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MCRC-14159-2024

IN THE HIGH COURT OF MADHYA
PRADESH
AT GWALIOR

BEFORE

HON'BLE SHRI JUSTICE G. S. AHLUWALIA

&

HON'BLE SHRI JUSTICE ANIL VERMA

MISC. CRIMINAL CASE No. 14084 of 2024

DR FARAH KHAN

Versus

CENTRAL BUREAU OF INVESTIGATION

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Appearance:

*Shri Ajay Mishra, Senior Advocate through Video Conferencing with Shri
Somyadeep Dwivedi, Advcoate for applicant.*

Shri Raju Sharma, Advocate for respondent.
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MISC. CRIMINAL CASE No. 14050 of 2024

DR. PRADNYA DILIP KAPDEO

Versus

CENTRAL BUREAU OF INVESTIGATION

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Appearance:

*Shri Ajay Mishra, Senior Advocate through Video Conferencing with Shri
Somyadeep Dwivedi, Advocate for applicant.*

Shri Raju Sharma, Advocate for respondent.
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MISC. CRIMINAL CASE No. 34149 of 2021

DR. (MS) DILPREET KAUR KHANOOJA AND OTHERS

Versus

UNION OF INDIA

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Appearance:

Shri Prateek Kulshrestha, Advocate for applicant.

Shri Raju Sharma, Advocate for respondent.
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MISC. CRIMINAL CASE No. 47888 of 2021

DR. (MS) HARPREET ARORA

Versus

UNION OF INDIA



Appearance:

Shri Prateek Kulshrestha, Advocate for applicant.

Shri Raju Sharma, Advocate for respondent.

MISC. CRIMINAL CASE No. 49836 of 2021

DR. (MS) JYOTI SHARMA

Versus

UNION OF INDIA

Appearance:

Shri Prateek Kulshrestha, Advocate for applicant.

Shri Raju Sharma, Advocate for respondent.

MISC. CRIMINAL CASE No. 12292 of 2024

DR. DIKSHA CHACHARIA

Versus

CENTRAL BUREAU OF INVESTIGATION

Appearance:

*Shri Ajay Gupta, Senior Advocate with Shri Amit Chaudhary,
Advocate through Video Conferencing and Shri Sanjay Shukla,
Advocate for applicant.*

Shri Raju Sharma, Advocate for respondent.

MISC. CRIMINAL CASE No. 14100 of 2024

DR. NEHIL NIGAM

Versus

CENTRAL BUREAU OF INVESTIGATION

Appearance:

*Shri Ajay Mishra, Senior Advocate through Video Conferencing with Shri
Somyadeep Dwivedi, Advocate for applicant.*

Shri Raju Sharma, Advocate for respondent.

MISC. CRIMINAL CASE No. 14159 of 2024

DR FARHAT KHAN

Versus

CENTRAL BUREAU OF INVESTIGATION

Appearance:



Shri Ajay Mishra, Senior Advocate through Video Conferencing with Shri Somyadeep Dwivedi, Advocate for applicant.

Shri Raju Sharma, Advocate for respondent.

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Reserved on : 7/1/2026

Pronounced on: 16/1/2026

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ORDER

Per. Justice Gural Singh Ahluwalia

By this common order M.Cr.C. Nos. 14050/2024, 34149/2021, 47888/2021, 49836/2021, 12292/2024, 14100/2024 and M.Cr.C. No. 14159/2024 shall also be decided.

2. For the sake of convenience, facts of M.Cr.C. No.14084/2024 shall be considered.

3. This application, under section 482 of Cr.P.C, has been filed for quashment of criminal proceedings of Special Sessions Trial No. 01/2021 (Crime No. RC-2172015S0009) registered and pending in the Court of IV ASJ/ Special Judge CBI (VYAPAM cases) for offence under sections 120B read with sections 201, 204, 408, 419, 420, 468, 471, 477A of IPC and under section 13(2) read with section 13(1)(d) of the Prevention Of Corruption Act, 1988 and under section 4/3(d)(1)(2) of MPRE Act 1937, as well as, for quashment of order of cognizance dated 7/1/2021 passed by the trial Court.

