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MCRC-52432-2024

IN THE HIGH COURT OF MADHYA PRADESH
AT GWALIOR

BEFORE

HON'BLE SHRI JUSTICE G. S. AHLUWALIA

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HON'BLE SHRI JUSTICE ANIL VERMA

MISC. CRIMINAL CASE No. 52432 of 2024*DR. RAVI SAXENA**Versus**CENTRAL BUREAU OF INVESTIGATION*

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Appearance:

*Shri V.D.Sharma, 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 Gurpal Singh Ahluwalia

This application, under section 482 of Cr.P.C/528 of BNSS, has been filed for quashment of FIR bearing Crime No.271/2014 registered at P.S. Jhansi Road, Gwalior which was later on transferred to CBI and registered as Case No. RC2172015S0009 for the 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 all other consequential proceedings arising out of the aforesaid crime number and investigation undertaken by CBI including the proceedings



initiated in SC CBI No.01/2021 pending before learned Special Judge, CBI/Vyapam, Gwalior.

2. The undisputed fact is that applicant was the member of a Committee formed by an order dated 4/8/2011 along with Dr. Ashok Jain and Dr. Brijendra Mishra to oversee and execute all admission related tasks of Chirayu Medical College and Hospital. According to the prosecution, this Committee had the responsibility of scrutinizing and verifying all requisition forms prior to granting admission to any candidate for the MBBS course for the academic year 2011 and the Chairman of the committee Dr. Jitendra Kain, in conjunction with the committee members i.e. the applicant as well as Dr. Ashok Jain and Dr. Brijendra Mishra, failed to conduct a proper and thorough scrutiny of the candidates' documents or documents, thereby neglecting to discharge their mandatory responsibility. It is the case of the prosecution that the accused applicant in conspiracy with Chirayu Medical College management gave admissions to 39 ineligible candidates in the college on the last date of admission, though the candidates were not allotted any seats by the counseling committee of MPPMT 2011.

3. The MP Niji Vyavsayik Shikshan Sansthan (Pravesh Ka Viniyaman Evam Shulk Ka Nirdharan) Adhiniyam, 2007 (*for short "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 Under-graduate 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 case of 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 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 was prescribed. According to Rule 12.1, the schedule for admission process for the year 2011 was as



under:-

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|---|-------------------|
| 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 |

4. It is the case of applicant that he was merely a member of committee and no malafides can be attributed to a body of persons. Even if any lapses have occurred while taking decision in the matter, it would not include *mens rea* and thus it is prayed that the prosecution of the applicant is unwarranted

5. *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. The CBI investigation has revealed that 47 candidates who were allotted Chirayu Medical College, Bhopal by counselling committee of MPPMT-2011 vacated the seats and did not take admission in the said College. Out of these 47 candidates, few candidates were already MBBS students in renowned medical colleges, however, they again appeared in MPPMT-2011 with malafide intention, got allotted MBBS seat in Chirayu Medical College and thereafter vacated the seat in order to



give opportunity to Chirayu Medical College to fill the vacant seats by its own. Investigation further revealed that Chirayu Medical College dishonestly gave false information repeatedly to the Director of Medical Education about the vacancy position so that further allotment of seats to other deserving candidates in further rounds of counselling could not be made and thus Chirayu Medical College dishonestly kept the vacancy in the college till last date of admission i.e. 30.9.2011 and admitted 39 ineligible candidates of their own choice, on last date of admission i.e. 30.9.2011. These 39 candidates had even not appeared in MPPMT-2011 counselling or were not allotted any college by the counselling committee constituted by DME. Hence, these 39 candidates were ineligible to get admission in MBBS in Chirayu Medical College through State Quota seats, which in reality belonged to meritorious candidates of MPPMT-2011.

