RAGHVENDRA JAT
Digitally signed by RAGHVENDRA JAT

2026:CGHC:21358

AFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

WPC No. 458 of 2026

1 - Raipur Institute Of Medical Sciences Through Authorized Signatory, Sh. Krishna Kumar Vadhwa, S/o Shri M.R. Vadhwa, Aged About 60 Years, R/o Rims Campus, Bhansoj Road, Nh-6, Village Godhi, Raipur (C.G.).

... Petitioner(s)

versus

1 - State Of Chhattisgarh Through Secretary, Family And Health Welfare Department, Mahanadi Bhawan, Mantralaya, Capital Complex, Atal Nagar, Nawa Raipur, District Raipur, Chhattisgarh.

2 - The Director Medical Education, Old Nurses Hostel, D.K.S. Bhawan Premises, Raipur (C.G.).

3 - Admission And Fee Regulatory Committee Constituted Under The Chhattisgarh Niji Vyavasayik Shikshan Sanstha (Pravesh Ka Viniyaman Avam Shulk Ka Nirdharan) Act, 2008, Through Its President, Admission And Fee Regulatory Committee, Womans Polytechnic Premises, Bairan Bazar, Raipur, District Raipur, Chhattisgarh.

... Respondent(s)

For Petitioner(s)	**:**	Mr. Jitendra Singh Bhasin, Advocate along with Mr. Nishant Shokeen, Advocate, Ms. Shalini Kashyap, Advocate and Ms. Rashmi Priya, Advocate.
For Respondent(s)/State	**:**	Mr. R.K. Gupta, Addl. A.G.

Hon’ble Mr. Justice Amitendra Kishore Prasad

Order on Board

07/05/2026

1. By way of this petition, the petitioner has prayed for following reliefs:-

“10.1 The Hon'ble Court may kindly be pleased to call for the entire relevant records concerning the Petitioner, from the Respondents for kind perusal:

10.2 The Hon'ble Court may kindly be pleased to issue a writ in the nature of certiorari or such other appropriate writ/order/direction quashing and setting aside the impugned order dated 23.09.2025 passed by the Respondent No.1-State (Annexure P/1),qua the Petitioner,

10.3 The Hon'ble Court may kindly be pleased to issue a writ in the nature of certiorari or such other appropriate writ/order/direction quashing and setting aside the impugned resolution dated 22.08.2024 passed by the Respondent No.3-Admission and Fee Regulatory

Committee (Annexure P/2), qua the Petitioner;

10.4 The Hon'ble Court may kindly be pleased to issue a writ in the nature of mandamus or such other appropriate writ/order/direction commanding the Respondent No.3 to accept the fees proposed by the Petitioner for the Academic Session 2024-25, 2025-26 & 2026-27;

10.5 The Hon'ble Court may kindly be pleased to pass any other order(s) that this Hon'ble Court may deem just and necessary in the interest of justice."

2. Brief facts of the case, that, the present writ petition has been filed by the petitioner–institution, namely Raipur Institute of Medical Sciences, which is a private unaided medical college being run and managed by Lord Buddha Education Society, a society duly registered in accordance with law. The petitioner–institution was established in the year 2012 and is affiliated with Pandit Deendayal Upadhyay Memorial Health Science and Ayush Private College. It is the case of the petitioner that requisite permissions have been granted by the Ministry of Health and Family Welfare, Government of India, for conducting MBBS as well as Post Graduate (MD/MS) medical courses. The petitioner–institution was initially permitted to commence MBBS courses from the year 2012 and, subsequently, on account of its infrastructural facilities, statutory compliances, and academic standards, it was also granted permission to conduct PG Medical Courses from the year 2021 with an intake capacity of 63 students in various clinical and

