and fraudulent? It can clearly be

challenged in the criminal courts. The landlord can be taken before the Magistrate and fined £30 (see Schedule 2, para 6) or he can be prosecuted on indictment, and (if he is an individual) sent to prison (see Section 5 of the Perjury Act, 1911). The landlords argued before us that the declaration could not be challenged in the civil courts at all, even though it was false and fraudulent, and that the landlords can recover and keep the increased rent even though it was obtained by fraud. If this argument is correct, the landlords would profit greatly from their fraud. The increase in rent would pay the fine many times over. I cannot accede to this argument for a moment. No court in this land will allow a person to keep an advantage which he has obtained by fraud. No judgment of a court, no order of a Minister, can be allowed to stand if it has been obtained by fraud. Fraud unravels everything. The court is careful not to find fraud unless it is distinctly pleaded and proved; but once it is proved it vitiates judgments, contracts and all transactions whatsoever; see, as to deeds, *Collins v. Blantern* (1767) 2 Wils K.B. 341, as to judgments, *Duchess of Kingston case, In* (1776) 1 Leach 146, and, as to contracts, *Master v. Miller* (1791) 4 Term Rep 320. So here I am of opinion that, if this declaration is proved to have been false and fraudulent, it is a nullity and

void and the landlords cannot recover any increase of rent by virtue of it.”

We need to say no more in the manner how fraud has to be dealt with whenever it is established. However, stated simply, nothing ... nothing ... and nothing, obtained by fraud, can be sustained, as fraud unravels everything. The question which arises for consideration is, whether the consequence of established fraud, as repeatedly declared by this Court, can be ignored, to do complete justice in a matter, in exercise of jurisdiction vested in this Court under Article 142 of the Constitution? And also, whether the consequences of fraud can be overlooked in the facts and circumstances of this case in order to render complete justice to the appellants?

82. The learned counsel for the appellants attempted to persuade us very strongly to overcome the law declared by this Court on the issue of established fraud. Is it possible to accept such a contention? If the appellants' involvement is not serious, it may well be possible to accept the contention. Therefore, before we deal with the submissions canvassed, it is important to understand the extent and proportion of the shenanigans of the appellants. It is not in dispute that none of the appellants would have been admitted to the MBBS course, as their merit position in the Pre-Medical Test was not as a result of their own efforts but was based on extraneous assistance. The appellants were helped in answering the questions in the Pre-Medical Test by meritorious candidates. The

manipulation by which the appellants obtained admission involved not only a breach in the computer system whereby roll numbers were allotted to the appellants to effectuate their plans. It also involved the procurement of meritorious candidates/persons, who would assist them in answering the questions (in the Pre-Medical Test). The appellants' position, next to the concerned helper, at the examination, was also based on further computer interpolations. Not only were the seating plans distorted for achieving the purpose, even the institutions where the appellants were to take the Pre-Medical Test were arranged in a manner as would suit the appellants, again by a similar process of computer falsification. This could only be effectuated by a corrupted administrative machinery. Whether the nefarious and crooked administrative involvement was an inside activity, or an outside pursuit, is inconsequential. All in all, the entire scheme of events can well be described as a scam ... a racket of sorts. The appellants or their parents, would obviously have had to pay large amounts of money to the Vyapam authorities. The appellants' admission to the MBBS course was therefore clearly based on a well-orchestrated plan which we can safely conclude as based on established fraud.

83. The challenge raised by the appellants had failed before the High Court because the High Court had arrived at the conclusion that the appellants' admission to the MBBS course was vitiated. The order of the High Court was assailed

before this Court. Both Hon'ble Judges of the 'former Division Bench' wrote separate orders. Both affirmed the conclusion drawn by the High Court through their separate orders dated 12.5.2016. On a reference by us, the 'former Division Bench', passed a common order on 30.8.2016, affirming,

“3... Both of us recorded a concurrent opinion that the examination process in issue in these appeals conducted by Vyapam for the years 2008 to 2012 was vitiated with reference to the appellants before this Court and few others. We also agreed upon the conclusion that the appellants herein are the beneficiaries of such vitiated process...”

