

IN THE HIGH COURT OF MADHYA PRADESH

PRINCIPAL SEAT AT JABALPUR.

5852

Writ Petition No. OF 2009

PETITIONER:

Handwritten signature and initials

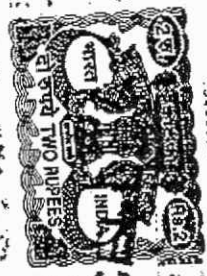
1. Nitin Saxena
S/o Shri LP Saxena, aged about 30 years, Social worker, Bhopal, formerly General Secretary, NSUI, Madhya Pradesh, R/o A-509, Ashoka Garden, Distt. Bhopal (MP)

VERSUS

RESPONDENTS:

1. State of Madhya Pradesh, Department of Technical Education, Through its Principal Secretary, Government of M.P., Vallabh Bhawan, Bhopal (M.P.)
2. Directorate of Technical Education, Through its Director, Vallabh Bhawan, Bhopal M.P.
3. Rajeev Gandhi Technological University, Through its Registrar, Airport Bypass road, Gandhi Nagar, Bhopal,
4. Engineering Course Counseling Authority, through its Secretary, Bhopal Airport Bypass road, Gandhi Nagar, Bhopal.
5. Admission and Fee Regulatory Committee (AFRC) Through its Officer on Special Duty, Tagore Hostel no. T-2, First floor-left wing, Shyamla Hills Bhopal-462002.
6. Professional Examination Board, (PEB) Through its Secretary, Chayan Bhawan, Main Road No.1, Chinar Park, East, Bhopal -462011.
7. All India Council for Technical Education, Through its Regional Officer, Central Regional Office, Tagore I Hostel No. 2 Shyamla Hills, Bhopal,

Presented on 15.6.09
By S.K.R. xlx

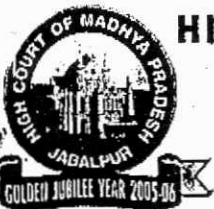




DATE OF THE ORDER	ORDER
<u>07.8.2009</u>	<u>W.P.No.5852/2009</u>
	<p>We have heard Mr. R.L. Gupta, learned counsel for the petitioner, Mr. Purushaindra Kaurav, learned Dy. Advocate General for respondents No.1, 2 and 5, Mr. Paritosh Gupta for respondents No.3 and 4 and Mr. Pradeep Sharma for respondent No.7.</p>
	<p>Writ Petition No.5852/2009 has been filed by the petitioner apprehending that persons who are not sons or wards of NRI may be admitted to the NRI seats pursuant to the advertisement Annexure P/3 in Sanghvi Innovative Academy, Shri Vaishnav Institute of Technology & Science, Indore, Shri Vaishnav School of Business Management, Indore and Shri Vaishnav Institute of Management, Indore in different courses.</p>
	<p>On 17.6.2009, the Court while issuing notice of the writ petition, directed as an interim measure that in the meanwhile, admissions to NRI seats pursuant to the advertisement Annexure P/3 in different courses shall remain stayed.</p>
	<p>Thereafter, I.A. No.6558/2009 was filed on behalf of Shri Vaishnav Institute of Management, Indore making the prayer for vacating the stay order passed on 17.6.2009 and 7.7.2009. The Court passed an order that until regulation is notified by the State Government under sub-rule (10) of Rule 7 of the Admission Rules 2008 made under the Madhya Pradesh Niji Vyayasayik Shikshan Sanstha (Pravesh Ka Viniyam Avam Sulk</p>



Handwritten marks on the right margin: a vertical line, 'J', a dash, '8', '2', and 'f'.



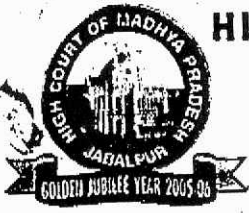
HIGH COURT OF MADHYA PRADESH

ORDER SHEET

CASE No. 200

..... Vs.