Further, investigation has revealed that applicant along with Dr. Ashok Jain and Dr. Brijendra Mishra, was a member of a committee formed vide an order dated 04.08.2011 (modified on 06.08.2011) of Dr. Virender Mohan, Dean, chaired by Dr. Jitendra Kain, constituted to oversee and execute all admission-related tasks of Chirayu Medical College & Hospital. This committee bore the responsibility of scrutinizing and verifying all requisite records prior to granting admission to any candidate for the MBBS program for the academic year 2011. However, it has come on record that the Chairman Dr. Jitendra Kain, in conjunction with the committee members i.e. Dr. Ravi Saxena, Dr. Ashok Jain and Dr. Brijendra Mishra failed to conduct a proper and thorough scrutiny of the candidates' documents, thereby



neglecting to discharge their mandated responsibilities. The applicant in conspiracy with Chirayu Medical College Management gave admission to the 39 ineligible candidates in the college on last date of admission i.e. 30.09.2011 even though the candidates were not allotted any seats by the counselling committee of MPPMT-2011 and hence they were ineligible for admission. After investigation, supplementary chargesheet was filed by CBI before the Court of Additional Sessions Judge/ Special Judge for CBI, Vyapam Cases, Gwalior on 07.01.2020 against total 60 accused persons including accused applicant Dr. Ravi Saxena u/S 120-B r/w 201, 204, 408, 419, 420, 468, 471, 477-A of IPC, Section 13(2) r/w 13(1)(d) of P.C. Act, 1988 and Section 4/3-D(1)(2) of MPRE Act, 1937.

6. Heard, learned counsel for the parties.

7. The applicant has relied upon a judgment passed by Division Bench of this Court in the case of **Dr. Ajay Goenka Vs. CBI** decided on 10/2/2025 in **M.Cr.C. No.53249/2024**, as well as, judgment passed by another Division Bench of this Court in the case of **Dr. Ajay Goenka Vs. CBI** decided on 21/2/2024 in MCRC No. 39055/2021. The judgment passed in MCRC No. 53249/2024 is based on the reasoning assigned by the Division Bench in **M.Cr.C.No. 39055/2021**. In the case of **Ajay Goenka (Supra)/M.Cr.C. No.39055/2021**, it has not been held that no offence on merits was committed at all, and 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 as 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 the petitioner 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.

8. In the present case, the allegations are that applicant was responsible for overseeing the selection process. and to execute all admission



related tasks of Chirayu Medical College and hospital, and in connivance with the other members of the selection committee, failed to conduct a proper and thorough scrutiny of the candidates. Thus, the case in hand is not covered by the law laid down by Division Benches of this Court in the case of **Ajay Goenka (Supra)**/M.Cr.C.No. 39055/2021 and **Ajay Goenka (Supra)**/MCRC No. 53249/2024. Whether the act of applicant was on account of any conspiracy or it is on account of negligence in discharge of their mandatory responsibilities is a highly disputed question of fact and this Court in exercise of powers under section 482 of CRPC cannot adjudicate this said aspect. In connected applications which were filed by the candidates, this Court has already held that the candidates were not allotted any medical seats because of their poor performance in the MPPMT, in spite of that, before the seats could have been declared vacant, they had already deposited their fees and the college management gave admission on 30/9/2011 i.e. on the last date for giving admission in MBBS course. Certain candidates who were already prosecuting their MBBS course appeared in the MPPMT examination of 2011 and then after getting successful, they left the seat or certain candidates who were already admitted in BDS course were shown to have left their seat. As a result, the seats got vacant and the Chirayu Medical College management had already accepted the fee from certain students and thereafter for giving them admission on 30/9/2011, it was projected that since the seats had been left vacant therefore, the candidates who had scored at least 50% of marks in higher secondary school or or in the PMT. were given admission on their applications. Under what



circumstances these seats were left by the candidates who were otherwise prosecuting their other courses? Under what circumstances Chirayu Medical College management accepted the fee from the candidates in the month of August 2011 itself, but by that time even the seats were not declared vacant and under what circumstances it was shown abruptly that they have been given admission on 30/9/2011 are certain questions which cannot be adjudicated at this stage. Therefore, it clearly shows that the applicant is liable to be prosecuted. Even otherwise a roving inquiry is not to be conducted and the defence of the accused persons is not to be considered at the time of taking cognizance or framing of charges. The accused persons can take their defence at an appropriate stage under section 91 of CRPC.

9. For the reasons mentioned above, this Court is of considered opinion that no case is made out warranting interference. The application fails and is hereby dismissed.

(G. S. AHLUWALIA)
JUDGE

(and)

(ANIL VERMA)
JUDGE