non-clinical disciplines. It is further pleaded that the petitioner–institution is a private unaided and self-financing institution receiving no grant from the Central Government, State Government or any local authority and, therefore, enjoys the protection available under Article 19(1)(g) of the Constitution of India subject to reasonable regulation. It is the further case of the petitioner that fee fixation in respect of professional courses is regulated by the Admission and Fee Regulatory Committee (AFRC) constituted under the provisions of the Chhattisgarh Niji Vyavasayik Shikshan Sanstha (Pravesh Ka Viniyaman Avam Shulk Ka Nirdharan) Adhiniyam, 2008. According to the petitioner, the committee is empowered only to regulate and determine whether the fees proposed by a private unaided institution are reasonable and free from profiteering or commercialization. Pursuant to notification dated 06.05.2022, a new committee was constituted for fixation of fees. The petitioner submitted that earlier also interim fee fixation undertaken by the AFRC had been challenged before this Court in WPC No. 5282 of 2022 wherein this Court, by order dated 06.12.2022, had observed that the interim fees fixed by AFRC were extremely low and permitted the petitioner to charge interim fees of Rs. 25 lakh for clinical courses and Rs.6 lakh for non-clinical courses. Thereafter, the petitioner again challenged the fee fixation exercise undertaken for academic sessions 2021-22, 2022-23 and 2023-24 in WPC No.3415 of 2023 and WPC No.3488 of 2023. This Court, vide judgment dated 24.08.2023, quashed the fee fixation orders on the ground that no opportunity of hearing had been afforded to the petitioner as mandated under Section 9(2) of the Act of 2008 and liberty was granted to the authorities to undertake the exercise afresh strictly in accordance with law. Similar orders were also passed by this Court in WPC No.3782 of 2023. Subsequently, the AFRC vide communication dated 16.02.2024 and email dated 18.03.2024 directed the petitioner to submit relevant documents, audit reports, processing fees, and proposed fee structure for fixation of fees in respect of PG Medical Courses for the academic sessions 2024-25, 2025-26 and 2026-27. The petitioner accordingly submitted all requisite documents along with its proposed fee structure and financial details. Inspection of the petitioner–institution was thereafter carried out on 16.04.2024. It is the case of the petitioner that detailed financial data, expenditure details, audit reports, liabilities, infrastructural requirements, faculty expenditure, stipend enhancement orders, and requirement of reasonable surplus were all placed before the authorities. However, the AFRC thereafter passed the impugned Resolution dated 22.08.2024 fixing the fees for PG Medical Courses (Clinical) at Rs.9,84,500/- per annum and for Pre-Clinical/Para-Clinical Courses at Rs.7,92,600/- per annum for the academic sessions 2024-25, 2025-26 and 2026-27. Consequentially, the State Government issued order dated 23.09.2025 giving effect to the said resolution. Aggrieved by the said fixation of fees, the petitioner has approached this Court primarily on the ground that the impugned action has been undertaken without granting effective opportunity of hearing as mandated under Section 9(2) of the Act of 2008 and in violation of the principles of natural justice.

3. Learned counsel for the petitioner submits that the entire exercise undertaken by the respondent authorities in fixing the fees for PG Medical Courses is wholly arbitrary, contrary to the statutory mandate contained under Section 9 of the Act of 2008, and in complete violation of the principles of natural justice. It has been argued that Section 9(1) of the Act specifically obligates the Committee to consider various relevant factors such as infrastructure, expenditure on administration and maintenance, staff salary, equipment, location of the institution, requirement of reasonable surplus for growth and development, and other allied considerations before fixation of fees. It has further been contended that Section 9(2) specifically mandates that an effective opportunity of hearing must be granted to the institution before fixation of fees, which requirement is mandatory in nature. Learned counsel submits that despite categorical directions issued by this Court in earlier rounds of litigation, particularly in WPC No.3415 of 2023 and WPC No.3488 of 2023 decided on 24.08.2023, wherein the earlier fee fixation exercise had been quashed on identical grounds, the respondents have once again repeated the same illegality and failed to provide any meaningful