The fact that the appellants had gained admission to the MBBS course through a vitiated process has attained finality.

84. The controversy in the present case does not relate to a singular academic session. Whether or not this vitiated process of obtaining admission to the MBBS course was adopted during the year 2007, and prior thereto, is not known. Because, MBBS admissions prior to 2008 were not investigated. Investigation was initiated in the first instance with reference to admissions for the year 2013. Thereafter, investigation was extended to those who had gained admission to the MBBS course during the years 2008 to 2012. Investigation revealed a well thought out, unethical plan, involving administrative support, during six consecutive academic sessions ... from

2008 to 2013. Vyapam was certain about the system having been manipulated at the hands of at least 634 candidates (during the years 2008 to 2012 itself). There may well have been others but no action was taken against them as their cases fell beyond the realm of suspicion (on the parameters approved and adopted by Vyapam).

85. This Court, while dealing with admissions during the years 2008 to 2012, followed the earlier judgment wherein admissions to the MBBS course during the year 2013 were annulled. The High Court in all the matters consistently upheld the cancellation orders passed by Vyapam. This Court also reiterated the validity of the orders passed by the High Court, and thereby, upheld the Vyapam orders. In the above view of the matter, the factual and the legal position with reference to the admission of the appellants to the MBBS course being vitiated has attained finality. The fact that the appellants had gained admission to the MBBS course by established fraud does not (as it indeed, cannot) require any further consideration.

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89. We may first examine whether the appellants can seek relief from this Court under Article 142 of the Constitution as the provision is generally perceived. In *Union Carbide Corpn. v. Union of India*, (1991) 4 SCC 584, while dealing with the scope of Article 142 of the Constitution, this Court felt that the jurisdiction of this Court under the above provision extended inter alia to deal "... with any extraordinary situation in the

larger interest of administration of justice and from preventing manifest injustice being done ...”. The two important parameters for consideration are, “larger interest of administration of justice” and “preventing manifest injustice”. The facts and circumstances of the present case, as have been debated and discussed at great length, do not reveal the existence of either of the aforesaid factors. With Vyapam having cancelled the appellants’ admission to the MBBS course, and with the above orders having been upheld by the High Court, as well as by this Court, can it be said that the cancellation orders were unjust? No, not at all. If the admission of the appellants to the MBBS course was improper, the cancellation orders were obviously proper. If we restore the academic benefits of the appellants arising out of their admission, cancelled by Vyapam, the cancellation orders would be set at naught. That would undo the Vyapam orders upheld by the High Court and this Court. And this, we are satisfied, would not serve the “larger interest of administration of justice”. On the contrary, such an initiative would cause “manifest injustice”. It is therefore not possible for us to accept that it is possible in the facts of the present case to invoke Article 142 of the Constitution – in the larger interest of the administration of justice. It is also not possible for us to accept that any manifest injustice would be done to the appellants if their admissions are cancelled. In our considered view, to do justice in the matter, the order passed by

Vyapam must be upheld without any further modification or alteration. Needless to mention that the instant consideration does not take into account the different submissions advanced on behalf of the appellants. We will now endeavour to deal with the remaining submissions, which according to the learned counsel would persuade this Court to override the straitjacket examination of the matter dealt with in the manner recorded hereinabove.

