

**DECISION OF HON'BLE JUSTICE R.J. SHAH (RETD.) FEE & ADMISSION  
COMMITTEE PURSUANT TO HON'BLE SUPREME COURT'S  
ORDER DATED 3/7/2006**

The Hon'ble Supreme Court of India in Civil Appeal No. 2763/2006 with Civil Appeal Nos. 2764, 2765 & 2766 of 2006, in the matter of Charutar Arogya Mandal & Others V/s. Justice R.J. Shah Fee Committee, vide its order dated 3/7/2006 had directed that the matters relating to the fee fixation in the above mentioned Medical & Physiotherapy colleges would be reconsidered by the Committee and appropriate directions be issued. Copy of the order is quoted below:

"Leave granted.

These matters relate to fee fixation in the medical and physiotherapy colleges. The question of fixation of fee now stands settled by judgment of this Court in P.A. Inamdar Vs. State of Maharashtra [(2005) 6 SCC 537]. In the light of the said judgment, the impugned judgment of the High Court cannot be sustained and the fee is required to be fixed by the Fee Fixation Committee having regard to the decision in P. A. Inamdar's case (supra).

Accordingly, we set aside the impugned judgment and remit the matter relating to fee fixation for the Academic Years 2003-2004, 2004-2005 and 2005-2006 to the Fee Fixation Committee for fresh fixation of fee in the light of the judgment in P. A. Inamdar's case. It would also be open to the colleges to seek appropriate interim directions from the Committee in respect of the amounts for the year 2005-2006. Similarly, it would be open to the students or their representatives/associations to plead before the Committee that the Management has not complied with the directions already made and seek appropriate directions in that regard. Both these aspects would be considered by the Committee and appropriate directions issued.

The appeals are disposed of accordingly."

Pursuant to the above orders of the Hon'ble Supreme Court, the Fee Committee undertook the entire exercise of re-fixation of fee for the below mentioned colleges for the year 2003-2006.

1. The Pramukhswami Medical College, Karamsad
2. K.M. Patel Institute of Physiotherapy, Karamsad
3. The Sarvajanic College of Physiotherapy, Surat
4. College of Physiotherapy, Anand
5. S.B.B. Physiotherapy College, Ahmedabad

The Committee had heard both the students as well as the Managements of the above mentioned colleges. The Committee also undertook an exercise to review the documents and the proposals submitted by the Colleges for the year 2003-2006. Vide Committee's letter dated 22/3/2007, the Management of the above mentioned Colleges were directed to provide additional information, which was as under:

1. Return of Tax Deducted at Source from the salary paid to staff for the year 2005-06 and 2006-07.
2. Staff details as on 31.03.05 and 31.03.06.
  - Name
  - Birth date
  - Joining date
  - Qualifications
  - Address
  - Post
  - Salary paid during the year ended 31.03.05 and 31.03.06
3. Declaration from the staff that he has been working with the college since \_\_\_\_\_ (year) as \_\_\_\_\_ (post) and has received Rs. \_\_\_\_\_ & Rs. \_\_\_\_\_ during 2004-05 and 2005-06 respectively, which has been offered for income tax in the Income tax return filed by him.
4. Details of assets as on 31.03.05 and 31.03.06 acquired out of donation and depreciation claimed on such assets.
5. Copy of the statement of income showing the salary income offered for taxation.

The copies of Income Tax returns from the teaching staff was insisted upon from all Managements in proof of their being engaged by the Management as a teaching faculty and the payments made to them. It must be noted here at this stage that there are colleges which have so far till date not furnished the above mentioned details. The Committee also took a decision not to allow full depreciation on assets acquired out of donation. The above information was sought from the Institute since it transpired during the hearing that the main grievance of the students was lack of teaching faculties and a huge turn over of the teachers. After analysis of the data submitted and the review exercise re-done, the Committee recommends as under:

**1. College of Physiotherapy, Anand**

- a. The analysis of actual data for the year 2003-04 and 2004-05 reveals that the actual cost of the college is Rs. 27,000 and Rs. 33,000 respectively.
- b. For year 2003-04, the total cost incurred as per the statement submitted and that too without any adjustment by the Committee is Rs. 33.81 lacs. Taking students strength of 120, it works out to Rs. 27,000 per student. Similarly, for the year 2004-05 the total cost incurred is Rs. 40.77 lacs. Taking total strength of 120 students, it works out to Rs. 33,000 per student.
- c. The Committee has received from the above mentioned College the details as solicited by the Committee. They have furnished to the Committee separate statement of salaries and on verification of the same the Committee comes to a conclusion that there is minor variation as regards details regarding salaries of staff with their respective Income Tax returns. It is necessary to point out that these details were asked based on actual figures for Accounting Year 2004-2005 with a view to have sample analysis for reaching such conclusion.
- d. In this background, the fees fixed at Rs. 35,000 does not need any major revision. As observed based on the actual and audited data of 2004-05, there is no fallacy in the process of fee fixed during 2004 and there is no need to reconsider the basis adopted by the Committee.

**2. Sarvajani College of Physiotherapy, Surat**

- a. The Committee has fixed fees of Rs. 35,000 during the year 2004 based on the projected cost estimates for the year 2004-05 in the backdrop of actual costing of the year 2003-04. In this process, the Committee had kept in mind the Generally Accepted Accounting Principles and suitable guidelines were given to all colleges as to the method of depreciation, consideration of expenses directly related to education and exclusion of some of the unrelated expenses.
- b. Based on these principles, the Committee had at that time disallowed excessive depreciation charged by the College to the extent of Rs. 6 lacs. Committee also disallowed the bank guarantee fees of Rs. 5.15 from for the year 2003-04 being the base year.
- c. Following these guidelines the actual cost as submitted by the College for the year 2004-05 at Rs. 37.24 lacs is scaled down to Rs. 30.77

lacs on account of excessive depreciation of Rs. 6 lacs and balance for legal expenses being not related to education directly.

