

Supplementary order passed by the  
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 Sarvajani 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. 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 vide its order dated 28<sup>th</sup> March 2007 has maintained the fee structure for the following colleges for the reasons cited therein.

1. College of Physiotherapy, Anand
2. Sarvajanik College of Physiotherapy, Surat

Vide the same order, the Committee approved fees of Rs. 45,000 per year as against the demand of Rs. 75,000 for the following college.

3. SBB College of Physiotherapy, Ahmedabad

However the Committee did not undertake the exercise to revise the fees for the following colleges for want of information sought from the concerned colleges.

4. K. M. Patel Institute of Physiotherapy, Karamsad
5. Pramukhswami Medical College, Karamsad

The Committee now has received the information concerning the tax returns and necessary undertakings from the teaching staff of both the colleges. Further based on the fee fixation exercise for the years 2006-07 to 2008-09, the Committee has reviewed the original application by both the colleges mentioned above and submits as under:

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

- a. This college has 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 Committee had fixed the fees at Rs. 40,000 in line with SBB College of Physiotherapy as the College did not agree with sharing of hospital cost on reasonable basis. This College has now agreed to the principle of apportionment among all the medical colleges as endorsed by the professional Chartered Accountants.
- c. However the Committee is not required to re-fix the fees based on the actual cost now. The Committee is expected to review the basis and the assumptions only in light of additional information submitted by the College and the students.
- d. Since this college was equated with SBB College of Physiotherapy, the fees can be revised marginally higher in light of allocation of common medical care cost of Krishna Hospital, Karamsad to which the college is attached. Accordingly, the Committee finds it reasonable to revise the fees from Rs. 40,000 to Rs. 48,000. This revision should take care of share of hospital cost as well as future development to a certain extent.

**2. Pramukhswami Medical College, Karamsad.**

The fees for the years 2003-04, 2004-05 and 2005-06 was fixed at Rs. 1,45,000, while the college has proposed the fees of Rs. 2,75,000. This decision was challenged by the College, first in the Gujarat High Court and then in Supreme Court. As indicated in the beginning of this order, the Supreme Court has referred the matter back to the Committee in light of judgment in P. A. Inamdar's Case.

**Issues reconsidered:**

**1. Treatment of Hospital Cost**

The only major difference in working out the cost of medical education between the college and committee then was on treatment of hospital cost. While the college insisted on inclusion of full deficit, the Committee was of the opinion to apportion the hospital cost between medical care and medical education. In the final analysis, the Committee allowed an ad hoc amount of Rs. 10,000 towards use of hospital infrastructure and suggested fees at Rs. 1,45,000.

The same issue was also raised by the students before the Committee during the hearing given in the month of January, 2007 as per the order of the High Court. As submitted by the students and the parents association, the cost of running the hospital should not be recovered from the students through fees.

As far as the views of the College are concerned, the issue of inclusion of hospital cost has now been resolved in the fee fixation exercise for the term of three years from 2006-



07 to 2008-09. Accordingly, the medical care cost has been allocated only to the extent of 50% after deducting direct expenses on patients care, medicine, investigations and blood bank expenses. This share is also apportioned among undergraduate, post-graduate, physiotherapy and nursing students in the proportion of time spent by the students during entire course duration.

However from the students' perspective, this issue of hospital cost was independently reviewed by Mr. B. M. Shah, the Chartered Accountant Member as well as Dr. Nitin Vora and the summary is as under:

**Issues raised by the students on hospital cost:**

1. The hospital cost should not be included in fee structure.
2. Students spend only 40% time in hospital and not 50% as indicated by the Billimoria Report
3. Full salary cost of teaching staff should not be loaded to students as the same staff work for the hospital also.
4. Income from patients should be considered
5. Expenses incurred for the patients and the members of insurance scheme should not be considered.
6. The deficit should be borne by the trust as it runs hospital for charity

After study of the MCI provisions, data submitted by the College and its review by the MCI nominee, each of the issues is addressed as under:

1. Since the hospital is part of medical education as mandated by MCI, the same has to be treated as part of teaching infrastructure. In fact on this ground, the college insists on full cost absorption of running the hospital. However the collective view is that since the hospital caters to the need of patients too, entire cost can not be loaded to students. At the same time, since it operates as teaching infrastructure and the students learn in a live environment, a part of hospital cost need to be recovered as fee from students.
2. There is a reference in our order that the students on an average spend 50% of the total study time over the entire course of 4.5 years. This fact has been challenged by the students that the time spent is only around 40%. The reference of 50% is on allocation of hospital cost to medical education. The balance 50% is left to be recovered from the patients or to be borne by the Trust. However actual % of time spent by MBBS students is taken as only 35% and not 50% as understood by the students. Dr. Nitin Vora has analysed the MCI rules and confirms that the students are in fact are required to spend 49% of the time in hospital over 4.5 years of study.
3. It is a matter of fact that the teaching faculty also work for the hospital and as such in our analysis, the salary cost of teaching staff is distributed equally between college and hospital. Thus only 50% of the salary paid to teaching staff is loaded on the students.
4. Income from patients care and other grants have been considered towards recovery of balance deficit.

5. As analysed by the team of Chartered Accountants, expenses incurred on patients in the form of medicine, treatment and blood bank expenses have been excluded from the cost.