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91. In terms of the above judgment in *Supreme Court Bar Assn. v. Union of India (1998) 4 SCC 409*, with which we express our unequivocal concurrence, it is not possible to accept that the words “complete justice” used in Article 142 of the Constitution, would include the power to disregard even statutory provisions, and/or a declared pronouncement of law under Article 141 of the Constitution, even in exceptional circumstances. Undoubtedly, the proposition can certainly be acceptable to a very limited extent – to the extent of self-aggrandizement. The “trust”, Mr. Nariman reposes in this Court, is indeed heartening and reassuring. But then, Mr. Nariman, and a number of other outstanding legal practitioners like him, undeniably have the brilliance to mould the best of minds. And thereby, to persuade a Court, to accept their sense of reasoning, so as to override statutory law and/or a declared pronouncement of law. It is this, which every Court, should consciously keep out of its reach. In our considered view the

hypothesis - that the Supreme Court can do justice as it perceives, even when contrary to statute (and, declared pronouncement of law), should never as a rule, be entertained by any Court/Judge, however high or noble. Can it be overlooked, that legislation is enacted, only with the object of societal good, and only in support of societal causes? Legislation, always flows from reason and logic. Debates and deliberations in Parliament, leading to a valid legislation, represent the will of the majority. That will and determination, must be equally “trusted”, as much as the “trust” which is reposed in a Court. Any legislation which does not satisfy the above parameters would per se be arbitrary, and would be open to being declared as constitutionally invalid. In such a situation, the legislation itself would be struck down. It is difficult to visualize a situation wherein a valid legislation would render injustice to the parties, or would lead to a situation of incomplete justice – for one or the other party. Imagination, perception and comprehension of future events, have inherent limitations. We would therefore refrain ourselves from saying anything beyond what we have. At the cost of repetition, we would reiterate, that such a situation, as is contemplated by Mr. Nariman, does not seem to be possible. We would however not like to close the window for such thought and consideration. We would rather leave it to the conscience of the court concerned to deal with such an exceptional situation if it ever arises. In our view, in the facts and circumstances of the

present case, the cause of the appellants is not furthered even by the approach suggested by relying on the hypothesis of Mr. Nariman. We can only conclude by observing that keeping in mind the conscious involvement of the appellants in gaining admission to the MBBS course, by means of a fraudulent stratagem of trickery, it is not possible for us to ignore or overlook the declaration of law with reference to fraud. Nothing obtained by fraud can be sustained. This declared proposition of law must apply to the case of the appellants as well. This is the outcome of the “trust” reposed in this Court, as being fully equipped to determine at its own, when Article 142 of the Constitution can be invoked to render complete justice, and when it cannot be so invoked.

92. One of the contentions advanced by the learned counsel for the appellants also was that the appellants had acquired “knowledge” while pursuing the MBBS course. It was pointed out that even in the present age of scientific development it was not possible to transfer “knowledge” (intellectual property) acquired by the appellants to those who may have been the rightful beneficiaries thereof. It was submitted that besides the individual loss which the appellants would suffer, the nation would suffer a societal and monetary loss if their admission to the MBBS course was not preserved. A detailed reference in this behalf was made to the vacancies of medical doctors in the State of Madhya Pradesh at all levels of healthcare. To

demonstrate authenticity, findings recorded by the World Health Organisation were also brought to our notice (see para 42 hereinabove). Based on the above factual position, it was submitted that in extending relief to the appellants, this Court would be extending relief to the society and would be allowing the appellants to serve humanity. It was submitted that in case this Court exercised its jurisdiction in favour of the appellants (under Article 142 of the Constitution), there would be societal gains, as the appellants would apply their “knowledge” to serve humanity. It was therefore pleaded that the facts and circumstances of the present case constituted a good ground to preserve the “knowledge” acquired by the appellants. It was also pointed out that if the suggested course was adopted no one would suffer any loss. Having given our thoughtful consideration to the above submission, we are of the considered view that conferring rights or benefits on the appellants, who had consciously participated in a well thought out, and meticulously orchestrated plan, to circumvent well laid down norms, for gaining admission to the MBBS course, would amount to espousing the cause of “the unfair”. It would seem like allowing a thief to retain the stolen property. It would seem as if the Court was not supportive of the cause of those who had adopted and followed rightful means. Such a course would cause people to question the credibility of the justice-delivery system itself. The exercise of jurisdiction in the manner suggested on behalf of the appellants

would surely depict the Court's support in favour of the sacrilegious. It would also compromise the integrity of the academic community. We are of the view that in the name of doing complete justice it is not possible for this Court to support the vitiated actions of the appellants through which they gained admission to the MBBS course.