hearing prior to fixation of fees. It has been submitted that though the petitioner had supplied detailed financial records, audit reports, expenditure statements, proposed fee structure, details of enhanced stipend liabilities, infrastructure costs, loan liabilities, and comparative fee structures prevailing in the States of Madhya Pradesh and Maharashtra, none of these relevant considerations find place in the impugned resolution, thereby demonstrating total non-application of mind. Learned counsel further argued that the impugned resolution and consequential State order are completely non-speaking in nature and do not record any finding whatsoever that the fee proposed by the petitioner amounted to profiteering or commercialization of education. It has additionally been contended that the petitioner–institution has suffered enormous financial losses running into several crores and its financial condition has substantially deteriorated due to arbitrary fee fixation, as reflected from the Chartered Accountant certificates and CRISIL credit rating placed on record. Learned counsel also submitted that despite specific directions issued by this Court on 16.02.2026 directing the State to produce material demonstrating compliance of Section 9(2) of the Act of 2008, no such material has been placed before this Court till date. On the aforesaid grounds, it has been prayed that the impugned resolution dated 22.08.2024 and consequential Government Order dated 23.09.2025 deserve to be quashed and the matter deserves to be remanded back for fresh consideration strictly in accordance with law. He has placed reliance upon the judgment passed by the Hon'ble Supreme Court in the matters of ***Glocal Medical College and Super Specialty Hospital and Research Center vs. Union of India, (2017) 15 SCC 690, T.M.A Pai Foundation vs. State of Karnataka, (2002) 8 SCC 481, Islamic Academy of Education vs. State of Karnataka (2003) 6 SCC 697, P.A. Inamdar vs. State of Maharashtra, (2005) 6 SCC 537, Margdarshan Sansthan Shiksha Mahavidyalaya vs. State of Chhattisgarh passed in WPC No. 3674/2011, Harihar Prasad Parate vs. State of Chhattisgarh & others passed in WPS No. 3341/2015 and Kranti Associates Pvt Ltd. vs. Masood Ahmed Khan (2010) 9 SCC 496.***

4. Per contra, learned State counsel opposes the writ petition and supported the impugned resolution as well as the consequential Government order. Learned State counsel submitted that the petitioner–institution was granted adequate opportunity during the process of fee fixation and, therefore, the allegation regarding violation of principles of natural justice is wholly misconceived. It has been argued that the respondent No.3–Committee had conducted inspection of the petitioner–institution on 16.04.2024 and the representative of the petitioner–institution, namely Dr. Gambhir Singh, was present during the proceedings and was afforded sufficient opportunity to place all relevant materials before the Committee. Learned State counsel further submitted that paragraph 12 of the impugned resolution itself records that

opportunity of hearing had been granted to the representative of the petitioner–institution and that the petitioner had also proposed its fee structure during the proceedings. According to the respondents, despite repeated opportunities, the petitioner failed to furnish complete supporting documents justifying the proposed fee structure and, therefore, the Committee proceeded to determine the fee on the basis of available material. It has further been submitted that the judgments relied upon by the petitioner, particularly the judgment dated 07.09.2023 passed in WPC No.3782 of 2023, are distinguishable on facts inasmuch as in the earlier cases there was total absence of opportunity of hearing, whereas in the present case the petitioner had participated in the proceedings and was heard by the Committee. Learned State counsel contended that the Committee has acted strictly within its statutory powers under the Act of 2008 and has fixed fees after due consideration of relevant factors. It has also been argued that the writ petition is devoid of merit and no interference is warranted by this Court in exercise of its writ jurisdiction.

5. Having heard learned counsel for the parties and perused the material available on record.

6. In order to appreciate and adjudicate the controversy involved in the present case in its proper perspective, it is necessary to consider the relevant provisions of the Chhattisgarh Niji Vyavsayik Shikshan Sanstha (Pravesh Ka Viniyaman Avam Shulk Ka Nirdharan) Act, 2008. Accordingly, the relevant

provisions/chapters of the said Act are reproduced hereinbelow for ready reference and proper appreciation of the issue involved in the matter:-

CHAPTER- I

Preliminary

3. In this Act, unless the context otherwise requires-

(c) “committee means the Admission and Fee Regulatory Committee constituted under section 4;

(e) “fee” means all fee including tuition fee and development charges;

(n) “professional educational institution" means a college or a school or an inst-tute by whatever name called, imparting professional education, affiliated to a State University, including a private university established or incorporated by an Act of the State Legislature or constituent unit of a deemed to he university under section 3 of the University Grants Commission Act, 1956 (3 of 1956) and approved or recognized by the competent statutory body regulating professional education;”

CHAPTER- II

Admission and Fee Regulatory Committee

4 (1) The State Government shall, by notification in the official Gazette, constitute a Committee to be called the Admission an Fee Regulatory Committee, for the supervision and guidance of the admission process and for *the fixation of fee to be charged from candidates seeking admission in a private professional educational institution.*

Provided that Notwithstanding anything contained in any act the lees once fixed shall be revisable every year or in a gap of three years as may be necessary, by the Fee Regulating Committee.