6. From the total cost of hospital, the deficit after recovery from students and patients is borne by the Trust. The net deficit for the period of 3 years from 2003-06 is Rs. 193.01, Rs. 233.58 and Rs. 209.34 lacs respectively.

In summary, the approach adopted by the Committee is quite in order. To illustrate what is said above, here is the summary for the year 2005-06.

		<u>Rs. In lacs</u>
Direct Hospital Cost		1276.18
Add. 50% of teaching staff salary		346.79
<b>Total Cost</b>		<b>1622.95</b>
Allocation to Students		622.12
Under Graduates	362.99    58%	
Post Graduates	209.36    34%	
Physiotherapy	37.33    6%	
Nursing	12.44    2%	

This exercise indicates that out of total hospital cost of Rs. 1623 lacs, only Rs. 622 lacs has been loaded onto the students and the balance of Rs. 1000.83 lacs has been left open for recovery from patients and other sources.

The per student load as per actual numbers for 2005-06 comes as under.

- Rs. 362.99 lacs over 450 students of UG = Rs. 80,600
- Rs. 209.36 lacs over 117 students of PG = Rs. 1,80,000

This indicates that the load borne by each UG student is only 44% of that of PG Student, though in totality, the share of MBBS students is 58%.

## 2. Depreciation and development

The students further raised an issue on depreciation related to the assets acquired through donation receipts. Their submission was to exclude the charge of depreciation while working out the cost of education as the college did not spend their own funds. While prima facie this argument may sound logical, it misses the principles of costing. Cost of service includes the charge for utilization of goods or services irrespective of the fact that the same has been financed through own funds, borrowed funds or donations. It is only the grants received from any agency that goes to reduce the cost of asset and the depreciation is worked on net cost. So far as the accounting treatment of donations is concerned, the same forms part of revenue receipt unless received as corpus donation. In latter case, the same is taken to balance sheet.

From another perspective, provision for depreciation is needed for replacement of assets after its useful life. A progressive institution would expect to replace and

modernize the infrastructure for which funds would be required in future. The same can be assured through provision of depreciation and allowance for development.

The Committee would like to reaffirm its stand on the same as was clarified in its original order and the same is reproduced here under

**Reasonable Surplus:**

- So far as the provision for development and reasonable surplus is concerned, the Committee has appreciated the need for the same. The committee has allowed the same through depreciation allowance and development allowance.
- Though the initial investments are made through donations, the committee is seized of the fact that the replacement of the facilities over a period need to happen through collection of fees. As such the committee has considered economic depreciation as part of education cost even though it is a non cash item.

**Conclusion:**

In this background, on a careful review of all the relevant factors, the Committee is of the opinion that the fees without providing for development allowance could be around Rs. 190,000. The college has made a demand for Rs. 2,00,000 inclusive of development allowance.

In working out this amount, the depreciation on assets acquired out of donation is included. If for the sake of argument, the entire depreciation for the past 3 years, which works out to Rs.17,000 per student is excluded, the fees would come to be around Rs. 1,73,000. Adding there to some provision for development as envisaged by the Supreme Court, say 10%, the final amount works out to Rs.190,300. In either way, the base line remains at Rs. 190,000.

**Impact on the students enrolled during academic years 2003-04, 2004-05 and 2005-06.**

As per the directions from the Supreme Court, this revision will apply retrospectively from the year 2003-04 for the students enrolled during those years.

As per the data submitted by the college, the students have paid fees as under.

**2003-04 Batch:**

2003-04    100 students Rs.2,75,000 per student

2004-05    26 students Rs.1,45,000 per student  
              48 students Rs. 15,000 per student (Rs.1,30,000 adjusted from previous year's excess fee paid)  
              1 student Left the college



23 students Failed and therefore paid fees due as applicable to failed students

2005-06 All students have paid based on a fee structure of Rs.1,45,000 per annum

2004-05 Batch:

2004-05 99 students Rs.2,10,000 per student  
1 student Rs.1,45,000

2005-06 All students have paid based on a fee structure of Rs.1,45,000 per annum

2005-06 Batch:


The entire batch has paid fee @ Rs.1,45,000 per annum.

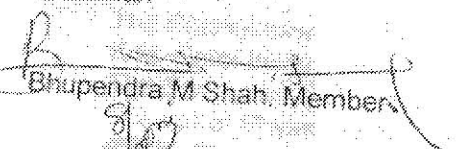
Based on the above, the College has excess fee available as deposit of Rs.1.34 crores. Based on the revised fees of Rs.1,90,000, the additional fees after adjusting the balance with the college, would be approximately Rs.1.38 crores.

The Committee now recommends the following.

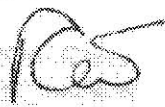
1. The fees fixed by the Committee for the years 2003-04, 2004-05 and 2005-06 stands revised to Rs. 1,90,000 per year.
2. In view of its impact on the students, the college should allow the students to pay the difference in 4 quarterly installments beginning from 1<sup>st</sup> September 2007.
3. The college should provide suitable financial assistance in the form of scholarship / waiver to deserving students based on merits and economic conditions.

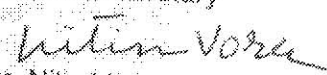
31<sup>st</sup> July, 2007

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

  
Bhupendra M Shah, Member

  
Suresh Soni, Member

  
Smt. Rita Teotia, IAS,  
Member Secretary

  
Dr. Nitin Vora, Member