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94. Having given our thoughtful consideration to the issues canvassed on behalf of the appellants, as has been narrated in the foregoing paragraphs, we have no hesitation to state that all these submissions deserve an outright rejection. Even in situations where a juvenile indulges in crime, he has to face trial, and is subjected to the postulated statutory consequences. Law, has consequences. And the consequences of law brook no exception. The appellants in this case, irrespective of their age, were conscious of the regular process of admission. They breached the same by devious means. They must therefore, suffer the consequences of their actions. It is not the first time that admissions obtained by deceitful means would be cancelled. This Court has consistently annulled academic gains arising out of wrongful admissions. Acceptance of the prayer made by the appellants on the parameter suggested by them would result in overlooking the large number of judgments on the point. Adoption of a different course, for the appellants, would trivialise the declared legal position. Reference in this behalf may be made to the

judgments relied upon by the learned counsel representing Vyapam.

95. It is also not possible for us to accept the contention under consideration, and vehemently canvassed on behalf of the appellants (recorded in para 93 above), for yet another reason. Because, it is not possible for us to accept either that the appellants were innocent, or that they were immature in understanding the consequences of their actions. Each one of the appellants was aware of the fact that their admission to the MBBS course would be determined on the basis of their performance in the Pre-Medical Test. Rather than appearing in the qualifying test on their own they chose to seek assistance of meritorious students to garner higher marks. We may not be completely wrong in our understanding if we conclude that the appellants were quite sure that they would not be able to gain admission to the MBBS course on their own merit. That is why they had to strategise their admission to the MBBS course. We, therefore, reject the contention advanced on behalf of the appellants that the appellants were meritorious students, and as such, their admission to the MBBS course deserved to be preserved. If this is where the truth lies (which we are sure, it does), namely, that the appellants were quite sure that they would not be able to gain admission to the MBBS course on their own merit, surely the appellants are not entitled to any equitable consideration. And, in that view of the matter, it would not be proper to extend to the appellants

relief under Article 142 of the Constitution.

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97. We may examine the controversy from yet another perspective. Let us presume that the position is equally balanced for the two sides. Let us attempt to apply the test of a Court's conscience to a situation where on principle a court is not in a position to decide, whether it should, or it should not, exercise its discretion in favour of a party to a lis. A situation, wherein the Court's conscience commends to it (in a matter, as the one in hand), to exercise its discretion under Article 142, to preserve the benefit of the appellants' admission to the MBBS course; and at the same time, equally commends to it, not to so exercise its jurisdiction (i.e. not to preserve to the appellants, the benefit of their admission to the MBBS course), in favour of the appellant. How should this Court deal with such a situation? We are of the considered view that where two options are open to a court, and both are equally beckoning, it would be most prudent to choose the one, which is founded on truth and honesty, and the one which is founded on fair play and legitimacy. Siding with the option founded on the deceit or fraud, or on favour as opposed to merit, or by avoiding the postulated due process, would be imprudent. Judicial conscience must only support the righteous cause. If, despite its being righteous, a decision is seen as causing manifest injustice, the exercise of the power under Article 142 of the Constitution would be prudent. In such situations, an onerous duty is cast on the Court, to

step in, to render complete justice. This is the manner that we commend judicial exercise of discretion under Article 142 of the Constitution. By adopting the above course, a Court would feel satisfied, in having exercised its discretion, on the touchstone of justice – the concept which triggers the invocation of Article 142 of the Constitution. In the facts and circumstances of the present case, there seems to be absolutely no cause for us to legitimise the admissions of the appellants to the MBBS course, since the same clearly fall in the imprudent category.