4. The undisputed fact is that applicant is a candidate who is facing prosecution for taking admission in MBBS course by hook and crook in complete defiance of the procedure provided for admission of a



student in MBBS course, although she was not found eligible. It is the case of the applicant that number of private and other technical educational colleges have been established in addition to the colleges owned by the State Government. The State Government has enacted *MP Niji Vyavsayik Shikshan Sansthan (Pravesh Ka Viniyaman Evam Shulk Ka Nirdharan) Adhiniyam 2007 (for short "the Act of 2007")*. The Act of 2007 was enacted with specific object of regulation of admission and fixation of fee in private professional education institutions of the State and to provide reservation to candidates of SC, ST and OBC category also. The Department of Medical Education, Government of MP issued MP Government Autonomous/Government Medical and Dental Undergraduate Examination Rules, 2011 (*for short "the Rules of 2011"*), vide notification dated 24/5/2011 and the provisions of eligibility, seats available, reservation, process of admission etc. were prescribed/notified for information and compliance of the candidates. Under Rules of 2011, the eligibility was prescribed in Rule 6, according to which the candidate must be a bonafide resident of Madhya Pradesh. He/she must have been born in Madhya Pradesh and studied for three years continuously in any educational institution of Madhya Pradesh. For admission to MBBS/BDS course, only those candidates were eligible who have passed the qualifying examination of higher secondary from Board of Secondary Education, Madhya Pradesh, Bhopal passing Physics, Chemistry and Biology subjects individually and have secured at least 50% aggregate marks in an unreserved and 40% aggregate marks in case of reserved category candidate. Reserved category candidates who opt



for unreserved seat should secure 50% marks in Higher Secondary school and so on.

Rule 8 of the Rules of 2011 prescribes for conducting entrance examination and as per that only one common entrance test for Government Autonomous and Private Colleges is provided. Rule 8.4 prescribes publication of merit list of all successful candidates by Board/VYAPAM on the basis of marks secured by candidates in the PMT examination. For unreserved category, 50% cut-off marks were prescribed and it was also provided that 50% marks in qualifying examination (10+2) and PMT are necessary. For reserved category candidates, if they opt for seat of unreserved category, 50% cut off marks would be required. Rule 8.4.2 prescribes that separate merit list will be prepared for reserved category candidates.

Rule 9 of the Rules of 2011 prescribes for counseling and as per that, the allotment of seats was to be made through counseling on the basis of personal appearance of candidates. Rule 9 prescribes for constitution of counseling committee. Rule 9 also prescribes that candidates may participate in the counseling through authorized representative. Rule 9 also provides for different contingencies related to counseling and selection of seat by the candidate. Rule 9.9 prescribes for reallocation of seat and Rule 9.11 specifically prescribes that counseling shall be done on merit cum option basis according to category enumerated in sub-rule and sequence.

Rule 9.15 of Rules of 2011 prescribes that a candidate admitted to



UG course in Government autonomous/Government medical/dental college in Madhya Pradesh through All India Entrance Test 2011 and also got selected in MP PMT 2011 will be eligible to participate in counseling scheduled for selection of candidates of MP PMT. However, candidate will have to resign from all India seat in case of allotment of seat in counseling from MP PMT.

Rule 10 & 11 of Rules of 2011 prescribe for formalities required to be done for taking admission.

Rule 12 of Rules of 2011 provided for date of commencement of academic session and the last date of admission. According to Rule 12.1, the schedule for admission process for the year 2011 was as under:-

- | | |
|--|-------------------|
| 1. First Counselling | By July,
2011 |
| 2. Commencement Academic Session | By
01.08.2011 |
| 3. Second Counselling | By August
2011 |
| 4. Last date upto which students can be admitted against vacancies arising due to any reason | 30.09.2011 |

5. It is the case of applicant that it is a matter of common knowledge that the vacancy would arise only if some seats remain vacant on account of non-selection or non-reporting of assigned student on the prescribed date or leaving the course/cancelling admission by reported students before the last date of admission. It is submitted that so far as the present applicant is concerned, she has nothing to do with the previous procedures and she entered into the picture only when the seat remained unfilled and it was notified by the College on the notice board



that candidates having minimum qualification can apply for allotment of their seat and, accordingly, the applicant took admission in the Chirayu Medical College. It is further submitted that one of the co-accused named Dr. Ajay Goenka has already been discharged by this Court by quashing the FIR against him and relied upon the judgment passed by Division Bench of this Court in the case of Dr. Ajay Goenka Vs. Central Bureau of Investigation decided on 21/2/2024 passed in MCRC No. 39055/2021.

6. *Per contra*, it is submitted by counsel for the CBI that initially on 7/7/2014, FIR No. 271/2014 was registered at Police Station Jhansi Road, Gwalior against three accused persons namely one candidate Jay Prakash Baghel and two middlemen namely Sarvendra Jadon and Parmanand Wadhwa for offences under sections 420, 467, 468, 471 and 120B of IPC. The said case was registered on the basis of a written complaint made by one Ashish Chaturvedi wherein it was alleged that Jay Prakash Baghel, who was a student of MBBS course of MPPMT-2010 in Gajra Raja Medical College, Gwalior, at the instance of his friend Sarvendra Jadon, appeared again in MPPMT-2011 with intention to cancel the seat fraudulently obtained in lieu of monetary consideration. It was further alleged that for participating in the counseling, Jay Prakash Baghel got his original documents from GRMC, Gwalior through Parmanand Wadhwa, clerk in the Students Section of the college by paying him an amount of Rs.35,000/-. During the counseling of MP PMT-2011, Jay Prakash Baghel got a seat allotted in Chirayu Medical College, Bhopal and in connivance with the private



