

ITEM NO.104

COURT NO.3

SECTION IV

S U P R E M E C O U R T O F I N D I A  
RECORD OF PROCEEDINGS  
CIVIL APPEAL NO(s). 3729 OF 2011

R.D.GARDI MEDICAL COLLEGE

Appellant (s)

VERSUS

AROHI RATHORE & ORS.

Respondent(s)

Date: 15/09/2011 This Appeal was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE R.V. RAVEENDRAN  
HON'BLE MR. JUSTICE A.K. PATNAIK  
HON'BLE MRS. JUSTICE RANJANA PRAKASH DESAI

For Appellant(s) Ms. Bina Madhavan,Adv.  
M/S. Lawyer'S Knit & Co,Adv.

For Respondent(s) Mr. Fakhruddin,Sr.Adv.  
Mr. Raj Kishor Choudhary,Adv.  
Mr. Bharat Bhushan,Adv.  
Mr. Sanjay K. Agrawal,Adv.  
  
Mr. Vikas Upadhyay,Adv.  
Mr. B.S. Banthia ,Adv.

UPON hearing counsel the Court made the following  
O R D E R

The appeal is dismissed in terms of the signed order. However, the cost of Rs.10,000/- (Rupees ten thousand) levied on the appellant-College by the High Court, is deleted.

(O.P. Sharma)  
CA NO.3729/2011

( M.S. Negi )

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Court Master Court Master  
(Signed order is placed on the file)  
CA NO.3729/2011

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IN THE SUPREME COURT OF INDIA  
CIVIL APPELLATE JURISDICTION  
CIVIL APPEAL NO.3729 OF 2011

R.D.GARDI MEDICAL COLLEGE

Appellant (s)

VERSUS

## O R D E R

The first respondent was allotted to the appellant College vide allotment letter dated 29.8.2008 issued by the Association of Private Unaided Private Medical Colleges of M.P. (APDMC). The first respondent accordingly joined the MBBS course for the academic year 2008-09. Abruptly a notice dated 30.9.2008 was issued by the Appellant College to the first respondent stating that her provisional admission was cancelled due to failure to turn up with required documents instead of repeated reminders on or before the last date of admission namely, 30.9.2008. The said cancellation of admission was challenged by the first respondent in a writ petition seeking a direction to the appellant College to permit her to continue with her study as a regular student of MBBS Course. A Division Bench of the High Court by interim CA NO.3729/2011

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order dated 17.11.2008, permitted her to continue her studies. Ultimately by the impugned judgment dated 13.3.2009, the High court has allowed writ petition with costs of Rs.10,000/- . The Division Bench held that the action of the College in restraining the first respondent from attending classes was unlawful and that the notice dated 30.9.2008 was invalid. The said order is challenged in this appeal by special leave.

2. According to the appellant, the first respondent failed to furnish the bank guarantee for the fee payable in the future years as also the caste verification certificate showing that she did not belong to the creamy lawyer of OBC. The High Court has exhaustively considered

the matter. It has found that after the allotment and admission, no written notice was served on the first respondent directing her to produce documents. In fact, it is significant to note that notice of cancellation refers to repeated reminders to the candidate to produce the documents but none of the reminder have been produced. The first respondent has categorically stated that she was not called upon to produce any documents.

3. In so far as OBC certificate is concerned, the court has found that a certificate was in fact produced showing that the first respondent did not fall in the  
CA NO.3729/2011

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creamy layer of OBC category. So far as the bank guarantee was concerned, the High Court found that it was not mandatory and unless the college called upon the student to furnish the same, there was no need for the student to furnish it. The facts have been exhaustively considered and High Court has recorded a finding that there was no fault on the part of the first respondent. We do not find any reason to interfere with the impugned order of the High Court.

4. Learned counsel for the appellant submitted that in view of the cancellation of admission of first respondent, some other OBC student was admitted to the College and therefore the direction would result one extra admission beyond the intake capacity being made and that will create problems. If that is so, it is a matter to be taken up with the Medical Council of India for getting permission for one extra intake by offering to sacrifice one seat during any subsequent year.

5. We, therefore, dismiss the appeal. However, the cost of Rs.10,000/- (Rupees ten thousand) levied on the appellant-College by the High Court, is deleted.

CA NO.3729/2011

.....J.  
[ R.V. RAVEENDRAN ]

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.....J.  
[ A.K. PATNAIK ]

.....J.  
[RANJANA PRAKASH DESAI]

NEW DELHI  
SEPTEMBER 15, 2011