(2) The Committee shall be presided by a Chairperson who has been a Vice-Chancellor of a Central University or a State University or an institution deemed to be University or a judicial officer not below the rank of Supertime scale or senior administrative officer not below the rank of Principal Secretary to the State Government or Joint Secretary to the Government of India and shall include four other members having expertise in matters of finance, administration or law, technical education and medical education.

(Financial expenses will be met separately by the departments of technical education/medical education. Budget to meet out the expenses incurred in functioning of the committee will be allocated by the State Government separately every year.)

(8) The Committee may require a private aided or unaided professional educational institution or, a deemed University to furnish, by a prescribed date information as may be necessary for enabling the Committee to determine the fee

that may be charged by the institution in respect of each professional course, and the fee so determined shall be valid for such period as notified hy the State Government.

(11) The Committee shall have the power to regulate its own procedure in all matters arising out of the discharged of its functions and shall for the purposes of making any enquiry under this Act have all the powers of a civil court under the Code of Civil Procedure, 1908 (5 of 1908) while trying a suit in respect of the following matters, namely:

(a) summoning and enforcing the attendance of any witness and examining him on oath:

(b) requiring the discovery and production of any document;

(c) receiving evidence on affidavits;

(d) issuing commissions for the examinations if witnesses.

CHAPTER- IV

Fixation of Fee

9. (1) Having regard to-

(i) the location of the private unaided professional educational institution:

(ii) the nature of the professional course;

(iii) the cost of land and building:

(iv) the available infrastructure, teaching, non teaching staff and equipments:

(v) the expenditure on administration and maintenance:

(vi) a reasonable surplus required for growth and development of the professional institution.

(vii) any other relevant factor.

the Committee shall determine, in the manner prescribed, the fee to be charged by a private unaided professional educational institution.

(2)The Committee shall give the institution an opportunity of being heard before fixing any fee:

Provided that no such foe, as may be fixed by the Committee, shall amount to profiteering or commercialization of education.

7. The Hon'ble Supreme Court in the matter of ***Najiya Neermunda & Another vs. Kunhitharuvai Memorial Charitable Trust and others, reported in (2021) 5 SCC 515,*** the Hon'ble Supreme Court has observed as under:-

"19. The other issue that requires to be considered relates to the restrictions placed by the High Court in the matter of fixation of fee by the Committee. We find force in the submission of Mr Jaideep Gupta, learned Senior Counsel appearing on behalf of the State, that no fetter can be placed on the exercise of power for fee fixation by the Committee, which shall be in accordance with the factors that are mentioned in Section 11 of the 2017 Act. The High Court committed an error in directing the Committee to take into account only audited balance sheets, and

provisional profit and loss accounts in the absence of audited balance sheets, to fix the fee. Though we are in agreement with the submission made on behalf of the managements that the fee as proposed by them should be considered by the Committee, it is no more res integra that the right conferred on the institutions to fix fee for professional courses is subject to regulation. It need not be reiterated that unaided professional institutions have the autonomy to decide on the fee to be charged, subject to the fee not resulting in profiteering or collection of capitation fee. Regulation of fee is within the domain of the Committee which shall ensure that the fee is non-exploitative and reasonable. There is no need to repeat the judgments of this Court, especially P.A. Inamdar [P.A. Inamdar v. State of Maharashtra, (2005) 6 SCC 537 : 2 SCEC 745] , which have been copiously referred to by the High Court in the 3 rounds of litigation to indicate the principles to be followed for fixation of fee in private medical colleges.

20. Suffice it to mention that the Committee shall reconsider the proposals of the managements for fee fixation 2017-18 onwards by taking into account the factors mentioned in Section 11 of the 2017 Act and the law laid down by this Court in Modern Dental College & Research Centre [Modern Dental College & Research

Centre v. State of M.P., (2016) 7 SCC 353 : 7 SCEC 1] . The delay that is caused in finalising the fee in medical colleges is beneficial neither to the institutions nor the students. Therefore, we direct the Committee to expeditiously reconsider the proposals of the private self-financing colleges for fee fixation from 2017-18 onwards. Needless to mention that fee for earlier years also needs to be finalised in case it has not been done in respect of any college. It can direct the managements to furnish any information that is required for the purpose of arriving at a decision that the fee proposed by the managements is neither excessive nor exploitative in nature. A reasonable opportunity should be given to the managements of private self-financing colleges in respect of their proposals for fee fixation. The entire exercise shall be completed within a period of three months from today."

