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**IN THE HIGH COURT OF MADHYA PRADESH
AT INDORE
BEFORE
HON'BLE SHRI JUSTICE SUSHRUT ARVIND DHARMADHIKARI
&
HON'BLE SHRI JUSTICE HIRDESH
ON THE 21st OF JULY, 2023
WRIT PETITION No. 2375 of 2023**

BETWEEN:-

1. ANUSHKA MAHANT D/O SHRI SHAILENDRA MAHANT, AGED 19 YEARS, OCCUPATION: STUDENT 95, ADITYA NAGAR, OPPOSITE DEGREE COLLEGE, TEHSIL MHOW, DISTRICT INDORE (MADHYA PRADESH)
2. KHUSHBOO VISHWAKARMA D/O SHRI LAXMIKANT VISHWAKARMA, AGED 23 YEARS, OCCUPATION: STUDENT 6/7 BHOLENATH DHAM COLONY GORI NAGAR DISTRICT INDORE (MADHYA PRADESH)
3. ADITYA SINGH CHOUHAN S/O SHRI SHIVRAJ SINGH CHOUHAN, AGED 20 YEARS, OCCUPATION: STUDENT VILLAGE DABDA DISTRICT UJJAIN (MADHYA PRADESH)
4. SHIVAM HADA S/O SHRI SURENDRA KUMAR HADA, AGED 18 YEARS, OCCUPATION: STUDENT VILLAGE GADULI POST RAMBHAPUR TESHIL MEGHNAGAR DISTRICT JHABUA (MADHYA PRADESH)

.....PETITIONERS

(SHRI RAVINDRA SINGH CHHABRA, SR. ADVOCATE WITH MS PRANEESHA NAYYAR, LEARNED COUNSEL FOR THE PETITIONERS)

AND

1. THE STATE OF MADHYA PRADESH PRINCIPAL SECRETARY HIGHER EDUCATION DEPARTMENT VALLABH BHAWAN BHOPAL (MADHYA PRADESH)
2. THE COMMISSIONER HIGHER EDUCATION DEPARTMENT SATPURA BHAWAN DISTRICT BHOPAL. (MADHYA PRADESH)

3. THE UNIVERSITY GRANT COMMISSION THROUGH ITS SECRETARY BAHADUR SHAH JAFAR MARG, NEW DELHI (DELHI)
4. DEVI AHILYA VISHWA VIDYALAYA THROUGH ITS REGISTRAR DISTRICT INDORE (MADHYA PRADESH)
5. THE BAR COUNCIL OF INDIA THROUGH ITS SECRETARY 21 ROUSE AVENUE INSTITUTIONAL AREA NEAR BAL BHAWAN NEW DELHI (DELHI)
6. INDORE INSTITUTE OF LAW THROUGH ITS PRINCIPAL GENADALAL BAM PARISAR OPPOSITE I.I.M PITHUMPUR ROAD. DISTRICT INDORE (MADHYA PRADESH)
7. THE INDRA GANDHI NATIONAL OPEN UNIVERSITY THROUGH ITS REGISTRAR IGNOU MAIDAN GARHI NEW DELHI (DELHI)
8. THE M.P. BHOJ UNIVERSITY THROUGH ITS REGISTRAR RED CROSS BHAWAN OLD CONFIDENTIAL BUILDING DISTRICT BHOPAL (MADHYA PRADESH)

....RESPONDENTS

(SHRI ANIKET NAIK, LEARNED DY. ADVOCATE GENERAL FOR THE RESPONDENT NO.1/STATE). न्यमेव जयते

(SHRI AJINKYA DAGAONKAR, LEARNED COUNSEL FOR THE RESPONDENT NO. 3).

(SHRI VIVEK SHARAN, LEARNED COUNSEL FOR THE RESPONDENT NO. 4.).