98. It was the repeated submission of the learned counsel representing the appellants that there would be significant societal benefit, if the academic pursuit of the appellants is legitimised. During the course of hearing, the learned counsel even went to the extent of suggesting that individual benefits that may be drawn by the appellants may be drastically curtailed and their academic pursuit be regularised for societal benefit. The submission is attractive. It needs a considered response. We are of the considered view, no matter how extensive the societal gains may be, the jurisdiction conceived of under Article 142 of the Constitution to do complete justice in a matter cannot be invoked in a situation as the one in hand. Even the trivialist act of wrong doing, based on a singular act of fraud, cannot be countenanced in the name of justice. The present case unfolds a mass fraud. The course suggested, if accepted, would not only be imprudent, but would also be irresponsible. It

would encourage others to follow the same course. We must compliment all the learned counsel appearing for the appellants in projecting the claim(s) of the appellants from all conceivable angles. We are however not persuaded to accept the legitimacy of the same. Truthful conduct must always remain the hallmark of the rule of law. No matter the gains, or the losses. The jurisdiction exercisable by this Court under Article 142 cannot ever be invoked to salvage and legitimize acts of fraudulent character. Fraud cannot be allowed to trounce on the stratagem of public good.”

36. In Medical Council of India Vs. G.C.R.G. Memorial Trust and others, (2018) 12 Supreme Court Cases 564, their Lordships of the Hon'ble Supreme Court have issued direction to the institution to pay Rs. 25 lakhs as exemplary costs and the institution was directed to pay damages of Rs. 10 lakhs to each student apart from refunding their fees. Their Lordships have held as under :-

“2. The present appeal by special leave calls in question the legal acceptability of the order dated 01.09.2017 passed by a Division Bench of the High Court of Allahabad, Lucknow Bench in *G.C.R.G. Memorial Trust v. Union of India, 2017 SCC OnLine All 2356* whereby the High Court has quashed the order dated 19.8.2017 as well as order dated 31.5.2017 passed by the Central Government and eventually granted permission to the 1st respondent to admit students for the academic session 2017-2018.

3. When the matter was listed on 6.9.2017,

this Court had passed the following order :

“Issue notice fixing a returnable date within four weeks. As Mr. Maninder Singh, learned Additional Solicitor General for Respondent 3, Union of India and Mr. Mukul Rohatgi, learned Senior Counsel has entered appearance on behalf of Respondents 1 and 2, no further notice need be issued. As far as Respondents 5 and 6 are concerned, let notice be issued. Dasti in addition is permitted. As an interim order, it is directed that there shall be stay of the operation of order dated 1.9.2017 further corrected on 4.9.2017. If the Institution has admitted students they are debarred from continuing in the course. We have passed this order as we while disposing of the writ petition preferred under Article 32 of the Constitution had passed the following order:

'Learned counsel for the petitioners seeks leave of this Court to withdraw the writ petition to approach the High Court under Article 226 of the Constitution of India. The writ petition is permitted to be withdrawn. However, it is made clear that the High Court, while entertaining the writ petition, shall not pass any interim order pertaining to the academic year 2017-2018.'

We really fail to fathom the manner in which the High Court has misconstrued our

order and passed the final order for 2017-2018. We are issuing notice only to test the propriety of the order and also if the Institution is eligible to get the renewal of letter of permission for 2018-2019.”

The aforesaid order eloquently reflects the shock expressed by this Court. As is reflectible from the aforesaid, notice was issued only to test the propriety of the order and also if the institution is eligible to get the renewal for 2018-2019.