- d. Allocating this cost over 100 students on roll as on date comes to Rs. 31,000. In view of this, there is no need to revise the fees for the past period.
- e. In the above mentioned college, the Committee has received all the details and data as solicited by the Committee and found on verifying the data the same to be in accordance with the claims made by the Institute. Therefore the Committee comes to a conclusion that there is no variation or discrepancies in the amount demanded towards the teaching staff. It is necessary to point out that these details were asked based on actual figures for Accounting Year 2004-2005 with a view to have sample analysis for reaching such conclusion.
- f. It is pertinent to note here that the college demanded higher fees at that time based on the projections for the year 2004-05 where by the total cost was projected to be Rs. 57.51 lacs. The actual cost as submitted now comes to Rs. 37.24 lacs as indicated above. This substantiates that there is no fallacy in the process of fee fixed during 2004 and there is no need to reconsider the basis adopted by the Committee.

### **3. SBB College of Physiotherapy, Ahmedabad**

- a. This college had asked for fees of Rs. 75,000 based on the projected average cost of Rs. 88253 for the period of 2005-07. This included Rs. 25 lacs as development surplus on notional basis.
- b. During the year 2004, the fees were fixed based on the actual cost for the year 2003-04. The projected cost of Rs. 88.23 lacs was scaled down by Rs. 25 lacs claimed as development allowance on notional basis.
- c. The balance of Rs. 68.23 lacs allocated over 135 students (batch of 30 students for 4.5 years) makes per student cost of Rs. 47,000. This cost need further refinement for allocation of teaching staff working for the hospital. Keeping this in mind the Committee has fixed the fees of Rs. 40,000.
- d. The three major difference between the college and committee concern (i) Student strength of 120 instead of 135 (ii) Consideration

of ad-hoc development surplus for future expansion and (iii) Full loading of teaching staff on the students.

e. In the above mentioned college, the Committee has received details and data as solicited by the Committee and found on verifying the data the same to be in accordance with the claims made by the Institute with minor variation. It is necessary to point out that these details were asked based on actual figures for Accounting Year 2004-2005 with a view to have sample analysis for reaching such conclusion

f. The Committee on a review does not need any reconsideration for above three issues for the following reasons:

i. Since the duration of the course of 4.5 years, the students on roll at any time would be 135 and not 120.

ii. Notional development surplus to the extent of 37% of cost (Rs.25 lacs over Rs. 68.23 lacs. Ref. Year 2003-04) can not be allowed.

iii. Teaching staff cost need to be allocated to hospital in some reasonable proportion

g. The Committee at best can consider some element of hospital cost to be recovered from the students on the premise that part of actual learning happen in the live environment of teaching hospital. If we take 7.5% for the same and 5% for the development allowance, the fees can be revised to Rs. 45,000.

4. **K. M. Patel Institute of Physiotherapy, Karamsad**


a. This college has now asked for Rs. 55,000 based on the revised working for the three years from 2003-04 to 2005-06 as against the original demand of Rs. 75,000.

b. The above Physiotherapy College has not supplied any data or information to the Committee as requested by them vide their letter dated 22/3/2007. In absence of any data being supplied by the Institute therefore the Committee has not undertaken the exercise to refix the fee structure for the above mentioned College. As and when the College supplies the details, the same exercise of fee re-fixation will be done by the appropriate Committee at that relevant time.


5. Pramukhswami Medical College, Karamsad


The fees for the year 2003-2005 was fixed at Rs. 1,45,000 for the Pramukhswami Medical College, Karamsad against their projected cost of Rs. 2,75,000/-. This fee fixation was challenged by the Pramukhswami Medical College in the High Court vide S.C.A. No. 6623/2004 and L.P.A. No. 1380/2004. The above fixation was upheld by the Hon'ble Gujarat High Court. The Pramukhswami Medical College preferred a Civil Appeal No. 2763/2006. Pursuant to the order passed by the Hon'ble Supreme Court, text of which is already quoted herein above, the Committee decided to hear the students as well as the Management. After a detailed hearing was given to both the sides the Committee solicited certain financial details from the Pramukhswami Medical College, vide its letter dated 22/3/2007. Till date the College has not supplied to the Committee adequate data as requested by the committee as supplementary questions. While details are given by the institution from their accounts of salaries paid like other institutions referred earlier it failed to give details of proof of those teachers having received those salaries. The details supplied are less than even 50% of their teaching staff. This had become necessary in view of the complaints received by the committee from many students that adequate number of teachers are not available for teaching all throughout and therefore in absence of the same the Committee has not undertaken the exercise of re fixing the fees for the Institute. Therefore the fee structure for the year 2003-2006 as fixed at Rs. 1,45,000/- as modified by the Hon'ble High court from time to time will continue until details are supplied by the Institute and a fresh order is passed by the appropriate Committee. The exercise of fixing fees for the year 2006-2009 also in light of what is stated above, therefore does not arise.

March 28, 2007.

  
Hon'ble Justice R. J. Shah (Retd)  
Chairman

  
Bhupendra M. Shah, Member

  
Smt. Sudha Anchlia, IAS, Member Secretary

  
Dr. Nitin Vora, Member

  
Suresh Sani, Member