8. The Hon'ble Supreme Court in the matter of ***Icon Education Society vs. State of Madhya Pradesh, 2023 SCC Online SC 289,*** the Hon'ble Supreme Court has observed as under:-

"12. Thereafter, in the seven-Judge Bench decision of this Court in P.A. Inamdar v. State of Maharashtra [P.A. Inamdar v. State of Maharashtra, (2005) 6 SCC 537 : 2 SCEC 745] , this Court unanimously held that, as per the law declared in T.M.A. Pai Foundation [T.M.A. Pai Foundation v. State of Karnataka, (2002) 8 SCC 481 : 2

SCEC 1] , setting up a reasonable fees structure is also a component of the right to establish and administer an institution, within the meaning of Article 30(1) of the Constitution, and every institution is free to devise its own fees structure subject to the limitation that there can be no profiteering and no capitation fees can be charged directly or indirectly or in any form. It was further held that it is permissible to regulate admission and fees structure for achieving that purpose. The question whether guidelines could have been issued in the matter of regulating the fees payable by students to educational institutions was, therefore, answered in the affirmative by holding that every institution is free to devise its own fees structure but the same can be regulated in the interest of preventing profiteering and capitation fees.

16. Accepting the said interpretation, this Court in Modern Dental College & Research Centre [Modern Dental College & Research Centre v. State of M.P., (2016) 7 SCC 353 : 7 SCEC 1] observed that the AFRC which is set up for that purpose is discharging only a regulatory function, as the fees which a particular educational institution seeks to charge from its students has to be suggested by the said educational institution itself and the AFRC is empowered to satisfy itself that the fees proposed by the educational institution did not amount to *profiteering or commercialisation of education and was based on the intelligible factors mentioned in Section 9(1) of the 2007 Act. This Court, therefore, concluded that it was only a regulatory measure and did not take away the power of the educational institutions to fix their own fees.*

17. The supplementing opinion of R. Banumathi, J., noted that, though Section 9 of the 2007 Act empowered the AFRC to determine the fees, the High Court had read down Sections 4(1), 4(8) and 9 of the 2007 Act, by holding that those provisions "in substance empower the Committee to be only satisfied that the fees proposed by a private professional educational institution did not amount to profiteering or commercialisation of education and was based on the factors mentioned in Section 9(1) of the 2007 Act". The learned Judge accordingly held that the State had the legislative competence to enact the 2007 Act and regulation of fixation of the fees was to protect the right of the students in having access to higher education without being subjected to exploitation in the form of profiteering. The learned Judge concurred with the majority view in upholding the validity of the impugned legislation and affirmed the decision [Modern Dental College & Research Centre v. State of M.P., (2016) 7 SCC 353 : 7 SCEC 1] of the High Court.

19. Therefore, as matters stand, the 2007 Act has been *interpreted to mean that the AFRC, constituted thereunder, exercises only the power of "regulation" in respect of the fees proposed by the institution, conditioned by the parameters in Section 9(1) of the 2007 Act. In effect, the liberty given to unaided institutions to propose the fees that they wish to charge, keeping in mind the factors set out in Section 9(1) of the 2007 Act, stands protected and it is only by way of regulating the fees so proposed that the AFRC would exercise the power of reviewing the proposed fees, after giving due opportunity of hearing to the educational institution concerned. The contrary stand taken by the AFRC, as is evident from its communications to the appellant society, therefore cannot be countenanced. It is not open to the AFRC to seek to unilaterally fix the fees to be charged by the appellant society for the professional courses offered through its educational institutions.*

20. At the same time, it is not open to the appellant society to claim complete immunity in undertaking this exercise and seek exemption from any interference by the AFRC. The appellant society must necessarily submit the fees proposed by it in respect of the professional courses offered through its institutions to the AFRC for the purpose of review and regulation, as per the provisions of Section 9 of the 2007 Act and the principles laid down by *this Court in the decisions referred to hereinabove. Making this position clear, the appeal is disposed of accordingly.”*