(SHRI N.S. BHATI, LEARNED COUNSEL FOR THE RESPONDENT NO.5)

(SHRI VEER KUMAR JAIN, LEARNED SR. ADVOCATE WITH SHRI RAJWARDHAN GAWDE, LEARNED COUNSEL FOR THE RESPONDENT NO. 6)

SHRI SANJAY KARANJWALA, LEARNED COUNSEL FOR THE RESPONDENT NO. 8)

This petition coming on for admission this day, JUSTICE SUSHRUT

ARVIND DHARMADHIKARI passed the following:

ORDER

Petitioners have approached this Court under Article 226 of the

Constitution of India against the order dated 22.08.2022 and circular dated 09.11.2022 passed by respondents no.1 and 2. Petitioners have taken admission in courses mentioned below:

S.No.	Name of Student	Course Opted for	Date of Admission
1.	Anushka Mahant	B.B.A. LLB(HONS)	06.10.2022
2.	Khushbu Vishwakarma	3 YEARS LLB(HONS)	26.09.2022
3.	Aditya Singh Chouhan	B.A. LLB(HONS)	14.09.2022
4.	Shivam Hada	B.A. LLB(HONS)	06.09.2022

2. Brief facts of the case are that petitioners are students of law who have taken admissions in the respondent no.6/College for the courses mentioned above. The Bar Council of India(referred to as "BCI" hereinafter)/respondent no.5 framed 'Rules of Legal Education 2008'(referred to the 'Rules of 2008' hereinafter) for legal education in India under powers conferred by Law ' The Advocates Act, 1961. As per the said Rules of 2008, there are two categories under which admission can be taken for UG courses; (a) 3 Year Degree Course after obtaining Bachelor's Degree in any discipline (b) Integrated 05 Year Law Course after 10 2 Standard. Admission will be given in case of 3 Year Degree Course, on the basis of marks obtained in the Graduation and through competitive exams like CLAT(Common Law Admission Test) and CUET(Common Universities Entrance Test) followed by counselling and in case of 5 Year Integrated Course, on the basis of marks obtained in the 10 2 Examination.

3. The State of M.P., Higher Education Department issued guidelines for admissions in the Academic Session 2022-23 vide order dated 12.05.2022 (Annexure P-7). As per the said guidelines, every individual who is desirous of taking admission in the UG/PG courses has to enroll himself/herself through

epravesh.mponline.gov.in on E-Portal of Higher Education Department. After completion of enrollment through the *epravesh* portal, the College Level Counselling(referred to as 'CLC' hereinafter) commenced.The first round of CLC started from 03.06.2022, second round from 16.06.2022, third round from 27.06.2022 to 16.07.2022. Thereafter, in addition to that fourth round was also conducted from 19.07.2022 to 05.08.2022. Fifth round was conducted from 06.08.2022 to 16.08.2022 and the sixth round was conducted from 23.08.2022 to 31.08.2022 which is one of the subject matter of challenge in the present petition.

4. The process of counseling culminated on 31.08.2022 thereby closing the admission process for Academic Session 2022-23. The petitioners herein have not enrolled/registered themselves when the MP Online *epravesh* portal was open from 17.05.2022 till 31.08.2022 and without getting themselves enrolled on the said portal have taken admission in the respondent no.6/College on provisional basis for pursuing the courses mentioned above. Respondent no.6 vide letter annexed as Annexure P-10 (the letter does not bear the date or acknowledgement) has requested the Commissioner, Higher Education Department, Satpura Bhawan, Bhopal to open the MP Online *epravesh* portal so that all the students including petitioners who have taken admission in the respondent no.6/college could be enrolled with the Higher Education Department and appear in the upcoming examination. However, said portal has not been opened. Being aggrieved, the present petition is filed.

5. Learned Sr. counsel for the petitioners submits that impugned orders dated 22.08.2022 and 09.11.2022 are passed in complete violation of fundamental rights of the petitioners. Petitioners will loose one complete academic session in the beginning of their studies which may cause irreparable

loss to them. If respondents no.1 and 2 reopens the link for online admission, then it would not in any manner cause loss to the High Education Department.

6. Due to Covid-19 Pandemic, competitive examinations were held with delay resulting into delayed declaration of results and thereafter delayed admission procedure. Petitioners and other such students also kept on waiting for the results of aforementioned competitive examinations to get admission into best colleges. As a consequence, they could not get themselves enrolled on the *e-pravesh* portal.