college authorities, he vacated the seat for which he was paid Rs.1,25,000/- through his friend Sarvendra Jadon, who also got a similar amount. During police investigation, it was further revealed that apart from Jay Prakash Baghel, other 47 students, who were also allotted MBBS seat in Chirayu Medical College through MPPMT-2011, also had vacated their respective seats. Therefore, local police also included the said matter of vacation of seats by other 47 candidates in the investigation. After investigation, the local police filed a charge sheet against Jay Prakash Baghel, Sarvendra Jadon and Parmanand Wadhwa on 2/10/2014 before the competent Court under sections 420, 467, 468, 471 read with section 120B of IPC and the investigation was kept open under section 173(8) of Cr.P.C. against remaining accused persons. Thereafter, Supreme Court, vide order dated 9/7/2015, passed in WP (Civil) No. 372/2015 transferred the investigation of criminal cases related to VYAPAM scam to CBI. In compliance of the said order, FIR No. 271/2014 of PS Jhansi Road, Gwalior was re-registered by CBI as RC2172015S0009 on 15/7/2015. During the investigation, it was revealed that Chirayu Medical College, vide letter dated 9/7/2012, forwarded a list of 150 candidates for academic session 2011-12 to the DME and thereafter the same was verified by Dr. N.M. Srivastava, the then Joint-DME and forwarded to Registrar, Barkatullah University for further action. Scrutiny of the list attached with above said letter revealed that Chirayu Medical College had admitted 47 candidates against State quota on the last date of admission i.e. 30/9/2011. It was found that out of the said 47 seats, Chirayu Medical College admitted 39 ineligible candidates on the last date of admission i.e. 30/9/2011. These 39



candidates had either not appeared in MPPMT-11 counseling or were not allotted any college by the counseling committee. It was also found that remaining eight candidates namely Rohan Gupta, Utsav Sharma, Aditi Baghel, Nancy Azad, Astha Singh, Shivali Chauhan, Krati Fatehpuria and Akansha Yadav were already admitted in Chirayu Medical College against DMAT seats but they were shown admitted on MPPMT seat on 30/9/2011. The investigation further revealed that out of 39 candidates who took admission in Chirayu Medical College on vacant State quota seats on 30/9/2011, fee in respect of 29 candidates was accepted by the College through cheques bearing date 3/10/2011, whereas the candidates were issued fee receipt by the College dated 30/9/2011. As per CFSL expert opinion, the handwritings present on 8 cheques of candidates belonged to Girish Kantikar, PRO, Chirayu Medical College. It *prima facie* proved that blank cheques were given by the parents of the candidates to Chirayu Medical College staff. The applicant had appeared in MPPMT- 2011 exam but due to less marks (113/200) in MPPMT exam, she was not allotted any college through MPPMT counseling. Investigation also revealed that in conspiracy with the Chirayu Medical College, she got prepared and submitted all the desired affidavits/bonds/agreements etc. in the college already in the month of August 2011. Investigation also revealed that the fee of Rs.3,85,000/- was paid by her by Cheque No.813951 dated 26/8/2011, whereas the fee receipt No. 531 against the said payment was issued by the College on 25/8/2011. Thus, illegal admission of applicant was already done by Chirayu Medical College in August 2011. However, she was not allotted Chirayu Medical College through the MPPMT



counseling, but she was shown admitted in the College on 30/9/11 fraudulently against PMT/State quota seat as per the list forwarded by the college to DME and MCI. The applicant is among the 39 ineligible candidates, who in conspiracy with Chirayu Medical College Bhopal, took admission in the college on the last date of admission i.e. 30/9/2011, even when the applicant was not allotted any seat in Chirayu Medical College, Bhopal by counseling committee of MPPMT-2011. Accordingly a supplementary charge sheet has been filed by CBI before the Court of Additional Sessions and Special judge for CBI, VYAPAM cases Gwalior on 7/1/2020 for offences under sections 120B read with sections 201, 204, 408, 419, 420, 468, 471, 477-A of IPC and under section 13(2) read with section 13(1)(d) of Prevention of Corruption Act, 1988 and section 4/3-D(1)(2) of MPRE Act, 1937 and accordingly, the trial Court has rightly taken cognizance by order dated 7/1/2021.