DATE OF THE ORDER	ORDER 2
	<p>Ka Nirdharan) Adhiniyam, 2007 prescribing the manner in which 15% sanctioned seats have to be filled up by NRI candidates, the management of private professional colleges and the State Government will not fill up the 15% NRI seats in the professional colleges (other than Medical and Dental Colleges) till the next date of hearing.</p> <p>I.A. No.8061/2009 has been filed by Shri Vaishnav Institute of Management, Indore stating that the Admission (Reservation to Non-Resident Indian) Regulation, 2009 have in the meanwhile been framed by the State Government regulating the manner in which the 15% quota seats for the sons and wards of Non-Resident Indians in private unaided institutions would be regulated and making a prayer that the aforesaid institute be allowed to fill up the NRI seats before 15th September, 2009 in terms of the order passed by the Supreme Court in Ruchin Bharat Patel's case and in terms of the order dated 12.8.2009 passed by this Court in W.P. No.9390/2008 Prateek Garg Vs. State.</p> <p>Mr. A.M. Mathur, learned Senior Counsel assisted by Shri Sanjay Agrawal, appearing for Shri Vaishnav Institute of Management submitted that the condition in Regulation 5(5)(a) that the formula for conversion of grade into marks should be certified by the Indian Embassy/Indian Consulate of the country from which the candidate has passed the qualifying examination is unworkable. He submitted that conditions in Regulation 5(5) (c)&(d) of the Admission (Reservation to Non-resident Indian) Regulations, 2009 requiring a certificate from Indian Embassy or</p>



HIGH COURT OF MADHYA PRADESH

ORDER SHEET

CASE No. 200

..... Vs.

DATE OF THE ORDER

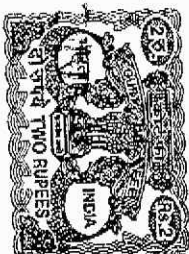
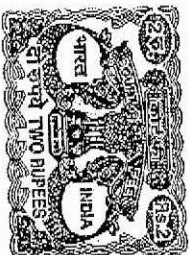
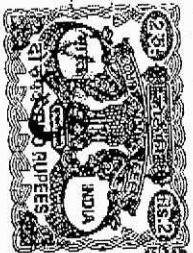
ORDER

3

Indian Consulate of the country where the non-resident Indian is residing to the effect that the father/mother or legal guardian of the candidate or candidate himself is non-resident Indian and that a true copy certified by Indian Embassy or Indian Consulate where the non-resident Indian is residing must be produced by the eligible candidate seeking admission to Non-Resident Indian seats are also unworkable. He submitted that if these conditions are insisted for the academic sessions 2009-10, the seats reserved for Non-Resident Indian in the institute cannot be filled up within the stipulated time as it will take several months to get the certificate or the certified copy from the Indian Embassy or the Indian Consulate of the country in question. He further submitted that the passport itself indicates the non-resident status of a passport holder and therefore, the passport or its true copy as certified by a Gazetted Government servant should be sufficient proof of the fact that the passport holder is a non-resident Indian.

Mr. Mathur next submitted that the law is well settled that once the admission process has commenced, the regulations which are made in the midst of the academic session will not apply to the admission process which has already commenced and therefore, the Admission (Reservation to Non-Resident Indian) Regulations, 2009 notified on 15th July, 2009 will not apply to the academic session 2009-10.

We are prima-facie not convinced with the submissions of Mr. Mathur that the Admission (Reservation to Non-Resident Indian) Regulations, 2009 will not apply to admission to the





HIGH COURT OF MADHYA PRADESH

ORDER SHEET

CASE No. 200

..... Vs.

DATE OF THE ORDER	ORDER
	<p>non-resident Indian for the academic session 2009-10 because by the interim order dated 17.6.2009 we had stayed the admission to NRI seats pursuant to the admission in concerned institutes including the institute of Shri Vaishnav Institute of Management, Indore and thereafter, by our order dated 07.7.2009, had restrained the managements of the private professional colleges and the State Government from filling up 15% NRI seats unless the regulations are framed by the State Government.</p> <p>But, we agree with Mr. Mathur that if conditions stipulated in Clause 5(5)(a), (c)&(d) are insisted upon and the eligible candidates interested in seeking admission against NRI seats are required to produce certificates from the Indian Embassy or Indian Consulate of the concerned countries and a true copies of the passports have to be certified by Indian Embassy or Indian Consulate of the concerned countries then the quota of NRI seats in private professional colleges may not be filled up in the institute with NRI candidates as it will take a lot of time to procure such certificate or certified copy of true copy from the Indian Embassy or Indian Consulate of the countries concerned. The result would be that the benefit of 15% NRI quota given under the Adhiniyam, 2007 and the Admission Rules, will be lost to the institutes as well as the students eligible for admission to such NRI seats.</p> <p>We further find that under Regulation 5(6), the Head of the institution is required to furnish list of admitted non-resident Indian candidates along with the documents to the competent authority, 10 days prior to commencement of counselling for</p>

R
S
T
L
J
:



HIGH COURT OF MADHYA PRADESH

ORDER SHEET

CASE No. 200

..... Vs.