7. Learned Sr. counsel emphasizing on the ground of legitimate expectation submits that due to Covid-19 Pandemic , cut-off dates for admission was extended uptill October for the sessions 2020-2021 and 2021-2022, due to which, petitioners had legitimate expectation that the Department of Higher Education shall extend the date of enrollment for the Academic Session 2022-223 so that the students like petitioners might get enrolled and appear in the upcoming examination. The purpose of enrollment is only to gather data regarding admissions in a particular academic session and no loss would be accrued to the State if the link would be reopened as is done in the Academic Sessions 2020-21 and 2021-22 during Covid-19 Pandemic.

8. It is further submitted that prior to issuance of impugned orders, respondent no.5/UGC taking cognizance about the delay recommended to extend the cut-off date upto October, 2022 for the Academic Session 2022-23, but respondent no.1 and 2 put a deaf ear upon it.

9. In the absence of enrollment, neither petitioners could be given admission in UG courses they have opted for, nor they could be able to appear in the upcoming first semester examination declared by respondent

no.4/University.

10. It is also submitted that Constitution of India under Article 41 enforces the duty over the welfare state to make effective provisions for securing Right to Education. Therefore, a welfare State should provide better opportunity of Education to its citizens and it is also the duty of welfare State to ensure that no students shall be deprived from education of their choice.

11. Further, learned Sr. counsel submits that on the one hand, respondent no.1. and 2 vide circular dated 09.11.2022 mentions that admission procedure for UG courses stood closed on 31.08.2022 and on the other hand permitted the respondent no. 7 & 8 i.e. Bhoj Open University and Indira Gandhi Open University to take admissions in UG courses even after cut off date i.e. 31.08.2022 which is contrary to the spirit of Article 14 of the Constitution of India. In the aforesaid backdrop of the matter and looking to the fact that petitioners would be at great loss in terms of their career, appropriate writ/order/directions may be issued for quashing the impugned order passed by respondent no.2 dated 22.08.2022 and impugned declaration/circular dated 09.11.2022. The petitioners be permitted to participate and appear in the examination for the Academic Session 2022-23.

12. On the other hand, learned Dy. Advocate General for respondents/State opposed the prayer and submitted that instant petition is not maintainable as it is apparent from the admission forms filled in by the petitioners that they have taken admission after 31.08.2022, the cut off date and now they are claiming re-opening of link for enrollment. It is pertinent to mention that all the admissions in UG and PG courses for the Academic Session 2022-23 are done as per the orders/directives issued by the Department of High Education.

13. As per the Clause 10.4 of the Guidelines/Admission Rules issued by the Higher Education Department dated 12.05.2022, those students who want to secure admission according to the result of CLAT, they can get their earlier enrollment cancelled which was taken through M.P. Online *e-pravesh* portal and the fee deposited will be refunded back to the candidates after deducting Rs. 100/- for cancellation.

14. It is submitted that Annexure P-5 which contains Rules of 2008, nowhere prescribes for taking admission directly with the College, more particularly in the absence of mandatory online registration through MP Online *epravesh.gov.in*. maintained by the Department of Higher Education. The applicability of Rules of Legal Education 2008 is for the purpose of students of legal education and recognition of degrees for the purpose of enrollment as an Advocate and induction of Universities in accordance with the preamble of the said Rule. However, it is silent on the process of admission which is to be prescribed by the Department of Higher Education, in furtherance of the existing norms. That being so, the alleged admission of petitioners is *per se* illegal, being contrary to the mandatory procedure prescribed in the Guidelines. The recognition of law courses in favour of respondent no.6/College shall not at all authorize it to grant admission even after closure of online registration process to the petitioners in defiance of the mandatory guidelines leaving the petitioners on cross-road with their future at stake.

15. So far as the ground of legitimate expectation raised by the Sr. counsel is concerned, learned counsel for the respondent no.1 & 2/State pressed into service the judgment of Apex Court passed in the case of **WG CDR A.U. Tayyaba (Retired) And Others Vs. Union of India and Others,**