4. We shall initially address the first issue. To adjudge the issue of propriety of the order passed by the High Court, we are compelled to travel in a time machine. The respondent Institution had filed a writ petition, i.e., Writ Petition (Civil) No.13530 of 2017 before the High Court and was dealt with by the Division Bench of the High Court on 8.8.2017. On that day, the following order came to be passed :

“1. In reference to order dated 4.8.2017, the Central Government, as per the instructions received by Mr. Asit Kumar Chaturvedi, learned Senior Counsel appearing for the Respondent 1, has agreed to entertain the petitioners' matter along with other similar matters and consider it to reevaluate the recommendations/views of the MCI, Hearing Committee, DGHS and the Oversight Committee as available on record for grant of approval to the petitioner Institution to admit the students in MBBS Course, after affording an opportunity of hearing to the petitioner Institution to the

extent necessary. To facilitate the Central Government, the whole para 25 of the judgment in which directive has been issued by the Supreme Court is reproduced below:

'25. In the above persuasive premise, the Central Government is hereby ordered to consider afresh the materials on record pertaining to the issue of confirmation or otherwise of the letter of permission granted to the petitioner Colleges/Institutions. We make it clear that in undertaking this exercise, the Central Government would reevaluate the recommendations/views of the MCI, Hearing Committee, DGHS and the Oversight Committee, as available on records. It would also afford an opportunity of hearing to the petitioner Colleges/Institutions to the extent necessary. The process of hearing and final reasoned decision thereon, as ordered, would be completed peremptorily within a period of 10 days from today. The parties would unfailingly cooperate in compliance with this direction to meet the time-frame fixed.'

2. Therefore, we also direct the Central Government to consider the petitioners' matter accordingly within seven days as framed by Hon'ble the Supreme Court.

3. The matter is listed before Hon'ble the Supreme Court on 24.8.2017.
4. We, therefore, also direct the registry to list this matter on 28.8.2017.”
5. In pursuance of the aforesaid order, taking note of the deficiencies, the Central Government passed the following order on 19.8.2017 :

“17. Now, in compliance with the above direction of Court, the Ministry granted hearing to the college on 16.8.2017. The Hearing Committee after considering the records and oral and written submission of the College submitted its report to the Ministry. The findings of the Hearing Committee are as under -

The Committee notes that there was no deficiency of faculty and residents as per MCI assessment report. The findings of the assessor indicate some deficiency of clinical material and the observance of hospital protocols.

During the course of hearing, the College produced certain documents contesting the findings of the assessors. The Committee perused the case sheet of single normal delivery on the day of inspection as shown by the college. The delivery of Ms. Sameerun was performed without blood transfusion and the mother was discharged without treatment of anaemia when

she was severely anaemic at the time of admission with a haemoglobin level of 6.5 gm. This is gross negligence. Further, the College could not produce any Government issued birth certificates in support of their claim of average number of deliveries.

The inept handling of patients in the hospital is further confirmed during the perusal of cases pertaining to casualty and ICUs. The College could not satisfy regarding the patients in casualty wards. None of the 3 patients in ICCU seemed to have cardiac history. The pulse rate of one of the patient who was a PSVT (tachycardia) case was noted as 72/min at the time of admission. No investigation was done. Other two patients with diagnosis of Kyphoscoliosis (spinal deformity) and vestibular neuritis (ear problem) were also admitted in the cardiac ICU. This confirms the finding of assessors and the college had no explanation. It is understood that as per MSR, the requirement is for requisite number of beds in ICUs, however, the College seem to be employing doubtful measures to show patients.

It was also noted that the

College was neither aware nor following the provisions of biomedical waste (BMW) rules.

The explanation offered by the College in obtaining 14 cadavers from 'Dera Saccha Sauda' Sirsa, Haryana without requisite permission and death certificates is a serious issue to be looked into by the concerned authorities.

In view of the above, despite the fact that no deficiency of faculty and residents is noted, the functioning of the hospital as per norms is in serious doubt and the Committee agrees with the decision of the Ministry vide letter dated 31.5.2017 to debar the college for two years and also permit MCI to encash bank guarantee.

18. Accepting the recommendations of the Hearing Committee, the Ministry reiterates its earlier decision dated 31.5.2017 to debar the College from admitting students for a period of two years i.e. 2017-2018 and 2018-2019 and also to authorise MCI to encash the Bank Guarantee of Rs. 2 crores.”