9. The Hon’ble Supreme Court in the matter of ***Glocal Medical College and Super Speciality Hospital and Research Centre vs. Union of India, (2017) 15 SCC 690,*** the Hon’ble Supreme Court has observed as under:-

“21. A bare perusal of the letter dated 31-5-2017 would demonstrate in clear terms that the same is dehors any reason in support thereof. It mentions only about the grant of conditional permission on the basis of the approval of the Oversight Committee, and an opportunity of hearing vis-à-vis the recommendations of MCI in its letter dated 15-1-2017 highlighting the deficiencies detected in course of the inspection undertaken on 21-12-2016 and 22-12-2016, but is conspicuously silent with regard to the outcome of the proceedings of the Hearing Committee, the recommendations recorded therein both of the Committee and the DGHS and more importantly those of the Oversight Committee conveyed by its communication dated 14-5-2017, all earlier in point of time to the decision taken. This assumes importance in view of the unequivocal mandate contained in the proviso to Section 10-A(4) of the Act, dealing with the issue, amongst others of establishment of a medical college. The relevant

excerpt of sub-section (4) of Section 10-A of the Act for ready reference is set out hereinbelow: "10-A. (4) The Central Government may, after considering the scheme and the recommendations of the Council under sub-section (3) and after obtaining, where necessary, such other particulars as may be considered necessary by it from the person or college concerned, and having regard to the factors referred to in sub-section (7), either approve (with such conditions, if any, as it may consider necessary) or disapprove the scheme and any such approval shall be a permission under sub-section (1): Provided that no scheme shall be disapproved by the Central Government except after giving the person or college concerned a reasonable opportunity of being heard:" (emphasis supplied)

22. Though as the records testify, a hearing was provided to the petitioner Colleges/Institutions through the Hearing Committee constituted by the DGHS (as mentioned in the proceedings dated 23-3-2017) qua the recommendations of MCI contained in its letter dated 15-1-2017, as noted hereinabove, the proceedings of the Hearing Committee do reflect varying views of the Hearing Committee and the DGHS, the latter recommending various aspects bearing on deficiency to be laid before the OC for an appropriate decision. The Central Government did forward, albeit a *pruned version of the proceedings of the Hearing Committee to the Oversight Committee after a time lag of almost six weeks. The reason therefor is however not forthcoming. The Oversight Committee, to reiterate, though on a consideration of all the relevant facts as well as the views of MCI and the proceedings of the Hearing Committee as laid before it, did cast aside the deficiencies minuted by MCI and recommended confirmation of the letters of permission of the petitioner Colleges/Institutions, the impugned decision has been taken by the Central Government which on the face of it does not contain any reference whatsoever of all these developments.*

23. As a reasonable opportunity of hearing contained in the proviso to Section 10-A(4) is an indispensable precondition for disapproval by the Central Government of any scheme for establishment of a medical college, we are of the convinced opinion that having regard to the progression of events and the divergent/irreconcilable views/recommendations of MCI, the Hearing Committee, the DGHS and the Oversight Committee, the impugned order, if sustained in the singular facts and circumstances, would be in disaccord with the letter and spirit of the prescription of reasonable opportunity of hearing to the petitioner institutions/colleges, as enjoined under Section 10-A(4) of the Act. This is more so in the face of the *detrimental consequences with which they would be visited. It cannot be gainsaid that the reasonable opportunity of hearing, as obligated by Section 10-A(4) inheres fairness in action to meet the legislative edict. With the existing arrangement in place, MCI, the Central Government and for that matter, the Hearing Committee, DGHS, as in the present case, the Oversight Committee and the colleges/institutions concerned are integral constituents of the hearing mechanism so much so that severance of any one or more of these, by any measure, would render the process undertaken to be mutilative of the letter and spirit of the mandate of Section 10-A(4).*