FLT LT Renu Bahri (Retired) Vs. Union of India and Others and FLT LT Maneesh Kushwah Vs. Union of India reported in (2023) 5 SCC 688 to contend that a person is said to have a reasonable or legitimate expectation if a representation or a promise made by an authority either expressly or impliedly, gives room for such expectation in the normal course. While applying the doctrine of legitimate expectation, the primary considerations are reasonableness and fairness of the State action. He further relied upon the judgments of Apex Court passed in the case of **Union of India Vs. Lieutenant Colonel P.K. Choudhary And Others, Union of India And Another Vs. Lieutenant Colonel Ray Gautam Prasad(Retd) And Others, Union of India And Another Vs. Lieutenant Colonel Faran Siddiqui And Others** reported in (2016) 4 SCC 236 and also on the case of **Union of India And Others Vs. Hindustan Development Corporation, Bhilai Engineering Corporation And Others Vs. Union of India and Others , Anup Malleables Vs. Union of India and Others, Burn Standard Co. Vs. Union of India and Others , Texmaco Vs. Union of India and Others, Cimcco Vs. Union of India And Others, Titagarh Steels Vs. Union of India and Others** reported in (1993) 3 SCC 499 to contend that legitimate expectations cannot prevail over policy which does not suffer from any perversity, unfairness or unreasonableness or which does not violate any fundamental or other enforceable rights vested in the respondents.

16. Learned counsel further elaborating his arguments on the point of fixation of cut-off date has placed reliance on the judgment of **Rajasthan High Court passed in the case of Dr. Naveen Jakhar & Ors Vs. State of Rajasthan & Ors** and **Sumit Kumar Saini Vs. State of Rajasthan & Others** passed in **W.P. No. 687/2022 and 1486/2022** to contend that

fixation of cut-off date is not arbitrary. It may cause hardship to a candidate or a group of candidates, but that *per se* does not lead to the conclusion that fixation of date itself is arbitrary. Any cut-off date, which is fixed by the State Government, will always be affecting some of the candidates but at the same time, fixation of cut-off date, if has a degree of inherent randomness, causing hardship to certain group of candidates, the same cannot be raised as a ground to declare such a date as arbitrary.

17. Learned counsel also relied upon the order passed by this Court on 19.12.2022 in W.P. No. 29214/2022 and submitted that petitioners are similarly situated as were the petitioners in the above mentioned petition and, therefore, they cannot seek the relief as sought for in this petition.

18. A letter Annexure P-10 address to the Commissioner, Higher Education which is undated does not bestow any right to the respondent no.6/College to grant admission to the petitioners. Moreover, the names of petitioners does not find mention in the list of students who were enrolled with the respondent no.4/DAVV for admission for the Academic Session 2022-23.

19. The act of petitioners in taking admission even after cut-off date without getting themselves enrolled on the *epravesh* portal of Higher Education Department is illegal and arbitrary and respondent no.6/College is hand in glove with the petitioners in granting them provisional admission. Hence, the relief as sought for by the petitioners does not deserve to be entertained and, therefore, petition deserves to be dismissed with cost.

20. Learned counsel for the respondent no.3/UGC submits that petitioners are not entitled for any relief against respondent no.3/UGC in the matter. However, UGC has circulated copy of public notice dated

12.07.2022(Annexure R/3/1) requesting the Principals/Directors of all Colleges/Universities to fix the last date for taking admission for High Education Institutions after declaration of results of CBSE.

21. Learned counsel for the respondent no. 4/DAVV submits that grievance of the petitioners is with regard to admission in law courses as they have taken admission after the cut-off date without getting themselves enrolled on the *epravesh* portal of Higher Education Department. It is submitted the respondent no.4 is examining body and does not possess any authority so far as admission in the colleges it is the domain of Department of Higher Education i.e. respondent no.1 and 2.

22. Learned counsel for the respondent no.6/College submitted that respondent no.6 is a Private Law College established in the year 2003 affiliated to respondent no.4/DAVV, Indore and is recognized by Bar Council Of India. Petitioners took admission in the College without enrolling them on the *epravesh* portal as the same was closed on 31.08.2022 even before declaration of results of CUET, 2022 thereby creating a precarious situation for them. The guidelines issued for Admissions in the Academic Session 2022-23 are mere guidelines and does not possess any statutory force. Moreover, fixing a cut off date is not a policy decision.

23. It is further submitted that respondent no.1 and 2 vide the impugned notification dated 09.11.2022 notified that students who could not get themselves registered on the *epravesh* portal could take admission in Open Universities like respondent no.7 and 8. However, it is pertinent to mention here that Rules of 2008 of BCI restricted the Open Universities to carry out law courses. The interest and welfare of petitioners is of paramount importance for the respondent no.6/College therefore they were granted provisional admission

in the respondent no.6/College.