6. As the facts would further uncurtain, the Institution filed a petition under Article 32 of the Constitution before this Court and chose to withdraw the same to approach the High Court under Article 226 of the Constitution. The said

order has already been quoted while reproducing the order dated 6.9.2017.

7. The content of the order dated 28.8.2017 is graphically clear. The High Court was not allowed to pass any interim order pertaining to the academic session 2017-2018 but the Division Bench of the High Court, for some unfathomable and inscrutable reason, referred to certain judgments of this Court and allowed the prayer. It is beyond our comprehension as to how the High Court could have even remotely thought of passing an order granting the letter of permission for the Academic Session 2016-2017 and renewal for 2017-2018. It is worthy to mention here that before the High Court, time was sought on behalf of the Central Government and MCI to file counter-affidavits. The same was denied and the contesting parties were deprived of the opportunity to contest. Be it noted, the writ petition that was filed before this Court was withdrawn on 28.8.2017 and a fresh writ was filed before the High Court on 29.8.2017 and the judgment was delivered without waiting for the reply from the Central Government or MCI on 1.9.2017. It is clear as the cloudless sky that the judgment of the High Court shows unnecessary and uncalled for hurry, unjustified haste and an unreasonable sense of promptitude possibly being oblivious of the fact that the stand of the Medical Council of India and the Central Government could not be given indecent burial when they were parties on record. Such a procedure cannot be countenanced in law.

8. The controversy cannot be allowed to end with our aforesaid finding. The judicial propriety requires judicial discipline. In the absence of a reply filed by the Medical Council of India and the Central Government, it could not have been possible to answer the factual matrix of the case. What is not possible, is not possible. We may hasten to add that in respect of the cases where renewal was granted, Mr. Vikas Singh would submit that the deficiency was within the permissible limit but in the present case, it was not so and in any case, granting renewal for 2017-2018 and confirmation of letter of permission for 2016-2017 was totally unwarranted. In most of the cases, this Court has directed for re-inspection by the MCI which would then take a final decision for the academic year 2018-2019. It is a most unfortunate situation that the Division Bench has paved such a path. One cannot but say that the adjudication by the Division Bench tantamounts to a state as if they dragged themselves to the realm of “willing suspension of disbelief”. Possibly, they assumed that they could do what they intended to do. A Judge cannot think in terms of “what pleases the Prince has the force of law”. Frankly speaking, the law does not allow so, for law has to be observed by requisite respect for law.

9. In this context, we may note the eloquent statement of Benjamin Cardozo who said:

“The Judge is not a knight-errant roaming at will in pursuit of his own ideal of beauty and goodness.”

10. In this regard, the profound statement of Felix Frankfurter is apposite to reproduce:

“For the highest exercise of judicial duty is to subordinate one's personal pulls and one's private views to the law of which we are all guardians - those impersonal convictions that make a society a civilized community, and not the victims of personal rule.”

The learned Judge has further stated :

“What becomes decisive to a Justice's functioning on the Court in the large area within which his individuality moves is his general attitude toward law, the habits of the mind that he has formed or is capable of unforming, his capacity for detachment, his temperament or training for putting his passion behind his judgment instead of in front of it. The attitudes and qualities which I am groping to characterize are ingredients of what compendiously might be called dominating humility.”

11. In *Shiv Mohan Singh v. State (UT of Delhi)* (1977) 2 SCC 238, the Court has observed :

“2. ... a Judge even when he is free, is still not wholly free; he is not to innovate at pleasure; he is not a knight-errant roaming at will in pursuit of his own ideal of beauty or of goodness; he is to draw inspiration from consecrated principles’...”

12. In this context, we may refer with profit the authority in *Om Prakash Chautala v. Kanwar*

Bhan (2014) 5 SCC 417, wherein it has been stated:

“19. It needs no special emphasis to state that a Judge is not to be guided by any kind of notion. The decision-making process expects a Judge or an adjudicator to apply restraint, ostracise perceptual subjectivity, make one’s emotions subservient to one’s reasoning and think dispassionately. He is expected to be guided by the established norms of judicial process and decorum.”