24. Having regard to the fact that the Oversight Committee has been constituted [Modern Dental College and Research Centre v. State of M.P., (2016) 7 SCC 353 : 7 SCEC 1] by this Court and is also empowered to oversee all statutory functions under the Act, and further all policy decisions of MCI would require its approval, its recommendations, to state the least, on the issue of establishment of a medical college, as in this case, can by no means be disregarded or left out of consideration. Noticeably, this Court did also empower the Oversight Committee to issue appropriate remedial directions. In our view, in the overall perspective, the materials on record bearing on the claim of the petitioner institutions/colleges *for confirmation of the conditional letters of permission granted to them require a fresh consideration to obviate the possibility of any injustice in the process.”*

10. The High Court of Chhattisgarh in the matter of ***Raipur Institute of Medical Sciences vs. State of Chhattisgarh & others passed in WPC No. 3415/2023 and WPC No. 3488/2023*** the the High Court of Chhattisgarh has observed as under:-

“10. To appreciate the submission of learned counsel for respective parties, I find it appropriate to extract the relevant provisions of Section 9 of the Act of 2008.

“9. Factors. - (1) Having regard to,-

(i) the location of the private unaided professional educational institution; 7

(ii) the nature of the professional course;

(iii) the cost of land and building;

(iv) the available infrastructure, teaching, non-teaching staff and equipments;

(v) the expenditure on administration and maintenance;

(vi) a reasonable surplus required for growth and development of the professional institution;

(vii) any other relevant factor, the Committee shall determine, in the manner prescribed, the fee to be charged by a private unaided professional educational institution,

(2) The Committee shall give the institution an opportunity of being heard before fixing any fee : Provided that no such fee,

as may be fixed by the Committee, shall amount to profiteering or commercialization of education.”

11. Submission of learned counsel for petitioners are that they were not served with any notice giving opportunity of being heard before fixing the fees. Contention of learned State counsel is that they have served notice to petitioners’ institutions on 06.01.2023 by hard copy and also by whatssap message. Copy of the notices are placed on record as Annexure R-1 and R-2. The notice Annexure R-2 is dated 09.12.2022 asking the noticee to provide the necessary information as mentioned in the list to respondent No.3 so that fees for the course of MD/MS/PG and MBBS can be revised. The another letter/notice dated 06.01.2023 is given for inspection of colleges for fixing of revised 8 fees. In the subsequent notice dated 06.01.2023 it does not mention that the fee is determined and notice is for finalization of the fee.

12. Section 9 of the Act, 2008 is in two part. Section 9 (1) provides for determining the fees the manner prescribed considering several factors as mentioned in Section 9 (1) for determining the fees. Section 9 (2) of the Act of 2008 talks of Committee shall provide opportunity of hearing to the institutions before fixing any fees. From the language used under Section 9 (1) and (2), it is appearing in first stage, respondent No.3 Committee constituted under the provisions *of the Act of 2008 has to first determine the fees keeping in mind the factors mentioned therein or any relevant factors and after determination of the fees, opportunity of hearing is to be provided to the institutions before fixing of fee.*

13. Admittedly in the first notice/letter, the Committee has asked for relevant material and second notice/letter they have fixed the date for inspection of the colleges, which in compliance of provisions under Section 9 (1) of the Act of 2008. Respondent No.3 has not issued any notice/letter providing opportunity of hearing to petitioner after determination of fees and before fixing of the fee, which is mandate under Sub-section 2 of Section 9 of the Act of 2008.

14. The Hon'ble Supreme Court in case of Najiya Neermunda & Ors. (supra) has observed in para -19 and 20 which is as under :-

"19. …………..Though we are in agreement with the submission made on behalf of the managements that the fee as proposed by them should be considered by the Committee, it is no more res integra that the right conferred on the institutions to fix fee for professional courses is subject to regulation. It need not be reiterated that unaided professional institutions have the autonomy to decide on the fee to be charged, subject to the fee not resulting in profiteering or collection of capitation fee. Regulation of fee

is within the domain of the Committee which shall ensure that the fee is non-exploitative and reasonable. There is no need to repeat the judgments of this Court, especially P.A. Inamdar & Ors. (supra), which have been copiously referred to by the High Court in the 3 rounds of litigation to indicate the principles to be followed for fixation of fee in private medical colleges.