24. Learned counsel also contends that for the Academic Session 2020-21, the link was closed in the month of January, 2021 and for the academic year 2021-22, the link was closed in November, 2021. Hence, it is the legitimate expectation of the respondent no.6 as well as petitioners that for the Academic Session 2022-23, the link will remain open at least till December, 2022. Petitioners have completed all the formalities such as internal assessments, Pre-University Tests, assignments etc. Hence, in the interest and welfare of students, the link for online enrollment and admission may be re-opened so that petitioners may be able to appear in the upcoming examinations for the Academic Session 2022-23.

25. We have heard learned counsel for the parties and perused the record.

26. So far as the notice with regard to CLC dated 14.11.2022 issued by the DAVV is concerned, the same would not be applicable to the facts and circumstances of the present case in as much as the said CLC is to be conducted for admission in University Teaching Department and the same is not applicable to other Government colleges and private institutions. The State Government has floated certain rules and guidelines with regard to admission in these courses for the Academic Session 2022-23(Annexure P-7). These guidelines are applicable to all the Government and Non-Government institutions (grant-in-aid or without grant-in-aid) which is required to be followed strictly by the Principals of the colleges. Clause 5 of the said guidelines provides for admission and upgradation process. Clause 13 relates to admission in law courses. Clause 13B provides that the admissions in law

faculty shall be done through online registration only. The colleges would be required to upload the nature of courses offered by them, number of seats, details of fee etc on the portal. The colleges are required to verify the information before the prescribed date.

27. The State Government had issued a circular dated 22.08.2022 clearly stating that the cut-off date for online enrollment i.e. 31.08.2022 which has been issued in consonance with the Rules for admission for the Academic Session 2022-23.

28. Admittedly, the petitioners have been granted admission in the college after 31.08.2022 which is the cut-off date.

29. The question that crops up for consideration before this Court is

" Whether, the date for online registration could have been extended beyond 31.08.2022?"

30. The Policy decision is having immunity from the doctrine of legitimate expectation as has been explained by the Apex Court in the judgment rendered in the case of **Union of India Vs. Lieutenant Colonel P.K. Choudhary And Others(supra)**. Relevant extract of the said judgment are reproduced below for convenience and ready reference:

"54. To the same effect is the decision of this Court in [Union of India v. Hindustan Development Corporation and Ors.](#) (1993) 3 SCC 499, where this Court summed up the legal position as under:

"28..... For legal purposes, the expectation cannot be the same as anticipation. It is different from a wish, a desire or a hope nor can it amount to a claim or demand on the ground of a right. However earnest and sincere a wish, a desire or a hope may be and however confidently one may look to them to be fulfilled, they by themselves cannot amount to an assertable expectation and a mere disappointment does not attract legal consequences. A pious hope even leading to a moral obligation cannot amount to a legitimate expectation. The legitimacy of an expectation can be inferred only if it is founded on the sanction of law or custom or an established procedure followed in regular and natural sequence. Again it is distinguishable from a genuine expectation. Such expectation should

be justifiably legitimate and protectable. Every such legitimate expectation does not by itself fructify into a right and therefore it does not amount to a right in the conventional sense.”

33. On examination of some of these important decisions it is generally agreed that legitimate expectation gives the applicant sufficient locus standi for judicial review and that the doctrine of legitimate expectation is to be confined mostly to right of a fair hearing before a decision which results in negating a promise or withdrawing an undertaking is taken. The doctrine does not give scope to claim relief straightaway from the administrative authorities as no crystallised right as such is involved. The protection of such legitimate expectation does not require the fulfilment of the expectation where an overriding public interest requires otherwise. In other words where a person's legitimate expectation is not fulfilled by taking a particular decision then decision-maker should justify the denial of such expectation by showing some overriding public interest. Therefore even if substantive protection of such expectation is contemplated that does not grant an absolute right to a particular person. It simply ensures the circumstances in which that expectation may be denied or restricted. A case of legitimate expectation would arise when a body by representation or by past practice aroused expectation which it would be within its powers to fulfil. The protection is limited to that extent and a judicial review can be within those limits. But as discussed above a person who bases his claim on the doctrine of legitimate expectation, in the first instance, must satisfy that there is a foundation and thus has locus standi to make such a claim. In considering the same several factors which give rise to such legitimate expectation must be present. The decision taken by the authority must be found to be arbitrary, unreasonable and not taken in public interest. If it is a question of policy, even by way of change of old policy, the courts cannot interfere with a decision. In a given case whether there are such facts and circumstances giving rise to a legitimate expectation, it would primarily be a question of fact. If these tests are satisfied and if the court is satisfied that a case of legitimate expectation is made out then the next question would be whether failure to give an opportunity of hearing before the decision affecting such legitimate expectation is taken, has resulted in failure of justice and whether on that ground the decision should be quashed. If that be so then what should be the relief is again a matter which depends on several factors.” (emphasis supplied)