And again:

“20. A Judge should abandon his passion. He must constantly remind himself that he has a singular master “duty to truth” and such truth is to be arrived at within the legal parameters. No heroism, no rhetorics.”

13. In *Dwarikesh Sugar Industries Ltd. v. Prem Heavy Engg. Works (P) Ltd. (1997) 6 SCC 450*, the three-Judge Bench observed:

“32. When a position, in law, is well settled as a result of judicial pronouncement of this Court, it would amount to judicial impropriety to say the least, for the subordinate courts including the High Courts to ignore the settled decisions and then to pass a judicial order which is clearly contrary to the settled legal position. Such judicial adventurism cannot be permitted and we strongly deprecate the tendency of the subordinate courts in not applying the settled principles and in passing whimsical orders which necessarily

has the effect of granting wrongful and unwarranted relief to one of the parties. It is time that this tendency stops.”

14. The aforesaid thoughts are not only meaningfully pregnant but also expressively penetrating. They clearly expound the role of a Judge, especially the effort of understanding and attitude of judging. A Judge is expected to abandon his personal notion or impression gathered from subjective experience. The process of adjudication lays emphasis on the wise scrutiny of materials sans emotions. A studied analysis of facts and evidence is a categorical imperative. Deviation from them is likely to increase the individual gravitational pull which has the potentiality to take justice to her coffin.

15. As is perceptible, we had stayed the operation of the order at the interim stage and further directed that if the Institution had admitted students they were debarred from continuing in the course. The same stands confirmed.

16. Further, the question that remains to be adjudicated is whether the students who were given admission by the institution that had taken recourse to unholy and uncalled for practice should be allowed to suffer. We think not. Students are to be compensated. They had paid the fees. Hopes were kindled in their hearts and aspirations in their mind. Their young minds were polluted by the Institution and, therefore, we direct the respondent Institution to pay Rs.10,00,000/- to each of the students who had taken admission apart from refunding their fees.

Additionally, as the conduct of the 1st respondent, namely, G.C.R.G. Memorial Trust, is absolutely blameworthy, we impose costs of Rs. 25 lakhs to be deposited before this Court within eight weeks hence.

17. Before parting, it is necessary to add and repeat that the Division Bench had no reason to abandon the concept of judicial propriety and transgress the rules and further proceed on a path where it was not required to. Such things create institutional problems and we are sure that the learned Judges shall be guided by it. As far as the prayer of the Institution as regards the Academic Session 2018-2019 is concerned, it does not deserve consideration and, accordingly, stands rejected. We say so as an unscrupulous litigant who conceived the idea of paving the path of his own desire, moving according to his design, proceeding as per his whim and marching ahead with brazenness abandoning any sense of prudence cannot be leniently dealt with. It is the duty of the Court to take stringent action, for he has polluted the purity attached to the justice dispensation system and sullied the majesty of law.

18. In view of the aforesaid analysis, the appeal stands allowed. Costs as already assessed.”

37. In view of the law laid down by the Supreme Court in the above cited cases, the prayer of the appellants to permit the students to pursue their studies in spite of the illegalities is rejected. Accordingly, we do not find any illegality or perversity in the impugned judgments passed by the learned Single Judge. We also do not find any merit in the prayer for

regularising the illegal admissions and reject the same.

38. All these appeals are dismissed with costs quantified as ₹ 1,00,000/- each upon the appellant Colleges. The costs shall be deposited with the Poor Patients' Welfare Fund of the Postgraduate Institute of Medical Education and Research (PGIMER), Chandigarh.

(RAVI SHANKER JHA)
CHIEF JUSTICE

(RAJIV SHARMA)
JUDGE

December 04, 2019
ndj

Whether speaking/reasoned	Yes/No
Whether Reportable	Yes/No