20. Suffice it to mention that the Committee shall reconsider the proposals of the managements for fee fixation 2017-18 onwards by taking into account the factors mentioned in Section 11 of the 2017 Act and the law laid down by this Court in Modern Dental College & Research Centre (supra). The delay that is caused in finalizing the fee in medical colleges is beneficial neither to the institutions nor the students. Therefore, we direct the Committee to expeditiously reconsider the proposals of the private self- financing colleges for fee fixation from 2017-18 onwards……...".

15. Reverting back to the facts of the present case and as discussed above, that respondents have not provided any opportunity of hearing to petitioner institution after determination and before fixing of the fee in terms of Section 9 (2) of the Act of 2008, and, 10 therefore, there is violation of principles of natural justice in fixation of fee and it is also in violation of Section 9 (2) of the Act of 2008.

16. For the forgoing discussions made hereinabove, the writ petitions are allowed. The letter dated 13.01.2023 of respondent No.3 and the order dated 03.03.2023 issued by the State Government, Medical Education Department, are hereby quashed. The respondents are at liberty to re-do the exercise for fixation of the fee considering all the relevant material as provided under Section 9(1) and after providing an opportunity of hearing to petitioners institutes in terms of Section 9 (2) of the Act of 2008. Keeping in mind the time period elapsed from the date of fixing of the fees, respondent No.3 shall conclude the proceedings for fixation of fees in terms of Section 9 (1) and (2) of the Act of 2008 within a period of three weeks and thereafter the respondent- State shall pass orders on the same within further period of two weeks."

11. Having heard learned counsel for the parties and upon perusal of the material available on record, this Court finds that the principal issue involved in the present matter relates to compliance of the mandatory requirement contained under Section 9(2) of the Act of 2008, which obligates the Committee to provide an opportunity of hearing to the institution before fixation of fees. This Court further finds that in earlier rounds of litigation involving the very same petitioner–institution, this Court vide judgment dated 24.08.2023 passed in WPC No.3415 of 2023 and WPC No.3488 of 2023 had specifically held that

absence of opportunity of hearing before fixation of fees amounts to violation of Section 9(2) of the Act of 2008 as well as breach of principles of natural justice. Despite such categorical findings and directions issued by this Court, the respondents have failed to place any substantial material demonstrating effective compliance of Section 9(2) of the Act. Merely recording in the resolution that the representative of the petitioner was present during inspection proceedings cannot be treated as due compliance of the mandatory statutory requirement of meaningful opportunity of hearing before final fixation of fees. The impugned resolution further does not disclose proper consideration of the statutory factors enumerated under Section 9(1) of the Act of 2008, including infrastructure expenditure, administrative costs, financial liabilities, requirement of reasonable surplus, and financial data submitted by the petitioner. The impugned orders also do not record any finding that the fee proposed by the petitioner amounted to profiteering or commercialization of education. Consequently, this Court is of the considered opinion that the impugned exercise suffers from non-application of mind and violation of mandatory statutory procedure of an opportunity of hearing as envisaged under Section 9 (2) of the Act of 2008.

12. Considering the submissions made by learned counsel for the petitioner that before fixing the fees the petitioner–institution has not been afforded proper and effective opportunity of hearing,

which is mandatory in nature under Chapter 4 Section 9(2) of the Act of 2008, this Court is of the considered view that the impugned action cannot be sustained in the eyes of law.

13. Accordingly, while quashing order dated 23.9.2025 the matter is **remitted back** to the concerned respondent authorities to reconsider the issue afresh strictly in accordance with law while granting due and effective opportunity of hearing to the petitioner–institution before fixation of any fees in respect of the PG Courses for the academic years 2024-25, 2025-26 and 2026-27. Consequently, the impugned Resolution dated 22.08.2024 passed by the Admission and Fee Regulatory Committee and the consequential Order dated 23.09.2025 issued by the State Government are hereby quashed.

14. Accordingly, the writ petition is hereby **allowed** as indicated above.

Sd/-

(Amitendra Kishore Prasad)
Judge

Raghu Jat

Head Note

Non-compliance of mandatory requirement under Section 9(2) of the Act of 2008 — mere presence of petitioner's representative during inspection not sufficient compliance of opportunity of hearing — failure to consider statutory factors under Section 9(1) and absence of finding regarding profiteering/commercialization of education — impugned resolution and orders held to suffer from non-application of mind and violation of mandatory statutory procedure, such order should be quashed.