31. The Apex Court in the case of Union of India And Others Vs. Hindustan Development Corporation(supra) has explained the doctrine of legitimate expectation and held thus:

"35. Legitimate expectations may come in various forms and owe their existence to different kind of circumstances and it is not possible to give an exhaustive list in the context of vast and fast expansion of the governmental activities. They shift and change so fast that the start of our list would be obsolete before we reached the middle. By and large they arise in cases of promotions which are in normal course expected, though not guaranteed by way of a statutory right, in cases of contracts, distribution of largesse by the Government and in somewhat similar situations. For instance in cases of discretionary grant of licences, permits or the like, carries with it a reasonable expectation, though not a legal right to renewal or non-revocation, but to

summarily disappoint that expectation may be seen as unfair without the expectant person being heard. But there again the court has to see whether it was done as a policy or in the public interest either by way of G.O., rule or by way of a legislation. If that be so, a decision denying a legitimate expectation based on such grounds does not qualify for interference unless in a given case, the decision or action taken amounts to an abuse of power. Therefore the limitation is extremely confined and if the according of natural justice does not condition the exercise of the power, the concept of legitimate expectation can have no role to play and the court must not usurp the discretion of the public authority which is empowered to take the decisions under law and the court is expected to apply an objective standard which leaves to the deciding authority the full range of choice which the legislature is presumed to have intended. Even in a case where the decision is left entirely to the discretion of the deciding authority without any such legal bounds and if the decision is taken fairly and objectively, the court will not interfere on the ground of procedural fairness to a person whose interest based on legitimate expectation might be affected. For instance if an authority who has full discretion to grant a licence and if he prefers an existing licence holder to a new applicant, the decision can not be interfered with on the ground of legitimate expectation entertained by the new applicant applying the principles of natural justice. It can therefore be seen that legitimate expectation can at the most be one of the grounds which may give rise to judicial review but the granting of relief is very much limited. It would thus appear that there are stronger reasons as to why the legitimate expectation should not be substantively protected than the reasons as to why it should be protected. In other words such a legal obligation exists whenever the case supporting the same in terms of legal principles of different sorts, is stronger than the case against it. As observed in Attorney General for New South Wales' case "To strike down the exercise of administrative power solely on the ground of avoiding the disappointment of the legitimate expectations of an individual would be to set the courts adrift on a featureless sea of pragmatism. Moreover, the notion of a legitimate expectation (falling short of a legal right) is too nebulous to form a basis for invalidating the exercise of power when its exercise otherwise accords with law." If a denial of legitimate expectation in a given case amounts to denial of right guaranteed or is arbitrary, discriminatory unfair or based, gross abuse of power or violation of principles of natural justice, the same can be questioned on the well-known grounds attracting [Article 14](#) but a claim based on mere legitimate expectation without anything more cannot ipso facto give a right to invoke these principles. It can be one of the ground to consider but the court must lift the veil and see whether the decision is violative of these principles warranting interference. It depends very much on the facts and the recognised general principles of administrative law applicable to such facts and the concept of legitimate expectation which is the latest recruit to a long list of concepts fashioned by the courts for the review of administrative action, must be restricted to the general legal limitations applicable and binding the manner of the future exercise of administrative power in a particular case. It follows that the concept of legitimate expectation is "not the key which unlocks the treasury of natural justice and it ought not to unlock the gates which shuts the court out of review on the merits," particularly when the element of speculation and uncertainty is inherent in that very concept. As cautioned in Attorney General for New South Wales' case the courts should restrain themselves and restrict such claims duty to the legal limitations. It is a well-meant caution. Otherwise a resourceful litigant having vested interests in contracts, licences etc., can successfully indulge in getting welfare activities mandated by directive principles thwarted to further his own interests. The

caution, particularly in the changing scenario, becomes all the more important."

