

**HIGH COURT OF MADHYA PRADESH, BENCH AT INDORE**

**SINGLE BENCH : HON'BLE SHRI JUSTICE S. C. SHARMA**

**Writ Petition No.14856/2019 (O)**

**Shree Aastha Foundation for Education Society (SAFE)**

**Versus**

**Union of India & Ors.**

**Counsel for the Parties** : Mr. Rohit Kumar Mangal, learned counsel for the petitioner.  
Mr. Himanshu Joshi, learned counsel for the respondent No.1.  
Mr. Shrey Raj Saxena, learned counsel for the respondent No.2.  
Mr. Sumersingh Chouhan, learned counsel for the respondent No.3 and 4.  
Ms. Darshana Baghel, learned counsel for the respondent No.5 and 6.

**Whether approved for reporting** : Yes

**Law laid down** : (1) The bank guarantee is an independent contract between bank and the beneficiary and the bank is always obliged to honour its guarantee as long as it is an unconditional and irrevocable one. The dispute between the beneficiary and the party at whose instance the bank has given the guarantee is immaterial and is of no consequence. There are, however, exceptions to this Rule when there is a clear case of fraud, irretrievable injustice or special equities. The Court ordinarily should not interfere with the invocation or encashment of the bank guarantee so long as the invocation is in terms of the bank guarantee.

(2) In case of cancellation of Desirability and Feasibility Certificate by the State Government earlier granted for establishment of a Medical College, the Medical Council of India does have the power under the Indian Medical Council Act, 1956 read with Establishment of Medical College Regulations, 1999 to encash the Bank Guarantees submitted by the Medical College.

**Significant paragraph numbers** : 27 to 31

**O R D E R**

**(Delivered on this 10<sup>th</sup> day of September, 2020)**

**(S. C. SHARMA)  
J U D G E**