7. It is the case of applicant that since the seat was left vacant and, therefore, a notice was affixed by the Chirayu Medical College on the notice-board notifying that certain seats are lying vacant and eligible candidates can apply for their admission in the medical college and accordingly she took admission. Merely because the admission was taken on the last day, it will not make the admission illegal and thus the prosecution is bad.

8. In reply, it was once again submitted by counsel for CBI that the investigation has revealed that the admission of the applicants on the last date of admission schedule was not bonafide and the fee was already



deposited much prior to their admission. Even otherwise, they could not clear MP PMT examination because of poor marks received by them and they were not eligible for admission.

9. Heard, learned counsel for the parties.

10. Before considering the submissions made by counsel for the parties, this Court would like to consider the quashment of prosecution of the FIR against Dr. Ajay Goenka. This Court has gone through the order dated 21/2/2024 passed by Division Bench of this Court in the case of **Dr. Ajay Goenka (Supra)**. In that case, it has not been held that no offence on merits was committed at all, but quashment of proceedings against Dr. Goenka was on the ground that there is nothing on record to suggest that how he was involved in the entire scam. It was held that in order to commit an offence of criminal conspiracy, there should be an agreement between two or more persons and the agreement which is formed must be in relation to committing an illegal act or an act done by illegal means. The CBI could not point out any material from record so as to infer any agreement between the petitioner Dr. Ajay Goenka and the students or College Management Committee or Admission Committee; statutory committees to hire students for blocking seats in order to cause pecuniary gain to the College/Society. What evidence/documents/electronic record have been destroyed by Dr. Ajay Goenka or which documents/electronic record have been forged by him or which forged documents have been used by him or which document has been cancelled/destroyed/defaced by him so as to attract the provisions of sections 201, 204, 468, 471 and 477 of IPC has not come



forward. What property was entrusted to Dr. Ajay Goenka and how he committed criminal breach of trust so as to attract the provisions of section 408 and 409 of IPC has also not been explained by the CBI. Similarly, it was also held that no explanation has been rendered with respect to the imputed provisions of PC Act and Pariksha Adhiniyam against Dr. Ajay Goenka. It was held that for taking cognizance, there should be a grave suspicion against the accused leading to presumption. Criminal liability being strict liability, the material for harboring such grave suspicion should be discernible from record which according to the Division Bench was lacking in the case against Ajay Goenka and, thus, the cognizance taken by the trial Court against Dr. Ajay Goenka was quashed.

11. However, the reasons assigned by Division Bench of this Court for quashing the prosecution against Dr. Ajay Goenka are not applicable to the present case. In the present case, the allegations are that by making some candidates appear in the PMT examination who were either already prosecuting their studies or who were given admission in BDS, the seats were declared vacant. The candidates who could not clear MPPMT examination because of less marks, the candidates who were not allotted any college through MPPMT counseling because of less mark had already deposited their fee well in advance but they were shown to have been given admission on 30/9/2011 by claiming that since the seats had remained vacant, therefore, they were granted admission. It is the case of the CBI that Chirayu Medical College had deliberately ensured that the seats should remain vacant so that they can



give admission to the candidates who were not even able to get allotment of any college in counseling because of less marks in MPPMT. Conspiracies are not hatched in open, but it has to be ascertained from the conduct of the parties. If the admission of applicant was such an honest admission, then why she had already deposited the fee much prior to the declaration of the seat as a vacant seat ? Therefore, there appears to be some understanding between the College Management and the candidates. Since the college had already accepted fee from the applicant in the month of August 2011 itself, it is clear that principally the college had already given admission to the applicant in spite of the fact that applicant was not allotted Chirayu Medical College through MPPMT counseling. Even otherwise, after accepting the fee in the month of August-2011, it was shown by the college management that the applicant was granted admission on 30/9/2011. In order to frame charges, grave suspicion that a person might have committed an offence is sufficient. A roving inquiry at the stage of framing of charges or taking of cognizance is not required.

12. Considering the totality of the facts and circumstances of the case, this Court is of considered opinion that since there is a *prima facie* material against the applicant warranting taking of cognizance by the trial Court, no case is made out warranting interference.

13. Accordingly, the application (M.Cr.C. No.14084/2024) fails and is hereby **dismissed**.

14. Before parting with the order, it is made clear that dismissal



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of this application shall not prejudice or influence the mind of the trial Court because in view of limited scope of interference, this Court cannot look into other material except the material relied upon by the police.

15. For the reasons mentioned above, M.Cr.C. Nos. 14050/2024, 34149/2021, 47888/2021, 49836/2021, 12292/2024, 14100/2024 and M.Cr.C. No. 14159/2024 also stand dismissed as the facts and circumstances of these cases are identical to M.Cr.C. No.14084/2024.

(G. S. AHLUWALIA)
JUDGE

(ANIL VERMA)
JUDGE

(and)