32. It is also well settled in law that the doctrine of legitimate expectation cannot be pressed into service until and unless there is abuse of power as held by the Apex Court in the case of **Rishabh Choudhary Vs. Union of India and Others & Sandeep Kumar and Another Vs. State of Chhattisgarh and Others** reported in **(2017) 3 SCC 652**. Relevant paragraphs of the said judgement are reproduced below:

"12. It is submitted and prayed by the petitioner that since he had already been granted admission by the College after the examination CGMAT- 2016 was conducted by the College and supervised and monitored by the State of Chhattisgarh and in which there were no allegations of impropriety, his admission should not be disturbed. It is submitted that the petitioner was certainly not at fault and there is no reason why he should be the victim of an apparent wrong committed by the College as also by the State of Chhattisgarh.

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 3rd April, 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 counseling was carried out insofar as the petitioner is concerned on 19th April, 2016 which is after the decision of this Court on 11th April, 2016 recalling the decision dated 18th July, 2013. There was absolutely no occasion for the College to have conducted the counseling after the recall order passed by this Court on 11th April, 2016. The effect of the recall order, as mentioned above, was that the notification issued by the Medical Council of India on 21st December, 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 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."

33. In the present case, admittedly, the petitioners have taken admission without registering on the *epravesh* portal of the Higher Education Department as has already been pointed out in the present case that Department of Higher Education, State of M.P. has come out with the policy for 2022-23 and, therefore, the doctrine of legitimate expectation cannot be pressed into service. The petitioners herein have not been able to prove that there is an abuse of power on the part of respondent no.1 and 2/State. As per the policy, it is mandatory on the part of the petitioners to get themselves registered on the *epravesh* portal. The respondent no.6/College has failed to adhere to the law due to which the petitioners became the victim of their *mal* administration and unfair practices adopted by them. This Court has sympathy with the petitioners, however, this Court cannot travel beyond the settled legal position and grant relief as sought for by the petitioners.

34. Admittedly, more than five lakh students in the State of M.P. have already registered themselves within the prescribed time limit. The petitioners also had the opportunity to get themselves registered on the *epravesh* portal and in case, if they have got admission in the premier institutions in the country, they can cancel their enrollment as per the Clause 10.4 of the Guidelines/Admission

Rules and they can get refund of the fee as well.

35. In the present case, the respondent no.6/College has given admission to petitioners after the cut-off date i.e. 31.08.2022. It cannot be lost sight of the fact that respondent no.6/College without following due procedure/rules of 2022-23 has gone forward to admit the students putting their future at stake. The said action of respondent no.6/College of giving admission to the petitioners in defiance of the due procedure/rules of 2022-23 cannot be countenanced. The petitioners have though become the victim of circumstances, but this Court cannot go contrary to the rules and law laid down by the Apex Court from time to time.

36. In view of the aforesaid discussion, in the considered opinion of this Court, respondent no.6/College is liable to pay cost of Rs.5,00,000/- (Rupees Five Lakhs only). The cost shall be deposited with the Principal Registrar of this Court. 50% of the said amount shall be utilized for upliftment of the dispensary situated in the High Court premises, Indore and the remaining 50% shall be utilized for upliftment of *Creche*, which will be made operational soon in the High Court premises, Indore. The said amount shall be deposited within a period of thirty days from the date of receipt of certified copy of this order.

37. However, in case the aforesaid cost is not deposited within the period stipulated above, coercive action shall be initiated against the respondent no. 6/College for recovering the cost, for which the Registry shall place this petition before this Court for further directions under the caption "Direction Matters".

38. The writ petition, accordingly, stands dismissed. Needless to say that the petitioners shall be at liberty to proceed against the respondent

no.6/College, in accordance with law, if so advised.

(S. A. DHARMADHIKARI)
JUDGE

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(HIRDESH)
JUDGE