DATE OF THE ORDER

ORDER

general pool seats to respective course and the competent authority shall scrutinize these documents with regard to eligibility of the candidate as per the criteria laid down in these regulations and shall have the authority to cancel the admission of non eligible candidates.

Mr. Mathur, learned counsel submitted that under Section 4 of the Adhiniyam, 2007, the Admission & Fee Regulatory Committee has the power to regulate and monitor and also to cancel the admissions, if they find that they have not been made in accordance with the Adhiniyam, 2007 and the Rules and Regulations made under the Adhiniyam, 2007. He submitted that since the Admission and Fee Regulatory Committee is an authority headed by the Vice Chancellor of a University and has respectable members, it will be more appropriate that the list of students admitted in NRI quota is furnished by the institute to the Committee instead of the competent authority and the Committee may scrutinize the admission and if they find that the admission to NRI quota has not been made in accordance with the provisions of the Act and the Admission Rules, 2008 or the Regulations, the Committee may cancel the same.

We are prima-facie of the opinion that it would be more appropriate if the Admission & Fee Regulatory Committee constituted under the Adhiniyam, 2007 and exercising vast powers of monitoring admissions to different private unaided professional colleges scrutinize the admissions to the NRI quota in the different institutes and in case the admissions are cancelled, the aggrieved party can also file an appeal before the





HIGH COURT OF MADHYA PRADESH

ORDER SHEET

CASE No. 200

..... Vs.

DATE OF THE ORDER	ORDER
	<p>appellate authority headed by a retired High Court Judge.</p> <p>We therefore, vacate the interim orders dated 17.6.2009 and 7.7.2009 and direct that the NRI seats in different professional colleges (other than Medical and Dental colleges) in the State of Madhya Pradesh may now be filled up in accordance with the Admission (Reservation to Non-Resident Indian) Regulations, 2009 during the academic sessions 2009-10 without insisting on a certificate from Indian Embassy or Indian Consulate of the country or a true copy certified of the passport of non-resident Indian by Indian Embassy or Indian Consulate of as provided in Regulation 5(5) (a), (c)&(d) of the aforesaid Regulations. We make it clear that whether the concerned person is non-resident Indian or not will be verified from the passport of the non-resident Indian or the true certified copy of the passport of the non-resident Indian as certified by the Collector or any officer In-charge as Collector of the concerned district must show that the concerned person is a non-resident Indian.</p> <p>We further direct that the commencement of counselling for general pool seats in respective courses will be from 24th August, 2009 and therefore, the Head of the Institutions will furnish the list of eligible candidates along with list of non-eligible candidates to the Admission & Fee Regulatory Committee 10 days prior to the commencement of the counselling for the general pool seats with a copy to the authority conducting the counselling of the general pool seats in respective courses as provided in Regulation 5(6) of the</p>


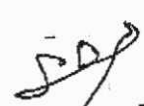
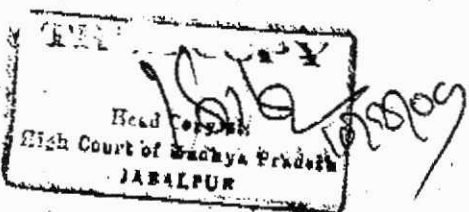


HIGH COURT OF MADHYA PRADESH

ORDER SHEET

CASE No. 200

..... Vs.

DATE OF THE ORDER	ORDER
a/-	<p style="text-align: center;">7</p> <p>Regulations.</p> <p>This interim order will be applicable for the academic sessions 2009-10 and has been passed because the admission to all the seats have to be completed by 30th September, 2009.</p> <p>C.C. as per rules.</p> <div style="display: flex; justify-content: space-around; align-items: center;"> <div style="text-align: center;">  (A.K. Patnaik) Chief Justice </div> <div style="text-align: center;">  (Ajit Singh) Judge </div> </div> <div style="text-align: right; margin-top: 20px;">  </div>

